

DEMOCRACY FROM ISLAMIC LAW PERSPECTIVE

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It is frequently argued that because many Muslim states are monarchies or dictatorships or because of certain events that have taken place within their borders, Islamic law is not compatible with democracy and democracy is even neglected in the provisions of the holy Qur'an. Islamic law, according to what can be traced in its primary sources, not only supports democracy and people's participation in the state affairs but even possesses provisions in the Qur'an verses which encourage counselling and consultation and some scholars deem that to be democratic representation. Islamic Law, according to the provisions of some verses from the holy Qur'an encourages democracy but not liberal democracy like that of the western world. The religious democracy that can go with our modern time and solve many contemporary problems of the Muslim world is the model which was introduced by late Ayatollah Imam Khomeini after the 1979 Islamic revolution in Iran. The author in this research work concludes by showing that the ideal democracy enshrined in the holy Qur'an, as the primary source of Islamic law, is not liberal democracy of the western world, but rather a religious democracy.

Keywords: *Democracy, Islam, Islamic law, way of life, Shura, Caliph, the Middle East, Iran*

1.0 Introduction

It is almost getting to more than half a decade that we have been witnessing uprisings in some Muslim states in North Africa and the Middle East, especially now in Syria, where the so-called super powers of the western

world are supplying Muslims with weapons in order to topple their regime for the establishment of democratic system to run the affairs of their state and do away with dictatorship in the state as was the case with Tunisia, Iraq, Libya and Egypt. There is a need to distinguish between liberal and religious democracy and know the perspective of Islamic law on democracy so that one can understand the game being played by the western world under the disguise of bringing democracy to Muslim states.

One of the most important issues that critics use to confront Islamic law with has to do with Qur'an's perspective on Democracy, in which they negate all sorts of compatibility between the two.

In this paper, I shall try to address the differences. But in order to justly do that, it is not enough to simply look at what is happening in Muslim countries today and ascribe it to Qur'an and Islamic law. Religion may appear to be a dominant cause but often it is not. Much happens under the cover of religion but there are all sorts of interests, particularly political and economic, which, being more determinative, cannot be ignored. One also has to remember that there is no single interpretation of any religion and one's interpretation is deeply influenced by one's sociopolitical inclination and turn of mind. Contemporary forces also play an important role in the interpretation of religion. Contemporary Islam is being interpreted in multiple ways. And the roles of history, historical forces, culture and cultural heritage are all factors in the interpretation of religion.

It is frequently argued that because many Muslim states are monarchies¹ or dictatorships² or because of certain events that have taken place within their borders, Islamic law is not compatible with democracy and democracy is even neglected in the provisions of the holy Qur'an. Some would maintain that Islamic culture is itself a stumbling block to a democratic polity and modernistic society and can accommodate neither. To maintain such a position is to misunderstand not only religion, but society, history and the operation of social forces.

In this paper I shall examine verses of the holy Qur'an and prove that Islamic law, according to what can be traced in its primary sources, not only supports democracy and people's participation in the state affairs but even possesses provisions in the Qur'an verses which encourage counseling and consultation, which some scholars deem to be democratic representation.

1 Look at countries like the Kingdom of Saudi Arabia, which is the birth place of the Islamic religion, Kuwait and Jordan.

2 Such as Egypt, Tunisia and Libya before the 2011 uprising that did away with the dictators in these countries.

I therefore conclude by showing that the ideal democracy enshrined in the holy Quran, as the primary source of Islamic law, is not liberal democracy of the western world, but rather a religious democracy.

2.0 Islam as a Religion and Way of Life

Islam is not a set of rituals. It is both a religion and a perfect way of life. For a non-Muslim, religion may be a private relationship between man and his creator. But for a Muslim religion comprehends the whole of life. No sphere is left in which the thoughts and deeds of a Muslim – both in his personal and public life – are inconsequential to his fate in the hereafter. This is why Islam does not make a distinction between what is religious and what is secular, nor does it recognise division of authority between Allah and Caesar.

In Islam, only Allah is the Law-giver, because He is the Creator. Allah therefore owns everything. Caesar, a creature of Allah, has nothing, except what has been entrusted to him by his Creator. Thus, all aspects of life-religious, educational, social, political, economic and legal have their legitimate place in the all-inclusive system of Islam. This is why Allah calls upon Prophet Muhammad to say:

Verily, my prayer, my sacrifice, my living and my dying are for Allah, the Lord of the worlds. (Qur'an 6: 162).

This means that the whole life of man in all spheres should be an expression of complete submission to Allah, the Creator of the universe.

3.0 The Holy Qur'an: Laws and a Set of Moral Orders

The Qur'an is Allah's word revealed to Muhammad. The language, meaning, and sentence structure are all from Allah and there is no human contribution to them.

The Qur'an is protected from any additions or subtractions. There is only one version of the Qur'an in the whole Muslim world. Any distortions would have led to variations in the different texts.

The Holy Qur'an, which provides us guidance in this regard, is Allah's revealed message to humankind. It contains verses pertaining to belief in the oneness of Allah, and in the Prophet Muhammad as His last messenger. It is known as the "Furqan" (discriminate), because it brings to light the distinctions between good and evil, and truth and falsehood. The Qur'an sheds light on ethical and moral principles, and describes how human beings must conduct their affairs among themselves. The verses dealing with

ethical principles include issues such as interpersonal relationships, Muslim virtues, and the mode of conduct to be adopted in social and business dealings. Muslims believe that these principles are meant for the entire human race and for people from all walks of life and socioeconomic backgrounds. This contention has its basis in the belief that Islam is the culmination of all of the Abrahamic faiths, and its precepts universalize the reforms introduced by the earlier prophets. They also go a step further by making them complete and comprehensive.

The Qur'an is a miracle and challenge. Its miraculous nature is manifested in 4 ways: linguistic, historical, futuristic, and scientific.

The Qur'an is the primary source of *Shari'a* (Islamic law). All other recognized sources are secondary to the Qur'an and are validated by it. Knowing the circumstances of the revelation of a verse, *sabab al nuzul*, helps understand the *ruling* of the verse. Exegesis, *tafsir*, of the Qur'an based on personal opinion, is to be avoided.

In the preponderant majority of situations the Qur'an only gives general legislative foundations, and principles. Detailed or particular rulings are few and are given for the most important aspects of the law.

Evidence from the Qur'an on legal rulings can either be definitive or probable. A verse can have only one meaning and some verses can have more than one meaning. The discovery of the true and intended meaning requires special expertise in the science of exegesis of the Qur'an, *tafsir al Qur'an*.

The Qur'an is very comprehensive. However, it does not provide the specifics of the majority of legal rulings. Its comprehensiveness is then in its provision of principles and methodology of the law. Specific rulings can then be derived using the Qur'anic principles and the Qur'anic methodology.

Any discussion on Qur'anic legal rulings must take into account the philosophy behind the teachings of Islam. It is important to bear in mind that in Islam there is no dichotomy between the spiritual and the practical aspects of human life. In the Qur'an, spiritual advice is given in conjunction with practical advice. What a man does in his daily affairs, whether it is social, professional or economic, has a direct bearing on his spiritual development, and will determine his fate in the hereafter. Conversely, the spiritual development will have a direct bearing on what he does in his daily affairs. Thus "Amal" (action) of a believer which can be termed to be the subject-matter of all laws laid by the holy Qur'an is an integral part of the Islamic doctrine. The Qur'an therefore is a book not only of religious injunctions and beliefs, but also of laws and ethical codes, and must be viewed in totality. The shape of the Muslim community is determined, not merely by rituals. Religious acts such as *Salat* (Prayer), *Saum* (Fasting) and *Zakat* (Charity)

are considered binding on Muslims not only as a means of worship, but also as a means of creating an environment of social harmony, cooperation and self-discipline.

4.0 *Basic Ideals of Modern Democracy*

Democracy literally means rule or government by, or power of, the people (Kirk, internet). Logically and historically implicit in this is the notion of majority rule. Representative democracy is a form of democracy in which the people govern indirectly, through elected representatives, rather than directly governing themselves (ibid.).

What exactly is democracy? We must not identify democracy with majority rule. Democracy has complex demands, which certainly include voting and respect for election results, but it also requires protection of liberties and freedoms, respect for legal entitlements, and guaranteeing of free discussion and uncensored distribution of news and fair comment. Even elections can be deeply defective if they occur without different sides getting an adequate opportunity to present their respective cases, or without the electorate enjoying the freedom to obtain news and to consider the views of the competing protagonists. Democracy is a demanding system, and not just a mechanical condition (like majority rule) taken in isolation (see: Sen 1999: 3–17).

At a minimum, a democracy is a political system in which people choose their authoritative leaders freely from among competing groups and individuals who were not designated by the government.

Democracy in *Encyclopaedia Americana* is a form of government in which major decisions of the government – or the direction of policy behind these decisions – rests directly or indirectly on the freely given consent of the majority of adults governed.

Democracy is a political system in which different groups are legally entitled to compete for power and in which institutional power holders are elected by the people and are responsible to the people (Christiano 1996: 3).

Let us focus more closely on the basic ideals of democracy. First, in a democracy, the people rule (ibid.). *Popular sovereignty* implies that all minimally competent adults come together as one body to make decisions about the laws and policies that are to regulate their lives together. Each citizen has a vote in the processes by which the decisions are made and each has the opportunity to participate in the deliberations over what courses of action are to be followed. Secondly, each citizen has the right to participate as an equal. *Political equality* implies equality among citizens in the process of decision-making. Thirdly, each citizen has the right to an opportunity to

express his or her opinions and supporting reasons to every other citizen as well as a right and duty to hear a wide spectrum of views on subjects of public concern. Each has a right, as well as a duty to participate in open and fair *discussion*. These are the ideals of democracy (ibid.). These ideals are partly realized in features of modern democratic societies. One-person one-vote is observed in the process of electing representatives to the legislative assembly; anyone may run for election to public office; in elections, a number of political parties compete for political power by advocating alternative visions of the society; the political campaigns of candidates and parties consist in large part in discussion and argument over the worth of these opposing views, and everyone is permitted to have a say in this process; and the society tolerates and often encourages vigorous debate on all issues of public interest.

5.0 Islamic Law and Democracy; Different Views

The relationship between Islamic law and democracy is strongly debated among people who were identified with the Islamic resurgence in the late twentieth century and the beginning of the twenty-first. Some of these Islamists believe that “democracy” is a foreign concept that has been imposed by Westernizers and secular reformers upon Muslim societies. They often argue that the concept of popular sovereignty denies the fundamental Islamic affirmation of the sovereignty of God and is, therefore, a form of idolatry. People holding these views are less likely to be the ones participating in elections. Many limit themselves to participating in intellectual debates in the media, and others hold themselves aloof from the political dynamics of their societies, hoping that their own isolated community will in some way be an inspiration to a broader Muslim community. Many prominent Islamic intellectuals and groups, however, argue that Islam and democracy are compatible. Some extend the argument to affirm that under the conditions of the contemporary world, democracy can be considered a requirement of Islam. In these discussions, Muslim scholars bring historically important concepts from within the Islamic tradition together with the basic concepts of democracy as understood in the Qur’an.

The holy Qur’an lays emphasis on what it calls *shura* (consultation) (3: 159; 42: 38). Even the messenger of Allah is required to consult his people in worldly matters and Muslims are required to consult each other in their secular affairs. Now, it is true that such consultation and modern day representative democracy may not be exactly similar. However, the idea of modern democracy and the Qur’anic injunction to consult people may be the same in spirit. New institutions are continually developing and human societies, depending

on their worldly experiences, continually changing and refining these institutions. The Qur'anic text not only gives us the concept of *shura* (consultation) but also contains no ideas of dictatorship and authoritarianism.

Some commentators try to use the Qur'anic verse 4: 59 to justify obedience to any kind of authority including a monarch, or a military dictator. This is certainly not the spirit of the verse. One has to see it in its historical context. The verse is addressed to Bedouins who were nomads and were not used to submitting to any authority. The Prophet sent his representatives to these Bedouin tribes and they refused to follow his instructions. The verse exhorted them to obey these authorities. It cannot be used to justify submission to illegitimately constituted authority. And, if read in conjunction with the verses 3: 159 and 42: 38, it implies strongly that one has to submit to properly and democratically constituted authority. Authority has to be legitimate and properly constituted.

In the contemporary world the concept of *shura* should mean democratic process and the constitution of proper democratic institutions – for which elections are a necessary requirement. In Islam no authority forcibly constituted, or acquired by power of swords or arms, can have any legitimacy whatsoever. The institution of monarchy or military dictatorship did not exist during the time of the Prophet. They are subsequent developments and were legitimized by the 'Ulama in order to prevent anarchy. Thus, the 'Ulama conferred some legitimacy on monarchy, not in the light of Islamic teachings but only to prevent anarchy. Some of them also became part of the power structure but their pronouncements had no Islamic legitimacy. One sees this today in most Islamic countries. The 'Ulama in Saudi Arabia are very much part of the monarchical power structure and legitimize everything the Saudi rulers do.

Thus the absence of democracy in some Muslim countries is by no means on account of Islamic teachings or the incompatibility of democracy with Islamic law but due to a host of factors: political, historical and cultural. The imperialist powers, first of Europe and then of the United States, have also played their role. The early Islamic democracy breathed its last within thirty years of the Holy Prophet's death. The institution of monarchy crept in under Roman influence. It is important to note that the capital of Islam had shifted from Medina to Kufa in Iraq and then to Damascus in Syria, once part of the Roman Empire. Mu'awiyah who seized power without the consent of the Muslims operated from Damascus and adopted Roman monarchical ways. Thus deeper historical and cultural influences must be taken into account in order to understand the political institutions in many Muslim countries today. American and British interests also play their role in shaping the power structures in these countries. In many Islamic countries,

including Saudi Arabia and Egypt¹, there is a deep longing among the people for democracy and popular government but these countries are frustrated by the heavy hand of authoritarian rule. It is not Islam that stands in the way of establishing democracy in these countries. It is powerful vested interests – both internal and external – that are preventing democracy from being established in the modern world.

Advocates of Islamic democracy argue that the Oneness of God requires some form of democratic system; conservatives contend that the idea of the sovereignty of the people contradicts the sovereignty of God; often the alternative then becomes a form of a monarchical system. The response to this is an affirmation of Tawhid, as expressed by a Sudanese intellectual, Abdulwahab El-Affendi, “No Muslim questions the sovereignty of God or the rule of the Islamic legal path” (Esposito & Voll, internet). However, most Muslims do (and did) have misgivings about any claims by one person that he is sovereign. The sovereignty of one man contradicts the sovereignty of God, for all men are equal in front of God. Blind obedience to one-man rule is contrary to Islam.” In this way, it is argued that the doctrine of Tawhid (oneness of Allah) virtually requires a democratic system because humans are all created equal and any system that denies that equality is not Islamic.

5.1 Incompatibility of Islamic Law with Democracy

Some are of the opinion that Islamic law (embodied in the Qur’an) is absolutely incompatible with democracy. They maintain that Islam is a theocratic system with Allah alone at its head. Allah’s law is interpreted by a ruling body of clerics (ibid.). So there is no room for a secular political system in which all people are treated as equals. The flag bearers of the aforementioned opinion cite many verses of the holy Quran to support their opinion.

It is not fitting for a Believer, man or woman, when a matter has been decided by Allah and His Messenger to have any option about their decision. (33: 36)

1 As for Egypt, the wind of democracy is blowing after the last uprising which did away with Hosni Mubarak’s regime and brought an end to his dictatorship. The Egyptian people, after Hosni Mubarak, elected representatives for their national parliament, and conducted presidential election in May 2012 which for the first time in Egyptian history, paved way for democratic rule to be established in Egypt. The dictator was sentenced to life imprisonment by an Egyptian court, even though after some months the democratically elected president was over throne and arrested by the Egyptian military, in a well-planned coup.

What! Do those who seek after evil ways thing that We shall hold them equal with those who believe and do righteous deeds – that equal will be their life and their death? Ill is the judgment that they make. (45: 21)¹

Are those who know equal to those who know not? (33: 9)
And never will Allah grant to the unbelievers a way (to triumphs) over the believers. (4: 141)²

Might (power) belongs to Allah and to His Messenger and to the believers. (63: 8)³

So judge between them by that which Allah hath revealed, and follow not their desires, but beware of them lest they seduce thee from some part of that which Allah hath revealed unto thee. (5: 49)⁴

Not your desires, nor those of the People of the Book (can prevail): whoever works evil, will be requited accordingly. Nor will he find, besides Allah, any protector or helper. (4: 123)

5.1.1 Shura: A Representative Democracy?

Some Muslims say that Islam requires that absolutely all decisions made by and for Muslim societies should be made by shura. To some, this means that Islam enjoins Representative Democracy. This belief is characteristic of Liberal movements within Islam.

There are a number of specific concepts that Muslims cite when they explain the relationship between Islam and democracy. In the Qur'an, the righteous are described as those people who, among other things, manage their affairs through "mutual consultation" or shura (42: 38). This is expanded through traditions of the Prophet and the sayings and actions of the early leaders of the Muslim community to mean that it is obligatory for Muslims in managing their political affairs to engage in mutual consultation.

1 Unbelievers are not equal to Muslims. This is dutifully reflected in Islamic law.

2 This is at odds with democracy, which allows anyone to serve in a position of power over others regardless of religious belief.

3 Not to anyone else.

4 Allah's Qur'an takes priority over the desires of the people. A democratic nation is by nature one that is not governed by Islamic law, meaning that a Muslim citizen would have divided loyalty. It's clear from this verse which side he must choose.

Contemporary Muslim thinkers ranging from relatively conservative Islamists to more liberal modernists to Shiite activists emphasize the importance of consultation. There would be little disagreement with the view of Ayatollah Baqir al-Sadr, the Iraqi Shiite leader who was martyred by Saddam Hussein in 1980, who said that in *Islamic Political System*, the people “have a general right to dispose of their affairs on the basis of the principle of consultation.”

5.1.1.1 Shura In the Holy Qur’an

The 42nd chapter of the holy Qur’an is named Shura. Verse 38 suggests that shura is praiseworthy but does not indicate whether or not it is mandatory, or who should be consulted. It says:

Those who hearken to their Lord, and establish regular Prayer; who (conduct) their affairs by **mutual consultation**; who spend out of what We bestow on them for Sustenance [are praised] (42: 38)

The 159th verse of 3rd chapter of the holy Qur’an orders Prophet Muhammad to consult with believers. The verse makes a direct reference to those (Muslims) who disobeyed him, indicating ordinary, fallible Muslims should be consulted. It says:

Thus it is due to mercy from Allah that you deal with them gently, and had you been rough, hard hearted, they would certainly have dispersed from around you; pardon them therefore and ask pardon for them, and **take counsel** with them in the affair; so when you have decided, then place your trust in Allah; surely Allah loves those who put their trust in Him. (3: 159)

5.1.1.2 Choosing the First Caliph by Shura

Arguments over shura begin with the debate over the succession to Prophet Muhammad. When the prophet of Islam died in 632 CE, a tumultuous meeting at a place called Saqifah selected Abubakar as his successor. This meeting was not held in a full democratic way because some prominent companions of the prophet did not attend the gathering (*Shura*, internet).

Sunni Muslims believe that shura is recommended in the Qur’an (though some classical jurists maintained it is obligatory), Islam’s holy book, and by numerous hadith, or oral traditions of the sayings and doings of Prophet Muhammad and his companions. They say that most of the first four Ca-

liphs, or successors to Prophet Muhammad, whom they call the Four Rightly-guided Caliphs, were chosen by shura.

Shi'a Muslims believe that Prophet Muhammad had clearly indicated that Ali was his divinely-appointed infallible successor regardless of shura, a recommendation that was ignored by the first three caliphs. Shi'a do not stress the role of shura in choosing leaders, but believe that the divine vicegerent is chosen by God, or Allah, from the lineage of Prophet Muhammad's progeny (*Ahlul-Bayt*).

Sundry later caliphs had anything but nominal control over the many Islamic states, and none was chosen by shura; all reached power by inheritance or by might.¹ The Muslim clergy counselled submission to rulers as long as they were Muslims but also stressed the duty of the ruler to rule by shura. They based this recommendation on the passages from the Qur'an mentioned above. The verses indicate that shura is praiseworthy but do not indicate who should be consulted, what they should be consulted about, or whether the ruler or the shura should prevail in the event the two do not agree.

5.1.1.3 The Concept of "Caliph" as Model of Islamic Democracy

Another basic concept in the development of Islamic democracy is "caliph." In contemporary discussions, traditional political usage of the term caliph has been redefined. Historically the term caliph was used as the title of those who ruled the medieval Muslim empire. When medieval Muslim political philosophers spoke of the institutions of caliph rule, the caliphate, they were analyzing the political institution of the successors to the Prophet Muhammad as the leader of the Muslim community. However, this concept of the caliphate was something that developed after the death of the Prophet.

In the Qur'an, the Arabic words for caliph (*khalifah*) and caliphate (*khalifah*) have a different meaning. These terms in the Qur'an have the more general meaning of vicegerent and stewardship or trustee and trusteeship. In this way, Adam, as the first human, is identified as God's caliph or steward on earth (Qur'an 2: 30). Prophet Muhammad is instructed to remind humans that God made them the caliphs (stewards or trustees) of the earth in this way, in the Qur'an, the term caliphate refers to the broad responsibilities of humans to be the stewards of God's creation.

5.1.1.4 Does a Majlis al-Shura Resemble a Parliament?

Many traditional Sunni Islamic Lawyers agree that to be in keeping with Islam, a government should have a form of council of consultation or *majlis*

¹ Process of Choosing the Leader (Caliph) of the Muslims.

al-shura. Al-mawardi has written that members of the majlis should satisfy three conditions: they must be just; they must have enough knowledge to distinguish a good caliph from a bad one, and must have sufficient wisdom and judgment to select the best caliph. Al-Mawardi also said in emergencies when there is no caliphate and no majlis, the people themselves should create a majlis, select a list of candidates for caliph, then the majlis should select from the list of candidates (Nabhani 2002: 61).

Many contemporary Muslims have compared the concept of Shura to the principles of western parliamentary democracy. For example:

What is the shura principle in Islam? It is predicated on three basic precepts. First, that all persons in any given society are equal in human and civil rights. Second, that public issues are best decided by majority view. And third, that the three other principles of justice, equality and human dignity, which constitute Islam's moral core, ... are best realized, in personal as well as public life, under shura governance (Qutb 1973: 83–85; 1992: 3).

Other modern Muslim thinkers distance themselves from democracy. The founder of the modern transnational Muslim party "Hizbut tahrir", Taqiuddin an-Nabhani, writes that Shura is important and part of "the ruling structure" of the Islamic caliphate, "but not one of its pillars". If the caliph "neglects it" by not paying much or any attention, as happened after the first four caliphs "he would be negligent, but the ruling system would remain Islamic".

This is because the shura (consultation) in Islam is for seeking the opinion and not for ruling. This is contrary to the parliamentary system in democracy (Marsden 1998: 60).

A democratic parliamentary system, distinct from and inferior to the Islamic caliphate system, was proposed by Taqiuddin an-Nabhani.

Under the "Hizbut tahrir" constitution non-Muslims may also be part of the majlis. Though they may not serve a caliph or any other ruling official, nor vote for these officials, they may voice "complaints in respect to unjust acts performed by the rulers or the misapplication of Islam upon them".

Still others, such as Sayyid Qutb, go further, arguing that an Islamic shura should advise the caliph but not elect or supervise him. In a rigorous analysis of the shura chapter of the Qur'an, Qutb noted Islam requires only that the ruler should consult at least some of the ruled (usually the elite), within the general context of God-made laws that the ruler must execute. The Qur'an makes no mention of the ruler being chosen by the ruled, let alone of elections with Universal suffrage, or Secret Ballots, of elected representatives each representing approximately an equal number of citizens eligible to vote, or of any other democratic governmental practices developed by the non-Muslim West in the last couple of centuries. In 1950, Qutb denounced

democracy, saying it was already bankrupt in the West; why should it be imported to the Middle East? (Qutb 1973: 83–85).

6.0 Democracy and Religion: Iranian Islamic Republic Experience

The Islamic Republic of Iran introduced a new political model named “religious democracy” – popular religious rule – which is of great importance for those who try to harmonize religion with modern institutions.

This new model, in fact, has risen as a certain and independent political philosophy and governance method in the face of modern models. In fact, the idea of “religious democracy” challenges thesis like “End of History” and “End of Ideology” which regard Western democratic systems as the greatest human work and man’s absolute fate in social-political arena and introduce the modern age as an end to the role of religion and ideology in public parts of human life. This writing tries to answer questions about the theoretical principals of this political model as well as characteristics of religious democracy in post-revolution Iran. To answer such issues we first explore different views about the relationship between religion and democracy as a theoretical debate. So democracy needs a complementary political culture to be stabilized. In order to have a stabilized democracy in religious nations we need a relationship between democracy and religion. Democracy needed connection to traditions and culture of that nation so in religious nations we should speak of religious democracy while in liberal nations, liberal democracy is defined. Thus what sets differences among democracies is the cultural background where democracy is founded. Since liberal democracy is framed by liberal values. And any action challenging these values is not acceptable, then religious democracy will be framed by religion and the governing values would define differences among these two democracies. Hence religious democracy, due to its roots in religious traditions, could be the proper model for establishing popular, effective and modern governments in religious nations. Post-revolution Iran tried to activate this political model.

6.1 Theoretical Principles and Characteristics of Religious Democracy in Iran

After toppling of the Shah’s regime by the Islamic Revolution in Iran, the debate on alternative government raised among intellectuals who mostly circled around the kind of relation between Islam and the proper system. While some groups spoke of popular democratic republic or Islamic democratic republic, which was some sort of social or liberal democracy, Imam

Khomeini and a great part of Islamist groups defended Islamic Republic, which in fact was a new model trying to establish relations between Islam and democracy and its defenders, believed in the third mentioned theory that democracy is a tool that could be used to realize national will in a religious sphere.

Imam Khomeini defended democracy as a political tool when he said “republic, as it is everywhere regarded republic” but he emphasized that this republic is based on constitutions which are Islamic rules. He added “when we say republic, it means both conditions for the elected and the current rules in Iran are based on Islam and the shape of republic is elected by people and the republic would be as it is everywhere else”. He emphasized that republic would be the form of governance and Islam will fill its content which is divine rules.

In fact, he believed democracy is different from liberal democracy and it has changed pictures through history and served different ideologies like socialism or liberalism, so it could be a functional frame for accepted rules and traditions of the nation it serves. So Muslims also could use democracy to govern their people and even Islamic democracy could prove superior to other forms and remove their shortages due to its human nature.

There are some who maintain that not only was the Islamic Republic of Iran undemocratic but also that Imam Khomeini himself opposed the principle of democracy in his book *Hokumat-e Islami: Wilayat al-Faqih* (Bakhash 1990: 73), where he denied the need for any legislative body saying, “no one has the right to legislate ... except ... the Divine Legislator”, and during the Islamic Revolution, when he told Iranians, “Do not use this term, ‘democratic’! That is the Western style.” However, it should be understood that when a democracy is accepted to be Islamic by people, the law of Islam becomes the democratically ratified law of that country. Iranians have ratified the constitution in which the principle rules are explicitly mentioned as the rules of Islam to which other rules should conform.

He believed the main difference between Islam and democracies is not in Islam’s alleged inconsistency with freedom and equality but in different views it takes toward such issues compared with materialists. Divine schools, he said, could provide a more realistic definition for freedom and equality due to their more comprehensive conception of human aspects while materialists defend freedom of animal aspects of human nature. Thus, the main difference between Islamic democracy and others is in their epistemology and worldview since liberalism in its epistemology depends on a self-dependent and instrumental human mind while Islam believes the mind and revelation in cooperation could provide the correct concept of truth for humankind. Liberalism, also, is humanist and materialist in its worldview while

Islam circles around theism and afterlife. Meanwhile in anthropology, liberalism only thinks of a person's natural needs where Islam also thinks of his spiritual happiness. Thus liberal democracy works inside human desires and cravings while Islamic democracy works inside divine rules which are based on material and spiritual needs together, designed for human perfection. The second main difference in Islamic democracy could be its higher goals (like human happiness and human making) while liberal democracy has no higher goal and is a kind of struggle to keep the current situation.

Religious democracy – popular religious rule – founded on these theoretical assumptions in Iran has the following characteristics:

(1) Public acceptance of founding the religious political system

In the aftermath of the Islamic Revolution in Iran, Imam Khomeini insisted on holding a referendum on the foundation of the Islamic Republic. The Iranian public decided with a 98% majority for the religious political system.

(2) Public acceptance of Constitution
based on observing Islamic rules

Imam Khomeini ordered fast ratification by public representatives and then the Constitution was ratified by the majority of Iranians in a direct referendum. The Constitution insisted on Islamic rules in governing the nation with dependence on public voice. Based on this constitution, a person who is knowledgeable and capable of executing Islamic Law (Fiqh) is elected by the public as the Leader. Thus the public elects the Leader, and also elects the president and representatives.

(3) Emphasis on equal and free political participation

As per the right for equal and free political participation provided in the Constitution, women and religious minorities have an equal and even outstanding position in this system. Minorities have more representatives compared with their small population. Women have important and equal role in legislation and despite some traditional problems, statistics show a growth in political and social participation of women in post-revolution Iran where some jurisprudential rules have paved the way. Meanwhile, Iran has gained an outstanding position among many countries for over 30 elections for president, parliament and members of the Experts Council of Leadership as well as local elections, over the past 36 years.

(4) Supervisory Mechanisms

Supervision over power is among the main characteristics in this democracy which enjoys internal mechanisms like virtue of authorities beside powerful external mechanisms like supervisory organizations, press, political parties, and civil institutions which have grown after the Islamic Revolution as different channels and freely criticize the government.

(5) Relation between Religious Law and voice of majority

Since ruling is only for God, the question is how to avoid contradiction with the principle of legislation by public representatives? The answer in Iran's Islamic Republic is that regulations approved by representatives are further discussed by Jurisprudents in the Guardian Council for any inconsistency with Islamic rules. Thus in fields with no clear religious rule, including a vast part of issues, the voice of majority and reasoning by experts plays an important role and additionally the Shiite jurisprudential rules which are based on rational reasoning (*ijtihad*), primary and secondary rules, time and location can reason new rules with high flexibilities. All mentioned factors provide the Islamic democracy with great power to come over modern issues.

Imam Khomeini argued that in the absence of the Hidden Imam and other divinely-appointed figures (in whom ultimate political authority rests), Muslims have not only the right, but also the obligation, to establish an "Islamic state". To that end they must turn to scholars of Islamic law who are qualified to interpret the Qur'an and the writings of the imams. Imam Khomeini distinguishes between Conventional Fiqh and *Dynamic Fiqh*, which he believes to also be necessary.

He divided the Islamic commandments or Qur'an into three branches:

- 1- The primary commandments
- 2- The secondary commandments
- 3- The state commandments

The last one includes all commandments which relate to public affairs, such as constitutions, social security, insurance, bank, labour law, taxation, elections, congress etc. Some of these codes may not strictly or implicitly pointed out in the Qur'an and generally in the Sunnah, but should not violate any of the two, unless there is a collision of rules in which the more important one is given preference (an apparent, but not inherent, violation of a rule). Therefore, Imam Khomeini emphasized that the (elected) Islamic state has absolute right to enact state commandments, even if it (appears as if

it) violates the primary or secondary commandments of Islam. This should happen when a more important primary or secondary commandment is in danger because of some limitations.

For example an (elected) Islamic state can ratify (according to some constitutions) mandatory insurance of employees to all employers being Muslim or not even if it violates mutual consent between them. This shows the compatibility of Islam with modern forms of social codes for present and future life, as various countries and nations may have different kinds of constitutions now and may have new ones in future.

Conclusion

Democracy in its contemporary perception can be divided into liberal and religious democracy. The former, because of some issues related to it, which directly or indirectly negate absolute authority of the creator on his creation in terms of leadership, governance, political freedom, etc. is not encouraged by Islamic law.

Islamic Law, according to the provisions of some verses from the holy Qur'an encourages democracy but not liberal democracy like that of the western world. The religious democracy that can go with our modern time and solve many contemporary problems of the Muslim world is the model which was introduced by late Ayatollah Imam Khomeini after the 1979 Islamic revolution in Iran. The Iranian religious democracy, in general, is based on an instrumental and methodological view towards democracy. The main claim in religious democracy is to establish a government based on majority religious values because It believes that democracy is stable only when reaches out of political borders to become an inner part of individual and social life. This would happen in Islamic societies only when democracy is rooted in Islamic traditions and customs. In other words observing the cultural situation and realities in Islamic societies, the best and most stable democracy is religious democracy.

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