

Decentralization of Administrative Powers in Federal and State Government Institutions According to Islamic Jurisprudence and Sudan Interim Constitution, 2005. A Comparative Analytical Study”

Ahmed El-Murdi Saeed Omar

Professor, Department of Islamic Studies,
Faculty of Shariah and Islamic Sciences

University of Alwasl

Dubai, United Arab Emirates

Email: ahmedelmurdi@yahoo.com/ ahmedelmurdi@gmail.com

Phone: 00971504751430

ABSTRACT

By the forgoing proposed topic the researcher means to define the term decentralization and centralization as modern theories for achievement the rule of Governance in the contemporary political and administrative thought, likewise the paper will also includes illustration of delegation of powers as mechanism for actualization decentralization of powers, within the federal and State Government institutions. Moreover the paper will contain to what extent the Sudanese interim Constitution, 2005 implement the approach of decentralized and centralized institutions within the historical period of Sudan electrical process for self determination of Southern Part of Sudan, therefore, the paper consists brief sketch to federal and State ministries and institutions in Republic of Sudan. In context of Islamic Political and administrative Jurisprudence the paper provides functions of the Head of State in addition to Federal and State ministers and the just methods for their appointment, the implication of Wazart Al-Tafid and Wazart Al-tafeeth, the functions of minister of defence, the parliamentary institution or “Ahal Al-hal wal Al-gad” the Federal Ministry of finance or “Bait Al-mal” and how to create the public financial revenues to State Government, the Judicial Institution, the general requirements for appointing justices. And, a brief idea about “Al-daiwan” which will be correspondent to our contemporary ministerial and commission administrative system in recent governments. Then at conclusion: findings, recommendations and bibliography.

Keywords: Assessing, Efficacy, Mediation. Alternative Dispute Resolution and Mechanism

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
وصلی اللہ علی سیدنا محمد وآلہ وصحبہ وسلم

1. INTRODUCTION

1:1. Definition of Terms

It is so determinant to provide definition to the key terms in this context which are relevant to the proposed paper such as: decentralization, centralization, devolution and delegation to powers, hence:

- (a) Decentralization: to decentralize government or organization is to divide it among local centers¹.

Decentralization is an administrative concept comprising two other related concepts of Deconcentration and devolution. Delegation is the distribution of powers on geographical basis. Briefly, deconcentration simply means the delegation of authority on geographical basis to field units of the same department or level of government. On the other hand. Devolution means the actual transfer of power or authority to special statutory bodies or local government units.

The concept of devolution goes with the concept of autonomy to a certain degree.

- (b) Centralization: To place under the control of central authority especially the government².
(c) Delegation: A person whom individual or group confers the capacity to act on his or their behalf³.
(d) Devolution: Which means the act of given power from a central authority or government to hand authority in a local region⁴.

1:2 Aims and Objectives

The initial aims and objectives for the paper are:

- * To actualize comprehensiveness of Islamic Jurisprudence to govern the whole aspects and needs of man in socio- economic, justice, education, judiciary, defence, diplomacy and worshipping the Almighty God.
- * To prove the reality that the provisions of Islamic administrative and political jurisprudence are sufficient for providence a ripe Islamic theory for codifying administrative Laws or Constitution to government any Muslim State globally.
- * To show that the principles of centralization, decentralization and delegation powers are available in Islamic Political and administrative Jurisprudence.
- * To confirm that the basis of contemporary administrative and political ministries, institutions and government parastatals are included in Islamic Jurisprudence.
- * To assure that the whole Governors rights which are claimed by majority of secular States in our contemporary period are including according to provisions of Islamic political and administrative Jurisprudence such as: right of determination of autonomy for any sect with reference to religious motion, right to expression, right of

¹ Webster's Universal Dictionary Thesaurus Goddes and Grosset, (2007) p: 140.

² Webster's Universal Dictionary, p:44

³ Oxford Concise Dictionary of Politics, Macmillan and Alitair (2003) p: 138.

⁴ Oxford Advanced Learners Dictionary International Student's Edition, New 8th Edition Oxford press, (2010), p: 401.

mass media, right of privacy and family, right to convert religion, political rights, social rights, right of citizenship, right of censorship, right for education, women and children rights e.t.c.

1:3 The Research Method

For Preparation, documentation and presentation of the forgoing proposed paper the researcher will adopt (A.P.A) the well-known research formula to the whole academic institutions.

2. ANALYSIS OF DECENTRALIZATION, CENTRALIZATION AND DELEGATION OF POWERS PURSUANT TO POLITICAL AND ADMINISTRATIVE SCIENCE:

2:1 The Advantages of decentralization are chiefly:

- * It prevents top-management overload by freeing them from many operational decisions and enabling them to concentrate on their strategic responsibilities.
- * It speeds up operational decisions by enabling units to take local actions without reference back all the time.
- * It enables local management to be flexible in their approach to decisions in the light to local conditions, and thus be more adaptable in situation of rapid change.
- * It focuses attention on to important cost and profit- centres within the total organization, which sharpens management awareness of cost- effectiveness as well as revenue targets.
- * It can contribute to staff motivation by enabling middle and junior management to get a taste of responsibility, and by generally encouraging the use of initiative by all employees⁵.

2:2 The main disadvantages of decentralization are:

- * It requires an adequate control and communication system if major errors of judgement are to be avoided on the part of operational management.
- * It requires greater coordination by senior management to ensure that individual units in the organization are not working against the interests to the whole.
- * It can lead to inconsistency of treatment of customers, clients or the public, especially in service industries.
- * It may encourage parochial attitudes in subsidiary units, who may be inclined to look more to their own needs than to those of colleagues in the organization.
- * It does require a plentiful supply to capable and well-motivated managers, able to respond to the increased responsibility which decentralization brings about⁶.

2:3 The reasons for delegation are mainly practical, but some are idealistic. Practical reasons include:

- * Senior managers can be relieved of loss important, or less immediate, responsibilities in order to concentrate on more important duties.
- * Delegation enables decisions to be taken nearer to the point of impact, and without consequences of their decisions.

⁵ G.A. Cole: Management Theory and Practice, 6th Edition, Book power, (2004), p: 193

⁶ G.A. Cole: Management Theory and Practice,(Ibid), p: 193

- * Delegation gives managers the opportunity to experience decision-making and the consequences of their decisions.
- * Delegation encourages managers to learn how to cope with responsibility.
- * Delegation enables organizations to meet changing conditions more flexibly, especially at the boundaries of their system.
- * Delegation contributes to staff development and motivation⁷.

2:4 Idealistic reasons for delegation include:

- * Delegation is a 'good thing' for individual growth, and contributes to staff morale.
- * Delegation is 'the sine qua non of empowerment.
- * Delegation helps to enrich individuals' jobs and humanities work⁸.

2:5 Needs for Delegation:

- i. It helps the supervisor to devote his time and energy to more important aspect of the work.
- ii. One of the duties of a supervisor is to build up his subordinates, to train them in the art of sharing responsibility which is possible only through delegation. Delegation of authority has, therefore, much educative value. The subordinates develop greater loyalty and a greater identification with the organization if they are made partners to the exercise of authority. This builds up their morale and gives them the incentive to work hard.
- iii. Delegation provides the necessary flexible to the otherwise rigid procedures. Delegation helps to adjust procedures according to the needs of situations.
- iv. Proper delegation of authority minimizes delays, makes service more effective, economical and efficient. These are virtues of division of labour and delegation of authority⁹.

2:6 Meaning of Delegation and its forms

According to Mooney (1947:17), delegation means conferring of specified authority by a higher to a lower authority. It means that delegation is the sharing of authority by a superior person to his subordinates subject to his supervision and control. Legally, The delegated authority belongs to the principals, but in practice, its exercise is allowed to the subordinates¹⁰.

2:7 Hindrances to Delegation:

The hindrances to delegation are of two types: (a) Organization; and (b) Personal.

- a. Organizational hindrances are:
 - i. Lack of established methods and procedures- delegation is made easier if procedures and rules are well established.
 - ii. Lack of means of coordination and communication.
 - iii. Unstable and non-repetitive nature of work- stable and repetitive work affords a greater degree of delegation.

⁷ G.A. Cole: Management Theory and Practice, (Ibid), p: 201

⁸ G.A. Cole: Management Theory and Practice, (Ibid), p: 201

⁹ Ekhaton Victor Eghe: Rudiment of Public Administration, (Ibid), p: 189

¹⁰ Ekhaton Victor Eghe: Rudiment of Public Administration, (Ibid), p: 189

- iv. Size and location of organization- delegation becomes a necessity if organization is geographically spread.
- v. Lack of properly spelled out positions in terms of duties and authority.
- b. Personal factors which cause failure to delegate are many and may be summed up as: egotism to keep power; to remain in limelight and to take credit for everything; fear for disloyalty on the part of subordinates; lack of confidence in the intelligence and technical competence of the associates; absence of emotional maturity in the chief; fear of accountability to high-ups¹¹.

2:8 General Principles of Delegation:

1. Delegation should be written and specific.
2. Authority and responsibility for each position should be spelled out and delegation should be made to a position rather than an individual.
3. Only that much of authority should be delegated as it is within the competence of subordinates to exercise safely.
4. Delegation should be properly planned and systematic.
5. Systematic reporting system should be established with those to whom the authority has been delegated.
6. Policies, regulations and procedures should be well defined as to give no misunderstanding to the employees using discretionary powers.

Herman and Zelda (1973: 104) suggest three methods of delegation which enable the thinking manager to maintain a continuing audit of expected progress. These are:

1. Assignment Review: Where the subordinate is asked to write a precise summary of the task allocated, before he actually starts the course of action to be followed.
2. Indirect Participation: Where the superior periodically questions the subordinates concerning the progress of the task to determine the problem areas.
3. Written Reports: The requires special ability on the part of the subordinates to inform management concerning the results of their research in investigation of the problem¹².

2:8 Limits of Delegation:

It may be mentioned that no leader can render himself superfluous by delegating all his authority to his subordinates. The degree to which delegation is possible varies from case to case depending upon the nature of the case, the circumstances and the responsibilities involved. Usually, the following powers are not delegated.

1. The supervision of the work of the first line of immediate subordinates;
2. General financial supervision and the plans and departures from above a specified amount;
3. Power to sanction new policies and plans and departures from established policy or

¹¹ Ekhatov Victor Eghe: Rudiment of Public Administration, (Ibid), p: 200

¹² Ekhatov Victor Eghe: Rudiment of Public Administration, (Ibid), p: 201-202

- precedents.
4. Rule-making power where it is vested in the delegating officer.
 5. Making of the specified higher appointment.
 6. Hearing of appeals from the decision of at least the immediate subordinate
- The retention of these powers in the hands of the chief is essential for effective control of organization¹³.

3. ANALYSIS OF IMPLEMENTATION OF DECENTRALIZATION OF FEDERAL AND STATE GOVERNMENT INSTITUTION ACCORDING TO PROVISIONS OF SUDAN INTERIM CONSTITUTION 2005:

3:1 Decentralization of Government Institutions

The constitution Provides the aspects of decentralization of the institutions according to provisions of Article (24- 26) irrespectively to be as follows¹⁴:

(a) Article (24) on levels of Government which states:

“The Sudan is a decentralized State, with the following levels of government:-

- i. The National level of government, which shall exercise authority with a view to protecting the nationals sovereignty and territorial integrity of the Sudan and promoting the welfare of its people,
- ii. Southern Sudan level of government, which exercise authority in respect of the people and state in Southern Sudan,
- iii. The State level of government, which shall exercise authority at the state level throughout the Sudan and render public services through the level closest to the people,
- iv. Local level of government, which shall be throughout the Sudan”.

(b) Article (25) in respect of devolution of powers that states:

“The following principles shall guide the devolution and distribution of powers between all levels of government:

- i. recognition of the autonomy of the Government of Southern Sudan and the state,
- ii. affirmation of the need for norms and standards of governance and management at national, Southern Sudan and state levels, that reflect the unity of the country while asserting the diversity of the Sudanese people,
- iii. acknowledgement of the role of the state in the promotion of their human rights and fundamental freedoms,

¹³ Ekhaton Victor Eghe: Rudiment of Public Administration(Ibid), p: 202

¹⁴ Interim National Constitution the Republic of Sudan, 2005 Republic of Sudan Gazette Special Supplement No. 1722 Dated 10 July 2005.

- iv. recognition of the need for the involvement and participation of all Sudanese people, particularly the people of Southern Sudan, at all levels of government as an expression of the national unity of the country.
- v. pursuit of good governance through democracy, transparency, accountability and the rule of law at all levels of government to consolidate lasting peace”.

(c) Article (26) on inter-governmental linkage which instructs:

“In the administration of the decentralized system of the country, the following principles of inter-governmental linkages shall be respected:

- i. the linkages between the national government and the states in Southern Sudan shall be through the government of Southern Sudan.
- ii. in their relationships with each other or with other government organs, all levels of government and particularly national, Southern Sudan and state governments shall observe the following:
 - a. respect each other’s autonomy,
 - b. collaborate in the task of governing and assist each other in fulfilling their respective constitutional obligations.
- iii. government organs at all levels shall perform their functions and exercise their powers so as:-
 - a. not to encroach on the powers or functions of other levels,
 - b. not to assume powers of functions conferred upon any other level except as provided for by this Constitution,
 - c. to promote co-operation between all levels of government,
 - d. to promote open communication between all level of government,
 - e. to render assistance and support to other level of government,
 - f. to advance good co-ordination of government functions,
 - g. to adhere to procedures of inter-governmental interaction,
 - h. to promote amicable settlement of disputes before attempting litigation,
 - i. to respect the status and institution of other levels of government,
- iv. the harmonious and collaborative interaction of the different levels of government shall be within the context of national unity and for the achievement of a better quality of life for all.

- 2. Any two or more state may agree on mechanisms or arrangements to enhance inter-state co-ordination and co-operation.

d. Article 177. The State and Abyei Area: is assuming extra implementation of decentralization which is stating:

- 1. The Republic of the Sudan shall be decentralized and composed of states
- 2. The National Legislation shall determine the number of states as well as their names, capitals and geographical boundaries; provided that such legislation shall be issued and amended in accordance with the provisions of Article 91 (4) and herein. However, the January 1st, 1956 boundary between the North and the South shall be inviolable subject to Article 183 (4) of this Constitution.

3:2 Composition and Function of National and State Institutions:

According to Articles (49)- (50) the legislator includes the composition and power of the executive,

while Articles (51-64) in respect of the composition of the presidency regarding eligibility for election to be president, nomination for election and functions of the president and other provisions. Moreover Article: (70-78) States the composition competences of National Council of ministers and it's functions chapter (v) of the constitution regarding objectives, allocation and duties of state Government unity pursuant to Articles (79-82). In addition chapter (i) of part (4) implies composition, eligibility to membership and functions of National Legislature due to provisions of Article (83-116) irrespectively.

3:3 Provisions in respect of individual Constitutional Institutions

The Constitution provides various provisions to constitutional different federal institution such as: Establishment of constitutional Court according to Article (119-122), National Judiciary authority due to Article: (123-132), establishment of Attorney and Advocacy subject to Article (133-134) establishment of National Civil Services Subject to Article (135-136) establishment of the Law enforcement Agencies such as Police and Prison according Article (148-149), establishment of National Security Service and Council Subject to Article (150-151) establishment of the Government of Southern Sudan Subject to Article (159-184).

3:4 Creation of (2) Zones which are assuming conflicted areas between Republic of Sudan and Republic of Southern Sudan according to provisions of Article (182-183) to be stated as follows:

Firstly- Southern Kordofan and Blue Nile State, according to Article (182) which says:

1. Without prejudice to any of the provision of this Constitution, the Agreement on the Resolution of the Conflict in Southern Kordofan and Blue Nile States, shall apply with respect to those two states.
2. Agreement on the Resolution of the Conflict in Southern Kordofan and Blue Nile States shall be subject to popular consultation by the people of the two states through their respective democratically elected legislatures in accordance with the provisions of states therein.

Secondly: The Area of Abyei According to Article (183) that says:

1. Without prejudice to any of the provisions of this Constitution and the Comprehensive Peace Agreement, the Protocol on the Resolution of the Conflict in Abyei Area shall apply with respect of Abyei Area.
2. Abyei Area shall be accorded special administrative status under the Presidency, in which residents of Abyei Area shall be citizens of both Southern Kordofan and Bahr el Ghazal.
3. Simultaneously with the referendum for Southern Sudan, the residents of Abyei Area shall vote in a separate referendum, which shall present the residents of Abyei Area, irrespectively of the results of the Southern Sudan Referendum, with the following choices:
 - a. that Abyei Area retain its special administrative status in the north,
 - b. that Abyei Area be part of Bahr el Ghazal.
4. The January 1st, 1956 line between the north and the south shall be inviolable, except as agreed in sub-Article (3) above

3:5 National (Ministries and Institutions):

The constitution implies (38) federal or national institutions and authorises them National powers according to provisions of the first schedule such as: National Defence, foreign affairs, Civil aviation, Maritime, post service, immigration, Nationality and Naturalization etc

While Schedule (B) State power of Government of Southern Sudan. And Schedule (C) includes powers of the State government (see item – 45) such as: State Police Local Government Constitution of the State etc.

4 Aspect of Decentralization According to Provisions of Islamic Jurisprudence:

4:1 Provisions governing presidency:

The Islamic Jurisprudence of Political and administrative thought provides various rules governing presidency such as:

- a. Definition of Presidency or "Imamah":
According to Al-Mawardi Imamah could be defined as: Presidency is vicegerancy to the Almighty for protection the religion of Islam and to govern the whole affairs of man¹⁵.
- b. Legal Evidence to Elect a President:
The Jurist relied on rational and logic that no any state globally could found without availability of a president. Also with reference to Holly Quran when the Almighty (S.W.T) says: (يا أيها الذين آمنوا أطيعوا الله وأطيعوا الرسول وأولي الأمر منكم...) ¹⁶ with compliance to the said Holy Quranic Verse the whole subjects are directed to obey their rulers.

Legality with reference to Sunnah text according to narration of Hisham Bn Urwat who reported the Hadith of Abi Hurayrat that the Holy Prophet Mohammed (S.A.W) says: (سيليكم بعدي) ولاة فيلكم البر بيره، ويليكم الفاجر بفجوره، فاسمعوا لهم أطيعوا في كل ما وافق الحق، فإن أحسنوا فلكم ولهم، وإن أساءوا فلكم (و عليهم).¹⁷

In another narration the Prophet (S.A.W) says:
(كلكم راع وكلكم مسئول عن رعيته، فالإمام راع وهو مسئول عن رعيته).¹⁸

The lessons that abstracted from the above narration are: Muslims communities ordered to comply with their leaders.

4:2 The constitutional Bodies which Encharged to appoint the President

There are several method for appointment to the Head of State, he may be appointed as the feed back of election, he mighty over throws the ex-president by submitted of cope due date and he might be nominated including many candidates short listed submitted to constitutional bodies for selection

¹⁵ Al-Mawardi, Alu Al-Hassan Alyu Bn Mohammad Bn Habib: Al-hakam Al-sultaniyyah wa Al-wilayat Al-dyniyah, Dar Al-Kutub Al-ilmiah Bairut, 3rd publication (2006) p:5

¹⁶ Surat An-Nisah, verse (69)

¹⁷ Mohammad bn Yazid Bn Jarir Al-Tabari Abu Ja'afar: Jami'u Al-Bayan fi Ta'aweel Al-Quran" Pub, Mua'assat Al-Risalah, 1st Publication (1421H- 2000 CB) vol (8) p: 502.

¹⁸ Narrated by Ahmed Abudawad and Al-Tirmithi who reported the Hadith of Ibn Ummar.

such as: Ahlu Ali-Ikhtiyar “the committee for selection” and Ahlu Al- Imamah “the committee for choosing”. Therefore stipulation for Ahlu Al-Ikhtiyar, every member should be: (1) Capable and just (2) Prominent scholar (3) And, he should be experienced in the field of policy, diplomacy, Islamic Law or Administration¹⁹.

More over the stipulations for Ahlu, Al-ikhtiyar or the committee for selection candidate should meet seven conditions: (1) be capable and just (2) be Muslims scholar expertise at various field of knowledge (3) be safe from disability (4) be safe from handicap and epidemic diseases (5) be expertise in political affairs (6) he should perform his duties free from any affections in justice tendency (7) he should attribute to tribe of Qurayyish although this condition is apposed by both ancient and contemporary Muslim scholars.

4:3 Qualifications required for elected or nominated Presidents, Federal or State misters²⁰:

The nominated applicant should be:

1. Capable Muslim, free from slavery, male, matured and rational.
2. He should not be convicted in any capital or moral offence.
3. He should be prominent scholar assisted and supported with Islamic jurist consultancy, panels in political economic, social, educational, diplomatic, administrative, defence, security, scientific and religious affairs.
4. Immunised his views decisions actions, reports, orders, rules and law which taken by him.
5. The executives, security, defence institution should guarantee the execution of presidential and ministerial decision rules and reports.
6. Safety of his body from any health deficiency or epidemic diseases.
7. Attribution to tribe of Quraysh. This condition is apposed by majority of the scholars as we mentioned earlier.

4:4 Functions of the President or Imam:

According to Muslim jurist they stated seven functions for the Head of state, they classified them to two groups of duties: Religious and Political duties, we could briefly provide them to be as follows²¹:

1. Protection the religion of Islam by establishing academic institutions for learning the religion of Islam and to Islamize the whole sectors and government institution in the State.
2. To promote and develop the military, police, security institution to safe guard and maintain the national security of state. And, to qualify the personnel at their institutions to deter any external national threat.
3. To develop the economic reliance by encourage advancement of technologies in the sector of manufacture attracting domestic and foreign investment, Islamize banking system, qualifying Islamic financial institution that exchanged of collection Zakat, endowment maintenance or orphans and pension system.
4. To promote the religious affair by establishing mosques, encouraging Muslims to perform congregational prayers and simplify Hajj performance proceedings.
5. To co-ordinate between the functions of legislative, judiciary and executive powers.
6. To promote the civil service by creation of jobs and upgrade the payment for employees.

¹⁹ Al-mawardi (Ibid) p: 6.

²⁰ Wahbat Al-Zuhayli: Al-fiqh Al-Islamiya wa Adillatahu, vol (8), Dar Al-Ikhr, Damascus, 10th, publication (1984) pp: 6178-6185- see: Al-mawardi (Ibid) p: 18.

²¹ Wahbat Al-Zuhayli: (Ibid) p: 6185- 6187.

7. To Islamize the whole codes which are governing the country and to guarantee the right of none Muslim as citizens of the state.

4:5 **Vacancy of the Post of Presidency:**

The office of Presidency would vacant in the following cases²²:

1. In case of the death, hence, the vice president will take the responsibility for the time being until the process of election and the decision which will be taken by Ahal Al-Adl and Al-Ikhtiyar who will take the action of selecting the Head of State within the nominated elected candidates.
2. If the Head of State resigned based on reasonable justifications.
3. If the Parliament decides the impeachment of the President in case of judicial trails.
4. In case of deficiency as a result of epidemic sickness, which are not treatable paralyzing or missing of limbs.

4:6 **The Constitutional Principles**

There are various constitutional principles stated by jurists such as²³:

1. **The First Principle of practicing “Shura” or providing the vote of democracy within the state and federal parliaments:**

a. **The Legal evidences of Shura:**

With reference to Holy Quran the Almighty Allah (S.W.T) mentioned: (وشاروهم في الأمر)²⁴ which means respect and listen to their views.

In another Holy Quranic verse the Almighty Allah (S.W.T) says: (وأمرهم شورى بينهم)²⁵.

In the second Holy Quranic verse the Almighty (S.W.T) describing the Muslim nation as the one who practicing democracy in governance.

With reference to Sunnah text the Holy Prophet Mohammad (S.A.W) says in the Hadith (المستشار مؤتمن)²⁶

The sense of this narration shows whoever performs his job as legal adviser is trusted.

²² Wahbat Al-Zuhaily: (Ibid): pp: 6188-6189

²³ Wahbat Al-Zuhaily: (Ibid): pp: 6200-6212

²⁴ Chapter of Al-Imran verse No (159)

²⁵ Chapter of Shura Verse No (38)

²⁶ Narrated by Al-Dawd, Annasi and Ibn Majah who reported the Hadith of Abu Hurairat.

b. The Scope of Shura or Democracy in Islam:

Muslim Jurist confirm practising of “Shura” or the constitutional principle to be implement in whole government institutions in particular the parliaments irrespective of: religious, political view, gender, colour²⁷.

The second Principle. The superseding of Justice:

The Holy Quranic and Sunnah texts ordained practising the constitutional principles of justice. It has many aspects such as: respect and protecting none Muslims, their places of worshipping, providing equality for them with Muslims in whole affairs of Governments, jobs, distribution of public wealth and equality before courts of Law.

The Third Principle: Protection of Human Dignity

It is absolutely prohibited to maltreat human being either Muslims, Christian , Jewish or free from any religion by torture, abusement, robbing, rapping, stealing, killing, injuring, causing hunger unless as execution of court of Law decision.

The Fourth Principle: Providing equality before Court of Law

There is no discrimination before court of Law in terms of variation because of colour, tribe, religion, political view, race, gender as state by Shariah Law.

The Fifth Principle: Protection of freedoms liberties and Human Rights

The political Islamic Jurisprudence guaranteed the whole basic freedoms, right and liberties which are not contradicted with the provisions of Islam such as: right of expression, mass media, family, privacy, to own property to have education, equality, faith and belief, children and women rights, religious social, economic and political rights which are preserved and protected according to provisions of Islamic Law.

The Sixth Principle: The political right to evaluate, assess and criticize the parliamentary performance:

The jurist provided for subjects the right to criticized and evaluate the whole decisions, rules, regulations which are enforced by the parliament.

4:7 Principles of Decentralization of Government and Administration in Islamic Jurisprudence:

The principles, directives and stipulations which are governing decentralizations in Islamic Jurisprudence according to the view of Al-Mawardi and Al-fara Abu Ya’ala are classified into four types²⁸:

1. Federal Ministers: or Wazir Al-Tafwid.
2. State Government ministries or Commissions: They used to be called Wazir Al-tanfeeth.
3. Individual constitutional bodies such as: the judiciary, diplomatic affairs, Hisbah commission and public complaint commission or “Daywan Al-mazalim”.
4. Mandatory to be delegated to perform jobs on behalf of federal or state government institutions. Notwithstanding the generality of the above mentioned constitutional institutions every type of the said government it organized by especial stipulations.

²⁷ Wahbat Al-Zuhaily: (Ibid): pp: 6202

²⁸ Wahbat Al-Zuhaily: (Ibid): pp: 6218

5. CONCLUSION

At the complementary point of this paper I would like to state the following findings and recommendations:-

a. The findings:

1. The Principles of governance and administration are founded in Islamic political jurisprudence.
2. The ideas of centralization, decentralization, delegation and devolution of administrative powers of the government are available in Islamic political and administrative jurisprudence.
3. The provisions of "Wazarat Al-Tafwid" the federal ministry and "Wazarat Al-Tanfeeth" the State Government ministry or commission assumed rational basis of distribution the government powers based on decentralization of administrative powers.
4. The idiom of "Al-Wazara Al-Khasa" or the special ministry is correspondent to the idiom of individual constitutional institutions such as: "Daiwan Al-mazalim" public complainant commission, Human Right Commission and others etc....
5. Majority of Human Rights those that stated in International conventions and treaties since are not contradicted with the principles of Islamic political jurisprudence are confirmed by the rule of Islamic Law.
6. The ideal constitutional principles that stated by Muslim jurists such as: practising democracy, providing justice, equality before courts of Law, protection of human dignity, providing unity are assuming the essential and ideal principle in the whole global constitutions even according to conventional or secular system of Governance

b. The Recommendations

At the ending of this paper I may suggest the following recommendations:

1. Specialist in the field of Islamic Science, Islamic Law with collaboration of Lawyers and administrators may formulate proposed version of Islamic Constitution to govern the whole political affairs of state.
2. The specialist might formulate Islamic Bills of Human Rights to participate with Global Organizations and to co-ordinate their efforts to prevent Muslims dignity against the international aggression which victimizing Muslims communities everyday.
3. I advice the readers in both under graduate and post graduate levels to concentrate studies on political Islamic Jurisprudence and to compare their studies with international law, human rights and constitutional law to enrich their knowledge and to attest about the greatness and ripeness of our Islamic Jurisprudence.