

Sharī^ca in the discussion on secularism and democracy

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Premise

Before entering into the discussion of the concepts of *sharī^ca*, secularism and democracy, we should first define their meaning, then work out the relationships between them, and, finally come to some conclusive assessment of the subject. Many useless discussions and polemics are in progress in this instance, because writers do not follow a logical and scientific method in dealing with the problem.

A. Definition of the concepts of *sharī^ca*, secularism and democracy

1. *Sharī^ca*

The Arabic word *sharī^ca* is rendered into English as the "Islamic law". However, the word *sharī^ca* in Koranic terminology as well as in Arabic dictionaries does not exactly mean "law", in the sense of a set of legal rules. Its original meaning is "path" or "method" or "way" or "road" and the like.

Moreover, *sharī^ca* could also mean "law" in general, as when one speaks of the law of life, the law of justice, the law of conscience, and so on. The word *sharī^ca* was used by the first generation of Muslims in its proper meaning, viz. as the path, method, way or road to God.

In the Koran and the Islamic tradition this path or method consists of three basic aspects or elements: worship, ethical code (or morals) and social intercourse. In time, the word *sharī^ca* was limited to denote the legal rules mentioned in the Koran to regulate social intercourse.

The same happened to Judaism, before Islam, where the word *Torah*, which originally meant way of guidance, was first limited to mean the legal rules mentioned in the Pentateuch, and finally those invented by the Rabbis in the Talmud.

In the same way, the *sharī^ca* meaning was distorted from its original sense to signify only the legal rules mentioned in the Koran. Later it was

expanded to mean the legal rules existing in both the Koran and the Prophetic traditions. Finally, it came to incorporate all the legal rules which constitute the *corpus* of Islamic jurisprudence, i.e. the sum of all the interpretations and opinions given by Muslim jurists throughout Islamic history.

Consequently, today the term *shari'a* denotes the Islamic jurisprudence, which is a system of laws drawn up by human beings through a historical process, especially where it deals with political and social issues. Using the term in a different sense does not account for the historical development of the word and the different meanings and usages it assumed in the course of time.

2. *Secularism*

The term secularism signifies a political or governmental system which is free from any ecclesiastical jurisdiction or influence. In other words, secularism is a theoretical and practical movement which aims at freeing the social and political system from the control or dominion of the clergy.

Such a movement or tendency has its origins in the Western world, where two powers struggled for mastery over society: the Church, which ruled through the ecclesiastical laws, and the State, which ruled through the civil laws. No clear boundary existed between these two powers; on the contrary, history, witnessed their intrusion in each others fields.

Very often clergymen held direct political power, thereby dominating the political fields. In such instances, it became very difficult, if not impossible, to distinguish the ecclesiastical element, considered to be from a revelation of God, and as such infallible, from the civil element, supposed to be a human, and as such a fallible, act or law.

A very well-known example of such a situation, viz. of the confusion between the two powers, ecclesiastical and civil, occurred in the reign of Henry VIII, King of England (1491-1547), when Thomas Wolsey and Thomas Cromwell were bishops and political ministers at the same time. On the other hand, the King proclaimed himself the head of the Church of England.

A similar situation was associated with Cardinal Richelieu (1585-1642) in France, where he was Cardinal of the Church and Minister of the King at the same time.

In such systems the two powers, the ecclesiastical or divine and the civil or the secular were so intermingled that a shadow of infallibility was shed

on the very acts of the political ruler. In fact, any kind of opposition was prohibited as being a heresy punishable by a capital sentence, i.e. death.

To avoid such dreadful consequences, the peoples of the different nations in Europe fought in order to separate the two powers, and particularly to prevent the clergy from gaining any kind of political influence. Such a movement was called secularism.

3. *Democracy*

The term democracy is a word of Greek origin. It comes from two Greek words *demos* (people) and *kratein* (to dominate, rule), and means the government of the people, by the people, for the people. Consequently, it came to signify the form of government in which the supreme power, viz. the legislative power, and its administration and execution, is vested in the people and exercised by those whom the people elect and appoint for such a duty.

B. The relationships between *Shari'ah*, Secularism and Democracy

1. *In Islam there are neither clergymen nor Church*

Islam gives attention to scholars not to clergymen, thus it encourages every Muslim to become a scholar. In such a system secularism, i.e. the problem of separating the clergy from the civil power, never existed or was claimed.

However, the distortion of the meaning of *shari'ah*, which from signifying path or method came to signify the legal system, including the whole jurisprudence, created in Islam a clergy *de facto*. Scholars became clergymen, and their opinions, being part of the *shari'ah* and endowed with divine authority, began to signify the divine law. And since the divine law is sacred, Muslim scholars, the new clergymen *de facto*, became infallible and have been quoted in every instance as absolute authorities not to be challenged or opposed.

In such a situation the attempt to introduce secularism cannot be effective. But the present situation can be changed through Islam itself, through the very Islamic concepts, by clarifying the real meaning of *shari'ah*, which never included the meaning of jurisprudence or the concept of priesthood.

On the other hand, there is no Church in Islam.

The mosque is a place for prayer and worship, but should never become an institution. Al-Azhar mosque in Egypt, for instance, and other similar institutions in other Islamic countries, are actually universities to teach religious and other studies. They are state institutions under the supervision of the civil power, sharing its power, not opposing it.

2. *There is no single verse in the Koran that concerns politics or prescribes some political organization*

As Commander of the Faithful, the Prophet led raids, arranged some public affairs; he was the arbitrator between people. The faithful are enjoined in the Koran to let the Prophet arbitrate in their affairs and to enforce his verdicts by themselves. This course of events was the result of the absence of any kind of political or juridical system.

After the Prophet's death, Abū Bakr was elected Caliph. The word caliph has in Arabic two meanings: It means the legal successor and the one who succeeds somebody else in time. At first, the word caliph was used in the second sense, but later on Caliphs and their scholars, used the word in the first meaning. In this way, Caliphs imposed themselves as the legal successors of the Prophet and the deputies of God. In such capacities Muslim Caliphs become infallible leaders and their office, the Caliphate, a religious office *de facto*.

As mentioned above, the word *sharī'a* had already been distorted to mean the Islamic jurisprudence. Now, a new, more serious distortion occurred so that it came to include a specific political system and the Caliphate became integral part of the *sharī'a*.

Once the Caliphate was part of the *sharī'a*, true democracy became impossible. In fact, democracy means – as said before – the rule from the people, by the people, for the people. Furthermore that the people have the right to legislate for themselves, through their representatives, elected by themselves. In contrast, the Caliphate, as part of the *sharī'a*, means that the sovereignty belongs to God alone, and that the Caliph is God's deputy, exercising God's sovereignty in God's name. Nobody else has the right to rule, or to choose a different ruler or another representative.

If God is the only and true sovereign, God must also be the only and true legislator. Nobody else has the right to legislate.

In this way, Muslim jurists managed to give to the Muslim Caliphs a sacred, indisputable authority by which their juridical system could be put into effect and those who opposed them could be eliminated as

opposing religion, i.e. heretics. Islamic jurisprudence thereby became a divine set of laws imposed on the people by a divine authority. This is the principle of any kind of theocracy.

On the contrary, one who studies the Koran in a scientific way, will find that the legal rules therein are very few (just eighty verses of six thousand) and almost entirely related to family matters.

It was Muslim jurists (the *‘ulamā*, the Islamic clergy *de facto*) who created the vast complex of the Islamic legal system in which everything is included and by which all kinds of human activity and behaviour are controlled.

This happens especially by basing such laws on the so-called Prophetic tradition, on the authenticity of some of which, however, there are many reasonable doubts, because we know that many were purposely fabricated in order to fill a legal vacuum, or for political reasons and polemics.

In conclusion, Islamic jurisprudence, as it has become historically established and is propagated in our days by all manner of mass media, necessarily leads, in our view, not towards democracy, but towards its opposite, theocracy. A deep change in understanding and evaluating the historical past and a new interpretation of the sources of Islamic religion is needed: this is the appeal which we address to all the people of the East and the West.

C. Conclusion

What we have said indicates the important role played by the very word *sharī‘a* in many fields of Islamic thought and life.

We have also proved that its original meaning, which was that of the "path to God", was distorted at a very early stage in Islamic history and understanding. It came to signify the whole set of Islamic rules of law and also the political and social order. We think the very meaning and understanding of Islam itself was thereby changed.

In fact, Islam never recognized any kind of clergy or priesthood *de jure*; on the contrary, the newly developed meaning of *sharī‘a* created a clergy and a priesthood *de facto*. These two institutions tried to control not only political life, but the whole range of human activities laying down a meticulous set of highly detailed laws.

Furthermore, Islam never advocated any theocratic state, but the historical development of the word *sharī‘a* paved the way for the establishment of a theocratic vision of the Islamic state *de facto*.

In the present Islamic world in general, and in Egypt in particular, there is a liberal movement which seeks to reform the inherited pattern of Islamic thought and life by re-establishing a truer and more correct concept of Islamic religion.

For this purpose, we see that it is very important correctly to define every single word we use, and to treat each subject with the proper method, based on a critical, historical and scientific approach.

Only through such an effort will the true and real Islam become apparent and Muslims will reject *de facto* the idea of clergy and priesthood through Islam itself, without any need to import the idea of secularism. At the same time, Muslims will do their best to establish a true democratic state in which the ruler (government) comes from the people, by the people and for the people.