

**Center for the Study of Islam and Democracy
Second Annual Conference
Conference Proceedings**

ISLAM, DEMOCRACY AND THE SECULARIST STATE IN THE POST-MODERN ERA



**Saturday, April 7, 2001
Georgetown University Conference Center
3800 Reservoir Rd. NW
Washington, D.C., USA**

Co-sponsored by the Center for Muslim-Christian Understanding, the Institute for Global Cultural Studies, and the International Institute of Islamic Thought

MISSION STATEMENT

The Center for the Study of Islam & Democracy (CSID) is a membership-based non-profit (501-c-3) research organization based in Washington DC. CSID is dedicated to the study of the relationship between Islam and democracy, especially how they contribute to the realization of just and prudent government. CSID proposes to sponsor meetings, seminars, conferences, and workshops that will be open to anyone interested and qualified to explore these themes. CSID will also publish periodicals relating to the foundations of sound government: Conflict resolution, political participation, and a strong civil society. Its membership is open to Muslims and non-Muslims alike.

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INTRODUCTION

The CSID Second Annual Conference was highly successful in every respect. We were blessed with an overwhelming number of excellent paper proposals, twenty of which were accepted for presentation at the conference on April 7. These were organized into five panels of four papers each. The conference opened with a plenary session, "Islam and Democracy." The first four papers in the proceedings that follow were presented at this plenary session. Those by Avis Asiye Allman and Louay Safi were presented in the second morning panel, "The Secular State." Parallel to it was the panel "Elements of Democracy with respect to Islam," and the papers by Ermin Sinanovic, Mohammed. Moniruzzaman, and Talib M. Aziz were presented at that panel.

We were especially pleased that Abdolkarim Soroush accepted our invitation to present a key-note luncheon address. Unfortunately, it was not possible to include his presentation among these conference proceedings.

Conference participants urged that the two panels scheduled to run in parallel during the afternoon, "Post-modernity and Islam" and "Democracy in Practice and Islam in Context." be combined to form one large panel. The papers below by Ihsan Yilmaz, Fred R Dallmayr, and Bekir L. Yildirim are from the first of these two panels, while those by Neil Hicks, Mohamed Nimer, Kamran Asghar Bokhari, and Nadeem Kazmi are from the second.

In keeping with the principle that these are conference proceedings, none of the papers has been edited by the conference organizers. Our goal in publishing them has merely been to make them available, as work in progress, to interested members and friends of CSID. Our sincere hope is that readers may learn more about the conference and the research promoted by the efforts of this fledgling organization.

Prof. Charles Butterworth
Chair, Program Committee*

* The CSID 2001 Program Committee consisted of Charles Butterworth (Chair), Lou Cantori, John Entelis, Abdulwahab Alkebsi, and Jamal al-Barzinji.

ISLAM AND DEMOCRACY: IN SEARCH OF A RELATIONSHIP

By Ali A. Mazrui
Chair, Center for the Study of Islam and Democracy
Washington, DC

More than eighty years after the collapse of the Caliphate (the Khilafa), and on the eve of the Third Millennium Meeladiyya, a Center for the Study of Islam and Democracy was formed by American Muslims and their friends. In much of the Muslim world itself, there had already been an agonizing re-appraisal about the precise relationship between Islam and democracy. Those who believed in the secular state as a basis of democracy regarded Islam as a potential threat to democratic processes.

However, there have been others who have insisted that the seed of democracy were inherent in the original Islamic state in Medina during the time of the Prophet Muhammad (PBUH) and the succeeding four caliphs — sacred democratic precepts which now need to find a new appropriate expression in the twenty-first century meeladiyya.

The CSID was created partly in response to this latter conviction, and partly out of the belief that a dialogue is needed between those who have faith in the compatibility of Islam with democracy and those who have reservations about the appropriateness of such a discourse. More and more Muslims and an increasing number of friends of Islam are convinced that Islamic values are not just about duties; they are also about rights. Islam is not merely about the sacred obligations of the believer; it is also about human entitlements and civil liberties of every citizen.

Islamic jurisprudence and Fiqh have been dominated by those who believe in a sacred "Bill of Duties". Should such a Bill be accompanied by a civil "Bill of Rights"? Are both duties and rights indispensable for a more balanced and more healthy moral order?

The CSID has promoted discussion and dialogue through a variety of methods. Those methods have included relevant public lectures by prominent speakers; panel discussions at conventions like those of the Middle Eastern Studies Association; advisory participation to help Muslims in the American political process; the annual conferences organized by the CSID itself, and through the CSID Newsletter, THE MUSLIM DEMOCRAT. In addition the CSID is

seeking a greater consultative role in the Muslim world on issues of democratization and the Islamic approach to human rights. With this volume of conference-proceedings, the CSID is also launching its series of occasional books and studies on democracy and the Muslim experience.

Clarifying the democratic relevance of Islam and the Islamic meaning of democracy are noble goals. But the pursuit of such noble objectives requires resources. The CSID needs help in establishing a basic endowment for its survival as an organization. Such help is needed from not only Muslims who are committed to the continuing relevance of Islam, but also from non-Muslims who are committed to the expanding boundaries of democracy.

Kenyans have a Swahili slogan which proclaims “HARAMBEE” — meaning “Let us pull together.” It is a demand for solidarity and cooperation. For Muslims in Kenya the Roman letter “H” is not only for the Hijra, the Hajj and what is Halal. The letter H is also for “HARAMBEE” — let us all pull together.

Dear Friends of CSID: It is time to embrace this fourth H of Harambee, and initiate an endowment fund in the name of Islam and democracy.

We should await with gratitude your contribution at the following address:

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Islam and Democracy in Jordan: The Limits of Political Inclusion

by Timothy J. Piro

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Paper prepared for presentation at the Center for the Study of Islam and Democracy's annual conference at Georgetown University, 7 April 2001.¹

Jordan's decade old experience with a more liberal and open political process has not produced the dynamic democracy so many intellectuals and politicians had hoped for following its first parliamentary election in November 1989. While Jordan has maintained the veneer of a stable and moderate pro-Western state in a sea of authoritarian regimes, the goal of a more open and pluralist polity has remained elusive. Hailed by many in the Arab world as a model of political inclusion, Jordan's political system remains an exclusivist one where the "rules of the game" limit the mode and dynamic of participation and articulation.

This paper explores the political limits of democratization in Jordan and argues understanding the state's historically domineering role in political and economic development best explains the country's democratization experiment. In other words, Jordan's experiment had built-in limits as to how far the state could actually divest itself of political and economic power. The case of Jordan's Islamic activist parties—the Muslim Brotherhood and its political arm, the Islamic Action Front (IAF)—provides an interesting study of those limits and how far political inclusion could evolve. Jordan's Islamic activist movement has not attained a position of autonomous political power not solely because it is representative of a weak civil society, or because of the Machiavellian ways of the ruling political elite. These explanations, while important in their own right in explaining the limits of political inclusion, do not go far enough in addressing why the country has made only limited inroads into the democratization process.

Jordan has experienced only limited political inclusion because the country's political economy of development has not created one of the necessary prerequisites for the transition to an open and competitive political process; mainly, political bargaining between the state and independent opposition. The commercial and financial bourgeoisie, which is often the primary mover behind calls for political and economic reform, was already dependent on the state for its livelihood. Those ties undercut its bargaining power and independence. The absence of an independent bourgeoisie or private sector has severely limited the nature of political bargaining between the state and the opposition. Calls for greater political inclusion in 1989, and the

political bargaining that followed, came not from the Islamists but from the East Bankers who felt the brunt of the country's IMF-backed austerity. The political inclusion has benefited those who accepted the rules of the game; namely, the business class. The state continues to command, as it always has, the preeminent political and economic role in society leaving little space for unauthorized autonomous political action. This political-economy model provides the most compelling explanation for the Hashemite Kingdom of Jordan's limited political inclusion.

This paper will first explore alternative explanations for democratization not only in Jordan, but throughout the developing world and former countries of the Soviet Union and Eastern Europe since the mid-1980s. It will argue that the two most prevalent explanations, the civil society approach and the ruling elite approach, are powerful in explaining certain aspects of the transition to democratic forms of government. However, these approaches limit an understanding of why certain countries democratize and others do not. The paper will discuss a political economy model of democratization for Jordan. This model takes into account the unique development of the state and how that has an impact on not only on when countries transition to a more democratic form of government but why. The essence of that transition, in the case of Jordan, was crafting a new social contract that provided for regular elections to parliament among differing political parties. The discussion of Jordan's limited democratization will center on the country's Islamic parties and why they have met with only partial success in the country's three parliamentary elections in 1989, 1993, and 1997. Finally, the paper explores the political impediments to greater democratization and argues that Jordan's democratic experiment had built-in limits from the very beginning and could only evolve so far. The paper does not conclude that a full-blown, western style democracy in Jordan and other societies is impossible because of the country's unique political-economy of development. However, it does argue that understanding the limits of a country's political system is the first step toward knowing what is and is not possible politically.

Methodological Approaches to Democratization

Understanding why some countries develop democratic systems of governance and why some do not have perplexed political philosophers and scientists from Plato and Aristotle to Lipset, Dahl, and Huntington. The literature provides numerous examples of enlightened rulers, benevolent despots, and complex power sharing arrangements among different social groupings. The literature is diverse in methodology but also in its conception of "democratization." For some, democratization is the process by which a peaceful and competitive political process takes place at regularly scheduled intervals to transfer power from one political actor to another. Still others view the process as one where the individual citizen undertakes a greater political role in society regarding how one articulates needs and interests either formally or informally. For the purposes of this paper, we will define "democratization" as the process by which citizens participate more fully in a country's formal and informal political process. The citizen may use political parties or associations to achieve more meaningful participation. In other words, democratization is the process by which the state and society build and sustain those mechanisms to achieve meaningfully relevant political participation.

Political scientists and policy makers have showed a renewed interest in the study of democratization

since the 1980s. The collapse of the Soviet Union and the rise of liberalizing market reforms in Eastern Europe, Asia, Latin America, Africa and the Middle East accelerated this interest in the creation of democratic institutions. In the Middle East, scholars and policy makers have pointed to the deaths of long serving monarchs, the rise of transnational capital, and the explosion of information technology as hastening a more democratic political discourse. Yet at the beginning of the 21st century, military and political oligarchs continue to rule Egypt, Turkey, Syria, Tunisia, and Algeria. Hereditary monarchs govern as they always have in the Persian Gulf and Jordan, and Lebanese politicians continue to fight about pre-civil war confessional power sharing arrangements. Why is it that democratizing forces have taken hold in Asia, Latin America, and Eastern Europe, but not the Middle East? Two schools of thought predominate among political scientists who study the Middle East for explaining the absence of democratization: the civil society school and the ruling elite school.

Within multireligious Third World societies democracy may sometimes precipitate conflict rather than mediate it. The Ivory Coast [Cote d'Ivoire] in West Africa has more Muslims than Christians. Muslims have been under-represented in the political institutions throughout the postcolonial period. However, the Muslims were better off when the Ivory Coast was a one-party state under a particular Christian leader (Felix Houphouet-Boigny) than they are now that the Ivory Coast is a multiparty system with Christians more terrified of Muslim numerical strength at the polls. Under a one-party state, a Muslim leader (Alassane Ouattara) rose as high as Prime Minister of the country. Under a multiparty system the same man is prevented from running even for a seat in parliament.

Civil Society. The study of civil society in the Middle East and North Africa has focused on the growth of non-governmental organizations and institutions outside the purview of the state. The normal vehicles of political articulation and aggregation have lost much of their effectiveness, and new methods of political articulation and aggregation are circumventing the normal methods of political expression. Specifically, political scientists and sociologists have highlighted the role of women's groups, non-governmental organizations such as charities and business associations, and grass roots movements as the new vehicles of political participation. This approach argues that the strength or weakness of these movements or groups will explain the extent of democratization. For many, the development of a vibrant civil society is a prerequisite for democratization. Civil society can be defined as:

the arena where manifold social movements and civic organizations from all classes attempt to constitute themselves in an ensemble of arrangements so that they can express themselves and advance their interest. The concept denotes the emergence of groups independent of state tutelage and control.

While this approach has filled a much needed information gap regarding Middle East political life, it does not tell the whole story. It has traced and documented how societal actors respond to state activities. However, many of the societal actors are hardly autonomous and have concrete and traceable links to state actors and institutions blurring the distinction between state and society. It does not explain democratization as much as it explains certain democratizing tendencies in the body politic. Nonetheless, the literature has demonstrated that a vibrant associational life is present in the Middle East that is far from meaningless.

Ruling Elite. Another school of thought explains the process of democratization as a result of the actions of the ruling elite and the bargaining that goes on among actors within that elite. It is the elite's willingness, or need, to grant more political freedoms to societal actors that preserves the regime and creates democratizing processes. When faced with popular ground swells against particularly harsh policies, the regime bands together and provides the population with the trappings of a more modern, democratic life in exchange for order and stability.

While this school certainly provides a reason for democratization's short term challenges, it does not cut to the deeper issue of why the transition to democracy evolves along a certain path. It is useful in explaining the actions of particular leaders or officials facing societal challenges like mass demonstrations, riots, or calls for the passage of certain legislation. Like the civil society model, it provides the student with one side of the issue between state and society. Despite its limitations, this approach has provided interesting studies of the activities of political leaders and the cost-benefit calculus they employ when faced with political, economic and social challenges.

This brief treatment of these two schools of thought does not do justice to the rich detail both approaches have brought to the study of the Middle East political life. Both approaches, while useful, explain change in the short-term and not the long-term process of institutional change. Understanding the dynamic interaction of political and economic life in the Middle East explains that process of institutional change. A third school has arisen in the past few years to explain the process of democratization in the Middle East. This political-economy school of thought takes account of the social bases of state power and of the unique links between the state and the economy, particularly in the case of Jordan. Understanding those links provides the student with a more focused explanation for the process of democratization in the Middle East, and the limits of political inclusion in Jordan.

The Political Economy of Democratization

Economics has played a major role among scholars as an important explanatory factor in the transition from authoritarian rule to democracy. Seymour Martin Lipset indicated in his 1959 seminal work that a modern economy played an indispensable role in how we understand the prerequisites for democratic rule. From the 1960s to the 1980s, scholars believed that economic modernization was the most important determinant of a country's predilection toward democratic rule. In Samuel Huntington's *The Third Wave*, he noted that those countries most likely to become democratic were those that attained a certain level of per capita GNP.

Economics is certainly an important factor in the transition to democratic rule but it is not necessarily a determining factor. The economic variable is an important part of the puzzle of democratization. Certainly, the per capita GNP of many Persian Gulf countries, and Jordan during the 1970s and 1980s made them countries ripe for the transition to democratic rule if we refer to economic variable only. However, an important corollary variable that goes along with level of economic development is class.

Barrington Moore's seminal work, *The Social Origins of Dictatorship and Democracy: Lord and Peasant*

in the *Making of the Modern World*, points to the importance of class in developing democratic states. Moore noted that the development of a modern bourgeoisie was a necessity for the development of a democracy. He argued that these bourgeoisies developed the state, and were reflected in it. This is key for Jordan and the entire Middle East because a bourgeoisie class does not exist as it did in Europe or North America. In Jordan, a neo-patrimonial political system exists where the ruling political elite of the monarchy, the upper echelons of the civil service bureaucracy, and the military hold power. Unlike the development of democracy in Europe where the bourgeoisie helped to create the state, the state created the bourgeoisie in the Middle East. This is a most important point in understanding why Jordan's experiment in democratization has resulted in only limited political inclusion. The links the bourgeoisie maintains to the state apparatus gives it little independence.

A second factor in this political economy model regards the nature of the state itself. Most of the current literature on democratization highlights the role of the state as a prime mover behind the reform process. The transition to democracy involves bargaining and negotiations among political and social actors. This bargaining arises because the state is not unified over how to proceed, or because the state is trying to pre-empt pressures for political reform. One of the prime instigators of this bargaining is usually business groups or elements of the bourgeoisie. These groups appear less threatening to the established order and are able to engage in negotiations with the state to initiate certain types of democratic reform. So, the greater the independence of the bourgeoisie or private sector, the greater the likelihood that a democratic transition would be meaningful.

Democratization in Jordan

By most accounts, the depth of democratization in Jordan has been limited. Scholars have described the process as "controlled pluralism," "managed liberalization," "defensive democratization," and "facade democracy." All agree that the stability of the regime was, and is, the goal of democratization process. Glenn Robinson noted that a crisis within the state prompted Jordanian leaders to embark on a program of limited democratization. A fiscal crisis within the state, in this case falling remittances and foreign aid, helps to explain the limited nature of Jordan's experiment in democratization. He identifies one of the key variables but his explanation of fiscal crisis explains more the timing of democratic tendencies rather than the reason for the limited nature of democratization in Jordan. The nature of the crisis within the state explains why Jordan's democratization experiment results in limited political inclusion. That crisis has to do with the political and social foundations of Jordan's semi-rentier economy.

The domestic coalition holding Jordan's political and economic system together during the 1970s and 1980s included the state's public sector managers, the commercial and financial elites of the private sector, Jordanian and Palestinian expatriate workers in the oil-rich states of the Persian Gulf, and the state's military and security organs, including the monarchy. This domestic coalition maintained stability through an extreme reliance on imports and labor remittances. This network of the public-private sector and the state's security organs collapsed in the 1980s. As a result, the social contract between those governing and those being governed shattered. According to the rentier model of development, if there was no democratic repre-

sentation, there was no taxation. The state provided goods and services to its citizens at subsidized prices. This allowed the state to maintain order.

The negotiations that have proceeded since then continue to leave the state in its most dominant position, with little political space for other groups unwilling to play by the rules of the game. The three parliamentary elections since 1989 are examples of the state renegotiating this political and social contract, but not necessarily with the Islamists. Understanding Jordan's democratization in this context helps explain the limited nature of the country's political inclusion.

The Roots of Islamic Political Inclusion

When King Hussein outlawed political parties in the late 1950s, he turned toward the Muslim Brotherhood as a counterweight to the country's radical Arab nationalists and leftists. As he had done with so many players in Jordan's political system, Hussein co-opted the group. In exchange for its support, Hussein allowed the Muslim Brotherhood to exist as the country's only legal political organization. Other political groupings were forced to go underground.

The first signs of a growing Islamic movement in Jordan appeared formally in March 1984 with the reestablishment of parliamentary life. King Hussein called an election to fill eight vacant seats in the lower house of parliament. The constitution reserved two of those seats for Christians. Islamic activists, however, contested the remaining six and won three of them. The power of the Islamic movement in Jordan prior to the 1989 elections was worrisome to many government officials who believed the movement would emulate the Iranian example of government. Most analysts regarded the electoral success of the Islamists as threatening King Hussein's rule because they appeared to be at odds with the king's more moderate views on social and foreign policy.

When the government called for elections in 1988, the Muslim Brotherhood had the organizational structure in place to conduct a grass-roots campaign, unlike more secular groups. Seen in this light, the electoral success of Jordan's Islamists in November 1989 is not surprising. Jordan's Islamic activists captured 34 of 80 seats in those elections campaigning on the slogan, "*Islam Huwa al-Hal*," (Islam is the Solution). The Muslim Brotherhood, led by its political arm the Islamic Action Front, demanded stricter adherence to Islamic tenets and a more pan-Islamic stand concerning the conflict with Israel. Some even took issue with King Hussein's 1988 disengagement from the West Bank, arguing that leaving the Palestinians to fend for themselves would create fissures in the Islamic front arrayed against Israel.

Furthermore, the inclusion of five members of the Muslim Brotherhood in Mudar Badran's new government following the 1989 elections and the election of Muslim Brotherhood leader, 'Abd al-Latif "Arabiyyat as speaker of the lower house, appeared to show that the palace was losing its grip on power. Buttressing this argument was the success of Islamic candidates at the University of Jordan. They won 82 of 85 seats on a committee to establish a student federation at the school.

There were important political and legal developments in Jordan between 1989 and 1993 but Jordan's Islamists were not responsible for them. Some of these included the political parties law, a press law, and the

lifting of martial law. However, these reforms could not have been done without the power and prestige of the monarchy rather than the parliament. The parliament did not possess the expertise, money, or support staff to become an independent locus of power outside the more powerful organs of the state. The most important document to arise out of this period, however, was the National Charter.

The National Charter

With the reestablishment of political party life in Jordan, the king appointed a 60 member royal commission in April 1990 to draft a National Charter (*al-Mithaq al-Watani*). In January 1991, the royal commission handed to the king the National Charter that outlined, *inter alia*, the role of political parties in Jordan and the basic principles of Jordan's domestic and foreign policies. The charter did not supersede the 1952 constitution. It gave the executive branch the power to intervene in the electoral process if the king deemed it necessary. The establishment of that charter led by the early 1990s to the growth of almost 100 political parties of varying sizes. Leading members of the Muslim Brotherhood participated in the drafting of the charter including Ishaq al-Farhan, Yusuf al-'Azm, 'Abd al-Latif 'Arabiyyat, Majid Khalifa, and Ahmad Qutaysh al-'Azayida.

According to the charter, Jordanians have the right to establish political parties provided that their "methods are peaceful and their statutes do not violate the provisions of the Constitution." Additionally, there shall be no structural or financial affiliation of any Jordanian political party with members of any other party that is non-Jordanian, or of any foreign state. The parties are also not allowed to recruit from members of the armed forces. The charter is an interesting document because it reflects the uneasy relationship between state and society. The charter carefully delineates what political parties can and can not do. The charter is not so much a strict guideline but is more a statement of principle regarding the relationship between the state and the governed. The charter reflects the type of regime-induced transition that the state wants to foster. In such a regime-induced transition, the rules of the game emanate from the regime and not from society. In other words, the charter gives the state authority to control events as it sees fit.

1993 Parliamentary Election

The 1993 parliamentary election was a setback for Jordan's Islamic movement. The single most important event occurred prior to the elections with the changing of the electoral law. Instead of a proportional representation system, the government changed the electoral law to a one-person, one-vote electoral process. The effect of this change was to weaken the power of urban districts where Muslim Brotherhood candidates enjoyed most of their support. The result was an electoral process that favored parties that were strong in the rural area and where support for the monarchy was traditionally high. As Robinson noted, the districts system widely favored southern and central tribal areas at the expense of more densely populated (and Palestinian) areas, particularly the Amman-Zarqa region. Even those in government admitted that the goal of the change was to undercut the popularity of the Muslim Brotherhood. Robinson termed this "defensive democratization" where the state seeks to pre-empt anticipated pressure for political reform. On 4 August,

the king dissolved parliament and called for elections that November. Later in August, the government announced its decision to adopt the on-person, one-vote system without any changes in districts. The result was a major challenge for Jordan's Islamic movement.

The contentious issues dealt with the 1986 Electoral Law and the amendment in 1989 that provided for a proportional representation system. Officially, the government changed the law to achieve a "more democratic and modern" electoral law. The deciding factor in the collapse of the opposition to the law was that the IAF acceded to the revision of the law. The Jordanian Arab Socialist Ba'th Party, the Jordanian People's Democratic Party, the Socialist Democratic Party, the Arab Democratic Party, and the Jordanian Democratic Popular Unity Party all opposed the revision of the law. However, once the IAF gave in, opposition to the law collapsed.

Many interpret this change in the electoral law as simply a Machiavellian ploy to reduce the power of the Islamic movement in Jordan. The evidence is certainly overwhelming but there were other factors that went into this decision besides the Islamic one. Most importantly, 1993 was an extremely important time for movement in the Middle East peace process. The king probably assessed that having a parliament with a smaller Islamic representation would make it easier for him domestically to move ahead on a peace treaty with Israel. That September, Israel and the PLO signed the Declaration of Principles and the conventional wisdom was the Jordan would soon move ahead with its own peace agenda with Israel.

Islamic parties reduced their representation in the 1993 parliament from 34 to 22—16 from the IAF and 6 independent Islamists. There were some domestic factors as well that could explain the loss of seats for Jordan's Islamists. Jordan was still reeling from the effects of the Gulf War, most importantly the loss of remittances and foreign aid from other Arab governments. Anecdotal reporting from the time pointed to the inability of Jordan's Islamic parties to deliver on what they had promised. Though one could argue that there were behind the scenes plots to undercut the Islamists at every step, many candidates did not deliver at a time when Jordan's economy was performing poorly.

The performance of Jordan's Islamic parties in the 1993 elections demonstrated the inherent weakness of political parties in the parliament as an independent locus of power. And there lies a partial answer for the limited nature of Jordan's political inclusion. While several scholars have indicated that there were numerous examples of groups, associations, and families organizing on their own outside the established norms of power, the machinery of the state remained dominant. In effect, the state established the rules of the political game and could change them as it saw fit. During the 1997 elections, Jordan's Islamists boycotted the elections and lost even more ground. Pro-government independents won 62 of the 80 seats in the lower house of parliament. Islamist candidates took only 8 seats and leftist and nationalist candidates dividing the remaining 10. Voter turnout was 54.6 percent.

With elections scheduled for 2001, there is a different political landscape in Jordan. King Hussein has passed from the scene and Jordan has been partially successful in reintegrating itself into the good graces of Persian Gulf countries. The country has avoided the domestic upheaval and instability that many were predicting following the 1991 Persian Gulf War. The country has also tried to set itself on the road to economic reform with the help of the World Bank and the International Monetary Fund. However, political

inclusion remains limited with few, if any, real independent sources of power outside of the state. The movement towards greater inclusion is likely to remain incremental at best because of Jordan's unique political economy of development.

Jordan's Political Economy

The predominant paradigm for Jordan's political economy is the rentier state or, more precisely, the semi-rentier state. A rentier state is one that is extremely dependent on a single resource, like oil, for revenue. The income derived from those externally generated rents are available because of the gap between the cost of production and the price of the commodity. The financial resources generated are directly acquired by externally produced rents rather than through domestic means like taxation. A rentier economy is one where rent does not accrue directly to the central government. The state has a much smaller role as a recipient and dispenser of rent income. Rentier and semi-rentier economies in the Middle East and North Africa include Jordan, Egypt, Yemen, Tunisia, and Morocco. Unlike the Arab economies of the Persian Gulf and Libya, these countries do not depend primarily on one single resource for revenue. A combination of foreign aid and labor remittances have helped these economies develop from the 1970s until today. Beblawi and Luciani noted that these states' continuing reliance on external rents resulted in a failure to develop the productive bases of their economies. That reliance thus rendered them susceptible to the volatility of the Arab political and regional system. As a result of that economic predicament, many of the states of the Middle East and North Africa, including Jordan, have relied on austerity programs to make their national budgets and debt obligations more responsive to international actors and agencies like the International Monetary Fund and the World Bank.

This political economy model argues that the state's inability to cede power in the political realm is much like its inability to cede power in the economic realm. It is a result of the structural features of the state. A tripartite alliance was created in Jordan during the 1970s and 1980s among the state's public sector bureaucrats, the private sector, and expatriate labor remittances. Arab capital was funneled into Jordan and reinforced the parasitic ties between the state and the private sector. Much of the money went into construction and real estate speculation and not into the manufacturing sectors of the economy. Therefore, the phenomenal growth rates the country experience had little to do with production but with an increase in the consumer's purchasing power. Jordan avoided extracting resources from the society because of the country's access to large rents. In other words, the state could provide resources to its population without demanding much in the way of revenue in return.

What developed overtime was a parasitic private sector that became dependent upon state largesse for its livelihood. One did not have a bourgeoisie develop in any independent sense but a bourgeoisie tied to the state. Moore's book is instructive because he argues that the development of the bourgeoisie is a prerequisite for the development of democratic processes. This is the most powerful reason for the absence of real democratic reform in Jordan. Without a dynamic and entrepreneurial bourgeoisie to help lead the way, one is left with a state that can dole out favors to whomever it wishes.

Transitions to more democratic rule in other countries have usually witnessed some call for political and

economic reform from the business class. Once this happens, bargaining proceeds among various actors for a more equitable distribution of power. Robinson called this a “state crisis” where factions of the state elite lose confidence in the prevailing political, economic and social order and seek “new rules of the game.” These new rules are usually masked under democratic reform. This democratization need not involve elite conflict. For Robinson, this is how defensive democratization arose where the state sought to pre-empt anticipated pressure for political reform. This state crisis is normally fiscal in content, and can take place without class restructuring, economic growth, a vibrant civil society or other societal phenomena. In other words, the state’s strategy was to maintain the dominant political order in the face of a severe fiscal crisis. Such fiscal crises are only loosely related to general economic problems in the country.

Robinson does a masterful job of explaining some of the reasons behind the movement toward democratic reform in Jordan. His explanations are powerful and testable not only for Jordan but for a number of other countries throughout the Third World. However, his assessment explains more the timing of democratic reforms from the elite, and not so much as why the democratization is limited. It is here where we must delve into the unique power sharing arrangements of the state to understand the limits of Jordan’s democratic experiment.

The reason for that limited political inclusion is that transitions to democratic reform usually involve some type negotiation with an independent opposition. The calls for democratic reform, or at least the reform that the state viewed seriously, came not from the Islamists but from the business class. Usually, there is some type of “political space” between those calling for reform and the state. As Brand noted, there was relatively little political space between those two actors making the nature of the bargaining for any transition limited. In other words, the dominance of state institutions over all aspects of political life in Jordan precluded more extensive political inclusion. Jordan’s Islamists found themselves calling for greater inclusion in the weak state institution of parliament. As time went on from the 1989 election, the Islamists found themselves on much of the periphery regarding political bargaining with state elites. This is not to suggest that the Islamic movement was uninterested in gaining a bigger slice of political power. This is only to suggest that Jordan’s unique state structure precluded there ever being anything more than limited political inclusion. And the incremental reform that did occur was on the state’s terms only. Seen in this light, the Islamic movement’s weak showing in several parliamentary and local elections, as with many other secular and nationalist political parties, is understandable. Robinson and Brand have pointed the way toward our understanding of when, why, and how the state pre-empted greater democratic reform in Jordan. The limited nature of the reform itself, however, was doomed from the start because of Jordan’s state power sharing arrangements.

Political Impediments to Greater Inclusion of Islamic Groups

Jordan’s Islamists were important players within the state but only to the extent that they helped maintain an important link between the monarchy and the bedouin tribes. The growth of Islamic activism in the urban areas of Amman-Zarqa and Irbid is a relatively new phenomenon. These groups ties to the state were always less strong than the traditional form of Islamic activism that the king embraced. Islamic activism in

the urban areas became an important rallying point for much of the disenfranchised Palestinian population. The monarchy and the military viewed that type of activism as a destabilizing element in society. Having never been clearly associated with the state, these political Islamists were on much of the political fringe within Jordan during the 1980s and 1990s. So, the historical link to the state of these groups was never that strong.

A second factor impeding greater inclusion of these Islamic groups involved the parliament itself. The institution was not set up to be an independent check on the power of the executive branch. Even if these groups managed to maintain an important bloc within the parliament, the institution itself lacked the resources to challenge state authority. The parliament during the 1990s made its mark in a series of corruption inquiries of government and former government officials. These inquiries almost led to the indictment of former Prime Minister Zayd al-Rifa'i but he escaped official injunction. The greater institution of the monarchy and any criticism of the king was off limits to those inquiries.

A third factor that led also to greater inclusion of Islamic groups had to do with the Islamic movement itself. Robinson deftly pointed out that Jordan's Islamic Action Front was divided between social and political Islamists. The social Islamists were ones who maintained good relations with the Hashemite monarchy and pushed primarily a social agenda in parliament such as banning alcohol and establishing single sex schools. They were often East Bankers and likely to have some type of formal religious training. The political Islamists pushed a much more comprehensive agenda such as opposition to any normalization of ties with Israel. They were predominantly Palestinian and were likely to be college educated in technical fields like engineering and medicine. So, the Islamic movement itself in Jordan was never a monolithic entity.

A fourth factor was the weakness of the political party system in Jordan. While Jordan demonstrated during the 1990s that non-governmental organizations could organize on a grass-roots level, it was the political party that remained at the center of democratic reform in Jordan. As a result of that party weakness, candidates for parliament rarely relied on parties during campaigning and were not beholden to them once in office. In 1997, the major opposition parties in Jordan boycotted the parliamentary elections to protest government corruption, the peace treaty with Israel, and further revisions to the country's electoral law.

Most importantly however is the dominance of the state almost over all institutions within Jordan, both formal and informal. As Laurie Brand noted in a collection of works dealing with the development of civil society in the Middle East, "In the beginning was the state..." In this work, Brand outlined how external factors shaped the Jordanian state into an almost monolithic entity with little room for a vibrant civil society or autonomous political groupings. Jordan was used as an anchor in British imperial policy and became a pivotal player in the Arab-Israeli conflict. The external threats to the state and the regime created little political space between those who ruled and those who followed.

That small political space provides a key factor in why political inclusion has been so limited in Jordan. The coalition of state actors must feel some type of threat for there to be political bargaining going with an independent opposition. The real threat to the regime in 1989 did not come from Jordan's Islamic movement but from the normally supportive East Bankers. Most of the domestic disturbances since then, primarily the 1996 bread riots in Kerak, have all been from this staunchly pro-Hashemite sector of society. The

Islamic movement in Jordan did not organize in a way to confront the ruling authorities. The bargaining that proceeded between ruling elites and the disgruntled sectors of society did not include the issue of Islamic activism. The bargaining that did proceed ended in a series of electoral reforms that were advantageous to East Banker tribes, and ultimately the state.

The Quest for *Ta'addudiyya*

Though several political currents exist in Jordanian political life, from leftists to nationalist to Islamic activist, autonomous political power outside of the state remains elusive. Many of the professional associations, like political parties, continue to base their membership and policies on kinship and family ties. There is more freedom of expression of diverse points view, but that autonomy of expression has not transformed itself into autonomy of action. *Ta'addudiyya*, or pluralism, exists on the level of expression and in some instances action. However, the state continues to command the preeminent role within society. As long as no independent opposition evolves, the political bargaining that the social science literature on democratic transitions argues is so crucial for democracy will remain one-sided. Thus, the movement toward greater democratic reforms and wider political inclusion will be incremental.

This is not to suggest that all is lost politically for Jordan and other countries in the Middle East where authoritarian rule appears so entrenched. The fact that there is greater freedom of political expression is a positive development over the past decade in Jordan. However, assessing the possibilities for greater political inclusion should begin with an understanding of the dominant role of the state not only in Jordan but throughout the Middle East. In the economic realm, the movement toward greater privatization has proceeded haltingly. In several countries, political scientists have catalogued the inability of Middle Eastern states to divest themselves of economic power. A similar conclusion is not far from reality in the political realm. Four hundred years of Ottoman rule, 50 years of war preparation by so-called "front-line" states, and 25 years of recycled petrodollars have taken their toll on the ability of these states to change overnight. Political inclusion in Jordan is likely to be only incremental and state-driven with such a historical legacy.

¹ To be quoted only with the author's permission.

Islam, Democracy, and the Yemeni State

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Since the 1994 civil war in Yemen, the country's rather remarkable foray into democratic politics has, to say the least, stalled.¹ From the 1993 elections that brought a multiparty assembly dominated by no single party, the quality of democratic participation had deteriorated to such a point that public debate openly acknowledges the grooming of President Ali Abdullah Salih's son for the presidency. Salih led Yemen's "transition" for a decade before beginning his first elected presidential term in 2000; in February 2001, a popular referendum extended the term from five to seven years (with the two-term limit remaining in effect), thus extending his "legal and constitutional" rule until 2014, when his son will be of eligible age to run for the position.

While the language of stalled democracy accurately describes certain elements of Yemen's attempted "transition," it fails to capture the full extent of social and political change that the country has experienced in the past decade. This includes not only the introduction of multiparty politics and the language of democracy as the source of government legitimacy, but the emergence of a dynamic if constrained public sphere and the evolution of a range of social and political forces into new institutional forms. Within this context, the Islamist-tribal coalition political party Tajamma' al-Yamani li al-Islah (the Islah party) has played a prominent but dramatically changing role on the political scene. This paper will examine the political changes in Yemen over the past decade with particular attention to changes within the Islah party as well as its relation to the highest power elites in the country.

In the first section, I examine Yemen's initial foray into democratic politics as an elite-driven pacted transition. Next I examine the role of the Islah party in the configuration of the Northern political elite, paying particular attention to intra-party conflicts and Islah's evolution as a political party. Finally I examine the current state of Yemen's democracy and the role of Islah.

Yemeni Unification and Pacted Political Liberalization

Yemen's process of political liberalization formally began in 1990 as part of a negotiated unification of North and South Yemen, neither of which had a strong history of democratic or electoral politics. The Yemen Arab Republic (YAR, or North Yemen) was established in 1962 through a military coup against the

rulers of the Mutawakkilite Kingdom of Yemen, a theocratic state rule by a hereditary line of Zaydi Imams. When Imam Yahya—who had ruled from the time of his father's death in 1948—died, the revolutionary officers drove a tank into the central square of the northern plateau city of Sana'a and declared the establishment of a republic in place of the monarchy. The move started a civil war that lasted most of the decade, with Egyptian troops backing the republicans and Saudi Arabia supporting the royalists. Gradually, the war evolved into a struggle between a number of Western-backed monarchies of the Arabian Peninsula and Arab nationalists (backed by Egypt's President Gamal Abd al-Nasser). After Egypt withdrew its forces in 1967, the republic survived several final pushes by royalists, and a split within the republicans resulted in the defeat of the now-divided leftist elements by tribal-backed conservatives, who led the new government.

South Yemen also underwent a revolution in the 1960s, but one of a very different character. The port of Aden had been part of the British Empire since 1839, though various nationalist groups gained strength in their opposition to British presence on the peninsula following World War II. These groups ranged from leftist revolutionaries inspired by Marxist and Arab Socialist ideologies to conservative tribal elites, each of which held ambitions of controlling any future independent state. After the North's 1962 revolution, southern nationalists found ready allies among the northern republicans, who along with Egyptian troops were eager to aid fellow Arabs in their struggle against the British. The nationalists finally won independence from Great Britain in November 1967. Conservative tribal elites, merchants, and politicians who had cooperated with Britain fled the country (Schmitz 1997: 14-15), leaving the new state in the hands of the victorious socialists, who formally established as the People's Republic of South Yemen, later renamed the People's Democratic Republic of Yemen (PDRY, or South Yemen).²

North and South Yemen might have moved toward unification at that time, had it not been that conservatives and tribalists emerged victorious in the North while leftists triumphed in the south. Over the next few years, relations between the two countries were characterized largely by the efforts of each to support opposition groups within the other. Leftists from the North found refuge and support in the South, while some southern conservatives fled to the North. This led to two wars between North and South Yemen. In 1972, southern exiles based in the North sought to overthrow the South's socialist regime, but failed. In 1979, the northern regime was attacked by a southern-supported group of leftists who called themselves the National Democratic Front, with fighting located primarily in the southern lands of the North. As Halliday argues, this history of fighting not only makes 1990's unification seem remarkable, but it makes the 1994 civil war (discussed below) seem all the more inevitable (1995). In terms of alliances among various elite-level actors, these processes of state development prove essential for understanding post-unification politics.

The 1980s marked a period of reflection and limited reorganization for both regimes. In the North, President Ali Abd Allah Salih, who had ruled since 1978, sought to provide an alternative to multi-party politics by creating a national assembly called the General Popular Congress³ (GPC), which first met in 1982. Initially comprised of 700 elected and 300 appointed representatives, the GPC brought together virtually every prominent individual who had supported the regime, thus gathering in one formal assembly the elite from diverse hierarchies of power. Many of these individuals had even taken up arms to defend the regime during its ongoing struggles against the National Democratic Front in the 1970s. Following unification, many of the northern-based political elites emerged, unsurprisingly, from the ranks of the GPC. The establishment of

the GPC thus in part set the stage for unification by institutionally linking the most powerful political forces under one umbrella organization, reinforcing and formalizing patronage ties and offering government positions to influential supporters. For the South, the 1980s were a time of struggle among a number of shifting factions. The result was considerable bloodshed, with the victorious leaders often not surviving to see victory (Halliday 1990).

The mounting political and economic problems in both North and South Yemen led the leaders of the two regimes to explore the possibility of unification. The option was attractive in part because each side believed it could secure significant support among the populations of the other. The leaders of the South's ruling party, the Yemeni Socialist Party (YSP), also recognized that the decreasing remittances from the Soviet Union necessitated a fundamental rethinking of their economic policies, as its state-centered economy had long been reliant on external rents that were no longer forthcoming. In many ways, the North's vast resources and the South's modern market infrastructure⁴ made unification a logical choice. And with the discovery of oil in lands straddling a border of the two countries, the stakes increased for both sides. The idea of political liberalization itself, however, was entirely unprecedented (Carapico 1998: 135).

The question of why governments initiate processes of political liberalization has been central to process-oriented analyses of political transitions. As first outlined by Rustow (1970), this type of approach has dominated studies of democratic transition particularly since the mid-1980s. Whereas earlier studies of democratization tended to focus on whether societies had achieved certain prerequisites (institutional, cultural, and/or economic), process-oriented analyses emphasize the contingent choices faced by elite-level actors. In this view, political liberalization may be an effective means of deflating political dissent by channeling opposition movements into state-controlled institutions as an alternative to repression by force. Although the political elite may view this strategy as a mechanism of political control, it marks the beginning of liberalization and the expansion of space for political organization, where non-state political actors are tolerated as long as they "play by the rules" established by state actors. These rules are often adjusted until they produce the desired results. As Przeworski argues,

Projects of liberalization launched by forces from within the authoritarian power establishment are invariably intended as controlled openings of political space...In the light of this project, liberalization is to be continually contingent on the compatibility of its outcomes with the interests or values of the authoritarian bloc (1991: 57).

This approach conceptualizes transitions as the product of the interest- and value-driven behavior of elite-level actors facing constraints on and challenges to their power.

In this type of transition, one of the key challenges is for the political elite to strengthen their power by reinforcing existing alliances and patronage networks while bringing other elites into the mix. This is often accomplished through the establishment of pacts, "negotiated compromises in which contending forces agree to forego their capacity to harm each other by extending guarantees not to threaten the other's vital interests" (Karl 1990: 11). But by insuring that the interests of a range of elite actors are preserved, the result is patently anti-democratic. As Przeworski argues,

The ostensible purpose of such pacts is to protect embryonic democratic institutions by

reducing the level of conflict about policies and personnel. Whereas institutional pacts establish the rules of the game and leave the rest to competition, these are substantive pacts intended to remove major policy issues from the competitive process (1991: 90).

Thus democratic transition can only be achieved through agreements that fundamentally limit, in essence, the extent to which a transition will take place. This model provides a useful starting point for understanding the trajectory of Yemen's attempted transition to democracy.

In 1989, the governments of North and South Yemen began formal negotiations for unification. The political elite from each side agreed on a representative democratic government for the new state, in part as a means of providing an institutional outlet to what both anticipated would be a long-standing rivalry, and in part because each side believed it could mobilize support in the other's "home" territory. The South's YSP, for example, immediately sought to create an electoral base in the North "by portraying itself as a collection of national reformers of a modernist bent, playing upon the considerable existing opposition to the military rule of the North" (Schmitz 1997: 9-10). At the same time, the northern political elite sought to appeal to more conservative and traditional elements in the South that had been alienated under British control and the subsequent period of socialist rule. In this regard, prominent tribal leaders in the North—many of who had formal and informal alliances with the North's political elite—reached out to their southern counterparts. The South seemed considerably disadvantaged in the unification arrangement, given that it housed less than a fifth of the population of united Yemen. In the interim government, the North's Ali Abd Allah Salih was to hold the position of the presidency and the South's Ali Salim al-Baydh the vice presidency.

The initial period of liberalization following unification was as popular as it was remarkable. As Carapico argues,

The relaxation of security, political, financial, and legal controls, the issuance of legal-constitutional guarantees to personal, press, and political freedom, and the unleashing of pent-up desires to travel within the country, publish, organize, and hold public debates were all unprecedented (1998: 136).

The change was particularly dramatic as Yemen saw the whole process unfold practically overnight. Dozens of newspapers appeared in the major cities, and more than twenty political parties were quickly organized even before the political parties law was passed in late 1992. The North's GPC and the South's YSP both registered as political parties, thus institutionalizing the rivalry of the northern and southern elites in competitive party politics. An interim parliament of 301 seats was formed by merging the assemblies of the North and South, and the body was active immediately, debating the new constitution, a draft national charter, and a number of laws codifying the new liberalizations. The whole process culminated in the 1993 elections for the unicameral parliament, which produced a genuinely pluralist assembly. The North's GPC won the largest bloc, with 123 seats, less than a majority. The South's YSP came in third with only 56 seats. The "newcomer" was the Islamist-oriented Tajamma' al-Yamani li al-Islah (the Islah party), a confedera-

tion of northern tribal leaders and a mix of Islamist groups and conservative business elites, which won 62 seats. Five other parties won a combined 12 seats⁵, as did a remarkable 48 independents. A coalition government was formed among the three largest parties, with Islah and the YSP acting as junior partners to the GPC. The three divided the cabinet portfolios (though not without considerable disagreement) and set about negotiating the final transitions to full unity.

The negotiations did not get very far. Just months after the elections, the leaders of the GPC and the YSP remained in fundamental disagreement on a number of issues. The YSP was concerned that the GPC had too quickly come to dominate the government, particularly given that leaders of the junior partner to the coalition, the Islah party, were closely tied to the North's political elite. Indeed, some of Islah's leaders were themselves key figures in the ruling elite, notably Islah party chair Shaykh Abd Allah ibn Hussayn al-Ahmar, the head of the large Hashid tribal confederation from which President Salih hailed.⁶ The political and military rivalry between the YSP and the GPC escalated as they failed to reach agreement on the unification of the two militaries under central command. The South was reluctant to allow that process to proceed in the face of what it believed to be rapid northern dominance, particularly since it failed to see assurances that the government would continue along a democratic course. The conflict escalated into a civil war that lasted until from May to July 1994. After a failed secession attempt, the southern leadership fled the country. The northern-dominated government later tried and convicted many of them for treason in absentia.

Since the 1994 armed conflict, the government has sought to maintain the formal trappings and appearance of a democratic regime, but in practice it quickly reverted to a military autocracy under the leadership of "president" Salih, who continued to head the military. Salih has since "resigned" from the leadership of the GPC, though the party clearly remains under his control. When national elections for Yemen's second parliament were held as scheduled in April 1997, the GPC emerged with 188 of 301 seats. According to a number of GPC officials, this was at least 20 seats more than the party had wanted, as it wished to gain an absolute majority while preserving the appearance that the elections were a site of real political contestation.⁷ To further maintain this appearance, Salih scheduled presidential elections for 1999.

Following the 1994 war, the elections law had been revised to require that 10% of the 301 parliamentarians approve any presidential candidate, thus giving the dominant party in the house the ability to exclude any candidate. Having won 188 seats in the 1997 parliamentary elections, the GPC was positioned not only to handpick the "alternative" candidates, but also to disqualify any candidate whose potential strong showing at the polls could suggest that support for Salih was less than overwhelming.

In August 1999, Salih made a dramatic gestures to step down as president "in response to charges" that the outcome of the process had been predetermined. Critiques called the move electioneering propaganda, and no one was surprised when Salih put his name forth a few days later, along with 29 other candidates (including two females). Opposition parties coordinated to put forth YSP secretary-general Ali Salih Obad Muqbil as their candidate and the Islah party joined the GPC in endorsing Salih. When on August 22 the parliament reviewed the candidates, only 2 received the necessary 10% to have their name placed on the ballot: Salih and Najib Qahtan al-Shaabi, a parliamentarian and member of the GPC. Although Shaabi, son of Qahtan Muhammad, South Yemen's first post-independence president (1967-69), was little threat to Salih, he was particularly unlikely to win any popular support once he placed the eradication of qat at the

center of his campaign. YSP leader and opposition candidate Muqbil was disqualified, as he received only 7 votes. As if the process was not already stacked in favor of Salih, the government launched several attacks on Yemen's generally free press. August 1999, *Al Rai Al Aam* was closed for a month and ordered to pay a 10,000 riyal fine. The leftist progressive *Al Ayyam* was also on trial for articles it has published, and just weeks before the election, another opposition paper, *Al Shura*, was ordered to cease publication. The Supreme Coordination Council of the Opposition (SCCO), having had its candidate Muqbil rejected by parliament, opted to boycott the election entirely. In the end, the Supreme Election Committee announced that 66% of registered voters turn out for the September 25 election, with 96.3% voting for Salih and the remaining 3.7% voting for Shaabi. Numerous irregularities were reported, including ballot-box stuffing and extensive underage voting (Yemen Observer, October 1999: 4).

Under the constitution, the president was limited to two five-year terms in office. Since Yemen's first presidential election was not held until nearly a decade after unification, Salih could look forward to ruling Yemen for ten more years. In the summer of 2000, however, a debate emerged over possibly extending the term for presidency to seven years, which could leave Salih in power for a total of 24 years under unification's democratic constitution. Salih's son Muhammad, who won a parliamentary seat in the 1997 elections, had in recent years become an increasingly visible public figure, and public speculation has already begun about Yemen's new "hereditary presidency."⁸

In February 2001, Yemenis again went to the polls, this time to vote for local council representatives and to approve or reject constitutional amendments. The latter asked Yemenis to extend the presidential term from five to seven years (with the two-term limit remaining in effect) and to extend the parliamentary term from four to six years. The amendments passed with 75% voting in favor of the amendments, thus extending Salih's "legal and constitutional" rule until 2014, when his son will be of eligible age to run for the position. At the time Salih steps down (if indeed he does), he will have ruled North Yemen and united Yemen a total 46 years, including 24 years of "democratic" politics. Meanwhile, Yemenis themselves remain subject to worsening economic conditions, not to mention arbitrary arrests, summary judgments (often with formal charges filed), and torture (Human Rights Watch 1996). With these reversals on the liberalizations begun in the early 1990s, there is scant evidence that Yemen's regime is democratic in anything more than name.

Islamists, the Islah party, and the Northern Regime

The Yemeni Reform Group (Islah), was formally established on September 13, 1990, just months after the unification of the North and South Yemen. Yet it did not emerge out of a single cohesive movement, rendering the party's internal dynamics more complex from those of more cohesive Islamist political parties such as Jordan's Islamic Action Front, Lebanon's Hizbollah, and Turkey's Virtue Party. Thus it is somewhat of a misnomer to identify the Islah party as merely an "Islamist" party. In this regard, the origins of the coalitions that emerged as the Islah party in unified Yemen are instructive for understanding the development and location of the party within the broader political spectrum.

Prior to the 1962 revolution in North Yemen, a number of Yemenis claimed membership in the banned Muslim Brotherhood. Although the group has roots in Yemen dating to the 1930s and 1940s, it did not play

a prominent role on the political scene, as had the Muslim Brotherhood in Jordan and Egypt, nor was it well organized.⁹ After the revolution, Muslim Brotherhood leaders formed the group's first formal consultative council under the leadership of Shaykh Abd al-Majid al-Zindani, a conservative and (many say) charismatic speaker with strong Islamist credentials, a modest personal following, and ties to Saudi Arabia's Wahhabi movement. Following the 1962 revolution, the group joined other conservative trends in supporting the new republican leadership against the more left-leaning members of the revolutionary guard. Thus from the earliest days of the Yemen Arab Republic, the Muslim Brotherhood had close relations with North's conservative and tribal political elite.

In the late 1970s, after more than a decade under Zindani's guidance, a number of younger Muslim Brotherhood members felt it was time for a change in leadership and mounted what several of them describe as an internal coup against Zindani.¹⁰ They felt that Zindani was developing his own cult of personality at the expense of the teachings of Hassan al-Banna, the Egyptian who founded the Muslim Brotherhood in 1928. Shaykh Yasin Abd al-Aziz al-Qubati became the new head of the organization (a position he is widely acknowledged to unofficially hold, despite the formal absorption of the Muslim Brotherhood within the Islah party).¹¹ Zindani went to Saudi Arabia, reportedly in a fit of anger. During his self-imposed exile from Yemen, he strengthened his ties with Saudi's Wahhabi government and became led a powerful Islamic scientific institute there. Around this time, several prominent leaders from Yemen's Zaydi movement joined with the Muslim Brotherhood to expand Islamist influence in the country. A Shi'ite sect, the Zaydi movement has long had confrontational relations with Wahhabis and Wahhabi-minded thinkers like Zindani.

In 1979, the southern based National Democratic Front (NDF) launched border skirmishes with the northern regime, in part with widespread if secret support of northerners, particularly Shafi'i sharecroppers, workers, and students from the southern regions of the North (Carapico 1998: 36). The northern army defeated the NDF, however, in part due to the support of an informal group of conservatives and Islamists known as the Islamic Front. This group included members of the Muslim Brotherhood, conservative tribal leaders, and a few smaller Islamist groups. The willingness of Islamic Front members to fight for the regime stemmed from their established ties and their view of the South's socialists as a common enemy. The armed struggles also cemented the Islamic Fronts relationship with North's President Salih, who had taken power in 1978. When Salih inaugurated the General Popular Congress in 1982, Islamic Front members were prominent among their numbers.

Following unification, the core members of the Islamic Front joined with others who shared a conservative social vision to form *Tajamma' al-Yamani li al-Islah* as a coalition political party. The party is often said to consist of two primary wings, one religious and one tribal, along with a small number of business leaders and intellectuals. While this picture is generally accurate, labels such as "tribal" and "Islamic" are particularly problematic in that they create assumptions and expectations about how and why the group behaves as it does. Such broad strokes also tend to suggest a level of cohesiveness among the various branches that do not reflect the group's internal dynamics. In this regard, it is more useful to identify the bases of the Islah party's power, which lie in the positions occupied by its leaders within various hierarchies of power. This approach also holds significant explanatory import for understanding the role and actions of the party under Yemen's constricting political liberalization.

The single most powerful and prominent member of Islah is Shaykh Abd Allah ibn Hussayn al-Ahmar, head of the Hashid tribal confederation, the tribal network of which President Salih is himself a member. Ahmar was a supporter of the republican government of North Yemen from the time of the 1962 revolution and a strong defender of the government against dissenters throughout the 1970s and 1980s. He has served as speaker of North Yemen's national assembly, a position he has also held under two parliaments in unified Yemen. But Ahmar is not the lone tribal leader within Islah. Shaykh Naji Abd al-Aziz al-Sha'if is a prominent leader of the Bakil tribal confederation, and the two have not consistently presented a united "tribal" front within the party.¹² Nevertheless, Ahmar is widely recognized as one of the most powerful individuals in all of Yemen and, as such, the key to Islah's power as a political party.

What has been called the ideological wing of Islah may be more accurately described as an assemblage of Islamist activists, including members of the Muslim Brotherhood, adherents to a more conservative, Salafi brand of Islam, followers of Zindani, Wahhabis who do not follow Zindani, and as well as a few others. Zindani remained in Saudi Arabia from 1979 to 1993, when he was persuaded by Salih and other powerful actors to return to Yemen with the promise of a seat on the powerful five-person Presidential Council. Much of his power is derived not only from his personal following, but also from his lucrative business investments, which were the cause of some scandal when they were reported in the press in early 1997, just prior to the second parliamentary elections.¹³ Like Ahmar and Salih, Zindani has found close ties with the Saudi government to be an important source of power, political as well as economic. Also prominent within the party is Abd al-Wahhab al-Anisi, who has complex credentials that cross tribal, Islamic, and leftist lines. The point to emphasize is that Islah is not, despite initial appearances, comprised of a cohesive tribal wing and a cohesive ideological wing.

Islah leaders readily acknowledge the party's internal divisions and have sought to put a democratic spin when news of in-fighting reaches the public sphere. Muhammad Yadumi, secretary-general of Islah since 1994, frames these divisions as a strength of the party:

Of course there are different views within the party, but it would be a mistake to say the group is divided. Is it not a natural and healthy characteristic of democracy to have disagreements and debates among members? We encourage members to express their opinions, then through debate we come to a decision based on consensus (ijma'). This practice is Islamic, but it is also central to democratic politics.¹⁴

As this argument illustrates, party leaders have sought to frame their activities and struggles in terms of democratic practices.

The fact that Yemen's ruling elite are themselves part of the field of political competition, contesting elections as the GPC party, has important implications for the role of the Islah party, its leadership, and its political strategies. In the country's pacted political liberalization, strong groups were brought into the same sphere as the ruling elite, using "agreements among leaders of political parties (or proto-parties) to (1) divide government offices among themselves independent of election results, (2) fix basic policy orientations, and (3) exclude and, if need be, repress outsiders" (Przeworski 1991: 90). As Przeworski notes, this type of

pact has had a long tradition in Venezuela, Italy, Spain, and Uruguay (1991: 90). The various Islamist groups that became part of the Islah party were thus effectively partners to the northern political elite against the southern elite.

The objective of the northern political elite was to use the Islamists against the southern leaders. As a third, “independent” party, the Islah party played an important role in the power struggle between the political elites of the former North and South Yemen. With its formal Islamist bent, the Islah party appealed particularly to the fears of conservatives throughout the north who opposed the progressive and liberal programs promoted by the YSP. In effect, therefore, the Islah party served to further offset the potential bases of support for the YSP in northern Yemen. While the ruling coalition that emerged following the 1993 elections saw the Islah party included as a junior partner, the de facto balance of power saw the YSP relegated to a junior position as the northern alliance of the GPC and the Islah party dominated. This formulation would have significant impact on the Islah party following the 1994 war, however, as Salih’s regime no longer needed the Islamists to play that role as a third political party. These historical developments of the relations of power between the more powerful actors will be further examined in the next section, which focuses on the changing internal dynamics of the Islah party under liberalization as well as its role in the broader political sphere.

The Changing Role of the Islah Party

When Yemen’s ruling elite introduced limited political liberalization and called for national elections, a range of political actors already existing with the public political sphere began exploring the newly opened spaces for organization, mobilization, and contestation. As argued above, these included the ruling regimes of North and South Yemen (now the GPC and YSP, respectively), along with the newly formed coalitional Islah party. In such a context, groups wishing to participate in the political sphere as a party tend to take very similar measure to prepare for upcoming parliamentary elections, position themselves to accept cabinet portfolios, and broaden their support bases by establishing or increasing their presence in local communities. In this section, I explore the ways in which the Islah party sought to exploit the political opportunities structures that expanded with unification in 1990. I focus on three types of organization and mobilization to illustrate the breadth of the impact: institutionalization; formal participation within state institutions; and the formation of cooperative agreements with other groups. Of particular interest here is the extent to which the structure of each group and the modes of contestation each employ have evolved in response to shifting political opportunities associated with political liberalization. Likewise, broader power struggles can be seen to play a significant role in the role played by different parties. While the political elite have so far been successful in their attempts to insure that existing relations of power are not fundamentally altered, the extent and nature of the change within the Islah party suggest that processes of liberalization and institutional change may in fact initiate a gradual restructuring of political hierarchies, even when power remains in relatively the same hands.

Institutionalization

Often the first visible evidence of the impact of political liberalization on political actors is the emergence of new bodies within the public political sphere. Yemen witnessed a rapid proliferation of civil society in the form of political parties and special-interest groups, and a gradual emergence of research institutes.¹⁵ As argued, the Islah party itself emerged from existing social movements and power bases, a characteristic typical of the other political parties to emerge in Yemen in the 1990s (Manea 1994). Yet even those groups that were relatively well established adopted new processes of institutionalization, entailing registration with the appropriate government agency, the establishment of a formal office or headquarters, and efforts at increasing local presence through regional offices.

The processes of institutionalization serve as the first evidence of the ways in which groups adopt new modes of political contestation within a changing public political sphere. Prior to liberalization, political parties were banned in both countries and their public spheres were highly restricted spaces. As the structure of the public political sphere expanded shifted with the institutional change to accommodate new modes of organization, existing groups as well as new movements fashioned themselves to take advantage of the new resources and opportunities. Once party officials were selected, office space rented, letterhead printed, and telephones connected, groups began experimenting with new modes of mobilization as well as adapting familiar modes to new circumstances.

The first move by the Islah party was to establish a formal structure within the party, including eight administrative divisions of the headquarters office, an executive committee, and a consultative council. This model closely followed the internal structure of the Muslim Brotherhood, particularly the well-developed branches in Jordan and Egypt. The next step was to negotiate a distribution of power among the various power bases within the party. Few disputed that Ahmar, the powerful Hashid tribal shaykh, would become the chair of the party, particularly given his powerful position and his close relationship with Salih. Ahmar also served as the speaker of the interim parliament immediately after unification, providing the party with an immediate high profile. Abd al-Wahab al-Anisi, a moderate ideologue with tribal ties, became the party's first secretary-general, a position that entailed direct oversight of the activities and daily functioning of the party. The various administrative offices were largely staffed by moderate ideologues with ties to the Muslim Brotherhood.

The next step was the routinization of operations, the organization of public events to expand their visibility, and preparation for upcoming national elections. The Islah party began organizing series of meetings and conferences, some organized around current issues (such as proposed constitutional amendments) and others as regular gatherings of party committees. The practice of holding such gatherings had quickly caught on in unified Yemen, with tribes as well as political parties organizing large conferences on a wide range of themes. From December 27-30, 1992, Islah organized a "Unity and Peace Conference" in Sana'a under the slogan of "The Qur'an and the Sunna Supersede the Constitution and the Laws." In his keynote address to an audience of more than 4,000, Ahmar criticized the organizers of similar gatherings throughout Yemen for fomenting national fragmentation. Apparently he did not see the Islah party's efforts as producing similar results.

The group initiated a process of convening large-scale member gatherings at two-year intervals. The party's first general congress was held in Sana'a from September 20-22, 1994, during which the party elected its leadership¹⁶ and the weekly *Al-Sahwah* newspaper, formerly a Muslim Brotherhood publication, was adopted as the party's official mouthpiece. In September and November 1996, *Islah* held its second general congress, during which the activities of the party since 1994 were reported and discussed.¹⁷ Following the November session of that meeting, party issued a statement that summarized the conference's proceedings and outlined its views on a number of local, regional, and international issues.¹⁸ The meeting was open to the press (who received folders containing conference agendas and statements), and the *Islah* party took the opportunity to reiterate its stance that democratization is the appropriate path of political reform for Yemen and that the party is dedicated to working within a democratic framework.

An additional aspect of this routinization of operations entails the formulation of official party positions on a variety of issues. Policies are debated, published, and distributed; numerous statements to the press are issued in response to specific social, political, and economic developments; and electoral programs are prepared prior to each national election. Members and non-members alike may debate the party's political program or weigh its performance against its declared goals and principles. On occasion, the articulation of official policies may even constrain the group by pressuring the leadership to act in accordance with the party's stated principles.

The media have been important loci for the dissemination of party policies and the debate of public issues. Yemen has a lively and relatively free press, particularly compared to other Middle Eastern and Third World countries. Many of the weekly papers, in particular, are associated formally or informally with various political parties and trends. While *Al-Sahwah* is the official mouthpiece of the *Islah* party, the group has been associated with a number of other publications, including *Al Islah* and *Al Balagh*, which no longer publish regularly.

In addition to newspapers, magazines, press releases, and formal party platforms, both parties occasionally publish books and pamphlets on topics of economic, political, and social concern. A number of these publications appear in English as well as Arabic, underlining the extent to which both parties seek to insure the availability of first-hand information about their activities and agendas to a foreign readership. The *Islah* party has taken an additional step of forming a research institute, the Yemeni Center for Cultural and Strategic Studies (YCCSS), inaugurated on July 28, 1996 by Prime Minister Abd al-Aziz Abd al-Ghani. The institute is headed by Nasr Taha Mustafa, who resigned as editor of the official weekly *Al Wahdah* to take the position. Although the YCCSS is not formally linked to the *Islah* party, Mustafa acknowledges that the institute has close relations with the party; he and most of the staff are members of the party.¹⁹

A final aspect of institutionalization includes the establishment of mechanisms to respond quickly to pressing social, economic, and political developments as well as to challenge specific government policies. The *Islah* party has organized rallies, demonstrations, and innumerable local gatherings to mobilize Yemenis around certain issues. As Carapico argues, this practice is not the exclusive phenomenon of recent years: a range of public gatherings, including tribal conferences, increased in popularity during the 1980s, though large-scale gatherings were restricted (1998). The liberalization of the political system in 1990 facilitated the reemergence of such modes of mobilization. At least 25,000 citizens attended an *Islah*-

sponsored rally prior to the 1993 parliamentary elections, with thousands more attending similar GPC- and YSP-sponsored gatherings (Carapico 1998).

Electoral, parliamentary, and cabinet participation

As argued above, the groups that united under the banner of the Islah party had been active on the political scene of North Yemen for years, with an intensification of activity beginning in the late 1970s. These included roles as cabinet ministers and seats in other appointed government bodies, influential positions of employment within various ministries, and, with liberalization, popularly elected members of the lower house of parliament. The most public role the Islah party has played on Yemen's political scene has been its direct participation in state institutions, such as the Presidential Council, the cabinet, parliament, and the appointed consultative assembly (which was established only in May 1997). Because many Islah leaders emerged from within the ranks of the GPC in pre-unification North Yemen, they held a number of seats of the newly unified parliament (combining the assemblies of the North and South for a total of 301 seats) from the time of unification until the first post-unification elections were held. As noted, Islah party chair Ahmar held the position of speaker of the interim unified assembly.

United Yemen held its first multi-party elections on April 27, 1993, with Islah winning 62 seats of 301, less than the GPC's 122 but more than the YSP's 57. The new assembly elected Ahmar with 223 votes to continue his role as speaker. The GPC, the YSP, and Islah formed a coalition government, with the YSP and Islah as junior partners. When Prime Minister Haydar Abu Bakr al-Attas announced his new government following those elections, the Islah party was given control of six portfolios: Legal Affairs, Local Governance, Health, Religious Affairs and Endowments, Supply and Trade, and Deputy Prime Minister.²⁰ Islah leaders complained that it was initially offered only four portfolios compared to the YSP's eight, despite Islah's greater electoral victory. Two additional portfolios brought Islah's total to six, including one that went to Anisi, making him the highest ranking Islah member within the government (Carapico 1993: 39). The ministries opened more direct channels for the Islah party to influence public policy, though the new Islah ministers—like the YSP ministers—soon learned that the government bureaucracies were so bloated that efforts to implement change were restricted at every turn. In October 1993, Islah gained a seat on the five-person Presidential Council with the appointment Abd al-Majid al-Zindani, chair of the party's consultative council, who returned from Saudi Arabia for the occasion of accepting both positions.

Following the 1994 civil war and the virtual disappearance of the YSP from the political scene, the new cabinet of GPC-member Abd al-Aziz Abd al-Ghani gave nine posts to Islah members.²¹ Anisi was promoted to First Deputy Prime Minister. With Islah's expanded role in the cabinet, newspapers and public opinion focused on the implications of the party's rise to power—particularly the extent to which it would implement a “radical” Islamist agenda. Islah, however, did not fail to notice that it had been given primarily service ministries, including health, supply and trade, electricity and water, and education. While the party was pleased with the opportunity to affect change in areas considered of great importance, considerable speculation arose both within the party and in the media as to whether Islah had been set up to fail. Indeed, reform in the troubled service industries would prove both exceptionally difficult and economically painful,

making reforms highly unpopular among the Yemeni citizenry.

Meanwhile, a number of disputes arose between Islah and GPC ministers. One widely debated issue concerned the level of corruption within the ministries and the extent to which reform was virtually impossible without a fundamental overhaul of the staff.²² Tensions increased as GPC and Islah officials accused each other of trying to staff the ministries with their own party members. One Islah minister said that members of his own party came to him for employment and complained to the central Islah office when their requests were not accommodated.²³ Several ministers argued about the rate at which currency was transferred among ministries before the rial was floated in 1996.²⁴ And several Islah ministers complained that their every move was branded as “Islamist” by GPC members as a means of mobilizing partisan opposition to their attempts to implement reform or combat corruption. One Islah minister noted correctly that President Salih tended not to send Islah ministers abroad, particularly to non-Islamist countries, because Yemen was striving to improve relations with a number of western and secular nations and conservative religious ambassadors might not be well received.²⁵ Ten years after unification, no Islah member has served as ambassador.

The Islah ministers quickly realized they would not be able to affect much change. Beginning in 1995, several of them resigned their posts: Muhammad al-Jubari resigned as Minister of Supply and Trade and was initially replaced by Islah member Muhammad al-Afandi. In December 1995, Afandi also resigned, as did Abd Allah al-Akwa, Minister of Water and Electricity. Both complained that they were unable to do their jobs and were prevented from taking steps to reduce corruption within their ministries; each was replaced by a GPC member. Akwa felt he had been personally targeted, evidenced by a series of cartoons lampooning him that appeared in an official newspaper over the course of several weeks that summer.²⁶ Abdu Ali al-Qubati resigned as Minister of Education in October 1996, replaced by Islah member Abd al-Majid al-Mikhlafi.²⁷

One of the most interesting aspects of Islah’s role within the ministries concerns its choice of members to accept the cabinet posts. With the exception of Abd al-Wahab al-Daylami, who served as Minister of Justice, all of the Islah ministers were relative moderates. Most had long-standing but often informal ties with the Muslim Brotherhood; about half were educated in western institutions and spoke English, French, or both. BaFadl, for example, was educated in Paris and speaks French at home with his family. By his telling, he was living in Jeddah as a businessman in 1993 when an Islah official called to tell him that he would be announced as Minister of Supply and Trade the next morning. He returned to Yemen to take up the position.²⁸ Akwa states that he was not close to the Muslim Brotherhood until his campaign for a parliamentary seat in 1988 in pre-unification North Yemen (at which time political parties were illegal). The Muslim Brotherhood supported his candidacy, he says, because of the similarities in their conservative platforms. Following unification, he was courted by the Islah party, which he then formally joined.²⁹ Islah’s selection of moderates to fill ministerial positions is meaningful in that it suggests the leadership’s realization that to maximize the party’s influence, Islah needed to present moderate ministers that would receive both wide government support as well as popular acceptance.³⁰

Although the defeat of the YSP in the 1994 conflict seemed to have opened the door for an increased Islah role in governing, in practice the opposite happened. By 1996, Islah had witnessed a considerable decrease in its power as a political party, though prominent Islah leaders remained close to Salih. While there emerged a

consensus among former ministers and leaders of Islah that their biggest mistake was to try to implement reforms too quickly, particularly in challenging corruption,³¹ they also recognized that GPC officials no longer looked at them as ready allies. As the April 1997 elections approached, an agreement between the GPC and Islah concerning who would campaign for which seats in that contest fell apart. The GPC realized that it no longer needed Islah's support to win a majority of the 301 seats.³² Indeed, while Islah retained 53 seats, the GPC won an overwhelming 187. One of the more interesting aspects of the outcome was the relative defeat of Islah candidates from the party's ideological trend, compared to the considerable success of Islah's tribal candidates.³³

With its dramatic victory in the 1997 elections, the GPC had no need to form a coalition government, and no Islah members were offered cabinet portfolios under the leadership of new prime minister Faraj ibn Sa'īd ibn Ghanim. Ahmar was reelected speaker of parliament, an outcome that likely has less to do with his leadership of the Islah party than with his position as head of the Hashid tribes and his close personal relationship with the president. President Salih did finally follow through on his promise to create an appointed consultative council in May 1997, though this body is not constitutionally an upper house of parliament. Islah members were given about ten seats, including three to former cabinet members.³⁴ One minister in the Ghanim cabinet described this move as a concession to the Islah party, a means of keeping the party from joining the opposition following its electoral losses, which it had informally threatened to do.

The purpose of recounting these experiences regarding Islah's participation in parliament and the ministries is to demonstrate both the extent to which it strives to maximize the political opportunities created by changes in the state institutions and the manner in which formally participating *as a party* introduces new dynamics (and constraints) to the coalition party's political strategy. The parliamentary and cabinet experience of the Islah party signaled shifts in Yemen's political scene. The truly pluralist government following the 1993 elections was replaced with the defeat of the YSP in 1994 with an authoritarian regime in democratic clothing. While the YSP's virtual disappearance from the political scene initially appeared as a boon to the Islah party, the result was in fact a lopsided political environment monopolized by Salih's GPC. Ironically, the victory over the YSP initiated a weakening of Islah on the political scene. Although many prominent personalities within Islah remained closely linked to political authority and practices of power, Islah *as a political party* witnessed a relative decline in significance.

Toward the "Opposition"?

The Islah party played a role as part of two ruling coalition governments, first with the GPC and the YSP and later with the GPC alone. Because of Islah's location near the top of Yemen's political hierarchy, its leaders did not need to explore cooperative strategies with smaller parties, at least not initially. Islah was less a "third" party than a part of the ruling elite.

It is not difficult to understand the GPC-Islah-YSP coalition formed after the 1993 elections. As the former ruling parties of North and South Yemen, the GPC and the YSP had already agreed to rule as a coalition. When the Islah party won more seats (62) than the YSP (57), YSP leaders had little choice but to agree to GPC demands to include Islah in the coalition. Yet Islah leaders proved antagonistic toward the YSP

and have been outspoken against the YSP and the “evils” of socialism. Although the Islah party has formally accepted the right of socialists to organize (so long as they do not advocate atheism, which South Yemen’s socialists have never done), it has criticized leftist groups on the basis that they oppose the central tenets of Islam. In this regard, Zindani, chair of Islah’s consultative council, has consistently criticized the YSP on ideological grounds, arguing that as Muslims, Yemenis are called upon by God to fight against communists and socialists.³⁵ Daylami, another of Islah’s more hard-line ideologues, even issued a religious decree³⁶ in the summer of 1994 in which he justified the war as a confrontation between infidels (the YSP) and pious Muslims.

The 1994 post-war GPC-Islah coalition thus signaled the maintenance of the top of the political hierarchy, but with an ironic twist. Whereas the virtual disappearance of the YSP from the political scene gave the northern political elite absolute control of the state, it also signaled the beginning of a decline of Islah as a political force. To be sure, the most powerful among Islah’s leaders, particularly Ahmar, remain central to the highest circles of power. But as a political party, the GPC no longer needed Islah as a third party to offset the influence of the YSP. As Islah ministers increasingly resigned from their posts, the party saw fewer and fewer overtures from the GPC and the relationship deteriorated.

In light of this deteriorating relationship, the leaders of Islah’s central bureaucracy became concerned with its prospects for the 1997 parliamentary elections. When the GPC announced in June 1996 that it would strive to obtain a majority of seats in the next elections, a number of columns and articles in *Al Sahwah*, Islah’s official newspaper, criticized the GPC as seeking to undermine Yemen’s multi-party system. Members of the YSP remaining in Yemen were already discussing a boycott, and a number of Islah members expressed through various channels that their party might consider a boycott as well. Officially, Islah leaders were struggling to reach an agreement with the GPC that would ensure that prominent candidates from each party did not run against each other. By August, however, the GPC-Islah negotiations had not moved forward. While those discussions continued, Islah representatives held several meetings with Yemen’s organized opposition bloc, the Supreme Coordination Council of the Opposition (SCCO). They discussed their common concerns that the GPC was manipulating electoral laws and other legal measures to insure that it dominated the next elections. Members of the SCCO include seven parties, including the socialist Nasirist and Ba’athist parties as well as two smaller Islamist parties that have traditionally opposed Islah.³⁷ Yet as Islah saw its position near the top of Yemen’s political hierarchy slipping, the political expediency of cooperation began to outweigh other differences. On August 27, the Islah party and the SCCO jointly issued a statement of cooperation, which was published in several newspapers. The document expressed “grave concern for the direction of democratic development in Yemen,” and particularly the role of the state in fragmenting the political opposition. It is notable that neither President Salih nor the GPC were named in the statement, which criticized only abuses by the “state.” In October, Muhammad Alawi, a member of Islah’s consultative council and a representative to the talks with the SCCO, spoke of regret over Islah’s years of isolation from the opposition parties.

Lack of dialogue with other parties was a gross error. Islah has now taken an historical step by talking to other parties...It is rumored that Islah has started talking to the opposition for political gains. I say this is not so. Islah has a democratic aim especially after the Islamist movement in Yemen changed its attitudes and

mechanisms.³⁸

Indeed, Islah had changed, though primarily as a result of its relative decline in power since 1994 and the subsequent need to pursue alternative means of insuring its place within various hierarchies of power. This tentative testing by certain Islah leaders of cooperation with the opposition political parties as a political strategy was motivated by the desire to gain as much power as possible. If the move failed to scare the GPC into bringing the Islah party back into the fold, then pooling resources with the opposition bloc might prove a viable alternative option.

Yet Islah had not abandoned hope of reaching an agreement of the coordination of candidates for the April 1997 elections. On October 24, 1996, its consultative council issued a statement in which it expressed the desire to maintain a strong relationship with the GPC, noting that their coalition had been established on “basic national foundations unstained by any narrow interests.” The language of the document lacked the harsh criticism that characterized the articles published in *Al Sahwah*, or the broad criticism of the “state” that appeared in the Islah-SCCO cooperative statement. Still, tensions between the parties continued to escalate. On December 4, for example, the remaining Islah ministers walked out of a cabinet meeting following heated discussions about the 1997 budget.³⁹ By January 1997, however, the GPC and Islah agreed that GPC candidates would run uncontested by Islah candidates in 100 constituencies, and Islah would run uncontested by the GPC in 50. In the remaining 151 constituencies, the parties would freely compete. As early as February, both sides accused the other of violating the agreement by supporting third-party candidates and by secretly running candidates as “independents” in districts from which they had agreed to withdraw their candidates. It is difficult to know how much of the agreement held in the end, but there is considerable evidence that in broad terms, it simply fell apart.⁴⁰

As the 1999 presidential elections approached, the relationship between the Islah party and the GPC had severely deteriorated. Contacts between certain Islah leaders such as Muhammad Qahtan, the head of the political section, and secretary-general Muhammad Yadumi—and YSP leaders, notably Jarallah Umar, the party’s deputy secretary-general, were still sporadic but more frequent. YSP and Islah leaders sat together on panels and at public debates, and participated together in a workshop on democratization organized by the National Democratic Institute’s local office in Yemen. As noted, the Islah party did not field its own candidate for the presidential elections, choosing instead to join the GPC in endorsing Salih’s candidacy. The move signaled the Islah party’s continued reluctance to break away from the GPC and join the opposition, though tensions between the two continued. GPC officials reportedly accused Islah of not fully participating in the presidential elections, to which Islah officials replied that the outcome was a foregone conclusion. One Islah official further accused some GPC officials of pocketing money earmarked for the transportation of voters to the polls (*Yemen Observer*, October 1999, p. 4).

The following August, the GPC and Islah blocs within parliament came to agreement on passing a resolution to extend the presidential term from five to seven years and the parliamentary term from four to six years. The resolution also introduces a mechanism whereby the constitution could be altered in the future without a referendum. The joint-sponsored amendments were formally approved by the parliament on November 14 amid vocal dissension from the opposition parties. Yet with preparations for the February 20, 2001 local elections and constitutional referendum well underway, public debate included not only the

outcome of the elections but also the status of the GPC-Islah partnership. Much speculation centered on whether the two had reached an agreement to prevent GPC and Islah candidates from facing each other at the polls.

On January 3, with the elections just six weeks away, the Islah party held a general meeting with the entire executive committee present to discuss whether to take part in the elections at all. At issue were both Islah's demand that the government revise the list of voters to eliminate some 300,000 "phantom" names and the question of whether the GPC would honor its alliance with the Islah party. The meeting was quite contentious and the consensus of the group appeared to lean toward boycotting the elections until President Salih showed up. In comments widely reported in the press, Salih reaffirmed the strategic coalition between the two parties (though note, of course, that he officially resigned as a member of the PGC), declaring that

*We were all together under the umbrella of the PGC before 1990. Since then, political pluralism was adopted as a system for the country according to the constitution and the law. But this does not mean separation between the GPC and other parties, including Islah.*⁴¹

Salih then acknowledged receiving complaints from Islah members about the voting lists and stated that 130,000 repeated names on the voting lists had been removed, and that the Supreme Elections Committee (SEC) was working around the clock to complete the task. The country was not ready for the local elections, Salih admitted, but had decided to proceed for financial considerations. The referendum concerning the constitutional amendments had to be put to the people immediately to insure that in the event that the measure was defeated, there would be sufficient time to prepare for the April 1997 parliamentary elections. While the government would have liked to separate the issues and hold the local elections at a later date, Salih argued, each election would cost Yemeni Riyal 3.9 billion. Consequently, the government was "forced" to move forward with the local elections for financial reasons. Among opposition groups, the general view was that the government feared a low voter turnout for the referendum and therefore coupled it with local elections to insure a more credible show.

Ahmar then reportedly expressed appreciation for Salih's attendance at the meeting and for his remarks as a "sign of sponsoring democracy at the level of parties." He supported Salih's argument that the SEC was well intentioned but simply short of time. Islah secretary-general Yadumi then asked that the group vote on whether to empower the political section of Islah's central office to move forward with the elections, to which Zindani, chair of party's consultative council, replied that a vote was not necessary and that the party should support the elections. The author of the article surmised that this move by Zindani reflected ongoing high-level talks between the GPC and Islah,⁴² which apparently were sidestepping the party's internal procedures for making such decisions. Meanwhile, the Supreme Coordination Council of the Opposition (SCCO) sought to present a unified stand as a means of offsetting the GPC-Islah coalition at the polls. The group agreed to oppose the constitutional amendments but to put forth candidates for the local council seats.

Just two weeks later, GPC-Islah tensions were again high. In an interview with Islah's official newspaper Al Sahwa, Muhammad Qahtan, head of Islah's political section, charged that the SEC was displaying bias against opposition parties as well as the Islah party. A week later, Al Rai Al Aam reported that GPC members

in the Sa'fan province in the Sana'a governate charged that Islah members had rounded up arms and fired live rounds to disrupt the local elections in that region. The independent paper also reported "tens of violent confrontations" between the GPC, Islah, and opposition candidates, and numerous contentious articles in each party's publications.⁴³ GPC mouthpiece Al Mithaq accused the Islah party of creating common electoral lists in provinces in Hadramout, Shabwa, Ta'iz, and Abyan, suggesting that some YSP members believed this was a ploy by the Islah party to gain YSP votes without actually supporting YSP candidates.⁴⁴ In Al Sahwa, meanwhile, quoted an interview with Muhammad Yadumi in Al Sharq Al Awsat in which the Islah secretary-general stated that the numerous promises of the GPC to improve Yemen's economic conditions have been unrealized.⁴⁵

On February 18, just two days before the election, tensions between the GPC and Islah were at a high. Shaykh Ahmar accused the GPC and the SEC of numerous illegal maneuvering aimed at weakening the showing of Islah candidates at the polls, including the last-minute removal of 74 Islah candidate names from electoral lists and use of the official media.⁴⁶ Just a week earlier, an Islah candidate was killed in a confrontation in Ibb governorate. Via GPC mouthpiece newspaper Al Mithaq, the party launched accusations back at the Islah party, including harsh criticisms of the latter's use of religion and religious rhetoric to mobilize voters.

The constitutional amendments contained 17 parts that will:

- revoke the president's right to enact laws by decree when the parliament is not in session
- extend presidential term to 7 years
- extend parliamentary terms to 6 years
- allow the president to appoint a 111-member consultative council (the amendments to not articulate the relationship between this new body and the elected parliament.

A Yemen Times poll showed 37% supported GPC candidates and 26% supported Islah candidates, though a vast majority expected GPC to "win" a majority of the seats because they had the means to manipulate the process.⁴⁷ Only 35% of respondents supported the constitutional amendments, with 65% opposed.⁴⁸

Approximately 5.6 million Yemenis are eligible to cast votes for the 26,467 candidates (6,000 GPC, 3,800 Islah, 2,100 YSP, less than half independents, and only 145 women) stood for 7,032 seats on local councils. A report in Al Ayyam showed that in 11 of 20 provinces, the number of registered male voters was as much as 46% higher than the number of eligible voters (those over 18 years of age). 22 lawyers have filed suit against the SEC.

Conclusion

Islah has never been part of the opposition. When the party was founded in 1990, it institutionalized an already existing bloc of pro-regime conservatives in North Yemen as a means of further offsetting the influence of the South's YSP in the post-unification political arrangement. The GPC and the YSP had agreed to a multi-party system as a mechanism for sharing power, and much of the political importance of Islah derived from that context. When the poles of power shifted with the defeat of the YSP in 1994, the institutional necessity for a third, balancing party at the pinnacle of power declined. While a number of Islah's most powerful leaders remained within the highest political circles, Islah as a political party saw a rapid deterioration of its influence. This led the group to explore cooperation with the opposition bloc, while seeking to restore its partnership with the GPC.

The Islah party has resisted formally joining the opposition, however, as it continues to conceive of itself as part of the ruling elite rather than as a political party contesting power through election and other democratic processes. This is not to suggest that the Islah party is in any way incapable of functioning democratically. In fact, there is strong evidence that the party adopted internal structures that can be fairly described as democratic. Yet because the party's *raison d'être* was to work with the Northern ruling elite in the immediate post-unification period, its leaders have been reluctant to abandon that position despite the GPC's clear consolidation of power in its own hands since 1994. In this regard, perhaps the easiest way to jumpstart Yemen's "stalled" transition to democracy would be for the Islah party to formally join the opposition bloc and thereby lend significant strength to those who demand the GPC adhere to transparent and democratic practices. Given the continued close alliances between Islah elite such as Ahmar and Anisi, however, the near future is more likely to see the Islah party split than for the whole party to join the opposition. But as long as much of the party's power lies precisely in those personal connections, the most likely scenario remains the status quo—and an unfortunately deterioration of Yemen's foray into democratic politics.

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NOTES:

- ¹ I am extremely indebted to Sheila Carapico and Lisa Wedeen for innumerable long and insightful conversations about Yemen, as well as for their specific comments on earlier versions of this paper. All failings are of course my own.
- ² Schmitz argues that the change in name reflected an effort by the ruling elite of the South to claim leadership over all of Yemen, while the leadership of the North claimed similar sovereignty (1997: 16, nt. 5; 29-30).
- ³ *Al-Mu'tammar al-Sha'bi al-'Amm*
- ⁴ Although South Yemen had been ruled by a Marxist regime since 1967, it had retained the modern infrastructure developed by the British when Aden served as a major port city.
- ⁵ The 12 were: the Ba'ath Arab Socialist Party, 7; the Zaydi Islamist party, al-Haqq, 2; the socialist Nasirist Unionist Party, 1; the socialist Nasirist Democratic Party, 1; and al-Tashih, 1.
- ⁶ The Hashid tribal confederation is smaller in size than the Bakil, who are also located in the North. The Hashid are more powerful, however, due to a relative lack of intra-tribal conflict about lines of authority. Whereas Hashid tribes all recognize Ahmar as the top figure, Bakil tribes have reached no such consensus. See, for example, Dresch 1989 and Dresch and Haykel 1995.
- ⁷ These officials, interviewed in September and October 1997, have asked to remain anonymous; they include three cabinet members and two other high party officials. The idea that the GPC went overboard in its manipulation of the elections has been so widely expressed and debated that it is, for all practical purposes, public knowledge.
- ⁸ Al Ayyam, November 14, 1997.
- ⁹ For a history of the Muslim Brotherhood in Yemen, see Sa'id 1995. For the role of early Muslim Brotherhood members in the Free Yemeni Movement (which challenged the Imamate in the 1930s and 1940s), see Douglas 1987. For the Muslim Brotherhood in Egypt, see the classic Mitchell 1969; in Jordan, see Boulby 1999.
- ¹⁰ Interviews with Yasin Abd al-Aziz, Muhammad Yadumi, Faris Saqqaf, Zayd Shami, Nasr Taha Mustafa, and Muhammad al-Afandi, 1995 to 1998, Sana'a.
- ¹¹ Qubati was elected the vice-chair of Islah's consultative council in 1993.
- ¹² Numerous other tribes exist, and it should not be inferred that all tribes fall under the Hashid and Bakil umbrellas.
- ¹³ Zindani brought charges of slander against the journalists and editors of the articles.

¹⁴Interview with author, April 6, 1995, Sana'a.

¹⁵Many research institutes, women's rights groups, environmental protection advocates, and human rights organizations have emerged largely in response to the availability of large grants offered by foreign agencies. See Carapico 1998, especially chapter 2, and Brand 1995.

¹⁶Ahmar was elected chair of the party and of the 15-man executive council; Shaykh Yasin Abd al-Aziz al-Qubati, the chair of the formally disbanded Muslim Brotherhood's consultative council, was elected vice-chair; Zindani was to lead the 100-man consultative council, the central committee of the party; Abd al-Wahab al-Daylami was elected chair of the judicial council; Muhammad Yadumi was elected secretary-general; Abd al-Wahab al-Anisi moved from secretary-general to assistant secretary-general; and Faris al-Saqqaf was elected director of the information and public relations.

¹⁷The official programs from both the 1994 and 1996 conferences describe each gathering as Islah's "first" general congress. For clarity, I call the 1994 meeting the first general congress and the 1996 meeting, held in two sessions, the second general congress.

¹⁸Members were urged to pay their dues and to contribute to the party as generously as possible. The statement went on to demand that the constitution and the law be implemented fully and routinely, and that the distribution of authority between the executive, legislative, and judicial be formalized to insure democratic governance.

¹⁹The YCCSS houses a small library—open to the public—in which a number of Islah documents are archived, including conference programs, official statements by Islah leaders, and Islah publications. The YCCSS's first event was a three-day seminar held from July 29-31, 1996 at Taj Sheba hotel in Sana'a under the theme, "Administrative Reforms in the Republic of Yemen," the proceedings of which were published in book form by the institute. The YCCSS aims to hold more seminars and to continue its series of publications, including its journal, *Shu'un al-Asr*, which was launched in 1997.

²⁰Abd al-Salam Karman was named Minister of Legal Affairs; Abd al-Wahab al-Anisi, Deputy Prime Minister; Muhammad al-Dammaj, Minister of Local Governance; Najib al-Ghanim, Minister of Health; Ghalib Abd al-Kafi al-Qurashi, Minister of Religious Affairs and Endowments (*Awqaf*); and Abd al-Rahman BaFadl, Minister of Supply and Trade. In a statement to Al Wahdah newspaper, Karman said that he was not a member of Islah; Islah secretary-general Muhammad al-Yadumi refuted this in a statement to Sitta-Ashrin Uliu newspaper, September 13, 1993, saying that Karman had not expressed himself well.

²¹New Islah appointments included: Muhammad al-Jubari, Minister of Supply and Trade; Abd al-Wahab al-Daylami, Minister of Justice; Abdu Ali al-Qubati, Minister of Education; and Abd Allah al-Akwa, Minister of Electricity and Water. Ghanim, Dammaj, and Qurashi retained their portfolios of Health, Local Governance, and Awqaf, respectively. BaFadl was later given the portfolio for the newly revived Ministry of Fisheries, charged with reforming and reviving Yemen's fishing sector.

²²Within Yemen's government bureaucracy, corruption is facilitated not only by ministers wishing to gain their share, but by the vast number of positions that, though unnecessary, cannot be eliminated for patronage reasons. Ministers from all political trends complain of the inability to fire employees, despite the fact that many never show up to work and of those who do, many are not needed. In 1997, for example, the Ministry of Health had seven assistants to the minister's secretary: one to sort incoming mail; one to handle outgoing mail; one to screen appointments; two to fetch coffee and tea; one for general errands; and one to inform the minister's driver when the minister was on his way. Such arrangements are apparently typical.

²³Interview with author, September 1997, name withheld by request.

²⁴BaFadl reported that as Minister of Supply and Trade in 1993, he was pressured to accept highly unfavorable rates and was not free to explore alternate means of exchange, such as purchasing currency on the open market. Interviews with author, October 9-10, 1997, Sana'a. Other Islah and GPC ministers have recounted similar stories, noting the head of the central bank is a highly political appointment.

²⁵Interview with author, October 1997, Sana'a, name withheld by request.

²⁶Interview with author, October 5, 1997, Sana'a.

²⁷BaFadl resigned from his post on January 27, 1997, but for a different reason. Ministers who wish to stand in the elections must resign three months prior to the polling. BaFadl was successful in the May 1997 elections and took up the position of heading the Islah bloc in the lower house.

²⁸Interview with author, October 9, 1997, Sana'a.

²⁹Interview with author, October 5, 1997, Sana'a. Akwa's case is particularly interesting in that he has, on occasion, publicly opposed Islah positions. For example, he voted against accepting the new constitution, a move that was popularly seen as a vote against unification. Islah leaders did not share his view that it was the act of voting, and not the content of his vote, that signaled participation and, thus, support of unified Yemen.

³⁰Salih personally approves all ministry appointments, though in theory the prime minister makes such decisions.

³¹This view was repeatedly expressed to the author from July through November 1997 during interviews conducted in Sana'a with Yadumi, Anisi, Afandi, Akwa, BaFadl, Muhammad Qahtan (head of Islah's political section), Zayd al-Shami (head of Islah's education section), and others.

³²Interview with a GPC minister and a GPC party official, August and November 1997, names withheld by request.

³³Prominent ideologues within Islah who were unsuccessful in the elections included: Muhammad Ali Ajlan; Mansur al-Zindani (brother of Abd al-Majid al-Zindani, who heads the consultative council); former minister Muhammad al-Afandi; Abd Allah al-Maqalih; and Muhammad al-Sadiq Abd Allah. Every tribal candidate on Islah's list was successful in his bid.

³⁴They were Anisi, Dammaj, and Afandi.

³⁵More than 250 of Zindani's sermons are available for purchase at the small shops near the entrance to the new campus of Sana'a University and elsewhere. The theme of calling for a *jihad* against communism and socialism (and against the YSP in particular) appears in a large number of the sermons, particularly those given during and following the 1994 conflict.

³⁶*Fatwa*

³⁷The seven parties are: Hizb al-Haqq; Al-Hizb al-Wahdawi al-Sha'bi al-Nasiri; Ittihad al-Qiwah al-Sha'biyyah; Al-Tajammu' al-Wahdawi al-Yamani; Hizb al-Ahrar al-Dusturi; Hizb al-Ba'ath al-Arabi al-Ishtiraki; and Ittihad al-Qiwah al-Wataniyyah.

³⁸The Yemen Times, October 7, 1997.

³⁹The Yemen Times, December 9, 1996. The disagreement revolved around an ongoing debate concerning the operation of a network of "scientific institutes" currently controlled by Islah. The GPC and others have long argued that they should fall under the domain of the Ministry of Education.

⁴⁰There are signs that the dispute went to the highest level, between Salih and Ahmar. A short news article in the London-based Al-Hayat daily newspaper reported that Ahmar was considering withdrawing his candidacy for a seat in the April elections. Then editor of Al-Hayat, Khairallah Khairallah, is close to both Salih and Ahmar, and occasionally served as a conduit through which the two would send delicate messages to each other. Several current and former ministers believe that Ahmar leaked the story to Khairallah to push Salih to honor the agreement. In the end, Ahmar did not withdraw his candidacy. See Al-Hayat, March 17, 1997.

⁴¹ The Yemen Times, January 8-14, 2001.

⁴² The Yemen Times, January 8-14, 2001.

⁴³ January 30, 2001, as summarized in The Yemen Times, February 5-11, 2001.

⁴⁴ February 1, 2001, as summarized in The Yemen Times, February 5-11, 2001.

⁴⁵ February 1, 2001, as summarized in The Yemen Times, February 5-11, 2001.

⁴⁶ The Yemen Times, February 8, 2001.

⁴⁷ The Yemen Times, February 8, 2001.

⁴⁸ The Yemen Times, February 8, 2001.

Democracy and Islam in Indonesia: NU as an Agent of Civil Society

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Five years ago Indonesia was the world's best kept secret – the largest Muslim nation in the world, it went largely unnoticed until decades of corruption and repression brought down the Suharto regime and Indonesia gradually attained the dubious distinction of being one of the most politically volatile spots in the world. What most people know about Indonesia right now is that its president, Abdurrahman Wahid, is a blind Muslim cleric, to use the phrase well-worn in the western press, who has been unable to cure his country's many ills, and whose followers have been creating havoc for the past months in protest of the memorandum of censure Wahid received from parliament implicating him in corruption charges. What not as many people know is that, during the 15 years for which he was leader of the Nahdlatul Ulama (NU hereafter) just prior to becoming President, Wahid led the rejection of "Islamist" politics and an Islamic state, and fostered a dominant discourse within NU which actively promoted religious pluralism, tolerance and democratic values in Indonesia. This morning I would like to provide you with a little bit of background on the birth and development of this discourse, and take a closer look at what happened when NU as an agent of civil society became inextricably linked to the state.

Firstly, and very quickly, some background on NU. NU was formed in 1926 by a group of ulama who were concerned by the Wahabi movement in the Middle East, and who wished to protect and preserve the traditions of Islam dominant in the rural, interior areas of Java. These were the traditions of the *ahlusunnah wal jamaah*, that relied upon the teachings of four Sunni madzhab – Shafi'i, Maliki, Hanafi, and Hanbali – and were more tolerant and inclusive of the sufist and pre-Islamic Javanese religious beliefs than the "modernists" who dominated the coastal areas of Java and eastern islands of Indonesia. NU's core, both religiously and sociologically, is the *pesantren*, or the Islamic boarding school, in which an all-powerful *kyai* teaches and raises his students, *santri*, by immersion into the classical texts. NU has become the world's largest Muslim organization, with 35-40 million members, and is composed of a vast network of families representing the largely rural, agriculturally-based population of Java, Madura, and some areas of Sumatra.

NU is neither a purely religious or a purely political organization, but a complex mixture of both. At different periods in its history it has been more religiously focused, in other periods, more political. NU existed as a political party from 1952 to 1973, at which point it merged with 3 other Islam-based parties to

form the PPP (United Development Party). In 1984, Abdurrahman Wahid was elected to the Tanfidziah (the administrative body governing NU, as contrasted to the Syuriah which was the religious council) of NU. Under his leadership NU withdrew from PPP and indeed withdrew from formal politics altogether in a historic move called “kembali ke Khittah 26” (hereafter just Khittah). This signified a new era for NU, one which was dominated by a younger generation of leadership, and a re-emphasis on social and religious activities as opposed to formal politics. That was the formal narrative of the significance of Khittah 26 – there was an alternative narrative which held that Khittah 26 was in fact a political maneuver which, by extricating NU from PPP and its implicit oppositionality to Golkar, the ruling power, NU was affording itself more room to maneuver within a political system which was, at the time highly controlled and repressive. Both narratives (and a few others we haven’t discussed here) have validity, but the significance for our purposes today is that this move allowed NU to occupy a position outside of the formal political system from which it was able to develop a discourse on critical civil society. This discourse was to bring NU into conflict with both the Suharto regime and with the more Islamist parties and elements of society in ways which I will explain further.

Under Wahid’s leadership, his followers, a cadre of young professionals called the “Third Generation” who had taken leadership effectively from the ulama and older career politicians, began to develop a discourse of civil rights, human rights, and democratic values. NU affiliated activist organizations headed up by Wahid’s friends and cohorts began to conduct what they called “training” at grassroots levels. Beginning in the mid to late 1990s, and continuing to the present, organizations like Lakpesdam and Maarif, both formal parts of NU, have sent their Jakarta-based staff to tiny villages and conduct political education seminars in pesantren and NU institutions. These seminars covered issues like human rights, governmental responsibilities, citizens rights to participate politically, function of political parties, etc. The “trainers” exposed participants to patterns of hegemony that the government and military exerted at very local levels, and trained local leaders to take issues to their regional parliaments or local political leaders to demand their rights. They would show the villagers, for example, how the local Golkar village head was working together with the head of the government-owned produce cooperative, which both bought produce and set the prices for it, to keep produce prices artificially low, and how this whole process was “protected” by the local military ranking officer, who also took a percentage of the ‘profits’. In essence these ‘seminars’ were the first political education that most of the participants had ever experienced, and they effectively became a grassroots mobilization tool for political participation. Later, as momentum for Suharto’s overthrow was increasing, these local and newly ‘trained’ activists became important agents for reform and eventually participated directly in ensuring what some called Indonesia’s first “free and fair” elections in 1999.

Other NU organizations like P3M and Lkis targeted ulama, kyai, and senior santri in the pesantren . These “trainings” focused more on issues such as human rights from a Muslim perspective, arguing the compatibility between democracy and Islam, and calling for religious tolerance and pluralism. These messages were all conveyed from a perspective of fiqh, with copious recitation of hadith for each point, by ‘trainers’ who were themselves religious scholars schooled in NU’s traditional thought. To understand the strategy behind these efforts we need to understand that in most of rural Java, these ulama and kyai held absolute sway, much more so than local political leaders. One ulama preaching his Friday sermon on

human rights (which was code for opposition to Suharto's military dictatorship renowned for human rights abuses) could reach potentially thousands of listeners and wield much greater influence than any political pamphlet or banner.

A second but related dimension to the civil society discourse described above, in which NU became a critical counter-weight to the state, was one which related to intra-Islamic relations. The discourse described above, and the activists and intellectuals which drove it, became known as "NU kultural" which stood in opposition to "NU politik" – those who wished NU to return to formal politics. One of the central missions of NU kultural (and a personal mission of Wahid's for much of his adult life) was to promote Islam as a religious, social and moral force in society and to oppose its use for political reasons as well as to oppose the formalization of Islam within the political system. Furthermore, they called for a practice of Islam as a tolerant religion co-existing with other religions, and rejected legalistic or fundamentalist expressions of Islam. Because of Wahid's dominant leadership of NU, NU Kultural became the prevailing element within NU, temporarily silencing both more political and more Islamist elements within NU. Thus the call for "islam kultural" became identified with NU as an organization, and put it directly in opposition to the modernist and Islamist groups referred to as "Islam politik" – these would include segments of Muhammadiyah, DDII, Persis, and political parties PBB (Moon and Crescent Party) and PK (Justice Party) among others. This dualism was actually only the most recent expression of an opposition with a very long history dating back, in NU terms, to its formation as an organization to protect traditional Islam and oppose the threat of modernist/reformist Islam. Since then these two expressions of Islam had battled in both formal political fori as well as in this more recent public discourse domain.

The conflict, both political and theological, between NU a.k.a. "Islam kultural" and the modernists a.k.a. "Islam politik" was forcibly muted throughout the Suharto era, however upon his downfall it exploded onto the public domain with a fury. Within a year of the fall of the New Order, 149 new parties had formed, 42 of which had an explicitly "political Islam" basis. Furthermore, the debate over whether the basis of the state was to remain the pluralistic Pancasila enforced by the New Order or to be given a more "Islamist" hue (a demand which had been again forcibly muted since 1968) became a central topic in media and conversation. In the "political euphoria" as it was often put at the time, the political faction of NU could no longer remain quiescent. Three different groups within NU formed parties, but they did not have the support of the majority, and increasing pressure was placed upon PBNU, NU's central board led by Wahid, to form an "official" NU party. Wahid resisted for several months, clinging to his old mantra of keeping Islam and NU out of formal politics, but eventually he appeared to agree that if NU didn't join the political fray it would get left behind, and he formed PKB (Partai Kebangkitan Bangsa, or National Awakening Party) on the 23rd of July, 1998.

The NU kultural faction of NU, Wahid's long-time cadre of friends and followers, were stunned and disillusioned by this development. In their view they had struggled for the past 15 years to distance NU from the formal political system so that it could serve as a moral "watchdog" to the state, and for NU to be affiliated with a party would undermine its identity as neutral and critical civil society force. This disillusionment on the part of these NU activists and intellectuals was to quickly become multiplied several fold in the coming months, when, against much opposition both from NU kultural elements as well as from many

senior ulama, Wahid became a presidential candidate, and then took the presidency. I was working closely with many of the NU Kultural activists at this time, as part of my work with the Asia Foundation, and many of them expressed deep ambivalence and even worry about the future of NU, along with a bitter disappointment in Wahid himself.

In spite of all the efforts to stop him, Wahid took the presidency in October of 1999, not because his party won majority vote, because the candidate who did (current Vice-President Megawati) is a woman, and the coalition of modernist Muslim parties in parliament would not accept a woman president, thus maneuvered to have Wahid elected by narrow margin of 373 to 313 w/ 5 abstentions. This is significant because it is this precise same coalition that is trying to oust Wahid now, and suddenly Megawati's gender is no longer a problem as she is their candidate of choice. At any rate, early in the Abdurrahman Wahid presidency there were signs that NU's famed commitment to "civil society" values may be crumbling. One week after Wahid was inaugurated, a Saturday night popular comedy television show aired a spoof on a blind village chief who was stumbling around looking like an idiot, in an obvious parody of Wahid. Within minutes after the show finished, the station received a telephone call from an unnamed NU member saying that the show was offensive to the President and threatening attack of the station by Banser, NU's paramilitary unit, if the station did not immediately issue a public apology. Minutes later the director of the station got on the air and apologized publically, followed the next day by an on-air meeting of several high-ranking NU officials to receive the station's apology in person. While seemingly a small incident at the time, this set the tone for a pattern of personal interventions and threats that would become more commonplace, and alarmed many NU and non-NU observers.

Later in Wahid's presidency, in May of last year, a more serious freedom of the press incident took place. The Jawa Pos, a regional newspaper based in East Java, which is an NU stronghold, mistakenly printed erroneous information about Hasyim Muzadi, the head of NU, implicating him in a corruption scheme. The paper was actually quoting information published in Tempo, a prestigious weekly magazine, but which unbeknownst to them had already been retracted and apologized for by Tempo. This incident sparked outrage among NU members, and led to the "occupation" of the Jawa Pos office by Banser members, the destruction of some computers and facilities in the office, and the halting of printing for one day. NU members argued that their reaction was justified because the Jawa Pos had long been "anti-NU" and often printed harmful material. A protracted negotiation resulted in Jawa Pos publishing a half-page apology, however animosity on both sides was not dampened.

There have been numerous other incidents during Wahid's presidency which, had they happened during Suharto or Habibie's presidency, the "civil society" forces of NU would immediately have been at the forefront of the public protests, however because it was Wahid who was involved, NU activists were either silent, or worse yet, complicit. I do not have time to discuss them all here, however included among them are such things as appointments of family members and close friends to powerful positions, such as Wahid's brother, Hasyim Wahid being appointed to a position of power in BPPN (Indonesian Bank Restructuring Agency, IBRA) a move that sparked outrage because of his lack of qualifications for the position and self-proclaimed admittance that he was basically just a "thug" who could collect debts for the agency. Similar protests ensued in April of last year when Wahid appointed Rozy Munir, long-time head of NU's central

board, as State Minister of Investment and Promotion of State Enterprises (BUMN) after arbitrarily removing the former minister, Laksamana Sukardi, without providing any reason.

Perhaps the most disturbing incident of this sort however, is Wahid's apparent condoning if not request to Banser and other NU groups to violently protest the memorandum of censure issued by the parliament on February 1, 2001, implicating Wahid in two corruption scandals. Shortly after the memorandum was issued, Wahid apparently tried to establish martial law, however the top military generals and his military aids rejected this suggestion, as did VP Megawati. Similarly, Wahid issued threats that he would disband the parliament, which were quickly hushed up by palace spokespeople. This disregard for institutions of democracy and willingness to resort to both military force and paramilitary force are very disturbing coming from the man who led the call for democratic values and institutions in Indonesia for so long.

So what went wrong? This issue requires deep analysis and has many multi-faceted explanations, but I have two simple points to make here. The first is that we need to recall Abdurrahman Wahid's background. He was the kyai of all kyai, top of an elite blue-blood line that stemmed directly from his grandfathers the revered founders of NU. In a culture in which the kyai has absolute authority over his pesantren and his santri, occupying an elite position like that affords one almost unimaginable power. Wahid tried to run the country the way he ran NU – with personal favors, being forgiven personal eccentricities, and expecting that his wishes would be followed without a hint of a question. The newly democratic climate of Indonesia and a newly empowered parliament euphoric with its status as one of the first non rubber-stamp parliaments in Indonesia's history, was not prepared to submit to Wahid's whims the way a santri in a pesantren would.

Secondly, the discourse on civil society within the NU turned out to be a fairly shallow and elite one. Despite of the very sincere intentions and efforts on the part of the activists and intellectuals that embodied NU Kultural, the values they promoted – that of religious tolerance, critical separation from the state, and human rights were not values that were shared by the majority of NU ulama or the mainstream of grassroots NU members. Thus when the opportunity came for NU to finally have its moment of power, not only was there great support for Wahid's return to politics, but the prevailing expectation was that this meant that NU would automatically receive the ensuing perks that came from being close to those in power. Efforts of NU kultural to maintain neutrality, a critical stance, and promote NU's identity as a "motor of civil society" thus fell on very deaf ears. Unfortunately it is looking as though Wahid's tenure in the political spotlight has not been a very successful one, so not only is NU potentially politically damaged, but the enthusiasm and good faith of its civic element has also been through a beating. The implications of this for democracy in Indonesia are not very positive. The leading alternative to Wahid is VP Megawati, who is closely allied with the military and would likely allow a return to many of the human rights abuses that plagued the New Order, in the name of "national integrity". A second possibility is that the coalition of Islamist parties take power, either directly or by manipulating Megawati from behind the scenes. It is as yet unknown what type of governance this coalition would carry out, however it would definitely entail a more formal and legalistic role for Islam within the political system. As many Indonesians say today, Indonesia finds itself "between Wahid and a hard place".

¹ This represents merely the text of my talk at the CSID conference in Washington DC on April 7, 2001. For those interested in reading a full academic paper on this subject, please email me at: fatayatbule@hotmail.com.

Islam, Ethnicity, Pluralism and Democracy: Malaysia's Unique Experience

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As a Muslim nation, Malaysia is unique in a number of respects. The first element of Malaysia's uniqueness pertains to the religious character of the state. Malaysia has often been described, especially in the West, as a secular Muslim state. Of late, several quarters have expressed concern that Southeast Asia's secular traditions are being threatened by the rise of conservative Islam. It has been pointed out in particular that Malaysia's traditional secularism is in increasing danger of being replaced by radical Islam. Conservative and radical Muslim politicians are claimed to be "on a mission to transform largely secular Malaysia into an Islamic state."

The question is how fitting is the use of the term "secular state" when applied especially to contemporary Malaysia? This question needs a serious examination at least for two reasons. One reason is that Malaysia has undergone quite a significant "Islamic transformation" in its national character during the last 43 years of its existence as an independent nation. If at the time of its birth, the state had already acquired certain notable Islamic characteristics, the more so now can we identify as Islamic its dominant national character. From the times of Tunku Abdul Rahman, popularly known as the father of Malayan independence, until the present Mahathir administration, the space of Malaysian secularism has been steadily shrinking so that nationally viewed, the religious has come to dominate over the secular.

Another reason is that many people outside Malaysia have unquestioningly accepted the characterization "secular Malaysia" just simply because within the country itself various groups have been claiming that Malaysia is indeed a secular state. Interestingly, the same claim has been asserted by people from the opposite ends of the Malaysian political spectrum, but obviously for different political reasons. On one end of the spectrum are the secularists who have maintained that Malaysia was founded as a secular state and it should remain so for the sake of its future well-being as a multi-racial and multi-religious country. On the opposite end, we have Muslim political ideologues who also see a secular Malaysia but it is precisely because the country is secular that they are determined to transform it into an Islamic state. For proponents of Islamic state, a Muslim country like Malaysia can only be one of two things. Either it is an Islamic state or a secular

one. There is no state position in between. In its rhetoric on “Islamic versus secular state,” that is closely followed nationwide, this group obviously has a political interest in ignoring the country’s Islamic transformation and in making exaggerated claims on the depth and breadth of its secularism. The more secular the country is made to appear, the greater will be in the eyes of the Muslim masses the significance of the political struggle shouldered by the champions of the Islamic state concept. Moreover, in the battle for Muslim votes in the country’s parliamentary democratic elections, that strategy can work to their political advantage.

It is our contention here that Malaysia is not a secular state in the sense one speaks of many Muslim nations. It is less secular and more religious than even its “big brother” Indonesia, the most populous Muslim nation on earth, where Islam is known to have played a prominent national role since the country gained independence from the Dutch. But neither can Malaysia be regarded as a “theocratic” Islamic state ruled by mullahs that would fit the model established by Islamic Republic of Iran. If a special characterization of the contemporary Malaysian state is called for, then we would argue for its consideration as “an Islamic state in the making” or “a largely Muslim state that is in its advanced stage of transformation into an Islamic state.” In other words, Malaysia is already largely Islamic, and not largely secular. Thanks to the Islamic resurgence which the country has experienced since the seventies, today secularism as an ideology is only believed by a minority of Muslims. The remaining unislamized secular domains still prevail not because of the Muslims’ strong attachment to secular beliefs and values, but mainly because of certain practical reasons, particularly inter-cultural concerns that have to do with the presence of a large non-Muslim minority in the country.

It may be worth mentioning here that within UMNO (United Malays National Organization), the Malay-Muslim political party that has ruled the country since independence as the dominant partner in a multi-racial ruling coalition, voices have been heard claiming that Malaysia has the qualification to be called an Islamic state. The most prominent of these UMNO voices is perhaps Sanusi Junid, a former Federal Minister and Kedah State Chief Minister, and the party’s former Secretary-General. Sanusi who is also a former ABIM leader is Anwar Ibrahim’s successor as the President of International Islamic University of Malaysia in Kuala Lumpur. But this claim by certain UMNO figures needs to be understood and evaluated in the context of traditional rivalry between UMNO and PAS in Malaysian politics. The claim by PAS that UMNO is a secular party, its leaders secular politicians, and the Malaysia ruled by UMNO a secular state has to be matched by a counter-claim by UMNO that it is a bigger Islamic party than PAS, its leaders pragmatic Muslim intellectual-politicians but who are no less anti-secularism than PAS leaders, and Malaysia under UMNO rule has emerged as an “Islamic state” of some sort.

But our maintained view of Malaysia’s emerging largely Islamic character would find strong endorsement by Anwar’s own position on the matter. Anwar has impeccable credentials to offer an authoritative estimation of Malaysia’s Islamicity. He was the leader of ABIM, Malaysia’s best known and most influential Islamic movement, before leaving it in 1982 to join Mahathir-led UMNO and government on a mission to advance the cause of Islam and his personal political fortunes. Having a long term vision of the Islamic future of Malaysia, and also having played the role of a key figure in the Islamization program of the Mahathir Administration, Anwar knows well how far the country has advanced in its path of Islamization and how

much further it needs to go to attain the status of a full-fledged Islamic socio-political order. He has a lesser claim for Malaysia's current "Islamic" status. He would readily admit that in many areas of societal life, there is still much space left untouched for the practical realization of Islamic principles and values, especially in the legal domain and in the political and economic sectors.

It was observed that Anwar both during his ABIM and UMNO years has consistently been stressing on a different set of criteria of Islamicity for the Malaysian nation than the ones emphasized by PAS. He does not share in toto the concept of Islamic state espoused by PAS, but speaks of a struggle for a statehood and a political order founded on the fundamental Islamic values of justice and tolerance. In his general response to PAS's insistence on the immediate implementation of hudud laws, Anwar pleads for a prevailing sense of priorities in the implementation of Islam, tolerance and understanding of Malaysia's religious and cultural pluralism, and the rationality of the country's evolutionary path to an Islamic nationhood. In thus deeply believing in another interpretation of "Islamic state" and in an evolutionary path of its realization, he represents another school of Malaysian political Islam of which he is also the outstanding leader.

An important aspect of the general issue of Malaysian secularism is the question of the relationship between Islam and political democracy and their interactive growths and developments. Malaysia practices a Westminster-style parliamentary democracy, but that democracy has never been strictly secular. At various times in the nation's post-independence history, there have been several UMNO leaders at various levels who have called for the separation of religion and politics, thus providing PAS with political bullets to fire charges of ideological secularism against UMNO. In practice, however, no one really observes a separation of the two. Islam is too powerful and influential a force in Malay society and by extension Malaysian life to be ignored by politicians. Without doubt, it has played a central role in the foundation of the nation's democratic system and in the evolution of its democratic institutions and practices.

To have an Islamic foundation when its Muslim population is only about 55% is what confers on the nation its second element of uniqueness. There are many other Muslim nations that have an Islamic foundation, but none of them has been shouldered with the formidable burden of a cultural pluralism and diversity and a delicate balance of racial compositions similar to that of Malaysia. It is as if through Malaysia, Islam has been called upon in modern times to offer its eagerly awaited formula for solving the complex problems of multi-racial and multi-religious societies within the framework of the freedom of religious and cultural expressions. In speaking of Islam as the foundation and source of institutional and political frameworks of the country's democratic system, the following points need to be stated: (1) the special position of Islam as the sole official religion; (2) the special position of the Malays as the destined political guardians and vanguard of Islam, thus necessitating their political dominance and special rights in various domains; (3) the unique blending of traditional Islamic and modern western political institutions in the creation of new democratic institutions.

Let us deal briefly with each of these points. **First**, Islam is enshrined in the Federal Constitution, the highest law in the land, as the sole official religion. This constitutional provision makes Islam the supreme religion. It gives the government in power the right and freedom to develop the religion as it wishes and as it sees fit. Political theorists dealing with the concept of Islamic state would agree that the first and foremost concern of those who want to set up such a kind of state would be to secure a constitution that recognizes

Islam as the sole official religion of the state. That constitutional provision is a necessary though not sufficient condition for the formation of an Islamic state. Now, with or without democracy, by having that constitutional provision on Islam, the government of the day has a moral obligation to develop and implement policies on the religion. But in the case of Malaysia, Islam has also benefited from the practice of political democracy with its multi-party system. Indeed, one of the major factors for the steady expansion of Islamic space in Malaysian life in the last few decades is the ever-increasing need to develop Islam to appease the Muslim electorate, a societal need created by the special dynamics of the country's political democracy. Conversely, political democracy has benefited from the positive socio-cultural impacts of the practice of Islam by the majority population such as the widely acknowledged tradition of openness and tolerance that has characterized the Malay-Indonesian Muslims, the role of Islam as a stabilizing force, and Islam's distinctive commitment to social justice.

Second, the special position of the Malays is a logical consequence of national recognition on the supreme position of Islam. If Islam is to remain forever the supreme religion, then the continued dominance of Muslim political power needs to be guaranteed. As students of Islamic political theory would put it, for believers in the religion to be able to protect it, to develop fully its public policies, and carry out the practical implementations of its teachings pertaining to the socio-political order, they have to be vested with political power. In the case of Malaysia, since the great majority of Muslims are Malays and all Malays are Muslims, and moreover by virtue of their position as the indigenous people, the national duty to protect and advance the cause of Islam can only fall on the Malays. But since they have to share political power mainly with the ethnic Chinese and Indian communities within the framework of a democratic pluralism, a national power-sharing formula has to be worked out to the general satisfaction of all ethnic groups. In particular, that formula has to meet both Malay demands for political dominance and non-Malay demands for adequate political representation in government. Thus from the time of its birth as an independent nation, Malaysia has to face the challenge of building a tradition of democratic pluralism. And ever since independence, Malaysia has been ruled by a coalition government that is at once Malay-dominated and representative in the broadest sense possible of the country's ethnic groups. This decades-old working relationship of power sharing between Muslims and non-Muslims that has benefited Islam and Muslims a lot is yet another element of Malaysia's uniqueness.

The continued dominance of Malay-Muslim political power is sought to be achieved through various means, including the following: (1) a constitutional provision that defines a Malay in terms of his Islamic identity, and thus guarantees an inextricable link between Malaysia's largest ethnic group and Islam; Islam and the Malays become each other's protector; this close identification of religion with race is both a source of strength and of weakness of Malaysian Islam; (2) a constitutionally recognized special position and therefore special privileges of the Malays to help them elevate their socio-economic status on par with non-Malays; (3) parliamentary and state constituencies have been drawn up in such a way as to give greater political weightage to rural areas where the great majority of the Malays live.

Third, in relation to both Islam and democracy are the special roles played by Malaysia's unique constitutional monarchy. Malaysia is the only country in the world to have an elected king. The reigning sultans of its nine states have to elect a king every five years. The sultans are heads of the Islamic religion in their

respective states, and the King is the Head of Islam for the whole nation. Since their roles and powers pertaining to Islam are constitutionally guaranteed, the monarchy is generally recognized as yet another institution created by the Malays to protect and advance both their interests and those of their religion. The monarchy also has a role to play in ensuring the smooth functioning of the nation's political democracy at both Federal and state levels. Many Malays feel that the monarchy could have contributed more to the progress of Islam if only they have been well advised to play their roles by the relevant authorities. As it is, however, the development of Islamic law in the country and the administration of Islam generally, which is a state matter, is seen by the Muslim community as slow moving because of a lack of concerted efforts and wisdom in dealing with what is clearly a "problematic" relationship between Federal and state religious authorities. The monarchy as head of Islam, the 'ulama' as religious advisors and administrators, and the Federal and state governments who hold the political power all have got their portion of the blame for this "religious mess."

In relation to democracy, however, with the exception of a few instances when the monarchy or heads of state at state levels were either directly involved in controversial political matters or called upon to resolve a political crisis that call into question their adherence to their constitutionally defined roles, the nation's constitutional monarchy has never been really tested in its role performance. Many Malaysians hope to see the day when the monarchy will be judged well by the people in that role performance, especially in ensuring a healthier growth of democracy. In recent years, much interest has been shown toward the idea of an emerging Islamic democracy in Malaysia. Since the monarchy symbolizes a traditional Islamic political institution, it is seen as well suited to play an effective role in helping to turn that idea into a reality. In particular, sultans of states which already have the experience of overseeing change of governments from UMNO-dominated to PAS or vice-versa, as in the case of Kelantan and Trengganu, are considered to have the extra 'credentials' to promote the idea of Islamic democracy among the Malay-Muslim community. Several political facts pertaining to the Malay community, some of which are old and others new, would be conducive to the realization of an Islamic democracy that can serve as a stable and permanent foundation for the nation's democratic system as a whole.

Considering the nature and extent of Malaysia's religious and cultural pluralism and its ethnic diversity, the various constitutional provisions that have been secured for both Islam and the Malays mentioned above, especially on the position of Islam as the official religion, has been regarded as a major Muslim political achievement in modern times. The constitutional victory of Islam was a political triumph of the nation's founding fathers who secured the 1957 "social contract" at the negotiating table, thanks to the solid backing of the entire Malay race. As the Malays and other Muslims see it, the passage of time has only tended to confirm more and more convincingly the wisdom of that constitutional provision. When for years the prevailing view in Indonesia was that it should not become a member of the OIC (Organization of Islamic Conference) on the justification that Islam is not the official religion of the country, the Malays who love to compare and contrast Malaysia with "big brother" Indonesia on Islamic progress can only sigh with relief that Malaysia did not have to suffer the same fate. The 43-year history of Malaysia as an independent and democratic nation has amply demonstrated what a big practical difference it makes between having and not having Islam constitutionally recognized as the official religion of the country.

Every religion has to face the challenge of religious pluralism both within and beyond itself. Islam is no

exception. In the case of Malaysian Islam, it is spared of the challenge of religious pluralism within itself. It is basically homogeneous considering the fact that it is almost wholly Sunni. Moreover, all Malays belong to the Shafie school of law. But Malaysian Islam is rich in its experience of religious pluralism beyond itself. Freedom of worship and propagation save among Muslims is constitutionally guaranteed for all religions in the country. In practice, non-Muslims do have the freedom to practice and propagate their respective religions although they feel they deserve a better treatment at the hands of the Muslim-dominated government. Interestingly today in a political democracy dominated by Malay-Muslims, in the wake of PAS capture of the states of Kelantan and Trengganu in the 1999 general election and UMNO's big loss of support among Malays, many non-Muslims have started comparing which of the two parties is giving a better treatment of their religions. On their part, UMNO and PAS are engaged in a psychological and political war to convince the non-Muslims that each is better than the other in its treatment of their religious interests. This is indeed another interesting development that is conducive to the birth of an Islamic democracy in Malaysia from which both Muslims and non-Muslims stand to benefit.

LIBERAL DEMOCRACY AND THE DEMOCRATIC MUSLIM IDENTITY IN TURKEY:

Case Study- Abdullah Gul and Necmettin Erbakan:
Changing Political Dynamics between Political Son and Father

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In Mid-February, I requested to share with this critically informed audience first hand what is currently going on in the Democratic Muslim Circles of Turkey. Immediately afterwards, a major economic crisis hit Turkey. Almost overnight, the Turkish man on the streets found he was 25% poorer.

On the fourth anniversary of the *February 28th Process*, Kasyeri Deputy Abdullah Gul, the leader of the reformists wing of the senior opposition Fazilet Party, emerged as one of the first and only concrete voices of the Islamic Community with his four point exit strategy from an *economic crisis that could rapidly lead to hyperinflation*..

1. *Turkey has to implement a new economic policy using new staff.*
2. *The banks, which are the main source of the crisis, should be dealt with courageously.*
3. *Corruption is at least as big as half the GNP and should also be tackled courageously.*
4. *A growth model based on exports should be brought to life urgently.¹*

For the Bush foreign policy team, they are getting their *'initiation dealing with Turkey's ailing economy*. Morton Abramovitz, a former American Ambassador to Ankara, noted that *The United States clearly wants to help Turkey, but the question is whether opening the sluice gates really helps. Turkey has a very weak political system. The coalition government is a mixed bag and what's keeping it going is fear that the alternative is worse.* ²

What I want to address today is this FEAR of the ALTERNATIVE, which would mean some aspects of the Islamic movement coming back into power in Turkey. This FEAR in Washington is directly tied to Necmettin Erbakan. The Washington Establishment has never been kind or sympathetic to Erbakan during the time of his Prime Minister ship or even now in hindsight.

Why does this situation exist in relationship to Erbakan?

Marvine Howe gives in her new book a neutral analysis of Erbakan based on her long years of experience in Turkey. Her reflections on Erbakan do begin to point to what appears to be at the center of the controversy surrounding his personality and viewpoints.

In private interviews, he sounds like a cross between a Christian Democrat and a Social Democrat, preaching high moral values, order and progress, social justice and social welfare, happiness and salvation. But on the stump, he was the consummate Third World radical, crusading against Turkey's Western ties and ubiquitous Zionist plots and in favor of a new Islamic Order.³

It is in this general context that we must now look deeper at the emerging political leader, Abdullah Gul. Abdullah was Vice- Chairman of the former Refah Party and Minister of State, and the Government's spokesman in the 54th Government under the leadership of Prime Minister Erbakan. Abdullah was considered by many in the party to be the *Crown Prince*, until his recent challenge of Erbakan's authority at the May 14th Fazilet Party Congress where he ran for Chairmanship of the Party against Recai Kutan.

Abdullah and his friends are trying to create a new vision for a new image of the party, so that it can survive more realistically in the current Turkish political environment and win a larger percentage of votes in the next general elections. Abdullah's developing vision was articulated in his campaign literature as follows in very broad key terms:

1. Participatory Democracy
2. State Sovereignty to Individual Sovereignty
3. Clean Society/Clean Politics
4. Transparency
5. Human Rights and Freedom
6. Education/Investment for the Future ⁴

One of the key philosophical differences between Gul and Erbakan lies in the role religion should play in politics. For Abdullah Gul and his friends, the difficulties of the last 4 years since the emergence of the February 28th Process, has forced them to reevaluate this very critical and fundamental relationship between religion and politics in terms of the definition of secularism. In a natural and organic process, Abdullah and his friends are moving towards a recognition that there is a need to change from an *Islamic Agenda* towards a *LIBERAL DEMOCRATIC FREE PLURALISTIC SOCIETY*.

Liberal Democracy is a relatively new term in the Turkish political vocabulary developed in the past five years. From a Turkish perspective, Liberal Democracy was established to distinguish from the common misuse of the word Democracy. Everyone feels they are a Democrat, but a Liberal Democrat believes in his

heart and by his actions that the universal laws of human rights and democracy is the common language which will allow everyone the right to practice their religious beliefs or not to practice at all. Being a Liberal Democrat means fighting for the right of women to wear a headscarf at the universities and fighting against a situation where women are required to wear a headscarf. Either situation would be equally disturbing to a true Liberal Democrat.

Abdullah Gul and his friends are reaching the point where they understand acceptance of the universal laws of human rights and democracy is the only road which will allow them to freely practice their religious beliefs in their private lives. Therefore, Religion and Islam will not be part of their future political platform. Islamic theory should be left up to the scholars of Islam to debate. Perhaps, this can be clearly seen by understanding the conservative, traditional role of many members of this group in their own private lives as Muslims and with their own families, but in a public, governmental policy arena a sincere dialogue exists using this new common language of universally accepted human rights and freedoms.

What are some of the critical turning points or events which have shaped Gul's development and separation process from Erbakan?

The first key event was Prime Minister Necmettin Erbakan's trip to Libya in late September 1996. When photographs appeared of Prime Minister Erbakan embracing Libyan Leader, Colonel Muammar el-Qaddafi, tidal waves swept through many Western capitals.

When Qaddafi started to say that Turkey was a tool of Zionist imperialism and that it should stop brutally murdering the Kurds, you could see a look of horror on Gul's face," said a Turk who accompanied the delegation. "His eyes opened wide, his jaw dropped, and then he just buried his head in his hands. I think he was learning a lesson the hard way.⁵

From February 18th to 27th, 1997, Abdullah Gul, as Minister of State, began an official visit to the United States. Gul came to Washington bringing a *sincere message*. Knowing the critical tensions which existed in Ankara with the Turkish Military, Gul consistently gave to various US government officials in private his acceptance that *Turkey was at a critical juncture*. He did not want the United States *to give the green light or to interfere*. He indicated *We will solve the problems ourselves*.⁶

But Abdullah was competing at the same time with Cevik Bir, Deputy Chief of the Turkish General Staff, who was discussing Turkey's Regional Security Affairs in light of Turkey's center in a turbulent region at the American Turkish Council Annual Conference, as well as the Pentagon. One of the key global security issues which Bir raised was the issue of religious fanaticism in reference to Iran.

As for Iran, her aim to export anti-secular "Islamic revolution" to the central asian republics and other countries in the region is a matter of concern. ⁷

In a speech before guests of the Carnegie Endowment for International Peace, Gul commented on issues of democracy and the participation of the people:

Refah professes moral values, the values that actually continuously nourish and sustain Turkish Democracy, but it also attempts to revitalize and reform the existing political system

with the objective of complete Democratization.

Refah is a party that strongly favors popular participation, utilizing the state tradition in Turkey and opening up new political and economic space in society.

What we stress though is that government should not exclude people's moral values, just the opposite they should be used as catalyst for a healthy and complete Democracy.

Our party is determined to maintain and foster our democracy and is committed to peace and freedom. We hope that the significance of this message will not be lost on our friends in the West.⁸

Abdullah faced *the den of lions alone* with great courage and conviction of his beliefs for his country. At a time of vital critical juncture, his message was lost on Washington.

Abdullah learned many things from watching the fall from power of Refah and its subsequent banning as a political party. He reveals his analysis and lessons for the future of his political thinking in a speech in 1998 before the Aspen Institute.

In my opinion, the history of the Turkish democracy was the story of the incompatibility of the official state ideology with the demands, the needs, the values, and the beliefs of the Turkish people.

The real problem was that Refah was born as a social reaction to the implementation of the official state ideology. It resembled freedom, liberty and democratic initiatives against oppression.

Why was Refah outlawed?

Citing the famous claim that Refah was a religious party, Gul argues that the party was not a religious party.

The party was only respectful to moral and religious values, and tried to ensure freedom of thought, freedom of belief, and freedom of worship for everyone.

Refah was outlawed, because our democracy is not a participatory, representative democracy as in the western democracies. We have a national democratic understanding which puts the official state ideology at the top, above the people's demands and even above the laws. This official state ideology determines limits of your freedom.

Refah was outlawed because it called for application of the western type of secularism.

Refah was outlawed because it did not recognize the official state ideology.

Refah was outlawed because it desired to establish a civilian, western type of democratic understanding and system in Turkey.⁹

On July 5, 2000, it was announced that Necmettin Erbakan had lost his appeal under Article 312 for a 1994 speech in Bingöl. The serious reality of the pending prison term hit Erbakan and his leaders at the Fazilet Party. Erbakan went on the offensive mobilizing the political skills which had served him with

success in the past.

On December 21, 2000, President Sezer finally ratified an amnesty bill which envisioned conditional release or reduction in the punishment of certain inmates. This amnesty included crimes committed through speech, irrespective of whether or not they are televised or published. Essentially, Erbakan had been saved from going to prison. This controversial amnesty bill was officially backed by the Fazilet Party. However, the reformists opposed the bill.

According to Gul: "I do not believe that Erbakan's speech six years ago constituted a crime, but seeing that the law says it's a crime then he has to abide by it. However, if it were really necessary for him to go to jail for what I believe were not incriminating words, then he should have gone. If I had said those words and that these words necessitated my going to prison, I would have taken that risk," Gul went on to say that had (Erbakan) said, "If I am going to have to go to jail, then I'll go," then nobody would have risked sentencing a former prime minister to prison. "Therefore, the necessary arrangements would have been carried out honestly," he said. "Had this happened, then the government would have been obliged to make the necessary changes in line with the Constitutional Court's justification for the annulment and thus they would have ensured that Erbakan would not go to prison. Had the Fazilet Party stuck to this stance from the very beginning, the government would have felt obliged to do this and would not have been able to include Article 312 within the scope of the amnesty." ¹⁰

Clearly, the amnesty bill was a critical turning point in Abdullah Gul's separation process from Erbakan. I think this separation could be summed up by Gul's statement, *Necmettin Erbakan was still acting like 'a father who has no love for his children,' and that there could never be any place in a family for a father who does not love his children.*¹¹

For almost a year now, the future of the Democratic Muslim Movement of Turkey has hinged on the outcome of the trial to dissolve the Fazilet Party. There have been numerous articles in the press about Abdullah Gul and his friends planning for the formation of a new political movement. With the Fazilet Party closure trial reaching its final stages and the recent economic crisis, Abdullah Gul clearly states *There could be sudden developments.*¹²

Very little concrete information has been formally revealed about this new political movement. However, Abdullah has discussed some behind the scenes development.

Our understanding of party management has been unable to shake off the "priest and his parish community" model. Whatever the leaders said had to be accepted without question. The understanding of party leadership had no room for advice, debate, consulting, in-depth studies and questioning. As for the fundamental principles of every democratic institution: participation, broad views and analytical approaches that anticipate future moves, our party traditions have never accepted these. Yet, in the modern world these are the keystone qualities of any democracy. Our approach to party politics was to appeal to peoples beliefs and feelings and say 'I close my eyes and do my duty'. To be blunt, we were never able to take democracy on board. This had the natural consequence of eroding our credibility.

Our aim is to rid ourselves of these fundamental errors and to become a party that is brand new, credible and which really defends democratic values. This country has a large segment of people who are sincerely religious yet who want to conform to the modern world. What we want is to bring these people into the modern age, in short to form a bridge to social change.¹³

To get to the heart of the question which will remain foremost in the minds of the Washington establishment, where does Abdullah Gul and his friends stand on religious-political relations?

*A political party formed by pious people is one thing, a party of religion is quite another. Personally, we are people trying to lead pious lives.*¹⁴

In conclusion, I want to leave you with a few simple thoughts regarding Abdullah Gul:

1. Abdullah is a conservative practicing Muslim in his private life.
2. Abdullah advocates freedom of religion, belief and worship in the framework of fundamental universal human rights.

I hope that as a group of scholars critically concerned and informed on these kind of issues that you will continue to follow the rapidly emerging dynamics of this situation. As Abdullah says, *Anything can happen, at any time now!*¹⁵

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¹⁵ IBID Note 1

ISLAM AND THE SECULAR STATE: Explicating the Universal in Formative Islamic Political Norms

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The secular state emerged in modern times in response to religious infighting that plagued Europe for over a century, and put social life on a self-destructing path. The Hundred Year War posed a serious threat to the then emerging modern Europe, underscoring the need to keep the state and church at a comfortable distance.

While the secular state was designed to prevent organized religion from controlling public institutions, it did not necessarily aim at undermining religiosity per se, or alienating religious communities. Rather, it was perceived as multi-religious society's best defense against the imposition of the religious values and worldview of one community on another.

For many Muslims, however, the secular state is viewed as an instrument used to undermine religious heritage and deny the relevance of moral teachings to public life. While this perception has an element of truth, it does not necessarily depict the general nature of western secularism. Evidently, Muslim perceptions of secularism are not formed through an understanding of the original purpose and historical circumstances of western secularism, but is influenced by the Muslim experience of secular dogmatism and the intolerance of the secular state in contemporary Muslim societies, most notably that of Turkey and many Arab and Central Asian states.

Reacting to secular dogmatism, populist Islamic groups have advanced a conception of the state that, while different in substance, is similar in purpose and form to the very secular state they oppose. Like Muslim secularists, Islamic populists see the state as an instrument in the hands of ruling powers for imposing a particular conception of the world on the rest of society. They insist, therefore, that the Islamic state should be charged with the duty of imposing Islamic law on the larger society.

This paper argues that the position of contemporary Muslim populist movements stands in direct contra-

diction not only to Islamic values and beliefs, but is also contrary to political practices developed in historical Muslim societies. It further explores the extent to which religious beliefs and values were related to the political structure and public policy of the historical Muslim society. The paper contends that the political order that emerged under Islam was never perceived as an exclusively Muslim, but was constructed on the basis of universal principles that transcend sectarian divisions.

The paper, therefore, concludes by underscoring the need to have a fresh Islamically-based conceptualization of political action and organization in ways that would help reclaim the moral core of social life, eroded with the advance of western secularism, without sacrificing the important principles of freedom and equality.

THE ORIGIN OF SECULARISM

Secularism refers to complex and multifaceted attitudes and practices that cannot be easily captured in a brief description or rendered into a simple definition. While one may find certain similarities between modern secularist attitudes and practices and those that existed in pre-modern societies, it is fair to say that secularism as we know it today is an essentially modern phenomenon that grew in the modern West, and later took roots in different societies.

In its essential sense, secularism denotes a set of notions and values whose aim is to ensure that the state is neither engaged in promoting specific religious beliefs and values, nor uses its powers and offices to persecute religion. To prevent state officials from using their political authority to impose a narrow set of religious attitudes and values on the larger society, and to foreclose the possibility of using religious symbols to agitate one religious community against another, western intellectuals embarked on a project that aimed at separating political authority from religious affiliation. To do that, the Enlightenment scholars embraced a set of concepts and principles, and used them as the basis for reconstructing modern European consciousness. The new political ideology advanced by Enlightenment activists and thinkers emphasized concepts such as equality, freedom of conscience and conviction, and the supremacy of law, all of which were advocated by the Religious Reformation that put an end to the ancient regime of Europe.

The underlying socio-political morality advocated by the pioneers of the secular state in Europe was derived from the religious tradition delineated by the religious reformists of fifteenth century Europe, but argued in rational terms and common-good logic. Early advocates of the separation of state and church, such as Descartes, Hobbes, Locke, and Rousseau, had no intention to undermine religion, or faith in the divine, but rather predicated their reformist ideas on the notion of God and civil religion. Descartes, for instance, argued “that the certainty and truth of all knowledge depends uniquely on my awareness of the true God, to such an extent that I was incapable of perfect knowledge about anything else until I became aware of him.” Similarly, Rousseau, while critical of the way religion was traditionally taught and practiced, recognized the need, even the necessity, of religious commitment and faith for the modern state to function properly. He, therefore, identified a number of “dogmas”, and argued for their inclusion in the “civil religion” he advocated: “The existence of an omnipotent, intelligent, benevolent divinity that foresees and

provides; the life to come; the happiness of the just; the punishment of sinners; the sanctity of the social contract and the law – these are the positive dogmas. As for the negative dogmas I would limit them to a single one: no intolerance.”

Even Kant, who limited the notion of truth to empirical experience and labored to set morality on rational foundation insisted that “without a God and without a world invisible to us now but hoped for, the glorious ideals of morality are indeed objects of approval and admiration, but not springs of purpose and action.” However, by denying the possibility of transcendental truth, and as a result of the relentless attack on the authority of revelation as a source of ethical and ontological knowledge, secularist scholars have been able to successfully marginalize religion and undermine morality. The efforts to ground morality in utility and cost-benefit calculation, rather than truth, proved to be counter intuitive and futile, and gave rise to egoism and moral relativism.

There were, of course, intellectuals who have less sympathy to religion particularly among French intellectuals, but these did not represent the larger sentiments of the great majority in Europe. The French revolution displayed a clear anti-religious sentiment, but these were not, as Nietzsche was to discover later, directed against religion per se, but against organized religion represented primarily by the Catholic church. “Modern philosophy, being an epistemological skepticism, is,” Nietzsche argued, “covertly and overtly, anti-Christian—although, to say this for the benefit of more refined ears, by no means anti-religious.”

The essential secularist sentiment is, therefore, rooted in the religious reformation; more specifically, it is rooted in the Protestant revolt against religious hierarchy and centralized religion. Secularism was not originally intended as a way to separate religion from society or religious consciousness from political action, but only to isolate the state from the church structure and to separate religious and political authorities.

The tone started to change, however, a century later among progressive European intellectuals who saw in religion a negative force whose elimination, they believed, was essential for further emancipation and progress. Karl Marx, while agreeing that the secular state has successfully neutralized religion and purged it from the public sphere, still saw a great danger in religious life. This is because, he argued, secularism reduced religion into a private matter only insofar as the state is concerned. However, the privatization of religion gave it in effect more influence in the organization of civil society. Even in the United States where religion has been domesticated and individualized to the greatest extent, it continues to divide society into distinct religious communities, thereby allowing for the formation of internal solidarity with a clear bearing on economic life. Religion, Marx further thought, is an instrument in the hands of privileged classes to justify social misery and economic inequality. In *The Jewish Question*, Marx has the following to say about the need to emancipate humanity from religion:

The decomposition of man into Jew and citizen, Protestant and citizen, religious man and citizen, is neither a deception directed *against* citizenship, nor is it a circumvention of political emancipation, it is political emancipation itself, the political method of emancipating oneself from religion. Of course, in periods when the political state as such is born violently out of civil society, when political liberation is the form in which men strive to achieve their liberation, the state can and must go as far as the abolition of religion, the destruction of religion. But, it can do so only in the same way that it proceeds to the abolition of

private property, to the maximum, to confiscation, to progressive taxation, just as it goes as far as the abolition of life, the guillotine.

Nietzsche, like Marx, condemned religion as a negative social force responsible for preserving the meek and the weak, and hence weakening the human race. By praising poverty and glorifying the taming of the natural instinct, Nietzsche insisted, religion contributed to delaying the refinement of the human species. By giving “comfort to the sufferers, courage to the oppressed and despairing, a staff and support to the dependent” Christianity, he contended, “preserved too much of what ought to perish.” Unlike Marx, who saw religion as an obstacle in the way to achieving universal equality, Nietzsche’s rejection of Religion in general, and reformed Christianity in particular, was anti-democratic, directed against the egalitarian spirit it promoted, and hence against its failure to promote the order of rank, a hierarchical social order which he believed to be both intrinsic to humanity and desirable to social life.

RELIGION AND THE STATE IN MUSLIM SOCIETY

Many Muslim intellectuals insist today that Islam is an integral part of the state. The state in a society committed to Islam, they stress, is by definition an Islamic state since political authorities are bound to Islamic law, which has a direct bearing on constitutional law. This has created confusion about the nature of the Islamic state, and has given rise to apprehension on the part of modernist scholars who feared that remarrying Islam and the state is bound to give birth to theocracy.

The confusion is, of course, not limited to outside observers and commentators who tend to extrapolate in their analysis from the historical experience of western society, but also affect those who advocate the formation of political state on the basis of Islamic values. The difficulty arises from the efforts to combine the principle of popular government with that of a state bound by the rules of Islamic law. This confusion is, in my opinion, the result of equating the political structure of the *Ummah* with the political structure of the state, and consequently, mixing up the *Shariah* functions with that of the state. This confusion is not restricted to obscure works. Rather it is found in the works of influential contemporary Islamic thinkers. Under the title “The Objectives of the Islamic State” Abul Ala Mawdudi, for one, points out two kinds of objectives to be assigned to the Islamic state: negative objectives “like deterring the aggression and preserving the freedom of people and defending the state,¹³ and positive objectives such as banning all forbidden things which have been condemned by the Qur’an.”¹⁴ Mawdudi concludes by affirming the totality of the state’s objectives on the basis of the comprehensiveness of the *Shariah* objectives. He writes:

Obviously, it is impossible for such a state to limit its framework, because it is a totalitarian state encompassing the whole human life, and painting every aspect of human life with its moral color and particular reformist programs. So nobody has the right to stand up against the state and exempt himself from the liability by saying that this is a personal matter, so that the state does not intrude. In brief, the state encompasses the human life and every area of civilization according to its particular moral theory and particular reformist program. So, to some extent, it is similar to the communist and fascist state. But despite this totality the Islamic state is free from the color that dominates the totalitarian and authoritarian states of our

age. Thus the Islamic state does not curtail the individual freedom nor has it much room for dictatorship or absolute authority.¹⁵

The above statement reflects the state of confusion we just pointed out. In a single paragraph the author characterizes the Islamic state as totalitarian, likens it with the communist and fascist states, and stresses that no one has the right to stand up against the state and resist its intrusion into personal life. He then backs up, two sentences later, denying that the Islamic state may curtails individual freedom.

Certainly the claim regarding the totalitarian character of the state is the result of mixing state functions relating to the Shariah's legal dimension with the functions of the *Ummah* concerning moral and educational dimensions. The differentiation between these two kinds of objectives is, thus, of vital importance to prevent the state from imposing on the larger society a normative order based on a narrow interpretation of the law. The Islamic state, it should be emphasized, is not an institution devoted to advancing the interests of the Muslim community, but a political system based on universal principles, and one committed to maintaining peace, security and welfare for all citizens, irrespective of their doctrines, religions, nationality, race, or gender.

As will be shown below, the Islamic system in the past did not lead, nor should it lead in the future, to imposing a narrow and limited concept or a particular opinion on society. This is because the principle of religious and doctrinal plurality has been considered since the very inception of the *Ummah*, as a cardinal political principle. Here the Quranic verses both the, Makkan and Madinan, clearly stress on the centrality of the principle of religious freedom in the Islamic concept.

Lately the concern over how religious commitments relate to the exercise of power reached into the ranks of Islamists. Mainstream Islamic groups have been moving gradually away from the early concept of centralized Islamic political order envisaged by early leaders, such as Hassan al-Banna and Taqiuddin al-Nabhani. Leaders of major Islamic movements in Egypt, Jordan, Pakistan, Syria, Turkey, and Tunisia, to name a few, have come openly in favor of a democratic, pluralistic political system in which freedom of speech and association is guaranteed for citizens, regardless of their political orientation or religious affiliation.

THE FORMATIVE PRINCIPLES OF THE MADINAN STATE

The notion of the Islamic state advanced today by populist writers is, as I tried to show above, a mixture of the nationalist structure of the modern state with the communal structure of historical *Shari'ah*. The concept of the state that emerges as a result is in a complete contradiction with the nature and purpose of the polity found by the Prophet, or developed historically by successive Muslim generations. A quick review of the guiding principles of the first Islamic polity reveals the disparity between the two. The principles and structure of the early Islamic polity are epitomized in the Compact of Madinah (Sahifat al-Madina) that formed the constitutional foundation of the political community established by the Prophet.

The Compact of Madinah established a number of important political principles that, put together,

formed the political constitution of the first Islamic state, and defined the political rights and duties of the members of the newly established political community, Muslims and non-Muslims alike, and drew up the political structure of the nascent society. The most important principles included in this Compact are as follows:

First, the Compact declared that the *Ummah* is a political society, open to all individuals committed to its principles and values, and ready to shoulder its burdens and responsibilities. It is not a recluse one, whose membership rights and securities are restricted to a select few. The right to membership in the *Ummah* is specified in: (1) accepting the principles of the Islamic system, manifested in the commitment to adhere to the moral and legal order; (2) declaring allegiance to the system, through practical contributions and struggle to actualize the objectives and goals of Islam. Thus, allegiance and concern for public good are the principles determining the membership of the *Ummah* as defined by the first article of the document: "This is a Compact offered by Muhammad the Prophet, (governing the relations) among the believers and the Muslims of Quraish and Yathrib (Madinah), and those who followed, joined, and labored with them."

Second, the Compact delineates a general framework that defines individual norms and the scope of political action within the new society, but preserved the basic social and political structures prevalent then in tribal Arabia. The Compact of Madinah preserved tribal structure, while negating tribal spirit and subordinating tribal allegiance to a morally based legal order. As the Compact declared that the nascent political community is "an *Ummah* to the exclusion of all people," it approved a tribal division that had already been purged of tribal spirit epitomized by the slogan "my brethren right of wrong," subjecting it to the higher principles of truth and justice. The Compact therefore declared that the emigrants of the Quraish, Banu al- Harith, Banu al Aus, and other tribes residing in Madinah, according "to their present customs, shall pay the blood wit they paid previously and that every group shall redeem its prisoners."

Islam's avoidance of the elimination of tribal divisions can be explained by a number of factors that can be summarized in the following three points. (1) The tribal division was not mere political divisions but also social divisions providing its people with a symbiotic system. Therefore, the abolition of the political and social assistance provided by the tribe before developing an alternative should have been a great loss for the people in society. (2) Apart from its being a social division, the tribe represented an economic division in harmony with the pastoral economy prevalent in the Arabian Peninsula before and after Islam. The tribal division is the ideal division of the pastoral production as it provides freedom of movement and migration in search of pasture. Any change in this pattern requires taking an initiative first to change the means and methods of production. (3) Perhaps, the most important factor that justified the tribal division within the framework of the *Ummah* after the final message had purged the tribal existence of its aggressive and arrogant content, is the maintenance of the society and its protection from the danger of central dictatorship, that might come into existence in absence of a secondary social and political structure and concentration of political power in the hand of a central authority.

Hence Islam adopted a political system, based on the concept of the one *Ummah* as an alternative for the divisional tribal system and upheld the tribal division having cleared it from its aggressive elements. It left the question of changing the political structure to gradual development of economic and production structures. Although Islamic revelation avoided any arbitrary directives, aimed at immediate abolition of the

tribal division, it criticized openly tribal and nomadic life.

Third, the Islamic political system adopted the principle of religious tolerance based on freedom of belief for all the members of the society. It conceded to the Jews the right to act according to the principles and rulings in which they believed: “The Jews of Banu Auf are one community with the believers. The Jews have their religion and the Muslims theirs.” The Compact emphasized the fundamentality of cooperation between Muslims and non-Muslims in establishing justice and defending of Madinah against foreign aggression. “The Jews must bear their expenses and the Muslims their expenses. Each must help the other against anyone who attacks the people of this Compact. They must seek mutual advice and consultation.” It prohibited the Muslims from doing injustice to the Jews or retaliating for their Muslim brothers against the followers of the Jewish religion without adhering to the principles of truth and goodness. “To the Jew who follow us belongs help and equality. He shall not be wronged nor shall his enemies be aided.”

Fourth, the Compact stipulated that the social and political activities in the new system must be subject to a set of universal values and standards that treat all people equally. Sovereignty in the society would not rest with the rulers, or any particular group, but with the law founded on the basis of justice and goodness, maintaining the dignity of all. The Compact emphasized repeatedly and frequently the fundamentality of justice, goodness, and righteousness, and condemned in different expressions injustice and tyranny. “They would redeem their prisoners with kindness and justice common among the believers,” the Compact stated. “The God-conscious believers shall be against the rebellious, and against those who seek to spread injustice, sin, enmity, or corruption among the believers, the hand of every person shall be against him even if he be a son of one of them,” it proclaimed.

Fifth, The Compact introduced a number of political rights to be enjoyed by the individuals of the Madinan State, Muslims and non-Muslims alike, such as (1) the obligation to help the oppressed, (2) outlawing guilt by association which was commonly practiced by pre-Islamic Arab tribes: “A person is not liable for his ally’s misdeeds;” (3) freedom of belief: “The Jews have their religion and the Muslims have theirs;” and (4) freedom of movement from and to Madinah: “Whoever will go out is safe, and whoever will stay in Madinah is safe except those who wronged (others), or committed sin.”

RELIGION AND THE STATE IN HISTORICAL MUSLIM SOCIETY

Adhering to the guidance of revelation, the *Ummah* has respected the principle of religious plurality and cultural diversity during the significant part of its long history. The successive governments since the Rashidun period have preserved the freedom of faith and allowed non-Muslim minorities not only to practice their religious rituals and proclaim their beliefs, but also to implement their religious laws according to an autonomous administrative system.¹⁶ Likewise, the *Ummah* as a whole has respected the doctrinal plurality with both its conceptual and legal dimensions. It has resisted every attempt to drag the political power to take side with partisan groups, or to prefer one ideological group to another. It has also insisted on downsizing the role of the state and restricting its functions to a limited sphere.

Any one who undertakes to study the political history of Islam would soon realize that all political prac-

tices, which violated the principle of religious freedom and plurality, were an exception to the rule. For instance, the efforts of the Caliph al-Mamoon to impose doctrinal uniformity in accordance with the Mu'tazili interpretations, and to use his political authority to support one of the parties involved in doctrinal disputes, were condemned by the *ulama* and the majority of the *Ummah*. His efforts to achieve doctrinal homogeneity through suppression and force eventually clashed with the will of the *Ummah*, which refused to solve doctrinal and theoretical problems by the sword. This compelled Al-Wathiq Billah, the third caliph after al-Mamoon to give up the role assumed by his predecessors and abandon their oppressive measures.

Obviously, Muslims have historically recognized that the main objective of establishing a political system is to create the general conditions that allow the people to realize their duties as moral agents of the divine will (*Khulafa*), not to impose the teachings of Islam by force. We, therefore, ascribe the emergence of organizations working to compel the *Ummah* to follow a narrow interpretation, and calling for the use of the political power to make people obedient to the Islamic norms, to the habit of confusing the role and objectives of the *Ummah* with the role and objectives of the state. While the *Ummah* aims to build the Islamic identity, to provide an atmosphere conducive to spiritual and mental development of the individual, and to grant him or her the opportunity to realize his or her role and aims of life within the general framework of the law, the state makes efforts to coordinate the *Ummah's* activities with the aim to employ the natural and human potentials and possibilities to overcome the political and economic problems and obstacles that hinder the *Ummah's* development.

Differentiating between the general and particular in the Shariah and distinguishing between the responsibilities of the *Ummah* and the state, is a necessity if we want to avoid the transformation of political power into a device for advancing particular interests, and ensure that state agencies and institutions do not arrest intellectual and social progress, or obstruct the spiritual, conceptual, and organizational developments of society.

DIFFERENTIATING CIVIL SOCIETY AND THE STATE

Historically, legislative functions in Muslim society were not restricted to state institutions. Rather there was a wide range of legislations related to juristic efforts at both the moral and legal levels. Since the major part of legislation relating to transactional and contractual relations among individuals is attached to the juristic legislative bodies, the judicial tasks may be connected directly with the *Ummah*, not with the state. *The differentiation between civil society and the state can only be maintained by dividing the process of legislation into distinct areas that reflect both the geographical and normative differentiation of the political society*

The importance of the differential structure of the law is not limited to its ability to counteract the tendency of centralization of power, which characterizes the western model of the state. Rather, it is also related to guarantees extended to religious minorities. The Islamic model should maintain the legislative and administrative independence of the followers of different religions, as the sphere of communal legislation does not fall under the governmental authority of the state. On the other hand, the majoritarian model

of the democratic state deprives religious minorities of their legal independence, and insists on subjugating all citizens to a single legal system, which often reflects the doctrinal and behavioral values of the ruling majority.

The early Muslim community was cognizant of the need to differentiate law to ensure moral autonomy, while working diligently to ensure equal protection of the law as far as fundamental human rights were concerned. Thus early jurists recognized that non-Muslims who have entered into a peace covenant with Muslims are entitled to full religious freedom, and equal protection of the law as far as their rights to personal safety and property are concerned. Muhammad bin al-Hasan al-Shaybani states in unequivocal terms that when non-Muslims enter into a peace covenant with Muslims, “Muslims should not appropriate any of their [the non-Muslims] houses and land, nor should they intrude into any of their dwellings. Because they have become party to a covenant of peace, and because on the day of the [peace of] Khaybar, the prophet’s spokesman announced that none of the property of the covenanter is permitted to them [the Muslim]. Also because they [the non-Muslims] have accepted the peace covenant so as they may enjoy their properties and rights on par with Muslims.” Similarly, early Muslim jurists recognized the right of non-Muslims to self-determination, and awarded them full moral and legal autonomy in the villages and towns under their control. Therefore, al-Shaybani, the author of the most authoritative work on non-Muslim rights, insists that the Christians who have entered into a peace covenant (*dhimma*) – hence became *dhimmis* – have all the freedom to trade in wine and pork in their towns freely, even though such practice is considered immoral and illegal among Muslims. However, *dhimmis* were prohibited to do the same in towns and villages controlled by Muslims.

Likewise, early Muslim jurists recognized the right of *dhimmis* to hold public office, including the office of a judge and minister. However, because judges had to refer to laws sanctioned by the religious traditions of the various religious communities, non-Muslim judges could not administer law in Muslim communities, nor were Muslim judges permitted to enforce *shari’ah* laws on the *dhimmis*. There was no disagreement among the various schools of jurisprudence on the right of non-Muslims to be ruled according to their laws; they only differed in whether the positions held by non-Muslim magistrates were judicial in nature, and hence the magistrates could be called judges, or whether they were purely political, and therefore the magistrates were indeed political leaders. Al-Mawardi, hence distinguished between two types of ministerial positions: *plenipotentiary* minister (*wazir tafwid*) and *executive* minister (*wazir tanfiz*). The two positions differ in that the former acts independently from the caliph, while the latter has to act on the instructions of the caliph, and within the limitations set by him. Therefore, early jurists permitted *dhimmis* to hold the office of the executive, but not the *plenipotentiary* minister.

But while early *shari’ah* law recognized the civil and political rights and liberties of non-Muslim *dhimmis*, *shari’ah* rules underwent drastic revision, beginning with the eighth century of Islam. This was a time of great political turmoil throughout the Muslim world. It was during that time that the Mongols invaded Central and West Asia inflicting tremendous losses on various dynasties and kingdoms, and destroying the seat of the caliphate in Baghdad. This coincided with the crusaders’ control of Palestine and the coast of Syria. In the West, the Muslim power in Spain was being gradually eroded. It was under such conditions of mistrust and suspicion that a set of provisions attributed to an agreement between the Caliph

Omar and the Syrian Christians were publicized in a treatise written by Ibn al-Qayyim. The origin of these provisions is dubious, but their intent is clear: to humiliate Christian *dhimmis* and to set them apart in dress code and appearance. Their impact, however, was limited, as the Ottomans, who replaced the Abbasid as the hegemonic power in the Muslim world, continued the early practice of granting legal and administrative autonomy to non-Muslim subjects.

ISLAM, CIVIL SOCIETY, AND THE STATE

The modern state emerged to foster individual freedom from arbitrary rule, and to ensure that the members of the political society assume full control over public institutions. To do so, the modern state found it necessary to free public institutions from the control of all exclusive groups, including organized religions. However, despite the clear desire of the pioneers of the secular state to replace religious morality with civic virtue as the moral foundation of the state, secularism gradually developed anti-religious tendencies, leading to the gradual erosion of the moral consensus. The continuous erosion of morality, and the rampant corruption in modern politics threatens to turn the state into an instrument in the hands of corrupt officials and their egoistic cronies.

This has prompted calls for the return of religion and religiously organized groups into the political arena. Nowhere are these calls louder and clearer than in Muslim societies where Islamic values have historically exerted great influence on the body politics. Unfortunately, the reunion envisaged by the advocates of the Islamic state is often presented in crude and simplistic terms, as it fails to appreciate the great care that was taken by early Muslims to ensure that the state incorporates, both in its objectives and structure, the freedom and interest of all intra- and inter-religious divisions.

This calls upon Muslim scholars to engage in new thinking that aims at redefining political principles and authority. In doing so, Muslim scholars should be fully aware of the need to transcend the historical models of political organizations in Muslim society. Political structures and procedures adopted by early Muslim societies are directly linked to their social structures, economic and technological developments, and political experiences. While historical Islamic models provide a mine of knowledge for contemporary Muslims to utilize, any workable formulation of the modern Islamic model of the state that is true to Islamic values and ethos must emerge out of fresh thinking that takes into account the structure of modern society.

Islamic political thought, I believe, can make a profound contribution towards reclaiming the moral core of social life, and preserving religious traditions, without sacrificing the principle of freedom and equality promoted by the modern state.

The hallmark of Islamic political experience is the limitations historical Muslim society was able to place on the actions of rulers, and the presence of vigorous and robust civil society. Many of the functions the secular state assumes today were entrusted to civic institutions, including education, health, and legislation. The state was mainly entrusted with questions of security and defense, and was the last resort in question relating dispensation of justice. This understanding of state power would potentially free religious communities from intervention of the state and state officials, who tend to enforce their religiously based values and

notions on the members of society, including those who do not share with them some of those values and beliefs.

The notions of individual freedom and equality are intrinsic to Islamic political thought, and those principles requires that individuals have the basic civil liberties offered by the modern state. However, by freeing civil society from the heavy hand of the state, and by extending individual liberties to the community, and recognizing the moral autonomy of social groups. Social and religious groups under the Islamic conception of law (shari'ah) would have the capacity to legislate their internal morality and affairs in their communities. While the new sphere of freedom acquired under this arrangement allow for differentiation among citizens, equality would have to be maintain as the criteria of justice in the new area of public law, and in access to public institutions—i.e. in matters that relate to sphere of share interests and inter-communal relations.

THE MAJORITY PRINCIPLE IN ISLAMIC LEGAL AND POLITICAL THOUGHT

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This paper will deal with the Islamic heritage in connection with the issue at hand. Its aims are to identify Islamic legal concepts that could possibly have a bearing on the topic of the study, examine those concepts critically, and ascertain if any of them could be related to the majority principle and majority decision-making. In other words, this part of the study is concerned with finding evidence that could, by further research, lead to the legitimization of the majority principle as one of the permissible mechanisms – surely not the only one – of decision-making in Islamic political thought and practice. In addition to this, I am going to dedicate a few sections of this chapter to contemporary Islamic political thought, wherein such questions as the relation between Islam and democracy, the place of the majority principle in contemporary writings on this issue, and the role of the majority in the *shu'ra* processes will be discussed in some detail.

1. Legal Concepts

There are several legal concepts in Islamic jurisprudence and its principles that can be brought into discussion when the majority principle is dealt with. Most, if not all, of the principles and concepts that are going to be covered in this part of the thesis have already been discussed elsewhere, both as separate units and in relation to the majority principle. However, I have tried to substantiate these principles and concepts with evidence from Islamic legal and political thought. The course I intend to pursue is the following: first, I define and discuss a particular concept with regard to its place in Islamic legal/political theory, then consider the views – very often opposing ones – of some of the more important scholars on that issue, and finally analyze those views critically in light of the available evidence with the goal of making a small contribution to the resolution of the disputes involved. However, in those instances where I am unable to offer an acceptable solution or suggestion, due to lack of evidence or personal limitations, I will try to indicate possible ways out of dispute or, at least, point toward major questions for further study.

A. *Ijma'* (Consensus)

Juristically speaking, *ijma'* is considered a source of law in Islamic legal theory. Its place is immediately after the textual sources, namely the Qur'an and Sunnah. Different Muslim scholars have defined it in various ways. However, two definitions are particularly important and they are discussed in almost all specialized works. The first one is offered by al-Ghazza'li who defined *ijma'* as "an agreement of the *Ummah* of Muhammad (SAW) in particular on any given religious matter."¹ The other definition, which is commonly accepted, states that *ijma'* is "an agreement of the scholars of the Muslim *Ummah* of a particular age on a certain issue."² The difference is in as much as al-Ghazzali's definition requires the unanimous agreement of the whole *Ummah*, whereas the second definition demands unanimity only on the part of Muslim scholars. However, al-Ghazzali clarified that what he meant was that in matters that should be known by all Muslims such as the obligatory nature of the five daily prayers, fasting during Ramadan etc., there exists a consensus of both the common people and qualified scholars. On the other hand, in matters that require expertise such as knowledge of different types of transactions, rules of performing the prayers and so on, the commoners acknowledge that scholars possess highly specialized knowledge in connection with those matters, and they therefore accept the scholars' consensus as their own.³

Both definitions imply that a necessary condition for *ijma'* is the unanimous agreement of *all* scholars of a particular age, at least in terms of theory. However, on a practical level, given the limitations imposed by the inefficiency of the means of communication and transportation during the early periods of Muslim history and inherent differences in ways humans approach intellectual challenges, it was practically impossible to establish actual agreement of all qualified scholars on a fairly great number of issues. While this point was discussed in a specialized literature and the viability of *ijma'* was established theoretically in those writings, the existence of the wide range of differences among scholars on almost all questions of Islamic jurisprudence testifies to the fact that *ijma'* was, and is bound to remain, highly theoretical and almost impossible to achieve. In fact, according to some critics, *ijma'* was established only in those cases and on those issues that have some textual evidence from the Qur'an and Sunnah. But *ijma'* is not needed in cases in which there are clear Qur'anic and Prophetic references!⁴ One of the problems that contributed to the impracticability of *ijma'* is that the majority of Muslim jurists did not consider *ijma'* to be formed in cases of disagreement, even if this disagreement was the result of only one or two dissenting voices.⁵ The minority opinion, which was held by al-Tabari, Abu Bakr al-Ra'zi, Abu Husayn al-Khayyat, and Ahmad ibn Hanbal, according to one report,⁶ allowed for the establishment of *ijma'* in cases where there existed a slim minority of such opposed voices. They base this view on several facts. First is that the appointment of Abu Bakr (RA) was considered an *ijma'*, yet there were a few dissenting voices that opposed his inauguration such as Sa'd ibn 'Ubadah, 'Ali (RA), and a few other Companions. These scholars have also employed the concept taken from the sciences of *hadith* which says that the numerical advantage is to be taken as a means of preferring one report over another.⁷

There are two more opinions in connection with this issue. One of them says that if a number of scholars who happen to hold a minority opinion do not reach the extent of *tawatur* (*hadd al-tawatur*),⁸ then it can be considered that *ijma'* occurred in that particular instance. On the other hand, if a number of scholars that hold a minority opinion reach or exceed the number required for the occurrence of *tawatur*, then the

majority opinion cannot be considered an *ijma*.⁹ The second of these opinions is held by Ibn Hajib al-Maliki who considered that an agreement of the majority of scholars could not be accepted as an *ijma*. However, the opinion of such a majority is an authoritative evidence (*hujjah*) because it is more proper/appropriate (*awla*) to follow the majority opinion.¹⁰ In short, given these rigid conditions imposed by the majority of Muslim legal scholars with respect to the formation of *ijma*, it was only natural that this legal institution became highly theoretical and of almost insignificant value in the later periods of Muslim history.¹¹

However, the actual situation was not always like that. As it was probably noticed, so far I have limited the discussion to legal methodology and theory. But the concept of *ijma* can be studied from yet another perspective: the social one. The early phases in the development of Muslim society witnessed a number of dynamic processes that provided the necessary impetus to the development of Muslims sciences in general.¹² *Ijma*, in particular, was a driving force which provided a vital degree of stability in spite of prolonged periods of internecine conflicts and possibly disrupting unresolved theological and legal issues. This was possible because *ijma* was an informal activity, involving the community in general and the learned scholars and political leaders in particular. The spirit of free deliberation and the respect for the opinion of specialized scholars were widely held. This is not to deny the existence of those trends that attempted to curb this practice of free deliberation. However, the prevalent atmosphere was such that scholars could express their opinion on any matter, and that opinion was very often not in line with the official policy of the day, for which action in turn they enjoyed almost undivided credibility among the public who adopted and internalized those teachings. *Ijma* was, therefore, an outcome of the *shura* process at large; a process which involved a great number of members of the Muslim *Ummah*. It was not arrived at by some governmental fiat or scholarly debate, but it was achieved gradually, after a period of time, when numerous alternatives to the issue that was discussed have been presented, and when one of those alternatives that emerged as best in accordance with the prevalent sentiment among the Muslims and most beneficial for their personal interests and the interest of their religion. *Ijma* was the result of social processes that aimed at discovering an objective truth in connection with the issue that has been raised by the community. It was an interactive process, whereby the community at large would either adopt or reject solutions offered or suggested to them by qualified scholars and political leaders from among themselves.¹³ It was of course enormously difficult to achieve a total consensus amounting to unanimity in practice. However, as long as the great majority of Muslims in general adopted a certain stance, it was considered that *ijma* was achieved.

Acknowledging some difficulties that were posed by definitions of *ijma* as given by the majority of classical scholars, some Muslim scholars have tried to revise and possibly revitalize this valuable concept. They saw that *ijma* which is a topic of discussion in the books on *usul al-fiqh* is too rigid in some points and almost totally impracticable, for if it meant the agreement of *all* scholars of a particular age on a certain issue, then its practical value is severely limited. If this definition is to be accepted, the employment of *ijma* in forging solutions to the problems that the Muslim community is facing today will not bear much fruit. What these scholars perceived, in fact, was a sharp contradistinction between the early usage of this concept, which served as a powerful way of resolving issues in dispute, and the way it was defined in later works on the principles of Islamic jurisprudence (*usul al-fiqh*).

Shah Wali Allah al-Dahlawi (d.1176AH/1762CE) was among the first to notice the mentioned problems. He severely criticized the classical definition of *ijma'*, particularly the condition which stipulates agreement of all scholars.¹⁴ For him, *ijma'* is the end-result of *shura* processes that involve learned men and the caliph, which is then widely accepted and enforced in the Muslim community.¹⁵ In short, what is reached after mutual consultation of the caliph with the men of opinion and endorsed by the overwhelming number of the members of the community at large is called *ijma'*. With this, he added a political dimension to *ijma'*, thus expanding on it after it had been confined to a legal concept.

A well-known Egyptian writer, 'Abbas Mahmud al-'Aqqad, was very much in favour of democracy and he tried to emphasize the democratic character of Islam. With regard to *ijma'*, he also tried to give it a political character in addition to it being a legal concept. He maintained that it could be achieved not by a complete consensus, but by "the thing which comes nearest to it (that is, the majority)."¹⁶ Safran criticized al-'Aqqad's position because the latter tried to show *ijma'* as a political concept as well. For Safran, *ijma'* was "the traditional *ex-post-facto* sanction of change already established, resting on the divine assurance that the community would never agree on what is wrong."¹⁷ Here, he relied on the legal definition of *ijma'*. However, it is exactly because of dissatisfaction with the classical legal definition that al-'Aqqad, like al-Dahlawi before him, proposed some amendments to it.

Another proposition for the revitalization of *ijma'* came from Muhammad Iqbal. He was perplexed by the fact that this concept never assumed the form of a permanent institution, but remained confined to academic discussions.¹⁸ The operationalization of *ijma'*, according to Iqbal, can only be done by transferring the power of *ijtihad* from individuals to a Muslim legislative assembly.¹⁹ He thus called for a collective *ijtihad*, one that benefits from various inputs and points of view, and secures a more satisfying outcome for those involved in such a process. The possibilities of erroneous interpretations, which are bound to be made since many representatives are not well-versed in Islamic law, are to be minimized through a reform of the educational system which would include, among other things, "an intelligent study of modern jurisprudence."²⁰ *Ijtihad*, then, is not the sole prerogative of religious scholars, but it should also include scholars of various disciplines of learning, which is just what *ijtihad* used to mean in the early periods of Muslim history.²¹ That which is obtained through this collective *ijtihad* of specialists is called *ijma'*.

Another criticism of the classical conception of *ijma'* came through the pen of 'Abd al-Hamid Abu Sulayman. I have already pointed out the fact that *ijma'*, in his opinion, was mostly reached on those issues that have already been settled by the Qur'an and Sunnah.²² He echoes Iqbal's view when he says that traditional '*ulama*' alone cannot fulfill the need for modern law-making. Law and policy-making in the modern world are very complex processes that require the participation of wide segments of society, with specialists in different branches of knowledge at the forefront of these processes. The classical view of *ijma'* cannot satisfy a modern social system and has to be revised thoroughly.²³ Its role should be related to the legislative functions of modern states in concrete political systems "where it may produce a workable relationship between the ideal and the real, with maximum possible support and participation on the part of the Muslim peoples."²⁴ In short, modern Muslim scholars perceive a need for the revitalization and reconceptualization of this important legal concept. Most of the classical legal definitions of *ijma'* cannot satisfy the needs of modern Muslim societies. *Ijma'* should be defined in a way that makes it a dynamic force, one that enables

it “*to be no longer retrospective, as in the past, but to deal decisively with problems as and when they occur.* [italics in original]”²⁵

Where would the place of the majority be if *ijma'* is to be reformulated? Well, it could be achieved through the majority decision-making if all the members of the community accept in advance that decisions by the majority are to be binding upon all of them. Thus, when a majority decision is reached, all the members of the Muslim community should strive towards seeing that decision implemented in practice. So, even those who voted against the proposal, which obtained the support of the majority, should accept the majority decision, and try to implement the new policy *in a consensual fashion*. If understood in this way, *ijma'* can be achieved through the implementation of the majority opinion.²⁶ I have previously mentioned that some classical scholars were of opinion that the majority decision is an authoritative evidence (*hujjah*), even though it falls short of a consensus. Fathi Osman claims that this is one of the fundamentals (*usul*) that are widely held by the jurists.²⁷ In fact, al-Shawi opines that the intended meaning of *ijma'* always equals *shura*, and that *ijma'* is, as a matter of fact, what is arrived at through the process of *shura*.²⁸ This is reminiscent of al-Dahlawi, whose views on this issue have been discussed above. However, a new thing that al-Shawi proposes is that *ijma'* can be achieved through total consensus (*ijma' kamil*) or through the consensus of the majority (*ijma' al-jumhur*).²⁹

This should in no way inhibit the defeated minority from trying to persuade the others to accept its view, if it still holds it, while accepting the majority decision and giving it its full support at the same time. In other words, there should exist a consensus on the basic rules of the political game and, more importantly, on the values of such a political system. Within such an arrangement, the existence of nonstructural opposition³⁰ should be tolerated and it should be allowed to work for its own political program, given it accepts the basic consensus. In this way, the relation between majority decision and *ijma'* could be put into practice. This is, of course, a very brief proposal, but one that could be expanded and operationalized through further research.

B. Al-Sawad al-A'zam

This concept originated in the Prophetic saying in which he (SAW) said: “My Ummah will not agree on an error, and when you see a disagreement you have to follow the majority (*fa idha ra'aytum ikhtilafan 'alaykum bi al-sawad al-a'zam*).”³¹ Al-Sindi, commenting on this tradition, had this to say:

Al-Sawad al-A'zam means the majority group (*al-jama'ah al-kathirah*) because their agreement is closest to the consensus (*ijma'*) ... Al-Suyuti said [they were] a majority of those who are united in following the right course. This tradition indicates that it is mandatory to follow opinion of the majority (*yanbaghi al-'amal bi qawl al-jumhur*).³²

The *hadith* indicates that it is preferable to reach decisions in matters of common concern on a consensual basis. However, if this is not possible, then Muslims should, according to this tradition, follow the view(s) of the majority among them. Al-Sindi has mentioned the rationale for such a stance: the majority

decision is closest to the ideally desired consensus, and in those instances in which consensus is not possible, the closest approximation to it is considered to be a more correct opinion to follow. This is probably the clearest injunction, that can be found either in the Qur'an or in the Sunnah, in connection with majority decision. Traditionally, it has been used by the followers of *Ahl al-Sunnah wa al-Jama'ah* to prove the correctness of their stance in opposition to that of *Shi'ah*, *Khawarij* and other Muslim groups. Unfortunately, it was seldom related to the decision-making process, particularly after the period of *al-Khulafa' al-Rashidun*.

However, this concept became very popular in writings on contemporary Islamic political thought. Witnessing the unprecedented scientific and technological advancement of the West, Muslims have tried to understand the reasons behind such progress. Among other things, some Muslims credit the rise of the West to the democratic institutions of Western governments, including the participation of people in the decision-making processes, regular elections in which the will of the electorate is tested, the accountability of elected officials and other praiseworthy democratic practices. Realizing that many of these principles have been mentioned or devised in Islamic sources, and trying to re-establish these principles in the light of Islamic teachings, some Muslim scholars are now trying to develop an authentically Islamic approach to these principles and validate them through referring to the said sources and reinterpretation thereof. Being one of those principles, the argument or the concept of *al-sawad al-a'zam* is very often invoked to validate the majority principle in the processes of Islamic government.

A well-known contemporary Muslim scholar, Yusuf al-Qaradawi, uses the *hadith* in which *al-sawad al-a'zam* has been mentioned as evidence that in matters which are liable to be subject to a multitude of different opinions and on which a consensus cannot be achieved due to their not being supported by explicit evidence from the Qur'an and/or Sunnah, the majority principle can be used as a means of giving preference to one opinion over another. He says that this tradition, in fact, commands Muslims to follow the majority opinion in matters of disagreement.³³ He also adds that *al-sawad al-a'zam* mentioned in the *hadith* means "majority of the people (*jumhur al-nas*), the prevailing group among them (*'ammatahum*), and the greater number of them (*al-'adad al-akbar minhum*)."³⁴ Muhammad Asad also quotes the mentioned *hadith* approvingly and deems it to constitute evidence that should be referred to in order to grasp a correct stance on the majority principle, which is, for him, that it should be allowed in matters of *ijtihad*, and that decisions reached through it should be binding upon all members of a Muslim society.³⁵ I have already quoted al-Shawi who mentioned *al-sawad al-a'zam* or the majority as a possible meaning or outcome of *shura*, whereby he equals it with *ijma'*.³⁶ So, it is clear from the discussion in this section that some contemporary Muslim scholars look upon the concept of *al-sawad al-a'zam* as valid evidence on which the majority principle in the decision-making processes in an Islamic polity is to be adopted.

C. Jumhur

Another legal concept which is quite often mentioned in connection with the majority principle is that of *jumhur*. It literally means, among other things, 'gathering,' 'crowd,' 'great number,' or 'the majority.' The concept is used very often in legal literature. It ordinarily connotes the majority of scholars, usually in connection with an issue that is a subject of disagreement among Muslims. When such disagreement occurs, specialized literature usually gives a variety of opinions. As for that opinion which is held by the majority of

scholars, the terms used are ‘the opinion of the majority [of scholars]’ (*madhhab al-jumhur* or *ra’y al-jumhur*), ‘the majority of scholars’ (*jumhur al-‘ulama*) etc. The term is also sometimes used to denote the masses, i.e. the public in a general sense, or the great majority of them.

Those Muslims scholars, who see the concept of *jumhur* as a possible means of validation of the majority principle, point to the fact that Muslim legal scholars give preference to the opinion of the majority (*i’tidad bi ra’y al-jumhur*) in matters of disagreement, provided that there is no other more acceptable evidence that is contrary to it.³⁷ According to Fathi Osman, Ibn Taymiyyah (d.728AH) suggested that when Abu Bakr (RA) nominated ‘Umar (RA) for the office of *khalifah* and the proposal was subsequently endorsed, the legitimacy of *bay‘ah* (the oath of allegiance, or the mechanism for the appointment of the head of the state) was established only after a majority of Companions (*jumhur al-Sahabah*) had agreed to it.³⁸ Therefore, according to this reading of historical precedents, the appointment of the head of an Islamic state should be endorsed by a majority of the electorate. Al-Shawi adds to the debate on this concept by saying, as I have already quoted, that in the absence of a total consensus (*ijma’ kamil*) reference should be made to ‘the consensus of the majority’ (*ijma’ al-jumhur*), for the latter is the closest approximation to consensus in the proper sense.³⁹ This is so for “the majority opinion or *al-jumhur* is indicative of the opinion of *al-jama‘ah* (society) in *al-shura*.”⁴⁰

D. *Al-Tarjih bi al-Kathrah*

Al-Tarjih is a legal concept that comes into play when there exist two or more apparently contradictory items of legal evidence that cannot be reconciled in any way as provided by legal theory.⁴¹ So if this is the case, one opinion or evidence will be given preference or precedence over the other, based on the conditions stipulated by legal scholars. This process is called *al-tarjih*. It is, therefore, “an advancement of one of the two contradictory positions by the *mujtahid*, on account of the expressed advantage [present] in it, that makes the action in accordance to it prior/preferable (*awla*) to the other.”⁴²

One of the applications of this concept occurs in case there are two Prophetic traditions whose meaning cannot be reconciled by any of the means that are in use by legal scholars. In this case, there are several ways in which *al-tarjih* can be applied. One of them is that the tradition which was transmitted by a greater number of transmitters should be given preference over the other which came through a lesser number of such transmitters of *hadith* (*al-tarjih bi kathrah al-ruwa*).⁴³ This is a known principle in the sciences of *al-hadith* whereby, for instance, *mutawatir* is given preference over *ahad* if they happen to be in conflict. However, scholars are divided on this issue, i.e. whether numerical superiority should be regarded a valid basis for *al-tarjih*. A vast majority of Muslim scholars are in favour of this type of *al-tarjih*, and the evidence they put forward for their opinion seems to be much stronger than that of their opponents on the same issue.⁴⁴ Al-Dahlawi maintained that in such cases preference should be given to a tradition that is transmitted by a greater number of narrators, or to that which is actually accepted in practice by a greater number of scholars.⁴⁵ The great scholar of *hadith*, al-Bukhari (d.256AH), commenting on an issue on which there existed contradictory reports, chose one of those reports because it came “through a greater number of transmitters.”⁴⁶ Al-Arna’ut says that this is a common practice of the great scholars of *hadith* (*huwa al-jari ‘ala tariqah al-muhaqqiqin min ahl al-hadith*).⁴⁷ Let me conclude this section with a quotation from another famous scholar, Ibn Daqiq al-‘Id, who said:

If there are different (contradictory) reports [on a certain issue] . . . and if one of them is to be given preference over the other(s), such as in the case of one being transmitted by a greater number of transmitters . . . then it is an imperative to act in accordance with such a preferred [report] (*fa yata'ayyan al-'amal bi al-rajiḥ*), because the [existence of the] weaker [evidence] is not a deterrent to act in accordance with the stronger [evidence] . . .⁴⁸

E. Legal Maxims (*al-Qawa'id al-Fiqhiyyah*)

Legal maxims are not usually cited as supporting evidence for the legitimation of the majority principle. However, I find it useful to mention that some of these maxims can perhaps be used in discussion on this topic. It should probably be said, for the sake of clarification, that legal maxims, *per se*, are not a source of law, but can be useful juristic tools in finding solutions on issues which are not made explicit in the sources. Among the maxims that could give some additional weight to the majority principle are the following: “that what is preponderant [in greater quantity] should be ordained (*bi al-aghlab min al-umūr yuqda*)”;⁴⁹ “a more probable assumption amounts to the execution (*al-zann al-ghalib yanzil manzilah al-tahqiq*)”;⁵⁰ “that which is preponderant [in greater number or quantity] is to be taken into consideration, and that which is rare is not to be enjoined (*al-'ibrah bi al-ghalib wa al-nadir la hukm lah*)”;⁵¹ “that which is preponderant amounts to an established/certain [opinion] (*al-ghalib masaw li al-muhaqqaq*)”;⁵² “the greater part gets the jurisdiction of the whole (*li al-akthar hukm al-kull*).”⁵³

2. Political Thought

After looking into some legal concepts that could have a bearing on the theme of this thesis, I will now turn to contemporary Islamic political thought. This section starts by dealing with the issue of Islam and democracy. It is, indeed, one of the major questions that are being discussed in the field, and there are numerous works on this topic, some of which will be referred to below. Among the issues that are covered in this section are the problem of sovereignty in Islamic political thought, the place of the majority principle in the ongoing discussion on Islam and democracy, and some ways by which the majority principle could possibly be operationalized in *shura* processes. Comparison with Western political theory will also be briefly attempted, and the following sections will also bring into consideration some of the issues that have been discussed in the first chapter.

A. Islam and Democracy: Some Disputed Issues

The majority principle is closely related, among other things, to the question of sovereignty, or the ultimate legislative power in the society to which undivided obedience is to be paid. I will spend some time here trying to explain this issue in its Islamic context, for there have been many of its interpretations and those Muslims who oppose democracy usually invoke this in order to argue that Islam is incompatible with democracy. After offering a discussion on the issue of sovereignty, this section will then move on to discuss some general principles of Islam and democracy, and how they can be made practicable in an Islamic state.

This part serves as background for the subsequent discussion on the majority principle and its possible place in *shura*.

There exists a considerable degree of agreement on the issue of sovereignty in Western political theory. It assumes that ultimate sovereignty belongs to the people. Since it is inconceivable that they should all and personally participate in law-making, representation has been accepted as a workable method whereby elected representatives would be responsible and accountable for their exercise of power through periodic, free and fair elections. Thus, there are two types of sovereignty: (1) the ultimate one, which belongs to the people as a whole, and (2) the immediate one, which is to be located in the representative bodies, such as Parliaments. However, it should be noted that the concept of sovereignty in the West has been secularized, particularly with the onset of modernity, and religion has almost completely been divorced from political matters.

The word for sovereignty in modern Arabic language is '*hakimiyyah*.' Yet, it is a fairly recent invention which is unknown in classical literature. The term was introduced into the languages of contemporary Muslim peoples as a consequence of increased interactions with the Western world, as a translation, in particular, of the French word *soveraineté*.⁵⁴ Pre-modern Muslims have used some words which bear certain resemblance with the modern Western notions of sovereignty. For instance, the word *mulk* which, in a traditional usage, meant the enforcement of God-given laws belonged originally to the Prophets, and after them to the Caliphs. The similarity between this concept and the Western notion of sovereignty is inasmuch as in Western political thought sovereignty involves both the making of law as well as its enforcement, while *mulk* denoted this second characteristic of the modern Western conception of sovereignty.⁵⁵ Law-making was regarded as having been the prerogative of the One God. Muslims are united on this stance and anyone who does not accept this could not rightly claim to be himself/herself a Muslim. But, does this mean that Muslims should limit themselves only to the matters that are revealed in the Holy Qur'an and the Sunnah of the Prophet (SAW)? Certainly not, for there are so many day-to-day issues that need to be addressed by the Muslim community at large, what al-Ghannushi calls *faraghat*.⁵⁶ In this case, it is required that Muslims exercise their intellectual powers in order to arrive at appropriate solutions to the problems and questions posed. Not only that, but even in matters that are explicitly covered by revelation one has to exercise his/her judgment and faculties of thinking so that the injunctions that are contained in revelation are correctly understood. For example, it is known that 'Umar (RA) suspended the execution of the postulated punishment for theft during the Year of Hunger because the necessary conditions for the implementation of that rule did not then maintain. On the basis of this event, Muslim scholars have outlined a whole set of conditions that have to be met before punishments should take place. Therefore, even in matters that are made explicit in the Qur'an, for example, one has to resort to sound thinking so that a proper realization of the Qur'anic teachings can be put into practice. So, in order to ascertain the role of the *Ummah* in an Islamic state, and put that role in proper relation to the sovereignty of God, it is very important to understand what sovereignty in Islamic state would really mean.

For this reason, some modern Muslim thinkers started to talk about the sovereignty of the Muslim community (*sultah al-Ummah*). Khir attributes this argument to Rashid Rida and Hasan al-Banna (d.1949CE), the founder of the Muslim Brotherhood in Egypt.⁵⁷ The latter was very much in favour of constitutional government, where the constitution would be based on the principles of Islam. In addition,

such an Islamic government would be based on the representative system which would be realized through free and fair elections.⁵⁸ While this makes him apparently very much a champion of democracy in an Islamic setting, his unequivocal stance that political parties are not to be allowed in an Islamic polity renders his legacy in connection with democracy an ambiguous one, though it has to be admitted that his view on political parties was to a great extent influenced by the events around him. Both of these activist thinkers looked upon the sovereignty of the community (*sultah al-Ummah*) as a way of ensuring that Muslim interests would be taken care of.

Another, quite different, conception of sovereignty was developed by Mawdudi and Sayyid Qutb. Mawdudi, who used the term *hakimiyyah* for sovereignty, asserted that it is God who is the only sovereign. Only He can legislate or enact laws that are necessary for human society. Mawdudi's understanding of sovereignty was that it is an absolute overlordship, which gives to its holder an absolute right to impose his orders upon the subjects of the state, without any limitations whatsoever to his powers. In this way, Mawdudi's conception of sovereignty was very much in line with the early Western understanding of this concept.⁵⁹ He started from the premise that belief in *tawhid* is the foundation of the social and moral life as explained by the Prophets of God.⁶⁰ From this it follows that God is the sole Law-Giver and that nobody else can claim to have this power. The Prophet (SAW) was required to convey, explain and implement His commands, and Muslims are required to obey the Prophet (SAW).⁶¹ That is why an Islamic state must be founded upon God's Law, as explained by His Prophet (SAW).⁶² But Mawdudi did not reject the idea of democracy. He was, in fact, aware of the positive character of many procedures inherent in the democratic process, and did not see any reason why those procedures could not be followed in an Islamic state. For this purpose, he even coined a term 'theodemocracy,' because the Muslims have been given a limited sovereignty under the suzerainty of God, and they were required to interpret and implement God's Will.⁶³

Perhaps the most radical understanding of this concept was given by Sayyid Qutb. Closely following Mawdudi in the assertion that God is the only Law-Giver, Qutb said that *hakimiyyah* was, in fact, a characteristic of Divinity (*uluhiyyah*).⁶⁴ So, whoever claims the possession of this power is in consequence challenging Allah's supremacy, and in turn committing the grave sin of unbelief (*kufir bawah*), no matter if this claim is forwarded by a single person, organization, party, community, of the people as a whole.⁶⁵ Not only that, but also whoever pays obedience to other than Allah, or derives laws from a source other than His Revelation, is committing the mentioned sin as well.⁶⁶ Moreover, he did not limit this concept to the narrow scope of law-giving, but extended it to all matters of belief, culture, social norms and standards, values etc. Men can exercise their intellectual powers to derive these categories, but only within the scope of the characteristic of the Islamic concept.⁶⁷ This was, according to Qutb, what the Qur'an really intended in the verses that are related to this issue.⁶⁸ The role of the community in political affairs is limited to the application of what God legislated.⁶⁹

What has been discussed above are some of the recent attempts at understanding the concept of sovereignty in an Islamic context. The contemporary debate on the issue is moving towards the assertion that there is no real conflict between God's sovereignty and the sovereignty of the *Ummah*. It is here that some Muslim scholars show original thinking, which renders this concept different from the one that is in use in the West, and give to Islamic political thought a unique dimension in connection with this issue. Thus

Hasan al-Turabi, a leading Sudanese activist and thinker, differentiates between God's *hakimiyyah* and mankind's *istikhlaf* (vicegerency). Since the Qur'an, for al-Turabi, speaks to the individual consciousness, individuality should be maintained against any power of the state, so that proper political and social structures can be established on the basis of mutual contracts.⁷⁰ The ruler and the people should pursue policies of common interest, but they are bound by the *Shari'ah* and should not transgress its limits. *Shura* should be vested in a parliament which would have legislative powers but, again, it is not expected to go beyond the limits that are established by the principles of Islam. In this way, there is no conflict between God's sovereignty and people's sovereignty. Each one has its defined scope and does not interfere with the other.⁷¹ This is so for "recognition of *sharia* does not necessarily eliminate the role of human opinion..."⁷² As I have already pointed out, there are numerous issues that have not been dealt with in the Qur'an and Sunnah. It is God's Mercy upon the Muslim *Ummah* that He has left many areas for the Muslims to employ the principles of *ijtihad*, trying thus to find a correct stance on any given issue. The very process of trying to discover or devise solutions that will comply with God's Will and the intellectual effort that is put into it are considered to be among the highest forms of worship, for if a man or a group of men (and women) who are involved in it are using Revelation as guidance, with the sole purpose of attaining God's pleasure, while also observing the rules of proper conduct in the spirit of *shura*, then this legislative exercise is a source of great blessings for the *Ummah* as a whole. Those who see conflict between God's sovereignty and the legislative role of the *Ummah* fail to take into consideration that, for the greater part, the legislative efforts in a modern state are related to economic, agricultural, industrial, financial, educational, and other affairs, and that many of the policies that are related to the mentioned affairs are not strictly related to religious teachings or, to put it more precisely, they are only guided by some overriding Islamic principles.⁷³ Compliance with these principles can be ensured, for example, through the formation of 'an Islamic body/council', (*hay'ah shar'iyyah*) whose duty would be to supervise the legislative arrangements and guarantee their Islamic character.⁷⁴ The presence of a constitution that would embody such Islamic principles would ensure that no legislation would contravene clear Islamic teachings and the principles that are derived therefrom. This is a familiar constitutional arrangement in Western political theory and practice and it has also been in use in most Muslim countries during the 20th century. It provides that there are certain things that legislative bodies cannot do, even if their decisions are supported by a large majority of the people or their representatives.⁷⁵ Kurdi, for example, believes that, in a Muslim society, only the laws are sovereign, i.e. those laws that have been clearly mentioned in the Revelation, since God is the Ultimate Sovereign, as well as those that are exercised and executed by the political leaders with the endorsement of the Muslim community at large. There is, in fact, no conflict between the sovereignty of God and the sovereignty of the Muslim *Ummah*.⁷⁶ The legislative functions of an Islamic state could be carried out through a body of representatives who enjoy the full support of the *Ummah*, and who would see to it that all the enacted laws are in accordance with, or do not contravene, Islamic teachings.⁷⁷ Al-Qaradawi shares the above mentioned opinions when he says that as long as the constitution of an Islamic state provides that legislative processes will not be abused to enact laws that are opposed to the *Shari'ah*, there is no harm in adopting democratic principles of elections, accountability, deliberation etc., particularly if these are used to fight abominable practices and manifest disbelief (*kufir bawah*).⁷⁸ Khir tries to forge a compromise between the two types of sovereignty. He uses the concept of *uluhiyyah*, which was used as long ago as in the 14th century by Ibn Taymiyyah and was popular-

ized by Mawdudi in the 20th century, to denote the legislative powers of the sovereign, who is in this case God. *Mulk*, on the other hand, represents political power, the executive power in an Islamic state: the power to enforce the laws that are given by God and contained in the *Shari'ah*.⁷⁹ Even in modern Western thought, there is a differentiation between these two types of sovereignty, which was introduced in order to justify the separation of powers. Khir continues saying that ultimate political sovereignty is located in the *Ummah*, while immediate political sovereignty is vested in the ruler.⁸⁰ A different approach was, however, adopted by al-'Alwani. He argues that authority, the word he uses to denote sovereignty, belongs to the Qur'an.⁸¹ The Holy Book of Islam is different from the earlier scriptures in several respects: its text is guaranteed by God to remain unchanged, it confirms the earlier scriptures, it is a guidance to humanity as a whole, etc.⁸² And whereas God was directly involved in the affairs of previous nations, after the revelation of the Qur'an authority was placed in the Word of God, i.e. the Qur'an.⁸³ The role of the individuals in relation to this authority is that they should use their intellectual abilities to understand the message of the Qur'an in accordance with the condition they live in. While the individual was only a recipient who is expected to adhere to what has been given to him/her if authority is accepted to be Divine, in the case of the Qur'anic authority he/she is required to understand the Qur'an and apply its teachings in accordance with that understanding.⁸⁴

What can be said by way of conclusion in the light of the above discussion is that there is still no agreement among Muslim scholars and thinkers as far as the issue of sovereignty or authority is concerned. Nevertheless, a common characteristic among contemporary scholars is the tendency to give a greater role to the *Ummah* in the legislative processes. While it is acknowledged that sovereignty ultimately belongs to God, His Book, and His *Shari'ah*, it is also understood that the commandments which are enshrined in the Qur'an and the Prophetic practice are interpreted through the use of human reason. Not only is the *Ummah* required to legislate on matters that are not clearly expressed or not at all mentioned in the *Shari'ah*, but it is through the use of the intellectual capabilities of the *Ummah* that even the explicit commandments are understood and implemented. The main concern on the part of Muslim scholars is with ensuring that this process of understanding Islamic sources is guided by the teachings and principles that are enunciated in the Qur'an and Sunnah. May I conclude this section on sovereignty by quoting a renowned contemporary Muslim scholar, Fathi 'Uthman, who aptly summarized the issue as follows:

The Quran states that God created the human being as a "vicegerent" . . . Accordingly, the people are viewed as guardians of God's justice and guidance which is represented in the divine sources. Sovereignty of God can only be secured through humans, and no ruler or jurist can claim infallibility. . . . The people, and their representatives, practice what they are entitled to do as guardians of God's justice on earth. . . . If believers cannot guard the "sovereignty of God" and their faith and values through a government based on "sovereignty of the people", it should not be imposed upon them by force which would only be a pretext for arbitrariness and despotism!⁸⁵

Another important ingredient for the majority principle alongside sovereignty is that of equality, which is also upheld by Islam. In fact, contrary to the Greeks, Islam acknowledges the natural equality of men. It is probably a well-known fact that the Qur'an emphasizes over and over again that all mankind are created from a single pair, male and female, and that the existence of different ethnic groups, tribes, languages, and

indeed religions, points to the Uniqueness and Oneness of God.⁸⁶ All men are entitled to equality in terms of protection, property, and before the law.⁸⁷ It is interesting that the Qur'an always emphasizes man/individual, and that there is no Qur'anic equivalent to citizen. The word *muwatin*, which means citizen in modern Arabic, is a neologism.⁸⁸ The goal of Islam is to make a good man, not only a good citizen, for the first notion is far more comprehensive than the latter one.⁸⁹

Whereas Islam does not attach any condition with regard to race, ethnicity, language, colour, or lineage to enjoy the said equality, it emphasizes that the only way for a man to be superior over another is piety, or God-consciousness (*taqwa*).⁹⁰ Moreover, in classical Islamic legal theory there is a clear distinction between Muslims and non-Muslims with respect to their political and other rights in an Islamic state. So it may be argued that what Islam gives in terms of equality on the one hand, it withdraws it on the other. However, it should be pointed out that no creed, ideology, or line of thinking, provides for an absolute equality. Any modern democratic system, for instance, requires its citizens to pay allegiance to some set of ideals, norms, values, or symbols, which distinguish that system from others. If an individual chooses to disregard these norms, he/she would be liable to losing citizenship. Yet, we do not call these systems un-democratic because of that. Furthermore, the limitations Islam puts on equality can be removed by a conversion from other religions to Islam. With such a conversion, the person concerned is immediately entitled to the full set of rights which are enjoyed by his/her co-religionists and no discrimination is allowed in this case.⁹¹ It should also be pointed out that there is a growing trend among modern Muslim scholars to accord non-Muslims equal rights in an Islamic state.⁹²

B. The Majority Principle and Its Place in *Shura*

I have discussed two important issues with regard to the majority principle, namely sovereignty and equality. The other two issues, the need for popular consultation and the reception of majority decision by all participants in the democratic process, are briefly reviewed in this section. In short, I deal with the majority principle and its possible place in *shura*.

Shura is, in fact, the only strictly political concept that has been mentioned in the Qur'an. While it has not been dealt with in details by the Revelation, Prophetic practice, as well as the practice of the Companions afterwards, have established some guiding principles with regard to this issue, and provided a direction in which this concept could possibly develop.

It is a duty of the entire Muslim community to participate in the affairs that are of common concern to all its members. Fazlur Rahman rightly asserts that the Qur'anic verse '[the believers are] those whose affairs are decided by mutual consultation' (*wa amruhum shura baynahum*)⁹³ "means their affairs – that is, the affair does not belong to an individual, a group or an elite, but it is "*their* common affair" and belongs to the community as a whole."⁹⁴ One can easily point to the way in which the Prophet (SAW) consulted his Companions in all issues of common concern, except in those that were settled by Revelation, and to the examples that are abound in the books of history: he consulted his Companions prior to the battles of *Badr*, *Uhud* and *Khandaq*. After the Treaty of *Hudaybiyah* had been concluded he consulted his wife Umm Salamah (RA) concerning sacrificial animals etc. His Companions, following his example and the precepts

of the Qur'an, deliberated with each other on a number of issues of public import, including the appointment of a successor to the Prophet (SAW), the legitimacy of fighting against rebellious Arabian tribes during the *Khilafah* of Abu Bakr (RA), the appointment of a successor to 'Umar ibn al-Khattab (RA) and so on. Therefore, it can be clearly seen, Islam, in its pristine form, not only enjoined deliberation, consultation and free discussion of pertinent issues, but related them to belief (*iman*) and put them second in importance to the prescribed prayers (*salaṭ*). In other words, one's belief cannot be complete without observing this particular principle of *shura*. This opinion is also supported by Fathi Osman who stated that "*shura*, or the participation in decision making by all parties concerned, [was] a consequence of faith in God and an obligation second in importance only to performing prayers to Him . . ." ⁹⁵

After dealing with the importance and nature of *shura* in Islam, we should ask: is there a place for majority decision-making in *shura*? The answer is definitely positive - for many reasons. Firstly, there are many directives and indications in Islamic legal and political thought that lend legitimacy to the use of the majority principle. Those that have been mentioned in this paper, *ijma'*, *al-tarjih bi al-kathrah*, *al-sawad al-a'zam* and others, clearly show that it is basically acceptable to employ this principle. It should also be mentioned that *shura* is, in fact, a method of collective decision-making. It allows all the participants in that process to express their opinions and state the supportive evidence for those opinions. One can make a comparison here with the concepts of deliberative⁹⁶ and epistemic⁹⁷ democracy. The objective of *shura* - and here lies its similarity to the epistemic democracy model - is to try to find an objectively correct opinion on a given issue, guided by Islamic principles. The similarity between *shura* and deliberative democracy is insofar as the participants in both of these processes have to state their opinion on a given issue, not on the basis of their preference however, but on the basis of supporting evidence. In Islamic terms, this means that the opinion in question has to be supported by evidence from the Qur'an, Sunnah or other valid sources. In fact, the process of collective *ijtihad* can only benefit from having diverse opinions and their supporting evidence and arguments involved in the *shura* process.

Drawing an analogy with the epistemic concept of democracy, one can further say that *shura* is a process of trying to arrive at a correct answer in connection with the issue that is being deliberated upon by those who are qualified to participate in *shura*. There are several ways which facilitate this process and increase the probability of drawing a correct answer from the pool of available opinions or possibilities. In order to achieve this, one has to apply and use tools of *ijtihad*, both those that were accepted by our predecessors as well as those that are deemed appropriate by the contemporary generation of scholars. And one of these tools, as we have been trying to show in this article, is the majority principle. It can be used independently of the other tools of *ijtihad* or in corroboration with them, as long as a proper code of conduct is observed by the participants in this process and as long as the outcome reflects belief that the correct opinion is being attained and the majority decision is accepted by all those participants.⁹⁸ The accepted opinion then amounts to *ijma'*, another concept that has been dealt with in this paper. Participants in this process should also be open to adopt new evidence and alter their initial stance in accordance with these newly obtained facts. As an outcome of this *shuratic* process, *shura* can achieve "the wide agreement in the *Ummah* so that it becomes the opinion of the majority of [Muslim] people."⁹⁹ Therefore, *shura*, as we have tried to demonstrate in the preceding pages, can be said to have been fully observed only if there is participation by all *mukallafun* in

society and if all abide by the outcome of their joint consultation.

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- ³ Al-Ghazzali, *al-Mustasfa*, part I, 179.
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- ⁵ Al-Razi, *al-Mahsul*, 4: 181-85; al-Ghazzali, *al-Mustasfa*, part I, 182-84; al-Baji, *Ihkam*, 393.
- ⁶ Al-Baji, *Ihkam*, 393, n.2; al-Razi, *al-Mahsul*, 4: 181-82; al-Zuhayli, *Usul al-Fiqh*, 1: 518.
- ⁷ Al-Zuhayli, *Usul al-Fiqh*, 1: 521.
- ⁸ The limit of *tawatur* has not been specifically defined. There exists a wide disagreement regarding the number constituting *tawatur*. Some scholars accepted four as a sufficient number for its occurrence, others proposed different solutions, ranging from ten to seventy, yet some others did not specify it at all. Of course, such an ambiguity poses more questions than it actually solves. See relevant discussions in Nur al-Din al-'Atr, *Manhaj al-Naqd fi 'Ulum al-Hadith*, 3rd ed. (Beirut: Dar al-Fikr al-Mu'asir, 1418/1997), 404-05; al-Ghazzali, *al-Mustasfa*, part I, 132-38.
- ⁹ Al-Ghazzali, *al-Mustasfa*, part I, 182-83; al-Zuhayli, *Usul al-Fiqh*, 1: 518.
- ¹⁰ Al-Zuhayli, *Usul al-Fiqh*, 1: 518; *Mawsu'ah*, 3: 97.
- ¹¹ For a detailed discussion on various definition of *ijma'* see Ahmad Hasan, *The Doctrine of Ijma' in Islam: A Study of the Juridical Principle of Consensus*, reprint (Islamabad: The Islamic Research Institute, 1984), 72-82.
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- ¹⁵ *Ibid.*, 228, 231. Also see Kamali, *Principles of Islamic Jurisprudence*, 190.

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- ¹⁹ *Ibid.*, 138.
- ²⁰ *Ibid.*, 140.
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- ²⁶ Al-Shawi, after quoting the *hadith* on *al-sawad al-a'zam*, says that "it is possible to use [this *hadith*] as the evidence ... that the intended meaning (*al-maqsud*) by *ijma'* is the agreement of the majority or *al-sawad al-a'zam* ... i.e. the majority." Tawfiq al-Shawi, *Fiqh al-Shura wa al-Istisharah* (Al-Mansurah: Dar al-Wafa', 1412/1992), 76, n.3.
- ²⁷ Fathi Osman, "Political Participation and the Institution of *Shura*," in *Political Development*, ed. Zeenath Kausar, 94.
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- ³⁰ Nonstructural opposition is the one that agrees with the government with regard to the nature of the political system and socio-economic structures, while aiming at changing the government's personnel and/or specific policies. This type of opposition existed throughout Islamic history, to a greater or lesser extent. For an excellent study on the opposition see Ahmet Alibai, "The Right of Political Opposition in Islamic History and Legal Theory: An Exploration of an Ambivalent Heritage," *Al-Shajarah* 4, no.2 (1999): 231-95.
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- ⁷⁹ Khir, "Concept of Sovereignty," 34.
- ⁸⁰ Ibid.
- ⁸¹ Taha J. al-'Alwani, "Authority: Divine or Qur'anic?" *The American Journal of Islamic Social Sciences* 13, no.4 (1996): 536-50.
- ⁸² Ibid., 541.
- ⁸³ Ibid.
- ⁸⁴ Ibid., 549.
- ⁸⁵ M. Fathi Osman, "'Sovereignty of God' or 'Sovereignty of the People'?" *Muslim Democrat* [A Newsletter published by the Center for the Study of Islam & Democracy (CSID), Washington, DC] vol.2, no.1 (February 2000): 4-5, quote is from 5.
- ⁸⁶ See, among other verses, al-Rum (30): 20-27; al-Hujurat (49): 13.
- ⁸⁷ Kurdi, *The Islamic State*, 44-46.
- ⁸⁸ Enayat, *Modern Islamic Political Thought*, 127.
- ⁸⁹ See Syed Muhammad Naquib al-Attas, *Prolegomena to the Metaphysics of Islam: An Exposition of the Fundamental Elements of the Worldview of Islam* (Kuala Lumpur: The International Institute of Islamic Thought and Civilization (ISTAC), 1995), 73-74. Also idem, *Islam and Secularism* (Kuala Lumpur: ABIM, 1978; repr. Kuala Lumpur: ISTAC, 1993), 84-5 (page reference is to the reprint edition).
- ⁹⁰ Al-Hujurat (49): 13.
- ⁹¹ Enayat, *Modern Islamic Political Thought*, 128.
- ⁹² Mohammad Hashim Kamali, *Freedom, Equality, and Justice in Islam* (Petaling Jaya: Ilmiah Publishers, 1999), 111-39. For a concise study on the position of non-Muslims in traditional and contemporary Muslim societies see Muddathir 'Abd al-Rahim, *Islam and Non-Muslim Minorities* (Penang: Just World Trust (JUST), 1997).
- ⁹³ Al-Shura (42): 38.
- ⁹⁴ Fazlur Rahman, "The Principle of Shura and the Role of the Ummah in Islam," in *State Politics and Islam*, 95.
- ⁹⁵ Mohamed Fathi Osman, "Shura in Islamic Life," *Muslim Democrat* vol.1, no.2 (September 1999): 6.
- ⁹⁶ The crux of deliberative democracy is that the participants in decision-making should explain the reasons for their own particular choices, thus providing others with arguments that could cause them to re-evaluate and possibly change their initial stance. The justification of one's own view presents a possibility of being confronted with a

stronger argument. For more on this concept see Amy Gutmann and Dennis Thompson, "Why Deliberative Democracy is Different," *Social Philosophy & Policy* 17, no.1 (Winter 2000): 161-80; also *Democracy and Difference: Contesting the Boundaries of the Political*, ed. Seyla Benhabib (Princeton: Princeton University Press, 1996).

⁹⁷ Epistemic democracy assumes that "[t]here is a correct answer in regard to the issue at stake whether or not a vote is taken. The voting procedure is a device to help citizens discover what the correct thing to do is. However, if there exists an independently specifiable general will, ... we can discover the general will, ... by voting only, in some other way, or both by voting and in some other way as well." Jules Coleman and John Ferejohn, "Democracy and Social Choice," *Ethics* 97 (October 1986): 17. See also Joshua Cohen, "An Epistemic Conception of Democracy," *Ethics* 97 (October 1986): 26-38.

⁹⁸ Fathi Osman, "Shura in Islamic Life," 6-7.

⁹⁹ Al-Tayyib Zayn al-'Abidin, "Nahw al-Shura Fa'ilah," *Al-Insan* 2, no.10 (1993): 74.

Islam and Democracy: The Underlying Philosophy

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Philosophy of Democracy

Political philosophy revolves around “power and authority” claiming legitimate right to rule, manage and oversee peoples’ affairs. However, political philosophy remained deeply imbedded with the questions of the origin of political legitimacy, of the agent who claims such legitimate right and the extent to which this right can be exercised. Different societies and traditions have addressed these questions remaining within the paradigmatic boundary of their philosophical worldviews, which are mostly formulated either by religious metaphysics or imaginative metaphysics. Political regimes of ancient times had claimed political legitimacy associating its origin in divinity whatever its form might have been. Beside religious traditions even secular knowledge would confirm today that the ancient regimes used to derive their legitimacy from divine sources and exercised their right to rule in the name of the divinity.

Taking the world history into consideration, however, one can observe that the philosophical understandings of political legitimacy had been developing towards a more logical and rational paradigm eventually separating divine and secular. This resulted not necessarily from the obsolescence of religious authority but with the development of human rationality as well. The ultimate consequence has been the drastic transformation of the philosophy and concept of right.

Modern state system originates from this philosophy of right and thus leads to conceptualize an immensely complex governing system. Ever since this state system has assumed the role of representing its populace, overseeing their individual, sociopolitical and economic well being the entire philosophy of governance has changed. Legitimacy of political authority here is endorsed by the rights of individuals who are governed. Delegation of authority is bottom-up and not top-down. Citizens are the owners of their state and the collective body, which is called the government, is merely custodian of the citizens’ power. This is the philosophy of modern political theory of constitutionalism, and liberal democracy. By the end of twentieth century the subjective definition of democracy by ancient philosophy, earlier regimes and statesmen has

evolved to almost an objective and universal standard. The philosophy of right has thus undergone tremendous transformation. Democracy now is thought of citizens' inherent political right to participate in the governing system irrespective of their ethno-social status. Liberal democracy is now accepted as the most popular and universal system of government.

The idea of democracy evolved to date conveys philosophical understanding of rights and obligations that are perceived to have originated from the existence of the *self*, dissociating it from divinity. In this sense democracy means self-governance without divine intervention and as such monarchies claiming divine origin and legitimacy in many countries around the world today have been peripheralized from actual political boundary. Legislation in this democracy originates from people and no longer needs divine authenticity though religion and state did not cease to coexist. Delegated authority is, under moral and legal obligation, to remain answerable to the commoners and the change of authority remains in the hands of them.

What we understand by democracy

Democracy as a form of governing system has generated intellectual debates dating back to ancient Greek but became a theme of “political discourse” in the Western intellectual horizon over the last half a century. It is a discourse belonging to most advanced industrialized countries that have been successful in evolving a government system with a healthy political culture where power is supposed to be originated from the ordinary citizens to whom the governing agencies are responsible. Due to the interdependence nature of the world today the less developed or underdeveloped countries have become not only a fertile test-ground of such discourse, but also made obliged to conform to the western political system in order to be recognized as legitimate in international society. Democracy, liberal democracy to be more particular, with whatever multidimensional characteristics it possesses has appeared to be the most acceptable form of government. With the demise of the socialist alternative liberal democracy is thought to have championed and prevailed in the history of ideas bringing an end to itself. (Fukuyama: 1992)

The theory of democracy and democratization has become something of a growth industry and its contemporary significance has elevated it still further in importance and popularity. However, as popular and important as it is, the scholars and experts differ on defining the concept. Furthermore, definitions are again associated with varieties of its forms, which make the very concept extremely deceptive. This leads one to believe that democracy is rather easy to perceive and comprehend but difficult to make other do so. Yet without embarking into deep theoretical debate a moderate attempt to define the concept cannot be out of importance. The traditional and simplest expression of democracy as a system of ‘government by the people, of the people, for the people’ might satisfy a statesman like Abraham Lincoln but not the sophisticated theoretician. Therefore, political scientists have put forward more complicated and sophisticated theories. Lipset (1981) defines democracy in the following term:

“a political system which supplies regular constitutional opportunities for changing the governing officials, and a social mechanism which permits the largest possible part of the population

to influence major decisions by choosing among contenders for political office.”

Diamond, Linz and Lipset (1988) again say “Democracy . . . denotes a system of government that meets three essential conditions: meaningful and extensive competition among individuals and organized groups (especially political parties) for all effective positions of government power . . . a highly inclusive level of *political participation* in the selection of leaders and policies . . . and a level of *civil and political liberties* . . . sufficient to ensure the integrity of political competition and participation.”

Robert Dahl (1991) defines it as “a political system in which the opportunity to participate in decisions is widely shared among all citizens.”

While there are many different varieties of democratic theory¹, political as well as economic, it is commonly held that this variety can be divided into two broad groups. Mark Warren (1992) puts the two as follows: ‘one group seeks to balance democratic participation against other desirable rights of political order . . . by limiting the sphere of society that are organized democratically. The other group . . . sees such limits to democracy as an important cause for many of the ills of contemporary liberal democracies.’ The core of this difference lies in the respective understanding of the *self* and its relation to politics, which generates as Warren calls it ‘standard liberal democracy’ (SLD) and ‘expensive democracy’ (ED). The SLD regards the self as being in fundamental ways pre-political and emphasizes that democracy as a procedure to cope with the inevitable clashing of such pre-political interests. Whereas ED contends that ‘increased democracy transforms individualistic and conflicting interests into common and non-conflicting ones . . . transformations reduce conflict, allow reduced use of power as a medium of political interaction . . . [and therefore] democracy is necessary to the values of self-development, autonomy and self-governance.’

Again this dichotomy resembles to those proposed by many other theorists such as Plamenatz (1973), Weale (1989), Held (1992) and Habermas (1993). However, despite this difference all theoreticians would recognize the great variety that exists within groups as well as between them. Therefore, some would distinguish between *direct* and *representative* democracy, yet divide them further into *authoritative*, *juridical* and *pluralist* (representative) and *unitary* and *strong* modes (direct). Qualifiers such as those and others like *liberal*, *authoritarian*, *people’s*, or *polyarchy*, are in order to distinguish specific types and structural particularities of governments. Yet some would distinguish between full democracy and semi-democracy. “A semi-democracy blends democratic and authoritarian elements” and it includes a range of terms that political scientists refer. Those are *authoritarian democracy*, *contested democracy*, *delegated democracy*, * *democradura*, ** *electoral democracy*, *façade democracy*, *guided democracy*, *illiberal democracy*, *limited democracy*, *low-intensity democracy*, *partial democracy*, *plebiscitary democracy*, *presidential democracy*, * *restricted democracy*, *supervised democracy*, *tutelar democracy*. *

* meaning a strong national leader (usually a president) is delegated through election to act as guardian for the nation.

** a Spanish blend of *democracia* (democracy) and *dictadura* (dictatorship).

Departing from the philosophical and theoretical dimension Huntington (1991) indicates as well as defines the problem as basically procedural. He contends that ‘serious problems of ambiguity and imprecision arise when democracy is defined in terms of either source of authority or purposes . . . the central procedure of democracy is the selection of leaders through competitive elections by the people they govern.’ He further defines the twentieth century political system as ‘democratic to the extent that its most powerful collective decision-makers are selected through fair, honest and periodic elections in which candidates freely compete for votes and in which virtually all the adult population is eligible to vote.’ This definition concerns more of procedural aspects than philosophical one and it resembles with pluralist and representative models of democracy based on liberal political philosophy of John Rawls (1971), Bruce Ackerman (1980) and Ronald Dworkin (1986). Furthermore, it can be generalized that liberal democracies are largely happy compromises between all forms of representative democracy. This also resonates Sartori (1987) and Schumpeter’s (1943) definition of democracy, which says that democracy is merely a method, a particular institutional arrangement for arriving at political decisions ‘in which individuals acquire power to decide by means of competitive struggle for the people’s vote.’ Consequently, it can be observed that the seemingly differences over the concept of democracy has been due to its definition and interpretation from various perspectives- philosophical, theoretical, procedural, scope, and sometimes nature of political authority.

Nevertheless, it can be argued that it is the Liberal Democracy in various guises and to varying degrees that dominates discussions of democracy today. Partly this is because it is this form that has taken root in those countries which are the main advocates and inheritors of the liberal tradition, that is to say, Western Europe, the United States and countries such as Australia, Canada, New Zealand and Japan (as a nonwestern nation). And therefore it is this form of democracy that they preach for non-democratic countries around the world. Having its root in Western civilization such liberal democracy however could not avoid severe criticism and resistance from some other civilizations especially Islam. Hundreds of years after the original development and consolidation of democracy around the world we are, therefore, still examining the compatibility and incompatibility between Islam and democracy, and it suggests the degree of resistance Islamic societies erected.

The above discussion makes it clear that the very conception of democracy has undergone radical changes. Democracy during eighteen and nineteen centuries was extremely limited in sense. Democracy in Abraham Lincoln’s definition included only Anglo-American White Male, not even female of the same race. His “people” in his definition “of the people, for the people, by the people” never included Indians and Africans or others. Similarly, the birthplace of parliamentary system, Britain never recognized the need of “democracy” in its colonies in Asia and Africa for obvious reasons. However, that notion of exclusive democracy has evolved into a universal democracy and the definition of “people” has changed with the changing philosophy of rights. All citizens, male female, of certain age are now commonly considered “people” everywhere with certain variation such as in Japan where some Koreans and Taiwanese are permanent residents but not citizens or “people”. Yet with this variation, though highly inconsistent with the status of liberal democracy, adult populations of respective countries are their “people” and their voting right and its

exercise in free and fair election constitute today's democracy. Robert Dahl (1991) prefers to term it as *polyarchy*, which has the following characteristics.

1. Control over government decisions about policy is constitutionally vested in elected officials.
2. Elected officials are chosen and peacefully removed in frequent, fair, and free elections in which coercion is absent or quite limited.
3. Virtually all adults have the right to vote.
4. Most adults also have the right to run for public offices and these elections.
5. Citizens possess a right, effectively enforced by judicial and administrative officials, to freedom of expression, including criticism of and opposition to the leaders or party in office.
6. They have access, and an effectively enforced right to gain access, to sources of information that are not monopolized by the government of the state, or by any other single group.
7. They possess an effectively enforced right to form and join political organizations, including political parties and interest groups.

Thus he says, "when we speak today of "democracy" or "a democratic country" we generally mean a country in which these seven institutions exist." In this article our concern is this latest form of democracy in its universal definition and not the former exclusive one.

Islamic Philosophy of Governance

While other religions maintain highly passive stand in the sphere of political domain and rarely cross the boundary of individual moral perimeter, Islam presents itself with extensive involvement in political, economic, social and personal domains. Here lies the essential difference between Islam and other religions.

Islam claims it transcends the narrow meaning of religion and encompasses every aspect of human life making it a complete guiding system for human society. Furthermore, it also claims to be the final version of the monotheistic tradition of religions, and as such with Islam the divine intervention comes to an end forever.

Claiming to be the true and final monotheistic religion Islamic philosophy of governance emanates from the philosophy of its worldview. The essence of Islamic worldview is embodied into three fundamental concepts- *Tawhid*, *Risalah* and *Akhirah*. These concepts identify the ontological origin of self-existence, missionary and purposive realization of "life politics" and consequential certainty. (Moniruzzaman: 1999). Furthermore, they implicate the divine relationship between the Transcendental Being and human being. These three concepts provide alternative answers to modern or postmodern quest of *self-identity* involving issues such as *existence*, *finitude*, *individual and communal life*, and *self-identity*. (Giddens: 1985)

It is in line with these three phases of human existence that the Qur'an defines its philosophy of governance with the concept of *Khilafah*.² It signifies the status of human being as well as his responsibilities

during his existence in this transitory life. In a plain term *khilafah* implies “man as the vicegerent and custodian (*khilifah*) of Allah on earth, who should rule in conformity with Allah’s will” (Abu Sulayman: 1987). To facilitate the actualization of *khilafah* direct divine guidance had been transmitted through the institution of *Risalah*, which ended with the prophet Muhammad. Analysis of the institution of *risalah* would reveal how interested and active Allah had been with the practical “life politics” of human being. In order to provide direct guidance the Supreme Being had presented Himself as an actor inseparable from human society. The Qur’an incorporates instances of frequent direct interactions of Allah with human being over a long period of time providing guidance on issues mostly political in nature.

“Representation” and “vicegerency” (*khalifah*) themselves implies meaning relating to power and authority. And this supports the Aristotelian concept of human being as “political animal.” However, there are essential differences between Islamic and Aristotelian epistemology. The extensive dealing of the Qur’an with the contemporary game of power politics suggests Islam as sheer realism. Probably this has to be comprehended as a means to establish the supremacy of the law of Allah through the agency of human being (*khalifah*). Therefore the whole concept of governance appears in the scenario of the activities of *agents*. It is this task of self-rule and self-governance in accordance with the divine principles that the agents are entrusted with during this transitory existence, and for which they have to be accountable in the consequential phase. The ultimate objective is to obey the divine guidance in maintaining peace and harmony in society and salvation in the hereafter.

The end of revelation and the beginning of rationality

The Qur’an holds that it is the final revelation of Allah. This claim leads to three other conclusions. One, that it means the end of revelation and two, that it terminates the institution of *risalah*. While the first conclusion is obvious the second one, termination of the institution of *risalah*, does not necessarily mean negation of it, for that would constitute defectiveness in essential belief system of *Tawhid*. The Qur’an clearly says that there would be no more messenger sent to human society. In this sense the institution is terminated. The third conclusion is that this institution is turned to be historic. The essential difference between the institution during any revelation period and now lies in its having *realistic existence* and *historic existence*. The institution of *risalah* during the time of prophets used to embody realistic existence, while in our time, or to say more accurately from the day the Qur’an stopped transmitting and the demise of the Prophet, it has transformed into an *historic existence*. Now we are to believe in *risalah* as an historic existence and not realistic existence. We are now to believe in the Qur’an as a complete written book and not as a live transmission. Therefore, to us the institution of *risalah* is no more significant than an essential part of beliefs, while the Qur’an bears a perpetual meaning of realistic existence.

If the creation of human being by Allah is a significant chapter in the entire creation of the universe, then the end of revelation bears an equivalent significance and may be more. This is because until the *khalifah* (man) used to receive direct divine guidance the involvement of God in daily affairs of human being was ascertained and proper guidance was assured. But with the end of revelation God has ceased to

intervene in human affairs as far as guidance is concerned, while human society would continue to exist for unknown time. Here the question emerges how the *khilafah* should be administered? Who to authenticate the fallibility and infallibility of legislation in a more complex society under different circumstances? Here one might comprehend the necessity to look into the matter from a universal perspective rather than subjective interpretation of *khilafah*.

One might argue that the presence of revelation negates the presence of reason and rationality. This not in the sense that reason and rationality is invalid even in contemplating the existence of transcendental Being, but rather in the sense of sociopolitical legislation. This is so because at the presence of revelation the need of human reason and rationality is rather not only unnecessary but also irrational. The reason is that human rationality is incomparable to the intention of the Supreme Being particularly when the possibility of direct divine intervention exists. Therefore, one may logically conclude that during the era of *risalah* human rationality in terms of legislation did not exist or if it did remained invalid.

Though the Qur'an and the religion of Islam are identified with a particular Ummah we cannot but think about the mankind as a whole. According to the Qur'an the "creation of *khalifah* on the earth" did not categorize him into different sects or religious groups. Furthermore, God as a creator cannot but take care of entire humanity as a whole. Therefore, from this perspective we are to take the entire humanity as a whole into consideration at the time when the revelation has ended forever and the institution of *risalah* is terminated. At the end of revelation the *khalifah* is left on himself with nothing but *rationality and reason*. Divine guidance in this context is a mere reference, for justification of action and legislation is to be done, albeit according to the guidance, applying rationality more than following the guide literally. If that is so then it might be said that rationality and reason are the most important tools for the *khalifah* in the absence of the continuation of direct revelation to realize *Tawhid*, actualize *Khilafah* and ensure salvation in the *Akhirah*. The Qur'anic instances in this regard putting enormous emphasis on contemplation using rationality and reason are in abundance. Therefore, the end of revelation meant the beginning of rationality, the second most important event after the creation of *khalifah* initially. In other word it is a rebirth of *khalifah* or at least putting it metaphorically the *khalifah* entered the stage of adulthood. This is for the first time and forever that God has withdrawn Himself from human affairs thereby creating a new dawn for humanity.

The fact that the revelation has ceased to come forever, while the Qur'an declares Islam as the final religion, is an implication of the start of the application of human rationality. Otherwise, it would mean an imperfectness of the Divine Being to stop His direct guidance while letting human society proceed through unprecedented transformation and changes for unknown time.

One might argue in line of the foregoing conclusion that divinity and rationality are contradictory. Apparently it is so because during prophetic eras divine commands were to be accepted and followed without reservation even if they seemed irrational. A particular example could be the Treaty of Hudaibiah to which Omar opposed vehemently driven by his rationality, but ultimately divinity superseded rationality. This example also suggests, as stated earlier, that in the presence of divinity rationality remained invalid as far as legislation is concerned. This means rationality is better considered in the absence of revelation.

Agent, rationale and *khilafa*

By *khilafah* we understand a political community with political authority interacting under a prescribed system of laws and regulations which have purposive end. Now this is so when we look at the matter from collective point of view. But what about if we are to consider individuals of the community? Who is *khalifah*? The community as a whole or the individual agent? I think this question is very important when we are to discuss Islam and democracy.

In modern political discourse individual occupies the central position, the most powerful agent of change and transformation. The central theme of democracy is the consideration of individual opinion in legislation. Individualism is the core of modernity making it the most powerful entity in human society. What Islam says about the status of individual in this context?

With the end of revelation and the rebirth or the attainment of adulthood of *khalifah* one may arguably contend that individual agent has occupied the central position of *khilafah*. Every individual is first a *khalifah* and then a component part of the whole. Even in the absence of *khilafah* (in the sense of Islamic political rule) the existence and role of *khalifah* as an individual agent of God do not disappear. This is so because during the time of *risalah* designated agents (prophets) used to convey the message of God thereby assuming the central role of *khalifah*. This centrality of *khalifah* in designated agents has been decentralized into every single agent with the end of *risalah*. That means the initial implication of the creation of man as *khalifah* reemerged. If that is so then individual's existence, actions, views, opinions, preferences etc. are inalienable from the *khilafah* system; because *khilafah* after *risalah* depends on the aggregate consensus of the individual agents. In such a system individuals depend primarily on rationality in interpreting revelation.

The idea that individualism counts first in the Qur'anic system of governance is supported by the Qur'an itself. It is repeatedly mentioned that the ultimate responsibility rests on the individual agents, as they individually will be accountable for their discharge of individual responsibility as *Khalifah*. If that is so, then individuals must possess the rights to control of political legitimacy, decision making, political equality, right to criticism and expression of free opinion.

Political authority and political legitimacy

We find immediate example of how individuals occupy the central position in the absence of revelation and depend primarily on rationality in interpreting revelation right after the demise of Prophet Muhammad. It is beyond doubt that neither of the two fundamental sources of Islamic shari'ah defines clear-cut or even suggestive ways of how to install political authority. In this regards it is rather surprising to see that the Qur'an being the final revelation, which dealt extensively with political matters, refrained from suggesting ways how to install *Ul al-amr* while it commands the people to obey such authority. Neither the Prophet as

the last divine agent left any clear suggestion in this regard. How that could be possible both for God and His Last Prophet to leave their dear Ummah in such darkness for a matter through which supremacy of Islam could be proved and maintained? Does this divine silence spell out another possibility? If it does then what that could be?

Taking this aspect into consideration one may argue that the intention behind this divine silence could be the recognition of the maturity of human consciousness and rationality. Otherwise, it would mean an imperfectness of the divine being to stop His direct guidance and abandon His *khalfah* on his own for time unknown.

We come to witness in early Islamic history the application of human rationality in matters of political authority and legitimacy. The question of institutionalization of legitimate political authority gave rise to political pluralism never appeared before. This political pluralism was certainly unique in human history until that point as political authority used to be understood as confined within tribal boundary and a political community transcending this boundary never existed before. By contrast the question of political authority after the demise of the Prophet involved commoners' opinion and decision. In fact the subsequent installation of political authority was done from among the commoners, probably the first such instance in human history. Here we come to know about a few methods of installing political authority, all of which underwent extensive involvement of individual agents. Abu Bakr became head of state in rather *acclamation style* in an acute urgency and volatile political instability. Umar's becoming head of state was through *nomination* by the outgoing head- a consequence of bitter experience underwent earlier. Here we find one particular *form and method* of erecting political authority. However, neither of the two could avoid and overrun legitimate concerns and opinions of the commoners. Umar in his turn established an *institutional form* of electing the subsequent legitimate political regime through *elitist* way but with the endorsement or referendum of the commoners. Here we find more systematic and procedural process in dealing with such matter. Probably we should mention here that a concept like *joint presidency* was also surfaced during the selection of Abu Bakr which and such other concepts as premiership or presidency in turn are only recent innovation in our time.

By this time we come across political concepts such as *ruasa* and *qadat, ikhtilaf* (disagreement) and *istisharah* (opinion poll), interest and pressure groups such as *ahl alShura* and *ahl alBadr*. Individuals' involvement in political activities is quite observable at this time and peoples' and majority opinion were highly recognized in decision making process. (Moniruzzaman: 1987)

As mentioned earlier that neither the Qur'an nor the Prophet outlined any method of establishing political authority. Therefore, those methods devised by the earlier *khulafa* had primarily originated from their human rationality rather than revelation. Only factors that might have guided them morally were the fear of God and their understanding of *ahl al'Ilm*. But again at the end their nominations or suggestions were to be ratified by the common people by their standard in return for which the political authority remained answerable. So we understand from here that immediately after the end of revelation human rationality assumed central position in sociopolitical matters where individual agent's opinion and rationality counted significantly. We might excuse them for not developing more sophisticated political system for electing public officials on the ground that the just liberated human rationality could perform no better at that particular time

of the development of the human history. However, unfortunately the subsequent political system developed in the Muslim world prevented any further development of that rationality for many centuries to come.

It is very difficult to state with certainty that political legitimacy and individuals' role at this time were not intermingled with the dominance of pre-Islamic tribal feeling of superiority-inferiority complex (Dabashi: 1993). Many would doubt that the *khilafah* of Uthman, despite being him a *Muhajir*, was not viewed by his tribesmen from tribal point of view, and therefore the subsequent political crises turned more towards tribal party line than the rightly guided rationality of individual as *khalifah*. Though the civil rise against Uthman can be largely interpreted as parochially driven political interest, the fact that civilians can stand up against legitimate authority questioning the legitimacy itself proves that the rights of individuals in political system mattered enormously. In fact their concept of political legitimacy depending upon free opinions of ordinary citizens exemplified true spirit of democracy. The Kharijites view in this regard sounds absolutely democratic that the Khalifah (political leadership) was to be elected by the whole Muslim community from among ordinary but qualified people and could be deposed again in need. They went even further in suggesting the possibility of female leadership articulating equal rights. (Macdonald: 1965). At this stage however, the question of legitimacy became more partisan issue such as the Shi'a conception of *Imamah*. Irrespective of the origin their view of egalitarian right was more in line with the Qur'anic spirit.

However, we find certain *Ahadith* regarding political authority and legitimacy. They refer political leadership is to be from the Quraish, and citizens are to obey their rulers unconditionally believing that God will punish them in case of wrong doing. Not only that the authenticity of these *Ahadith* is disputed, but also that the concepts run counter to the Qur'anic teaching of *amr bi al-ma'ruf wa nahi 'an al-munkar*. Therefore, they were rather pro-establishment fabrication invented in support of the Abbasid rule. Furthermore, the principle that the leadership should be from the Quraish cannot be realized in most of the Muslim societies. And the concepts of administrative accountability and transparency developed and practiced over time cannot tolerate ideas of unconditional and uncritical obedience today. Regimes of such nature are rather autocratic and totalitarian.

Intellectual pluralism and its boundary

The proposition that the end of revelation was the start of rationalism is substantiated by the plethora of intellectual movements, initially political but later turned to be scholastic theology sprung during the subsequent centuries. Ironically the initiation and establishment of hereditary system of political legitimacy overpowered political pluralism with individual consciousness. The growth of individuals' political rationality in relation to political power, authority and legitimacy, and governance was completely muted. Individual agents lost their political right and consciousness.

However, at the same time we see the dominance of rationality over revelation. Interpretation of revelation depended much on rational reasoning with the increasing confrontation with new situation. There appeared the literature of *fiqh*, in legislative process, fundamentally a domain of rational-intellectual exercise. And gradually the legislative process incorporated rationally devised methods such as *Ijma*, *qiyas*, *Istihsan*,

Istislah as valid means to interpret the revelation. Furthermore, the renowned Hanafi School had its philosophical basis on positive rationalism to be applied after revelation.

The further development is even more evident of pervasive use of rationality as partisan political philosophy progressively turned into scholastic theology centered around metaphysics such as the existence of God and His qualities, existence of Heaven and Hell, Fate and Free Will, the Qur'an being created or not. It ran to such an extent that the issues dealt with employing rationality produced any concrete conclusion but political and intellectual mess so as to plunge into madness of rationality.

Though political matters such as *Imamah* and *Khilafah* never remained completely detached from the scholastic theology these remained confined to intellectual surroundings and did not affect the political establishment. Commoners and individuals were progressively isolated from political power and its transformation. Political philosophers and theorists such as al-Farabi or Mawardi dealt with political power, authority and legitimacy, but their views favored more of political stability of the existing regimes than people's right in political process. It is from their writings as well that the people's right to political uprising against the rulers is to be found illegal in terms of *bughat* (treason, insurgency). These theories were rather against the spirit of the Qur'an.

Nevertheless, two points appear clear from the development of Muslim intellectualism and scholasticism. One is the use of rationality and reasons as a means to interpret revelation, and the other is the growth of politico-intellectual pluralism. Both the two points depended heavily on individual freedom of opinion, political affiliation, and right to criticize and disagree. It was the individual's *self* and his *rational reasoning* that played the fundamental role in political pluralism. But ironically the individual's political rights were denied and his consciousness of political role was never allowed to grow in public. This alienation of individual's political rights from political process prevented the growth and realization of individual's role as a divine agent (khalifah) and assume his share in public political life. Ostensibly, therefore, no conception of party politics as we understand today could develop. Interestingly enough, many of those experts have based their philosophical and legal discourse on the famous Prophetic saying "The disagreement of my people is a Mercy from God," and "My people will never agree upon an error." Yet, disagreement to political establishment was never tolerated, neither politically nor philosophically. Politically individuals were denied their shares of political rights, legally they were made blind by such theories as *Taqlid* and the *end of Ijtihad*, and philosophically they were made meaningless creatures by negating their right to oppose existing political establishment.

Legislation and its authenticity

Two fundamental points center the entire discourse or dichotomy of Islam and democracy, they are *sovereignty* and *legislation*. Many Islamists today adhere to the Qur'anic verse "*In al-Hukmu illa Lillah*" and stress that in a state where Islamic rule is established no human legislation could be possible. Therefore, *democracy* where *demos* are sovereign and supreme is antithetical and incompatible to Islam. To what extent their argument could be substantiated and sustained?

We may proceed with the proposition that the Qur'an without *demo-rationality* is helpless in its implementation and Islamic state without *demo-legislation* is an absurd useless phenomenon. Otherwise both the Qur'an and its religion Islam would have to be considered static and nonprogressive. But that is also not accepted to them. We may propose a number of arguments in support of our proposition. *First*, taking the Islamic philosophy of governance into consideration it is evident that the fulfillment of the duty of vicegerency of God on the earth is an inescapable responsibility for the Agents. The Agents must obey and implement the final divine guidance in practical life for time unknown. *Second*, the Qur'an is the final revelation and it contains no more than general principles of laws of fundamental issues. *Third*, the institution of *risalah* is terminated forever and there will be no divine agent (prophet) to come to interpret the Qur'anic principles with divine light. *Fourth*, the human society will continue to exist for unknown time and as such gradual changes, transformation and developments will occur in human life and society. *Fifth*, the beloved Agents of God have been left on themselves as responsible individual Agents bestowed with *liberated rationality*. A little explanation of these arguments, (these are not all by any means) would help understand the point further.

The first argument does not run counter to any for explicit reason. From the second reason we find the application of and dependency on liberated rationality. The Qur'an was found helpless in guidance to resolve the most immediate and fundamental question of political leadership and authority after the demise of the Prophet. Eventually the community solved the problem in rather a traditional mode with whatever implicit connotation might have been left over by the prophet. It was not the Qur'an but human rationality that provided solution to such a fundamental political problem of a highly politicized community. This explains the third point as well that the community could neither expect for an explicit guide from the prophet. Furthermore, as time passed the Khulafa (especially the first two) promulgated laws which were not to be found in the primary sources. Such laws are for instance Abu Bakr and Umar's devise of electoral system, Umar's prohibition on Arab soldiers to settle on non-Arab land, various administrative reforms, the said postponement of a certain *hudud* law in an extreme situation. These were public legislation bound for citizens, yet were not to be found in either of the two primary sources. Furthermore, the said postponement of *hudud* law ran explicitly counter to the Qur'anic legislation.

Now the question is, with the end of revelation and in the absence of a direct Agent (Prophet) who would authenticate these legislation as Islamic and in line with the Qur'an? How such laws could be verified by God as right or wrong? Still this was the beginning. The follow up political, legal, philosophical developments occurred generating numerous fundamental legislation, opinions and doctrines not to be found in the Qur'an similarly cannot be justified either right or wrong without direct revelation. Yet these numerous legislation and doctrines, political, social, legal are the product of *demo-rationality* and have formed the Islamic Shari'ah. If, again, the demo-legislation is incompatible to Islamic rule then how this Shari'ah should be justified?

As human society developed further and further the sociopolitical issues grew more complicated. In our time the most complex form of society requires legislation which could have been unthinkable during the time of revelation. The changing pattern of gender relationships, to give a minor example, in the age of pervasive globalism requires Islam to provide new legislation concerning individual's right. Any new legisla-

tion or implied legislation derived from the Qur'an would have to be formulated by applying rationality. Again the question arises how God is going to ratify any such new laws? And how human being can prove that these laws are right? Therefore, the bottom line of the philosophy is that the Qur'an is no more than a mere guide such as the constitution of a country which incorporates guiding principles and those who are subject of it deserve the fullest right to interpret.

Sovereignty of Allah and that of demos in an Islamic state are not contradictory. Rather, the Qur'an suggests that Allah transfers sovereignty to man³ and make him sovereign in administering their affairs, of course remaining within the boundary of God. But so is the case with secular democracy that demos here are also bound by constitutional boundary, though they can remove it.

However, in the case of Islam there is a boundary of interpretation of the principle guide for obvious reason. None of the fundamental laws of the Qur'an can be changed by peoples' opinion nor the prescribed limit of morality could be transgressed. An example could be the one of contemporary human right movements with certain sexual inclination that have altered the definition of family and marriage and consequently brought constitutional changes in their favor in many countries. Islam can never allow such legislation.

Conclusion: Demos and Divine- rational- philosophical

Finally the end of revelation and the termination of risalah make the individual Agents solely responsible to carry out the divine responsibility of the khilafah of God. To fulfil this responsibility the individual agents are endowed with liberated rationality which is to be employed in assistance of the Divine Guide the Qur'an. Here appears the point of individual's political rights, opinion and involvement. This eventually leads to democracy, if those individual Agents could be called Demos at all.

The foregoing discussion tries to shed lights on the issue of democracy and Islam and found that Islam in principle depends much on rational legislation and the people of Islam theoretically can undertake this legislation of course remaining with the boundary of the fundamentals of the Islamic belief system. If that is what democracy is then there is no incompatibility between Islam and democracy. But if one contends reservation to term it democracy as such then there is at least Islamic democracy in Islam, more than Islamic theocracy. When we look at the general philosophy, characteristics, and definitions of modern democracy, a product of human rationality which is also divine, we rather find it strikingly similar to Islamic philosophy of governance and political rights. If Islam recognizes "consultation" and "difference of opinion" as salient political features of the Muslim community, then it should not be surprised to see that these same principles have developed over time through the amelioration of liberated rationality into political philosophy called "democracy." The Qur'anic ideals rather clearly endorse the modern democratic conceptions of control over government decision, election of officials by citizens' right, political equality, freedom, and right to criticize, form and join political organizations. We have to find the philosophy of Islamic political system in the Qur'an and not in the "Muslim history."

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NOTES:

- ¹ For example David Held has identified six different kinds of democracy namely *Classical Democracy* (Athens), *Protective Democracy* (early modern period), *Radical Model of Developmental Democracy* (late modern), *Developmental Democracy*, *Competitive Elitist Democracy*, *Pluralist Democracy*, and *Participatory Democracy*. See David Held, *Models for Democracy*, 2nd ed., Cambridge: Polity Press, 1996; Graham Keith, *The Battles for Democracy*, Harvester, Briton: 1986.
- ² The usage of the term *Khilafah* and *Khalifah* in this article refers to the Qur'anic concept found in surah al Baqarah verse 30, and not the historical khalifah and khilafah, unless otherwise denoted.
- ³ "They are the kind of people if we empower them on earth... (Al- Qur'an: Al-Hajj:41)

Popular Sovereignty in Contemporary Shi'i Political Thought

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The greatest legacy of the Iranian revolution will most likely lie in its introduction of the concept of political Islam into the world arena. Although Islam informed the political doctrine of many social movements in the Muslim world before the outbreak of the Iranian revolution, it was the upheaval in Iran that made the concept of political Islam a more profound reality for Muslims and non-Muslims alike. The revolution has shown Islam to be a revolutionary doctrine separate from liberalism and communism, a doctrine that can stir the masses, topple regimes, and serve as the basis for distinctive political systems. One result of this development has been that Islamists have come to be regarded as more of a threat to the status quo than their revolutionary predecessors, the Jacobins and Marxists - for their political agenda appears to advocate an Islamic political system that is anti-Western in every aspect.

Notwithstanding, Islamists have no unified plan to achieve their goal of an Islamic political system. Their differences range from disagreement on the nature and structure of such a system to division over whether there should be many Islamic nation-states or one international polity. Still, all these models have been influenced, directly or indirectly, by the Iranian experience, if only because it was the first Islamic state to exist in modern history. This holds true even though many Islamists are critical - even severely critical - of the Iranian revolutionary experience and its political results. As for the Shi'is, they are less likely to disregard the revolutionary Iranian regime, with many considering it the ideal model. Some even view it as a kind of proto-messianic fulfillment. This is not, however, to say that all Shi'is approve of the Iranian experiment. Even a significant number of Shi'i jurists advocate quite different types of political systems and socioeconomic relations within an Islamic society, and rejecting even the most basic assumptions relied upon by Ayatollah Khomeini. I shall endeavor in this paper to examine a few such conflicting views. My aim is to introduce to the reader the current range of opinion among Shi'i jurists concerning political matters; it must not be imagined that the views of the present Iranian leadership completely dominate or overwhelm the debate.

This study is in two parts. First I shall present the views and the political doctrine of Ayatollah Khomeini and those who advocate the idea of "*wilayat al-faqih*," (governorship of the jurist),¹ the fundamental dogma of the present Iranian regime. Then I will introduce three prominent contemporary Shi'a jurists who offer alternative political models. I will refer to the proponents of *wilayat al-faqih* as "Statists,"

in that they advocate total control of the affairs of the *ummah*, the Islamic community, by the state. The latter I call “Populists,” in that each of the jurists advocates more popular input into the political system. This taxonomy is useful for discussion of the concept of popular sovereignty in Shi’i Islamic jurisprudence. The development of such a concept is critical for Shi’ism because the essence of the whole Shi’i movement has been the premise of “divine selection” of the ruler. The idea of popular election of political authority (*ikhtiyar*) is quite foreign to Shi’ism; it has rarely been advocated by prominent jurists.

Finally, I would like to emphasize that I do not seek in this paper to favor one ideology over another. My only aim is to present different views on the political spectrum. Consequently, I will not indulge in proving or arguing the textual validity of one assertion or another; this should be reserved for studies in jurisprudence, which the present essay is not.

The Statist Model

Although, the idea of “*wilayat al-faqih*” can be regarded on one level as a realistic attempt by Shi’i jurists to solve the problem of authority in Islamic society, the concept is actually quite utopian. It proceeds, moreover, from the assumptions of classical Shi’i political thought. It is based on the rational premise that civil society needs government to organize its affairs in order to fend off anarchy and destruction² and that there has always been a social system of some kind and a governing elite to administer it. According to this worldview, there is no evidence that man has ever lived in the “state of nature” proposed by European social-contract theorists. From the smallest social unit - the family, the clan, or the tribe - to the most advanced and complex units such as nations and empires there has always been social hierarchy, division of labor, and coercive measures to protect the existing social system.³ Thus political authority is inherently legitimate because it maintains harmony in the social order. As Khomeini remarks:

Government is needed to establish justice, [a system of] education, to secure order, to override injustices, to protect borders, and to safeguard people from foreigners [the enemy]; such needs are obvious to the human rational faculty regardless of time and place.⁴

Jurists in favor of *wilayat al-faqih* have argued that government is so critical to the survival of humankind that God intervenes to ensure a suitable political environment. History has shown that man is incapable of electing the right individuals to leadership and that his ignorance has led him to devise unjust socioeconomic orders that have threatened his happiness or survival. Thus, given that God is Just and consequently bound by this nature of His to do that which is best for His creatures, he must have directed humankind in His revelations to the best government and suitable leaders.

This is the jurists’ first argument for the necessity of divine intervention in political affairs. The second argument has a more jurisprudential flavor. The jurists assert that since Islamic teachings encompass all aspects of human life,⁵ there must also be guidance provided for political issues. Whoever does not believe that Islam is all-encompassing in this manner admits the deficiency of the revelation.⁶ In fact, the heritage and teaching of Islam indicate that political issues are at the center of its message. The Prophet of Islam founded and led a political state; he judged between its citizens and punished aggressors. Moreover, the

nature of Islam itself makes it necessary that believers live only within the framework of an Islamic state. The collection and distribution of religious taxes according to God's will, defending the Muslims and the land of Islam from oppressors and invaders, enforcing Islamic moral and penal codes, and unifying the Muslims in one community are some of the duties that can only be realized through the instrument and power of a political state.⁷ Thus, as a result of both the rational and jurisprudential argument, political legitimacy and leadership are divinely ordained. They are not, according to the Statists, contingent on individual choice and free will. Ayatollah Kazim al-Ha'iri, a well-known contemporary jurist and professor in the academy at Qum, candidly writes:

There is no sense in placing legislative power or determination of the type of political system in the hands of the people. They are ignorant about a great deal concerning even themselves, not to mention their profound ignorance of the world and its mysterious workings. [This is in contrast with] the Wise Creator who has revealed to them laws and commandments that give them happiness and guide them to the right path.... *Therefore it is improper for a Muslim to believe in democracy or to practise it, even to elect the executive branch, except if Islam has ordained such a thing.*⁸

Jurists who argue for a Statist model have also maintained that the most knowledgeable should rule the community, because such persons will act in the best interests of the whole community rather than out of ignorance bound to cause harm to every member. The most knowledgeable would also be sincere and self-denying and would look after the general well-being, not his own.⁹ Thus the philosopher-king of Islam is a god-fearing jurist, well versed in Islamic teaching and laws and pious enough to seek the grace of God rather than his own gain.

Of course, the classical religious argument specified that divinely-guided individuals, that is the prophets and imams, are the natural guardians of the people. However, in the absence of the twelfth imam, the leadership of the Islamic community (so it is asserted by the Statists) shall pass to whomever most closely resembles those divine individuals, that is to the most pious and knowledgeable among people. Jurists are therefore the "natural" inheritors of the authority of the Prophet because of their awareness of the teaching and commands of God. The jurists' role is to safeguard religion, preach the word of God, and guide the people toward their ultimate destiny. Their political role, in other words, is identical with the role of the prophets and imams. Accordingly, the *shari'ah* has instructed people to seek guidance from these learned men in all matters, *including worldly affairs*. Supporters of the Statist theory refer to the *hadiths* of the Prophet and imams advising people to seek guidance from those who know and teach Islam. For instance in a statement narrated from the twelfth imam he advises his Shiah:

*As for events that may occur (al-hawadith al-waqi'ah) refer to the transmitters (ruwat) of our tradition [or teaching] who are my proof (hujjah) to you, and I am the Proof of God [to you].*¹⁰

Such *hadiths* are accepted by the Shiah in general as evidence of the status and authority of learned men. It is the issue of which *umur* one should refer to jurists that divides Shi'i thinkers into proponents and opponents of *wilayat al-faqih*. Ayatollah Khomeini has argued that since the limits of the term *umur* are not specified, the indication is that guidance should include temporal as well as spiritual matters, or worldly

as well as religious affairs. Accordingly, Khomeini concludes that the jurists should inherit the vast - indeed absolute - political authority of the Prophet and imams in its totality.¹¹ The duties of the jurists consequently include command of the armed forces, collection of religious dues and distribution of the funds to the needy; and the obligation of 'enjoining good and forbidding evil' as the Prophet used to do. The jurists, Khomeini declares, "are the Prophet's trustees (*umana*) in all matters associated with his prophethood, the most obvious of which are leadership of the community and dispensing of social justice." ¹²

Wilayat al-Faqih in Perspective

Khomeini's writings on Islamic government focus on the question of legitimate political authority, the very subject which has preoccupied Shi'i jurisprudents and theologians for centuries. The classical argument concerns the divine appointment of the Shi'i imams. Khomeini and the jurists of the Statist school, however, extend the argument to include the divine right of the jurists to rule the Islamic community. This follows from Khomeini's assertion that the texts indicate beyond reasonable doubt that the Prophet and imams chose the jurists as their heirs or deputies.¹³ Hence it is they who are the legitimate rulers of the Islamic community, and their authority should be recognized and edicts obeyed.

Once the jurists' right to political power has been established, the obligation of the community toward them follows logically. The only distinction between the authority of the infallible leaders (according to Shi'i doctrine, the Prophet and imams) and that of the jurists is that the jurists are not lawgivers, but only interpreters of the law. The jurist may only derive legal rules to meet changing circumstances. For this reason Khomeini rejects the idea that the Islamic state should have a legislative body or a parliament; instead there should be a 'Planning Council' (*majlis al-takhtit*).¹⁴ However, other aspects of the authority of the Prophet do devolve upon the jurists. They include the waging of offensive *jihad* against the unbelievers, a power historically believed by Shi'i jurists to be the exclusive domain of the infallible imams.¹⁵ Ayatollah Ha'iri has argued this at length in a separate treatise.¹⁶ In fact, according to the Statists the power of the jurists inherited from the Prophet and imams encompasses all human relations. When in 1988 President Khameneh'i, the present jurist-leader of Iran, publicly indicated in a Friday sermon that the Islamic state has no jurisdiction over the personal life or the private property of the individual, Ayatollah Khomeini openly denounced him and proclaimed in a public statement that:

*Islamic government, since it is the extension of the authority of the Prophet and holy imams, is considered one of Islam's fundamental tenets, having precedence over even devotions such as performing prayers, fasting, or pilgrimage Thus for example the government can abrogate the ritual duties of hajj or revoke legal contracts undertaken when those contracts are perceived to be detrimental to its interests whether they pertain to religious matters or not.*¹⁷

Furthermore, since government of the jurist is the only legitimate political regime on earth during the Occultation of the Mahdi, total submission to its authority is expected from the people. This is ultimately so because the state acts in the best interests of the people since it is headed by the best mind and finest soul,

that is the qualified, devout jurist. The jurist and his state have the responsibility to guide people to their destiny. According to Ha'iri, the rule of the jurist overcomes the deficiencies of the people in realizing or comprehending their own best interests.¹⁸ The jurist is hence likened to a father taking care of his children, or a guardian of orphans,¹⁹ (in Islamic law, the proper upbringing and ultimate welfare of minors are judged solely by their guardians).²⁰ The "jurist-guardian" may seek the advice of others or consult with experts, but he alone possesses the expertise and knowledge necessary for leadership and only he has the power to make decisions. In the words of Khomeini:

We should make use of those with scientific and technical expertise in the administrative, [planning] and management functions [of the state]. But as for the supreme administration of the state, dispensing justice, providing security, sanctioning equitable social relationships, and just rule and adjudication between people, these are the functions of the jurist alone.²¹

There is no room for dissent from the authority of the jurist holding the power of *wilayat al-faqih*. Although the edicts of the ruling jurist are not divinely-mandated as are the laws of the Prophet, they have virtually the same status and must be obeyed even by other jurists who disagree with their textual authenticity or their derivation. This system of authority clearly contradicts classical theory according to which are the rightful heirs of the imams and the leading jurist is only a first among equals. The Statists counter this observation with the argument that an orderly society requires a stable legal system. Thus the dissent of even other jurists must not be admitted, for the sake of the unity of the community and the survival of the legitimate Islamic regime. If dissent is to be allowed or expressed, it should be within the close circle of jurists and in the course of adjudication,²² that is it should be limited to differences in juristic opinions concerning the extraction of legal rules (*ahkam*), in which, according to classical theory, each jurist may be right or wrong. This dissent should not spread to the public arena where it would cause disorder; hence the jurist with de facto political power has the final say.

The Populist Argument

Not all Shi'i jurists subscribe to the argument that they possess the divine and, exclusive right to rule Islamic society. Although those I call "Populist" do not dispute the idea that the twelfth imams are the legitimate successors of the Prophet, they raise serious objections to the legitimacy of jurist rule, however. Chief among these dissenters is, ironically, the onetime designated heir of Khomeini, Ayatollah Muntaziri.

Muntaziri's elegant work *Dirasat fi wilayat al-faqih* is intended from one point of view as a political treatise in defense of 'governorship of the jurist' and a justification for the political system of post-revolutionary Iran. In the course of Muntaziri's defence, however, he reviews in depth all the Prophetic traditions supposed to support the legitimacy of jurist rule. He comes to the conclusion that not all these traditions are authentic or sound.²³ Muntaziri explicitly states that "there is no conclusive proof that these traditions demonstrate the designation of the authority of the jurist."²⁴ Their meanings have either been misinterpreted,²⁵ stretched,²⁶ overstated,²⁷ or the textual evidences relied upon have been weak altogether.²⁸ The definite and the most sound tradition, he argues, delegates authority to the totality of the jurists and not

to one alone.²⁹

Nonetheless, Muntaziri deduces a different argument to defend the authority of the jurist enshrined in the constitution of the Islamic Republic of Iran. His argument rests not on the divine right of the jurist, but on the divine right of the people to participate in politics. Muntaziri argues that God has instructed the people to conduct their affairs in consultation with each other, to honor their contract (*'uqud*), and to respect their oaths of allegiance (*bay'ah*). It is obvious, according to Muntaziri, that these religious responsibilities form the basis of political relationships and are therefore the foundation of the Islamic state.³⁰ For instance, the *bay'ah* (oath of allegiance) resembles a social contract between the people and their leader. Thus

bay'ah in essence signifies the means to establish authority, when contract and consent have been achieved. It is well known that the [Arabian] tribes when they needed a chief to protect their [tribal] system and defend it against outsiders invited a person found suitable [to lead them] to conclude a contract, setting out between them the terms and obligations of the contract. When agreement was reached, it was instituted by shaking hands.³¹

Thus, suggests Muntaziri, popular election of the head of the Islamic state has more religious legitimacy than the divine appointment of the jurist as argued by Khomeini and others of the "Statist" school. In other words, leadership of the Islamic state during the Occultation of the twelfth imam is legitimate only through social contract (*'aql*) between the people and the sovereign. Muntaziri cites many textual evidences to support this view.³²

Muntaziri's emphasis on popular sovereignty does not mean, however, that the jurists are left with no role to play. Although he argues that the people have the divine right to choose their leader, he also maintains that their choice is confined to those who are "competent." Since the Islamic state must enforce the commands of God and not man-made laws, competency means knowing the divine commands. The people must therefore choose someone amongst those learned individuals who are versed in the *shari'ah*. In sum, Muslims must elect only qualified jurists as their leaders.³³ If others are chosen, they may lead the people astray.

Muntaziri's theory not only reserves a leading political role for the jurist. It also offers a solution to the problem of plurality of authority which is a weakness in the theory of *wilayat al-faqih* for, according to classical theory, since the divine right to rule belongs to the jurists in general, every jurist has the right to claim authority and not just one exclusively. The problem of plurality is sharpened by the classical doctrine that every Shi'i in order to gain salvation must conform exclusively to a rule constructed by a recognized jurist of his choice (that is he must consistently do *taqlid* of one living *mujtahid* chosen out of the number of those available). The authority of Ayatollah Khomeini was thus hindered and challenged to some degree by other grand jurists such as Shari'at-Madari and Taliqani, since each considered himself a legitimate heir of the twelfth imam. In Muntaziri's scheme, however, once *bay'ah* has been concluded between the jurist and the electorate every one, including other jurists, must obey him. Because legitimacy is secured only through election and social contract, other jurists have no divine claim to leadership once the people have spoken. The jurist-leader henceforth has complete authority not only over the legislative, executive and judicial functions of government,³⁴ but also over all aspects of social life.³⁵ Muntaziri explicitly denies other

jurists in the Islamic state from even their traditional religious authority, that is the authority to guide their followers in their everyday affairs.³⁶ Plainly put, he disqualifies them from one of the most basic Shi'i religious principles and practices: that a believer should refer to one, qualified jurist of his choice.³⁷ Instead, all members of the jurist-led state must obey the laws and commands of the political system.

Central to Muntaziri's theory is the idea that religious as well as civil affairs are the domain of the Islamic government. Political pluralism is intolerable to Muntaziri, to the point that he argues that the jurists are not allowed to publicly announce the sighting of the moon.³⁸ He observes that the determination of the new month radically affects the observance of important rituals such as the Ramadan fast and pilgrimage to Makkah and that the sighting of the moon has consequently given rise to differences between jurists and caused social disarray. Therefore, claims Muntaziri, the Islamic government has sole jurisdiction in this socio-religious matter.³⁹ Clearly, the jurist-leader is the only source of legitimate authority in the Islamic state.

Although Muntaziri's main focus is on the role of the popularly-elected jurist in the Islamic state, he also elaborates on the dynamic of popular sovereignty. He seems to consider that the masses are mature and responsible enough to make a sound decision in electing their leader; this is in direct contrast to theorists of *wilayat al-faqih* who have argued that the masses are too emotional and largely too ignorant to make wise decisions. Muntaziri also doubts that it is possible for each and every person to participate in electing the jurist-leader. Even at the dawn of Islam, he argues, it was impossible for Muslims to convene in one place and cast their votes. Instead, only the residents of Madinah, that is the first believers of Islam, had the right (or at least the possibility) to choose the caliph. This limited group acted as representatives of the whole Islamic community, who were mostly converts to the faith.⁴⁰ Muntaziri deduces from this precedent that the people should choose representatives from well-qualified and pious individuals who would in turn form a council to choose the jurist-leader. In other words, his vision of the political system resembles a representative theocracy with some features of a parliamentary system.⁴¹

The Underpinnings of Popular Sovereignty

The concept of popular sovereignty is most evident in the works of Muhammad Baqir al-Sadr of Iraq. Sadr was the founder of the first Shi'i political party, the Islamic Da'wah; this made him the intellectual leader of the Arab Shi'i fundamentalist movement. He was a renowned champion of *wilayat al-faqih* well before the rise of the Islamic Republic of Iran; yet he also advocated greater involvement of the masses in politics.⁴² His emphasis on popular sovereignty is consistent with his general theory and perspective on politics in Islam. For Sadr, popular sovereignty and the governorship of the jurist are two faces of the same coin; both are integral to Islamic politics.

Sadr bases his political theory on two fundamental religious ideas about man's destiny on earth. These are, first, that God has entrusted man with a vicarial role; and second, that man receives divine guidance and achieves salvation while on this earth.⁴³ These ideas are derived from his understanding of the story of the creation of man as narrated in the Qur'an. Adam (personifying mankind) was created to live on

earth yet to be superior to all creatures, including the angels in heaven:

*God has honored man with vicarship (khilafah) on earth, for he is unique among the other beings of the universe. [He honored him by choosing him] to be the delegate of God on earth and through this vicarship he became worthy for the angels to bow before him.*⁴⁴

This superiority was confirmed by man's capacity to acquire the divine knowledge (the names which God taught him). Sadr goes on to state that Adam and Eve's short residence in heaven, their experience with Satan, their sins and their repentance were only to prepare them to live on earth.⁴⁵ God warned Adam and Eve of their enemy Satan and promised henceforth to provide them guidance. It is due to this human experience that man gained the intellectual and spiritual capacities to live and prosper on earth on his own and to uphold the divine responsibility of vicarship.⁴⁶

Vicarship, according to Sadr, implies that man as the agent of God on earth possess free will, that is freedom to act according to his understanding of his divine mission. At the same time, of course, he has the capacity to do either good or evil. Plainly put, he is by nature an amoral creature. What causes him to tend either toward good or evil are two internal and two external mechanisms: the former are his reason and his passions, while the latter are divine guidance and Satan's deceptions. The crucial factor in keeping man on the "straight path" in this scheme is the divine guidance that God sends to man in time of need to enable him to reinforce his rationality and control his passions, enabling him to reach toward perfection. It is as the bearers of this divine guidance throughout history that the prophets have appeared. The prophets are, moreover, witnesses (*shuhada*) to the progress of man on earth and his steadfastness in undertaking the responsibilities of vicarship. Thus, the divine drama of life on earth depends on two actors, the vicar and the witness, or to put it another way it is divided between the role of man and that of God, between man's free will and divine guidance.

The vicarial role in turn implies certain qualities of man: that he belongs to no one but God; that he is responsible only to God; that he renders service to the Most High; and that he is equal to others before the Lord.⁴⁷ In political terms, this means that man is bound in universal brotherhood to other men; that he has a mission to fulfill as the agent of his own free will before God; that he is free to act according to his capacity; and that he will be treated equally before the law. These divine privileges parallel the natural rights of man as understood by: progress, equality and liberty.

Thus revelation is meant to protect the rights and privileges of man and secure his progress. The carriers of this guidance are prophets and the infallible imams, who are therefore also responsible for safeguarding God's message and laws from corruption, ensuring that man does not neglect his vicarship, and intervening when corruption becomes rampant in society.⁴⁸ Accordingly, the "witness," that is the Prophet or imam, is in fact both the spiritual and the political point of reference for the masses.

This can easily be accepted of the prophets and imams; it is when we ask if the jurists are fit for this role that doubt arises. Sadr advances the proposition that the jurist, more specifically the Grand Jurist or *marja'* of the Shi'i hierarchy, succeeds the prophets and imams as the "witness." Does the jurist possess the qualities to act as a witness over humankind? Sadr argues that he does, for his high intellectual and spiritual training guard him from mischief better than others. Sadr defines the *marja'* as

he who has through his individual efforts and long forbearance achieved a continuous, comprehensive, and vibrant grasp of Islam and its sources. [The marja^c is one who has] gained deep piety so that [Islam] controls his life and behavior.”⁴⁹

Thus, although the Grand Jurist is not designated by God to be a witness as are the Prophet and imams, his attributes clearly qualify him to take on this responsibility. In this connection Sadr cites the following verse:

Surely We sent down the Torah, wherein is guidance and light; thereby the *prophets* who had surrendered themselves gave judgment for those of Jewry, as did the *masters* and the *rabbis*, following such portion of God’s Book as they were given to keep and were *witnesses* to (emphasis added) [5:44].⁵⁰

According to Sadr, God here identifies those who can rule by the Book and act as witnesses: the prophets, the masters (that is the imams), and the rabbis (that is the jurists).⁵¹

Sadr goes on to define the relation between the ‘jurist-witness’ and the vicars of God, that is between the *marjaʿ* and the people within the Islamic state. His model suggests that there is a division of power between the two main actors and that their power is limited by a system of checks and balances. On the one hand, it is the witness or jurist who exercises political power and whose juristic opinions are the legal standard of the legislative process;⁵² on the other, ultimate political power rests with the people as the electorate. Sadr emphasizes that political rights are consistent with the prophetic tradition of receiving the oath of allegiance (*bayʾah*) from the people. Even the prophets and imams, though they were specifically appointed by God, still sought the *bayʾah* from their people in order to “emphasize the importance of such public rights and to put into practice the theory of vicarship.”⁵³ Sadr concludes that it is the people who are to assume the executive and legislative powers of government. Here, a difficulty arises. Perhaps it is acceptable, even in a theocracy, for people to elect their leaders and government officials. Is it possible, however, that they legislate God’s laws? Should not this role be assigned to the witness? Sadr’s answer is somewhat ambiguous.

Although Sadr, like all Muslim thinkers, believes that Islamic law is comprehensive and covers all areas of life, he also leaves room for human legislation and man-made laws in the Islamic state. He argues that, although Islam has laid down certain rules that must be followed, there is a large sphere of unlegislated matters which Providence has intentionally left for human endeavor and within which men may legislate as their circumstances require.⁵⁴ Thus while there are certain clear-cut laws of the *shariʿah* that are binding as articles of the constitution, there are other areas (specifically two areas) in which popular opinion is taken into account. The first is the ‘indeterminate sphere’ (*mantaqat ????*) of laws in which the jurists offer different legal opinions concerning certain unsettled issues. In these cases the people, may vote for one of the available juristic options through their legislators. The second is the ‘discretionary sphere,’ (*mantaqat al-furagh*) for which God has left no specific rules or regulations; most of this area is related to socioeconomic issues. In both these spheres, according to Sadr, human legislators can derive and enact laws by referring to the basic tenets and general principles of Islam.⁵⁵ The veto power of the jurist-witness over legislation he considers to be in conflict with these tenets and principles. Thus for Sadr, there are two spheres of law, the divine and the civil. Both are within the domain of Islamic jurisprudence, but the jurist legislates in one sphere, and the people in the other.

As for checks and balances, Sadr begins by acknowledging that, traditionally, the *marja'* conducted his sociopolitical affairs in a rather simple manner. He did not rely on any institutional structure to exercise his authority. Decisions concerning the welfare of the whole community were made largely in consultation with relatives and close associates. Sadr proposes instead an "institution of *marja'iyah*"⁵⁶ in which committees of experts in different fields give advice to and execute decisions taken by the *marja'*. This structure, he maintains, will not only prevent the jurist-witness from making arbitrary decisions but will also serve to train new jurists for the responsibilities of 'witness.'⁵⁷ The power of the jurist-witness is also checked by free competition for this position.⁵⁸ The jurist must demonstrate his intellectual and spiritual qualities to the public and it is the right of people to elect their *marja'* from among the various candidates.⁵⁹ The principle of election distances Sadr's system from the Platonic notion, deeply embedded in Shi'i juristic thought, that the one with best mind and finest soul is entitled to rule. Instead, power is vested in the people. Thus vicarship includes the weighty responsibility of appointing the *marja'*; it appears that in Sadr's theory during the Occultation of the twelfth imam the people are virtually in the position of God in electing their leaders.

In short, Sadr undoubtedly advocates a more open system than other theoreticians of *wilayat al-faqih*. He characterizes his political system as a 'modified democracy' and speaks strongly against authoritarian rule:

*Islamic [political] theory rejects monarchy, or indeed dictatorship in any form.... Rather it advocates a system that provides all the positive elements of democracy, in addition to certain other feature that guard it against corruption.*⁶⁰

Sadr draws a further parallel between the Islamic system and parliamentary democracy, pointing out that in both there is no clear separation of power between the legislative and executive branches:

*As for the relationships between branches of government, the Islamic state is closer to the republican system existing in democratic capitalist states, with the major difference between them and that is the republican system founded on the principle of separation [of power] between the executive and legislative branches, yet Islamic state is not.*⁶¹

Annuling Juristic Sovereignty

We will now turn to the political views of Muhammad Jawad Maghniyah, a prominent Shi'i jurist and prolific writer from Lebanon. Maghniyah has produced many works on religious subjects. While most of these are popularizations, some of his books on jurisprudence, positive law, and exegesis of the Quran are profound and critical scholarly investigations. One of these, *Fiqh al-Imam al-Sadiq*, was praised by Sadr as a masterpiece for its understanding of the social dimensions of Islamic law.⁶² Maghniyah's last work, *al-Khumayni wa-al-dawlah al-Islamiyah* (Khomeini and the Islamic State), although lacking a thesis or an analytical theme, is an incisive critique of Khomeini's *al-Hukumah al-Islamiyah*. It is probably the only work of a Shi'i jurist to attack the basic premises of Khomeini's political thought at the height of his success during the revolution. The book has not been in print since its first edition in 1979.

Maghniyah begins by questioning Khomeini's claim that the jurists inherit leadership of the Islamic state from the prophets and imams. He employs both rational and jurisprudential argument to refute this claim. He begins by pointing out that the jurists are clearly not possessed of the superior qualities one would expect of divinely-chosen individuals; therefore the scope of their authority must be limited to their stature or qualifications.⁶³ When God appointed the prophets and imams, their authority was absolute because they were immune from error and therefore could not misuse their power. Their laws and decisions were always for the best individual and public interest. This is not so for the jurists. They are fallible human beings who are "subject to forgetting, pride, deception, and personal emotion, and who are influenced by the environment."⁶⁴ They should not expect unquestioning obedience from the people. Generally, the rational premise Maghniyah advances is that "difference in status (*manzilah*) must correspond to difference in consequences (*athar*)."⁶⁵ What Maghniyah means is that the scope of authority of the infallible ones (prophets and imams) must be greater than that of those who are fallible (the jurists). This is why the infallible prophets and imams are "more entitled to the believers than the believers to themselves (Q. 33:6);" but this cannot be the position of the jurists. Maghniyah cites the similar views of well-known Shi'i jurists such as Ansari, Bahr al-^cUlum, and Na^cini.⁶⁶ Maghniyah also disputes Khomeini's assertion that Islamic religious taxes are for the purpose of financing government and not only for the care of the poor and the needy. No evidence, Maghniyah maintains, can be found in the Quran or Prophetic tradition to confirm such a claim. He points out that Khomeini, "who has great interest in textual proof," has not produced such proof,⁶⁷ and that the texts in fact explicitly state that these taxes are meant for the welfare of the unfortunate.⁶⁸

In sum, Maghniyah considers that sovereignty in the absence of the infallible imam belongs to the people in general, and not to the jurists only.⁶⁹ The people, including jurists, should elect representatives who will then enact legislation, execute laws, and establish order. Maghniyah further argues that most of the functions of the state concern administration and social affairs, matters which are not addressed by any religious texts or laws.⁷⁰ He thus concludes that the extrapolation of laws

must be left for *urf* (common law) and for the experts to determine in accord with general welfare even if this means imitating the West, as long as *haram* is not being legalized or *hala* being prohibited.⁷¹

Maghniyah's views on political authority stem from his conviction that the nature of the state, whether Islamic or non-Islamic, depends solely on the nature of its constitution, laws, and practices, not on the nature or class of its leaders.⁷² He further maintains that the Islamic state can borrow the wisdom of others even in the legal sphere, if this serves the general welfare. To support his views, Maghniyah cites textual traditions that value the reign of the just non-Muslim ruler above the unjust Muslim ruler, since in the first instance the people benefit from justice while in the second they suffer from tyranny.⁷³ Anticipating objections to his views on Islamic government, Maghniyah invokes the authority of Ayatollah Shari^cat-Madari, one of Iran's grand jurists and a vocal opponent of Khomeini. He quotes Shari^cat-Madari as follows:

The concept of Islamic government is vague, and has given the impression to others of rudeness and dictatorship. This fear is made more acute by our refusal to add the word 'democratic' to the phrase 'Islamic Republic.' What we advocate is that the people govern themselves; that is what an 'Islamic republic' is. It is not permissible for one individual or one class to rule alone. It is the right of the people to freely elect their representatives to parliament, and the obligation of any government that wishes to rule once it has been

appointed by the President of the Republic is to gain a vote of confidence from parliament. Furthermore, when parliament legislates it must consider the views of the majority. Such laws will not be in conflict with Islam because the great majority of the people [in Iran] are Muslims.⁷⁴

Thus Maghniyah and Shari'at-Madari both consider that popular sovereignty overrules the prestige of the jurist.

Conclusion

The Statist school believes that authority is divine; only God may appoint rulers to lead the community. Because of their knowledge of revelation and texts their superior moral qualities, responsibility for government falls on the jurist. Many texts indicate that the jurists are the sole heir of the Prophet, the source of guidance, and the means to safeguard God's law. Unconditional obedience to their rule is thus required. It is the jurist who should extrapolate laws from the texts, enforce them, and establish justice and security within the community. This does not mean, according to the Statists that the jurist legislates. It is not in the power of the individual to legislate God's laws, because the revelation and the Tradition of the Prophet has provided a comprehensive legal system for all times. The duty of the Islamic ruler is only to execute the divine will. As for the role of the people, they are only to voluntarily obey the legitimate government, since its rulings are assumed to be both in the individual and public interest.

At the opposite end side of the spectrum, the Populist school denies that the jurists are the only legitimate political heirs of the Prophet and imams. Their knowledge of jurisprudence qualifies them to be judges and their piety makes them a source of guidance for others, but these merits do not qualify them as competent heads of state. The state as a social phenomenon evolving steadily throughout history is an instrument of justice, public security and social welfare; it is not only concerned with religious issues. Thus more than jurists are needed to administer it. It is the people as a whole who are responsible for selecting experts in different scientific and technical fields qualified to administer and govern the state for God has advised the people to conduct their affairs in consultation with each other, and the Prophet and imams in their time accepted the counsel of the people. Therefore general elections can be considered a legitimate means of selecting leaders and government officials. Furthermore, the people's representatives have the right to legislate laws that are beneficial to public welfare and the maintenance of social justice - as long as these do not violate divine scripture. In sum, the purpose of the state is to serve social justice and the public, and this is also the ultimate purpose of the divine laws and commandments.

There is another interesting point to be added to this summary. Although Statists advocate a more rigid political system with less room for popular participation, they are more liberal in their interpretation of the texts. Only after establishing the rational argument do they justify it by Quranic verses and Prophetic Tradition. Their strongest juristic arguments rely on *ijma'* (consensus of jurists) and their strategy is to broaden the application of the texts. The populists, on the other hand, tend to adhere to the literal limits of the text. If the texts do not state that the jurist should be ruler, then one should practise, as in the Shi'i custom, precaution (*ihitiya*) and go beyond what is revealed or known in order to ensure that one has

fulfilled the injunction. For example, if the text portrays the jurists as guides for others and protectors of God's message, one should not infer that they are the legitimate rulers, but rather limit oneself to the cautious conclusion that they are to be only preachers and lawyers. Likewise, if God does not forbid Muslims to borrow beneficial social practices and laws from others, they are free to do so.

Thus contemporary Shi'i jurists have very different understandings of basic political questions, even though they are graduates of the same traditional religious academies of Najaf and Qum. The jurists examined here have all made major contributions to the field of jurisprudence; debate among such persons is an encouraging sign of the vigor of political life in the Shi'i world. The present study has identified two poles within this debate: the Statist and the Populist. Nevertheless, one must recognize nuances among thinkers; one might speak more justly of an Islamic political spectrum concerning a whole range of issues. (see Fig. 1). In placing Shi'i thinkers on the suggested political spectrum, one must examine their views on a number of political concepts. I have chosen concepts such as source of authority, legitimacy of the sovereign, scope of power of the sovereign, basis of social stratification within the state, degree of submission by the people, purpose of the state, and nature of legislative process. Where a thinker does not directly address a concept, I have estimated his position on the spectrum from his general teaching.

Among the five jurists examined the Statist Ha'iri and Populist Maghniyah are at the far ends of the spectrum. For instance, Ha'iri supports the idea that God grants sole legitimacy to the state and that rest with its leader-jurist. Maghniyah places the people at the center of the Islamic state and maintains that the jurists have no legitimate divine claim to state authority except through popular election. The other three jurists fall between these two extremes. Khomeini supports the idea that the jurists as representative of the Prophet and imams have divine authority to rule; however, he does not believe the scope of their power to be universal. Sadr distributes power evenly between the people and jurist, but when disagreement arises between jurists the people act as the final arbiters by voting for the suitable legal opinion. Sadr even gives the people the legal right to elect the competent jurist to lead the Islamic state. As for Montaziri, although he denies that the jurists are absolutely entitled to political power, he argues that Muslims should elect only a competent jurist and delegate all power to him, since only the jurist is full qualified to rule an Islamic theocracy. Thus while legitimacy according to Muntaziri belongs to the people, ultimate authority rests with the elected jurist.

Islamic Political Spectrum

	Popular		
	<u>Maghniya</u>	<u>Sadr</u>	<u>Montaziri</u>
Legitimacy	Election	Appointment + Election	Bay'at to Faqih
Authority	People	Faqih + People	Faqih <i>vic</i> Umma
Faqih	Citizen	Witness	Leader
Power	Constitutional	Separation of Power	Contract
Shari'a	Limited Scope	" <i>Silent Sphere</i> "	Shura

Concepts

people	_____	(1) Authority	_____	jurists
popular	_____	(2) Legitimacy	_____	divine
pluralism	_____	(3) Power	_____	absolutism
equality	_____	(4) Social Stratification	_____	hierarchy
conditional	_____	(5) Submission	_____	total
social justice	_____	6) Purpose of the state	_____	emancipation
lawmaking	_____	(7) Legislative Process	_____	extrapolation

NOTES:

- 1..... The broad meaning of *faqih* includes jurist, theologian and/or preacher. Here, however, I will translate *faqih* as jurist, one who specializes in *fiqh* (jurisprudence)
- 2..... Kazim al-Ha'iri, *Asas al-hukumah al-Islamiyah* (The Foundation of Islamic Government) (Beirut: Matbucat al-Nail, 1979), p. 13.
- 3..... Ibid., p. 14.
- 4..... Ruhollah Khomeini, *Bahth istidlali cilmi fi wilayat al-faqih*, (A Jurisprudential Study on the Governorship of the Jurist), (Beirut: Mu'assasat al-Falah, 1985), p.11.
- 5..... Ibid., pp. 11-12.
- 6..... Ibid., pp. 10-11.
- 7..... Khomeini, *al-Hokumah al-Islamiyah*, (Islamic Government), 4th ed. (n.p., n.d.), pp. 24-37.
- 8..... Ha'iri, *Asas*, p. 64.
- 9..... Khomeini, *Hokumah*, pp. 45-47, 55.
- 10..... Ibid., p. 78.
- 11..... Ibid., pp. 51, 88-89.
- 12..... Khomeini, *Bahth*, p. 31.
- 13..... Ibid., pp. 56-62.
- 14..... Khomeini, *Hokumah*, p. 42.
- 15..... Abdulaziz A. Sachedina, *The Just Ruler in Shicite Islam* (London: Oxford University Press, 1988), pp. 105-118.
- 16..... Ha'iri, *al-Kifah al-musallah* (The Armed Struggle) (Qum, Iran: Intisharat al-Rasuul al-Mustafa, n.d.), pp. 9-72.
- 17..... For the full text of Khomeini's letter to President cAli Khaminah'i, see *Ittilacat*, 7 Jan. 1988.
- 18..... Ha'iri, *Asas*, pp. 141-142.
- 19..... Ibid., p. 166.
- 20..... Ibid., p. 50.
- 21..... Khomeini, *al-Hokumah*, pp. 133-134.
- 22..... Ha'iri, *Asas*, pp. 189-197.
- 23..... cAli Husayn Muntaziri, *Dirasat fi wilayat al-faqih*, (Studies on the Governorship of the Jurist), Volume I, (Qum: International Center for Islamic Studies Press, 1988), p. 489.
- 24..... Ibid.
- 25..... Ibid., pp. 461-466.
- 26..... Ibid., pp. 467-477.
- 27..... Ibid., pp. 430-455
- 28..... Ibid., pp. 427-429
- 29..... Ibid., pp. 478-488.
- 30..... Ibid., pp. 493-500.
- 31..... Ibid., p. 523.
- 32..... Ibid., pp. 500-512.
- 33..... Ibid., p. 489, 491.
- 34..... Ibid., vol. II, pp. 51-55.
- 35..... Ibid., pp. 24-25.
- 36..... Ibid., pp. 86-109.
- 37..... Ibid.,
- 38..... Ibid., pp. 593-610.

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- 39..... Ibid., pp. 796-780.
- 40..... Ibid., vol. I, pp. 553-562, and pp. 577-579.
- 41..... Muntaziri holds that an Islamic political system must be a theocracy. See, Ibid., vol. I, p. 10.
- 42..... On Sadr's political activism and intellectual achievement, see my "The Role of Muhammad Baqir al-Sadr in the Shi'i Political Activism in Iraq from 1958-1980," *International Journal of Middle East Studies* (Spring 1993): 207-222.
- 43..... Although it is mainly in Sadr's short pamphlets, *Khilafat al-insan wa-shahadat al-anbiya'*, compiled with other pamphlets in *al-Islam yaqud al-hayat*, that he defines these two concepts, his previous works contain more of his political theory.
- 44..... Muhammad Baqir Sadr, *Khilafat al-insan wa-shahadat al-anbiya'*, (The Vicarship of Man and the Witness of Prophets) in Sadr, *al-Islam yaqud al-hayat*, (Iran: Vizarat-i- Irshad, 1981), p. 133.
- 45..... For details of Sadr's views on this early period of human life, see Kazim al-Ha'iri, "al-Tafsir al-mawduci li al-Quran," *al-Hiwar al-fikri wa-al-siyasi*, (August 1985): pp. 63-65.
- 46..... Sadr, *Khilafat*, pp. 152-153.
- 47..... Ibid., pp. 135-136.
- 48..... Ibid., p. 145.
- 49..... Ibid., p. 145.
- 50..... Arberry's traslation.
- 51..... Sadr, *Khilafat*, p. 144.
- 52..... Ibid., pp. 145, 168-170; and Sadr, *Lamhah tamhidiyah can mashruc Distur al-jumhoriyah al-islamiyah*, (Preliminary to the Constitution of the Islamic Republic), in Sadr, *al-Islam yaqud al-hayat*, pp. 12-13.
- 53..... Sadr, *Khilafat*, p. 162.
- 54..... Sadr calls this discretionary area of Islamic laws "*manatiq al-furag*", (the hollow sphere of laws,) in which the Supreme Lawgiver did not specify prohibition or permission. See Sadr, *Iqtisaduna*, (Our Economics) (Beirut: Dar al-Tacaruf, 1981), pp. 721-722.
- 55..... Sadr, *Lamhah tamhidiyah*, pp. 10-11.
- 56..... Sadr labels his modernized version of *marjaciya* as *al-mawduciyah* (institutional or objective) in contrast to the traditional form of *al-fardiyah* (individualistic or the subjective.) See his "Utruhah al-Marjaciya al-Sahliha" (Thesis on Suitable Marjaciya), in Kadhim al-Ha'iri, *Mabahith fi cilm al-usul*, (Qum: Dar al-Zahra', 1988), pp. 92-100.
- 57..... Ibid., pp. 96-97.
- 58..... Sadr refers to the traditional method of selection of the *marjac* as the "natural process of historical precedence." See his *Lamhah tamhidiyah*, p. 13.
- 59..... Ibid., p. 14.
- 60..... Ibid., pp. 17-18.
- 61..... Ibid., p. 18.
- 62..... Sadr, "Al-fahm al-ijtimaci li-al-Nass" (The Social Interpretation of Religious Texts) in Sadr, *Ikhtarna Lak* (Beirut: Dar al-Zahra, 1982), p. 91.
- 63..... Muhammad Jawad Maghniyah, *Khumayni wa-al-dawlah al-Islamiyah*, (Beirut: Dar al-c'Ilm lil-Malayin, 1979), pp. 61-62.
- 64..... Ibid., p. 59.
- 65..... Ibid, p. 61.
- 66..... Maghniyah, *Khumayni*, pp. 62-64. Three prominent jurists of the nineteenth and early twentieth centuries whose works became basic textbooks of jurisprudence (*usul al-fiqh*).
- 67..... Ibid., p. 100.
- 68..... Ibid., pp. 99-103.
- 69..... Ibid., p. 65.

70..... Ibid., pp. 65-66.

71..... Ibid.

72..... Ibid., p. 71.

73..... Ibid., pp. 72-73.

74..... Ibid., pp. 74-75.

POSTMODERN MUSLIM LEGALITY IN A SECULAR STATE: THE TURKISH EXPERIENCE

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1 Introduction

Turkey is one of the very first Muslim countries that encountered the modern west and its civilization and that attempted to respond to the challenges posed by the Western power and civilization. The questions surrounding these challenges, how to respond to them, preventing the collapse of the Ottoman State, modernization and, transplantation of western institutions have always been on the agenda of the Turkish intellectuals. The modernization attempts in Turkey had already begun in the seventeenth century when the Ottoman rulers became aware that they were far behind the European powers. Substantial discussions whether to import the European technology only or to take all its way of life, culture, laws and so on occupied the public sphere for many decades. These endless discussions were cut short by the Kemalist elite when the new republic was established: to reach the level of contemporary European civilisation, western way of life had to be espoused and imported with all kind of its institutions including laws.

The Turkish state under the reins of the Kemalist elite assumed that cultural change and modernisation could be imposed from above through the force of law. One of the major expected changes was the secularisation of the society. The attempt to change the legal rules concerning family matters is one of the most daring experiments for the modernising elite in Muslim societies. However, such an attempt was perceived as necessary in the Republic of Turkey in 1920s after the collapse of the Ottoman State as the family plays an important role in transmitting dominant cultural values to younger generations and the aim of the new modern Turkish nation-state was the cultural modernisation of the society.

When the new secular Turkish Civil Code became effective on October, 4, 1926, it caused an anomaly. Muslim family law officially became secular for the first time in history, while Islam continued to be the religion of most Turkish citizens. The new secular law was meant to change the core structure of the Turkish domestic life to bring it closer to the western models.

On the other hand, the empirical reality shows that the uniformity-focused homogenisation expectations

of the state and the plurality-centred survived unofficial Muslim family law conflict. This paper endeavours to show that the Turkish Muslims have not totally abandoned their Muslim laws in favour of the transplanted 'secular' Western law, although the social engineers have long wished them to do so. Especially, in the issues of marriage, this paper, based on the empirical data and in the light of legal pluralism theories, suggests that some Muslim people in Turkey have not jettisoned their unofficial Muslim laws to the effect of creating a 'strong' Muslim legal pluralism. They have actively assimilated to the secular law but *on their own terms*. By combining the rules of two different normative orderings, they have pragmatically been successful to meet the demands of both the secular law and religious law.

2 Turkish legal modernity

Turkey is a unique experience in the whole Muslim world, as a country that has completely secularised its legal system. The secularisation movement in modern Turkey followed a jacobinist and militant course, very much like the French experience. Laicism has been perceived as an alternative religion (Turkone 1994: 33). Founders of the Republic believed that there was not enough time to wait for "the slow process of evolution; people must use their energy and will to force every material element of life through modern moulds and modern patterns" (Saeed 1994: 162). The Kemalist elite have conceived religion as a threat to their modernist movement and revolutions. They perceived Islam as an anti-ideology (Toprak 1986: 361). In this reading of secularism, religions should stay in consciences and places of worship and should not be mixed with material life (Mardin 1982: 180).

Radical reforms were introduced in family law matters. The law of Islam was abolished for matters of personal status in 1924. It was replaced by a civil code taken from Swiss models. The adoption of the Swiss Civil Code and Swiss Code of Obligations in 1926 represented a profound attempt of change by the Kemalist elite in the social life of Turkey (Guriz 1996: 9). In other words, "(t)he aim of this wholesale adoption was to use law as an instrument of modernization and westernization" (Hooker 1975: 364). Thus, law was precisely aimed at behaviour, in the hope that attitudes would follow (Boulding 1986: 4). With this law, Islam was completely disregarded. It was relegated to a matter of conscience that was left solely to the private sphere. Citizens could be Muslims in their private lives, yet they could not claim any room for Islam in the public arena. The Civil Code is applied in all parts of Turkey and all Turkish citizens and residents are subject to it (Guriz 1996: 6).

Although the state in Turkey has tried to make religion a private belief not affecting the public sphere with its adamant secularisation ideology, it is recognised that the place and influence of Islam in Turkish social life have not changed a great deal (Oktem 1995: 49). Thus, "a great number of conflicts, especially individual ones, have arisen around the old and new values which were transformed into binding norms" (Abadan-Unat 1986: 7), so that "the impact of a cultural dualism based on Islam versus secularism, has not been eliminated" (Abadan-Unat 1986: 23).

There exist a number of fundamental differences between the secular civil law of Turkey and the Muslim local law. These differences include the secularisation of the marriage ceremony. A legal marriage had to be

registered with the civil authorities and concluded in their presence. Religious ceremony was made optional and carried no legal weight. A religious marriage without official registration was made a criminal offence. The adoption of the principle of monogamy meant that polygamy was under no circumstances allowed. It became a criminal offence. The secularisation of divorce proceedings was another key reform. The new law gave both parties an equal right to sue for divorce. *Talaq* is not recognised. Divorce can only be granted by an official court. In classical Muslim law, whereas Muslim men could marry non-Muslim women, Muslim women were prohibited from inter-marriage. The new civil code lifted this prohibition. Also, the bar of fosterage was not recognised. Adoption was accepted as a prohibitional degree, while in Muslim law, the institution of adoption has no place.

As a natural result, these differences led to confusion in the lives of the people. They have been faced with a certain dilemma between the unrecognised Muslim law and the official but secular state law.

Stirling (1965: 209) already earlier observed that many provisions of the new codes were not being followed. Still in the 1990s, some segments of the society have been passively resisting to abandon their traditional practices for the sake of the civil code (Kruger 1991: 203). Men and women were marrying without going through a state-recognised civil marriage ceremony and they were remarrying without a 'legal' divorce (Kruger 1991: 203-204, 206). Thus some couples were living in adulterous or bigamous relationships in the eyes of the official law. However, in the eyes of the local law, only the celebration of religious wedding (*nikah*) can legitimatise the marriage (Stirling 1965: 209). Communities, especially in rural areas, regard official law as 'government' law and it has little effect on the life of the village (Hooker 1975: 366-371).

With the passage of time, the expectation that the people learn and follow only the official *lex loci* by abandoning the Muslim law entirely turned out to be not true. In the 1990s, there are still conflicts between the official legal system and the local law (Ansary 1996: 110). Yet, Turks have overcome these conflicts by reconstructing a new unofficial hybrid law: Turkish Muslim law.

3 Emergence of Turkish postmodern legality

People in Turkey, after the reception and transplantation of the Swiss Civil Code have had three alternatives: avoidance reaction, to follow the Turkish state law or a combination of the requirements of the Muslim law and Turkish law. Evidence has shown that they preferred the third option. They have developed a new hybrid rule system that amalgamates the rules of unofficial Muslim law and of the official Turkish law.

3.1 Solemnisation of marriage and *nikah*

Under the official law, only civil marriages performed by authorised marriage officers are allowed and recognised. Article 16 of the Civil Code states that the formalities of celebration commence with the submission of the necessary documents by the parties to the marriage office at the place where they are residing at the time. The authorities start inquiries to check whether impediments to the marriage exist. Only after the

celebration of the civil marriage is a *nikah* permitted. Contrary acts by *imams* are punishable offences. If a civil ceremony in a register office is followed by a religious one, the religious ceremony does not supersede or invalidate the civil ceremony and is not registered as a marriage in any marriage register book. The men and women who perform a religious marriage ceremony without having made the legal marriage contract are considered to be punishable (Ansary 1996: 113).

It is a well-known reality that “many Turkish citizens still prefer the informal or consensual marriage, or *nikah*” (Abadan-Unat 1986: 172; Zevkliler 1995: 705; Kumbetoglu 1997: 121). Sometimes they marry with *nikah* without registration, which is not recognised under the Civil Code. There are still some marriages performed by the *imams* without the prior celebration (Ansary 1996: 113; Kumbetoglu 1997: 121).

In rural society, the religious ceremony is still regarded as valid in itself and a civil marriage alone is not regarded as valid by the Muslim community (Hooker 1975: 365; Tapper 1985: 305-306; Elmaci 1994: 109). Some 70 years after the transplantation of the Civil Code, the norms that consider a child born only of non-religious (civil) wedlock a ‘bastard’ are quite dominant, since legitimacy in the eyes of society still rests solely on the *nikah*.

According to Balaman (1985: 211), there are a number of people who were married only by religious ceremony. Moreover, according to this research, in the researched population “no marriages take place without a religious ceremony” (Balaman 1985: 211). According to another researcher, 15.4% of all marriages in Turkey are celebrated without a civil ceremony at all (Alkan 1981: 80).

An earlier study (Timur 1972: 92) found that 35.4 per cent of all marriages in Turkey were civil, 49.2 per cent were mixed civil-religious (concluded in the presence of civil authorities and later, an *imam*), and 15.0 percent were only religious and hence carried no official legal weight. State Planning Organization’s data from the 1990s show that the importance of the religious marriage in the eyes of the people still continues:

Percentage of married population by type of marriage

	Total	%	Rural	Urban
Total	25,678,892	100.00	100.00	100.00
Civil	2,455,418	9.56	5.11	13.59
Religious	1,256,980	4.89	6.89	3.09
Both	21,806,832	84.92	87.38	82.70
None	38,525	0.15	0.18	0.13
Unknown	121,137	0.47	0.44	0.50

It is also clear from the table that Turkish people have learnt to combine the official and unofficial marriages. Even in the village level, as can be seen in the table, the ratio of performing both marriages is

87.38%. Religious only marriages still occur in substantial numbers, opposing the wishes of the official law. Other evidence showing that people have learnt to combine the rules of the secular and religious laws is the decreasing time interval between the religious and secular marriages (Yildirak 1992: 22). People have realised to a great extent that marrying religiously only has disadvantages, whilst having married secularly in addition to the religious marriage has substantial benefits especially for the women concerned. Research conducted by Hacettepe University in 1988 and 1993 (HUNEE 1993) also confirms the above mentioned official research.

State officials, most of the time, organise special ceremonies where many unofficially married couples get married with the help of the state. For instance, in such a recent case, the Secretary of State responsible for Women and the Family started a new campaign: '*Resmi nikahsız aile kalmazın*' (Let there be no family remaining without official marriage'. In the first event of that legal literacy campaign, the Minister and the Director of Religious Affairs bore witness in a state-sponsored official marriage ceremony of 12,000 couples who were married with *nikah* but not with official marriage.

As the empirical research shows, social reality is not responding fully to the desires of the secular law. Even the state accepts this phenomenon. In a publication of the State Institute of Statistics, it is stated that in spite of the legal prohibition:

...it is assumed that religious marriages (not accompanied by official marriages) often take place, especially in the Eastern and Southeast parts of Anatolia. Therefore the number of marriages appears to be lower than they actually are, since religious marriages are not included in these statistics (SIS 1997a: ix).

Thus, in accordance with the unofficial Turkish Muslim law, Muslims will marry twice with several permutations to satisfy the competing demands of secular law and religious belief (Williams 1982: 163, cited in Abadan-Unat 1986: 173). Indeed, in the course of the last decades, changes in marriage patterns and realisation of the legal security of civil marriage have led to an increase in the number of civil marriages (Abadan-Unat 1982: 17). This trend steadily continues in the 1990s as well. Even in rural areas, people have started to register their marriages whilst still giving essential importance to *nikah* (Kongar 1992: 432).

3.2 Polygamy

Pertaining to polygamy, there is an obvious conflict between classical Muslim law in which a man is permitted to marry up to four wives at any one time and the official law of Turkey. When the Civil Code abolished polygamy in 1926, the religious custom justifying polygamy became officially null and void. Thus, a marriage in which either party is already married to someone else will automatically be null and void according to the official law. The Civil Code provides that no person shall marry again unless he proves that the earlier marriage has been dissolved by death or by divorce or by a decree of nullity, and that a second marriage shall be declared invalid by the court on the ground that a person had a spouse living at the time of marriage. In other words, the second marriage is absolutely void, or *void ab initio* (Guriz 1996: 4; Poulter 1986: 63).

The parties knowingly contracting such a marriage are considered as committed a criminal offence under Article 237/5 of the Criminal Code that states: If the man is already married he shall be punished by imprisonment for six months to three years. If the woman knowingly marries such a man she shall be given the same punishment.

However, polygamous marriages have in no sense been eradicated in Turkey (Abadan-Unat 1986: 173; Cosar 1978: 127; Guriz 1996: 4; Kumbetoglu 1997: 121). Yet it must be stressed that polygamous marriages are only exceptional as Turkish society has generally been a monogamous society. Although it varies from region to region, in the history of Turkey, the ratio of polygamous marriages has already been minimal. According to recent research, in contrast to legendary stories about the *harems* in Ottoman state, already in 1885, the proportion of polygamous marriages in Istanbul was only 2.51. In 1907, the figure was 2.16. Moreover, most of the polygamous marriages have been bigamous (Duben and Behar 1996: 162).

Polygamy or more generally survival of the local law is not a rural phenomenon although most writers tend to see it as such. Even in big cities and metropolitan areas, despite the smaller figures, dynamic Muslim legal pluralism is a reality. Sometimes, it is easier to continue a polygamous life free from a *Gemeinschaft* pressure in a crowded metropolitan city. A quick scan in newspapers would show that polygamous marriages are not only confined to the rural and eastern parts of Turkey (Kumbetoglu 1997: 123). In that context, one can see some people who polygamously married, in the urban areas as well. For instance, there are some politicians, businessmen, singers, actors, members of parliaments and even ministers of the cabinet who are known as polygamists, despite what the legal system says.

Social acceptance of succeeding wives is gained by performing only '*nikah*' (Cosar 1978: 127). Numerous first marriages are also religious only but not registered (Cosar 1978: 127). A study based on survey research found that approximately 2.0 per cent of all marriages in Turkey were polygamous in the early 1970s (Timur 1972: 93). Whereas the percentage of men with more than one wife was 1.6 in the cities, the figure increased to 2.7 in the villages (Timur 1972: 94).

Estimates of the proportion of polygamous marriage in rural areas during the present century range between 10% and 2%. In early the 1980s, Sahinkaya (1983: 50), in Eastern Anatolia, found the rate of polygamy about to be 4.4%. According to another research (Elmaci 1994: 84), the polygamy rate all over Turkey is about 2 per cent. In late 90s, the number of males who marry polygamously and defend that state of affair in public has been steadily increasing (Kumbetoglu 1997: 121, 127). Polygamy is not an extremely exceptional case (Kumbetoglu 1997: 123, 124).

Nikah utilises polygamy in a particular way. Some polygamists reported that if they had to divorce their wives to remarry, they could not have married, since the issue of divorce is not perceived positively in the community (Elmaci 1994: 109).

According to Turkish Muslim law rules, there are at least four patterns of polygamy. However that figure can easily increase depending on the number of the wives concerned. In the first pattern, the man marries two or more wives with only *nikah* without any registration. In the second pattern, only one of the women is a wife by civil ceremony. If, for instance, the first marriage was civil, the second will be religious only since polygamy is illegal according to the Code. Significantly, the first wife then becomes the legal mother of the

children born to the second wife. Birth certificates and identification documents are arranged accordingly (Balaman 1985: 211; Elmaci 1994: 109). Yet it is quite possible that a second, third or fourth wife could be the official wife if the husband did not prefer to register the earlier marriage. In this third pattern, the husband takes his first wife without official marriage which is a common practice in rural areas, then he marries the second one both officially and unofficially. In the fourth pattern, the husband divorces his wife officially but does not pronounce *talaq* so that she is still his wife in Islam. Then, he marries another woman both officially and unofficially (with *nikah*) (Beser 1993: 162). Thus, it is made sure that both children of the first wife and the second wife are legitimate in the eyes of both Muslim law and the official legal system. These scenarios can be adapted to the cases of the possible third or fourth wives with different permutations.

Prohibition of polygamy was a radical step in the history of Turkey. Yet, as one can easily conclude, this was not a great revolution or a big change, since the society was anyway more or less monogamous. Polygamous marriages, as stressed above, were already minimal. This minimal ratio legitimized by the unofficial Turkish Muslim law has continued to exist in spite of all legal actions against it.

3.3 Divorce and *talaq*

The divorce rate in Turkey has been relatively low. Thus, the case of *talaq* has not been a big issue in terms of numbers. People in Turkey generally react negatively to the idea of divorce. It is conceived as an unpleasant experience and it may be condemned by families and friends. Even though in Muslim law divorce can be obtained in a number of extra-judicial ways like *talaq*, in secular Turkish law there is solely one way of divorce, which is through a decree granted by a court of civil jurisdiction on the ground that the marriage has irretrievably broken down. In an earlier case, the Court of Cassation did not recognise a *talaq*, stating that there is only one type of dissolution of the marriage under the Civil Code. Muslim law's prohibition on the marriage after three *talaqs* between the couple was refused on the ground that there is no such rule in the Civil Code.

Marriage may be terminated by the death of one of the spouses or by the declaration of a judge. In other words, the Civil Code restricts the incidence of divorce, for, although the right to divorce is accorded to both men and women, divorces can be obtained only through a court decision based on specific and proven grounds. The judge can either declare the marriage void, if the conditions for a valid marriage do not exist; or grant an annulment; or decide to grant a divorce or separation. The Code had made divorce by collusion or mutual consent difficult for many years. However, the new revision in the Civil Code makes a divorce by mutual consent possible (Ansary 1996: 117).

On the other hand, since marriages are religious, divorces are also made by *talaq* to terminate the religious marriage, the *nikah* (Altuntek 1993: 77). Although statistical records “do not include the number of dissolved informal marriages” (Abadan-Unat 1986: 177), husbands still divorce their wives with *talaq* and devout Muslim wives have to agree to the official divorce. However, this type of easy divorce is not an easy option in Turkish society where most marriages are still arranged (Balaman 1985: 214). Effectivity and intensity of the relationships between families make it impossible for an individual to reach a decision to

divorce so that individual desires cannot easily be put into effect (Balaman 1985: 215). Yet it is evident that with the waning of the institution of the arranged marriages, *talaqs* could become easier. Also in urban areas, due to the declining intensity of social pressures and rising individualism, divorce would inevitably become an easier option.

In the final analysis, empirical data and the case law prove that Turkish people have reconstructed their religious law in spite of all the claims of the secular legal system, particularly in the cases of marriage and divorce, manifestly showing that law has limits. By developing a new Turkish Muslim law, today's Turks, as skilful legal navigators, have met the demands of both the secular Turkish legal system and the Muslim law in a dynamic legal pluralist context.

4 Concluding remarks: Postmodern Turkish legality

The attempt to change the legal rules concerning family matters is one of the most daring experiments for the modernising elite in Muslim societies. However, such an attempt was perceived as necessary in the Republic of Turkey in the 1920s after the collapse of the Ottoman State as the family plays an important role in transmitting dominant cultural values to younger generations and the aim of the new modern Turkish nation-state was the cultural modernisation of the society.

Although the Turkish state tried to abolish Muslim law by transplanting new secular and uniform laws, the result has been that Turkish Muslims have not abandoned their local Muslim family laws. The socio-legal reality of Muslim legal pluralism stemming from resistance of local Muslim law has, for many years, been seen as a rural phenomenon in Turkey. However, it is becoming clear that Muslim legal pluralism, especially in family matters, is a reality of urban areas too. The state and the élite expected that by means of education, members of society would learn the rules of the official legal system, and they believed that with the increase of urbanisation, which is considered to be the same as modernisation and 'development', people would give up their local customs and religious laws and would follow only the official law. However, the Turkish empirical data have not confirmed this expectation. Rather, Turkish people have reconstructed their unofficial religious laws in spite of all the claims of the secular legal system, particularly in the issues of marriage, manifestly showing that state law has limits to shape the society. By developing this new Turkish Muslim law, as skilful legal navigators and law-inventing citizens, which is a result of the interaction of official and unofficial laws, these Turks have met the demands of both the secular Turkish legal system and the unofficial Muslim law in a dynamic legal pluralist context. Since Turkish Muslims have reconciled these conflicting points by employing Turkish Muslim law rules, only a few cases have appeared before the courts. Even though we have only dealt with family law issues in this paper, it is also observable in the Turkish society that in other fields such as finance, banking, economy, insurance, and in all sorts of spheres of life, Muslim law is referred to and obeyed by many people despite the non-recognition of the state.

In the age of post-modernity, unitary theories of progress are increasingly being questioned. Objective 'truth' has been replaced by the plurality of viewpoints. A postmodern legality is visible in Turkey where the traditional Muslim law was totally but only officially abolished and replaced by transplanted secular laws.

Local and unofficial Turkish Muslim laws have resisted the unification and assimilation purposes of the modern nation-state. People have not abandoned their local and religious laws and customs whether legal modernity recognises them or not. There have been limits to official laws to shape society from above and resistance to official laws stemming from the challenge of heterogeneity of society and post-modern legal pluralism. Now, secular official and Muslim unofficial laws co-exist in the Turkish socio-legal sphere.

Turkish Muslims not only have challenged the presumptions of legal modernity but have also shown that “they can become citizens while at the same time retaining their Muslim identity”. They retain their Muslim law in even secular and modern contexts in a post-modern way without violating the democratic order although a purportedly uniform legal system wishes to transform society through law, aiming homogenisation with a mentality of the 19th century militant positivism. Yet it is now postmodern times and legal pluralism is here to stay where cultural plurality exists. In the final analysis, Turkey continues to be a Muslim country, no matter what changes may have taken place in Turkey’s Islam. Islam is pervasive in Turkish public sphere and this shows the partial failure of the Kemalist elite’s attempts of making religion a private belief.

The Turkish power elite have conceived Islam as a threat to their modernist movement, reforms, and progress. Yet in today’s Turkey, the roles have recently changed. Now, most practicing and activist Turkish Muslims advocate Turkey’s accession to the European Union, once perceived to be a ‘Christian club’, and believe that ‘the Copenhagen criteria’ are *amr bil ma’ruf* (ordering the good), whilst the role of reactionary conservatism is now left to the militarist ‘deep state’ elite. On democratization, general peace and dialogue among civilisations, activist Muslims either take the lead and even guide the state as in the example of the Fethullah Gülen’s moderate faith-based movement or adapt themselves to the new Muslim discourse like Tayyip Erdogan and Abdullah Gul of *Milli Gorus*. As prominent Turkish sociologist Nilufer Gole aptly puts it, Muslim identity is in a process of normalization, transforming from being Islamist to Muslim, strongly showing that “buzzwords such as ‘fundamentalism’, and catchy phrases such as Samuel Huntington’s rhyming ‘West versus Rest’ and Daniel Lerner’s alliterative ‘Mecca or merchanzation’ are of little use in understanding this reformation”. Factors such as positive mood for joining the EU, civil society’s growth, independent media, telecommunications technology, globalization, foreign encouragement and support, the role of religious leaders are all dynamically interlinked and intertwined in transforming the Turkish society despite the resistance of the ‘laicist conservatism’.

In this regard, postmodern Turkish Muslim legality suggests that the Turkish people by and large have harmonised the elements of democracy and Islam and have also shown that these two are not necessarily mutually exclusive. Now it is jacobin ruling elite’s turn to come to terms with socio-legal reality and to show that it is possible to amalgamate the elements of democracy, fundamental human rights and ‘Kemalism’. This is an essential condition for a healthy democratic society. Otherwise, Turkey will continue to be an awkward example of a country with a progressive and creative democratic people ruled by a reactionary establishment of the 1930s, resulting in missing the chance of being a ‘democratic Muslim’ role model for other Muslim countries and societies.

ISLAM AND DEMOCRACY: REFLECTIONS ON ABDOLKARIM SOROUSH

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Islam demands loyalty to God, not to thrones.

(Mohammad Iqbal)

In his *Political and Social Essays*, Paul Ricoeur addresses forthrightly the situation of the religious believer in the modern world, especially in modern secular society. Quoting from scripture (Matthew 5, 13), he insists that believers are meant to be “the salt of the earth”—a phrase militating both against world domination and world denial, that is, against the dual temptation of either controlling or rejecting worldly society. As he writes poignantly, “the salt is made for salting, the light for illuminating,” and religion exists “for the sake of those outside itself,” that is, for the world that faith inhabits. In Ricoeur’s view, religion—including (especially) Christianity—has been for too long enamored or in collusion with political power and domination, a collusion which some recent theologians have aptly labeled “Christendom” and which has exerted a “demoralizing effect” on believers and non-believers alike, driving them to “cynicism, amorality, and despair.” However, the situation is perhaps not entirely bleak. When it emerges from this collusion, he adds, religion “will be able to give light once more to all men—no longer as a power, but as a prophetic message,” that is, as a light which illuminates but does not blind. In a similar vein, Emmanuel Levinas has defined the role of Judaism or Judaic faith “in the time of the nations,” namely, as a non-domineering voice of conscience which remembers and faithfully reiterates the call to justice.

Among all the great world religions today, Islam is still most sorely tempted by the lure of worldly power and public dominion; this at least is the impression given by a large number of its adherents, especially by many so-called Islamic governments and Islamist movements (often labeled “fundamentalist” in Western media). As in the case of Christianity, this lure or collusion is baffling and disconcerting—given the strong opposition of Islam to any kind of idolatry, that is, to the substitution of any worldly images or power structures for the rule of the one transcendent God. How can Muslim believers be expected to submit or surrender themselves to any worldly potentates, no matter how pious or clerically sanctioned—if their

faith is defined as surrender (“*islam*”) to nothing else but the eternal “light” of truth? How can they be asked to abandon their religious freedom (in the face of the divine) for the sake of contingent political loyalties to rulers who often lack even a semblance of public or collective legitimation? As in the case of traditional Christendom, Islam’s collusion with public power has exerted (in Ricoeur’s words) a “demoralizing effect” on believers and non-believers alike, driving many of them to “cynicism, amorality, and despair.” In this situation, it is high time for Muslims and all friends of Islam to take stock of the prevailing predicament. Concisely put: it is time, not to relinquish Islam in favor of some doctrinaire secularism or laïcism, but to reinvigorate the “salt” of Islamic faith so that it can become a beacon of light both for Muslims and the world around them. Differently phrased: it is time to recuperate the meaning of Islam as a summons to freedom, justice, and service to the God who, throughout the Qur’an, is called “all-merciful and compassionate” (*rahman-i-raheem*).

As it happens, such soul-searching recuperation is actually going on in the Islamic world today—often accompanied by intense conflict, recrimination, and even persecution. To this extent, contemporary Islam is in a state of agony, with the fortunes of recovery hanging in the balance. The point here is not to impugn the motives of political Islam or political Islamicists—motives which in many ways are historically understandable, given the backdrop of colonialism, Western hegemony, and perceived military insecurity. What is at issue is rather the wisdom and sensibility of politicized religion, seeing that the yoking together or collusion of power and religion inevitably exacts a heavy toll both on the sobriety of political judgment and on the integrity of religious faith. Among contemporary Muslim philosophers and public intellectuals no one has been more eloquent in exposing the pitfalls and costs of this collusion than the Iranian Abdolkarim Soroush. In a long series of writings, Soroush has vindicated the compatibility of Islam and modern democracy, by showing that it is precisely in the context of political democracy that Muslims can reclaim and exercise their religious freedom, being released from religious absolutism or oppressive clerical tutelage. Recently, some of these writings have become available to English-speaking readers in a volume titled *Reason, Freedom, and Democracy in Islam*. In the following I shall explore Soroush’s argument by proceeding in three steps. In a first section, I seek to profile his position against the backdrop of political Islam, especially the backdrop of the Islamist rejection or sidelining of democracy in favor of traditionalist versions of quasi-theocracy. The second section offers an exposition and interpretation of Soroush’s reconciliation of Islam and democracy under the rubric of a religiously sensitive civil society. By way of conclusion, this reconciliation is inserted into the context of contemporary politics, especially the emergence of an inter-religious and inter-civilizational global society.

I. In common parlance, religion and politics are neither synonyms nor necessarily antonyms. On a theoretical level, one can distinguish a limited number of ideal-typical constellations involving the two terms. On the one hand, there is the paradigm of complete separation or isolation (an extreme version of the Augustinian formula of “two cities”). In this paradigm, religious faith withdraws onto a “holy mountain” while politics maintains a radical indifference or agnosticism vis-à-vis scriptural teachings or spiritual meanings. As can readily be seen, both sides pay a price for this mutual segregation: faith by forfeiting any relevance or influence in worldly affairs, and politics by tendentially shriveling into an empty power game.

In the historical development of religion and politics, this segregationist paradigm has been relatively rare (leaving aside the phenomenon of monastic retreat). Much more common has been another paradigm or constellation: that of fusion or amalgamation—which may be accomplished in two ways or along two roads: either religion strives to colonize and subjugate worldly politics, thereby erecting itself into a public power, or else politics colonizes religious faith by expanding itself into a totalizing, quasi-religious panacea or ideology. History shows that the former strategy has been the preferred option of most religions in the past.

The same strategy also characterized traditional Islam. With minor variations, public power in Islamic society during the early centuries was wielded either by semi-divine leaders (the “righteous caliphs”) or else by a combination of dynastic imperial rulers (presumably descendants of the Prophet) and a battery of clerical jurists or jurisconsults (*fuqaha*). In his account of political authority in early Islam, Ira Lapidus distinguishes between two models or (what he calls) two “golden ages”: namely, an “integral” or holistic model and a more “differentiated” or symbiotic structure. In the first model, he writes, Islamic society “was integrated in all dimensions, political, social, and moral, under the aegis of Islam.” The prototype of this model was the unification of Arabia under the guidance of the Prophet and his immediate successors. In the second, more differentiated model, imperial Islamic government—from the Umayyads and Abbasids to the Ottomans—was erected on the diversified structures of traditional Middle Eastern societies, thus yielding a complex, symbiotic amalgam. In this case, the original caliphate was transformed “from the charismatic succession to the religious authority of the Prophet” into a far-flung imperial regime governed both by religious norms (*shari’a*) and more adaptive political laws, or rather by a mixture of imperial-political authority and clerical jurisprudence (resembling the medieval theory of “two swords”). This mixture gave rise to a more complex socio-political theory. To quote Lapidus again: “Muslim political theorists, such as al-Baqillani, al-Mawardi, and Ibn Taimiyya, devised a theory of the caliphate that symbolized the ideal existence of the unified *umma*, while at the same time allowing for historical actualities.”

According to Lapidus, contemporary Islamic traditionalists or “revivalists” harken back—though often unsuccessfully—to the two models of Islam’s “golden ages.” To this extent, Islamic revivalism necessarily is at odds with the basic features of modern life—given that, in its core, “modernity” (at least in its Western form) aims at the disaggregation and radical diffusion of the unified, holistic worldviews and political structures of an earlier age. Being an integral part of modernity and its way of life, modern democracy inevitably falls under the same verdict of traditionalists: namely, as testifying to the modern abandonment of faith in favor of an “un-godly” secularism or nihilism. At this point, it is important to observe the strategy of the revivalist argument—a strategy which presents the transition from tradition to modernity (and postmodernity) under the simplistic image of reversal or antithesis. Thus, traditionalists are wont to erect a series of binaries to capture the historical change—claiming, for instance, that modernity (or modernization) means a lapse from faith into non-faith, from religious devotion into agnostic rationalism, and from the holistic unity of “truth” into a radical relativism (denying “truth”). In a similar vein, the argument is sometimes advanced that, while earlier ages were founded on “virtue,” modernity is founded on freedom and non-virtue (as if a virtue without freedom were somehow plausible or even desirable). In the most provocative formulation, traditionalists assert that modernity has replaced the reign of God with the

reign of “man” or humanity—a replacement equalling a lapse into paganism and the state of pre-Islamic “ignorance” (*jahiliyya*).

In the present context, the latter formulation is particularly significant. Under political auspices, the charge implies a reversal of public supremacy—namely, the replacement of God’s sovereignty with the sovereignty of the people (the latter equated with democracy). In larger measure, this charge is at the heart of the anti-democratic sentiments espoused by many revivalists and/or “fundamentalists.” In discussing the “political discourse” of contemporary Islamicist movements, Youssef Choueiri highlights this point as central to that discourse. Referring to the writings of Sayyid Qutb, al-Maududi, and Ayatollah Khomeini, Choueiri underscores the holistic religious quality of “God’s sovereignty,” writing that the phrase affirms God’s authority “in the daily life of His creatures and servants,” revealing that “the universe is judged to be one single organic unity, both in its formation and movement: The unity of the universe mirrors the absolute oneness of God.” Judged by the standard of this holistic unity, modern humanity—including modern democracy—exists in a state of disarray and incoherence, that is, in “a second *jahiliyya*, more sinister in its implications than the *jahiliyya* of pre-Islamic days.” Pushing this point still further, radical Islamicists tend to view the entire course of Western history as “a connected series of *jahiliyyas*. Hellenism, the Roman Empire, the Middle Ages, the Renaissance, the Enlightenment, and the French Revolution” (and its democratic offshoots). As an antidote to modernity and modern democracy, Islamicist thinkers typically propose a return to “God’s sovereignty,” that is, to a semi- or quasi-theocracy (which usually means some form of clerical despotism or elitism). Thus, Qutb supported the idea of a “Muslim vanguard” (patterned on various revolutionary vanguards of the twentieth century). In turn, al-Maududi called for of an “international revolutionary party” ready to wage Islamic *jihad*, while Khomeini placed his trust in the guardianship of a supreme jurist (*velayat-e faqih*).

It become urgent here to look at the presumed transfer of sovereignty and its underlying premises. Is such a transfer plausible or persuasive (even on strictly religious grounds)? The idea of sovereignty implies the rule of absolute will or will power untrammelled by any rational constraints or intelligible standards of justice. To ascribe such sovereignty to God means to construe God as a willful and arbitrary autocrat—which is hardly a pious recommendation. Several of the great Islamic philosophers (of the classical period) had already objected to this construal, complaining that it transforms God into a tyrant or despot similar to such tyrants as Genghis Khan or Tamerlane. As it happens, contemporary Islamicists seeking to revive “golden ages” of the past tend to be attracted precisely to this aura of despotism (undeterred by the horrible examples of the twentieth century). Whatever the status of God’s sovereignty may be, however, modern democracy represents by no means a simple reversal in the sense of installing the people as sovereign despots. On the contrary, whatever else modern democracy means, it certainly means a dispersal of power and a constant circulation of power holders. Several leading democratic theorists, including Hannah Arendt, have gone so far as to urge the removal of “sovereignty” from political discourse, in order to make broader room for grassroots participation. This initiative has been continued and further fleshed out by “postmodern” political thinkers, and especially by defenders of radical democracy, for whom democracy is defined by the removal of the “markers of certainty” and thus by the disintegration of traditional holistic shibboleths (like sovereignty, the nation, or “the people”). What emerges here is a conception of democracy not as a static

entity but as an open-ended and experimental process—though one needs to guard again against a simple reversal which would replace earlier holistic structures with utter fragmentation and incoherence.

Transplanted into the Islamic context, this conception of democracy entails not a simple transfer of sovereignty (from God to people), but a radically different understanding of political rule, and also a radically new view of the relation between religion and worldly politics, or between the sacred and the secular. In fairness, the sea-change involved here has not gone unnoticed by leading Muslim intellectuals in our time, including Muhammad al-Jabri, Muhammed Arkoun, Hassan Hanafi, and others. Thus, al-Jabri has proposed a “critique of Arab reason” which would open up holistic structures of the past to new and diversified inquiries, while Arkoun has urged examination of the “unthought” dimensions in traditional Muslim thought in order to tap recessed resources of both secular and religious insight. In the specific idiom of political theory, Lahouari Addi has contrasted Islamicist “utopian” revivalism with the demands of modern democracy. Rejecting as debilitating the tendency of Islamicists to denounce every innovation (domestic or foreign) as *jahiliyya*, he complains that, for too long, the Islamic world has “held itself apart from the social debates” of the West, preferring instead to encapsulate itself in a nostalgic and “apologetic historiography.” Drawing on the lessons of modernity, Addi formulates a crucial precondition for democracy in the Islamic world: “It is necessary to show how political modernity is incompatible with the public character of religion and how modernity is built on the depoliticization of religion”—where depoliticization, however, has the “precise content” not of abolishing religion but of assigning it a new domicile in civil society. Regarding the prospect of such a change to take root, Addi is moderately hopeful, stating:

Such a creation of modernism by way of Arab-Islamic culture is theoretically possible, for there is no reason—everything else kept the same—why democracy should be inherently Western and absolutism inherently Muslim.

II. As one can see, the path toward a reconciliation of Islam and democracy has been prepared in several quarters. What Abdolkarim Soroush adds to this endeavor is an unusual breadth of erudition and an unfailing grasp of key issues. These qualities are clearly evident in his *Reason, Freedom, and Democracy in Islam* (as well as in his other writings, interviews, and recorded statements). His book forthrightly takes aim at the association of Islam with absolutism or an absolutist and despotic sovereignty. Surveying the history of Muslim societies, he bemoans the forced submissiveness of Muslims, a submission due to “a political culture deeply influenced by centuries of tyranny.” In large measure, this political culture can be traced to traditional theological and jurisprudential teachings. As Soroush writes: “The theoreticians of the past used to say: ‘Sovereigns are mirrors of the sovereignty of God’.” In traditional theology (*kalam*), God was portrayed as “an absolute bearer of rights and free of all duties toward human beings”; accordingly, kings and imperial rulers were viewed in the same light, as mirrors or replicas of divine authority. Predictably, vested in human hands, this absolute power produced dismal effects on social and moral life. “Is it not true,” the text asks, “that tyrannies attract a considerable retinue of corrupt panegyrists and sycophants? What is this but moral and social corruption?” Such venality may explain why those “who miss few occasions to deliver a litany against the evils of freedom refuse to put two words together about the evil of absolute power.” In modern times, however, and recently also in Muslim societies, a rebellion has been mounted

against tyranny and its corrupting effects. This rebellion, one should note, is directed not to much against God or religion, but against human rulers arrogantly usurping divine authority. The modern world, Soroush writes, has long challenged and undermined a notion that has always been “a source of evil and corruption”: namely, “the right to act as a God-like potentate with unlimited powers.” Modern society rejects such God-like pretensions “because it does not consider government to be an extension of divine power within human society. Management skills require merely human, not God-like powers.”

As crucial antidote to tyrannical oppression, Soroush’s text celebrates the value of human freedom (a defense which surely reflects also his personal experiences and those of many of his contemporaries). In Soroush’s account, human freedom is not merely equivalent to will power or arbitrary choice, but harbors ontological and even religious connotations. As he notes, freedom is not treasured by, or only receives lip service from, the powerful and arrogantly mighty. “Only those,” he writes, “who consider themselves to be directly inspired by God, who profess to possess the absolute truth” tend to refuse “the gifts of freedom.” But these gifts are vital to the oppressed and downtrodden: “Freedom is the slogan of the humble and the needy; it is the catchword of those who are aware of the penury of their own reason.” In line with a longer tradition of philosophical thought, Soroush distinguishes not so much between positive and negative freedom as rather between internal and external freedom. The former type is achieved “by liberating oneself from the rein of passion and anger,” that is, from inner (though often socially induced) compulsions. The second, external type consists in “emancipating oneself from the yoke of potentates, despots, charlatans, and exploiters”; its requisite is “participation in the contest of freedom, which is a public process based on rules and regulations.” In their joint operation, internal and external freedom are the gateway to deliverance and the pursuit of justice—for freedom is clearly “one of the components of justice,” and the seeker of freedom is “in pursuit of justice” in the same way as the seeker of justice “cannot help pursue freedom as well.” Soroush at this point reminds his Muslim readers of such Qur’anic verses as “No compulsion in matters of faith” and “Shall we compel you to accept it when ye are averse to it?,” adding emphatically that religion is “by definition, incompatible with coercion,” while freedom has the virtue of endowing life and life choices with meaning. In the same context, we find this moving paean to the benefits of freedom:

No blessing is more precious for mankind than the free choice of the way of the prophets. Nothing is better for humanity than submission based on free will. Blessed are those who are guided in this manner, who freely choose the way of the prophets and are awash in a cascade of divine grace. . . . But in the absence of this state of grace, nothing is better for humankind than the possession of freedom. All free societies, whether they are religious or nonreligious, are humane. But totalitarian societies abide neither divinity nor humanity.

For Soroush, freedom is closely associated with reason or rational understanding, in the sense that such understanding provides a supplement and corrective to (arbitrary) will. Concisely put: freedom, to be non-capricious or non-despotic, requires reason, just as reason requires the help of freedom, specifically the freedom of thought (or *libre examen*). The latter freedom has always been anathema to proponents of dogmatism (theological or otherwise) who consider “truth” as a property and settled doctrine. “The vision of reason as a treasure trove of truths,” he states, “is not conducive to thinking about the origin and the manner of arriving at truths.” This view of reason as a storehouse or warehouse of doctrines entails the

notion of an “enforced” or “administered” truth which leaves “no room for questioning and doubt.” By contrast, anti-dogmatists construe reason as a path of reasoning, that is, as “a truth-seeking, sifting, and appraising agent” where the method of pursuing truth deserves as much respect as the goal itself. In this latter construal, freedom is a crucial requisite. What those who shun freedom as the “enemy of truth” do not realize, Soroush emphasizes, is that “freedom is itself a truth (*haq*),” namely, as the necessary gateway to truth of any kind. At this point, in an effort to underscore the importance of freedom of thought or reasoning, the text draws a parallel which is scarcely flattering to radical Islamic fideists utterly disdainful of reason. “It is hardly surprising,” we read, “that hatred of reason rises under tyranny and dictatorship. Fascists found a friend in the passions of youth and a foe in the rationality of the mature.” Like all dogmatic ideologists, “Nazis despised democracy and public deliberation because they carried the aroma of reason”; hence, “worshipping Hitler was encouraged because it was based on blind and brutish obedience.”

Defense of reason, or rather of the process of reasoning, is linked with the vindication (albeit qualified) of modernity and modernization. For Soroush, premodern social life was marked by a certain static quality, averse to innovative inquiry and deliberate change. Modern humankind, he writes, is no longer satisfied with a passive acceptance of things, but is asserting its transformative potential; it has assumed the role of “an active agent in the world,” whereas traditional humankind perceived itself as “a guest in a ready-made house in which the occupant had no opportunity or right to object or to change anything.” In the language of Kant (invoked by Soroush in several contexts), modern humankind has in a way “grown up” or achieved a state of adult maturity—a condition which has opened up a host of opportunities, but also entailed heavy new responsibilities. Following the European example, reaching maturity signals a kind of “enlightenment,” that is, the growth of a critical reflectiveness evident in the critique of traditional metaphysics and traditional holistic worldviews. Against this backdrop, the history of humankind equals in many ways the history of the unfolding of human knowledge—where “knowledge” does not mean a finished set of propositions but rather a mode of knowledge-seeking or critical inquisitiveness (for which the development of modern science is, at least to some extent, an impressive testimonial): “Modern scientific knowledge has transformed not only humanity’s view of the world, but also its view of its own abilities and place in it.” As a corollary of enlightened inquisitiveness, modernity has carried in its wake a certain metaphysical “disenchantment,” which is usually described as the process of “secularization.” As Soroush observes (echoing in part Weberian insights): “From an epistemological point of view, the presecular [or premodern] age is marked by the hegemony of metaphysical thought in political, economic, and social realms.” By contrast, modernization unsettles earlier holistic premises, bringing about a regime in which “no values and rules are beyond human appraisal and verification” and where “everything is open to critique”—which is “the meaning of secularism.”

Modernization, however, denotes not only a change of cognitive perspectives, but also a change of concrete social or socioeconomic practices—which explains the nexus of modernity and “development.” This linkage is usually ignored or sidelined by radical traditionalists enamored with the past as an era of piety and morality. Soroush is adamant in challenging this kind of nostalgia. As he admits, development sometimes brings in its wake “leisure and occasionally pride, obliviousness, and disdain for traditional values.” However, what is frequently neglected is the circumstance that it also provides the opportunity “for cultivating the higher and more spiritual needs”—and, in fact, for cultivating any values whatever, for “the

distress of acquiring one's daily bread, shelter, and clothing" hardly leaves room for engagement in arts and the pursuit of "mystical gnosis." Only once humans are liberated from "the worrisome tasks" of daily survival can they be expected to take wing and "fly in the sphere of higher concerns." It may be correct to say that socioeconomic development only fulfills the primary needs and not the "higher values," such as justice, freedom, wisdom, and the like. However, while in the clutches of physical want, the laboring masses of humankind have little or no chance to reach these higher goals. For Soroush, in any case, the God of those struggling for subsistence is "the God of the oppressed, not that of the mystics"; he is a God "that vanquishes the oppressors, facilitates survival, pays off debts, and grants wishes" (in other words, he is "*rachman-i-racheem*"). Viewed against this background, socioeconomic development should be seen not as an aberration, but as "an important stage in the evolution of humanity and, as such, even ethically [and religiously] sanctioned."

Construed in this sense, development is beneficial not only for the pursuit of spiritual goals, but also for the fostering of an uncoerced public life and political praxis—that is, for the flourishing of modern democracy. Without postulating a narrow economic determinism (even in the "last instance"), Soroush perceives a close affinity between the struggle against economic misery and exploitation and the struggle against despotism. "Democracy," he writes pointedly, "is desirable for all, but in practice it is not available to all"—a restriction which is usually due to unfavorable socioeconomic circumstances. The greatest dictatorship, he adds (with a sideglance at conditions in many Middle Eastern countries), is that of "poverty and ignorance"; and it is in their shadows "that tyrannical [political] rule rises and prospers, extinguishing the torch of liberty and justice in human hearts." Democracy, one should note, is aligned in this account with liberty and justice, or rather with the liberty or freedom to strive for justice and truth—values which are "extinguished" by despotism. Far from being equivalent to popular sovereignty or arbitrary popular will, democracy emerges here as searching or "zetetic" enterprise, as a transformative and constantly self-transforming regime in the direction of justice. In Soroush's words, democracy in a developed society is for ever "brimming with new values and facts"; its very existence hinges on "a matrix of freedom of research and adversarial dialogue of ideas"—practices which are incompatible with tyranny or political repression. A crucial instrument for furthering free inquiry and dialogue is an open public sphere, a sphere well informed but not domesticated or manipulated by the media: "Democratization of the spread of knowledge and the establishment of popular control over the flow of information (in addition to that of wealth and power) is among the most significant promoters and properties of democracy in developed societies."

In articulating his view of democracy, Soroush adopts an unusual stance which does not fit well into the established rubrics of democratic theory. On the one hand, he describes democracy as a "method"—which seems to place him in the camp of "proceduralism" or a purely procedural construal of democracy (devoid of intrinsic moral qualities). But on the other hand, he insists that the operation or maintenance of democratic procedures is impossible without a general commitment to "substantive" goods, such as justice and truth. This ambivalence or complexity is clearly reflected in his statement that democracy is "a method of harnessing the power of rulers, rationalizing their policies, protecting the rights of the subjects, and attaining the public good." What this statement reveals (or so one might argue) is an effort to break out of established metaphysical and political binaries—an effort which one can (cautiously) label "postmodern"

(provided the term is not identified with a simple relativism or nihilism). This effort is intrinsic to the notion of a “zetetic” or transformative democracy. For clearly, an open-ended search for “truth” (implied in “zetetic”) militates *both* against a conception of truth as property or storehouse and against its dismissal as illusory (rendering search futile). In a similar way, search for the public good is at odds *both* with the dogmatic imposition of a collective formula and with a stance of radical indifference or neutrality toward goodness as such. Soroush’s difficult or nuanced position is also evident in his attitude toward another binary shibboleth of our time: the doublet of “foundationalism/antifoundationalism” or determinacy/indeterminacy. In his view, democracy requires a blending of the two, namely, a commitment to just means and a certain open latitude of ends. Here is a crucial passage:

The proposition that “democracy denotes the use of specific means to attain unspecific ends” is a fundamentally correct assertion—but lends itself to misunderstanding. Far from denying the a priori principles of democracy [commitment to public good], it is meant as a response to those who believe ends justify means and thus misguidedly characterize a totalitarian system that purportedly dispenses justice and human rights as a democracy. They are reminded: “method” is of essence in democracy. It is not evident, from the outset, who is right and who deserves certain privileges and powers. . . . Reality, here, follows the method of discovering the reality. . . . It is in this sense that democracy may be said to have a determined method toward undertermined ends. The indeterminacy, however, refers to instances and specific cases, not the basic principles and criteria of democracy which, like the fundamental precepts of jurisprudence, are determined, honored, and inviolable.

Soroush’s unorthodox stance surfaces in several other respects, especially in his discussion of modernity and Western liberal democracy. Although generally supportive of the former, he is not unaware of the pitfalls of a certain doctrinaire “modernism” (an awareness displaying, perhaps, a postmodern flavor). Thus, while clearly championing reason and modern science, his text also acknowledges “profound scientific, humanist, and philosophical critiques” of modernization which have arisen in the West as byproducts of development. From the vantage of these critiques, technology and development may have “run their course,” allowing societies to advance beyond technological gadgets, toward new and possibly more elevated horizons (more attentive, for example, to ecological needs). With regard to Western liberal democracy, Soroush critiques both the exclusive glorification of one type of liberty and the retreat into a spurious and deceptive kind of moral neutrality. Returning to the distinction between internal and external freedom, he finds that Western society is one-sidedly preoccupied with the second type, constantly engaged in battling external enemies—from king, church, and nobility to unfair taxation and a host of imaginary foes. What has been forgotten or forsaken is the internal battle, the struggle against desires and inner compulsions. The truth, however, is that “if internal and external freedom are not combined, both will suffer.” This one-sidedness is sometimes associated in Western liberal society with a complete indifference or neutrality toward moral and religious concerns. Some liberal philosophers, Soroush observes, consider arguments in this domain “unverifiable and unfalsifiable”; hence, they deem controversy over such issues utterly futile and prone to lead into a “quagmire of delusions.” As it happens, however, this kind of liberalism is by no means identical with democracy, or at least far from exhausting its meaning. “Equating liberalism and democ-

racy,” we read, “signifies, at once, great ignorance of the former and grave injustice toward the latter.” Hence, “decoupling” this kind of liberalism from democracy is “analogous to the attempts of social democrats to separate democracy from capitalism.”

The uncoupling of democracy from a morally neutral liberalism leads Soroush to his most important contribution: the idea of a “religious democracy” or a democratic religious society. Here it is important, first of all, to distinguish clearly between government and civil society, a distinction which is needed to prevent the usurpation of public power by a religious group or movement in violation of democratic rules of open competition and contestation. Equally important are two other requisites or corollaries: namely, the need not to conflate religion with dogmatism or dogmatic certainty and, further, the refusal to equate democracy with amoral indifference (a refusal implicit in the critique of liberal neutrality, mentioned before). Regarding the last point, religion can bolster moral sensibilities in a democratic society, just as general moral standards (like justice and human rights) can bolster religious sensibilities. In Soroush’s view, democracy cannot possibly prosper without commitment to moral precepts, such as “respect for the will of the majority and the rights of others, justice, sympathy, and mutual trust.” Slackening of these bonds will endanger democratic life in any society. This is why “sympathetic voices” are beginning to call for “a return to virtues” in Western countries today; and this is where “the great debt of democracy to religion” is revealed, for the latter can serve as “the best guarantor of democracy.” This service, of course, can only be fruitful, if the other conflation is avoided: that of religion and dogmatic absolutism. Returning to the story of modernization, Soroush reminds his readers that the difference between premodern and modern ages is the “difference between certainty and uncertainty,” between a closed world view (claiming possession of truth) and an open-ended search for truth and genuine insight. Just as modern science depends on a continuous testing and correction of assumptions, so also religious doctrines must be open to continuous scrutiny, that is, to be cauldron of interpretation and re-interpretation (*ijtihad*) which engenders doctrinal modesty and tolerance: “Tolerance in the domain of beliefs is the correlative of a fallibility in the domain of cognition that has encroached upon traditional dogmas.”

As a moral disposition, tolerance has a somewhat ambivalent character: it requires a moral or religious commitment to tolerance—which hence cannot be unbounded, so as to include tolerance of intolerance. For Soroush, religious democracy does not require the endorsement of a radical relativism, and certainly not the abandonment of moral or religious convictions. To this extent, democratic tolerance is not contingent on indifference or lack of beliefs, but only on the readiness to expose one’s cherished beliefs and those of others to questioning and possible correction. In this sense, Soroush writes, the chief requisite for tolerance is the willingness to jettison “infantile and immature attachments” to one’s own omniscience or infallibility. Like all moral dispositions, tolerance is a difficult virtue requiring steady practice and cultivation in a public context. Practice in a public context, however, is liable to infuse religious belief with a measure of open-mindedness or reasonableness—thereby promoting in the long run a “concordance” of reason (*aqıl*) and divine revelation (*shar’*). In a passage which is liable to upset radical fideists, Soroush maintains that a precondition for democratizing religious society is “historicizing and energizing the religious understanding by underscoring the role of reason in it”—where “reason” does not mean an isolated individual capacity but “a collective reason” or public “common sense” arising from “the kind of

public participation and human experience that are available only through democratic methods.” Democratic religious societies, he adds, thus do not need to “wash their hands of religiosity” nor turn their backs on revelation; however, they do need to absorb “an adjudicative understanding of religion,” in such a way that an “informed religiosity can thrive in conjunction with a democracy sheltered by common sense.”

Removed from the lure of public power, religious democracy—or a religiously nurtured democratic society—cannot insist on religious uniformity or homogeneity, but must allow and even foster religious freedom and the diversity of religious beliefs. In Soroush’s view, such a democracy necessarily has to be heterogeneous and pluralistic; in fact, its diversity is liable to exceed the vaunted pluralism of secular-liberal society—where some voices (particularly religious voices) tend to be silenced or ignored. As he writes: “The faithful community is more like a wild grove than a manicured garden. It owes the fragrance of its faith to this wild independent spirit”—which cannot be harnessed without being strangled. In this respect, his text offers some truly captivating passages exuding the spirit of (a democratized) Sufism:

Those who have endured ebbs and flows of the heart, avalanches of doubt, clashes of belief, surges of faith, the violence of spiritual storms, and the plundering swell of visions that restlessly and ruthlessly assail the delicate sanctuary of the heart understand that the heterogeneity of souls and the wandering of hearts is a hundred times greater than that of thoughts, tasks, limbs, and tendencies. Belief is a hundred times more diverse and colorful than disbelief. If the pluralism of secularism makes it suitable for democracy, the faithful community is a thousand times more suitable for it.

Addressing the defenders of religious orthodoxy and conformism he adds: “You respect uniformity, emulation, and obedience to religious jurists”; but “I implore you to appreciate the complexity and colorfulness of belief, liberty, subtlety, and the agility of faiths and volitions.” For indeed, “the plurality of religious sects is but a coarse and shallow indicator of the subtle, elusive, and invisible plurality of souls.”

III. Soroush’s arguments are important and challenging in the context of Islamic societies, a context which traditionally has favored conformism over independent judgment (*libre examen*). Not fortuitously—but perhaps with some hyperbole—some Western journalists have labeled him the “Martin Luther of Islam” (albeit a very modern and perhaps postmodern Luther). However, the significance of his arguments is not narrowly restricted to the Islamic context, but appeals today to a broader, potentially global audience. From the angle of political theory or philosophy, one of the crucial features of his work is the shift of attention from the “state” or central governmental structures to the domain of “civil society” seen as an arena of free human initiatives. This shift of focus is a prominent ingredient in recent Western political thought which, in this respect, has derived significant lessons from Eastern European experiences (particularly the atrophy of society under totalitarian state bureaucracies). Even more crucial is Soroush’s attempt to foster a symbiosis or reconciliation of religion and democracy, an attempt which seeks to bypass both rigid separation and totalizing (or totalitarian) fusion. In his account, such a symbiosis would be able *both* to re-energize democracy by elevating its moral fiber (its commitment to the public good) and to enliven and purify religion by rescuing it from conformism and the embroilment in public power. By renouncing

domination or “religious despotism,” religion is capable of regaining its basic spiritual quality and thereby to serve (in Ricoeur’s words) as the “salt of the earth” or the salt of democracy.

In order to perform its role, religious discourse has to broaden its range and accommodate a more general humanistic vocabulary: especially the vocabulary of human rights, individual freedoms, and social justice. In our time, engagement or confrontation with these issues is a requisite for the relevance and viability of religion (Islamic or otherwise). Discussion of human rights, Soroush observes, belongs to “the domain of philosophical theology (*kalam*) and philosophy in general” and in a way constitutes an “extrareligious area of discourse.” Although not directly nurtured by religious motives (at least in the modern era), human rights discourse is today religiously unavoidable, and a religious faith oblivious to human rights—as well as to human freedom and justice—is no longer “tenable in the modern world.” For Soroush it is axiomatic that humanity cannot be placed in stark antithesis to divine revelation—which entails that respecting human rights and freedoms is important not only for promoting democracy but also for safeguarding its religious dimension or character. Even the tendency of many religious people to accentuate duties or obligations over rights should not be construed in a binary sense, but rather as a supplement or corrective to narrowly secular “rights talk.” In a positive vein, religious discourse enriched by human rights vocabulary counteracts the pretense of “inalienable a priori rights,” sometimes termed “divine rights,” of public or clerical elites. In a religious democracy—no less so than in a secular regime—rulers (including religious judges) cannot be self-appointed but need to be selected through democratic methods accepted by all. In fact, it is “not only the right but the duty” of religious people to elect their rulers in this manner. Underscoring the democratic feature of religious democracy, Soroush asserts forcefully: “The ultimate right of the people to govern, that is, to manage rationally the society in such a way as to reduce errors of deliberation and policy making, shall not be abrogated under any circumstances. . . . The government of the people is a government fit for people, not for Gods.”

By inserting religious faith into an open-ended democratic discourse, Soroush’s text makes a contribution to a major conundrum that has beleaguered Islam as well as other religions throughout the course of their historical development: the dilemma of the relation between reason and faith. Religious democracy cannot resolve this dilemma through fiat: either through fusion or radical separation. Rather, what such a regime brings into view is a difficult and tensional relationship, an ongoing mutual enrichment and contestation where both sides resist self-enclosure. In Soroush’s words, “religious scholars cannot afford to be oblivious to extrareligious knowledge,” especially to such key categories of public discourse as social justice, public interest, and human rights. Self-encapsulation in a religious or theological idiom can only lead here to circularity and doctrinaire rigidity—which is detrimental to both reason and faith. On the other hand, religious or spiritual vocabulary can serve as an antidote to sluggish or conformist tendencies in modern public life—an antidote highlighted by the role of prophets whose mission has always been that of “accelerating human spiritual evolution” by “bringing the path of humanity closer to God, augmenting justice, and eradicating tyranny.” Once reason and faith are correlated in this manner, an enviable symbiosis is achieved; in Soroush’s words: “Heaven and earth are reconciled and the severity of the paradox of religiosity and rationality is reduced.” He also describes this nexus as “an auspicious reconciliation” where “religious morality would be the guarantor of democracy” and where “the rights of the faithful to adopt a divine

religion would not vitiate the democratic, earthly, and rational nature of the religious government.”

In our globalizing age, the correlation of faith and reason carries over into the relationship between historical faith traditions and the broader conversation of humankind, a conversation which includes as participants a variety of religious and non-religious voices. In this broader context, every particular faith tradition is compelled to look at itself both from the inside and the outside, that is, to shoulder the dual task of self-affirmation and self-assessment or self-critique. For a weak or shallow faith, this task is likely to be further debilitating and perhaps destructive. A living faith, however, will welcome the challenge of re-interpretation as the gateway to continuous self-renewal and reformation. In his *In the Time of the Nations*, Levinas—reiterating Talmudic teachings—speaks of the insertion of Israel into “the seventy nations,” that is, into humanity at large, presenting this insertion not as a damaging confinement, but rather as an opportunity or invitation for faith to reveal its leavening potential. In a similar vein, harkening back to medieval Islamic formulations, Soroush speaks of “the battle of seventy-two denominations” seen not as an arena of conquest or conversion, but as the “wild grove” of faith nurturing the soil of religious freedom. Each of these denominations or traditions, he writes (affirming the importance of interfaith dialogue),

is deemed praiseworthy and honorable in his or her own place . . . “Excusing the battle of the seventy-two nations” is the wise counsel of our righteous sages and is not a result of their “liberal-mindedness,” faithlessness, or skepticism. It is the result of their profound philosophical anthropology and their intimate knowledge of the intricacies of the human soul.

Post-Modern Secularism: The Turkish Version

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Abstract

“Militant Secularism”, as commonly referred to in the political vernacular in Turkey became the state religion of Turkey. The military, which considers itself as the guardian of the republic founded by Ataturk, against domestic and foreign enemies, often finds it necessary to interject itself into the political process. Since the defeat of communist-threat in the 80ies and the Kurdish separatists in the 90ies, the “Islamists” have been identified by the establishment as the number one enemy of the Kemalist-Secularist state, hence the target of its wrath. Owing primarily to the tarnished image resulting from the past-coups, increasingly image-conscious military sought to find alternatives to the outright overthrow of the elected governments. Hence came the “bloodless-coup”, or the “post-modern coup”-as coined by the generals- against the moderately pro-Islamic, Erbakan’s government, by the “February 28 decisions” in 1997. Since then, the generals have embarked upon a social engineering project, that includes not so overt involvement in every facet of social life from education to the judicial process, with the aim of defeating Islam, without having to resort to another coup like the one in 1960 -which resulted in the hanging of the prime minister Menderes and two cabinet ministers- and several other direct interventions thereafter.

While the ostensible aims, i.e. the Westernization, modernization are met with approval of the West, thanks primarily to the advent of the information age, thus better informed public or the human rights watchdog NGOs in the West, it is becoming increasingly difficult for the Europeans to tolerate the excesses of the regime, particularly when that regime is an official candidate to the European Union, and when there exist well-defined accession conditions such as the Copenhagen Criteria, which places heavy emphasis on human rights record. The paper explores the historical, social and political dynamics at work in producing such staunch anti-Islamic paranoia of the Turkish State and analyzes external factors that have an impact on the status-quo.

History of Kemalist-Secularist State

In order to put the secularism as practiced today in Turkey in a proper context, we must look back to the near history of the young republic. After the long decline of the Ottoman empire, culminated in several major defeats in Europe, Middle East and Caucasus, the “sick man of Europe” was struggling for its very existence after World War I. As a result, the Sultanate which was also the Caliphate, was in a weak state. In such state, Mustafa Kemal at first with the blessing by the Sultan took part in organizing a resistance against the European occupiers of Anatolia, the last vestige of the Empire. He later cashed in on the popularity and military strength, and used it to topple the Ottoman Sultanate and later the Caliphate. After the war of independence against Europeans, in 1921, he declared the official end of the Ottoman empire and the founding of the Republic of Turkey.

Ataturk did not, at first take an anti-Islamic or secularist posture during the organization of the militia. Quite the contrary, he appealed to the people’s deeply held religious beliefs in invigorating them to enlist and take part in the “holy war” against the enemies. In this effort he benefited greatly from the religious leaders, *hojas*, imams and poets such as Mehmet Akif Ersoy, Ziya Gokalp and others who invoked the name of Allah often to rally people to jihad. Only after the triumph in the war of independence, he unleashed measures, to reduce the influence of Islam in government and public life, i.e. the Ataturk Revolutions.

“The revolutions”, aimed at transforming the remnant of the Ottoman Empire, into a modern European state in every respect, came in a piecemeal fashion. The first “Majlis”, the Parliament, was opened with the recitations of Quran and members included many religious leaders, sheikhs and war heroes such as Kazim Karabekir Pasha, his compatriot. Once Ataturk consolidated his power base, such religious or conservative figures were marginalized, including the author of the National anthem Mehmet Akif Ersoy, and the war heroes such as Marshall Fevzi Cakmak and Kazim Karabekir Pasha.

There is conflicting evidence regarding his true religious beliefs and the extent of them. However there is very little doubt that he was a rational and pragmatic man. He was well aware of the degree of religiosity in Anatolia, thus resisted outlandish suggestions such as officially changing the religion of the republic to Christianity as proposed by Recep Peker, a member of the parliament. In a speech in 1923 he said “[T]he implementation by the state of a religious policy and to demand that state should apply, if not force, psychological pressure, as you will appreciate is not wise or logical”. In a 1930 speech he reiterated: “[S]ecularism is not only the separation of the affairs of state and religion; it is also freedom of faith and worship of all citizens. Not only is secularism not atheism, by enabling us to fight against false religiosity and sorcery, it provided opportunity to improve true religiosity”. Many other statements by him along the same line establish that the secularism in Ataturk’s mind was not directed at wiping out all remnants of Islam from public life as practiced by his successor Inonu in the thirties and forties, and the oligarchy of today.

After the institution of the multi-party system, leading to the Democratic Party administration, in the fifties led by Adnan Menderes, things have improved considerably for the believers in Turkey. While Menderes himself was a pro-Western politician, he was much more tolerant to religious practices in public life. Many of the Quranic and other religious schools were reopened and many restrictions on religious practices were

lifted. His reign has ended with the first military coup of the Republic in 1960 culminated in the execution of him and two of his cabinet ministers. Some suggest that his moderate tolerance to Islam was his undoing even though the formal charges contained accusations such as cronyism, mismanagement or the like. 1960 coup, in many respect was the official declaration by the military of its guardianship of the secularist-Kemalist state. It served notice to all concerned that the Democratic process in Turkey had limits and when the legislative the judiciary and the executive are unwilling or unable to place or enforce the limits desired by the military it would not hesitate to take matters in its own hands.

Current State

In the sixties and seventies the overt interferences of the military into political process took the form of memorandums resulting in the toppling of the elected governments, in the name of pulling the country out of the political, social economic quagmires. None however specifically targeted Islam or done in the name of protecting secularism. Two Islamic-oriented political parties founded by Necmeddin Erbakan and his friends have been closed in the seventies and it is reasonable to assume that military's feelings factored in such decisions. By and large however, neither the military nor the rest of the secularist establishment saw a realistic "Islamist" threat to the system until the early ninties, when Erbakan's Welfare, "Refah" Party emerged as the largest party. Then the military, along with the media and powerful economic and cultural elite declared all out war against "reactionary threat". Since then the generals have not been hesitant to express their views on political issues ranging from the education bill before the legislature to whether a deputy with a headscraf can be allowed into the parliament. These views are not merely expressed in the willing and eager establishment media, a.k.a. "Cartel", but it is put into action in the forms of National Security Council (MGK) decisions instructing the legislature, employing the language such as "bill will be passed". When the generals feel that the executive or the judiciary is derelict in their assigned duties, they directly interfere in both processes by various means including, e.g. setting up clandestine entities such as Western Study Group (BCG), gathering the judges and prosecutors for "briefing sessions", organizing conferences etc., for the purpose of "enlightening" the decision makers on the "reactionary" and separatist threats. As a result, in the name of Westernization, secularism and "cagdaslik" [the preferred term of the Turkish Secularists, which can best be translated as "contemporaryism" for no equivalent exist in the Western Languages to the author's knowledge], Turkey has been certified as one of the worst offenders of human rights.

The current system in Turkey can be described as a staunchly secularist oligarchy, because it is based on the imposition of the will of a small elite, formed by the military brass, and a handful of corrupt business and cultural elite in the media and academia. To wit, while this elite considers "reactionaryism", the pseudonym for Islam, the biggest threat to the republic, only 3.95 of the populace agrees with them according to a recent public opinion polls. The elite knowing this, has been increasingly growing paranoid, and nervous. Having lost hopes of gaining popular support for its actions, it increases the degree of oppression, making the primary relationship between the state and the people one that is based on fear. Like Ataturk, the State and the Military are sacred entities to be protected, revered and feared from. In the midst of most recent

economic disaster, and on the eve of May 1, Workers Day, cartel TV stations “inform” the public of the installment of 14 new video-cameras at major points, in Ankara. The successful protest march by the small merchants, against the corruption and the resultant unbearable economic collapse, is reported by the cartel daily, Milliyet with the headline “The Great Investigation” referring to the efforts by the military for the identification of the participants in the protest. Since the violations of human rights by the ruling elite is most often arbitrary, the people are at a loss as to whether a certain act constitutes a violation or not. One can be prosecuted for a “crime”, e.g. a speech made years ago, even if the specifically provided statute of limitations have expired. Ask Erbakan. He was recently sentenced to one year in prison for a speech he allegedly made as a member of the parliament, a politician, in a predominantly Kurdish city, Bingol. In the speech, he allegedly uttered the words “[w]hen starting school in the morning assembly, the children of this country began with besmele, ‘in the name of God’. You changed that and made them say ‘I am a Turk, I am forthright, I am brave, hardworking..’ On the other hand, when you said that, a Muslim child of the Kurdish origin may feel it within his right to say ‘Oh, really? In this case, I am Kurd, I am more brave, more forthright, harder-working and so on’”. These words, according to the prosecutor constituted a clear case of “creating enmity based on ethnic and religious differences” under penal code 312, article 2. The judge, the appeals court and the superior court concurred with the prosecutor. This is only one, not the most outlandish example of the extent that the arbitrary witch-hunt in the name of western secularism and modernity perpetrated upon the Turkish politicians, journalists, students and intellectuals. Any judge or an official at any level, alleged to be not tough enough in “getting the reactionaries” pay the price by being reassigned to remote areas, demoted or most often fired. No segment of the government or public space is exempt from such persecution. The most egregious abuses however takes place in the education from elementary to higher. The government placed severe restrictions through legislation and through cabinet decrees in the force of law, to the Islamic formal or informal education, by arbitrary measures such as denying government service or higher education to the graduates of Imam-Hatips (high schools that offer religious education in addition to secular curriculum), closing Quranic schools, banning religious gatherings outside of prayer time in the mosques, shutting down religious foundations, including those are purely charitable organizations. It is well documented by the Western human rights groups and government agencies that the Ecevit Government, which miserably failed in delivering aid to the victims of the earthquake and plundered the funds provided by the world, acted very quickly in stopping the aid to the victims by the “reactionaries”, i.e. Islamic -oriented aid organizations, by confiscating their aid, freezing their bank-funds and declaring them illegal, all for the purpose of assuring that “Islamists” would not gain popularity among the people. This mentality is illustrated by the triumphant declaration the chairman of the Joint Chiefs of Staff Kivrikoglu, in the aftermath of the earthquake in which he said “I noticed that the Derince Mayoralty [Virtue Party] was running a very effective soup kitchen. I ordered an investigation and found out that it was run by the former officers we expelled from the military”.

Why?

The examples such as the ones above are numerous and reported by Turkish and international human

rights organizations. The readers may visit the web-site of Mazlum-Der (www.mazlumder.org) for further information. What is absent in the discussion is generally “why”s of this lunacy masquerading as the defense of “secularism” or “contemporaryism”. That is primarily because no meaningful public discourse or dialog takes place on the issues in such a witch-hunting environment. The labeling by the elite, the military and the blow-horn, cartel media as the “reactionary” or even “suspected reactionary” is a kiss of death for any intellectual, academics or journalist. You are persecuted, dehumanized, marginalized. No one dares to defend himself or herself on the grounds that he or she is entitled to hold those views or beliefs for such speech or lifestyle is protected under the constitution, laws and international conventions. The defense, invariably is one of “I am Kemalist, secularist too.. and here is the evidence..”. Such defense did not help very many, including the Refah Party. Since the elite in its infinite wisdom, decided that the “reactionaries” are not worthy of being engaged in an intelligent dialog and do not have the power to force a debate, they did not even develop skills needed to articulate justifications for their position. The most coherent argument the intellectuals ones among them make can be summarized as: We want Western Style Democracy, however we have “special circumstances”. No Democracy can allow a movement bent on destroying the Democratic system itself, to flourish. Western Democracies can allow freedom of thought, speech, religion because they are not threatened by such harmful ideas and movements. Once we eliminate such threats, we will grant all the freedoms the Westerners have. “We Kill the snake when it is young. Little Islam leads to more Islam, which can not tolerate. See what happened to Iran and Afghanistan! They however have not to date offered a definition of the terms used to label thus persecute others, such as “reactionary”, “backward”, “fundamentalist”, “anti-secularist”. They stop there and offer no further argument as to why they think the “Islamists” of Turkey are on a course to pattern a system after those of Afghanistan or Iran, or what act of totalitarianism or religious oppression by the Erbakan government or the Virtue-Party controlled municipalities they can point to, to justify such fears. It gains importance in light of the fact that these labels alone are found sufficient by the administrators and the judges for punitive actions against individuals and organizations. Any female student, or government employee who wears a scarf is considered to do so for the sole purpose of “exploiting Islam for political gain” or doing so as a symbol of “political Islam”, and not because of religious beliefs. No argument to the contrary is to be listened or no argument is produced as to even if it is assumed to be so, why it is not covered by the constitutionally guaranteed “freedom of expression”. They know better and their knowledge is the evidence. An environment where the powerful declares that there is nothing to be discussed for the discussions lead to legitimizing the reactionaries, and that there are only internal enemies to be defeated at any cost, is naturally not conducive to a meaningful discourse.

In the absence of their own intelligent articulation of the true reasons or justification for this behavior, irreconcilable with westernization, or democracy or secularism, the observer is left to work on the evidence to psychoanalyze the perpetrators. The observers of the recent developments in Turkey cannot escape the sinister connection between the government corruption and the persecution of Muslims. While the ostensible aims of the overthrow of the Erbakan government in 1997 was to crush political Islam, a few other events point that the sole reason was not ideologic. Prior to the Erbakan, the government owned corporations (KIT) were borrowing domestically from a handful of powerful businessmen at exorbitant rates while other KITS had

funds sitting in the banks owned by the same powerful elite and earning very low rates. According to a Harvard, and Columbia Univ. Educated economist, Dr. Cuneyt Ulsever, 91% of the profitability of the 500 largest industrial concerns were derived from short term government securities at very high interest rates. Erbakan, largely ended this windfall for the elite, by establishing a new borrowing scheme called “pool system”. According to this, the KITS kept their money in the government coffers, i.e. a “pool” instead of the banks and borrowed from the same pool when they needed funds. This alone according to some estimates saved 9 billion dollars in one year, which was passed on to the government-employees as salary increases. In addition, even when the whole establishment was in collusion to topple the government of Erbakan, there has been no accusation of corruption to date against his administration. It is not surprising therefore that most of the powerful Cartel barons and corrupt businessman were the first ones to cry “reactionary” when their corrupt windfalls were cut out. According to an audit by Price- Waterhouse, 36% of the Turkish GNP is lost to corruption today. Corruption is certified to be the main reason for the worst economic collapse of the century that Turkey is experiencing today and international rescuers such as IMF and World-bank are asking for guarantees against similar corruption as condition for future loans. When there is no more money left to plunder, these champions of secularism started to cannibalize each other. Dozens of billionaires, including many retired generals, media barons, close relatives of former president Demirel are awaiting trial for corruption, embezzlement, and misallocation. On the other hand, the only Islamists in jail are there because of their views and beliefs, none for corruption. This is another dimension of “Islamist-hunt” in turkey. Clean government, moral society is seen harmful to the well-being of some secularists. It must be the “post-modern secularism” following the “post-modern coup” as coined by one of the generals involved, general Ozkaskan. The corruption-connection is the sole distinction between the modern-secularism from the post-modern one. At first it was those who felt that Islam was an impediment in the way of life they aspired, later they are joined by those who felt that Islam was harmful to their racket.

The European Connection

While the ostensible aims, i.e. the westernization, modernization are met with approval of the West, thanks primarily to the advent of the information age, thus better informed public or the human rights watchdog NGOs in the West, it is becoming increasingly difficult for the Europeans to tolerate the excesses of the regime, particularly when that regime is an official candidate to the European Union, and when there exist well-defined accession conditions such as the Copenhagen Criteria, which places heavy emphasis on human rights record. So far the Europeans turned a deaf ear to the plight of the Muslims of Turkey. That can be attributed to the fact that Muslims victims either considered it beneath their dignity or were not equipped with wherewithal to take their case to the European forums. The only human rights abuses in Turkey that Europeans recognized were the ones against Kurdish separatists, and their organization PKK. This lack of concern for one large segment of the society, i.e. the victims of the religious persecution, but extraordinary interest in the abuses against an ethnic minority lead many Turks to conclude that the Europeans do not have the purest humanitarian motives at heart when they pressure Turkey on Kurdish human rights but it is merely a profitable political tool to be used to weaken an eternal enemy, i.e. the crusader

mentality rather than human rights is at play. Many decisions sympathetic to the Kurdish plight have been rendered by the European Court for human Rights (ECHR) but none so far that shows even an acknowledgment of the Muslim oppression. In a recent decision in a case filed by a female student victim of the “headscarf oppression” ECHR judges opined that “by choosing the secular education you agreed to comply with its dress-code thus forfeited the right to dress according to your religion”. This however ignores several facts: First, there is no “religious” schools in Turkey; all schools are “secular”, including the private schools and thus under the jurisdiction of the government. A female cannot even receive a driving course completion certificate from a private course, with a picture bearing scarf. Thus a student “choosing” education is choosing secular education. Second, there is no law prohibiting the wearing of the headscarves in any school or in any government office. It is purely, the executive action by the government and the school administrators. And thirdly, even if such restrictions existed in Turkish constitution or laws, is it not self-evident that such laws would violate international conventions such as Helsinki Declaration that Turkey is signatory to? Nonetheless this travesty of justice by the ECHR gave much needed legitimation of the oppression by oligarchy against faithful and emboldened them to increase the intensity and the breadth of the abuse. Now they could say “we are affirmed by the Europeans thus vindicated”.

The Middle-Eastern Connection

Another important reason why Turkey gets a free-pass vis-a-vis the oppression of the Muslims is the Israeli-connection. For the last decade, Turkey seems to have subcontracted its foreign policy to the Jews in the West, in particular in USA. Every issue from Armenian genocide claims to IMF loans, is first pleaded with the Jewish groups. It became a standard protocol for every Turkish government official, from prime minister to president to address at least one Jewish Group during every visit to USA, but never a Muslim group. To reciprocate, US Jewish Groups often visit Turkey to discuss the issues pertaining the relationship between Turkey and Israel, and other Middle-Eastern countries. Lobbying for Turkish interests are invariably contracted to Jewish owned lobbying firms such as those run by Richard Perle and Steven Solarz. It is not clear what benefits Turkey obtained in exchange for distancing itself from even the moderate Muslim countries such as Egypt and Pakistan, giving lucrative weapons contracts, and airspace to the Israeli Fighter-planes for “training flights” along the Iraqi and Iranian borders. Since Turkey is listed among the first countries, in “lack of transparency”, it is impossible for the interlocutor to know the exact nature of the concessions made. However many suspect that the European and American indifference to the abuse against Muslims, may be helped by Jewish “lobbying activities on behalf of Turkey”.

Conclusion

In this age of information technology and globalization, it is not possible to maintain a fascist regime while having others inside or outside believe it is something else, such as secularist-democracy. While the Western governments, including US, prodded by Israel, might find it “in our national interest” to remain

silent in the face of such abuses, such “national interest” does not come cheap, for when such allies go bankrupt, as a result of corruption they come knocking the door for bail-outs. Turkish people, the children of multi-cultural Ottomans, are overwhelmingly tolerant, vis-a-vis the religion, ethnic differences, and enlightened. It is the author’s humble belief that the West’s national or common interests would be better served by forging alliances with the people of the Islamic world, including those in Turkey. The monarchs, the oligarches the tyrants come and go, but people remain. It is high time that “morally correct” policies become “politically correct ones” and thus “our national interest”.

The Crisis of Human Rights Implementation in the Middle East: Does Islamic Human Rights Activism Offer a Remedy?

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Introduction

It is not remarked upon often enough that in many countries in the Middle East the organized human rights movement and the political Islamic trend share, to a considerable extent, a common agenda. Both criticize the authoritarian governments of the region for their disregard of democratic principles, for flouting the law and for engaging in widespread violations of human rights. Despite these elements of shared analysis of what ails their societies, in most cases the two groups view each other with mutual hostility and suspicion.

For Islamists, human rights activists are “working to a Western agenda” seeking to undermine the distinctive identity of Islamic society. For human rights activists, Islamists are backward looking, obscurantist and a threat to basic freedoms.

There is no doubt that this divide between arguably the most dynamic and most popular political trend in the region and the powerful emancipatory force of the human rights discourse is very convenient to the region’s entrenched ruling elites.

The question therefore arises of whether an alliance between the political Islamic movement and the human rights movement is possible, not necessarily in any formal sense, but simply in the emergence of some degree of common ground between them. Is it conceivable that we might have human rights activists

who are Islamists, that is to say Islamic human rights activists?

There would be advantages to both movements in such a development. The human rights movement suffers from a lack of a popular base for its ideas. Human rights organizations are too often elite westernized enclaves. No political trend has shown itself more able to mobilize popular support than the political Islamic movement. Islamists suffer from their bad reputation. Governments justify often severe repression of Islamist organizations by claiming that they are acting to preserve civilization itself. A clear public commitment to human rights principles would be a powerful response to such claims.

It is not my purpose here to delve into theological and philosophical questions about the compatibility of Islam with international human rights standards. Others are doing that. It seems to me that Islam is at least as susceptible to interpretations compatible with human rights standards as are other major world religions. Rather, I examine here the experience and the practice of the human rights movement in Egypt and Turkey, two large important countries with substantial human rights movements. Through this comparison of the experience of the human rights movement in two diverse countries we can observe the extent to which something that we might call Islamic human rights activism has emerged in practice, and if it has, whether it has had a positive effect on human rights conditions?

What is human rights activism?

International human rights standards are an established body of treaty law and declarations largely derived from the Universal Declaration of Human Rights (UDHR). A wide range of local, regional and international bodies specifically concerned with the implementation, the protection and promotion, of these standards has arisen over the last fifty years. These bodies are very diverse, ranging from small grassroots neighborhood organizations monitoring police brutality or violence against women to the United Nations Human Rights Commission or the State Department's Country Reports on Human Rights Practices.

The scope of international human rights law is broad, and few if any organizations actively engage with the implementation of the full panoply of rights. Although it is an article of faith for the human rights movement that human rights standards are indivisible, as a practical matter we select, prioritize and choose between rights all the time. At different times and in different locales human rights activists choose to focus on different rights. It is not necessary to be actively engaged in the promotion of all rights (whatever that would mean) in order to be considered a human rights activist. Nor is it necessary to be a member of a human rights organization. Such labels are self-designated and certainly do not imply any exclusivity in pursuit of the activity of human rights promotion. Being a human rights activist in the broad sense simply means being actively supportive of some part of the human rights corpus while not being actively opposed to another part of it. Too much specificity is not attainable in what aspires to be a universal discourse. There are core values to international human rights principles, which we may identify as human dignity, justice and equality. These are indeed widely shared human values, and are certainly not alien to Islam.

What is the Crisis of Implementation?

The last two decades of the twentieth century were a time of explosive global growth in the human rights movement. A time during which, what Louis Henkin has called the “ideology of human rights,”¹ has become the predominant view of how the individual’s relationship to the state, and increasingly to other non-state entities, ought to be constructed and understood. Regrettably, the prevalence of human rights concepts has not been matched by their implementation in practice for most people.

There is a growing international consensus that the standards set forth in the Universal Declaration of Human Rights, and codified in the civil and political and economic and social covenants, and a succession of subsequent treaties and declarations, constitute the aspirations of humanity as a whole.

The challenge of cultural relativism, the claim that there are no universal standards for the treatment a human being receives at the hands of the state, has subsided in recent years. Attempts to promote alternative human rights schemes based on cultural or religious specificities have not prospered.² Today, we hear less about Asian Values, the self-interested assertion by various authoritarian Asian governments that international instruments are not compatible with the aspirations of Asian peoples, and the conditions of Asian societies. The notion that repression was good for economic development in certain Asian societies crumbled with the Asian economic crisis of the late nineties, and the exposure of corruption and profligacy by autocratic Asian leaders. A new global orthodoxy linking economic development to respect for the rule of law and basic freedoms, enthusiastically championed by the Clinton administration, has come to the fore.³

One criticism of international human rights standards is that they are inauthentic and expressive of alien, western values. Much of this criticism is self-serving propaganda instigated by governments and existing power elites to evade responsibility for their violations of the human rights of their people. In societies without a free press or representative government, it is difficult to know the views of the people at large. However, there is little to suggest that Muslims are less interested in basic rights and freedoms, or in representative government, than people elsewhere in the world. The language of human rights and democratization has become commonplace in domestic politics throughout the region. Governments in such diverse places as Morocco, Tunisia, Qatar and Indonesia have sought to gain legitimacy through claiming (with varying degrees of sincerity) to champion human rights as part of their programs.

All governments of Muslim states have ratified at least one international human rights treaty, and most have ratified several, including the two principal covenants. Governments speak of their commitment to upholding the human rights of their people, and official human rights institutions proliferate. So, while the human rights movement may not have fulfilled its objectives in terms of implementation, it can take credit for having changed the way governments talk about their citizens and the expectations that citizens have of the way they should be treated by their governments.

In some respects, conditions for democracy promotion has changed less in the Middle East than in other regions. The types of concerns that had inhibited democracy promotion during the Cold War have persisted in the Middle East through the nineties. The old fear of left wing subversion of friendly governments was replaced by a new fear of radical Islam with a hostile stance towards the West, threatening the security of

cooperative autocrats.

The imperative of maintaining stability and avoiding uncertainty carried greater weight for western policy makers in the Middle East, where vital national interests, the protection of energy sources, and of Israel, were seen to be at stake. For these reasons, western governments were more circumspect in the types of activities they were willing to support in the name of democracy promotion in the Middle East.⁴

On one level, human rights organizations were seen as safe recipients of support for the reasons noted above. But this created further problems for local human rights groups in the region in terms of their relationships with their governments and the broader societies. A favorite tactic of governments seeking to discredit human rights organizations has been to accuse them of giving aid and comfort to terrorism. Because the government's repression of political Islam was invariably carried out at considerable cost to human rights, human rights organizations could hardly avoid protesting about it if they were to remain true to their own mission. Thus it was an easy matter for unsympathetic governments to portray opposition to the persecution of Islamists as support for the cause of political Islam.

The cautious approach of western human rights promoters caused other problems for the recipients of western democracy assistance. The contradiction of claiming to support democracy, but wishing to have controlled results with only outcomes favorable to Western interests, was not hidden from regional analysts.⁵ Inevitably, and often unfairly, with the help of some unsympathetic local media coverage, a connection was made. It was asserted that as recipients of Western assistance, local human rights groups must be serving a Western agenda. In this way foreign assistance, both governmental and non-governmental, was very much a double-edged sword. On the one hand it provided resources that permitted the existence of many advocacy groups, but on the other hand it left the groups highly vulnerable to criticisms calling into question their legitimacy and patriotism.

In order to seek to understand the role that the human rights movement has played in human rights implementation it is helpful to examine two contrasting case examples. From these two contrasting case examples we will derive observations that may have more general applicability.

Egypt and Turkey are two of the region's most important countries by virtue of their size and regional influence. Both countries have developed domestic human rights movements of considerable size and visibility, but these two movements have developed in divergent circumstances. Broadly speaking, despite the persistence of deeply entrenched patterns of human rights violations, the Turkish human rights movement has worked within the broader context of a liberalizing polity in which substantive human rights progress was being made, especially since 1995.⁶ On the other hand, the Egyptian human rights movement has worked within the context of a de-liberalizing polity in which human rights conditions have deteriorated over the period under review.⁷

Egypt, over the last two decades, has in many ways epitomized the crisis in implementation of international human rights standards. A glance at the Amnesty International reports dealing with the early eighties in Egypt reveals essentially the same pattern of widespread human rights abuse that we find today: arbitrary detention and torture, unfair trials, restrictions on freedom of association and on political participation. Turkey presents a different picture. Despite popular perceptions to the contrary, Turkey has made substantial

progress in the human rights field over the last two decades.⁸

Islamic Human Rights Activism

A first question that arises is the basic one of establishing that such a thing exists. Do Islamists care about human rights, and if they do, is it anything more than a self-interested deception? – a desire to exploit human rights for their own purposes. For example, critics assert that Islamists are only interested in human rights when it is their supporters who are in need of support from the human rights movement because they are suffering persecution. Or, that Islamists are interested in human rights as a way of attacking a government or state authorities to which they are opposed. Their adoption of human rights language is thus purely expedient, and should they come to power, they would have no compunction about denying rights to others that they had claimed for themselves.

For example, the prominent Egyptian human rights activist Bahey Eddin Hassan has accused the political Islamic trend of “entrenched animosity” toward the human rights movement, but notes that it has “been keen on avoiding open war whenever the trend was weak or a victim of human rights violations.”⁹ Elsewhere in this article Hassan accuses the political Islamic trend of “rampant Machiavellianism,” and of resorting to dissimulation (*Taqiyyah*) in order to conceal their true opinions. Thus for him adherents to the political Islamic trend are essentially untrustworthy, and perpetually antagonistic towards human rights principles. For Hassan, Islamists may not be considered part of the human rights movement, nor as partners in the process of human rights implementation.

Hassan does define his terms in a manner that makes his rejection of the political Islamic trend less sweeping than it may at first appear. For Hassan, “there are two tendencies within political Islam: . . . the armed groups [and] . . . the one that produces the jurisprudential justifications for the acts of violence against intellectuals, and for the exoneration of the perpetrators.”¹⁰ For this author also, such activists should rightly be considered as opponents to human rights. However, Hassan does recognize many “valuable innovative judgments by a number of leading thinkers of political Islam,” although he believes they have not gone far enough because of their adherence to a belief system that is fundamentally intolerant and hostile to political pluralism. More positively he praises the “innovative endeavors of Islamic scholars from outside the fundamentalist movement.”¹¹ Thus Hassan recognizes that Islamic scholars, and presumably other non-fundamentalist Muslims, do have a place in the human rights movement.

Language is not our friend here. The terms “political Islamic trend” and “fundamentalist” have pejorative connotations for Hassan. He uses them to describe a totalitarian form of Islam with a proclivity to political violence and its justification. Others will have different understandings of these and of other terms that are commonly used in the debate about political Islam. This author, for example, would have a broader view of the political Islamic trend, recognizing the great diversity of politics practiced and advocated by practitioners of Islamic politics, Islamists, in the world today.

My focus on Bahey Eddin Hassan’s views here are not meant to single him out for criticism. On the contrary, I applaud his straightforward presentation of his serious concerns about coexisting with the politi-

cal Islamic trend. He is surely not alone in his reservations, and in today's Middle East, where the climate for the frank discussion of such volatile issues as Islam, politics and human rights is menacing, his comments are even courageous.

Hassan concludes his paper, somewhat roseately given his earlier comments, with a call for dialogue with the political Islamic trend with the aim of arriving at an agreed upon code of conduct concerning fundamental rights. He issues a challenge to leaders of the political Islamic trend to issue a declaration that unequivocally clarifies their position on the human rights records of political Islam (in opposition and in power), on the use of violence in political conflicts in general, and on the acts of killing intellectuals, women and Christians in particular, and on the issues of the freedoms of opinion, expression, belief and literary and artistic creativity.¹²

Earlier, Hassan also expresses his doubts about the political Islamic movement's commitment to women's rights and the principle of equality in general.

One may observe that Hassan's challenge sounds more like a charge sheet than an invitation to dialogue. Nevertheless, we should recognize, and certainly those who would characterize themselves as Islamists, or supporters of the political Islamic trend, who also wish to be identified as supporters of human rights principles must recognize, that these are criteria that will have to be satisfied in order for their allegiance to human rights to be considered credible.

In order for the political Islamic movement to be accepted as human rights activists by non-Islamists within their own societies, as well as by the rest of the world, then the mistrust that has arisen over the attitudes, practices and intentions of the political Islamic movement must be allayed.

I know from my own experience of meeting with human rights activists and government officials throughout the Middle East and North Africa, that the attitudes expressed by Hassan in his paper are mild in comparison with those held by many otherwise liberally inclined, tolerant individuals who believe that repression is the only appropriate response to the political Islamic trend. To his credit, when Bahey Eddin Hassan was Secretary General of the Egyptian Organization for Human rights, the organization did not shy away from coming to the defense of Islamist activists who were subjected to government repression. As Director of the Cairo Institute for Human Rights Studies, the Institute provides a forum for prominent activists from the political Islamic trend to present their views on human rights issues.

In a response to Hassan's paper, Sheikh Rached al-Ghannouchi, the leader of the Tunisian *An-Nahda* political party, raises the objection that the political Islamic movement is being held to a different standard than other political trends active in the region.

*It is regrettable that whereas the claims of democratization by the Nasserists, the Ba'athists and the Marxists are believed, the Islamists continue to be distrusted and their intentions doubted.*¹³

Ghannouchi would seem to have a point. Most political trends, and certainly all state authorities in the Middle East have some history of anti-democratic practices and of involvement in human rights violations. Indeed it would be rare to find a substantial political movement anywhere in the world without some inglorious episodes besmirching its record.

Expecting Islamists who wish to identify themselves with the human rights cause to jump through hoops while giving everyone else free passage is not fair, but it is an obstacle that Islamists must overcome if they want to be viewed as being on the side of human rights. Not surprisingly, many Islamists are discouraged by the cold welcome they often find from the organized human rights movement at home and abroad.

Islamists come to see human rights as an issue over which secularists exercise a monopoly.¹⁴ This is fueled by the fact that most human rights organizations in the Middle East are led by activists from leftist or, in the case of Egypt, Nasserist political backgrounds. They are thus seen as traditional enemies to the political Islamic trend. Sometimes the same personalities have been rivals for decades going back to their student days in the sixties or seventies.

Moreover, the human rights movement is transnational with its power centers and its wealth situated disproportionately in the West. Many human rights organizations in Egypt, for example, are almost completely dependent on financial support from Western donors. A common method of operation is for local human rights organizations to provide information about human rights violations to large Western-based organizations, like Amnesty International and Human Rights Watch. These organizations then seek to generate international pressure, including pressure from Western governments, on the local government to bring an end to the violations. One prominent activist with experience in both the local and international movements, Abdullahi An-Na'im, has characterized such relationships as "human rights dependency." "Human rights dependency legitimizes other dependencies and perpetuates dependent relationships,"¹⁵ he declares. Islamists are generally not inclined to enter nor to perpetuate dependent relationships with the West.

Another factor that discourages participation by the political Islamic movement in the human rights movement is the attitude of the state. Throughout the Middle East, wherever human rights organizations have formed, they have done so precariously and on sufferance from the state rather than as of right. Human rights activists face direct persecution for their activities, including imprisonment, torture and even killing. Their organizations face closure and their activities are blocked and impeded by state authorities. Restrictive laws of association provide human rights organizations, as well as other forms of independent non-governmental organizations, with little effective autonomy and provide the state with ample legal authority to interfere with their activities. Thus the activities of local human rights organizations are kept within narrow parameters, largely dictated by the state.

The political challenge to authoritarian regimes throughout the region presented by the political Islamic movement has made state authorities extremely wary of granting political space to Islamist activists, perhaps especially to those who would channel their activism into areas where the state has reason to feel vulnerable, such as with respect to its human rights performance.

Egypt

In Egypt, for example, over the last decade we have seen the state move methodically to suppress organizations and institutions that were emerging as alternative centers of power, or as independent critics of state

performance or policy.

1. In November 1992 we saw the closure or nationalization of tens of thousands of private mosques.
2. In February 1993, the government passed Law 100 of 1993 designed to wrest control of professional syndicates from the political Islamic movement.
3. From about 1995, the state sustained an attack on independent human rights organizations, labeling them as illegal organizations, because of their unwillingness or inability to register under the law of associations, Law 32 of 1964. The Egyptian Organization for Human Rights had applied for registration under the law in 1989, but had been turned down. It appealed against this decision and fought a protracted and inconclusive legal battle. Human rights groups formed after 1989, of which there were a growing number, avoided registration under the law on associations by incorporating themselves as civil companies under company law. In 1998 the government signaled its intention to bring the human rights groups into line by detaining the Secretary General of the EOHR, Hafez Abu Se'ada on a little known provision of the Emergency law that outlaws the receipt of foreign funding without permission.
4. The government also imposed a new law on associations, Law 153 of 1999, that was struck down on procedural grounds by the Higher Constitutional Court, but which is expected to come into force in the very near future. Human rights groups and other NGOs have been informed that they will be expected to register under the new law, or face closure. The new law retains invasive governmental powers over the activities of human rights groups.
5. In July 2000 the government detained prominent sociologist Saad Eddin Ibrahim and closed his Ibn Khaldoun Center for Development Studies, as well as the affiliated Huda Shirawi Center for Women Voters. Dr. Ibrahim's trial, together with that of a number of his staff from the two centers is continuing. Again the issue of foreign funding has been raised, and many human rights NGOs, including the EOHR, have decided to discontinue their acceptance of foreign financial support, at least until the outcome of the trial is known, and the impact of the new law in practice can be seen. As a result the human rights monitoring activities of the local Egyptian groups have almost ceased.

With the growth in public awareness of human rights in Egypt in the late eighties and early nineties, the political Islamic movement, in common with others in the society, increasingly presented its demands and its criticisms of government policy in human rights terms. Lawyers with a practice defending imprisoned activists from the political Islamic movement forged contacts with local and international human rights organizations, seeking an audience for their grievances.

In the early nineties, professional associations, notably the Medical Syndicate but also the Engineers' Syndicate, the most active of the Brotherhood controlled institutions, formed human rights committees, and began to campaign on behalf of their members suffering persecution, and also on broader issues of concern, like the Emergency Law and the prevalence of torture. The Bar Association had a long tradition of supporting civil liberties, and what came to be referred to as human rights. As Islamist influence within the bar increased so its involvement with Islamist human rights concerns became more visible. With the Liberties' Committee of the Bar, the traditional venue for human rights activism, under the control of Nasserist chair,

Samih Ashour, Islamist activists congregated in the Committee for the Islamic Shar'ia under its chair, Seif-al Islam al-Banna. It too contributed to a growing chorus of Islamic human rights activism.

Islamist activists themselves became members of the EOHR, and from the time of the mid-nineties personalities associated with the political Islamic movement served as elected members of the organization's executive board. The opposition press, especially *Al-Sha'ab* and from time to time *Al-Wafd* carried stories exposing government involvement in torture and took to criticizing the government for violating human rights.

A cynic might observe that much of this human rights activism by Islamists was self-interested. They were primarily concerned about violations of the human rights of their own supporters, and they sought partisan advantage within whatever space was available to them, be it the professional associations or the EOHR. To that extent, the political Islamic trend behaved much like other opposition political movements in Egypt. With parliamentary politics under stifling control of the ruling party throughout the nineties, there were few other outlets for natural partisan competition.

It is fair to observe that because the professional syndicates, the institutions that were the major venues for Islamic human rights activism, fell victim to state repression, with many of the most prominent leaders being sentenced to prison terms in 1995 and 1996, we were never really given the opportunity to assess the nature of the Egyptian political Islamic trend's commitment to human rights. The government did not wait for Islamist and secularist human rights activists to find common cause in a human rights campaign that could have challenged its grip on power. An attempt by some of the leading younger syndicate activists to form a broad based political party, the *hizb al-wasat* (Center Party) with its roots in the political Islamic trend, but reaching out to other political trends, was nipped in the bud in 1996. Abu al-Ala Madi, former deputy secretary general of the Engineer's Syndicate, and a leading activist in the human rights field, was among the founding members who was brought to trial and imprisoned for attempting to bring new life to Egypt's atrophied political party system. Profiting from the fear of instability arising from the increasing violence of the conflict with militant Islamist factions in the early and mid-nineties, the government was able to sow distrust of the political Islamic movement as a whole. The government gained further consent for its de-liberalization measures by evading foreign pressure through portraying such measures as necessary to ensure public acceptance of the Arab-Israeli peace process.

The state's re-assertion of control over civil society organizations that were beginning to challenge its dominant position in society has not been carried out without cost. The state's repression of independent Islamist opposition, both violent and non-violent, has been accompanied by accommodation of some Islamist demands, especially in the cultural realm. The state is pleased to portray itself as the defender of religion. For example, in recent controversy over the publication of novels deemed offensive to Islam, the state has defended Al Azhar in the banning of books. President Mubarak has cautioned writers and intellectuals against offending the religious sensibilities of the people. The rehabilitation of the Brotherhood, after five years of severe repression, whereby its members now sit again in the parliament, and its list emerged victorious in the recent bar association elections, has some younger Islamist activists speaking of a deal. The terms of this deal are alleged to be an agreement by the state to defend Islamist positions in the social and cultural spheres, in return the Brotherhood will stay out of security policy and pushing for political reform.

For the time being, at least, the Egyptian state does appear to have silenced or tamed its most persistent domestic human rights critics, and thereby headed off the calls for fundamental political reform which these demands necessarily entail. For an authoritarian government, the human rights discourse is anything but safe. Accountability, the rule of law, freedom of expression and association and the right to representative government are subversive values that would challenge the prerogatives of Egypt's ruling elite if implemented. Mindful of this, the state has succeeded in preventing the reform demands implicit in the human rights message being taken up effectively by any political force large enough to disturb it. The human rights groups remain small, vulnerable and intimidated. The political Islamic movement, which remains popular, no longer offers a direct political challenge to the government.

The Egyptian example does not really provide us with answers to our questions: does Islamic human rights activism exist, and if it does can it bring human rights progress? State repression has obstructed the development of the human rights movement, and the political Islamic trend has been excluded from formal participation in the political process.

Turkey

Secularism is one of the core principles of modern Turkish republic established by Mustafa Kemal Ataturk in 1923. The preamble to the 1982 Constitution of Turkey states:

as required by the principle of secularism, there shall be no interference whatsoever of sacred religious feelings in State affairs and politics.

But as human rights leader Yilmaz Ensaroglu observes: "In Turkey we have a language problem. When you say secularism you understand one thing and the state in Turkey understands something else."¹⁶ As a core value of the republican state, secularism has taken on a distinct meaning, quite different from how it is understood in the context of the United States, for example. In the U.S. the term secularism in reference to the nature of the state connotes that the state remains neutral and keeps an equal distance between different religions so as to prevent the state becoming an instrument of religious persecution. The state's role is to protect the right to freedom of religion, and politicians are free to advertise their own piety as a reason for the electorate to trust them with its votes.

In Turkey the situation is the opposite. The state is anything but neutral on the question religion. There is a state approved version of Islam upheld through state religious institutions. All mosques are government institutions and all imams are state employees. Compulsory religious education is carried out in accordance with a common state- approved curriculum.

The principle of secularism is used by state authorities to penalize and suppress religious expression and activism of which it disapproves. Attempts by politicians to build support on the basis of their piety or their attachment to religious ideals is officially discouraged and may even lead to prosecution, imprisonment or exclusion from public life. Had George W. Bush run for office in Turkey his frequent allusions to his religious faith may have resulted in his prosecution under Article 163 of the Penal Code for endangering the

secular nature of the state. His faith-based initiatives may have started rumblings of a military coup.

It is often observed, with some justice, that the Turkish principle of secularism owes more to the French tradition of laicism, or even Jacobin anti-clericalism, than to the Anglo-Saxon, and especially the American tradition, of separation of church and state.¹⁷ Writing of the largely negative impact of another type of state secularism, Tunisian Islamist leader Sheikh Rachid al-Ghannouchi makes the astute observation that “Secularism in North Africa is a church of the same type against which the West rebelled.”¹⁸ Showing how much terms we think we understand can have completely different meanings in different contexts, for Ghannouchi the struggle against state secularism is akin to the Enlightenment. Something similar may be said about state secularism in Turkey when we consider that being in favor of freedom of religion may be portrayed, in the Turkish context, as being anti-secular. Thus we may observe a conflict between human rights and state secularism that is most visible in the dispute over women wearing headscarves in universities or public sector buildings, but which extends to other non-state approved forms of religious expression.

Nilufer Gole describes a broader societal contradiction between an establishment, Kemalist “aversion . . . to the autonomization of civil society in politics – whether expressed through Islamism, Kurdish identity or liberalism”¹⁹ and social forces supportive of the autonomization of civil society, which she identifies as: “the processes of the emergence of a market economy, the expression of religious values, the recognition of ethnic identities and the freedom of ideological opposition.”²⁰ These forces for autonomization of civil society, and of independent oppositional political trends, have proved to be rather strong in Turkey, certainly as compared to Egypt, and the political Islamic trend has been a major beneficiary of this relative openness.²¹

Given the nature of Turkish state secularism, it is not surprising that Islamist opposition to it has arisen, and that this opposition has laid claim to the language of human rights. Can we then call this Islamic human rights activism? Unlike in Egypt, a political party with an Islamic orientation has been part of the parliamentary scene for decades. Even though this party has from time to time been banned, (a not unusual fate for political parties of diverse ideological backgrounds,) it has been permitted to re-open under a different name. Between 1995 and 1997 the *Refah* (Welfare) Party served as part of the governing coalition, having been the largest vote winner in the 1995 parliamentary elections, with a little over 20 per-cent of the vote. In 1996 – 97 *Refah* leader, Necmettin Erbakan served as Turkey’s first Islamist Prime Minister. In addition, the Islamist party has been successful in local elections, controlling many municipalities, including those of Istanbul, by far Turkey’s largest city, and the capital, Ankara since 1994. Following the removal under military pressure of the Erbakan government, the *Refah* Party was found to be a threat to the secular nature of the state and banned. A new party, the *Fazilet* (Virtue) Party has emerged in its place.

The party of the Islamic trend in Turkey, currently *Fazilet*, when in office at the local or national level has generally pursued pragmatic policies, not far removed from the mainstream. Conscious that some may equate its Islamic roots with extremism, the party has taken steps to refute what it terms “false beliefs” about it. In 1993, Erbakan itemized six false beliefs:

1. the *Refah* Party is an authoritarian party that would suppress freedom when in power;
2. it is against secularism and against democracy;

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3. it is the party of traditional religious fanatics;
 4. if in power, it would immediately initiate an Iranian type regime, which would undoubtedly lead to a military intervention.
 5. Relations with the Western world and the United States would deteriorate and Western countries would cut off economic aid and credits and put an economic blockade on such a regime.
 6. Turkey's economic situation would become chaotic because *Refah* would choose to follow etatist policies.²²

While it has within it more traditionalist and more modernist elements, its ideological alignment defies simple categorization on a left to right spectrum. In terms of human rights the party has not been especially outspoken. For reasons of direct self-interest, it has called for the liberalizing of laws that restrict freedom of expression on the issue of secularism. Several of its leading figures have been prosecuted, jailed or removed from office on the basis of their statements. For the same reasons it has called for an end to the banning of political parties. As other human rights issues, like torture, have become the topic of political debate, *Fazilet*, like most political parties, has had no trouble supporting reform, but not with any notable zeal. On the Kurdish issue, *Refah* and now *Fazilet* have tended to be a moderating force, as the only sizeable party that draws substantial support from both the Kurdish community and the general population. In general terms, the Islamist party has shown itself to be no more and no less interested in human rights reform than other major parties. The Islamist character of the party does not appear to have had much influence on its human rights practice.

Opponents to the Islamist movement point to incidents of political violence attributed to Muslim extremists as indicative of the intrinsically anti-democratic nature of political Islam. Thus the exposure last year of the campaign of political murders by the Hizbullah group led some to charge that the political Islamic trend as a whole was responsible for these terrible acts. However, evidence suggested that this group was largely a product of the dirty war waged against Kurdish separatists, rather than a virulent offshoot of political Islam.

The killing of 37 attendees at a cultural conference in Sivas in July 1993 in a deliberately set fire at a hotel in protest against a speech by Aziz Nessim, a strong critic of the Islamic movement, is another violent incident associated with the Islamic movement as a whole by its opponents. It would be fair to observe that there are fanatics and extremists in the Turkish Islamic movement, and probably some within *Fazilet*, but such attitudes are not representative of the movement as a whole.

Beyond the realm of political parties, where our question about Islamic human rights activism does not really find a conclusive answer, the process of the autonomization of civil society over the last two decades has fostered the development of associations actively promoting the cause of Islamic liberalism. The *Nurcu* movement associated with the teachings of Said Nursi, "illustrates the ability of religious traditions to absorb global discourses of democracy, human rights and market economy."²³ This large movement, and, the more nationalistic and statist, Fethullah Gulen movement, have played an important role in bringing human rights concepts into contemporary Islamic discourse. Gulen has declared, for example, "revelation and reason do not conflict: . . . the state should be neutral on beliefs. . . but should expand individual freedoms

and rights.”²⁴ The intellectual climate with respect to Islam is thus much more conducive to liberal human rights ideals than in Egypt.

A development that tends to support the existence of Islamic human rights activism was the creation of Mazlumder, (The Organization of Human Rights and Solidarity for Oppressed People) by a group of activists with their roots in the Islamic movement, in 1991. From its outset, Mazlumder set out to be a non-sectarian organization, defending the human rights of all, regardless of their political affiliation. Their motivation for founding the organization was a perception that existing human rights institutions “were not really interested in human rights abuses concerning different sectors of the society.”²⁵ Despite this implicit criticism of the narrow focus of the work of the other organizations, Mazlumder president Yilmaz Ensaroglu insists that “the group was established to support and strengthen the existing human rights movements.”²⁶

In practice, Mazlumder have been able to establish good working relations with other human rights groups, which are associated with left-wing politics. This is visible in their joint activities, but also attested to by leaders of other human rights groups.²⁷

Mazlumder is now one of the largest non-governmental human rights groups in Turkey with regional branches in several cities, while some of its activities focus on issues of particular concern to the Islamic movement, like the headscarf issue (which is largely ignored by other groups) it speaks out on a wide range of violations in Turkey. As the government has moved towards a more collaborative relationship with domestic NGOs, Mazlumder has been included in those discussions together with the Human Rights Association and other secular groups.

In its documents, Mazlumder aligns itself unequivocally with a universalistic vision of human rights, for example:

*Mazlumder believes that human rights are universal, and that the source of human rights is the fact that individuals were created as human beings. Thus, natural law – divine law – constitutes the foundation of human rights. Mazlumder does not support the idea that there are either cultural or regional differences in basic human rights...*²⁸

By its words, and its practice it is fair to identify Mazlumder as part of the human rights movement, and in that its main support comes from the Islamic movement, we may further identify it as an example of Islamic human rights activism in practice.

It is telling to hear Ensaroglu’s assessment of Mazlumder’s main achievement in its ten years of work. In answering this question, the Mazlumder president first describes what he terms the “cultural problem” of different political factions seeking to exploit human rights for their own interests. He credits Mazlumder with the achievement of “the development and broadening of sensitivity to human rights concerns among religious people and the political right.”²⁹ He mentions the important fact that concern for human rights issues now appears in articles by journalists and columnists not associated with the political left.

Certainly, progress in taking human rights ideas out of the ghetto of the political left is an important achievement in a country that remains as polarized on old left-right divisions as Turkey. This is one indication of how Islamic human rights activism may be said to be contributing to overcoming obstacles to

implementation in the region, but it is one small example. Ensaroglu is frank enough to concede that the organization has not been successful in overcoming “an image that is imposed on us” by people not directly exposed to the work of the organization.

Nevertheless, Mazlumder’s non-sectarian example, personified in Ensaroglu himself, is a positive one for the Turkish human rights movement as a whole. Ensaroglu states:

if human rights is the objective, meaning human rights is seen and carried out as a legal struggle, without regard to identity, we have been ready to support them [other organizations] encourage them and help them until today. We will continue to do from now on... this has been an increasing orientation for us.³⁰

These words are backed up by a record of active cooperation with a range of groups not associated with the political Islamic trend, including the Turkish Medical Association, the Helsinki Citizens Committee and the Contemporary Lawyers Association, among others.

Concluding Observations

We can identify in Turkey that an Islamic human rights movement is not a contradiction in terms. This can only have a favorable effect on the attitudes towards human rights among the substantial body of people who sympathize with the political Islamic trend, which in turn may be expected to contribute to the gradual, but necessary process of creating and reinforcing receptivity for human rights principles in the society as a whole.

Many factors contribute to the realization of positive human rights change. The activities of the human rights movement are just one of them, and it is not always possible to isolate them from others. In Turkey, for example, the context of the admission process to the European Union has created a broad national consensus in favor of achieving necessary improvements in the human rights field. The human rights movement, in its diverse elements, is an integral and vital part of this process, but it cannot be said to have created it.

The human rights discourse provides rights and freedoms, but it also sets limits on its adherents, in the sense that it rejects totalitarian or absolutist political visions that would exclude others from rights protections. As such it is a powerful foundation for the construction of a pluralistic polity founded on principles of tolerance and pluralism. The political Islamic movement has been the victim of much intolerance, and very often continues to be denied the right to participate in the political game. The reason often given for this exclusion is its own totalitarian tendencies and intolerant practices.

The extent to which these charges are true or merited may be disputed, but most reasonable people would agree that in some cases they are.

Fear of political Islam, real or contrived, continues to provide a pretext for non-implementation of respect for human rights principles in many Middle Eastern states. To overcome this obstacle to implementation,

non-Islamists have an obligation to treat Islamists fairly. But, they are not obliged, and we cannot expect them, to endanger basic freedoms they hold dear, in order to accommodate Islamist demands. The onus falls on Islamists themselves, if they wish to demonstrate that they are interested in participating in a pluralistic political framework, to make clear through words and deeds their commitment to pluralism and tolerance.

Here we may observe that Islamic human rights activism, that is support by Islamist political activists for human rights principles for all, can make an important contribution to removing the large obstacle to human rights implementation that has arisen as a result of conflict over the emergence of political Islam.

Notes:

¹ Louis Henkin, "Human Rights: Ideology and Aspiration, Reality and Prospect," in Samantha Power and Graham Allison eds. *Realizing Human Rights*, St. Martin's Press, New York, 2000. Henkin writes, "In the twenty-first century, I am persuaded, the human condition will be judged, at home and abroad, by the human rights ideology." p. 32.

² Ann Elizabeth Mayer, *Islam and Human Rights, (Third Edition)*, Westview Press, Boulder, CO, 1999, presents a devastating critique of Islamic human rights schemes. She states: "Their Islamic pedigrees are dubious, and the principles they contain do not represent the result of rigorous, scholarly analyses of the Islamic sources or a coherent approach to Islamic jurisprudence." She notes that such schemes appear motivated by resentment of the West and cultural nationalism." p. 191.

³ Freedom House in its press release announcing the publication of its annual *Freedom in the World* report for 2000 – 2001 noted: "Significantly, the study found that the economies of Free countries grew at an average annual rate of 2.56 per cent over a nine-year period – a rate 70 per cent higher than the average for Not Free states. The difference was more dramatic among poor countries..." Freedom House, "Global Democracy Continues Forward March," New York, Dec. 20, 2000.

⁴ Different western governments varied in their attitudes to democracy promotion in Middle Eastern states, depending on their conception of their own national interest. Thus the French were less critical than the Americans of the annulment of parliamentary elections in Algeria in 1990, in which the Islamic Salvation Front seemed likely to gain a plurality of the seats. American criticism was muted, with Assistant Secretary Edward Djerjian noting that the United States supported the concept of one man one vote, but not that of one man, one vote one time. European criticism of human rights violations and democratic deficiencies in Turkey has been much more strident than that coming from the United States.

⁵ For example, see, Moustapha Kamel al-Sayyed, "A Clash of Values" in Ottoway and Carothers ed. *Funding Virtue*.

⁶ Paul J. Magnarella, "Turkey," in *Middle East and North Africa: Governance, Democratization, Human Rights*, Ashgate, Alderhot, UK, Brookfield VT, 1999.

⁷ Al-Sayyid *supra*. Note NN, Mamoun Fandy and Dana Hearn, "Egypt: Human Rights and Governance" in Magnarella ed. *Middle East and North Africa: Governance Democratization and Human Rights*.

⁸ The Freedom House Annual Survey of Freedom Country Ratings has attempted to quantify the level of freedom in states around the world since 1972 – 73. This has been inevitably an imperfect process, with many detractors. Nevertheless, it is interesting to note that in 1972 – 73 Freedom House allotted Egypt a score of 6.6, placing it firmly in the Not Free category. In 1999 – 00 Egypt's score was virtually unchanged at 6.5. Turkey attained the score of 4.5, placing it in the Partially Free category, in 1999 – 00, having risen from a low of 5.5 in 1980 – 81 after the military coup.

⁹ Bahey Eddin Hassan, "Toward Human Rights Enforcement in the Arab World: A Comprehensive Strategy" in Lawyers Committee for Human Rights, *Islam and Justice: debating the Future of Human Rights in the Middle East and*

North Africa, New York, 1997, p. 159.

¹⁰ *Id.* p. 160

¹¹ *Id.* p. 161

¹² *Id.* p. 163

¹³ Rached al_Ghannouchi, "The Islamists and Human Rights: A Comment on Bahey Eddin Hassan's Paper," in *Islam and Justice*, Lawyers Committee for Human Rights, New York, 1997, p. 169.

¹⁴ *Id.* p.166

¹⁵ "Problems of Dependency, Human Rights Organizations in the Arab World" an interview with Abdullahi An-Na'im, *Middle East Report, MERIP*, Spring 2000, p.22.

¹⁶ Interview with Yilmaz Ensaroglu, President of Mazlumder, carried out by Ayse Kadayifci, Ankara, Jan. 16, 2001.

¹⁷ See for example, Binnaz Toprak, "Civil Society in Turkey," in A.R. Norton ed. *Civil Society in the Middle East*, E.J. Brill, Leiden, 1996, p. 107

Laicism in Turkey, influenced by the French experience rather than the Anglo-Saxon secularization process, was originally designed and interpreted as state control over religion, not a separation of the two spheres.

¹⁸ Rachid al Ghannouchi, "Secularism in the Arab Maghreb" in Esposito and Tamimi eds., *Islam and Secularism in the Middle East*, New York University Press, New York, 2000, p. 105.

¹⁹ Nilufer Gole, "Authoritarian Secularism and Islamist Politics" in A.R. Norton ed. *Civil Society in the Middle East*, E.J. Brill, Leiden, 1996, p. 20.

²⁰ *Id.*

²¹ See discussion in Mahmood Monshipouri, *Islamism, Secularism and Human Rights in the Middle East*, Lynne Rienner, Boulder, CO, 1998 pp. 114 – 115.

²² Erbakan's speech to the 4th Congress of the *Refah* Party, October 10, 1993, Ankara, quoted in Gole, p. 42.

²³ Hakan Yavuz, "Towards and Islamic Liberalism? The Nurcu Movement and Fethullah Gulen in Turkey," *The Middle East Journal*, Fall 1999, Vol.53 No. 4 pp.585-6.

²⁴ *Id.* p.601.

²⁵ Interview with Yilmaz Ensaroglu, President of Mazlumder, by Ayse Kadiyifci, Ankara, Jan. 16, 2001.

²⁶ *Id.*

²⁷ For example, president of the Human Rights association Husnu Ondul said in an interview in Ankara on January 16, 2001, "we have close, supportive and respectful relations with Mazlumder."

²⁸ From information sheet prepared by Mazlumder, *On the side of all oppressed against all oppressors*, undated.

²⁹ Ensaroglu interview.

³⁰ *Id.*

Democracy in Practice: The American Muslim Experience

By Mohamed Nimer

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The main question that arises in the inquiry about Islam and democracy in the American Muslim context is this: to what extent has the American State accommodated Islam and Muslims? Although Muslims have maintained a communal presence in the United States for nearly a century, they continue to face discrimination and denial of their rights to religious freedom taken for granted by most Americans. Currently, American Muslims address the controversies over such issues of religious accommodation and discrimination mainly by educating others about their faith and their lives. Yet, the American Muslim experience so far has only reinforced the general concern about their status in the country of which they are citizens.

The examination must start with looking at how the U.S. Constitution address the concerns of the Muslim community about discrimination and religious accommodation. On religion, the First Amendment to the U.S. Constitution states, “Congress shall make no law representing an establishment of religion, or prohibiting the free exercise thereof. . . .” Convention suggests that this so called “establishment clause” refers to the idea of separation between the state and religious institutions and the idea that the government cannot favor one religion over another. The “free exercise of religion” clause protects people against governmental violation of the right to practice one’s faith.

The Constitution delineates other rights of people, which directly impact the ability of faith-based communities to address their concerns. The First Amendment prohibits the government from “abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

The Fourteenth Amendment prohibits the constituent states of the American union from making or enforcing any law that abridges “the privileges or immunities of citizens.” This amendment also prohibits any state from depriving any person “of life, liberty, or property, without due process of law.” It also commits the individual states to respect the right of people to be treated equally under the law.

In addition to these protections, state and federal statutes offer a series of anti-discrimination laws. The Civil Rights Act of 1964, America’s premiere anti-discrimination legislation, stipulates that people should not

suffer disability on account of race, religion and national origin. Persons who believe that their constitutional and statutory protections have been violated can go to court to seek remedy. To what extent have Muslims enjoyed legal protections at the federal and state levels? While American Muslims have suffered discrimination of various types, denial of religious accommodation occurs most often. I will focus on this concern in areas of great significance to the lives of Muslims: the workplace, public schools and business.

Legal protections in the employment sector apply only to corporations with more than fifteen employees. Thus small businesses, which comprise a substantial segment of the economy can, and did, exclude Muslims (and others) with legal immunity. Moreover, the stipulation that large corporations must extend reasonable religious accommodations to employees excludes requests that may cost the business “undue hardship.” The Supreme Court, which has no Muslim member, defined undue hardship in terms of any requirement above ordinary administrative cost.

Employers have used such interpretation of the law to deny Muslims prayer accommodations. In several of such cases, Muslims have put their religious practice on hold until their work conditions change. Other employers may offer accommodations but condition them with an inequitable work assignment. The largest number of workplace discrimination complaints has come from women who wear *hijab*, and whose accommodation implies no financial cost. Although in many cases the discriminatory treatment is overt and can conceivably be challenged in court, most of the victims cannot afford the high cost of seeking legal counsel, let alone sue large corporations. In many cases Muslim women denied their First Amendment right to wear hijab look for other jobs or relax some the religious requirements to fit the demands of employers. Similarly, Muslim men shave the beards they wear for religious reasons to keep their jobs.

Still, evidence shows that economic factors sometimes come into play in favor of Muslim workers. Corporations with large number of Muslim employees and/or customers do offer accommodations. A chicken plant in Atlanta last year offered to bring an imam to the work site, so that workers do not have to leave the factory for Friday Prayer. Muslims in professional positions are the least to report religious accommodation complaints, because their work environment allows them much more freedom of movement than the highly supervised, assembly-line workers.

A number findings can be inferred thus far. First, the actual experience of Muslims shows various patterns of treatment, mainly dependent on the personal attitudes of their bosses, the work environment, and the Muslim workers’ economic value to their employers. Second, the legal tradition in this country, as interpreted by the current Supreme Court, does not view religious freedom as an absolute value; rather it holds it as inferior to other values. Third, current legal practice in the U.S. assumes that individuals who must work for others to earn living, should expect to compromise their faith.

In public schools, which are funded in part by tax dollars imposed on Muslims by their government, the establishment clause is erroneously invoked to deny Muslim students the accommodation of religiously mandated prayer. In 1999, CAIR proposed a policy model for religious accommodation in public schools. The proposal dealt with the needs of students from various religious backgrounds, arguing that the school system can observe its neutrality on religion while respecting the religious needs of students. In other words, the paper took the position that denying students the right to perform their prayer runs against the spirit of the

Constitution. The religious discrimination exists because of anti-religious, anti-Muslim bias.

American Muslims learned through the process that articulating a position is one thing, affecting policy change is another. After the release of CAIR's paper, the Virginia State Legislature passed a law requiring a moment of silence in the beginning of every school day. This law passed in response to lobbying by Christian groups, who thought it would give their children a chance to pray in the morning. Muslim children who follow a set prayer schedule, will have offered their morning prayer at home. Their next prayer time, which is ignored by all states, is at noon. Although Muslims may not reject the idea of a moment of supplication to God, there was no serious attempt to court them by proponents of the Virginia law. This, despite the fact that Muslim children make up a substantial portion of the student population in Virginia, especially in Fairfax, the second largest county in the state.

Local school boards have the power to formulate their own policies and have produced variant policy manuals. For Muslims to affect those policies, they must become involved in school board politics. In a number of places Muslims have participated and received various accommodations. School districts close on Eid in Paterson, New Jersey and Dearborn, Michigan, where Muslims represent a large segment of the student population. However, in other school districts with much lower Muslim student population the picture is different. Even in a county like Fairfax, which lists Muslim holidays in its records and allows excused absences on Eid, SOL exams this year were scheduled on March 5, 2001, the Muslim day of Eid Al-Adha. Thus Muslim children in a county with high awareness of the issue were placed in a situation to choose between celebrating Eid and taking an important school exam.

To many Muslim leaders, the solution lies in the establishment of private Islamic schools. Such schools currently serve a miniscule portion of Muslim children, as most families cannot afford the financial burden of private schooling. In short, Muslim public school students and employees experience different treatment based upon their productivity or political power in their respective institutional settings. The fact that Muslims belong to a religious minority bears no legal consequence to these dynamics.

In the business world, Muslim investors find usury (called *riba* in the Quran) and other *haram* (religiously impermissible) products all over the place indeed. There are market solutions allowing Muslims to establish businesses that comply with Islamic principles. Muslim investment ventures, such as the \$100 million Amana Mutual Funds, have developed stock package that comply with the Quranic injunction against usury. Islamic housing cooperatives have started to emerge, but those who purchase homes through them do not receive the tax breaks extended to those who choose conventional mortgage transactions. Also, public and private sector employees who receive pension and retirement benefits are usually not allowed a choice of *halal* investment of their own money.

In contrast, some states have passed laws concerning *halal* food, such as the Halal Food Protection Act passed last year by the State of New Jersey. *Halal* food was not seen as a religious item whose protection is offered to accommodate Muslim needs. Rather, it was seen as a consumer commodity that has been subject to commercial abuse. The measure that passed was seen as part of food label regulation. The passage of the law raised anticipation among Muslims that other accommodations can be offered by state and federal laws regarding other Islamic concerns.

In conclusion, the American state challenges American Muslims to address their concerns about religious accommodation through the legal and political structures of the country. Muslims have become involved, but found the process marred with dynamics that do not recognize their status as a minority group. The free exercise of religion of American Muslims is largely tied on their economic liberty. Muslims in lower income brackets live as second-class citizens, especially the weaker elements of the community—women, children and minimum wage laborers.

Islamist Attitudes Toward Democracy

By Kamran A. Bokhari

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During the last quarter of a century there has been much deliberation as regards the correlation between Islam and democracy, in both Muslim as well as non-Muslim circles. Insofar as the former group is concerned, the debate has generally been amongst Islamists and certain academic quarters, whereas in the latter it has been pretty much confined to academia and the media. While the Non-Muslim contribution to this debate has indeed played a significant role in shaping modern Islamic political philosophy, however, this paper will mainly focus on the Islamist perceptions of democracy.

Although the dominant Islamist point of view is that Islam is not *incompatible* with democracy, however, there remain a significant number of Islamists who view democracy as being antithetical to Islam. The more recent literature on this issue indicates that the locus of debate is slowly shifting to the question of just how much is Islam compatible with democracy. The purpose of this essay is to examine these two opposing viewpoints, and to suggest future contemplative trends in this regard. This treatise will include a brief identification of the various Islamic political groups based on their attitude towards democracy. This will be followed by an analysis of the ideological positions of both sides. The positions adopted by both sides of this debate are a function of their respective perceptions of democracy. Additionally, these opposing positions are also dependent upon the particular approach to *ijtihad* and the Islamic sources of jurisprudence.

In order to understand Islamist positions vis-à-vis democracy it is crucial that they be analyzed in the light of the contemporary resurgence of Islam. In this regard, a brief survey of the history of Islamic revivalism since the last days of the Ottoman caliphate-sultanate becomes a pre-requisite to any further discussion of the issue at hand. The current global trend toward Islamic resurgence has its roots in the movements launched by Sayyid Jamal Al-Deen Al-Afghani, Muhammad Abduh, Rashid Rida, and Muhammad Iqbal in the late nineteenth and early twentieth century. Although these reformers are considered to be the forerunners of Islamic revivalism, nevertheless the label of pioneers has been assigned to the likes of Sayyid Maududi, Hasan Al-Banna, and Ruhollah Khomeini who were the first to lead well-organized movements as

early as the 2nd quarter of the preceding century. The groups that these three men founded became the archetypes for other groups that surfaced later. Effectively since the 1960s, there has been an exponential proliferation in the number of Islamist political groups operating world-wide with a diverse range of views about Islam's political system.

The environment in which these movements took birth was one where the Muslim ummah had effectively been dismembered in accordance with the logic of the nation-state. From the time of the establishment of the first Islamic political authority in Madinah in 622 CE until the abolition of the Ottoman caliphate-sultanate by the Turkish Grand National Assembly on March 3, 1924, the Muslim ummah was perhaps never faced with a power vacuum. It was not confronted with a situation where an Islamic state had to be "re-established". Thus the continuity of the political order founded by the Messenger Muhammad was the reason why classical Islamic scholarship never envisioned a world without an Islamic authority, and consequently never formulated any course of action to address such a scenario. Furthermore, *ijtihad* is conducted on real life issues that challenge the ummah in a given space-time segment as opposed to hypothetical circumstances. Hence the absence of any literature in the pre-modern era that elaborates on a methodological process by which an Islamic authority could be re-constructed. So in a sense, the process of Islamic revival began in circumstances that were unprecedented and hitherto unfamiliar for the Muslim world. The hallmark of this [modern] era is that the global political mood has been shaped by the struggle between democracy and autocracy.

While the early revivalists Hasan Al-Banna and Sayyid Maududi, proactively engaged the forces of modernity in their efforts at expounding a modern Islamic political discourse, however, second generation Islamists such as Taqi Al-Deen Al-Nabhani and Sayyid Qutb articulated their political philosophy on the basis of a rejection of modernity, which inadvertently had long-term consequences. The 1950s and 1960s can be considered as the naissence of the intra-Islamist debate over the question of Islam & democracy. The debate over whether democracy is compatible with Islam or not, is now well over half a century old (if not more) but Islamists even today seem bitterly divided over the issue. There exists a diversity of viewpoints ranging on one hand from those who view democracy as a value-neutral operational mechanism on the basis of which a modern Islamic state can be constructed, to those who see democracy as a value-laden concept that tries to elevate human reason above divine revelation and is hence seen as being tantamount to *kufr* (disbelief). In other words, the disagreement essentially about the manner in which this highly contested concept of democracy is defined and by whom. Should democracy be viewed through the conceptual framework of sovereignty or should it be understood as a procedural device that seeks to facilitate what David Easton has called the authoritative allocation of values, or should it be viewed from a third paradigm that takes both opposing viewpoints into consideration?

Irrespective of how this issue will be perceived in the future, in the 'here and now' Islamists continue to struggle with this issue. On one hand are groups that have accepted the nation-state and its structural-functionalism to achieve their goal, while on the other end of this spectrum are those who do not recognize the nation-state as a legitimate vehicle and its mechanisms as an [Islamically] legal agency through which a modern Islamic polity can be organized. It would be beyond the scope of this paper to discuss each viewpoint between these two extreme positions, therefore a general typology would be a better means of analyzing

the subject at hand. Islamist groups can be broadly classified into at least three distinct categories with respect to the various methodologies they employ to achieve their common objective of establishing an Islamic state. However, in so far as their attitude towards democracy is concerned, Islamist groups can be broadly categorized into two general camps. There is the **pro-democracy camp** that primarily consists of Ikhwan Al-Muslimeen in Egypt, Jordan, Kuwait, Jama'at-i-Islami in the Indian sub-continent, Al-Islah in Yemen, FIS in Algeria, Al-Nahda in Tunisia, Al-A'dl Wa Al-Ihsaan in Morocco, Fazeelat (formerly known as Refah) Party in Turkey, Pan Malaysian Islamic Party (PAS) in Malaysia. Then there is the **anti-democracy camp** which includes in its fold groups such as Hizb Al-Tahrir, Tanzeem-i-Islami, Al-Muhajiroun, Taliban Movement, National Islamic Front in Sudan, CDLR of Sau'di Arabia, the followers of Kalim Siddiqui, and a host of Neo-Salafi and Jihadist groups in various parts of the Muslim world.

The dispute between these two camps is also very much rooted in the specific '*usul-ul-fiqh*' (foundations of jurisprudence) or '*masadir lil tashree*' (sources of legislation) upon which each side bases its particular *ijtihad*. Those who call for the idea of participation in the electoral processes of a given nation-state, do so on the basis of *usul* such as '*al-masaaleh al-mursalah*' (unmentioned public interests), '*istihsan*' (juristic preference), '*u'rf*' (custom), '*ijma' al-ummah*' (consensus of the community), '*ijma' al-u'lema*' (consensus of the scholars), etc. Whereas those who denounce democracy restrict themselves to the key four *usul*, i.e., *Qur'an*, *Sunnah*, *Ijma' Al-Sahabah*, *Al-Qiyas*. The Muslim opponents of democracy are suspicious of any attempts at its incorporation into Islamic discourse. The general view is that it is a western concept that can not be separated from its secular roots. What further exacerbates the situation is the effective bifurcation of *ulum-ud-deen* and *ulum-ud-dunya*. Those with knowledge of the Islamic sciences are disproportionately unfamiliar with the social sciences and vice-versa. The average Muslim when he sees western educated Muslims calling for democracy and those with traditional education denouncing it is bound to get confused. He/she is faced with an either/or type of situation and the choice is between what appears to be Islam on one hand and *kufr* on the other. In an atmosphere of mutual exclusivity, the average individual Muslim is unable to consider any other option.

While much work has been in terms of the Islamization of knowledge project, however, it is quite apparent that we still have a long way to go. This Islam v. Democracy debate must not continue for too long as it will only further arrest the much needed political development in the Muslim world. Muslim intellectuals must acknowledge that a feasible synthesis of Islam and democracy has yet to emerge. While the Islamist opponents of democracy are marginalized, nevertheless, the fact remains that the other side has also not been able to adequately address this issue. In order to demonstrate that Islam is compatible with democracy requires extensive work on the theoretical level. Only through a sustained effort on the part of the Muslim intelligentsia will the attitudes of Muslim masses as well as those who are unfortunately still advocating medieval models be changed regarding this crucial issue. Furthermore, the emancipation of the Muslim world from the yoke of authoritarianism will only be achieved if the common Muslim is enlightened about the relationship between Islam and democracy that is based on a dispassionate and objective synthesis of Islamic and social sciences.

Islamic Responses to Racism – A Follow-up Paper

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When writers, like James George Jatras, policy analyst at the US Senate, writing in *Chronicles*, describes Islam as, “A self-evident outgrowth .. of the darkness of heathen Araby, a fraudulent self-depiction as a pacific creed .. [which] from its inception has been unthinkable without its mandate for violence, war, terror”, anyone living in a pluralistic, democratic society has to wonder.

Hours after the 1995 Oklahoma bombing, almost six years to the day, **CBS Evening News** featured a Steven Emerson, who claimed that the bombing showed “a Middle Eastern trait” because it “was done with the intent to inflict as many casualties as possible”. (4/19/95). In an inflammatory letter to the **Voice of America** (12/2/94), he had earlier fumed that radical Muslims in the US were plotting the “mass murder of all Jews, Christians and Muslims”.

Coupled with such Islamophobic rantings, there have been numerous physical attacks against Muslims and Islamic symbols throughout Europe and America. I shall mention just a few here in the US: in 1994, a nearly completed mosque in Yuba City, California, was burned to the ground in what was ruled an arson attack; in 1995, arson destroyed a Springfield, Illinois, Islamic centre; in 1996, a suspect was charged for involvement in an arson attack on a Greenville, South Carolina, mosque. Acts of mosque vandalism have also occurred in Michigan, Indiana, New Jersey, and Georgia. Then there is the use of ‘secret evidence’ in Immigration and Naturalization Service deportation hearings, which specifically targeted Muslims (1996 Anti-Terrorism and Effect Death Penalty Act allowing INS to arrest, detain and deport non-citizens on the basis of ‘secret evidence’.

What this tells us is that there is a gathering storm, a climate of fear that is being created, and perhaps orchestrated, by Islamophobes against Muslims in the West. It also tells us that there is an assumption that Islam is retroactive and opposed to modernism.

According to a British study, Islamophobia is marked by a brazen hostility, bordering on contempt, for the

most cherished principles of Islamic life and thought, reaching an apoplexy of hate in the modern Western media who represent Islam as intolerant of diversity, monolithic and war-mongering. Islamophobia is a challenge not only to Muslims in the West but to all thinking people who are trying to grapple with complex problems of civilizational friction and conflict.

Last January, an international conference entitled, *Islamic Responses to Racism*, was convened at Al-Khoei Foundation in London, a joint initiative with HRH Prince El-Hassan bin Talal of the Hashemite Kingdom of Jordan, who also chaired the event. It was a remarkable event which was attended, among others, by the Iranian Ambassador to the UK, the British Minister for Race, a representative of the World Conference Against Racism Secretariat, and the UN's chief of NGO Section, in addition to specialists, experts and academics.

The essential message of the conference, reinforced by the presence of eminent Jews, Christians and Muslims, was the overriding importance of *fostering a culture of pluralism and respect for diversity*, emphasizing the *unitarian, inclusive nature of Islam* and the underlying oneness of all humanity. Indeed, HRH Prince Hassan, in his opening remarks, stated that there can be, "No consensus without pluralism". "Islam is unitarian, so humanity is one (*rabbil 'alamin* not *rabbil muslimin*)", he said. Thus, "We need a universal ethic of human understanding". Mike O'Brien, the British Minister for Race, said that multiculturalism and pluralism were hallmarks of a "truly dynamic society" and that there was a need for spiritual values, since a society should not be reduced to solely economic advantages.

Islamophobia is, as stated, nothing new. In the late 1800s, Ernest Renan presented a thesis that was probably the first Western intellectual case against Islam, describing Islam as a closed universe incapable of absorbing rationalist and scientific advances. Earlier, Alighieri Dante had placed Muslim philosophers alongside Greek ones in the moderate punishment quarters of Hell. But to our Holy Prophet Muhammad he assigned the ninth of the ten ditches in Hell, leaving the Heart of Hell - the tenth ditch - to Satan himself. And it was against the Holy Prophet that the most sadistic punishment was to be inflicted.

Our meeting in London was a precursor to the UN World Conference Against Racism later this year in South Africa. Among other things, it showed that civil society and NGOs have a substantive role to play in international affairs, or the international mechanism. It also showed that the issue of Combatting Racism and Intolerance goes beyond international law (All human beings are born free and equal in dignity and rights) because even before we as humans set up such rules we have to admit that we, as humanity, believe in this as a primary principle for our coexistence.

The UN Secretary-General has spoken of the need to inject a sense of ethics, a spiritual ethos, into the UN and world bodies. To support this is not to encourage the participation of religion in politics but to recognize the holistic nature of faith towards realizing a common humanity and moving forward towards the challenges that face us as a human family. The fight against intolerance can only be intensified if the diversity of humankind, in all its aspects, is appreciated. An Islamic Response is a symbol of having that spiritual ethic. It is the policy of a nation state to implement its immediate regional policies. Globalization, for instance, allows Muslims to have a say. Globalization breaks down boundaries.

Democratic processes do allow us, as Muslims, to influence the shape of things to come. Quite apart from

the integrationism propounded by the UN, there is the European Commission Against Racism & Intolerance (ECRI), set up by the first Summit of Heads of State and Government of member states of the Council of Europe, which reviews state legislation, policies and other measures to combat racism, including Islamophobia. Muslims should encourage that process and lend expertise to it. There is also the Euro Mediterranean Workshop, Dialogue Between Cultures and Civilizations, Stockholm, 1998, among whose agreed priorities was developing media cooperation to counter prejudice against Muslims.

One might be tempted to argue that Islamophobia should correctly be discussed under the broader heading of religious discrimination and not racism. But, as the British-based think tank, Runnymede Trust, reported, Islamophobic discourse is “part of the fabric of everyday life in modern Britain in much the same ways that anti-Semitic discourse was taken for granted earlier in the century”. Scholars such as Jan Hjarbo of Denmark, who see ‘neo-Racism’ as no longer referring to biological differences but to differences in culture and religion, would vehemently argue against any delimitation of Islamophobia. Extreme right wing fascists are today simply claiming the incompatibility of living with Muslims or having Muslims live among them. And such feelings seem to be spreading among ordinary white people.

The consequences of Islamophobia, according to the Runnymede findings, are injustice, limitations with regard to personal freedom and sense of belonging, lack of cooperation in major shared problems such as urban poverty and deprivation, dangers of disorder, and the lost opportunity of cultural interchange. All of which impacts either directly or indirectly on the democratic order. At a practical level, therefore, when we talk about democracy we have also to dissect this concept in the way that it relates to Muslim and other minorities in the West. At a practical level, if we are to see democracy at work in the West, a working relationship with the Muslim community has to be developed by law enforcement officers on the streets of many inner cities of Europe and in the suburbs of America. Islamophobes have to be marginalized and exposed in a conscious effort to combat their vile literature which is itself propounded in the spirit of the fundamental right to free speech and expression. A Muslim social and political voice has to be developed further and refined. Civil society is the opposite to despotism. But despotism can exist at many levels so that a democratic government might in fact be populations that are despotic in terms of their inability to get along with the perceived “other”.

Democracy is a system of government that is built on the basic civil rights that each citizen must have. But it has to be implemented properly and its subjects have to be aware of the rights of others so that everybody is respected equally.