

## Freedom and Justice as the Basic for Good Governance in the Arab Countries

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### INTRODUCTION

In my judgement, the essence of an Arab Renaissance in this critical era of the history of the Arab nation is a historic shift towards a society of *freedom and good governance*.

*Freedom is taken here in the comprehensive sense of 'eradication of all forms of curtailment of human dignity'.*

This comprehensive sense not only incorporates civil and political freedoms (in other words, liberation from oppression) but also adds to them the imperative that the individual be liberated from all means by which human dignity may be curtailed, such as, hunger, disease, ignorance, poverty, fear and, above all, injustice.

Hence, operationally, respect of freedom thus defined can be embodied in the strict adherence to the entire body of International Human Rights Law (IHRL) which should take precedence over national legislation.

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In this sense, freedom is *synonymous* with human development, and is perhaps the quintessential public good demanded in less developed countries.

Furthermore, an individual can only be free in a free society. Societal freedom operates on two dimensions: the first is the protection of freedoms of subgroups and subcultures- terms that I prefer to the current category, ‘minorities’.

In addition, according to this concept of freedom, national liberation and self determination are perceived as essential components of freedom, especially in the Arab nation, where infringement of national liberation is conspicuous.

Freedom is, however, one of those superior human *culmination outcomes* that require the presence of societal *structures* and *processes* that will attain and safeguard it, ensuring its uninterrupted continuance and promotion. These societal structures and processes guaranteeing freedom are summed up in the *good governance regime* embodied in synergy between the state (comprising the government, elected representative councils, and the judiciary); civil society, and the private sector, all run respecting the principles of rational public administration.

This good governance regime is founded on the following axes:

1. Freedom in the comprehensive sense and especially the *key freedoms* of opinion, expression, and association (assembly and organisation in both civil and political society) in harmony with the international human rights law.
2. Full representation of the people in governance institutions.
3. Strictly based on institutions and on the separation of powers.
4. Institutions that work efficiently and with total transparency.
5. Institutions subject to effective inter-accountability based on the separation of powers and direct accountability before the people via periodical, open, free, and honest elections.
6. Application of the law to all without exception in a form that is fair and protective of human rights.

7. A competent, honest, and totally independent judiciary to oversee the application of the law and implement its rulings efficiently vis-à-vis the executive authority.

This model of good governance then ensures both freedom as well as justice. Since justice is the paramount value in Islam, this concept of freedom, incorporating justice, and the associated model of good governance would be inherently suitable for predominantly Moslem societies such as the Arab countries.

### **DEMOCRACY OR GOOD GOVERNANCE?**

It appears to me moreover that this model of good governance should be considered the most general and useful form of (liberal) democracy, when flawless. Furthermore, the process of arriving at such a system of good governance through society-wide innovation in the Arab countries, would guarantee that we implant the system of governance arrived at in the fabric of Arab society, thus ensuring its success and sustainability.

This is especially relevant as liberal democracy has, for good reasons in my opinion, acquired negative associations in the Arab mind because of the possibility of democratic arrangements co-existing with significant violations of civil and political liberties. This has not happened only in less developed countries, including Arab countries, where “democratic” arrangements have been utilised to prop up despotism. More alarmingly it occurred in western countries that have long been considered models of freedom and democracy: the US, UK, Italy and Spain, under the previous government, all main partners in the invasion and occupation of Iraq. Such countries have lost all credibility to preach freedom and democracy to the rest of the world, even by force of arms as they claim, especially as it has become clear that such preaching is nothing but a thin veil for imperialist ambitions and designs.

## **ELECTIONS AND GOOD GOVERNANCE**

In particular, our model of good governance calls for much more than elections, for historical experience shows that elections, even if fair and honest, are not sufficient to attain good governance, especially on the freedom and justice dimensions. In the history of US interventionism in the world in particular, managed elections have always been used as a cover for the sordid facts of US meddling in other countries affairs.

It is difficult to imagine for example how elections can be fair and honest under the yoke of foreign occupation, in itself a sinister violation of the fundamental constituent of freedom as we define it: national liberation and self-determination. As such, it has become the latest confirmation of the western hypocrisy and double standards policy, that Western powers insisted that Syria withdraws its forces from Lebanon in order to have free and honest elections there while turning a blind eye to same condition in Palestine and Iraq.<sup>(1)</sup>

## **SOME PROBLEMATIC ISSUES OF FREEDOM AND GOVERNANCE IN ARAB COUNTRIES**

The pure model of freedom, in its comprehensive sense as adopted here, and the model of good governance guaranteeing such freedom, both face significant conceptual and practical challenges in Arab countries, due to a combination of global, regional and local circumstances. Some of these are discussed below.

### **“ORIENTAL DESPOTISM” AND THE ARAB SOCIETAL CONTEXT**

Since the fall of Baghdad in the mid-13<sup>th</sup> century and until the collapse of the Ottoman state, the Arab situation was characterized by the absence of freedom and the receding of an intellectual culture of reason, faced with the spread of a culture that emphasized the metaphysical and the mythical, and a state of intellectual inflexibility as a result of “closing the door of independent reasoning and interpretive scholarship, or *Ijtihad*”.

In the context of the fraught and ambiguous relationship of “East” and “West,” posed as a binary distinction, the first pole was attached to “despotism” on the basis of this being inherently characteristic of “the East” and “Eastern” civilization, while the second pole was linked with freedom on the basis of it being a fundamental quality of “Western” civilization.

Thus despotism came to be considered the principle element in explaining the slow progress or underdevelopment in “the East.” This explanation was buttressed by the suffering imposed on the Arab East by despotic rulers and governors, and given further support by the dominant influence of obsolete customs and practices in people’s lives, not to mention the absence of freedom, in its comprehensive sense adopted here. At the same time, this freedom was spreading widely, to varying degrees, among countries of the West. As a result, we are now facing two binary syndromes: “freedom/progress” and “despotism/retardation of progress,” metonyms for the “East/West” duality (*Mahir Hanandah*, in Arabic, 2002).

This severance between “the East” and freedom (or democracy) gained new purchase with “the clash of civilizations” (*Huntington*, 1996), and efforts to play up and magnify this distinction since the catastrophic events of 11 September, especially given that the present American Administration’s chosen response was to launch what came to known as the “global war on terrorism.” Many expressed the view that the Arabs and the Muslims are not democratic, and we can hardly take issue with that. But more seriously, a few claimed that Arabs and Muslims *are not capable of being* democrats, for the very reason of being Arab (“the Arab mind”) or being Muslims, as though they had a genetic flaw or inherent aversion to freedom and democracy.

This flawed but habitual linkage betrays an absence of thoroughness on the part of the researcher and can be compared with the erroneous conclusion that repression and piety were inextricably linked with Catholicism in certain countries in Latin America, Eastern Europe and East Asia thirty years ago, when some falsely attributed despotism to Catholicism, precisely as some people now attribute despotism in Arab countries to Islam.

## **DEMOCRACY AND RELIGION**

Democratic institutions must be able to create and formulate policies freely and independently, within the boundaries set by the constitution and human rights. Specifically, there should be no privileged position for religious institutions such as would permit them to dictate policy to a democratically elected government.

By the same token, individuals and religious groups must be guaranteed independence vis-à-vis both the government and other religious groups. This independent arena must protect the right of people and groups not only to worship as they wish, in privacy; but also to promote their values in civil society, creating organizations or movements within political society for the same purpose, provided that such activity has no negative impact on the freedom of other citizens or breach democratic rules and principles.

These institutional principles of democracy mean that it is unacceptable to prohibit from the outset any societal group, including religious groups, from forming a political party. It is only permissible to impose restrictions on political parties once their actual conduct has led to acts inimical to democracy, and where it is the judiciary, and not the ruling party, that makes the ruling (*Stepan, 2001, 216-217*).

Interestingly, in advanced Western countries that are incontestably democratic, religion is not at all distant from political society—to the point, in fact, that some theorists argue that no existing western democracy can claim to have a hard-and-fast separation between church and State, having reached the point where “freedom of religion” does not end with practicing religious rites in privacy, but extends to the right to organize in civil and political society. Indeed, some theorists maintain that neither “secularism” nor “the separation of ‘church’ from State” constitutes an essential property of democracy (e.g. *Stepan, 2001, 223*).

## **DEMOCRACY AND ISLAM: POTENTIAL FOR HARMONY**

Our starting point here is that Islam, in the Sunni sects, prevalent in Arab countries, has no “clergy” and no “church,” and consequently the concept of religious authority or rule does not arise. Even in Shi’ism, contemporary

*ijtihad* or scholarship favours “the authority of the *umma* (nation),” rather than “the authority of the *faqih* (jurisprudent).” Such is the opinion of *Ayatollah Muhammad Mahdi Shamseddin*, Head of the Shi’ite Supreme Council of Lebanon, who ruled that

“During the period of occultation, the *umma*, or nation of Muslims, reclaims governance authority (*wilaya*), and appoints the ruler or rulers by means of choice and election. Through its will the nation (*umma*) grants the ruler(s) a *wilaya* whose duration or substance is limited” (*Muhammad Salim al-Awa*, in Arabic, 1998, 61-63; *Muhammad Shamseddin*, in Arabic, 199).

If Islam does not set out a detailed and comprehensive system for good governance in its sacred text, this text (“bearer of multiple perspectives”), its interpretation (which is multiple), and Islamic history (which contains great variety) all contain the core principles that sustain freedom and good governance as we understand them<sup>(2)</sup> and the dominant trend in Islamic jurisprudence is supportive of obligatory consultation and freedom, without prejudice to the rights of others. The essential principles thus include obligatory consultation (*al-shura*), respect for freedom, and accountability of the ruler. Specifically, enlightened Islamic interpretations find in the tools of democracy—when used properly—one possible practical arrangement with which to apply the principle of consultation (*al-shura*).

From these fundamental principles (from which may also be derived governance systems and detailed regulations) derive the realization of justice and equality, the assurance of public freedoms, the right of the nation to appoint and dismiss rulers, and guarantees of all public and private rights for non-Muslims and Muslims alike without either addition or subtraction and including the right to hold public office (*Muhammad Salim al-Awa*, in Arabic, 1998, 58-59, 72).

Even in the Prophet’s saying (*hadith*) concerning obedience to rulers, the utterance “Obey the person in charge,” which is often exploited to give credence to existing rule no matter how oppressive, and to incriminate “the Arab/Muslim mentality” on governance, is in fact only one part of the *hadith*. The text stipulates obedience only “in what accords with the truth”<sup>(3)</sup> and indeed goes beyond that to incriminate the bad ruler.

## DEMOCRACY AND THE ARAB REGION

### THE TRAP OF THE ONE-OFF ELECTION

The “trap of the one-off election” has been employed in relation to Islamic societies to alarm the societal groups who are apprehensive about the rise of fundamentalist Islamic groups to the seat of power, as it has been used too to justify foreign interference to prop up authoritarian Arab regimes. This has been used on the pretext that opening up the public sphere to all societal forces—among the most active of which is the Islamic movement—will end with these forces assuming power, followed by oppression, such that democratic competition becomes history after the one and only election. The fear of this “trap” is undoubtedly real, and indeed finds some justification in contemporary Arab experience.

However, those indulging in such scare-mongering have also not hesitated to accuse the majority of Arabs and Muslims of being extremist “fundamentalists”, overlooking the pivotal role democracy provides for the majority and, whether out of ignorance or deliberate misrepresentation, wronging Islam and the Arab identity by making Muslims and Arabs appear fanatical and violent.

Space permits only two passing observations. First, the religion that decrees, “There is no coercion in religion,” protects freedom first and last. Second, in the historical period in which Islam was contemporaneous with Christianity across what are now European countries, religious tolerance was both more widespread and deeply rooted under Muslim rulers than under Christian rule, which gave rise to censorship of publications (under religious authority) for the first time, as well as well as the notorious Courts of Inquisition.

### SOCIETAL IMPEDIMENTS TO DEMOCRACY?

Arab societal structures undoubtedly present obstacles to freedom. But then they are built by human hands, and are therefore neither sacred nor infallible. They must be reformed, and this can be affected through a genuine project of Arab renaissance.

But it is equally certain that Arabs crave an end to authoritarian rule, and long for a democratic form of governance, as the results of the World Values Survey, indicate.<sup>(4)</sup> According to the results of this study, Arab respondents were decisively on the side of knowledge acquisition and good governance. Among the nine regions, including the countries of the advanced west, the Arabs headed the list of those who agreed, “Democracy is better than any other form of governance.” By the *highest percentage*, the Arab respondents *rejected* authoritarian rule (a powerful ruler unconcerned with and unhampered by a parliament or elections).

These results are entirely logical: it is only natural that those who bear the scars of authoritarian rule and tyranny will be the more intent on having freedom and good governance. ❖

## NOTES:

1. Not that the Syrian presence in Lebanon, though undesirable, can ever be compare to the sinister occupations of Palestine and Iraq.

2. This does not conflict with the fact that much of the traditional heritage leans towards “establishing the legitimacy of the existing state, even when it is one of oppression and tyranny” (*Kamal Abdel-Latif*, in Arabic, 1999, 67).

3. For example: Hisham ibn Arwa related on the authority of Abu Salih who had it from Abu Hurayra that the Messenger of God, said, “Others will rule you after me. The pious will rule you piously and the impious impiously. Hearken to them and obey them in all that accords with the Truth. If they do good, the credit will be yours and theirs, and if they do bad, the credit will be yours and the discredit theirs (*Ali ibn Muhammad Habib al-Basri al-Mawardi*, in Arabic, 1983, 5).

4. An extensive international study, the World Values Survey provides an opportunity to assess the relative preferences of Arab people, in comparison with people of other regions and cultures, on issues of freedom and governance.

The results presented in this study are based on field surveys in a large number of countries in the world, including four in the Arab world (Jordan, Algeria, Morocco, and Egypt). The results incorporate approximately half the population of Arab countries. In addition to the Arab countries, the surveys provide data sufficient to arrive at results concerning eight other country groups: other Islamic countries (non-Arab), sub-Saharan Africa, Eastern Europe, South Asia, the US and Canada and Australia and New Zealand, Latin America, East Asia, and western Europe.

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