

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allah the compassionate the merciful

Islam and the Civil State from a contemporary perspective

Intervention by Mohammed Yatim
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Some of the opponents of parties and movements emanating from Islamic reference think that these movements adopt an understanding of religion which is contrary to the value of freedom in general and freedom of expression and creativity in particular. The fact is that it exists in the Arab and Islamic world some forms of extremism within both some Islamic and secular movements. Those extremists misunderstand religion and abuse it either they are ignorant supporters or ideological opponents of it. They believe that the state that can be built within the Islamic intellectual system is a theocratic state that confiscates individual and collective freedoms and does not coexist with democratic thought and practice.

Others promote that parties and movements emanating from Islamic reference would confiscate collective and individual freedoms if they accessed to power or participated in it. They also claim that they would impose the veil on women and require men to keep beards and launch mores' police into streets in order to advocate righteousness and forbid evil, abolishing by such the role of institutions and the rule of law and the judiciary, thereby intervening in individual freedoms and private tastes. That was the behaviour that indeed appeared within some closed groups in some experiences in the Islamic world such as in the case with Taliban or some chauvinist groups which present a totalitarian vision of the Islamic state and consider democracy as disbelief.

This caricatural picture, even if it existed within some groups of extremism and chauvinism which, do not represent the majority of contemporary Islamic movements, is incompatible with the nature of Islam and its spirit and with the meaning of Shariah and its purposes. It also feeds from several mistakes in the

understanding of the relationship between Shariah and law and the area of each of them, and the relationship between the area of jurisprudence and the area of judiciary, and between juristic opinion considered as an opinion in religion, and between the judicial act considered as an adaptation of a legal text and its application to a particular case where law was violated. The case would be indeed situated in time and space.

It also feeds from mistakes in the understanding of the relationship between the judiciary and the executive powers. It is also related to the nature of the state in the Islamic perception, which is originally a civil and humanistic state and not a religious and theocratic state. Moreover, it is related to the role of law and the authority of the judiciary in it, and its relationship with the exercise of freedoms and their protection and ensuring that these are exercised within the framework of responsibility.

This paper seeks to highlight our perception of the state in Islam as a civilian state and stress the rejection of Islamic doctrine, from our perspective in the Justice and Development Party, of the concept of theocratic state. The paper also seeks to emphasise the civilian character of the state in Islam and refute the incompatibility between the principles of divine governing and popular sovereignty on the grounds that divine governing can only be achieved through popular will. However, we begin by highlighting the fundamental truth of religion as being originally a liberating message contrary to all forms of compulsion, whether in its belief or legislative system or its political, educational or social systems.

1. No compulsion in religion/belief

In reference to the concept of religion itself, we find that religion is one of the biggest areas for achievement of human freedom as professor Allal El Fassi concluded following what Allah said:

Those who disbelieve among the People of the book and the idolaters could not have left off (erring) till the clear proof came unto them.

Al Bayyina, the Evidence, 1

Prophets and messengers, accordingly, came to liberate mankind and not to enslave them in the name of religion. Enslavement of people in the name of religion is disbelief itself as reflected in the strong criticism directed in the Quran towards those who have taken their rabbins and priests as lords rather than Allah:

It is not (possible) that a man, to whom is given the Book, and Wisdom, and the prophetic office, should say to people: "Be ye my worshippers rather than Allah": on the contrary (He would say) "Be ye worshippers of Him who is truly the Cherisher of all: For ye have taught the Book and ye have studied it earnestly....."

The Family Of 'Imran, Al-E-Imran 79

This emancipating concept of religion was clear to companions and Muslims along history. It was also clear to people who embraced Islam following complete conviction when they found it as a way for emancipation from every false divinity. It is also the meaning which was stressed by the great companion Ribii Ibn Amer, one of the commanders in the army of Qadisiyah when he came to convey Rustam, leader of Persia, wearing a torn dress and carrying a broken arrow and riding an old horse; Rustam asked him: what brought you here? (Rustam and his ministers started laughing), you came to conquer the world with this old horse and broken arrow and torn cloth? Ribii said:

"Allah sent us to bring people out from the worship of the subjects to the worship of the Lord of the subjects, and from narrowness of life to the largeness of the afterlife, and from the injustice of religions to the justice of Islam"

Religion is then originally an emancipation message. Moreover, monotheist religions came to confirm human freedom rather than to negate it. This is obvious through the focus of Islam on the principle of freedom of belief as stipulated in the rule contained in the verse:

Let there be no compulsion in religion: Truth stands out clear from Error: whoever rejects evil and believes in Allah hath grasped the most trustworthy hand-hold, that never breaks. And Allah heareth and knoweth all things.

The Cow, Al Baqara, 256

2. No compulsion in Shariah and morals in the first instance

If the principle of no compulsion in religion is the principle that establishes freedom of belief, it is primordial for Islam to stress the principle of no compulsion in Shariah and in morals, and to devote following that the principle of the sovereignty of people and the principle of the rule of law. As evidence, the legislative provisions did not step in Mecca which means that they did not step on a community that was non-believer in the Islamic faith. Actually, those provisions stepped in Madinah on a community accepting it and believing in its provisions and voluntarily prepared to apply them. That means that Shariah is

not imposed on a community which does not believe in it and is therefore not imposed in its holistic or detailed provisions on individuals or groups through the authority of power.

Sharia does not govern but is arbitrated. Compelling the individual or society with its provisions in this case does not religiously benefit the person compelled to it. It is to be reminded that one of the requirements of faith is to accept the rule of Shariah and to surrender to it. This is achieved only through conviction of thought and peace of mind while compulsion makes religion lose its truth and essence as being a cult which is approval and surrender to Allah free from any restriction. That means that it can not be talked about Shariah in independence of belief and it can be talked about belief only in relation to freedom and voluntary choice and psychological and mental conviction.

3. Necessary clarifications about the concept of Shariah

Whoever follows the path of historical evolution of the concept of Shariah in Islamic sciences and in contemporary use and especially from the media, will notice that the meaning of Shariah has been subject to operations of reduction which modified its inherent meaning to several other meanings which significantly impoverished or led to the loss of its meaning. Consequently, spelling out Shariah has become sufficient enough to induce fear among some people.

This fear and horror from the use and understanding of the significance of the concept of Sharia is due to the stereotypical image of Islam and its concepts in some of the media organs, hostile to Muslims and which nurture Islamophobia. The fear is also the result of defamation campaigns systematically led by the orientalist imperialist movement. Therefore, we can not deny that the meaning of Shariah has been subject to a historical reduction which helped to strengthen the stereotype:

a/ Originally, Shariah meant religion in all its faithful, spiritual and moral and cultic aspects and the aggregated provisions and purposes, as stated by the Almighty as saying:

And now have we set thee (O Muhammad) on a clear road of (Our) commandment; so follow it, and follow not the whims of those who know not.

Crouching, Al-Jathiya, 18

b/ With the evolution of Islamic civilization and as Islamic society entered the

era of codification, and for methodological necessities associated with the development and expansion of Islamic sciences, Shariah had been terminologically used. Its meaning moved from being a Quranic meaning enclosing religion in all its aspects to bear a terminological meaning related to the field of jurisprudence science: the field related to the extraction of jurisprudence from the detailed evidence. It had to be later reduced to the legislative side of the individual and the community.

c/ After the invasion of Muslim countries by colonial powers, they established their legal and legislative systems and removed the Islamic legislative system. The concept of Shariah was then attached to this aspect to be later reduced to the penal system and then shortened thereafter in the meaning of “al hudud”. Actually, that is the stereotype that has been perpetuated against Islam and political movements stemming from the Islamic reference.

Shariah in our sense is the whole religion. It includes faith and what stems from believing in it of legal provisions and social relations and institutions which are organized within these relations from family to mosque and school and market and state and peace and war etc. In this sense, the concept of Shariah excludes any form of coercion or totalitarian regime or theocratic system or confiscation of any individual rights.

4. The relationship between Shariah and law

Confusion between Shariah and law is among the great mistakes committed by some of those related to Islamic movements. These mistakes have been exploited by some tendentious among their opponents. In doing so, they try to make Shariah as a soulless law which does not take into account the conditions of people and the voluntary aspect of the relationship with Shariah; being based on satisfaction and surrender.

If the decision in Muslim societies that Shariah was to be the ultimate source of law, it should be though stressed on the difference between them in terms of nature and area according to what follows:

- Shariah often sets principles and holistic provisions; and is linked to the religious conscience. To this effect, it is stable and valid in its holistic sources and its general purposes and balanced provisions, which are a few, while law derived from Sharia is a human positive work and subject to change.
- Sharia sets provisions and general principles; and the field of its extraction is jurisprudence, while law implements those provisions in

reality in a specific time and location after being issued by an authority empowered for legislation.

- Sharia forbids or elicits; elicitation or interdiction are based on faith and human conscience, while law prohibits or permits or licenses, and its scope is human relations organised under legislation issued by the authority which has the power conferred to it by the nation which is the source of powers; which is known as the sovereignty of the nation in Political thought. Therefore, law defines boundaries which govern the relationships between people. This means that the authority of the State does not interfere with what is related to religious conscience and to belief, but interferes with what is related to the law, Even if it intervened in the limits of what is relevant to the public sphere or public decency or morality, which is undoubtedly linked in the Islamic societies in terms of reference to religion and faith and morality, as perceived and preached by religion. Accordingly, if the Shariah is the origin of any Sharaa, which means that the origin of its provisions and holistic principles is in the Revelation, the source of law is positive, including laws derived from Islamic Shariah. However, despite its religious reference, it ultimately remains a human positive act (Ijtihad) which does not receive sainthood just because of its extraction from Shariah. It follows that if the binding authority of Shariah was voluntary religious faith, the binding authority of law is first and foremost authority of the State based on law enforcement (judicial or executive or supervisory). That means that even if Shariah derived from religion, it does not derive its binding authority from the political and practical point of view only after its adoption by a binding authority, whether legislative, judicial or executive, according to the case.
- This entails another rule that Sharia is arbitrated and does not govern. Therefore, Shariah binds only Muslim believers, and benefits only those who surrendered to it with full consent and conviction:

But nay, by thy Lord, they will not believe (in truth) until they make thee judge of what is in dispute between them and find within themselves no dislike of that which thou decidest, and submit with full submission.

An-Nissa, Women, 65

Therefore Shariah and Islamic jurisprudence recognize and acknowledge, and should include legislation and law requirements in order to protect the rights of people of other religions. Their beliefs and religious rites and customs are excluded from the application of shariah, while they should be equal for all the rest.

Dr. Fathi Osman says: "Jurists narrated that people of an al-dimma If fought in religion, or differed in their beliefs, they should not be opposed, and if there was a conflict of rights and went to their own Governor they should not be prevented from it, the Governor will refer to Islam when ruling their case and they will be sentenced according to Hudud if they did wrong. And whoever breaches a pact, he should be brought to a safe place and then is considered would be considered as a warrior and for people of the pact, safety for their souls and belongings if they entered Islamic territory..." from sources of Islamic political thought.

5. The principle of the rule of law in the Islamic perception

The principle of the rule of law is twofold: The first is that there should be no prohibition unless based on law. This rule is derived from the Allah saying:

Who receiveth guidance, receiveth it for his own benefit: who goeth astray doth so to his own loss: No bearer of burdens can bear the burden of another: nor would we visit with Our Wrath until we had sent an apostle (to give warning).

Al Isra, Isra', The Night Journey, 15

And Allah saying:

And Allah will not mislead a people after He hath guided them, in order that He may make clear to them what to fear (and avoid)- for Allah hath knowledge of all things.

Repentance, At-taubah, 115

This means that the principle of self-responsibility of mankind in the exercise of the principle of freedom and self-readiness on the foresight to assume possible consequences of violating the law of social and legal consequences.

The second part is that people are equal before the law regardless of their location or social colour, sex, descent or location within power.

This principle finds its origin in the saying of Allah SWT:

O ye who believe! Stand out firmly for justice, as witnesses to Allah, even as against yourselves, or your parents, or your kin, and whether it be

(against) rich or poor: for Allah can best protect both. Follow not the lusts (of your hearts), lest ye swerve, and if ye distort (justice) or decline to do justice, verily Allah is well-acquainted with all that ye do.

An-Nissa, women, 135

And Allah saying:

O ye who believe! stand out firmly for Allah, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to piety: and fear Allah. For Allah is well-acquainted with all that ye do.

The Table, Al Ma-idah, 8

And in the words of the prophet peace be upon him came when Osama came to ask him not to apply a sentence (hadd), he deplored that and shouted by saying:

"Oh, Osama, You are asking me to forgive for one of the hududs of Allah? People in the past perished because when a noble person stole something they left him and if modest person stole they would sentence him, I swear by Allah if Fatimah daughter of Muhammad PBUH stole something, Muhammad would spare her hand."

The significance of this second part is that people in a society where the rule of law prevails and where law is not used in a discriminatory manner or to limit freedoms of some and close eyes on the breaches of others, generates greater respect for the law. And there should be no law unless through codification and legislation. Legislation is a human act which means the act of legislative institution elected from the nation being the source of sovereignty. Meanwhile, juristic provision remains a juristic opinion and does not become binding unless it is issued by a legislative institution. However, it is obvious that that legislation under the rule of the Muslim nation will remain associated, in its main sources, to Islamic Shariah in its holistic provisions and general purposes. Therefore, Muslim nation will exercise its sovereignty solely within the framework of the conviction of religious and cultural affiliation within the scope of its identity prescribed within its Constitution as being the supreme law.

Accordingly, considering that the normal state is freedom and hence may be restricted only by law and not on the basis of an individual's mood. Moreover, the law should not restrict freedom except if there was abuse in its application or abuse on its behalf on the rights and freedoms of others; that is only if freedom turns to its opposite.

Law protects freedom and regulates its practice. Its area of intervention is collective relationships between people and not people's consciences or their minds.

6. The principle of the sovereignty of the judiciary and the separation of powers as a guarantee for freedom of individuals and groups

By looking at the purposes and provisions of Shariah and in Islamic historical experiences, it is noted that the principle of independence of the judiciary system is a fundamental principle of jurisprudence and legislative experience in the Islamic civilization. Through this principle, tyranny of a ruler on behalf of Shariah or religion or public interest is avoided.

Difference should also be made between juristic opinion or religious opinion (fatwa), which remains a general religious opinion which does not carry the character of a binding law unless it is approved by a legitimate authority. That is why scholars decreed that if a considerable number of scholars (unanimity or something similar) agreed on a fatwa, it becomes binding. The same when the ruler takes the side of a legitimate executive authority, it is adopted according to the jurisprudential rule: the decision of the leader/ ruler ends the dispute. And because consensus is required, the jurisprudential opinion (fatwa) is transformed from an opinion in religion into a law.

To move from the level of law to the level of provision or designated measure, especially if it was related to a sentence, the authorized person is not the jurist (Faqih) or the ruler but the judge. The governor is not also allowed to apply a certain judgements unless it is issued by an independent judicial body and after a fair trial where the conditions of a fair trial are met.

From this standpoint, individuals may not also be allowed to issue neither judgements nor fatwas. They may not also implement what entail some of the provisions of fatwas. The fatwa is a general jurisprudential opinion; the opinion issued from a legitimate and qualified authority according to Allah saying:

When there comes to them some matter touching (Public) safety or fear, they divulge it. If they had only referred it to the Messenger, or to those charged with authority among them, the proper investigators would have Tested it from them (direct). Were it not for the Grace and Mercy of Allah unto you, all but a few of you would have fallen into the clutches of Satan.

An-Nissa, women, 83

The implementation of fatwa on a designated person needs a judicial act. It is known that failure to make difference between these two levels was the root of a deep disagreement between Iran and Britain when Khomeini issued the fatwa that had shed Salman Rushdie's blood. However, the Iranians persuaded the British that the fatwa was simply a religious opinion and that it would be implemented only if there was a judicial judgement related to it.

Even if a judgement is issued, its implementation remains within the authority of the executive. Implementation of provisions by individuals is an assault on the executive power and it requires punishment according to scholars. The implementation of the provisions by individuals is defined as: "iftiyat: which means tyranny of opinion, and taking the initiative to do something without getting proper permission from the empowered authority and infringement on the right of others which have the right to practice it.

Accordingly, the scholars decided that sentences are executed by the governor or his deputy whether it was for the sake of Allah such as adultery, or for a human being such as defamation. They also decided that judgements may not be implemented except with the permission of the governor/ruler and his presence.

Supervision/Control under the Islamic perception

Supervision in the Muslim perception is first of all basically a moral self-supervision. The application of this principle in contemporary area of freedom of creativity or freedom of expression means that professional ethics should prevail in the case of freedom of expression in the press and supervision in the field of literary, artistic, cinematographic and theatrical critics. It is secondly, supervision from the general public taste exercised by the community through various methods of peaceful expression to defend the moral foundations and public morals and academic review in the field of thought (the experience of Islamic civilization and literature and the corresponding verbal argumentation (moundara, kalam)). After all that comes legal supervision/control and it means enacting laws which guarantee the public right and morals and address all forms of intellectual terrorism practised in the name of protection of individual liberties.

Freedom and responsibility

Following human experience accumulated through practice, philosophical meditation or human legal heritage and contemporary international law, a set of facts and principles are emphasised:

- The principle of separation between Shariah and law; Shariah is the area of provisions while law is the area of legislation and regulation.
- On the first hand, the principle of separation between the area of law which is the product of the various legislative mechanisms, and the judiciary area which is the area of implementation of law on various cases and individuals. On the second hand, the authority of the judiciary and the authority conferred upon the implementation of judicial decisions (the separation of powers).
- The principle of matching the right of the individual (value of the individual) and the right of the Community (value of the community). Freedom of creativity is guaranteed unless it violates the freedom of others. The application of that principle in the field of the press generates another principle which is the principle of the appropriateness between the right of access to information and freedom of expression and the right of protection of private life.

This principle makes the journalist himself and jurisprudence and actors in the political scene in front of the difficult equation to balance between these rights and leaves the field wide open for a professional legal, ethical and judicial debate. This would resume a perpetual philosophical debate which has never stopped since centuries about the issue of freedom and its limits: where it starts and where it ends and its relationship to responsibility.

In our point of view, the decisive say in the direction of talking about an absolute concept of the value of freedom or the undisciplined absolute freedom is an outmoded utopian concept. In fact, the journalist remains a human being eating food and walking in markets. However, some pretexts using the concepts of supreme national interest or all what is sacred as a justification for press freedom violation. We therefore consider that the general principle should be to promote freedom of expression and strengthen it at the same time with a range of professional and ethical and legal and judicial and cultural and artistic rules. Among these:

- Legal rules: susceptible of protecting private life; aspects not related to public responsibility or the general aspect of personality. International law in the area of freedom of expression is clear. The International Covenant on Civil and Political Rights links between the

right to freedom of expression and what results from it as obligations:

1. **Everyone shall have the right to hold opinions without interference.**
2. **Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.**

The third paragraph of the same article also stresses the following:

The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) **For respect of the rights or reputations of others;**
- (b) **For the protection of national security or of public order (ordre public), or of public health or morals.**

In addition, the second paragraph of Article 20 stresses:

Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 19 also emphasizes the right of nations to pass laws to protect public morals, which is contrary to the prevailing belief that the international image of Human Rights calling for the dissolution, the legalization of adultery, although the Universal Declaration of Human Rights affirms that

"the family is the natural and fundamental group unit of society and has right Enjoy the protection of society and the state."

Article 12 of the Universal Declaration of Human Rights, which reads

" No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks. "

I would be useful to stress that the judiciary should have the final word in determining whether the exercise of certain freedoms is harmful to the

freedoms of others. We refer to the judiciary being the only reference in determining whether the journalist had penetrated private life or attacked it or committed a crime of publishing. We mean independent and specialist judiciary because of the specificity publishing crimes and overlap between the right to access to information and its confusion with the issue of defamation.

In all cases, ethical and professional rules should have priority in the case of the press. The power of those rules should be greater than the power of legal censorship. Ethical and professional guidelines are susceptible of balancing between the values of freedom and responsibility.

7. The principles of sovereignty of the nation

Allal El- Fassi describes the concept of sovereignty saying:

“the meaning of the sovereignty in constitutional laws is what the political regime refers to, any legislative source from which the law or ruler derives the right comply to himself and to work, including issues of legislation or measures taken (...) and politicians of the world, and if they agreed on the existence of the rule is necessary to strengthen governance and legitimacy, they did not agree of its basis and origin, and some of them considered it a natural right, and whom who considered a religious authority of the clergy, and of whom make it self- kings of their prosecution for what they called God is the right Devin.”¹

It is clear that the idea of deriving the Governor's to the direct authority from God strange all the strange of the perception of Islam as we mentioned before .and this what is confirmed by the tendency of Islamic jurisprudence, to make the leadership (Imama) of the interests of sending and rejected the mainstream of Islamic thinkers from the “sunni Community “ to “Wills”, as stated in above when we talked about civilian nature of the Islamic State.

As evidenced by the refusal by the Righteous Caliphs renamed themselves the successors of God, but Abu Bakr considered himself Khalifa to the Messenger of Allah peace be upon him, did not govern the authorization of God just with Abbadids Caliphs who confirmid that they govern with authorisation from god as it appears from saying Abe Jafar “but I'm Sultan God in the land.”

As for the theory of natural right it also says Professor Allah Fassi God's mercy, not just a hypothesis have a positive impact the use of evidence each and every one of political persuasions have to demonstrate this opinion.

The bill of governance in the Islamic state is the people's will and sovereignty of the nation exercised by the people.(missing..)

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they are the ones who attach Authority and they have ousted and isolated because the source of power is the nation's successor, but drives its powers from it ,and that muslims were the first nation said that the nation is the source of all authorities,"2, but how can recognize the sovereignty of the nation with the ruling also acknowledged the supreme divine?

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On the concept of governing

The idea has grown in the perception of some of the governing Islamic thinkers to the extent that made them decide that they are more characteristics of judgments, but be warned that the importance of governing, and we prefer to use the term "Governor Sharia" to refer to emphasize the importance of Her Highness as a source of legislation, the concept of governing As my father used both upper and Mododi Sayed Qutb does not include all the characteristics of judgments, and the meanings of slavery. To undergo legislative and legal is not enough unless accompanied by a subject very loving and very gratifying and surrender, and the result is that the achievement of the governing legal, legislative, or at the political level and institutional slavery does not achieve full unless the freeze on the extradition of self-satisfaction and not on mere submission and obedience compelling, and therefore do not Can be separation between the governing and arbitration, meaning that the governing really do not happen only to voluntary arbitration humanitarian law of God, accompanied by a full

arbitration conviction and satisfaction and recognition resulting from a subsequent heart to the Lord to the seat of love and improved accountability Ennobling and deferential and Splendid, fear and please, and so on, as Ibn Taymiyah

And hopefully in the verses that included the issue of governance and arbitration notes that it has come to indicate the role of the ruler and the ruled: Governor, who should implement the rule of God and sentenced that should govern and docking proceeded to God. Times are referred to the Governor, (here will be the Ayaa)

The first conclusion is that it is meaningless for the Governorship only if they are based on an arbitration coupled with complacency and resignation and uncertainty (and the best judgement of God for people who sure). The second conclusion that no religious benefit (ÊÑì) from the application of coercion or individual or community does not believe in Sharia, and the other is meaningless for the application of the rule of law in a society not forced to resigned as good judgement sure, and find the lowest embarrassing myself in the world of its provisions

Therefore there is no contradiction between the governing principle and the principle of sovereignty within Islamic society for several reasons

The governing in such a society is starting to God, an issue the contract and delivery of social should be stipulated in the Constitution when it decides the principle of an Islamic state and Sharia rule over other laws

The principle of governing does not take significant factual lamented Sultan, but acquiescence of faith, no surrender and voluntary arbitration

The law of Islam. The governing divine cause nodal initially, but it did not take the road to reality only through the surrender and conviction and the satisfaction of the nation

The Muslim people is the source of authorities in the larger framework of the Constitution, which is the Koran. Detailed constitutions in the Islamic society does not take legitimacy only to the extent that they conform with the Constitution or the Supreme High above the reference to the Constitution itself and on other laws. Professor Allal El Fassi

Bill of governance in the Islamic state is the will of the Muslim people and the nation's bill to obtain such authority is the written Constitution, which is the Koran, Islam, it is admitted to the nation's total, including recognized by the clergy of the former kings and presidents or for some communities

it should be noted that the sovereignty of the nation's legalization of the constitutional framework which reflects the nation's identity, faith and culture in the present issue of the oldest democratic nations that recognize the sovereignty of the nation. It does not envision a Western country in the rule may lead to a breach of constitutional rule (the indivisibility principle of

secularism in France for review, could not be party calls for ownership in France as contradictory with the constitutional rule that recognizes the secular and republican system

In brief, as is evident that the State of the Islamic perspective is innovative but a country with a religious and ethical principles derived from Islam is a civil state based on popular sovereignty and not based on divine powers and on the basis of a contract and to authorize the two peoples and through him the election also proved experience is the first caliphs Does not represent God on earth and therefore refused to designate themselves the Righteous successors to God, but successors to the Prophet of God

1 Allal El Fassi, "the purposes of Sharia", p. 213

2 same Al-218