

*Occasional Paper Series*

# **Islam in a Modern State: Democracy and the Concept of Shura**

**Dr. Fathi Osman**

Center for Muslim-Christian Understanding  
History and International Affairs  
Edmund A. Walsh School of Foreign Service  
Georgetown University  
Washington, D.C. 20057

## **The Center for Muslim-Christian Understanding**

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Center faculty and visiting faculty offer courses on Islam and the history of Muslim-Christian relations for undergraduate and graduate students at the University. In addition, a broad array of public affairs activities and publications seek to interpret the interaction of the Muslim world and the West for diverse communities: government, academia, the media, religious communities, and the corporate world.

**Dr. Fathi Osman**

Fathi Osman was a Visiting Research Professor at the Center for Muslim-Christian Understanding in the spring of 1997. Dr. Osman has taught at the University of Southern California, Temple University, Princeton University, Imam Muhammad ibn Saud University, Al-Azhar in Egypt and Oran University in Algeria.

Dr. Osman earned his undergraduate degree in Islamic Byzantine Relations at the University of Cairo, Egypt, and his doctoral degree in Islamic Economic and Financial Institutions at Princeton University in New Jersey. his publications included: *Islamic Thought and Human Change*, *An Introduction to Islamic History*, *Human Rights Between Western Thought and Islamic Law*, *On the Political Experience of the Contemporary Islamic Movements*, *The Muslim World, Issues and Challenges*, *Jihad: A Legitimate Struggle for Human Rights*; *Muslim Women in the Family and Society*, *Shari'a in a Contemporary Society: Islamic Law and Change*, and *Concepts of the Quran: A Topical Reading of the Divine Revelation*.

**Islam in a Modern State:  
Democracy and the Concept of *Shura***

## Democracy among Modern Ideologies

The term "ideology" has become dominant during the last two centuries, starting in France with the philosopher A.L.C. Destutt de Tracy who used the term to refer to the "science of ideas". As Encyclopedia Britannica explains,

In the loose sense of the word, ideology may mean any kind of action-oriented theory or any attempt to approach politics in the light of a system of ideas. Ideology in the stricter sense stays fairly close to Destutt de Tracy's original conception, and may be identified by five characteristics: (1) it contains an explanatory theory of a more or less comprehensive kind about human experience and the external world; (2) it sets out a program, in generalized and abstract terms, of social and political organization; (3) it conceives the realization of this program as entailing a struggle; (4) it seeks not merely to persuade, but to recruit loyal adherents demanding what is sometimes called commitment; (5) it addresses a wide public, but may tend to confer some special role of leadership on intellectuals.<sup>1</sup>

The "-isms" that have dominated the nineteenth and twentieth centuries may suggest that *"ideologies are no older than the word itself - that they belong essentially to a period in which secular faith has increasingly replaced traditional religious faith"* (emphasis added).<sup>2</sup>

*Britannica* points out certain similarities between any "ideology" and a "religion", since both are concerned with questions of truth and questions of conduct,

but the differences are perhaps more important... A religious theory of reality is constructed in terms of a divine order and is seldom, like that of the ideologist, centered on this world alone. A religion may present a vision of a just society, but it cannot easily have a practical political program. The emphasis of religion is on faith and worship; its appeal is to inwardness and its aim is purification of the human spirit. An ideology speaks to the group, the nation or the class. Some religions acknowledge their debt to revelation, whereas ideology always believes, however mistakenly, that it lives by reason. Both demand commitment.<sup>3</sup>

However, with regard to Islam, one may be some reservations about the distinctions between ideologies and religions presented in *Britannica's* article, since Muslims believe that Islam presents a whole way of life in this world and following it is a condition for the rewards of the eternal life to come. Purification of the spirit cannot be isolated from conducting human relations with others in this world, and both interact in the Islamic perspective of faith and righteousness.

As for "democracy" in particular, it is the ideology that has survived despite a general cooling in the fervor for ideologies as comprehensive intellectual tools for change. Democracy has maintained its common appeal to the modern human mind, at least with regards to its basic principles, in spite of the considerable criticism that it has been facing conceptually and practically, from its own supporters as well as its opponents. Derived from the Greek words "demos" (the people) and "kratia" (rule), used to describe early democratic forms of government developed in the sixth-century B.C.E. Greek city-states, the term has been defined in a condensed way to mean "the government of the people, by the people, for the people". It originally designates "a government where the people share in directing the activities of the state, as distinct from governments controlled by a single class, select group or autocrat", according to the *New Columbia Encyclopedia*, but

has been expanded to describe a philosophy that insists on the right and the capacity of a people, acting either directly or through representatives, to control their situations for their own purposes. Such a philosophy places a high value of the equality of individuals and would free people as far as possible from restraints not self-imposed. It insists that necessary restraints be imposed by the consent of the majority and that they conform to the principle of equality.<sup>4</sup>

### **Natural Law, Social Contract**

Freedom and equality of all citizens or even all human beings represent the cornerstones of democracy. A doctrine of "natural law" that supersedes and prevails over any state law developed the idea of natural rights, such as the rights of self-preservation, which in turn was used to support the rights of citizens and human beings. Another support for natural human rights was provided by the idea of "the social contract" that binds both the ruler and the people by reciprocal obligations, in the view of the British philosopher John Locke (1632-1704) and the Swiss-born philosopher Jean Jacques Rousseau (1712-1778).

### **Representation, Elections, and Party Systems**

Because direct democracy is difficult or even impossible to practice in any relatively wide and populous country, *representation* has become an essential principal and practice in democracy. Elections and political parties have provided the mechanism for the representation of the people in directing the main activities of the state, especially the executive and the legislative branches. Universal suffrage and the multi-party system are significant features in the democratic process, whatever disadvantages each may have.

Dilemmas have always emerged for representative body in considering the parallel and sometimes the sharply contradictory interest demands of the: individual versus society as a whole; elite versus the masses; majority versus the minority and vice versa; political democracy, economic development and private enterprise on one hand and social justice, human development and environmental preservation on the other. In addition, and perhaps more importantly, a continuous challenge meets any ideology that is by nature fixed in its fundamentals in the face of unceasing change in any human society, which requires dynamic creativity and continuous reconsideration of priorities and re-

designation of strategies. Meanwhile, the state of constant elections often leads to a preference for short-term compromises and appeasing the masses, and allows pressure groups and lobbies to act vigorously - not always for the public interest or the mainstream benefit.

Moreover, while the mass media provide democracy with amazingly efficient and effective means of communication between the political leadership and the masses, these marvelous channels can be easily tempted professionally or financially to be means of public misguidance.

### **Democracy Stimulates Differences but Organizes Opposition**

Democracy represents an ideal of justice, as well as a form of government. It develops a belief that freedom and equality are inherently good and that democratic participation in ruling secures, deepens and enhances human dignity. Democracy starts in the family and at school, and both should function in a way that nurtures democracy in a child's behavior. Democracy is presented in another sense as a comprehensive way of life, not merely a political system.

However, freedom of expression and assembly are essential for the life and flourishing of democracy. No democracy can exist without securing full rights for the opposition. James Madison (1751-1836), the fourth president of the U.S. (1809-1917), once wrote, "Liberty is to faction as air to fire." Freedom that promotes faction is valuable since false consensus or disappearance of differences may mean tyranny or stagnation. A democracy cannot deserve such a name if no differences or opposition exists. Yet, differences and opposition must be handled legitimately, without moral or physical assaults against opponents. Since democracy means freedom and equality, individual and group differences will always emerge, and this is healthy, as long as it is practiced properly.

### **Political Democracy and Social Justice**

Modern democracies believe now, differently from what was established theoretically and practically before, that an interference of the state in the economy (to some degree without sacrificing the essence of democracy) may sometimes be necessary in order to deal with difficult problems like a severe recession, or to secure social justice, "The New Deal" promoted by President F.D. Roosevelt (1933-1945) to handle the U.S. recession in the 1930s is landmark in this respect. Western democracies have advocated and practiced to different degrees the concept of a "welfare state", especially when political parties with various socialistic tendencies rule.

### **Contradictions of the Democratic West**

Democracy has to be universal for all of humanity: the rich and the poor, the developed and the developing. Exporting tobacco to other countries without a health warning; shipping food, medicine, chemicals and other products without expiration dates; ignoring the safety precautions or the inevitable harm of certain industries as long as they are established in other countries; and moving the nuclear waste to the open seas - a common property of all humanity - all such actions are not only undemocratic but are *anti-democratic*. As emphasized by Thomas L. Pangla, a professor of political science at the University of Toronto, in his book *The Ennobling of Democracy: The Challenge of the*

*Postmodern Age*<sup>5</sup>, liberal democracy is forced to re-examine its internal structure and fundamental aims, especially after being deprived of its traditional enemy at the end of the Cold War. In the author's view, a significant negative in the postmodern age has been the "moral relativism" of many mainstream Western intellectuals. Pangla writes,

Philosophers of modernity, from Spinoza to Locke to Kant and even Hegel, spoke not simply of human rights but emphatically of 'natural rights', issued in moral 'laws of nature's God', and accompanied by such foundational concepts as the 'state of nature', 'the social contract', and 'the categorical imperative'. Nothing characterizes the spiritual climate of the West today so much as the persuasive disbelief in these once all-powerful philosophical pillars of modernity. Our philosophical currents are negative, skeptical, disillusioned. The postmodern is not 'what exists after modernity'; it is rather the state of being entangled in modernity, as something from which we cannot escape but in which we can no longer put on final faith... The cultural, moral, religious and even the civic permission of the Enlightenment were fulfilled in a much more ambiguous and controversial fashion than the mathematical, economic, and technological promises. The great attempts by the political philosophers of the Enlightenment to provide systematic, rational and generally acceptable foundations for public and private existence have proved to be inadequate. This is by no means to say that they have been altogether a failure.

He argues that a serious challenge has been posed to postmodernism by the emerging democracies of Eastern Europe which make demands on Western thought that postmodernism has been unable to meet<sup>6</sup>. Along a similar line, Aslam Munjee has written *The Rape of a Noble Ideology: U.S.A. in Perspective 1783-1985*.<sup>7</sup>

Although all of humanity lives in an era of globalism through the fascinating technology of transportation, communication, and information, and thus all human beings are living in one village or "riding the same boat", egotistic attitudes and visions dominate international relations - especially the material and cultural relations - between developed and developing countries. Instead of military power, the developed West uses its economic and technological superiority to obtain "secure" markets for its products, and "security" is defined by the West on its own political and ideological terms.

One may be reminded of an earlier challenge to the West before the postmodern age: that of previously colonized countries that became independent and looked to their former colonizers for advice and help in developing and modernizing the political, economic and social systems within their countries.

### **Democracy in Developing Societies**

"In the industrialized countries of the West," A.H. Somjee points out in his book *The Democratic Process in a Developing Society*,<sup>8</sup>

economic development, urbanization and some measure of social equality preceded the formation of democratic institutions. In some of the developing countries, on the other hand, this process has been reversed. There, the strategy of economic development at the expense of political liberation has not found many supporters. For such countries, a slow pace of economic advancement through the democratic process is not the only problem.

However, "although so far very few of these (developing) societies have been able to sustain and strengthen their liberal institutions", the author continues, "their gradual democratization is as likely to take place as their liberal institutions". In his preface, Somjee refers to Robert Dahl's suggestion that the democratic process is essentially concerned with two sets of related activities: exercising influence on leaders, and making governments responsive and accountable. Yet, Somjee underlines something distinctive in a developing society:

Within the situation of a developing country like India, however, the term "democratic process" has to mean more than that. To be able to attain the position referred to by Dahl, first of all *the individual must be released from the constraints of the primary groups to which he (/she) is born*, so that he (/she) may exercise his (/her) political choice in an uninhibited fashion. Simultaneously, the democratic process has to help him (/her) to grow in understanding and capacity, so that by trial and error and working in concert with his (/her) fellow men (women), he (/she) can learn and use his (/her) new political status to demand effective solutions to the problems which afflict them (emphasis added).

As examples for the challenges that the democratic process faces in India, the author notes: "With the exception of its top leadership, the main interest of the Congress Party as an organization was to line up the votes of the Christian and Muslims rather than involve them in the wider democratic process of India".<sup>9</sup> He adds:

The survival of the democratic process in any society depends on its ability to address itself effectively to its basic problems. But this it can do only with the help of party organizations. No matter how conscious or involved the electorate may be, it cannot take the place of party organizations. It can merely observe, evaluate and replace one party by another. While the democratic process may be said to have struck root in India, the state of party



organizations, on which its survival depends, is far from satisfactory.<sup>10</sup>

However, there is no available framework that secures equal rights and responsibilities for all individuals and groups in contemporary pluralism better than democracy, and there is no other framework that makes possible self-criticism and self-correction within the system itself and while it is functioning.

**Islam: A Faith and Worship,  
As Well As a Comprehensive Way of Life**

Islam is a religion, not a mere political system; it appeals primarily to the inwardness of the human mind and spirit, the promises the whole fulfillment of every individual and absolute justice in the eternal life to come. However, it requires that the individual's spiritual development be represented and reflected in reforming personal behavior and social relations, in order to prove innate change and achieve salvation with its eternal rewards. Islam not only has a vision of a just society, but also presents general principles of a whole way of life for the individual, the family, the society, the state, and the world relations in order to secure balance and justice in the whole human sphere. It offers the basic moral and organization rules for relations between man and woman, between the elderly and the young in the nuclear and extended family, and in the society, between the haves and the have-nots, between the rulers and the ruled, and between Muslims and others within the local society and throughout the world. Like ideologies, Islam does not provide detailed practicalities and programs, since such details are changeable to fit unceasing change in human circumstances in different times and places. Islam allows extensive room for the creativity of the human mind to cope with emerging changes, for the human mind is God's gift to be fully used and developed, it should not be restricted or crippled by that other gift of God, His guiding messages. It is the same One God who created the human being, and who grants him or her spiritual, moral, and intellectual faculties, and to whom He has sent His guiding messages as well, both are made in accordance with the all truth.<sup>11</sup> Thus, no contradiction between both may exist; "And so set your face (and direct yourself) sincerely towards the faith, which is in accordance with the nature upon which God has originated human beings..."<sup>12</sup> God's messages aim to develop the human being in his or her totality: spiritually, morally, intellectually, physically, individually and socially, and to guard him or her against egotism without suppressing or patternizing human individuality and personal creativity. Divine guidance develops individuals through to their full spiritual potential instead of being deformed by selfish greed in a material civilization—as the American philosopher John Dewey has sharply pointed out.<sup>13</sup>

Therefore, Islam can be presented to and dealt with by a non-Muslim as an ideology, with some flexibility in using the term since it was coined for human ideas, or as general principles for a comprehensive way of life. Naturally, however, the intellectual conviction cannot provide the same moral depth, width and constancy as a religious commitment, which looks for the acceptance of the Absolute Supreme and the reward of eternity. Freedom and equality for all human beings are, for the believers in God, definite results of the belief in the One who is the only distinctive and supreme "the One to whom all greatness belongs,"<sup>14</sup> "there is nothing like unto him,"<sup>15</sup> "there is nothing that could be

compared with Him.”<sup>16</sup> All human beings are equally God’s creation, and each is free since he or she is only subject to God’s physical and moral laws, and each is equal to any other human being. Caliph ‘Umar (13-23H/634-44 C.E.) tersely addressed the Muslim governor of Egypt whose son beat an Egyptian child, “Since when did you impose slavery on human beings while their mothers bore them free!”<sup>17</sup>

However, the religious dimension in the Islamic ideology or plan, of individual and social, local and global reform, does not mean the establishment of a theocracy. There is no clergy in Islam; any intelligent human being who knows the language and the style can understand and interpret God’s message and no supernatural or metaphysical power can be required or claimed for such a work.

God’s message has ‘been preserved and made known publicly through centuries; and no human being can add to it or detract from it. The ideology of Islam, if we may say so, is not totalitarian. It does not dictate details that dominate every moment or make an imperative for any human thought and move, nor does it claim to provide a definitive prescription in advance for every specific problem that may emerge at any time in the future. Islam presents the essential guidance that allows the creativity of the human mind to conceive, infer from, and build upon it. The ruling authorities cannot monopolize providing the interpretation of the divine guidance or offer new solutions for emerging problems from above without involving the people, and every sane adult has the right to participate in such a process.

### **Human Dignity**

Human freedom and equality are fundamental in any democracy. Similarly, Islam considers “human dignity” fundamental to its guidance for the right way of life. The Quran reads: “We have *indeed conferred dignity on the children of Adam*, and carried them on land and sea, and provided for them sustenance out of the good things of life, and favored them far above most of Our creation” (emphasis added).<sup>18</sup> All the children of Adam, whatever their race, ethnicity, gender, age, social status and beliefs may be, have been granted dignity by their Creator without any distinction, and this human dignity must be secured and maintained by His guidance and laws through the Muslim teachers and authorities, and should never be subjected to violation or declination. Human dignity is comprehensive; it encompasses all human dimensions: spiritual, moral, intellectual and physical. Sustenance from the good things of life must be secured for every human being through fair conditions of work and decent social welfare for those who cannot work temporarily or permanently. Freedom to move from one place to another is an essential feature of human dignity that fulfills the universality of the human creature with his or her unique spiritual, moral, and intellectual potential. Any restrictions in this respect within the country or throughout the world must be considered against human dignity.

Human dignity comprises the fulfillment of obligations as well as the security of rights. Thus, the Quran uses the word “dignity” to underscore the correspondent human rights and obligations, which should be together carried out to secure the human dignity. Thus, a selfish view of freedom or human rights (which was noticed, for example, in French society after the 1789 revolution and in some Eastern European societies after the collapse of communism) can be avoided.

Early jurists gathered out from the various rules of Islamic Law (*shari'a*) held that its goal is securing and developing the human being in these five basic areas: life, family and children, mind, freedom of faith, and rights of ownership whether private or public. Human dignity is supported in Islam by educational and organizational measures, and is not presented as empty words, mere rhetoric or personal piety.

### ***Shura in the Islamic Way of Life***

Islam teaches that God alone is the One who is All-knowing, All-powerful and must be obeyed unconditionally according to a genuine conviction and belief.<sup>19</sup> Human beings have relative knowledge and no absolute power. They are all equal and enjoy dignity granted to them by God since their creation, and each is accountable in this life and in the life to come for his or her deeds. Every matter, even the faith itself, should rely on one's conviction about what is right and what is wrong without any coercion or intimidation. As the Quran says, "No coercion is [allowed] in matters of faith."<sup>20</sup> Based on these beliefs, any human being cannot decide arbitrarily and independently a matter that concerns others and not himself or herself alone, nor claim if he or she does so, an immunity from accountability. The Quran makes "*shura*" or "participation with others in making a decision that concerns them," subsequent to and a consequence of the faith in God. It represents the positive response to His message and comes next to making prayers to Him, "and those, who respond to [the call of] their Lord, and keep up the prayers, and whose rule in a matter [of common concern] comes out of consultation among themselves..." (emphasis added).<sup>21</sup> The initiative of involving others in making a decision of common interest has to come from those who are responsible for leadership and making such decisions. However, those concerned people take the initiative to offer their *nasiha* (advice) to the leadership in a suitable way when they find this necessary, since giving advice is an obligation of every individual towards leaders and the public as well "*a'imat al-Muslimin wa 'ammatihim*," according to a tradition of the Prophet reported by Muslims. *Enjoining the doing of what is right and good and forbidding the doing of what is wrong and evil* is the responsibility of the state authorities as well as the people and any group of them.<sup>22</sup>

*Shura* is not limited to the political field; it has to be developed starting with the family base to be a general way of life in all areas. Spouses, even in the case of divorce, have to conduct family matters "*by mutual consent and counsel*" (emphasis added).<sup>23</sup> Both requirements have to be fulfilled together without split, since consent must be based on mutual consultation and not taken for granted, and consultation should lead to mutual consent and not be exercised as a superficial formality. The child has to be educated to express himself or herself freely but properly about what ought to be done or avoided.<sup>24</sup> The family and the school have essential roles in developing *shura* as a way of life.

*Shura* means a serious and effective participation in making a decision, not merely a ceremonial procedure. The Quran addresses the Prophet who received divine revelation to rely on *shura* in making decisions concerning common matters for which no specific revelation had come: "and take counsel with them in all matters of common concern; then, when you have made a decision (accordingly), place your trust in God."<sup>25</sup> If the prophet is addressed to involve the believers in decision-making regarding a common matter for which no specific revelation exists, all the believers *a fortiori* must follow this

teaching. The distinguished Andalusian Quranic commentator Ibn ‘Atiyya (d. 546H/1151 C.E.) stated his commentary on this verse: “*Shura* is one of the basics of Islamic law (*shari’a*), and a mandatory rule; and any [who is entrusted with a public authority] who does not take the counsel of those who have knowledge and are conscious of God, should be dismissed from his [or her public] position, and there is no argument about that.”<sup>26</sup>

The Prophet consulted his Companions when he confronted his enemies from Quraysh who challenged him and camped near Medina. In accordance with their opinions, he decided to meet his enemies in the battle of Badr in the year 1 H./622 C. E. Later, the Prophet also consulted his Companions about whether to go out of Medina to meet the attacking army or to stay in and defend the city when they attacked; he followed the majority opinion and met them in the battle of Uhud in 3H./624 C.E. In the attack of a tribal coalition against Medina in the year 5H./626 C.E., when the Prophet’s suggestion to give an attacking tribe some of its fruits to persuade their withdrawal was not approved by some of his Companions, he went along with them. Even in his private life, when his wife ‘A’isha faced a false accusation shortly afterwards, he asked his Companions for their opinions. Later on, in the year 23 H./644 C.E., as soon as Caliph ‘Umar was stabbed, he appointed a committee to discuss, among themselves and with the people, who would succeed him; and their decision had to be made by the majority.

It is obvious from the previously-mentioned verse [Quran 3:159], that any decision made should be based on the results of *shura*. It is evident in the historical events that the decisions taken were based on the opinions of the majority. Although the minority or even a single person may be right and the majority may be wrong, reliance on majority opinion is the only reasonable and acceptable procedure among human beings, for the risk of error in such a case is far less than in an individual or minority opinion. Freedom of expression and freedom of assembly are essential to determine the right decision among different views, and opposition is naturally indispensable for the life and efficiency of *shura*.

Besides, the courts, especially a supreme or constitutional court, can always check the constitutionality and legality of any decision. In case of any violation of the general principles of the Islamic Law (*shari’a*), any decision made by any authority can be overturned by courts.

### ***Shura* in the Political Life**

Everyone has the right and obligation to participate in deciding who will be their leaders and representatives by *shura*, and the elected public bodies must reach their decisions by *shura*. The Quran states that a majority of human beings may not always be on the right track (see, for example, 2:243, 6:116, 7:187, 11:17, 17:89, and 37:71), but it never teaches that a majority of reasonable and sincere people can be less reliable and more erring than an individual or a minority among them; this is sharply pointed out by Muhammad Abduh and Muhammad Rashid Rida in their prominent commentary on the Quran.<sup>27</sup> The majority can make mistakes, but making mistakes is human and humans are only required to make serious efforts to determine what is right and to avoid mistakes, making use of accumulated human knowledge and experience about the discussed matter. Such requirements can be met far better in a majority decision. As previously mentioned,

many precedents can be found in the life of the Prophet and the early Caliphs about decisions made according to the majority even if they differed from the leader's view. Islam teaches that an individual must adhere to the society or community (*al-jama'd*), and the majority can only be identified in such a case. A Prophet's tradition urges one to follow the most overwhelming majority (*al-sawad al-a'zam*) in case of a serious split (reported by Ibn Hanbal and Ibn Majah).

The primary area for *shura* is in choosing the head of the state. In our times, the state leader may be directly chosen by the people or by their elected representatives, and may be the head of the executive branch, or just a symbol for the state while the actual authority is given to the prime minister. In the last case, the prime minister is the leader of the political party whose candidates have won the majority of the seats of the representative body, which may also be called the "parliament." The Quran states: "O you have attained to faith! Obey God, and obey the Conveyor of the Message [of God] and those from among you who have been entrusted with authority by you; and if you are at variance over any matter, refer it to God and the Conveyor of the Message [of God] if you believe in God and the Last day; this is advantageous [for your human relations] and most appropriate for reaching what is right" (emphasis added).<sup>28</sup> The verse indicates that those who are in authority should be those "from among you who are entrusted with authority by you" (*ulu al-amr minkum*). This may remind us of the characterization of democracy as establishing "the government of the people by the people for the people."

While a democratic decision has to comply with "imagined" natural human rights or a social contract as a safeguard against any possible majority injustice, Muslims and those who are entrusted with authority "from among them, by them" are bound by the goals and general principles of *shari'a* that secure human dignity, and guard and develop for all human beings: their life, families and children, minds, freedom of faith and ownership of private or public property.

According to the Islamic historical precedents, there is a real binding contract—not a fictitious one—between the ruler and the ruled. The mutual pledge, which was called "*bay'a*," holds the ruler responsible for assuring the supremacy of God's law (*shari'a*) and justice, securing human dignity, serving the public interest, and fulfilling the entire duties of the position, while it holds the people responsible for supporting the ruler, obeying his decisions that comply with God's law, and fulfilling their obligations.<sup>29</sup>

The preceding verse implies that those who are entrusted with authority by the people form "organizational bodies" are not considered mere individuals, since they are always referred to in the Quran in the plural [see 4:59, 83].

Moreover, *differences may naturally emerge* within these bodies that which are entrusted with authority, or between them and the people or groups of them. The parties at variance are referred to the guidance of God and the Conveyor of His message, which may be presented and decided in the most appropriate way, whenever this becomes necessary, by a supreme court.

The head of the state can be elected directly by the people or by the parliamentary representatives of the people, or can be nominated by these representatives and

introduced to the public vote. Any procedure can be followed according to its own merits and to the given circumstances, and Islam accepts that which is in the interest of the people.<sup>30</sup> Early Caliphs were chosen primarily from a narrow circle and vested by *bay'a*, then the chosen Caliphs would go to the public to get their acceptance through the public *bay'a*. As previously indicated, *bay'a* is a mutual pledge: from the ruler to follow the Islamic Law and satisfy the public, and from the people to support the ruler and advise him.

### **Other Areas for *Shura***

\* *Shura* has a role in the election of the people's representatives in the parliamentary body—or bodies—and its practice of legislation, guarding the public interest through checking the executive exercise of power, and pursuing the people's concerns. When the principle of "one person, one vote" fails to secure a fair representation of any group: ethnic, religious or social (i.e., women), justice (the main goal of *shari'a*) has to be secured by appropriate means in the given circumstances, such as assigning for each of such groups a certain number of seats in proportion to their size, which would be exclusively contested in certain constituencies or in the country as a whole by those who are related to the group, as some democratic ideas or practices have indicated. In addition, a limited number of seats, which should represent a minority in the whole parliament, may be occupied by elected representatives of professional or social organizations. Continuous democratic experiences always contribute ways for reaching the best possible representation of the people and their diverse structure and interests.

\*Discussions, hearings, and reaching decisions by the representative body and its committees, within themselves, with the executive bodies or with other organizations or individuals in relation to any public concern, represent a vital area for the practice of *shura*.

\*A significant practice of *shura* may occur if public referendum is found appropriate in certain matters of special importance, which may be decided by the legislature or by a required number of voters through an indicated procedure.

\*In the executive branch and its departments, *shura* naturally has its place in the discussions and decisions.

\**Shura* has also to be practiced in the elections of leaders and boards in workers', professionals' and students' unions, and in the discussions and decisions of these elected bodies, and in any wider conference they may arrange.

\*Technical and professional *shura* ought to be conducted in schools, hospitals, factories, companies or any other business.

\*In the courts, *shura* is followed when there is more than one judge ruling over the case, or when the jury system is applied.

### **Voting**

The democratic mechanism in elections and decision-making is voting, and its known and accepted form is "one person, one vote." This procedure was suggested by Caliph 'Umar for the committee

that he appointed to determine who would succeed him as Caliph after being stabbed. It was further evident from many historical precedents—of which some have been previously mentioned—that the Prophet and the early Caliphs followed the visible majority in making their decisions. The above-mentioned tradition of the Prophet teaches

that one has to follow the overwhelming majority (*al-sawad al-a' zam*) when there is a serious spilt.

To those who argue that “one person, one vote” makes the judgment of the most knowledgeable person equal to that of the most ignorant one, one may reply by saying that, in relation to the common interest of the people, any adult with common sense and civic abilities and experience can make a judgment. Campaigns that support different candidates’ views and the mass media provide valuable information for a serious voter. Any discrimination in the votes, on whatever grounds, may be arbitrary. Judgment about a public matter of an uneducated but experienced person may be more sound than that of an inexperienced university graduate.

Women are equal to men in public responsibilities as the Quran explicitly states: “And the believers, both men and women, are in charge of [and responsible for] one another: they all enjoin the doing of what is right and good and forbid the doing of what is wrong and evil...”<sup>31</sup> Women’s views regarding who should succeed Caliph ‘Umar were pursued, even those of women who were staying in their homes.<sup>32</sup>

The notable commentator on the Quran Ibn Jarir al-Tabari [d. 310H./922 C.E] and the prominent jurist Ibn Hazm [d. 450CH./668 C.E.] stated that a woman can occupy the distinguished position of a judge, if she is qualified for it.”<sup>33</sup> The Quranic verse about making a male witness equal to two female witnesses in a credit contract indicates that this is meant when a woman might not be familiar with such transactions and their legal requirements, “so that if one of them should make a mistake the other could remind her” [2:82]. It is obvious from the Quranic text, the historical social context, and the jurisprudential principle that: “a legal rule follows its reason: if the reason continues to exist, the rule holds, and if the reason ceases to exist the rule is not applied”—all this makes it obvious that the verse does not address educated or business-experienced women, nor address common human interests which do not require specialization.

The distinguished jurist Ibn al-Qayyim [d. 751H./1350 C.E.] indicated in his book, *al-Turuq al-Hukmiyya* (Ways of Ruling), as well as other jurists, that this rule does not apply to the testimony of a woman in other areas that she may know well.<sup>34</sup> If some jurists stated that a woman could be a judge, then the verse about her testimony cannot be understood as a general rule for the whole gender in all times and places.

### **Candidacy**

Elections require several candidates from whom to chose for a position. Caliph “Umar nominated six distinguished persons from which one might be chosen as a candidate for the caliphate to succeed him. Some argue against such a procedure from an Islamic point of view, arguing that the Prophet said he “would not appoint in a public position one who had asked for it.”<sup>35</sup> According to scholars in this field and jurists, this is interpreted as a warning against asking for a public position merely for a personal benefit without considering its responsibilities and the required capabilities for fulfilling them. One who is capable for a public position, fully aware of its responsibilities, and thinks that he or she can fulfill them and commits himself or herself to do so, can ask for the position and mention his or her qualifications for it, as the Prophets Yusuf [Joseph] and Sulayman

[Solomon] did. Yusuf said to the King of Egypt: “Set me in charge of the store-houses of the land, I am a knowing and honest guardian” [12:55], and Sulayman prayed: “O my Lord! Forgive me and grant me a kingdom such as may not befall anyone after me” [38:35]. It goes without saying that presenting the candidate’s merits and capability for the position, and criticizing others’ in capabilities should follow the legal and ethical principles of Islam. The requirements for a candidate, or what may bar a person from a candidacy can be decided in the light of Islamic legal and moral teachings, and according to social circumstances.

In Islam, women may be members of the parliament, ministers, judges, and-military and police officers, according to their merits and credentials, since they enjoy equal rights and responsibilities to men in joining the doing of what is right and good and forbidding what is wrong and evil.<sup>36</sup> Non-Muslims represent an inseparable part of the society and the state and have the right and duty to occupy positions in the executive, legislative and judicial branches and in the military and police as per their merits and credentials, according to the Prophet’s constitutional document in Medina and several historical precedents. A modern state is ruled by bodies, not by individuals, and non-Muslims would represent in any body their size and weight in the society. The prominent Shafi’i jurist al-Mawardi (d. 456H/1068 C.E.) stated that a Caliph can have a non-Muslim executive minister.<sup>37</sup> Non-Muslims were known as ministers and top officials in Islamic states such as Egypt and Muslim Spain. As for a non-Muslim judge, he or she has to apply the state code of laws according to whatever his or her beliefs may be. However, the areas that are related or close to the faith—such as family matters and *waqf* (a property of which the revenues are permanently allotted to charity or certain beneficiaries) can be assigned to a judge of the litigant’s faith.

### **Multi-Party System, the Opposition**

Political parties are essential for democracy, as they help people form their views and choices about persons or policies. Besides, the individual finds himself or herself helpless to oppose governmental authority, especially in a modern state with its enormous power provided by advanced technology in suppressing opposition and in influencing public opinion. The multi-party system has proved to be the most—if not the only—democratic formula in this respect. The one-party system has never allowed any real or effective opposition within itself, and such an opposition can never grow outside from it individuals who have no vehicle to contact the masses, and no power as individuals to challenge the government with all its authorities and oppressive measures.

Islam secures the right of assembly, and the Quran urges that groups may be formed to enjoin the doing of what is right and good and forbid what is wrong and evil, which is the essence of politics: “And let there be from among you a community (*umma*) that calls to good and enjoins the doing of what is right and forbids the doing of what is wrong” [3:104]. The word *umma* used in the verse may not always mean the whole community but just a group of people,<sup>38</sup> especially when the word is connected with the preposition “from,” as in the above mentioned verses: “from among you...(*minkum*).” This need not hurt the fundamental unity of the people, since political differences are human and inevitable, and thus should not affect the public unity if they are properly handled in objective and ethical ways. As politics represent an area of human thinking and judgment



and discretion (*ijtihad*), the Quran assumes that Muslims may face differences and even disputes,<sup>39</sup> and they have to settle them according to the guidance of the Quran and the Sunna. Different legitimate approaches towards the understanding and interpretation of the divine texts and implementing them may naturally arise. Early Muslims had their conceptual differences from time to time, and they argued about the state leadership after the Prophet's death. Their political differences were represented in certain groups, which freely and openly expressed their diverse views on that occasion in a public meeting at al-Saqifa. Later, Muslims had several theological groups with different political concepts, as they had their different jurisprudential schools, and such differences should not by any means hurt the public unity, when they are objectively and ethically tackled.

Accordingly, Muslims can form several Islamic political parties: all of them are committed to Islam, but each with its own concepts or methods of political activity, or with different programs of reform when they rule. Although establishing parties on ethnic grounds or for personal or family considerations ought not to be encouraged from the Islamic point of view—especially among Muslims—this may be acceptable in given circumstances.

Non-Muslims and secularists can have their political parties to present their views, and defend their interests and guard the human rights and dignity of all the children of Adam as the Quran teaches. Women can join or form the party they like. Political fronts and alliances may involve Islamic parties and others whenever this may be beneficial for the Muslims and the entire people. As well, coalitions can gather various parties, including Islamic ones, to form a government. Such a diversity in political thinking, concerns, and activities within the people's unity represents a fundamental organizational tool for human pluralism, in order to secure and defend the dignity of all children of Adam.

Opposition is indispensable in a democratic system, and should not raise doubts to the Muslim mind. It is needed to scrutinize the government's activities, and to be ready to replace it if it loses the confidence of the people. Opposition does not oppose for the sake of opposition; it should support the public unity during national crisis.

However, opposition may not be efficient or effective when the political parties become so many that forming a coalition to govern or a weighty opposition would be problematic. This is a challenge for the multi-party system, which some contemporary democracies are facing and suffering from. It may be overcome through political prudence and moral responsibility rather than by any legal restriction that may be arbitrarily decided or executed.

### **Legislation; Separation of Powers**

Some Muslims may argue that, since God is the Lawgiver, there should not be a legislative body in an Islamic state. In fact, the legislature specifies and puts in detail the required laws, while the Quran and Sunna present general principles and certain rules. Even in the case of such particular rules in the Quran or the Sunna, different interpretations and jurisprudential views might arise about a certain text on the grounds of its language and its relation to other relevant texts. It is essential that a certain interpretation or jurisprudential view should be adopted by the state as a law, and this has

to be decided by the legislature, so that the courts may not be left to different rules that may be applied in the same case according to the views and discretion of different judges—a complaint the well known writer Ibn al-Muqaffa' [d. 142H./759 C.E.] made in his time.<sup>40</sup>

Besides, there is extensive room for what is allowed by *shari'a* "*al-mubah*," and such an enormous area of allowed matters ought to be organized in a certain way, making any of them mandatory, forbidden, or optional according to the changing circumstances in different times and places. Public interest has its consideration in introducing new laws, which were not specified in the Quran and Sunna, but which are needed in a certain time or place, and which do, not contradict any other specific rule in the divine sources, but can be supported by the general goals and principles of *shari'a*. Many laws are required in a modern state in various areas such as traffic, irrigation, construction, roads, transportation, industry, business, currency, importing and exporting, public health, education, and so on, and they must only be provided according to the consideration of public interest or in the light of the general goals and principles of *shari'a*, as there are no specific texts in the Quran and Sunna that directly deal with every emerging need in every time and place.

The Prophet himself expected that some cases, which may not have a particular corresponding rule in the Quran and Sunna, would face a judge who has to use his own discretion and judgment (*ijtihad*), which is naturally assisted by the essence of *shari'a* and guided by its general goals and principles. Such a juristic or judicial discretion, *ijtihad*, may have to be generalized and codified as a state law, and not left to personal differences of the jurists or judges. Changing circumstances influence the human understanding of the legal text, and develop new legitimate needs for legislation. Considering the goals and general principles of the Islamic law in responding to changing social needs has been called in the Islamic law: "the conduct of the state policies according to *shari'a* (*al-siyasa al-shari'iyya*)." The distinguished jurist Ibn al-Qayyim wrote:

A debate took place between (the jurist) Ibn Aqil and another jurist. Ibn Aqil said, 'Applying (discretionary) policies is prudence, and is needed and practiced by any leader (*imam*).' Another (jurist) said, 'No policy (*siyasa*) should be applied except what abides by *shari'a*. Ibn Aqil said, *siyasa* (which can be described as related to *shari'a*) represent actions that make people nearer to what is good and further from what is evil, even if such policies were not practiced by the Prophet or included in God's revelation.'

Ibn al-Qayyim underlined the lack of true knowledge of *shari'a* and how it copes with the existing realities, and made this fascinating statement:

God only sent the conveyors of His message and sent down His revealed books so that people deal with one another with justice. Wherever a sign of truth appears, and an evidence of justice rises—by any way, there is God's law and command. God has only indicated through the ways

that he gave as laws [by revelation] that His purpose is to establish justice and to secure it in people's behavior: and thus any way that makes the truth clear and justice recognized should be followed in ruling... We do not see that a just policy may differ from the comprehensive *shari'a*, but it is merely a part of *shari'a*, and calling it 'policy, *siyasa*' is merely a term, since it is just inseparable from *shari'a*.<sup>41</sup>

The legislature, then, is necessary and legitimate in a modern Islamic state. It also watches the practices of the executive body, enquires about any failure and introduces any necessary legislation for reform. The principle of "checks and balances" would be helpful in organizing the state bodies and their powers, and guarding the public interest. The separation of the legislative and the executive in their functions, should allow channels of cooperation and should not create a climate of confrontation. The moral and spiritual dimension in the politics of an Islamic state may help organizationally and psychologically to develop the essential co-operation between the two branches. As for the judiciary, it should be independent and protected against any interference or pressure.

Contemporary mass communications provide a valuable vehicle for public information, education and expression. Talk shows, panel discussions, movies, series, songs and other entertainment programs also have their impact on the public attitudes in the various areas of life. I limit myself here to the political side.

Any established means of mass communication must be secured for all. This right may be organized, but never restricted. Freedom of searching for information from different sources including the governmental authorities should also be secured. Legal and ethical safeguards ought not to hinder creativity. The media can help the readers and the audience become more aware of the political issues, especially during election campaigns, and this would make them more capable of a right decision. Any new legislation or any public measure may be more successful in achieving its objective if it is preceded, combined and followed by information and education of the people through the media. According to the Quran, God's guidance has to be clarified to a person before being responsible for a deliberate deviation from it [e.g., 4:115; 47:25, 33]. Those who are entrusted with authority

by the people have to respond to people's questions about their practices, while the people have the responsibility to look for the information from the proper sources and avoid rumor traps by using their common sense and moral values [Quran 4:83; 49:6-8]. If any of the mass media is run by the government in a way or another, political parties and contestants for public offices should have equal opportunities to address the people.

However, rights go hand-in-hand with responsibilities. Modern technology has endowed the media, both within the country and universally, with a formidable power that ought to have ethical and legal safeguards. A universal document and supervision may be needed. Heavy pressures on the private media come from wealthy and influential contributors and advertisers. It is a real challenge for the modern world to benefit from this huge technical

and psychological power and avoid its excessiveness and abuse. A combination of morality and creativity is essential in such a vital and sensitive area.

### **Conclusion**

It may be obvious from this presentation that the modern democratic process can be a practical mechanism for securing human rights and dignity for all the children of Adam, implementing the concept of *shura* and achieving the goals and principles of *shari'a* in a modern Islamic state, with probably limited constitutional clarifications. The undesirable implication of democracy that "it puts the people's will above God's will" is merely theoretical, since democracy works within the dominant socio-cultural background, and Muslims will not accept a decision against their beliefs, as long as they are committed to those beliefs. Catholicism has been maintained in democratic Ireland, and monarchy has been maintained in democratic Britain, where the Queen is the head of the state and the church. Democracy acknowledges that natural human rights supersede any legislation, and in a parallel way, Muslims can always stress the supremacy of God's guidance ideologically, legally and practically. If one may imagine that the majority of Muslims may turn against the political conduct of an Islamic state, this may be limited to certain practices or governmental terms, not to the Islamic state in principle, and the mechanism of a multi-party system can allow another Islamic party to offer a better experience. If, hypothetically, the majority do not want an Islamic state, how can it be imposed on or defended against its will by a non-democratic government? Setting democracy in opposition to Islam is unfair for both. However, let us deal with a concrete, political democratic process and not talk about theories and hypotheses.

One should never assume in any way that Muslims who criticize an Islamic leader, party, government, or even state have become non-Muslims or against Islam! Islam is a faith, not a mere political system, and it has won supporters and followers by exhortation and conviction through individual and social behavior and through its civilization. The message of Islam is always to convince not to impose [e.g., Quran 2:256, 10:99, 11:28, 16:125].

As Muslims should not develop hypothetical and unrealistic fears about a democratic process to implement *shura* in a contemporary Islamic state, non-Muslims should not have unsubstantial fears about Islam, since it is an ideological and moral safeguard for justice and equal human rights because the Islamic faith deepens the Muslims' commitment to the human dignity for all the children of Adam. No human rights secured by democracy would be hurt by Islam or Muslims, but would be more observed as a matter of faith.

What about violent militancy or militant violence that we hear about among some Muslims? I see that a blocking of democratic channels of expression and assembly leads in many cases to explosion. In a democracy, there is no place for violence, and Islamic activism can always present itself through common sense and moral behavior. Violence is used only by those who are initially unable to offer words or deeds, or by those who are suppressed by restrictions and pressures and thus it is impossible for them to do so. Muslims in remote and isolated areas in Africa and Asia have proved through centuries

that they can peacefully cohabitate with others, and can peacefully present their message through their words and deeds.

#### **Notes**

<sup>1</sup> *Encyclopedia Britannica*, volume 9, s.v. "Ideology."

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> *New Columbia Encyclopedia*, Sixth Edition, s.v "Democracy."

<sup>5</sup> Thomas L. Pangle, *The Ennobling of Democracy: The Challenge of the Postmodern Age* (Baltimore: John Hopkins Press, 1992).

<sup>6</sup> Pangle pp. 2-4, 71, 84, 87-90.

- <sup>7</sup> Aslam Munjee, *The Rape of a Noble Ideology: U.S.A. in Perspective 1783-1985* (Hercules, CA: First Amendment Publishers, 1986).
- <sup>8</sup> A.H. Somjee, *The Democratic Process in a Developing Society* (London: Macmillan, 1979).
- <sup>9</sup> Somjee, p. vii-viii, 144.
- <sup>10</sup> Somjee, p. 151.
- <sup>11</sup> For example, see e.g. Quran 2:176, 213; and 30:8
- <sup>12</sup> Quran 30:30
- <sup>13</sup> John Dewey, *Individualism: Old and New* (New York: Minton & Batch, 1930; Arabic translation by Kyayri Hammad, *al-Fardiyya Qadiman wa Hadithan*, Beirut: al Hayat Publications, 1960), p. 10-18
- <sup>14</sup> Quran 59:23
- <sup>15</sup> Quran 42:11
- <sup>16</sup> Quran 112:4
- <sup>17</sup> Ibn 'Abd al-Hakan, Abd al-Rahman ibn 'Abd Allah, *Futuh Misr wa-l-Maghrib*, ed. by Abd al-Manim Amir, Cairo: Ministry of Culture, 1961, p.224-6.
- <sup>18</sup> Quran 17:70
- <sup>19</sup> Quran 21:23
- <sup>20</sup> Quran 2:256
- <sup>21</sup> Quran 42:38
- <sup>22</sup> Quran 22:41, 3:104, 110.
- <sup>23</sup> Quran 2:233
- <sup>24</sup> Quran 31:17
- <sup>25</sup> Quran 3:159
- <sup>26</sup> Ibn 'Atiyya, Abd al-Haqq ibn Ghalib, *al-Muharrar al-Wajiz*, vol. III. (Fez: Ministry of Awqaf and Islamic Affairs, 1997), p. 280-281.
- <sup>27</sup> Muhammad Abduh and Muhammad Rashid Rida, *Tafsir al-Quran al-Hakim (Tafsir al-Manar)* (Cairo: Matba'at Subayh, 1374 H., V. IV) p. 199-200 (commentary on the verse 3:159).
- <sup>28</sup> Quran 4:59
- <sup>29</sup> Abu Ya'la, Muhammad ibn al-Husayn al-Farra, [d. 458 H/1065 C.E.], *al-Mu'tamadfi Usul al-Din*, a chapter published in Yusuf Ibish, *Nusus al-Fikr al-Siyasi al-Islami* (Beirut: Dar al-Tali'a, 1966) p. 224.
- <sup>30</sup> See *Tafsir al-Manar*, ibid, V. IV p. 200-202.
- <sup>31</sup> Quran 9:71
- <sup>32</sup> Ibn Kathir, *Isma'il ibn 'Umar, al-Bidaya wa-l-Nihaya*, ed. by Ahmad abu Milhim and others. Beirut: Dar al-Kutub al Ilmiyya, 1988, V. VII p. 151.
- <sup>33</sup> Ibn Rushd, Muhammad ibn Ahmad, *Bidayat al-Mujtahid*, Beirut: Dar al-Fikr, n.d., vol II, p. 384; Ibn Hazm, Ali ibn Ahmad, *al-Muhalla*, ed. Muhammad Khalil al-Harras. Cairo: Matba'at al-Imam, n.d., vol. IX, p. 523-4.
- <sup>34</sup> See Ibn Rushd, ibid., vol. II, p. 348.
- <sup>35</sup> A hadith (tradition) reported by Ibn Hanbal, al-Bukhari, Muslim, Abu Dawud and al-Nisa'i.
- <sup>36</sup> Quran 9:71.
- <sup>37</sup> al-Mawardi, Ali ibn Muhammad, *al-Ahkam al-Sultaniyya*, Mustafa al-Babi al-Halabi Publications, Cairo: 1973, p. 27.
- <sup>38</sup> Quran 3:113, 5:66, 5:108, 7:38, 7:159, 7:164, 28:23.
- <sup>39</sup> Quran 4:59.

<sup>40</sup> Amin, Ahmad, *Duha al-Islam*. Beirut: Dar al-Kitab al-Arabi, n.d., vol. I, p. 208 et seq; vol II, p. 174.

<sup>41</sup> Ibn al-Qayyim, Muhammad ibn >Abi Baker, *I'lam al-Muwaqq'in*, ed, 'Abd al-Ra'uf Saa'd. Beirut: n.d., vol. IV, p. 37; *al-Turuq al-Hukmiyya*, ed, Muhammad Hamid al-Faqi, Cairo: n.d., p. 35.