

# المصالح المرسلة أو الاستصلاح

## Consideration of Public Interest (Al-Masalih al Mursalah/ Istislah)

### III. Al-Masalih al-Mursalah as a source of Islamic law

Majority of Muslim jurists consider al-masalih al-mursalah as a source of Islamic law.

1- General verses of the Qur'an indicate that what have been laid down by Qur'an and Sunnah are for the benefit of mankind.

- "And we have sent you (O Muhammad) not but as a mercy for the whole world" (alAnbiya':107)
- "...He has not laid upon you in religion any hardship..." (al-Hajj:78)
- "In the law of retaliation there is (saving of) life to you, O ye men of understanding." (alBaqarah:179)

2- Sunnah: "When the Messenger of Allah intended to send Mu'az bin Jabal to Yeman (as judge), he asked: How will you judge when the occasion of deciding case arises? He replied: I shall judge in accordance with Allah's Book. He asked: (What will you do) if you do not find guidance in Allah's Book? He replied (I will act) in accordance with the Sunnah of the Messenger of Allah. He asked: (What will you do) if you do not find guidance in the Sunnah of the Messenger of Allah? He replied: I shall do my best to form an opinion and spare no pains. The Messenger of Allah then patted him on the breast and said: Praised be to Allah who helped the messenger of the Messenger of Allah to find a thing which pleased the Messenger of Allah." (Reported by Abu Daud and al-Tirmizi).

3- Ijma' of Companions: Example: compilation of the Qur'an, perpetual prohibition of marriage for one who married woman during waiting period and consummated the marriage, imposition of liability on trustee, etc.

### IV. Conditions of valid al-masalih almursalah

- -Must not in conflict with definitive proof of the Qur'an and Sunnah.
- -Must be genuine. It really brings benefit and removes harm.
- -Must be general. Securing benefit and removing harm to the people as a whole and not to particular person or group of person.
- -Must be reasonable. It is acceptable by people of wise reason.