The whole argument about whether we have a weak state or a strong state, a weak society or a strong society, in a way is a specious argument, linked to an Orientalist perspective which sees other societies as seamless webs, whereas the West is articulated and differentiated. I don’t see the West being as articulated and differentiated as the West presents itself as being.

But formerly colonized societies to some extent have bought into the nation-state as the mode and vehicle of liberation.

The contemporary exclusion of women is in part—but not exclusively—the outcome of this compulsory model of the nation-state, a model which has built into it the marginalization of females and female activity.

The point I’m leading to is that people do not perceive themselves as having rights as a result of their being citizens of a state. They perceive themselves as having rights because they are embedded in communities. And inseparable from these communities are hierarchical and patriarchal, they will maneuver these rights around those hierarchical and patriarchal structures of domination. When we speak of human rights, we assume that we all know what we mean by that term. But we’ve universalized human rights by glossing over the diversity in the ways in which rights are understood. Our construct of rights is premised on the construct of the autonomous, detached, contract-making, individualized and masculinized person that emerged out of liberal bourgeois thought.

We don’t want to dismiss human rights as bourgeois constructs, as if they don’t matter.

What I’m struggling to develop is a construct of rights, personal rights, human rights, that is not embedded in a specific construct of personhood. I don’t have the answer to that now. The problem of the construct of human rights is closely linked to this concept of the individualized citizen. If we have a construct of citizen that is wedded to a particular concept of self, it allows us to dismiss the rights of persons who don’t share that sense of self. The way we construct the notion of civil society, and the way we construct the notion of a nation-state—when you break out of those constructs, it not only allows for the possibility of the inclusion of women and other excluded groups, but it shows us the ways in which men and women operate, act out their lives, maneuver and negotiate are not so fundamentally different from each other. We constructed a difference, which insofar as it became compulsory, became internalized. Gender difference is historically and culturally constructed and reproduced through complex moralities, idioms, and structures of power. Feminist discourse attempts to destabilize the hegemony of these constructs and by so doing create space for experiments in alternate forms of relationships.

Most observers, in attempting to explain why the movement toward pluralism, liberalism, and democracy has been relatively weak in the Arab world, have concluded that it must have something to do with culture, and more particularly with Islam. And while there has been growing interest and research on the subject, this has not shaken the widespread notion that there is one single political doctrine of Islam, more or less identical with the historical caliphate and incompatible with pluralist democracy as it first developed in the West. Islam, it is said, has not been democratic in the past and will be unable to become so in the future.

This is, of course, an ahistorical view, and one which focuses on what Leonard Binder referred to as a “cluster of absences”: the missing concept of liberty, the lack of autonomous corporate institutions, the absence of a self-confident middle class, and so forth. Recent studies on militant Islam reinforce the conclusion that it is only through emancipation from Islam (passing through the stages of enlightenment and secularization) that Muslims can hope to advance on the road to liberty and democracy. Daniel Lerner popularized this theme in his seminal work on modernization in the Middle East. What Muslims were facing, he wrote, was the choice between "Mecca or mechanization.”

The debate about Islam and democracy is by no means new. Since the 1960s, it has witnessed some fresh thinking and considerable movement on the ground. A growing number of Muslims, including a good many Islamist activists, have called for pluralist democracy, or at least for some of its basic elements: the rule of law and the protection of human rights, political participation, government control, and accountability. The terms and concepts used are often rather vague or deliberately chosen so as to avoid non-Islamic notions. Many speak of shura, the idealized Islamic concept of
participation-qua-consultation; others refer to “Islamic democracy,” just as in the 1950s and 1960s they would have talked about “Arab” or “Islamic socialism”; still others do not hesitate to call for democracy.

The phenomenon raises serious questions, political as well as methodological. Are Islamist activists sincere when they declare their democratic convictions, or do they merely hope to gain popular support and reach power through democratic elections? In either case it is significant that they should think such pronouncements can help them. I have examined the question elsewhere.8 Here I would like to focus on the theoretical aspects of the issue: Assuming that they are acting in good faith and that they have adopted democracy as their “strategic option,” is there an Islamic path to a pluralist democratic society? And how can it be analyzed?

There is among Muslims an explicit debate on the subject which directly compares Islamic modes of political organization to Western-style pluralist democracy, usually with the intent of proving Islam’s superiority to Western concepts in moral as well as practical terms, indeed of proving that Islam served as the source and model from which democratic essentials such as the rule of law or the concept of the social contract were taken by European thinkers of the Middle Ages and the Enlightenment.9 There are in fact a sizable number of comparative studies looking at specific concepts such as sovereignty, the social contract, or the separation of powers “in Islam,” in the West, and in contemporary Arab politics.9

The fact that such studies are so numerous suggests that there is considerable demand. Yet, while of considerable interest, their apologetic thrust reduces their value to an outside observer. More rewarding is a look at the large body of books, pamphlets, draft constitutions, published talks, and conference proceedings that discuss the relationship of Islam, the state, and politics without direct reference to the West. Do these reflect basic notions, institutions, and procedures characteristic of pluralist democracy? To what extent have they been integrated into Islamic political thinking and thus been authenticated and rendered acceptable to a Muslim, or more specifically, an Islamist audience?

One thing has to be said at the outset: Contrary to much of the literature on the subject, it is not possible to talk about Islam and democracy in general but only about Muslims living and theorizing under specific historical circumstances. This may sound evident enough, and yet it is all too often ignored, not least because many of the authors themselves present their views as “the position of Islam” on any given matter, democracy, liberty, and pluralism included. There are certainly essentials of the faith (al-a’qida) accepted by all who consider themselves to be Muslims and who are recognized as such by their coreligionists. But Muslims differ considerably over how an Islamic society should be organized. What is required, therefore, is specificity.

I base the following remarks on those authors and activists whom I consider to be voices of the Sunni Arab mainstream. Some of them are generally ranked as conservative; others as progressive or “enlightened” thinkers. They include members of the Egyptian and the Jordanian Muslim Brothers and the Tunisian Islamist movement led by Rashid al-Ghannoushi (formerly the Mouvement de la Tendance Islamique and Hizb al-Nahda) as well as individual authors committed to the so-called Islamic awakening (al-zahab al-islamiyya) like Muhammad ‘Imara, Muhammad Salim al-Awda, Fahmi Huwaydi, Fathi ‘Uthman, and others.8 They clearly speak only for certain segments of the broad Islamic movement, representing the male educated urban elite and scriptural rather than mystical or so-called popular Islam. But it is in these circles that the question of Islam, shura, and democracy is being discussed.

RELIGION AND STATE

There is general agreement among these authors that Islam is comprehensive or, as the commonly used modern formula has it, that it is religion and state (al-islam din wa-dunya) or religion and world (al-islam din wa-dunya). This formulation signals the rejection of secularism as it was advocated by the Egyptian scholar ‘Ali ‘Abd al-Raziq in his book Islam and the Roots of Government (Al-Islam wa-usul al-khulq), published in 1925, shortly after the abolition of the caliphate. Almost three generations later, his claims—that Muhammad was a prophet and not a statesman, that Islam is a religion and not a state, and that the caliphate was from the beginning based on force—still provoke outrage. For these authors there can be no doubt that Islam comprises faith, ethics, and laws as it was set forth in the Qur’an, exemplified by the life of the Prophet Muhammad and his Companions (the sunna) and later developed by Muslim theologians and jurists (the ulama and fujaha) into the shari’a.

The vocal denunciation of secularism, however, does not imply that these authors make no distinction between the spheres of religion proper and of worldly affairs, between the eternal and the temporal. In fact, this very distinction is reflected in modern Islamic legal theory (fiqh), which distinguishes between the ‘ibadat involving a person’s relation with his or her creator (essentially the five pillars of Islam—the profession of faith, prayer, fasting, almsgiving, and the pilgrimage) and the mu’amalat, covering all other aspects of economic, political, and family life. While the ‘ibadat are eternal and immutable, the mu’amalat can be adapted to the changing requirements of time and locality, provided the results conform to the word (nuss) and spirit (moqaid) of the shari’a. What they envisage, then, are two differentiated spheres of human life and activity: one revolving around faith
and worship and the other around worldly affairs, both subject to the precepts of Islam.

There is further agreement that the hallmark of the truly Islamic system (al-nizam al-islami) is the application of the shari'a and not any particular political order—the historical caliphate included. What matters are the purpose of the state and the principles upon which it rests. These principles are to be found in the Qur'an and sunna, and they include, most notably, justice ('adl), mutual consultation (shura), equality, freedom, and struggle in the path of God (jihad). The militants go even further, declaring that any Muslim who does not apply God's judgment and follow divine law (man lam yahkum bima anzala allah) is to be considered, and fought as, a sinner, a tyrant, and an infidel.⁹

Usually no sharp distinction is made between Islam and the shari'a, and as a rule both terms are used interchangeably. In accordance with what might be called the functional theory of government, which sees the shari'a as the cornerstone of an Islamic order and government as merely the executive of God's law, the debate has shifted to how the shari'a is to be defined—whether as a comprehensive set of norms and values regulating human life down to the minute detail, or as a set of general rules of good life and moral behavior aiming at people's welfare on earth and their salvation in the hereafter (and still leaving room for human interpretation).

There is general consensus that the shari'a is comprehensive but at the same time flexible and therefore suited, as the formula goes, to all times and places. That leads to the crucial distinction between an unchangeable and immutable core (al-ust or, in modern usage, al-thabit) that has been definitively defined by God's word (nass), and flexible elements (al-urf and, or, in modern terminology, al-mutaghayyir) derived by human reason from this core, following the rules of Islamic jurisprudence (ijtihad).

This distinction provides one of the criteria by which one may delineate conservatives, modernists, and progressives, and it is vital to the debate about Islam and the state. The aim of "enlightened" modernist reformers has of necessity been to define the scope of human interpretation as extensively as possible, an endeavor which was characterized somewhat uncharitably by Malcolm Kerr as the attempt to define the shari'a primarily by its "empty spaces."¹⁰

When it comes to politics, even Muslim Brothers and 'ulama who on the basis of their social views would qualify as conservatives, hold remarkably modern ideas: To apply the shari'a requires social organization and a state. But God in his wisdom left the details of political organization to the Muslim community to decide according to its needs and aspirations. Government and politics are part of the mu'amalat that are to be regulated so as to realize the common good (al-maslaha al-tamma) which, if properly understood, coincides with the purposes (maqasid) of the shari'a. The logic of this argument takes them quite close to the conclusions of 'Ali 'Abd al-Raziq, whose theoretical premises they so emphatically denounce (‘Abd al-Raziq was probably attempting to establish orthodox credentials for what might otherwise have been considered a dangerously modern approach.) For the Muslim Brothers, unlike for 'Abd al-Raziq, Islam is religion and state, and yet both agree that the precise form of government is left to human reason to define.

This line of argument results in an apparent paradox which has not gone unnoticed by thoughtful observers: While the state is considered to be central to having Islamic law enforced, its form and organization are declared to be secondary, a matter not of substance but of technique.¹¹ This has to be seen in relation to the common assertion that Muslims are not prohibited from adapting techniques and modes of organization of non-Islamic origin, provided they do not adopt any un-Islamic values. If government organization is a matter of convenience and mere technique, then the adoption of democracy, or of certain democratic elements, may be acceptable, recommended, or even mandatory—provided this does not lead to the neglect or violation of Islamic norms and values.

**SOVEREIGNTY AND AUTHORITY**

At the core of much contemporary writing are a number of shared assumptions: that all people are born equal, having been installed as God's vicegerents on earth (istikhlas); that government exists to ensure an Islamic life and enforce Islamic law; that sovereignty (siyada, hakimiyya) ultimately rests with God alone, who has made the law and defined good and evil (al-ma'mum wa'l-munkar), the licit and the illicit (al-halal wa'l-haram); that the authority (sulta) to apply God's law has been transferred to the community as a whole, which is therefore the source of all powers (asl al-aksulta); and that the head of the community or state, no matter whether he (and they specifically exclude women from that function) be called imam, caliph, or president, is the mere representative, agent, or employee of the community that elects, supervises, and, if necessary, deposes him, either directly or via its representatives.

This simplified scheme of government does not constitute a sharp break with classical Sunni doctrines which, in contrast to Shi'i positions, declared that the caliphate was based on the consensus of the Muslim community (jmada), not on any preordained divine order. But compared even to the widely quoted treatises of Ibn Taymiyya (d. 1328), with their emphasis on the centrality of the shari'a, modern positions mark a definite shift of emphasis away from the person of the ruler and the duty of obedience and acquiescence for the sake of peace and order, even under unjust rule, to the authority of the community and the responsibility of every individual be-
While the state rests on a religious foundation, its leadership carries no religious sanction. It is to emphasize this distinction, which is not all that difficult to make but often neglected, that many Muslim authors insist on saying that the ideal Islamic state is not a theocracy, which would be ruled by men of religion or a ruler of divine grace, but that it is a civil or, to be more precise, a lay state (da'wa madaniyya).

Compared to classical treatises, then, the role and function of the ruler have been reevaluated and distinctly devalued. At the same time, there is heavy emphasis on the need for strong leadership (qiyada), though this is usually justified in strictly secular terms. The preoccupation with forceful leadership, unity, strict loyalty, and obedience is mirrored in the organizational structure of virtually all Islamist movements, from the relatively moderate Muslim Brothers to the militant underground, which in their internal affairs do not adhere to democratic principles.18

THE CHALLENGE OF PLURALISM

Characteristic of much contemporary political writing is its activist bent and the attempt to translate general ethical-religious duties into principles of individual political responsibility and participation. Three elements are basic to this effort: the Qur’anic injunction to enjoin the good and prohibit evil (al-amr bi-mar’uf wal-nahi‘an al-munkar), the Prophet's appeal to give counsel (al-din al-nashah), and the duty to consult (shura) that is based on both the Qur’an and sunna. They are interpreted so as to make political commitment and participation the religious duty (farida) of every single individual as well as the entire community. As a result, politics is literally sacralized, and at the same time ethical and religious duties and injunctions are systematically politicized, extended, and institutionalized. In a process that clearly betrays the impact of modern (Western) political ideas, the transition is made from the limited involvement of the community in selecting the leader via shura and the oath of allegiance (bay’a) to a constitutional system involving continuous consultation and permanent control over the ruler and over government in general, which are now held responsible not only to God but also to the electorate.

Considerable thought has been given to the potential means and instruments of political control. Going beyond al-Mawardi’s (d.1058) concept of a separation of functions via delegation from the ruler (tafghid), more and more authors are inclined to accept the need for a separation of powers in which the executive (the ruler) and the legislature (the shura council, or parliament) effectively keep each other in check. In accordance with the theory of divine sovereignty, though, they often add that an Islamic context legislation (tashri’) is in actual fact confined to the mere “application” of the shari‘a (tabiq al-shari‘a). The independence of the judiciary

dive. This shift no doubt reflects the impact of modern political ideas as well as the decline and final abolition of the historical caliphate.

What emerges as a core concern of modern Muslims is the desire to check and limit arbitrary personal rule and to replace it with the rule of law. That had already been the preoccupation of nineteenth-century Arab and Ot-
toman constitutionalists, ranging from 'Abd al-Rahman al-Kawakibi and Khayr al-Din al-Tunisi to Namik Kemal. It is basic to the advocates of hakimiyya, God’s sole sovereignty, who radically deny the capacity of men and women to distinguish, by the light of their intelligence, between right and wrong, licit and illicit. In an interesting twist, they frequently present their argument in democratic guise: given that all people are created equal and that consequently no one has the right to impose his or her will on others, and given that people are too weak to control their passions and desires (hawa), a higher authority is needed to keep them in check. This higher authority is divine law, binding on all—high and low, rich and poor. The submission to God’s sovereignty as demonstrated in the strict and exclusive application of the shari‘a, therefore, signifies not just the (only genuine) rule of law, but also the (only genuine) liberation of man from servitude to man (radhyyat al-insan).

Seen from this perspective, Islam serves as a theology of liberation. And it is in this sense that the writings of Abu‘l Al‘a‘ al-Mawdudi, Sayyid Qutb, or Taqi al-Din al-Nabhani have been understood by men and women in search of justice and disillusioned with the signs of all-pervading despotism and corruption. For the critical observer, by contrast, the utopian character and very real authoritarian streak of this argument are all too obvious. For who is it, after all, who hears and applies God’s law if not men and women ruled by their passions and subject to the limitations of their understanding? Law, it has been stated often enough, does not apply itself, but is applied by fallible human beings.18 Still, for contemporary Islamists, both radical and reformist, tyranny is the main enemy, no matter whether it be defined in strictly secular terms (istibdah) or on religious grounds as the taking of other gods than God alone (taghot), and therefore as one form of polytheism and apostasy (shirk, ridda, kufr).

By this logic, it is no longer very important whether the ruler (al-hakim) be called caliph, imam, or simply head of state or president (ra‘is al-da‘ala). While certain groups like the Islamic Liberation Party or leading Algerian Islamists still propagate the restoration of the caliphate, many Muslim Brothers will use the term caliphate for what in fact is nothing more than a modern presidency. The underlying conception is in all cases similar: the ruler is the agent and representative of the Muslim community, entrusted with executing God’s law. He has no religious authority whatsoever, though some of his tasks, such as the implementation of the shari‘a or the propagation of jihad, would by Western standards be classified as religious. Thus,
is generally acknowledged, and some writers suggest the institution of a higher constitutional court or council to guarantee the rule of law.

Much attention is given to the principle of shura, which in the early history and tradition of Islam meant nothing more than consultation in all matters public and private. It is now presented as the functional equivalent of Western parliamentary rule and as the basis of an authentic Islamic democracy. A wide range of questions remain controversial—whether consultation is a duty of the ruler, and whether he is bound by the decisions of those consulted; whether they should be men (there is in general little mention of women) of his own choice or the elected representatives of the community; whether they should be private individuals or members of formal institutions such as political parties, religious specialists only or other experts and community leaders as well; whether they should decide by majority rule; and whether all matters of general import have to be subjected to consultation.

Most authors tend to regard shura as both required and binding (wujuba and mulkuma), to accept the principle of majority decision, and to see it as a formal process and an institution—that is, a shura council made up of elected members, who ought to include specialists in Islamic law as well as in other fields. What they have in mind, then, is a council of experts deciding on the grounds of “objectivity” (Islamically valid) right and wrong, judging on the basis of the common good (al-maslahah al-emna) only, and not a political assembly representing conflicting opinion and interest. The ideal amounts to an expertocracy headed by the Just Ruler.

The point is an important one, for it highlights the difficulties most Muslim authors have been envisaging consultation and participation as a genuinely political process involving interest representation, competition, and contestation. It reflects the continued prevalence of a moral rather than a political discourse, strictly speaking. The ideals of unity (waahda), consensus (iyama), and a balanced harmony of groups and interests (taawuzun), often associated with the theological concept of tawhid (the oneness of God), are still paramount. In the debate about pluralism, there is a general recognition that God created people to be different, and that therefore differences of opinion (ihtilaf) are natural, legitimate, and even beneficial to humankind and the Muslim community—provided they remain within the confines of the faith and of common decency. There is great reluctance to allow for unlimited freedom of speech and organization of those different opinions.14

Most authors would protest that Islam protects human rights, and that it fully guarantees freedom of thought and conscience (“no compulsion in religion,” la irhah fe al-din). They generally concede that it is legitimate and may even be necessary to organize opinion, consultation, and control so as to make them effective upon a strong executive, and that there are therefore grounds for legitimizing associations and political parties, on condition that they do not represent particular whims, passions, and interests—again within the framework of Islam only. The bottom line remains: There can be no tolerance of, and no freedom for, the enemies of Islam—the hypocrite, the skeptic and the atheist, the libertarian and the subversive. As long as there is no certainty as to who defines the “framework of Islam,” and where exactly power and interest come into play, pluralism remains severely restricted.

ADVANCES AND HESITATIONS

These positions are ambiguous and less clear than one would hope, but they are not as antagonistic to the values of equality, pluralism, and democracy as the statements of some of the most forceful advocates of radical political Islam, such as the Egyptian Sayyid Qutb or the Algerian ‘Ali Ben Hadj, would suggest. Moderate, pragmatic Islamists and Muslim writers in general are remarkably flexible with respect to modes of political organization, providing for institutionalized checks on the ruler in the form of a separation of powers, parliamentary rule, and in some cases even multiple parties. They are more positive than is often acknowledged concerning the protection of human rights, which are generally founded on duties toward God but nevertheless widely seen as part of the common heritage of all humankind. Indeed, the protection of individual rights and civil liberties from government supervision and interference, repression and torture figures prominently on the Islamist agenda. But mainstream attitudes remain highly restrictive with regard to freedom of political, religious, and artistic expression, if that involves the right to freely express one’s religious feelings, doubts included, and even to give up Islam altogether.15

Recent debates on the status of non-Muslims, emphasizing the shared rights and duties of all inhabitants of the land, suggest that a concept of citizenship may be gradually evolving.16 It is possibly in the domain of gender relations that change is least perceptible. Mainstream Islamist positions on women continue to be strictly conservative. While they subscribe to the equality of men and women as human beings, they still consider women to be simultaneously threatening and vulnerable, in need of special protection, and ultimately inferior to men in terms of their mental strength and physical condition.17 Whereas slavery is no longer an issue in contemporary debate, polygamy and divorce continue to be discussed on traditional lines.

People like Ben Hadj and Qutb have tended to set the tone for this discussion, amplified by Western media treatment and by the strategy of repression pursued by various Arab governments. In a number of cases, including Egypt, Jordan, Lebanon, and Yemen, more subtle strategies have
been used by the ruling elites as well as their critics and opponents, Islamists included. It is at any rate important to listen to the moderate, pragmatic voices of political Islam as well as to the militants. The Muslim Brothers and similar movements, representing urban middle-class values, interests, and aspirations, are at least as important socially and politically as al-Jihad, and the moderate approach they represent will likely become more generalized. Doubts about the credibility of certain actors, while justified, should not invalidate efforts to discover what the larger groups as well as individual intellectuals think. Their writings are as relevant, though certainly not as rousing, as ‘Abd al-Salam Faraj’s *The Neglected Duty or Qatb’s Milestones*.

Put briefly, the moderate, pragmatic Islamists, whom I consider to be the mainstream of the 1980s and the early 1990s, have come to accept crucial elements of political democracy: pluralism (within the framework of Islam), political participation, government accountability, rule of law, and protection of human rights. But they have not adopted liberalism, if that includes religious indifference. Change is more noticeable in the domain of political organization than of social and religious values. Having said this, it cannot be too strongly emphasized that what we are observing is thought in progress, responding to a considerable extent to societal conditions and government policies. It is to a large extent not abstract but political, even activist, mobilizing thought, shaped and influenced by a political environment in that virtually all cases is neither liberal nor genuinely pluralistic, let alone democratic.

NOTES


8. For a refutation of this claim, which is based on the Qur’an (5:43–46), see ‘Imara, *Al-Dawlata‘ al-asyâr* (pp. 31–82).


11. The best known but by no means only proponent of this criticism has been Muhammad Sa‘id al-Ashmawi; see, e.g., *Al-Islam al-asyâr* (Cairo, 1987); and *As-Sirat al-asyâr wa’l-qarn al-maw‘ir* (Cairo, 1988). For similar reflections by a conservative Indian Muslim, see Kemaal Arif Ali, *Islamic Jurisprudence* (New Delhi, 1988), pp. 13–19.


15. Apostasy (ridda) is generally equated with high treason and is at least theoretically punishable by death.
