The Qur’ān says:

"Yā āyūhā al-lādiyya āmūnu aṭṭī‘ū allāh wā aṭṭī‘ū allāh al-‘sūl wā awliya’l-‘amr min kāmūn."

Obey Allah, obey the Prophet and obey those in authority among you.” [1]

The primary sources of Islamic law are therefore the words and commands of Allah as laid out in the Qur’ān, the sayings and traditions of the Prophet (s) (aḥādīth), and the rulings of political and religious leaders.

The Holy Qur’ān is the highest standard by which man can order his life. As such, it is a model only the Prophet of Allah could uphold to its fullest. Yet, it is still not possible for the average Muslim to follow the Prophet’s example directly. Muslims therefore rely on the authority of their leaders to guide them in upholding the principles of law laid out in the Qur’ān and the traditions. The Prophet (s) himself stated, “Whoever is chosen by the people after me will be the caliph, and you must listen to and obey him.” [2] Those in authority include the rulers of the nation, its religious scholars and its judges.

1.1 Shura: Consultation and the Adaptability of Islamic Law

Rule in Islam is based on the concept of shūrā, a term which has two meanings in Islamic governance:

1. Shūrā is a referendum on which the majority of people agree, and is the basic method for choosing the ruler in Islam. Similarly, it is the means to approve his decisions. Muhammad Abū Zahrā in The History of Islamic Thought and Leadership in Politics and Belief, writes: “All the Muslims, including the Shi‘a and all the different schools of thought, [which at one time
number over 470] agreed that leadership as defined by the Prophet, in the saying ‘If you are three make one your leader’ can only be implemented by election. That is done in every district, (hayy), at the state level (wilāyat) and above that by the federal authority, (al-ідара al-markaziyya).

2. The advisory board (al-majlis ash-shūrā), which advises the ruler, is a group of elected experts. The task of such groups is to observe and oversee the ruler (murāqabat as-sulţān). They are in this position to form an opinion of the ruler and his rule, and to control any aspirations he may have to override the rights of the people. They must be aware of the variations in these rights within ethnic, cultural and environmental norms. This system is like that being implemented in America today, where we have the federal system, the state and local governments, and municipalities. The judicial system acts to check the executive and legislative branches, ensuring fair and correct implementation of law. We also have the free press, which acts as a watchdog over the government, issuing warnings at the slightest sign the interests of the people are being betrayed.

Everything that impacts human life accounted for in the law and falls under the jurisdiction of the ruler. Yet the ruler himself has no personal choice in ruling, as do contemporary monarchs. The Prophet (s) prohibited the ruler, who has been chosen or appointed, to usurp authority he does not possess. He is tied to the law, which as the ruler is his duty to enforce. The majlis ash-shūrā ensures that he does so.

In the Shari‘ah there are laws that are immutable or nearly so, similar to the constitutional basis of Western democracy and the US Bill of Rights. However, the remainder of the law is adaptable, changing with:

1. The practical application of the “immutable” law, established in the earlier rulings of judges; ie. case law.

2. Society’s evolving needs.

It is the job of the Dār al-Iftā, the Center for Legal Rulings, to form the basis for new laws that will address innovations in technology and custom. The Prophet (s) did not demand that a
particular rule be imposed on new innovations, but allowed the people to develop a law as needed, based on the precedent established in his lifetime and by Islamic scholars in succeeding generations. The evolution of the law was left in the care of the people for laws must take into account geography, environment, ethnic and cultural considerations, and variations in belief and understanding.

Baruch Spinoza said, “Everyone varies in their view of individual life.” Each person has a different opinion on every matter, therefore the implementation of shūrā, or election by majority, is essential in the formation of a new law that will successfully and effectively govern the people.

### 1.2 Democratic Election of Leaders

From the beginning, Islam has mandated democracy through a shūrā (elected council of leaders), a process through which people sit together, consult with one another, and select one person to represent them. This process was recently employed in Afghanistan where, according to a fifteen-century old tradition, the people choose representatives who then gathered to choose not only a leader, but a cabinet and national assembly. The recent loya jirga that confirmed Hamid Karzai as president of Afghanistan, demonstrated once again that Islamic rule is based on democratic choice.

A clear example of democracy’s role in Islam is manifest in the Prophet’s (peace be upon him) passing without appointing a successor to rule the Muslim state. He intentionally left it to the Muslims to come together to make this crucial decision based on what he had taught them.

The Azhar scholar Dr. Abū Zahrā said:

The Prophet (s) never gave a single word or sign indicating who his successor would be… and in the meeting which took place to elect the calipha, the Companions were in utter disagreement as to who should succeed the Prophet, but in the end were able to choose Abū Bakr aš-Šiddīq by the consensus of the majority.

Essentially, there were three groups who differed in who should succeed the Prophet:
The Anšār, the Prophet’s supporters in Madinah, who felt the leadership should fall to one among them as they supported the Prophet (s) when he immigrated from Mecca.

Another group, led by Abū Bakr  and Umar , believed that the immigrants (Muhājirūn) who came with the Prophet (s) to Madinah should lead, because they were the first to enter Islam.

The third group called on ʿAlī to lead, due to his familial relationship with the Prophet (s).

The disagreement did not last long, as through shūrā the three groups quickly reached the consensus that Abū Bakr had the highest credentials to take the reins of leadership. The majority voted for him, and the Islamic precedent for peaceful transition between rulers was introduced. Once the majority had decided, the individual citizens ratified the selection by pledging their allegiance one-by-one to the new head of state.

In electing a candidate from among the three parties vying for succession, the first, most exemplary Muslims imprinted their stamp of religious authenticity on the electoral system. The fact that the Companions (Sahaba) did not establish a monarchy or a dictatorship irrevocably demonstrates that leadership in Islam is the choice of the people.

Once a selection is made by the shūrā council, each individual Muslim has the option to accept their choice or not. This is known as taking a pledge of allegiance (bayāʿ). If a group feels the choice was made unjustly, they may refuse to accept it and form an opposition party. In the end however, a judge accepted by both sides must make a final arbitration and choose between the two parties based on the validity of their claims.

The executive aspect of governance is also conducted through consultation. The ruler, chosen by the shūrā and confirmed by the citizen’s individual pledge of allegiance, is obliged to consult on executive decisions. He therefore consults with a council, parliament or advisory group whose specific role is to advise.
Whenever the Prophet (s) had to make a decision that would affect the Muslim nation in whole or part, he gathered his followers to conduct a *shūrā*. In one instance, before the onset of a battle, one of the companions asked the Prophet (s) if the location of the Muslim camp should be chosen through Divine inspiration or consultation. The Prophet (s) answered that it should be the product of consultation, and proceeded to follow the group’s recommendation to settle beside the nearest water well.

¿Umar ¦, the second caliph, said, “Whoever is chosen by the people after me will be the caliph, and you people must listen to him and obey him.” [4] Upon ¿Umar’s passing, the *shūrā* chose ¿Uthmān, and after ¿Uthmān’s assassination, they chose ¿Alī ¦.

With the election of ¿Alī ¦ there arose a dispute, and Mu¿awīya ¦ took over the caliphate. Later the rule went to his son, and the system thereby changed from democracy to a monarchy. Thereafter, the selection of the ruler was dynastic and remained so through the time of the Ottoman caliphs.

Muawiya separated the political and religious systems. However he regularly consulted with Ibn ¿Abbās ¦ and Ibn ¿Umar ¦, who possessed vastly greater knowledge. The system thus changed into a political leadership advised by religious leaders.

### 1.3 The Constitution of Madinah

The democratic election of a leader was the model on which the city of Madinah was founded. The Prophet (s), while invited by Muslims from that city, became its ruler by the choice of all its citizens, which included Jewish and polytheist tribes. He then developed a binding social contract, a pact signed by all the tribal leaders naming Muhammad (s) as the leader, and establishing laws binding the tribes to cooperation, assistance in defense of the city, and the protection of its inhabitants.

It reads in part:

The Jews of Banu ¿Awf are one nation with the Muslims. The Jews have their religion and the Muslims have theirs, their freedmen and their persons shall be protected except those who behave unjustly or sinfully… Each must help the other against anyone who attacks the people of this document. Their condition must be one of mutual advice, consultation and charity.
No man is liable for a crime committed by his ally. Support must be given to him who is wronged.

To every small group belongs the share which is their due, as members of the larger group which is party to this covenant...

This document, The Constitution of Madinah, establishes the importance of consent and cooperation for governance in Islam. According to this pact, Muslims and non-Muslims are equal citizens of the Islamic state, with identical rights and duties. Communities of different religious orientations enjoy religious autonomy, which is essentially wider in scope than the modern idea of religious freedom. The principles of equality, consensual governance and pluralism are beautifully enmeshed in the pact of Madinah.

Since then, this lengthy document has proven an exemplary historical model of a binding social pact in which a multi-religious, multi-cultural society was bound by one law. Note that, in signing the contract, the non-Muslim parties did not accept the Prophet (s) as their religious leader, but rather signed with the conviction that he would provide the leadership needed to build an ideal society. In later centuries, the system of governance in Madinah became the basis of the ideal city, a detailed model developed by al-Fā¿rābī and later scholars.

A tradition in Islam states: “Whatever the body of Muslims collectively sees as good is also considered good by Allah, and what they see as bad is also considered bad by Allah.” Just as culture, geography and natural circumstances impact our needs, the Prophet (s) recognized the importance to develop a system that would be useful for that time or those circumstances. He stated, “Majority opinion is best.”

1.4 The Model City

Despite the change of the system of succession to a dynastic model, the Islamic system of governance established by Prophet Muhammad (s) evolved rapidly in the fields of law, economics, industry, agriculture and religious understanding. Later, as the Umayyad dynasty was succeeded by the Abbasid, Islamic theology, philosophy and political theory also flourished, culminating in al-Fā¿rābī’s The Model City, and later in the writing of Našr ad-Dīn aţ-Ţūsī.

Dr. ¿Abdul-Wāḥid, a scholar of Islamic history at al-Azhar University, writes:
Al-Fā¿rābī as an Islamic scholar versed in the Qur’ān, hadith and the practice of the Sahaba (companions), and through his extensive study of previous civilizations… composed a formulation of Islamic political theory in a way that had never been done before him. [6]

Al-Fā¿rābī defined fifteen characteristics of the ideal leader:

- Excellent understanding and the ability to quickly observe and grasp what he is told.

- Possesses the power to recollect what he hears, reads, senses; is not forgetful.

- Highly intellectual; can understand the direction of a group from which an idea is generated.

- Eloquence, and ability to express what is in the heart.

- Passion for education and seeks its benefits for all citizens.

- Must not tire easily and be exceedingly patient.

- Not greedy for food and drink.

- Efficient and effective in addressing the physical needs.
Democracy According to Traditional Islamic Sources
Written by Shaykh Muhammad Hisham Kabbani

· A lover of the truth and its supporters; a hater of falsehood and its supporters.

· Quickly recognizes duplicitous people.

· Extremely generous, above stinginess.

· Worldly wealth must not be a factor; whether it is possessed or not should be of no concern.

· Loves justice and freedom.

· Rejects oppressors and oppression.

· Firmly decides the course that will benefit society, despite intense opposition.

1.5 Islam’s Legacy to the West

The Islamic precedent of developing law and governance according to the will of the majority, as well as adapting legal precedents to address new and evolving needs are Islam's legacy to the Western world. A famous Islamic saying states, “Islam is not simply a religion between the individual and his Lord, but a way of life in which people are taught to live in the world as if they are living forever.”

Shaykh Ñabd al-Halîm Maḥmūd said, “The Islamic culture and civilization as a whole was the source of inspiration and source of information for principles and rules on which the Western civilization built its laws and rules.” [7]

Dr. Muhammad Iqbal, in his book Renewal of Religious Thinking said, “Europe was extremely slow to grasp Islam, its principles, rules and its scientific perspective.”
Briffault, who wrote the book *The Making of Humanity*, said:

“We have to be fair. Roger Bacon studied the Arabic language and sciences in Oxford and they have adopted the Arabic approach about which they wrote. Roger Bacon was like a messenger, bringing principles and rules from the religion of Islam and presenting them to Europe and Christendom.”

Dr. Iqbal, quoting *The Making of Humanity* said:

“What we call today knowledge and its principles, appeared today from the spirit of new research and new ways that have been developed from the examples of what happened before, and the scales of the past and the precedents of the past, and all these principles and rules and scientific curricula, were brought to the European world by the Arabs.”

2. Individual Freedoms in Islam

2.1 Freedom of Speech

The Prophet (s) said, “A good believer must listen and obey as long as he is not being ordered to commit a sin.”

This hadith delineates the limits between the giver of law and the rule of man. The object of rule in Islam is to implement Allah’s Law – that legislated in the Qur’ān and Hadith, known as *Shari‘ah* (Islamic law). The ruler who does so is to be followed, and the one who does not is to be corrected. Ensuring the rulers remain on the path of law is the job of the scholars of Islam and their inherent responsibility. It is not the task of the common people, but all citizens are free to express their opinion without fear of retaliation in Islam. Contrary to what is seen in most Muslim nations today, where one word spoken in criticism of the rulers may land a person in prison, Islam allows all to speak, as illustrated so significantly in the case of the lady who corrected the second caliph, ʿUmar ʿr.

[8]
In contrast to what radical Islamists claim today, *militant* opposition to rulers is not allowed so long as they permit the observance of Islamic worship. Therefore, traditional Muslims understand that a citizen has no right to create confusion, disrupt the peace, upset the leadership, or attempt to eliminate their authority by force as long as the governing authority gives the people the freedom to carry out their religious obligations. Under such conditions, a citizen has no right to oppose their nation's system of governance.

**2.2 Freedom of Religious Belief**

Prophet Muhammad (s) freely propagated the message of Islam, yet gave all people the freedom to choose any other religion. Jews, Christians and Zoroastrians were contractual members of the Muslim community. The Qur'ān states:

> لَا إِﻙْرَاﻪَ ﻋَﻦِى اﻠﺪِّﻳﻦِ “Let there be no compulsion in religion.” [9]

Accordingly, Muslim jurists have concluded that while Islam is the preferred belief and way of life, it cannot be imposed on anyone. In fifteen centuries of Islamic rule throughout the globe, there are no incidents in which Islam was imposed by force according to Islamic law. When non-Muslims became members of a Muslim nation, either through capture of territory or through migration, they were free to practice their beliefs. Furthermore, special consideration was given to believers in heavenly revealed religions: the Jews, Christians (known “People of the Book”) Zoroastrians, and later, other faiths. They were afforded not only freedom of religious belief, but were allowed to maintain their own religious law and practices, even when these conflicted with the teachings of Islam.

Islamic civilization is firmly founded on the concept of ‘rule of law.’ For that reason, the law is published and known, and citizens and courts are expected to uphold it. In addition, Muslim citizens must adhere to Islamic law. If a Muslim citizen commits a religious violation, he is judged according to Islamic law. A non-Muslim citizen is judged in religious issues by the laws of his own faith.

Further, it was deemed unlawful in Islam to desecrate or destroy non-Muslim houses of worship. At first restricted to certain faiths, this category was later extended to include the Hindus of India and other beliefs. A traveler in Muslim lands should not be surprised to see in them churches, synagogues and temples of other faiths, often erected in places of prominence.

Shaykh Ahmad al-Jurjāwī writes:
From the beginning of the history of Islam until today, you cannot see that the Muslims come against the Jews or the Christians living among them… Even the Crusades did not originate from Muslims, but came from the Europeans. We see that Šalāḥuddīn al-Ayyūbī would even have his physicians treat Christian soldiers and later send them home to England safely. [10]

2.3 Freedom of Commerce

Islam affords the citizens of a Muslim nation the freedom to conduct commerce as they please, as long as their actions are not unlawful. Travel is not restricted. Trade is open and people are free to work in any profession. Islamically, borders and nations exist as subdivisions for administration, not as barriers to migration or material gain.

2.4 Freedom to Petition the Government for Redress

¿Umar, the second caliph, ascended the pulpit of the Messenger of Allah and said, “O people! Do not go to excess in the matter of women’s dowry… And we never knew of a man who gave more than 400 dirhams as dowry.” Then he stepped down. A lady of the Quraysh from the congregation challenged ¿Umar saying, “O prince of the believers! Have you told the believers not to exceed 400 dirhams in giving the dowry?” to which ¿Umar replied “yes.” She said, “Did you not hear that Allah said, ‘If you have given one of them a heap of gold, then take not from it anything; would you take it by slandering (her) and (doing her) manifest wrong?’”

[11]

…

To this ¿Umar said, “A lady hit the target and a man [meaning himself] was wrong.” [12]
2.5 Taxation

The inherence of democratic principles in Islam is made even more clear in examining the application of *zakāt*, a form of taxation applied to Muslim citizens of the state. The system of taxation applied to non-Muslim citizens, who also enjoyed benefits from the state, is known as *jizyā*. Funds collected from *zakāt* and *jizyā* are diligently applied to social welfare and state defense, producing a higher standard of living and suppressing the need to commit crimes. Both systems are extremely similar to the US system of taxation, which benefits everyone.

3. The Hierarchy of Law

*Al-ḥukmu lillāh* – Rule belongs to Allah. Traditional Muslims believe that Allah is *al-Ḥākim*, Ruler of Creation. In every moment Allah is the Supreme Judge. Yet, He gave man will. Why? If Allah were to give the rules and demand that we follow them, while knowing we are weak and cannot, it would be oppression. Allah is not an oppressor, but most loving towards His creation. He will not impose on us what we cannot achieve. Through the Qur’ān, Allah told humanity what He prefers for us, His highest standard of behavior.

The Qur’ān was revealed to Prophet Muhammad (s) as the exemplar of the highest level morality. Allah said, “This is your capacity as My perfect Servant.” Since the rest of humanity are but ordinary human beings, the Prophet (s) served as an intermediary, reducing the power of the Divine orders to the capacity of the people he addressed. The Prophet (s) urged the Muslim community, with the guidance of qualified religious scholars, to use their own minds, judgment and sincerity in seeking out the intent of the law and adjust it according to capacity of the people.

The law is subject to hierarchy. The highest level is obedience to Allah. If you cannot obey all of Allah’s commands, then obey the Prophet (s). The level of Divine law – stated in the Qur’ān – is the abstract. It is the ultimate goal and, like the sun in the sky, shines over all but is humanly impossible to reach.

With this understanding in mind, it becomes clear why so many issues are described in only general terms in the Qur’ān. It was the duty of the Prophet (s) to explain these issues. Allah said:
Whoever obeys the Prophet indeed obeys Allah. [14]

After the Prophet’s death, it became the duty of the scholars and rulers to further codify and implement existing laws. Therefore, the next level of the hierarchy is obedience to those in authority, for those unable to maintain obedience to the Prophet (s) must at least obey those in authority. People in this position must obey the rulers chosen by election. ' 

The Prophet (s) said, “If you are three on a journey, choose one as your leader.” [15]

3.1 Divergence of Opinion

Imâm Ghazâlî observed that, in examining the history of all different nations, there are three different approaches to life:

Materialistic: The world exists without a creator, and mankind lives only by self-determination.

Intellectual: Issues, known or in the future, can only be solved through reasoning and precedent.

Inspirational: All we need comes through inspiration and revelation, in the relationship between human beings and the subtle realm.
The Qurʾān substantiates the third approach, speaking about all issues and providing a subtle means for understanding every issue of human life.

The first and second approaches to life are manifest in the earliest period of Islamic history, demonstrating that from the earliest point, the polity of the Muslim community was divided in three ways. For this reason, scholars were obligated to substantiate their methodologies through proof and logic. Islam never prohibited or inhibited this dialogue of the intellect; each group was allowed to develop its own vision and approach, not only in political theory, but in philosophy and other areas that, according to Islamists, would be considered heretical.

Both the intellectual and spiritual fields grew tremendously as many different cultures and nationalities entered Islam. This demanded that Muslims apply their intellects to every issue, and not simply rely on the rulings of their ancestors. They were required to start with legal precedents, then refine and adapt them into new laws that accommodate the era and environment in which they lived. This is directly contrary to the approach of the rigid and hard-hearted people, described in the Qurʾān as saying:

"Surely we found our fathers on a course, and surely we are followers of their footsteps." [16]

The best program for Islamic rules began slowly, changing slowly, without fanatical imposition of the views of different groups, and began to diverge, from it emerging different streams and methods. The different views and opinions began early in Islam, even in the time of the Prophet (s), as in the example of the order to pray at Banī Quraizah. [17]

A process of examination that leads to majority consensus (itṣāhād) was applied even in the time of Prophet Muhammad (s). This is borne out by the famous hadith of Bani Quraizah, in which the Prophet (s) gave a group of Companions the order not to pray that afternoon until they reached the place of Banī Quraizah. Each individual Companion followed his own interpretation of this order; some prayed on the way, believing that what was meant was to try to reach Banī Quraizah but not to miss prayer. Others waited to reach there, but missed the prescribed time.
for the prayer. The Prophet (s) accepted both interpretations, as he intended only that they proceed quickly in order to reach Bani Quraizah sooner.

From this example, jurists derived two fundamental principles of Islamic jurisprudence:

1. Allowance for independent reasoning based on the intent of the law.

2. Allowance for divergence of opinion in interpreting the law.

3.2 The evolution of Islamic Law

Shaykh Ahmad al-Jurjawi, writes:

What is the wisdom behind obligations in Islam, as rules that do not change? Allah created living creatures and we can see from their actions that the law of the jungle, survival of the fittest. We see the birds have their beaks as weapons. The scorpion and the snakes have poison. Lions and other predators have sharp teeth. Similarly, human beings have a basic primal nature, but have no physical ability for survival. Therefore Allah put fundamental laws and principles, in order to create a decent and stable community in which human beings live in safety and security. By means of these principles and rules, and the different opinions that Allah granted each individual, we see that the ideal community for mankind exists if all meet together and agree on rules by which all will live.

Thus the Qur‘an contains broad, general rules that are immutable, not unlike societal rules of today: the sanctity of life, security and freedom of expression, and the inviolability of these rights. Yet, a democracy is a society governed by the people, for the people. The adaptation of law according to time and circumstance was necessitated by changes in society, and the influx of various cultures and material conditions. Islam first came to one people with one lifestyle. As the religion spread and the borders of Muslim lands expanded, all of the different civilizations, each with their own codes of law, traditions and cultures, had to be incorporated into the Islamic polity. This was not achieved overnight and took great foresight on the part of Muslim jurists. This is most elegantly displayed in the development of the law.
The Qur’ān states:

ﻭَﻝَﻭْ ﺵَاء اﻠﻞّﻩُ ﻝَﺝَﻉَﻝَﻙُﻡْ ﺃُﻡَّﺓً ﻭَاﺢِﺩَﺓً
If Allah so willed, He could make you all one people...

But Allah, in His wisdom, did not. Human society has been allowed to adapt to new circumstances and compete in seeking valid solutions to its many moral and ethical dilemmas.

The Prophet (s) said, “He who inaugurates a good practice (sunnatun āḥasana) in Islam earns the reward of it, and of all who perform it after him, without diminishing their own rewards in the least…”

The Prophet (s) comprehended that new situations would arise, and thus gave Muslims the ability to adopt new applications of Islamic law if they were beneficial to the community.

Among numerous other examples of how applications of law have changed is the assembly of the Holy Qur’ān, which during the Prophet’s lifetime consisted of loose pages in chronological sequence of divine revelation. The third caliph, ʿUthmān, took the initiative to assemble the revealed verses in the book format we have today. As the Prophet (s) had never indicated this should be done, or done so himself, ʿUthmān’s act was an innovation. He introduced the notion of change, and thereby established a precedent for what would be considered good or useful innovations in religion.

In the early days of Islam, slavery was permitted as a vestige of the pre-existing social structure. At the same time, Islam introduced many safeguards for the rights of slaves and
Muslims were encouraged to free them to expiate their sins. But it was not until later that scholars voted to abolish slavery altogether.

In Ramadan, the Muslims around the world gather in mosques to pray a nightly congregational prayer known as ‘*tarāwīḥ*.’ [20] This was not practiced in this manner in the lifetime of the Prophet (s), but later implemented as a means to preserve brotherhood among Muslims, and revive their spirits to fast the next day.

Similarly, when Muʿaffar al-Kawkubūrī noticed love for the Prophet (s) was diminishing, he introduced the public observance of the Prophet’s birthday (mawlid), spending thousands of gold dinars for the event. The scholars of his time defended his act as something good.

Our nation’s founding fathers also acknowledged that the people could not follow the law at all times. That is why they established a judicial system to address each breach of law on a case-by-case basis. In other words, application of the law varies based on the individual circumstances at the time.

### 3.3 The Formation of Different Schools

During the Prophet’s time, Islam was spread with great tolerance and openness. The command to pray five times daily came over a period of years. The Arabs, who were fond of alcoholic beverages, were gently weaned from alcohol over a period of twenty years. Those who prayed to idols were not ostracized from their Muslim relatives. Islam was introduced gently, not forcefully.

Initially, law was taught by the Companions of the Prophet (s), who migrated around the Muslim world, forming academic centers wherever they settled. With time, numerous centers of scholarship emerged, with that in Madinah, the city of the Prophet (s) being foremost, then Kufa and Damascus. Later such centers of knowledge developed and flourished in Baghdad, Bukhara, Samarqand, Cairo, Cordoba and many other cities. As we see in the spread of all world religions, each school adapted to the temperament and culture of the native people. This precedent was established by the Prophet (s) when he sent his deputies to the various tribes of the Arabian Peninsula. He told one emissary to Yemen, Muadh bin Jabal, to deal with the new Muslims lightly and not force Islam on them at once, but to gradually acclimate them to Islamic laws.
The Caliphs ʿUmar ʿ and ʿAlī, Muḥammad ibn Jabal, and the later imāms of the schools all followed different methodologies in examining issues within an Islamic framework. After the Companions came the establishment of hundreds of Islamic schools of thought, each of which were based on the law of Allah, but applied by man.

Dr. Wahba al-Zuhaylī, a scholar of Islamic jurisprudence at the University of Damascus, writes that Sayyidina ʿUmar ʿ cancelled the charity that had been ordered in the time of the Prophet (s) for those who converted to Islam (al-muallafat il-qulūb). Though present in the law, he ruled that they no longer needed this incentive, as their Islam had become firmly established. ʿUmar ʿ eliminated the rule of cutting the hands for theft in the difficult ‘Year of Hunger’ despite it being a fundamental rule in the Qurʾān. ʿUmar ʿ was the first to institute the use of prisons to hold people before judgment.

Before the canonization of the four independent schools of thought in the fourth century of Islam, there existed more than 424 different schools of thought. These had been developed by experts who examined the revelation and precedents as established by the Prophet (s) and the early Muslim generations, and formed them into law.

Islamic jurists adopted the application of the law to different peoples and cultures. For instance, Imām Shāfiʿī's school was fully developed and established in Iraq. When he moved to Cairo, he changed many of the rulings. In Iraq, he ruled that two unnecessary movements during prayer would invalidate it. However, in Egypt he changed the limit to three, owing to the more extreme climate and increased irritation of the person in prayer.

Even rules based on the principle of consensus of scholars, ʾijmaʿ, which in itself is difficult to accomplish, can be changed. Dr. Wahba al-Zuhaylī, wrote:

Consensus of scholars on a certain issue made earlier can be abrogated by the consensus made by a later generation if there were changes in the conditions which are for the common good of the people as time progresses. The followers of the Hanbali school and some of the followers of the Hanafi school say that one can reformulate or abrogate a law developed by consensus at one time by a new law that fits the later circumstances.

Islamically, this concept of reformation or rejuvenation of the law is necessitated by change in
The great philosopher al-Kindī (800-873 CE), whom the renowned Italian philosopher Cardano (1501-1576 CE) described as one of the twelve best philosophers in fundamentals, stated:

We must speak the truth: whoever gave us an idea, we must respect his view and opinion, even in the most minor issue. What then do you think of someone who is going to deduce rules and laws that will affect your life in the future? [25]

It is good that we keep looking at what took place in the past, for one cannot come up with a law spontaneously. It is essential to look at the precedents that came before and see in what they were correct and in what they were wrong. Because it is impossible for an event to take place in a moment, for every event might stretch over a period of time, and in later times that issue might be viewed differently. It is better for us to bring all our principles and rules, and all they said before us as well as what they did not say, to put it together in order to derive a useful ruling for our own time.

Ibn Sīnā (Avicenna) said:

I have decided to collect all that was said and written and compiled by those before, without concern for the differences they had, taking all together, categorizing it and showing the people of my time what the people thought about these issues, in order to clarify and refine the verdicts of the past.

3.4 Levels of Governance

Al-Fāʿrābī (d. 950 CE), a leader in Islamic political thought, expounded these ideas pertaining to the governance of different sizes of community:

§ As humanity expanded through the earth and inhabited all its areas, it resulted in the formation of different nations and cultures.
We can categorize the approach of nations into two: the ideal ones who are able to observe the highest level of principles and rules and those who observe them only partially.

Those who observe the highest level are divided into three categories:

- Highest are those in which the whole global society agrees and works together in unity.
- Second is the localized observance – a region, city or state of the society works together in unity while the rest does not.
- At the lowest level we find a district or community in which harmony and cooperation are observed. A system of government in which all states cooperate together is the goal for success. Yet, as in the federal system in the US, each lower level is semi-autonomous in relation to the level above it. Islam demanded the implementation of a universal political model of governance, not one limited to individual states. Thus, Islam is designed to benefit the entire global community while giving sufficient autonomy to the local regions to develop their own laws subordinate to application of federal law.

Al-Fā¿rābī elaborated that in such a community each individual also has his personal freedom. He is free to choose based on his own desires, good or bad, and he can choose to be a good citizen or a bad one. There is a direction for good and for evil. That is why, in the ideal city divided into three ranks, the society gives the ruler the authority to impose the rule of law and gives the courts the authority to enforce it. The ultimate source of the law is the community. The ideal city is that in which the entire community will unite to decide an issue, and produce principles and rules that will achieve happiness and contentment of the people. Al-Fā¿rābī stated, “For indeed the greatest happiness is that which comes about as a result of the meeting of this city to decide [on its direction].”

In explaining the impact of culture, environment and geography versus the impact of revelation on the development of law, Shaykh ¿Abd al-Ħalīm Maħmūd, former shaykh of al-Azhar and one of the highest scholars in Islam in recent times, wrote:
Among these philosophical principles were justice, the existence of good and evil, and the relationship between human beings and the environment and his interactions with it, the most important of these being the freedom of choice. The leadership of Muslim scholars has shown the differences in their views: each was able to deduce different methodologies from which emerged the various schools of thought. [27]

The nation is like a garden with all varieties of flowers, presenting an unending and attractive array of shapes, sizes and colors.

The process of adopting different methodologies began with Wasil bin Ḥātā, a student of Hasan al-Bašrī. He showed the effect of Greek rules and principles on Muslim civilization, and the leaders of the time began to adopt these laws and principles.

4. Political Systems in the Muslim World

Having arisen in the tribal regions of the Arabian Peninsula, the Islamic political structure originally included localized, tribal systems of government. Concurrent with the rule of the caliph, who bore the leadership of Islam as an inheritance from the Prophet (s), each tribe ruled itself within a limited territory, according to tribal loyalties and other factors specific to their community.

With the advent of European colonization, western political values – especially the notion of monarchical rule – were unevenly adopted in various parts of the Muslim polity. Competing with one another, the colonial powers of England, France, Italy, the Netherlands, and Portugal each gradually took control of areas of the Muslim nation, as did Russia in the Caucasus and Central Asia. With the influence of these nations came a further appreciation for kingship and dynastic rule.

The colonial influence on the Arab and Muslim world was tremendous. Even after colonial powers ceded, Muslims themselves observed the imported systems of monarchy. Rather than by a revival of Islamic systems of elections and democracy, the vacuum of power was filled by new monarchs. The impact is clearly evident in Saudi Arabia, Jordan, Morocco, Tunisia, Egypt, Malaysia, Iraq, Libya, Oman, and the Persian Gulf states. Furthermore, these nations imbedded the political systems of their patrons for the sake of political benefit. The influence of colonial powers in Muslim nations therefore accounts, in part, for the limited respect for democracy they now exhibit.
Today, Muslim nations are tending toward the democratic ideals embodied in Islam’s original political framework, if only for the sake of their relationships with the Western world. Unfortunately, tribal leaders oppose the move towards parliamentary systems, prompting leaders to adopt modern democratic nomenclature for a system that remains autocratic. The titles ‘president’ or ‘prime minister’ are common in Muslim countries, and claims are made that elections were held with wide majorities voting for the winning candidate. However, those who remain in power simply usurp terms like ‘elections’ and ‘majority’ when in reality they simply do not relinquish their seats. The buds of independent political parties are now beginning to form, but for them to truly flower will require great encouragement from the West.

Shaykh Ahmad al-Jurjāwī said:

If we have to give the label of ‘Islam’ to a group of people, they must in fact be true Muslims. Unfortunately, we must not call today’s Muslims true Muslims. That is because Islam constitutes rules, discipline, principles and actions based on the rules and principles. Today these have been lost. Islam survives only in lectures and classrooms, for we are not living by Islam today. It has become a name without a body. [28]

The Azhar scholar, Dr. Abū Zahrā, says:

We must give rapt attention to disputes regarding political issues and their involvement with the schools of Islamic law. Using the name of Islam, they attempted to give credibility to what were essentially begun as political differences. This is a purely political manipulation of the faith and is not valid.

The democratic model that exists in traditional Islam is for the political elite to govern, while others are entrusted with administration, in consultation with respected members of the community. In fact, many freedoms enshrined in the US Bill of Rights are inherent civil liberties in Islam, including freedom of speech and the equality of men and women. The overriding principles of justice and allegiance to the ruler further reinforce democratic principles.

5. Conclusion
American Muslims are in an ideal position to inspire Muslim and Arab countries toward the revival of Islamic democratic systems. A large part of the American political structure constitutes what traditional Muslims have held as the ideal. In America, we are free to practice our faith and way of life and, at the same time, encouraged to participate in the political system.

Here, the system does not prevent anyone from ascending in political rank, but bases political representation on the will of the people, which is itself molded by perceptions of success and the candidates’ ability to uphold their political responsibilities. Therefore, as American Muslims begin to participate avidly in the political system, they will inevitably become role models for Muslims in the Arab world and elsewhere. This is evident today in Afghanistan and other nations, where second and third-generation American Muslims are returning in large numbers and making their opinions heard.

As eager and suited they may be to support such a change, it would take some time for American Muslims to inspire this shift in Muslim politics. Considering that it took 200 years to establish true democracy in America, we cannot expect that it would be quickly implemented in the Arab world. Although Islam recommends and stands firm on this political system, the fact remains that the people have been raised on a different system that demonstrates little regard for principles of the Islamic faith. Less than fifty years after the Prophet’s death, when monarchy became the method of rulership selection, democratic principles began to wear down in the Muslim world. To seek a change in a system so deeply ingrained is to be patient, encouraging democracy to sprout anew from its Islamic roots.

Sadly, to date opposition parties in many countries have been silenced by their lack of funding. Many are struggling against petro-financed Wahhabi regimes, and can succeed only by creating an effective counter-balance. Their campaign would require not only funding, but to be complemented with a comprehensive program of re-education to ensure long-term impact. The US could easily support a successful democratic movement in the Muslim world by utilizing moderate Muslim scholars, protecting them from retaliation, and taking advantage of their full participation in the development of such a plan.


Democracy According to Traditional Islamic Sources
Written by Shaykh Muhammad Hisham Kabbani


[3] Al-Azhar in Cairo, Egypt is the oldest Islāmic university in the world, dating back many centuries, and is considered one of the highest Islāmic authorities by intellectuals and scholars.


[6] Dr. ¿Alī Abdul Wahid, Commentary on al-Farabi, Cairo.


[10] Shaykh Ahmad al-Jurjāwī, head of the Science College of the University of al-Azhar, Ḥikm at at-tashriq wa falsafatah, Cairo.


One of the five pillars of faith, which implements social welfare in affording provision for the needy.

Sūratu ‘n-Nisā [Women], 4:80.

Sunan Abū Dāwūd, 2708, 2709.

Sūratu z-Zukhruf [The Gold Adornments], 43:23.

Shaykh Ḥālim Mahmūd, Shaykh al-Azhar, At-తالفکیر al-falsafa fī al-islām (Philosophy of Thinking in Islam), Chapter, “Islāmic rules: Between originality and imitation”

Sūratu ‘n-Nahl [The Bee], 16:93.

Muslim.

A special congregational prayer recited only in the month of Ramadan, traditionally in a mosque, in which 1/30 portion of the Holy Qurʾān is recited each night, to complete by the end of Ramadan.


Known as “hijrī” date, on which the Islāmic calenDār is based; from the time the Prophet migrated from Mecca to Madinah.
[23] See Kitāb al-Umm.


[26] al-Fārābī, Al-ārā al-māmūra al-fāḍila (The Virtuous City).
