



## The Structured Nature of the Qur'ānic Verses in Countering the Non-Compliance of International Obligations

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### Abstract

Within international law, non-compliance to international treaties results in the sanctity of the rule of '*Pacta sunt servanda* (agreements must be kept)' – which is the backbone of the international law system – being broken. This legal system acknowledges the right of a party to, indiscriminately and based on reprisal, terminate a treaty with the initial non-compliant party. Similarly, the Glorious Qur'ān also allows, as a clear exception to the rule of '*Pacta sunt servanda*', the right of a state to withhold their obligations in respect to a treaty that has been breached. However, according to the comprehensive framework and structured nature of the Glorious Qur'ān, two principle and significant differences exist between its teachings and this man-ratified system of law. The first of these differences is that according to the Glorious Qur'ān, the initial breach of an international treaty has two referents, an actual breach or an anticipatory breach. The second difference is that the observance of justice in the breaking of a breached treaty is fundamental within the Glorious Qur'ān. Furthermore, by means of this analytical outlook, the fundamentality of justice within governmental treaties – a unique Qur'ānic teaching – becomes manifest. This research aims to elucidate these differences in a descriptive-analytical manner.

**Keywords:** Law of International Treatise, Structured Nature of the Qur'ānic verses, the rule of '*Pacta sunt servanda*', the legitimacy of countering breach of treaty, fundamentality of justice.

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## Introduction

In the system of international law, treaties between nations are of two categories, contractual and non-contractual, i.e., those based on the common understanding between nations. The majority of international treaties fall under the first category and are governed by the Law of International Treaties, which is in accordance with the document ratified at the 1969 Vienna Convention. However, the scope of this international document is limited to the application and explanation of the rule of '*Pacta sunt servanda*' (Crawford and Olleson 2000, 59).

In numerous Qur'ānic verses, such as (Qur'ān 6:152), "... and fulfill Allah's covenant. This is what He enjoins upon you so that you may take admonition,"<sup>2</sup> the rule of 'agreements must be kept' has been ordained as a religious tenet (Ālūsī 1994, 4:299). In addition, such Qur'ānic references give structure to man's social relationships and interactions (Ṭabāṭabā'ī 1996, 15:7, 16:178; Jawādī Āmulī 2010, 52). Furthermore, not only was the rule for countering a real breach of contract present within the teachings of the Glorious Qur'ān much earlier – "... barring the polytheists with whom you have made a treaty, and who did not violate any [of its terms] with you, nor backed anyone against you. So fulfill the treaty with them until [the end of] its term"<sup>3</sup> (Qur'ān 9:4) – it also, in contrast to the Law of International Treaties, contained the legal structures required for an anticipatory and pre-emptive breach of contract – "And if you fear treachery from a people, break off [the treaty] with them in a like manner. Indeed Allah does not like the treacherous"<sup>4</sup> (Qur'ān 8:58).

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<sup>2</sup> «ذَلِكُمْ وَصَّاكُم بِهِ لَعَلَّكُمْ تَذَكَّرُونَ وَيَعْبُدِ اللَّهُ أَوْفُوا»

<sup>3</sup> «إِلَّا الَّذِينَ عَاهَدْتُمْ مِنَ الْمُشْرِكِينَ ثُمَّ لَمْ يَنْقُصُوكُمْ شَيْئًا وَ لَمْ يُظَاهِرُوا عَلَيْكُمْ أَحَدًا فَأَتَيْتُمَا إِيَّاهُمْ وَعَاهَدْتُمَا إِلَىٰ مُدَّتَيْهِمْ إِنْ اللَّهُ يُحِبُّ الْمُتَّقِينَ»

<sup>4</sup> «وَإِنَّمَا تَخَافَنَ مِنْ قَوْمٍ خِيَانَةٌ فَانْبِذْ إِلَيْهِمْ عَلَىٰ سَوَاءٍ إِنْ اللَّهُ لَا يُحِبُّ الْخَائِنِينَ»



Qur'ānic exegetes have always looked at this second verse with astonishment and have also considered it to be one of the miraculous elements of the Glorious Qur'ān (Ibn 'Āshūr, n.d., 9:143; Qurṭubī 1985, 8:32). Similarly, contemporary exegetes perceive it as a divine tenet that addresses the dereliction of justice exhibited in man-made laws, while also eliminating the potential for deceit and treachery in relationships between nations (Darwīsh 1994, 4:30). More so, this verse has been used to derive the Islamic jurisprudential rule of *nabdħ* (renunciation). This indicates the historical study of this verse within the framework of the legal relationships that Islamic nations have with other nations, who exhibit signs of being non-compliant to the terms of a treaty (Ṭūsī 1971, 2:42-43; Ḥillī 1989, 31:192; Najafī 1943, 21:49).

In simpler terms, exegetes, in accordance with time and place conditions, derived the structure of countering the non-compliance to international obligations from the verses of the Glorious Qur'ān, i.e., the perspective of the Glorious Qur'ān was attained via the subject-wise exegetical method (Ṣadr 1998, 40-41)

In light of the foregoing, this research seeks to answer the following questions: What is the semantic relationship between the verses that allow for the breaking of an agreement with a breaching party? What are the unique and distinguishing features of the Qur'ānic view compared to the Law of International Treaties?

## **1. Definitions**

### **1.1. Anticipatory Breach of Treaty**

An anticipatory breach of treaty is a legitimate and accepted manner of breaking a treaty. It is based on the conclusive evidence that establishes an initial breach (Dārāb Pūr 1998, 27). In other words, this breach is an exception to the rule, 'agreements must be kept'. Furthermore, this type of breach has been clearly legislated in the Law of International Treaties. Steps have also been taken to try and establish it within international trade law (Kāẓimī & Rabī'ī 2012, 105-107).

### **1.2. Countermeasure Breach of Treaty**



In this form of breach, a nation that fails to fulfill an international treaty obligation has acted wrongfully, resulting in the counterparty's ability to terminate or suspend the operation of a treaty in its entirety or in part (Anton, et al, 2005: 367).

This legislation appears in Article 60 of the 1969 Vienna Convention for the Law of Treaties as follows: '*A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.*' More so, countermeasure breach of treaty is a right that is officially recognized within national and international precedent law (Elagab 1988: 37-41).

## 2. Literature Review

With respect to previous research done on the subject matter of the current article, mention can be made of an article written by Dāwūd Maḥdawī Zādagān titled, '*Mabānī Fiqhī Maqām Mu'āḍam Rahbarī dar Mas'alah Naqḍ 'Ahd wa Naqḍ Dīdghāh Mukhālīf*'. This article was published in the seventh volume of the *Guftamān Fiqh Hukūmatī* Journal. Although this article establishes the legitimacy of countermeasures in the breaching of a treaty by means of Islamic sources and evidence, specifically verse 58 of *Sūrat al-Anfāl* (8), its primary objective is to elucidate the jurisprudential opinions of Imam Khamenei on this matter. Secondly, it fails to address the structured nature of the Qur'ānic verses, both semantically and principally, in authorizing a countermeasure breach to be implemented. Moreover, it also fails to emphasize the distinctive feature of the Glorious Qur'ān in relation to a breach of treaty, namely the fundamentality of justice.

This matter was also discussed in an article titled, '*Jāyegāh Qā'idah Nabz dar Fiqh Rawābiṭ bayn al-Milal wa Siyāsāt Khārajī Hukūmat Islāmī*' (The Position of the Rule of "*Nabdh*" within the Jurisprudence of International Relations and Foreign Policy of the Islamic State). As the primary focus of this article was also jurisprudential, i.e., the Glorious Qur'ān, especially verse 58 of *Sūrat al-Anfāl*, was discussed within a

jurisprudential framework, it has major differences with the discussions and pieces of evidence of the current research. Hence, the points mentioned concerning the previous article would also apply here.

Another article that was written on this issue was titled, '*Ḥukm Khawf Khiyānat Dushman dar Muhādanah bā Rūyekard Fiqh Muqāran va Imkān Tasarrī Ān*' (The Precept of Fear from Enemy's Treachery during Ceasefire: A Comparative Jurisprudential Approach and the Possibility of Broadening its Scope). This article was written by Muḥammad Rasūl Āhangarān and Mahdī Nawrūzī. It was published in the seventy-fourth volume of the *Fiqh (Kāvushī Naw dar Fiqh) Journal*. This article also addresses the popular opinions regarding the countermeasure breaching of a treaty in response to an initial breach within comparative jurisprudence. Given the jurisprudential focus of this article, the above-mentioned points remain applicable.

### **3. Obligation to International Treaties according to the Verses of the Glorious Qur'ān**

Qur'ānic exegetes opine that the existence of terms such as '*ahd* (covenant), '*aqd wa mīthāq* (treaty) within the Glorious Qur'ān, not only provides a framework for personal rights law regarding the rule of 'agreements must be kept', but also one for the treaties between nations.

In the Glorious Qur'ān, the term '*ahd* is used mostly to imply the meaning of an agreement (Muṣṭafawī 1969, 8:299). Further, verse 34 of *Sūrat al-Isrā'* 17, '*Fulfill the covenants; indeed all covenants are accountable,*'<sup>5</sup> contains the most general meaning concerning the application of the rule 'agreements must be kept' (Āl-i Ghāzī 1962, 2:487). Consequently, Qur'ānic exegetes maintain that this rule includes international agreements and treaties (Ṭabarī 1991, 15:61; Faḍl Allāh 1998, 14:111; Karamī Ḥuwayzī 1981, 5:208; Sayyid Quṭb 1991, 4:226).

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<sup>5</sup> «وَأَوْفُوا بِالْعَهْدِ إِنَّ الْعَهْدَ كَانَ مَسْئُولًا»



In addition, some exegetes also mention that verse 4 of *Sūrat al-Tawbah* (9) (...*So fulfill the treaty with them until [the end of] its term...*)<sup>6</sup> and verse 7 of the same sūrah (*So fulfill the treaty with them until [the end of] its term*)<sup>7</sup> also indicates the necessity of upholding international obligations (Shubbar 1986, 3:51; Fayḍī 1996, 2:428; Muḏahharī 1991, 4:141; Zuḥaylī 1997, 10:119; Bayḏāwī 1997, 3:71; Shawkānī 1993, 2:387; Suyūṭī 1983, 2:214).

Some exegetes believe that the term ‘godwary’ which is repeated in the verse, ‘...*Indeed Allah loves the Godwary.*’<sup>8</sup> (Qur’ān 9:7), means those who are loyal to treaties. Similarly, the ‘*ahd* (treaty) that appears in this verse indicates the same meaning as found in the first verse of *Sūrat al-Mā'idah* (5) - *O you who have faith! Keep your agreements*<sup>9</sup>— hence allowing for a general application to be derived from it (Jaṣṣāṣ 1984, 3:282; Makārim Shīrāzī 2001, 2:321).

The Glorious Qur’ān also uses the word *mīthāq* (pledge/treaty) in numerous verses, thus indicating the rule of keeping to agreements in the international relations of an Islamic state. Verses, such as *Sūrah Ra'd* (13), verse 20 - ...*those who fulfill Allah’s covenant and do not break the pledge solemnly made...*- (Mugniyyah 2003, 4:398; Nīshāpūrī 1995, 4:153), *Sūrat al-Anfāl* (8) verse 72 - ...*Yet if they ask your help for the sake of religion, it is incumbent on you to help them, excepting against a people with whom you have a treaty...*- (Tha‘ālabī 1997, 3:58; Murāghī, n.d., 10:43; Jurjānī 1998, 4:23) and *Sūrat al-Nisā* (4) verse 90 - ...*excepting those who join a people between whom and you there is a treaty*<sup>10</sup> (Faḍl

6. «فَاتَّبِعُوا إِلَيْهِمْ وَعَبَدُوهُمْ إِلَىٰ مَدَّتِهِمْ» .

7. «فَمَا اسْتَقَامُوا لَكُمْ فَاسْتَقِيمُوا لَهُمْ» .

8. «إِنَّ اللَّهَ يُحِبُّ الْمُتَّقِينَ» .

9. «يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ» .

10. «إِلَّا الَّذِينَ يَصِلُونَ إِلَىٰ قَوْمٍ بَيْنَكُمْ وَبَيْنَهُمْ مِيثَاقٌ» .

Allāh 1998, 7:394; Fakhr Rāzī 1981, 10:171) - can be presented as examples to show this matter.

Given the above, a question can be posed regarding the sanctity of this rule, i.e., what is it based upon?

In order to answer the above question, it must be noted that the will of the Divine Lawmaker, which is derived from the verses of the Glorious Qur'ān, e.g. verse 1 of *Sūrat al-Mā'idah*<sup>11</sup>, is the basis for a contract coming into effect (al-Sanad 2009, 274 & 278). Similarly, as the legislative will is attributed to wisdom, the basis for the rule 'agreements must be kept' is ascertained from a Qur'ānic angle (Shahīd Awwal, n.d., 1:38-39). Furthermore, as this rule is merged with phrases such as '*Indeed Allah decrees whatever He desires*'<sup>12</sup>, which appears at the end of the above verse, legislative wisdom, i.e., ordaining laws that will provide benefit and negate loss, is established (Āl-i Sa'ādī 1988, 235; Baghdādī 1994, 2:4).

With this in mind, it could then be asked as to how this divine basis impacts social and international contractual laws and agreements? For in this interpretative analysis, two factors are closely intertwined, i.e., the application of the rule and the observance of social justice. Additionally, the influential role of religion in this matter cannot be ignored (Ṭabāṭabā'ī Ibid: 5:160). However, it seems that in order to clarify how the observance of this rule is necessary from a Qur'ānic standpoint, the relationship between social disputes, the innate nature of the rule, and social justice needs to be made clear.

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<sup>11</sup>. «أَوْفُوا بِالْعُقُودِ»

<sup>12</sup>. «إِنَّ اللَّهَ يَخْتَصِمُ مَا يُرِيدُ»



In certain verses of the Glorious Qur'ān (e.g. Qur'ān 2/213<sup>13</sup> & 10/19<sup>14</sup>) mention has been made of conflict that stems from man's innate nature.

These verses explain that mankind used to live in a simple and primal group manner (Haqqī Barsūwī, n.d., 1:32; Tha'labī 2001, 2:132). However, social disputes occurred between them on two levels (Ṭabāṭabā'ī, Ibid: 2/118). The second level of these disputes occurred after the sending of prophets and was a consequence of the oppression they subjected each other to (Jawādī Āmulī, 1998, 362).

The first dispute concerned the authority of one man over another (convention of employment) (Ṭabāṭabā'ī 1969, 114 & 116). Furthermore, for his own benefit, man desired the benefit of all (convention of society). In order to achieve this, social justice was proposed (convention of the goodness of justice and the evilness of oppression) (Ṭabāṭabā'ī 1985, 2:199). So, agreements between tribes and clans (such as international treaties) and those between individuals (such as specific contracts) are

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<sup>13</sup>. *Mankind were a single community; then Allah sent the prophets as bearers of good news and warners, and He sent down with them the Book with the truth, that it may judge between the people concerning that about which they differed, and none differed in it except those who had been given it, after the manifest proofs had come to them, out of envy among themselves. Then Allah guided those who had faith to the truth of what they differed in, by His will, and Allah guides whomever He wishes to a straight path.*

﴿كَانَ النَّاسُ أُمَّةً وَاحِدَةً فَبَعَثَ اللَّهُ النَّبِيِّينَ مُبَشِّرِينَ وَمُنذِرِينَ وَأَنْزَلَ مَعَهُمُ الْكِتَابَ بِالْحَقِّ لِيُخَيِّمَ بَيْنَ النَّاسِ فِيمَا اخْتَلَفُوا فِيهِ ۗ وَمَا اخْتَلَفَ فِيهِ إِلَّا الَّذِينَ أُوتُوهُ مِنْ بَعْدِ مَا جَاءَتْهُمْ الْبَيِّنَاتُ بَغْيًا بَيْنَهُمْ فَهَدَى اللَّهُ الَّذِينَ آمَنُوا لِمَا اخْتَلَفُوا فِيهِ مِنَ الْحَقِّ بِإِذْنِهِ ۗ وَاللَّهُ يَهْدِي مَنْ يَشَاءُ إِلَى صِرَاطٍ مُسْتَقِيمٍ﴾

<sup>14</sup>. *Mankind were but a single [religious] community; then they differed. And were it not for a prior decree of your Lord, decision would have been made between them concerning that about which they differ.*

﴿وَمَا كَانَ النَّاسُ إِلَّا أُمَّةً وَاحِدَةً فَاخْتَلَفُوا ۗ وَلَوْلَا كَلِمَةٌ سَبَقَتْ مِنْ رَبِّكَ لَقَضَىٰ بَيْنَهُمْ فِيمَا فِيهِ يَخْتَلِفُونَ﴾



based upon the very general agreements found within society (Ṭabāṭabā'ī 1969, 5:159).

So, as the Divine Prophets saw the establishment of social justice as the foundation of their missions<sup>15</sup> (Ṭūsī, Ibid, 9:534), one of the clear instances where the conventional structure of human rights required their intervention was in the termination of agreements and treaties. To elaborate, the breaking of an agreement or treaty, under clear conditions, is one of the instances that appear in verse 58 of Sūrah al-Anfāl.

#### **4. The Divine Legality of a Countermeasure Breach**

The legal permissibility of retaliation concerning the breaching of an agreement, stemming from an international treaty, goes beyond an actual breach and is dependent on two principle conditions being validated: 1. the synonymity between actual and anticipatory breach of treaty and 2. the materialization of an initial breach.

Nevertheless, as the scope of state rights and treaties are governed by the law system of treaties, it results in the convergence of these two conditions (Weckel 1999, 229). International responsibility related to a breach also only comes into effect when the rights of a nation are compromised because of a breach of treaty between nations (Sachariew 1988, 277-278). Consequently, the compromised nation can only ensue countermeasures when an actual contradicting act has been realized (Brownlie 1990, 343).

#### **4.1. The Synonymity of the Two Kinds of Breach**

In the Glorious Qur'ān, countermeasures relating to an actual breach of agreement (verses 1<sup>16</sup> and 4 of Sūrah Tawbah) and to an anticipatory

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<sup>15</sup> ...(*Sūrat al-Ḥadīd/25*)*Certainly We sent Our apostles with manifest proofs, and We sent down with them the Book and the Balance, so that mankind may maintain justice*

﴿لَقَدْ أَرْسَلْنَا رُسُلَنَا بِالْبَيِّنَاتِ وَأَنْزَلْنَا مَعَهُمُ الْكِتَابَ وَالْمِيزَانَ لِيَقُومَ النَّاسُ بِالْقِسْطِ...﴾

<sup>16</sup> [This is] a [declaration of] repudiation by Allah and His Apostle [addressed] to the



breach (verse 58 of Sūrah al-Anfāl) are applied with synonymity. The permissibility of breach in the first instant is active retaliation (Maybudī, 1992, 4:90, Quṭb Rāwandī 1984, 1:355; Ibn Qidāmah 1963, 517-522). This practice is based on the contextual harmony of the last verse with those preceding it. Therefore, the fourth verse of this Sūrah places an exception - in two instances of breach: 1. direct and 2. indirect - on the generality of repudiation from the polytheists (Sūr Ābādī 2001, 2:910). Nevertheless, Qur'ānic exegetes interrelate the meaning of the first verse of Sūrah Tawbah with the ruling that is derived from the fifty-eighth verse of Sūrah al-Anfāl (Baghwī 1999, 2:214).

The proof for this, according to contextual harmony, is as follows: Firstly, verse 56 of Sūrah al-Anfāl<sup>17</sup> has contextual harmony with verse 58 in the use of two conditions, namely, 'who violated their treaty every time'<sup>18</sup> and 'who are not Godwary.'<sup>19</sup> (Makārim Shīrāzī 2013, 7:217). The word 'violated'<sup>20</sup>, which appears in the verse, indicates the multiple breaching of a treaty by the polytheists (Ṭanṭawī, n.d., 6:134). Additionally, the phrase 'who are not Godwary'<sup>21</sup>, indicates their acting against the agreement (Ṣādiqī Tehrānī 1986, 12:271), and signifies, in this instant, the breaching of an agreement (Ṭabāṭabā'ī 1969, 9:112). This is why, in accordance with this analytical interpretation on the condition of initial breach (Makārim Shīrāzī 1995, 217), Islamic jurists have always maintained that the enactment of the rule of *nabẓ* is conditional on it (Jurjānī 1983, 2:55).

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*polytheists with whom you had made a treaty:*

﴿بِرَاءةٍ مِنَ اللَّهِ وَرَسُولِهِ إِلَى الَّذِينَ عَاهَدْتُمْ مِنَ الْمُشْرِكِينَ﴾  
17. ﴿الَّذِينَ عَاهَدْتَ مِنْهُمْ ثُمَّ يَنْقُضُونَ عَهْدَهُمْ فِي كُلِّ مَرَّةٍ وَهُمْ لَا يَتَّقُونَ﴾

18. ﴿فِي كُلِّ مَرَّةٍ﴾

19. ﴿هُمْ لَا يَتَّقُونَ﴾

20. ﴿يَنْقُضُونَ﴾

21. ﴿لَا يَتَّقُونَ﴾

## 4.2 Anticipatory Breach

But how can the permissibility of anticipatory breach be understood from the verses with regards to a possible breach?

By analyzing the verb 'fear' (*takhāfanna*) that appears in the 58<sup>th</sup> verse of *Sūrah al-Anfāl*, a possible response to this question can be given. This word, derived from the root kha-wa-fa, literally means the prediction of an undesirable event, concerning this world or the Hereafter, through conjecture or certainty (Rāghib Iṣfahānī, 1991, 303). This is the significance that is implied by the utilization of this word in the Glorious Qur'ān (Abū al-Fatūḥ Rāzī, 1987, 16:106).

According to Qur'ānic exegetes and Islamic jurists, fear (*khawf*) also signifies the expectation of an unpleasant event through certainty (Qāsimī, Ibid, 5:313, Nawawī Jāwī, 1996, 1:430; Lāhijī, 1994, 2:208; Ibn al-‘Arābī, n.d., 2:871; Khamenei, 1997, 114). This meaning has been implied in verse 34 of *Surat al-Nisā* (4)<sup>22</sup> (Maybudī, Ibid, 2:493). Furthermore, the word 'treachery' (*khiyānah*) that appears together with the word fear in the 58<sup>th</sup> verse of *Sūrat al-Anfāl*, emphasizes the significance of the breach of agreement, which is based upon certainty (Zamaksharī, 1986, 2:213).

## 5. Justice, The Basis for Countermeasure Breach

The legislation that deals with countermeasure breach appears in Article 60 of the 1969 Vienna Law of Treaties. It only concerns itself with obligations that have been breached (Greig, 1994: 343). These matters can be seen as being *major gaps* within contemporary international law.

However, according to the Qur'ān, the breaching of treaties is cause for legislative corruption - ...*Observe fully the measure and the balance, and*

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<sup>22</sup> ...As for those [wives] whose misconduct you fear, [first] advise them, and [if ineffective] keep away from them in the bed...

...وَأَلَاتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ ...



*do not cheat the people of their goods, and do not cause corruption on the earth after its restoration*<sup>23</sup>... (Qur'ān 7/85) (Ibn 'Ajībāh, 1998, 2:238).

Similarly, exegetes opine that the repetition of the phrase, *'They observe toward a believer neither kinship nor covenant,*<sup>24</sup> in verses 8 and 10 of *Sūrat al-Tawbah*, verses that contain contextual harmony and address two different groups of people, emphasize and condemn the disloyalty of the initial breachers of an agreement ('Ilwān Nakhjawānī 1999, 1:299). The two groups being *fāsiqūn* (lit. the corrupt) in verse 8, i.e., those who breach their agreements (Ṭabarsī, 1993, 5:151) and *mu'tadūn*<sup>25</sup> (lit. transgressors) in verse 10, i.e., wicked oppressors (Mullā Fath Allāh Kāshānī, Ibid, 3:82).

The basis for the fundamentality of justice in the permissibility of countermeasure breach will be explained with the analytical interpretation of verse 58 of *Sūrah al-Anfāl*.

Regarding the final part of this verse – *'Indeed Allah does not like the treacherous.*<sup>26</sup> – two contrasting interpretations have been presented. So, Qur'ānic exegetes have explained the semantical relationship between these verses with those that show the structured nature of the Glorious Qur'ān according to their individual exegetical methodologies.

This difference of opinion has been primarily caused by two factors: 1. in the acceptance or rejection of contextual harmony in the semantical analysis of the word «treachery» and 2. the difference in the semantical analysis of the phrase, *'in a like manner*<sup>27</sup>.

According to some exegetes, the most important reason for this difference is the existence of two interpretational opinions regarding

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<sup>23</sup>. ﴿فَأَوْفُوا الْكَيْلَ وَالْمِيزَانَ وَ لَا تَبْخَسُوا النَّاسَ أَشْيَاءَهُمْ وَ لَا تُفْسِدُوا فِي الْأَرْضِ بَعْدَ إِصْلَاحِهَا﴾

<sup>1</sup>. ﴿لَا يَزِفُّونَ فِي مُؤْمِنٍ إِلَّا وَ لَا ذِمَّةٌ﴾

<sup>2</sup>. ﴿الْمُعْتَدُونَ﴾

<sup>26</sup>. ﴿إِنَّ اللَّهَ لَا يُحِبُّ الْخَائِنِينَ﴾

<sup>27</sup>. ﴿عَلَى سِوَاءٍ﴾



verbal context (Shāṭībī, Ibid, 3:413). The contextual harmony that exegetes propound is another form of the structured nature of the Glorious Qur'ān.

According to the first opinion, with the condition for the realization of context being validated, i.e., the relation between the subject and concept of the words 'treacherous' and 'treachery' (Ja'farī, 2007, 8), the verse would imply the condemnation of the polytheists who, according to definite indications, intend to breach an agreement (Kāshafī Sabzwārī, Ibid: 189; Maybudī, 1992, 4:69). Accordingly, they are enshrouded by the anger and wrath of Allah (Ṭūsī, 1988, 5:144).

Similarly, if it is assumed that the three verses of Sūrah al-Anfāl (56-58) have contextual harmony, verse 56 is directly addressing the disbelieving polytheists who, after signing an agreement, breached it on multiple occasions (Zuhaylī, Ibid, 10:43). Additionally, this multiple breaches of the agreement by them (Murāghī, , n.d., 10:21) resulted in two types of divine law being ordained, i.e., the declaration of war and disregard of the agreement, which are the subject matter of the proceeding verses. These verses explain the instructions given to the Noble Prophet by Allah, informing him that there is no hope for the disloyal polytheists (Ibn 'Āshūr, Ibid, 9:142).

This is because, at times, the intentional breach of a contract by a group of polytheists is a sign of the declaration of war, as stated in verse 57<sup>28</sup> (Muzahharī, Ibid); whereas other breaches only allow for the agreement and treaty to be broken and abandoned, as ordained in verse 58 (Qurṭubī, Ibid, 8:31).

The contextual harmony of verses 57 and 58 of *Sūrat al-Anfāl* can be explained in the following manner. The term 'confront'<sup>29</sup> (*tathqafannahum*) is derived from the root thā'-qāf-fā', which means to

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<sup>28</sup> 'So if you confront them in battle, treat them [in such a wise] as to disperse those who are behind them, so that they may take admonition.

﴿فَإِذَا تَثَقَّفْنَهُمْ فِي الْحَرْبِ فَسَرِّدْ بِهِمْ مَنْ خَلْفَهُمْ لَعَلَّهُمْ يَدْعُرُونَ﴾

<sup>29</sup> تَثَقَّفْنَهُمْ



straighten that which has been bent or deviated (Ibn Fāris 2008, 1:382). However, the primary meaning of this word is *al-thiqāf*, i.e., a piece of metal that is used to straighten swords and spears. This necessitates the possession and maintaining of those things (Farāhīdī 1989, 5:138). Hence, the meaning of this term in verse 57 of *Sūrat al-Anfāl*, because of the contextual harmony of this verse being synonymous with the term a-sa-ra, is to take captives (Parcham. Ibrāhīmī 2018, 21).

The second interpretative opinion maintains that the declaration of war against the disloyal polytheists before they breach the agreement is an act of treachery. And Allah does not like the treacherous (Muslims). (Wāhīdī, 1994, 241).

This interpretation, where the termination of the agreement is accompanied by an announcement, is the opinion held by the majority of Qur'ānic exegetes (Ibn Jawzī 2001, 220).

Those who hold this opinion, explain the explanatory clause - '*with them in a like manner*' – that appears in verse 58 in the ensuing manner.

Their reasoning is based on the explanatory clause meaning equality (Rāghib Iṣfahānī, Ibid, 439-440) and the semantical relationship between it and the end of the verse. However, this interpretation fails to explain how the condition of announcement of termination is derived from the explanatory clause.

In contrast, the first interpretation defines the specific framework for the appropriateness of a countermeasure breach with respect to an initial breach (Faḍl Allāh, Ibid); while equity and refraining from either extreme (excess and lack) are fundamental conditions for acting on this rule (Tha'ālabī, 1997,3:58). In this interpretation, the contextual meaning of the word 'like manner' (سواء), along with its lexical analysis that opines it having a dual signification, i.e., the refraining from the extremes of excess and lack, is completely coherent (Muṣṭafawī, Ibid, 5:279). In this opinion, the Glorious Qur'ān is addressing the disloyal polytheists only and condemning them for their treachery.



Accordingly, it seems that the correct opinion in explaining the structured nature of the Glorious Qur'ān with regards to the term 'like manner' is the opinion which states that it has a dual signification, i.e., the refraining from the extremes of excess and lack, and one core meaning. Therefore, the indicated meaning that is derived from the change in form of this word can be added to its true lexical meaning. Similarly, every derivative of this word must be returned to the original core meaning (Muṣṭafawī 2006, 2:76).

### **Research Findings**

In highlighting the sanctity of the rule '*Pacta sunt servanda* (agreements must be kept)' the Glorious Qur'ān legitimized countermeasure breach. It, in a structured manner, increased the scope of this breach such that it not only includes actual and initial breach, but also pre-emptive and anticipatory breach. Two sets of verses indicate the legitimacy of retaliation and reprisal by means of countermeasure breach with those who are untrue to agreements. In addition, a semantical relationship exists between these two sets of verses<sup>30</sup>. Therefore, any enactment of this rule will stem from the same root. However, in contrast to Article 60 of the Vienna Law of International Treaties, which legitimizes countermeasure breach, the structured and systematic interpretational method of the Glorious Qur'ān stresses and emphasises the broad role of justice and the Divine Law in these matters.

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<sup>30</sup>. Verse 7 of *Sūrat al-Tawbah* is an example from the first set, while verse 58 of *Sūrat al-Anfāl* is an example from the second.



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