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“Islam, Justice and Democracy:
A Conceptual and Comparative Study”

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SYNOPSIS

In this synopsis, I will outline the main goals of my paper and give a brief summary of my concluding remarks.

The two main objectives of this paper are first, to explicate the foundations of Islamic law’s goal in Muslim society, i.e., the establishment of justice (*al-'Adl*) among people, Muslims and non-Muslims alike, and second, to examine whether these foundations accord with democracy. It is not my intention, though, to show that principles of rule in Islam resemble democracy since Islam has its own way of all aspects of human life, which is derived from the *Qur'an* and the *Sunnah* (the traditions of the Prophet Muhammad, peace and blessings of Allah be upon him). For Muslims, Islamic principles and values provide a complete way of life; they cover the entire spectrum of human activities at various times and different places.

However, it is essential to mention at the very outset that there is no fixed structure of government or permanent political system in Islam. A religion that affirms to be universal—therefore applicable and appropriate for all people—and covers the entire spectrum of human activities at various times and different places could not provide a rigid form of government. The Islamic law, in contrast to the Western understanding of Islam, brought no extensive and comprehensive code of laws, but instead provided the fundamentals or guidelines for a civilized and dignified life that could secure justice, equity, and well-being for the individual and society. Muslims have been granted a free will to behave freely in terms of these guidelines. As illustrated in this paper, realism and flexibility, therefore, are among the most significant characteristics of Islamic teachings and law.

There is also an important distinction between the original teachings of Islam and the behavior of some of its followers in different historical times. Some rulers wrapped themselves in the mantle of Islam and manipulated Islamic values and principles to

camouflage their oppressive rule and to achieve their own personal objectives. Therefore, we should not understand Islamic principles of rule through examining these historical experiences.¹ In addition, the majority of the current Muslim majority countries have secular governments and do not depend on Islamic law to enact their laws and rules. These countries have instead borrowed Western liberal and/or socialist models of so-called “modernization,” excluding Islam and ignoring their social, economic, and cultural contexts.

It’s also important to mention that **values—like liberty, justice, the rule of law, and equity—are not exclusively Western values.** They are in fact universal values and some old civilizations accepted and applied different forms of them. We can argue that many civilizations developed a lot of innovations and creative ideas and values that have later become a human legacy. As an example, the rule of law in Islam antedated Montesquieu’s views about the rule of law. As the late Egyptian scholar Taha Badawi noted, more than a century is between the application of this principle in the Islamic state (the seventh century) and its recent appearance in Montesquieu’s book, *Spirit of the Law*, in the eighteenth century and then in the nation-state model in Europe and North America. Similarly, as Egyptian scholar Hazem Elbiblawi noted, innovations like writing, agriculture, and alphabet have appeared for the first time in Eastern civilizations (Babylonian, Egyptian, Sumerian, or Chinese civilizations). Industrial revolution, which emerged in Europe, has also become a human legacy nowadays.

The ultimate result of this research paper is that in contrast of what many western scholars and media understand; Islam (as a religion and an Ideology) is not impediment or barrier of democracy. Instead, the absence of Islam is the basic rationale of authoritarianism or the lack of good governance. Islam has its own set of principles of governance that seeks to establish a just society. This set of principles completely refuses all characteristics of authoritarianism and theocracy and includes almost all characteristics of democratic régimes.

The following concluding remarks affirm my conclusion and give brief comparisons between principles of rule in Islam and democracy:

First, like liberal democracies, principles of rule in Islam are based on their own ideological framework (the *Shari’ah*). In the West, legislative structures cannot pass a law against liberalism, which is the official ideology of the political régime. It is unpredicted to have a law that rejects private property or abolishes freedom of speech or separation of church and state in a liberal country. In the same way, from the Islamic point of view, the government cannot violate the *Shari’ah*, the official ideology of an Islamic society, or enact laws that contradict Islamic law.

Second, maqasaid al-Shari’ah in Islam or the purpose of Islamic law is to fulfill and maintain people’s interests: their lives, mentalities, honor, properties, and religion. In the political sphere, the purpose of the *Shari’ah* is to construct human life on the basis of Justice (*al-’Adl*) and all good virtues (*Ma’ruf*), and to cleanse it of injustice (*aq-Zulm*) and all kinds of

¹ In the same manner, we cannot claim that Christianity advocates despotism and violence by looking to European history in the medieval age or in the period of genocide of Native Americans and Australians. We also cannot claim that Catholic teachings led to autocracy because many autocratic leaders in Latin America were Catholic.

evils (*Munkarat*). According to Islam, the main purpose of sending the prophets was to establish Justice in the world and end injustice. Prophets' books—the revelations—announce what's fair and unfair or right and wrong, asking people to think, evaluate, and behave according to the main principles and values shown by the revelations and explained by the prophets. Herein, the free will is a key of justice in Islam. Without free will, people do not merit either reward or punishment for their behaviors and deeds. Furthermore, justice and equality are closely interrelated as the one cannot be meaningfully implemented without the other. Justice means equal treatment and equal distribution of advantages and burdens. Further, both justice and equality have little meaning if they are applied without people freedom. The *Shari'ah* shows the ultimate guidelines or main principles of justice, equality and freedom, while Muslims may take different routes in order to secure just, equal and free society.

Third, Western popular sovereignty affirms the absolute will of people as the real source of authority and power and rejects the relevance of religious or moral values in matters of politics and governance. In the West, the separation between religion and politics has become one of the basic foundations of the democratic model of governance. In contrast, according to **Islam**, God created the universe and so He is not only the ruler, but also the lord of the universe. He created people as His vicegerent (*kehalifa*) and asked them to live in obedience with His will. God provided people with the divine *Shari'ah* and also endowed them with the ability to think and the power to distinguish right from wrong. Yet this concept does not lead to an authoritarian or theocratic regime, i.e., there is no room for theocratic rule or any privileged class or priestly class in Islam. There are many reasons for this. First, despite that Muslims cannot modify or change the *Shari'ah*; scholars have the right to (and are asked to) interpret the *Shari'ah* when necessary. The *Shari'ah* provides general guidelines for human behavior, while Muslims have the free will to behave freely in terms of these guidelines. Second, throughout Islamic history, as scholar Kurshid Ahmad noted, law was never derived from the will of the rulers, as was the case in other civilizations and cultures. The whole corpus of Muslim law and the greatest contribution of the Muslims to civilization have been developed through a rational and popular process. Further, as will be mentioned later, Islam has adopted specific principles that keep Muslim rulers away from authoritarianism and theocracy, such as rule of law and equality before the law, rulers' accountability, and the *Shurah* or mutual consultation. Among Muslim scholars who understand that the concept of sovereignty in Islam does not contradict the right of the people to regulate their affairs are Yusuf al-Qaradawi, Rashid Ghannoushi, Mukhtar Khan and many others.

Fourth, earlier Muslim scholars, as Ibn Taymiyah, have distinguished between the *Shari'ah* (God's will for human beings) and the *fiqh* (the laws human beings devise in order to deal with the different needs of Muslim societies). In Islam there is a distinction between matters of religion, or *Ibadat*, and worldly matters, *Mu'amalat*. The first set of matters concerns the relationship between people and God, so it is generally bilateral. God determined all connotations of this relationship in the *Qur'an* and the *Sunnah*. The second set of matters is not a bilateral relationship, but a relationship among people. It includes the relationship between Muslims and political authority. Therefore, **Islam is very accommodating and gives the main principles of human behavior, while leaving the matters of detail to Muslims**, i.e. the *Shari'ah* poses many rules and principles to guide the relationships between people and government, and admits that it is a duty of scholars to determine how to apply

these rules and principles according to the situations of their societies and with the purpose of meeting the increasing requirements of every time and age as scholar *Abul A'la Maududi* noted. The logic of such a characteristic is derived from the universal feature of Islam. As mentioned earlier, a religion that affirms to be universal and covers the entire spectrum of human activities at various times and different places could not provide a rigid form of government. Muslims have been granted a free will to behave freely as long as they do not violate the main principles and values of Islam.

Fifth, principles of rule as well as *Al-Huquq al-Shar'iyya or Hoqooq A-nas* in Islam (or human rights and liberties to use the Western jargon), which are all part of Islamic faith and therefore not a matter of choice, **provide authentic guarantees of righteous rule:**

1. Islamic law is designed to achieve people's interests that are framed by the Creator of people. This is *Maqasaid al-Shari'ah* in Islam (the political purpose of Islamic law)
2. Realism and flexibility of Islam: Legislation is part of Islamic law and should be performed within the limits placed by that law. Legislators cannot change or modify the *Shari'ah*, but they can enact any law as long as it is not contrary to the *Shari'ah*. That is, all issues not covered by the *Shari'ah* are free to be regulated by legislators. Further, the four ways of legislation in Islam (*Ijtihad*- rational judgment, *Ta'weel*- Interpretation, *Qiyas*- Deduction by analogy and *Istihsan*- Juristic preference) refute an argument raised against Islamic law by some analysts in the West and in Muslim countries that because Islamic law was framed 1400 years ago, it cannot meet the present-day requirements and needs of modern states. For more than a century, Islamic civilization faced a variety of challenges and problems and succeeded in adapting to different societies and cultures. Therefore, it is inaccurate to presume that Islamic law contradicts the needs of modern societies.
3. Islamic government is a "constitutional" government the leadership and the holders of authority are accountable to people within an Islamic framework. That is, both rulers and the ruled are equally subject to the law. Further, no obedience in sin, it is only in virtue, i.e. obedience of rulers in Islam is not absolute. Whenever the rulers violate the law, Muslims, individually and collectively, must disobey them and struggle to remove them from the office. What distinguishes Islam from liberal democracies is that this principle is a part of the Muslim faith and therefore can be regarded as an effective guarantee of the principle of rule of law as the late Egyptian scholar, Taha Badawi argued.
4. The seeking of counsel on the part of rulers, and the rendering of it on the part of the ruled are not optional. Counsel among Muslims is a legal right as well as a religious and obligatory duty. It is a part of the Islamic faith.
5. What also distinguishes principles of rule in Islam from other régimes is that Muslims, individually and collectively, are entitled to enjoin what is right (*ma'rouf*) and forbid what is wrong (*monkarat*). Such a right/duty, which extends to include all aspects of human life, is a legal right as well as a religious and obligatory duty since it is a part of the Muslim creed. Hence, using western democratic jargon, such a right/duty is a form of social and political participation, which is an optional right in present liberal democracies.
6. Up until to the nineteenth century, it was common throughout the world to determine an individual's status and rights by his/her class or religion. Moreover, up to the twentieth century, women in Europe and North America did not have the same political rights as men. In contrast, by the seventh century, Islam announced different human rights (*Al-Huquq al-Shar'iyya or Hoqooq A-nas*) to regulate the relationships between human beings,

Muslim and non-Muslim alike, as well as between man and government, and made such rights an integral part of the Islamic faith.

Sixth, what is of most importance in the Muslim world today is to develop its polity in light of its values and aspiration without ignoring the best aspects of other human experiences, that is, the question is how Muslims can meet the political, social, and economic demands of modernity without ignoring their own religious and social contexts. To put it another way, the critical concern, which appears to be a subject matter for further research papers, is how Muslim scholars can render Islamic principles of rule more applicable to modernizing contexts without excluding the best aspects of other experiences. There is an agreement among many Muslim scholars that one of the most effective ways to deal with such a dilemma is to use the mechanism of *ijtihad* (religious interpretations that depend on rational judgments) and to renovate the present systems by means of Islamic principles and the best aspects of other sociopolitical experiences. The questions that need to be addressed are: who can take this responsibility, and how this mechanism can be effective.