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Muslim Politics Between Sharia and Democracy

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Abstract

Out of 50 Muslim-majority countries around the world, only six are electoral democracies. This problem has multiple material and ideational causes. This essay focuses on one ideational factor: the dominant method of Islamic law. The essay explains how this method became dominant after the eleventh century and why it causes the incompatibility between sharia (Islamic law) and democracy. The essay suggests further research to be published in *Muslim Politics Review* and other journals about how to develop alternative Islamic legal methods, which would be open to rationalism and empirical observations.

Keywords: Ulema, state, democracy, sharia, Muslim politics, Turkey, Iran, secularism

Introduction

Secular ideologies, such as communism, fascism, and capitalism, dominated world politics roughly between the Bolshevik Revolution of 1917 and the Iranian Revolution of 1979. During this period, the Muslim world, or Muslim-majority countries,[1] also had a secular trend. The Republic of Turkey was established in 1923 and pursued secularization reforms led by Mustafa Kemal Ataturk (d. 1938). This was followed by other secularist state-builders, including Iran, led by Reza Shah Pahlavi (d. 1944), and Egypt, led by Gamal Abdel Nasser (d. 1970). The Kingdom of Saudi Arabia (established in 1932) remained an exception, existing as a sharia-based Islamic state for decades. Social scientific analyses also followed the mood of the time. Many books presented religion, in general, and Islam, in particular, as outdated entities whose political impact will eventually wither away.

[1] In the rest of the article, I will use the term 'Muslim countries' to mean 'Muslim-majority countries'.

In the last four decades, however, secular ideologies and groups have lost their domination. The collapse of the Soviet Union and the end of the Cold War were signs of their decline. Religious ideologies and groups filled the vacuum, gaining significant political power in many cases including the United States (US), India, Israel, and most Muslim countries. While the Iranian Revolution symbolized the shift from secular legal systems to systems based on sharia, or Islamic law, the attack by al-Qaeda on New York and Washington DC on September 11, 2002 symbolized Islamist terrorism as a global phenomenon. Social sciences again followed the mood and shifted from extremely undermining of the political role of religion to overly exaggerating it, particularly in the case of Islam.

In the beginning of this new trend, in 1996, Dale Eickelman and James Piscatori published their seminal book *Muslim Politics*, and then began to edit a series for Princeton University Press with the same title.[2] The concept of 'Muslim politics' has implied an alternative to 'Islamic politics' by emphasizing that politics produced by Muslims do not necessarily have to be 'Islamic'. Many scholars also prefer to use this concept, including the founding editors of this journal, *Muslim Politics Review*.

Muslim politics has been shaped by both ideological factors, such as Islamic law and theology, and socio-economic factors, such as oil-based rentier economies. This article will focus on ideological issues while analyzing the problem of authoritarianism in the Muslim world. During the last decade, the number of Muslim-majority democracies, already few, has shrunk further. Turkey, Tunisia, Mali, Niger, Burkina Faso, and the Maldives have all faced the breakdown of electoral democracy. This has left the Muslim world today with only six electoral democracies: Senegal, Albania, Sierra Leone, Indonesia, Kosovo, and Bosnia, in the order of their Freedom House scores. More broadly, democracy has been in crisis worldwide in recent years; right-wing populism, which combines religion, nationalism, and demagogue leaders, has weakened democratic institutions in many countries. Nonetheless, the Muslim world still reflects a disproportionately high level of authoritarianism in comparison to the rest of the world.[3]

The Muslim world shows a variation regarding the role of sharia or secularism in the 50 Muslim countries' constitutions. Of these countries, 18 have constitutions referring to sharia as a source of the legal system. In 22 countries, constitutions are secular to various degrees. The remaining 10 countries have mixed constitutions that establish Islam as the official religion without referring to sharia. Muslim

[2] Eickelman and Piscatori 1996.

[3] Freedom House 2002.

countries which are now democratic or had a democratic experience until recently are in the second or third categories, with either secular or mixed constitutions.[4]

Of the 18 countries with sharia-based constitutions, all are authoritarian. Many have provisions of Islamic criminal law, such as apostasy and blasphemy laws, although only a few implement corporal punishments. The most widespread impact of Islamic law is on family issues. In all of these 18 countries, Islamic family law is implemented. This favors men over women in issues such as marriage, divorce, and inheritance.

Even among the 32 countries with no constitutional reference to sharia, many have Islamist groups who seek to establish a sharia-based state. These groups oppose gender equality, support moral restrictions in public life, and generally regard non-Muslims as secondary citizens. Hence, they promote authoritarianism even in cases where they are not in power. Secularists are not substantially different. Most secularist groups in Muslim countries have defended authoritarian policies which restrict rights and liberties. In this regard, political groups in both the Islamist and secularist poles of the ideological spectrum have contributed to authoritarianism in the Muslim world. Islamists do so to establish a sharia-based system, while secularists justify authoritarianism by presenting it as the only way of avoiding sharia. Why is sharia at the center of debates about democracy and dictatorship in many Muslim countries? This article will address this question. First, it will conduct a theoretical analysis of the Islamic legal method, then it will analyze this method's empirical impacts from history to the present.

The Dominant Method of Islamic Law

The tension between sharia and democracy relies on a particular method of Islamic law, which began to dominate the Muslim world in the eleventh century. This legal method is based on the ideas of the ninth-century scholar Shafii, but has been adopted by all four Sunni legal schools. According to this method, the sources of law are fourfold: the Quran, hadiths (records of Prophet Muhammad's words and actions), the consensus (*ijma*) of the ulema (Islamic scholars), and analogical reasoning (*qiyas*).[5]

The Shia legal method is similar. Like the Sunni ulema, the Shia ulema regard the Quran and hadiths as the main sources of law; however, their views about consensus are ambiguous, and, instead of analogical reasoning, they explicitly refer

[4] Kuru 2019, 37-42.

[5] Al-Shafii 2015 [c. 820]; al-Ghazali 2018 [1109], esp. 13. See also Kamali 2003; Vikor 2005; Hallaq 1997.

to reason (*aql*). Shias attach particular importance to the 'infallible' imams who lived between the seventh and ninth centuries, while Sunnis do not have such a belief. Relatedly, in Shia Islam, the ulema have a stronger position as an explicitly recognized class of clergy, while in Sunni Islam, the ulema theoretically are not a class of clergy, although, in reality, they are.[6]

Hadiths play a central role in the dominant Islamic legal method because they deal with a broad range of topics on which the Quran is silent. For most Sunnis, the two main books of hadiths, Buhari and Muslim, are canonical; their records are taken as literally the words of the Prophet. Based on thousands of hadiths, the ulema have produced a large number of *fatwas* (legal opinions) that cover with all spheres of life despite not having sufficient expertise in such areas as politics, economy, science, and arts.

Since the Quran and hadiths are open to interpretation, the crucial criterion of the dominant method of Islamic law is the third component: the ulema's consensus. Based on this criterion, the views of non-ulema Muslims have almost no importance when it comes to the making of law. Even junior and dissenting ulema frequently struggle to reform Islamic law, given the hegemony of senior and traditionalist ulema. The ulema's hegemony, however, does not have a textual basis. A major origin of consensus as a jurisprudential criterion is a hadith: "My community will never agree upon an error." The term 'community' (*umma*) here refers to Muslims at large. If it had continued to be understood in this broad manner, this concept could have provided opportunities for participation and change. However, the ulema have monopolized the concept of consensus by exclusively interpreting it as regarding solely to themselves, turning the concept into "a bulwark of conservatism".[7]

The fourth criterion, analogical reasoning, is also problematic because it restricts the role of reason to only making analogies. It does not recognize either rationality or empirical observation as a legal source. *Principles of Islamic Jurisprudence* is one of the most widely cited and taught English books on the Islamic legal method. Its author, Mohammad Hashim Kamali, is a well-known, moderate, and open-minded scholar. But even his book claims that "The sources of *Shari'ah* are...permanent in character and may not be overruled on grounds of either rationality or the requirements of social conditions...[They are not] subjected

[6] Weiss 1998, 36; Abou El Fadl 2014, xxxi-lii; Hallaq 2009, ch 2.
[7] Lambton 1981, 10, 12.

to the limitations of time and circumstance."[8] According to this perspective, even one single textual evidence trumps multiple consistent rational arguments and numerous scientifically tested observations. For example, proposals about population control can be rejected by a literalist and narrow interpretation of a particular hadith, even if these proposals are based on rational arguments and global observations. In short, the dominant method's criteria of consensus and analogical reasoning maintains a hierarchical and literalist understanding of Islamic law.

The problems of hierarchy and literalism therefore indicate an incompatibility between sharia and democracy. According to the democratic method, the law is made by the people's participation and with regard to their changing conditions and needs. According to the dominant Islamic legal method, however, the law is produced by a group of men—the ulema—based on their understanding of religious texts. The dichotomy between democratic and sharia-based legislations is clearly explained by Kamali: "[T]he legislative assembly of a Western state...can abrogate an existing statute or introduce a new law as it may deem fit. The legislative organ of an Islamic state, on the other hand, cannot abrogate the Qur'an or the *Sunnah*." Moreover, he argues that even the majority of a Muslim community cannot challenge sharia: "Sovereignty in Islam is the prerogative of Almighty God alone...The role of the ballot box and the sovereignty of the people are thus seen in a different light in Islamic law than they are in Western jurisprudence."[9] The main problem of this argument is its portrayal of sharia as if it is directly, clearly, and undisputedly revealed by God for all times and places. If this had been the case, we would not have seen the ulema producing sharia rules, nor the ambiguity of most of these rules and the deep disagreements about them among numerous legal schools for centuries.

Interestingly, this Islamic legal method was not dominant in the first five centuries of Islamic history, when Muslims achieved a golden age of science and philosophy. Between the seventh and eleventh centuries, there existed multiple methods of Islamic law. The founder of the earliest Sunni law school, Abu Hanifa (699–767), acknowledged a jurist's reason-based judgment (*ray*) as an important source of jurisprudence.[10] Thus, unlike Maliki (711-795), who prioritized the tradition of the Medina people, Abu Hanifa's approach was reason-based. Two

[8] Kamali 2003, 7-8. While explaining how the dominant method excludes rationality, Kamali (2003, 7) even claims this for "Islam" in general: "The sources of *Shari'ah* are...well-defined and almost exclusive...; rationality (*'aql*)...is not an independent source of law in Islam."

[9] Kamali 2003, 8.

[10] Kırbaşoğlu 2006.

generations later, however, Shafii (767-820) developed the method of jurisprudence (*usul al-fiqh*), which prioritized the literal understanding of the Qur'an and hadiths followed by the ulema's consensus and analogical reasoning.[11]

Initially, Shafii's method was one of the many alternative jurisprudential approaches. Another leading supporter of the hadith-based approach was Ibn Hanbal (780–855), who defended literalism by rejecting metaphorical interpretations of Quranic verses and hadiths. Following the establishment of the ulema–state alliance after the mid-eleventh century (which will be explained below), however, Shafii's method gradually became the main pillar of the Sunni orthodoxy. Ultimately, Hanafis adopted this approach, as did two other Sunni schools, Maliki and Hanbali.[12]

Over the course of time, there have been attempts to reform the dominant Islamic legal method by adding new sources of jurisprudence. The very influential scholar Ghazali (1058-1111) endorsed this method by both being a Shafii legal scholar and writing books against Muslim philosophers (especially Farabi and Ibn Sina) and rationalist Muslim theologians (the Mutazilis).[13] Nonetheless, Ghazali was also a complex scholar with sophisticated and sometimes inconsistent ideas. He promoted the idea of Islamic law's five 'higher objectives' (*maqasid al-sharia*) related to the concept of 'people's well-being' (*maslaha*) as a jurisprudential criterion. About three centuries later, the Andalusian jurist Shatibi (c. 1320-1388) elaborated these five objectives—the protection of religion, life, intellect, progeny, and property—as a way of making jurisprudence more flexible.[14] Shatibi "found that the political, social, commercial and legal changes in Granada in [the] fourteenth century posed problems that could not be solved by the deductive method of *qiyas* [analogical reasoning]."[15] If Shatibi could see the world today, he would be surprised to see Muslims still using analogical reasoning in their attempts to address the accumulated problems of the seven centuries following his death.

Ghazali was very cautious not to permit *maqasid al-sharia*, in particular, or *maslaha*, in general, to supersede rules based on Quranic verses or hadiths. Shatibi, however, attached greater importance to *maqasid al-sharia* and *maslaha* to legitimize certain legal exceptions, even by disregarding a ruling based on a Quranic verse or a hadith.[16] In this regard, Shatibi's methodology provides the most flexible

[11] Al-Shafii 2015 [c. 820], esp. 199-201, 254-5.
[12] Lambton 1981, 4; Abou El Fadl 2014, xxxiv–vii.
[13] Al-Ghazali 2000 [1095]; al-Ghazali. 2013 [1095]; al-Ghazali. 1999 [c. 1108].
[14] Al-Shatibi 2019 [c. 1388], esp. 14.
[15] Masud 1995, 253.
[16] Opwis 2010, 348, 350, 352.

understanding of Islamic law, which has appealed to Muslim modernists since the late nineteenth century.[17] Nonetheless, the dominant legal method has been so strong that these reformist attempts remained marginal, and the concepts of *maqasid al-sharia* and *maslaha* have played only a limited role. Even the promoters of these concepts have rarely dared to challenge the rules deduced from the Quran and hadiths by the established ulema.

Another way of reforming the dominant method could be to emphasize Sufis' mystical knowledge. This path was also initiated by Ghazali. After becoming a Sufi, Ghazali wrote his multi-volume *Revival of Religious Sciences* (*Ihya Ulum al-Din*) with an emphasis on mysticism. According to a seventeenth-century Ottoman saying, "If all other Islamic books disappeared, the *Revival* would be alone sufficient" to teach Islam.[18] In *Revival*, Ghazali depicted the emphasis on *fiqh* as an exaggeration and tried to balance it with Sufism. He noted that the word *fiqh* encouragingly mentioned in the Quran and hadiths does not mean jurisprudence (in terms of knowing the details of legal issues), but rather implies broader concepts such as understanding, piety, and insight.[19] Nonetheless, even Ghazali himself was not consistent in his efforts to promote a more mystical rather than legal understanding of Islam. In a later book, he kept promoting a legal approach, too.[20] Overall, other Sufi shaykhs have not been very different: they could not systematically challenge (or they have even endorsed) the dominant Islamic legal method.

As a result, Shafii's jurisprudential method has remained dominant throughout the Sunni world. It even became a dominant epistemology by ordering other aspects of knowledge in Muslim thought. Mohammed Abed al-Jabri (1935-2010) effectively emphasized how Shafii and his jurisprudential method have impacted the Muslim world: for him, the rules of jurisprudence established by Shafii "are no less important in forming Arab-Islamic reason than the 'rules of methodology' posited by Descartes about the formation of French reason". Jabri further adds, "If it were admissible to name Islamic culture according to one of its products...then we would call it 'the culture of *fiqh* (jurisprudence)' in the same sense that applies to Greek culture when we call it a 'culture of philosophy' and contemporary European culture as a 'culture of science and technology'."[21]

[17] Al-Raysuni 2005, esp. 16-20.
[18] Çelebi 2007 [c. 1653], 71.
[19] Al-Ghazali 2015 [c. 1097], 87–90.
[20] Al-Ghazali 2018 [1109], esp. 9, 12.
[21] Al-Jabri 2011 [1984], 114, 109.

After examining the theoretical influence of the dominant legal method, we will assess its practical impacts. The next section will do so with a brief analysis of Islam-state relations from history to the present.

Ulema-State Alliances and Recent Islamization

As I elaborated in my 2019 book, the Muslim world had diversity and dynamism for about five centuries in its early history.[22] During this period, there was a certain level of separation between the rulers and the ulema, which overlapped with the existence of influential thinkers and merchants. Another characteristic of this period was religious diversity.[23] Muslims created a golden era of science and economy by cooperating with Christians, Jews, and many other non-Muslims, as well as learning from various ancient and medieval civilizations.[24]

In the eleventh century, however, multiple economic, political, and religious transformations led to the rise of an alliance between the Sunni ulema and the (military) state. This partnership model emerged in Central Asia, Iran, and Iraq under the Seljuk rule. Later, the Ayyubids and then the Mamluks established the ulema-state alliance with its madrasas, pious foundations (*waqf*s), and other institutions in Syria, Palestine, and Egypt. In the fifteenth and sixteenth centuries, the Ottomans institutionalized their ulema-state alliance across vast lands, including the Balkans, while Safavids established the Shia version of this alliance in Iran.

During these periods and transformations, the ulema turned Shafii's jurisprudential method into the dominant Islamic legal method. The ulema claimed the monopoly over law-making; their monopoly was only limited by the sultan's sword. This relationship created the duality of sharia and sultan's law (*kanun* in Ottoman Turkish) and produced various types of ulema-state alliances in the Ottoman, Safavid, and Mughal empires.[25] The Hindu-majority Mughal Empire was ruled by a Sunni dynasty. Unlike the Ottoman policy, the Mughals recruited non-Muslims (e.g., Hindus) to the bureaucracy and the military without requiring their conversion to Islam.[26] Like the Ottoman rulers, the Mughal rulers produced a set of laws (*zawabit*) independent of and coexistent with sharia.[27]

[22] Kuru 2019.
[23] Cohen 1970; Goitein 1964; Bessard 2000, esp. 241–64.
[24] Akyol 2021; Starr 2013; Darke 2020; Watson 1983.
[25] Dale 2010.
[26] Eaton 2019, esp. 283.
[27] Eaton 1993, 134, 159, 192-3; Alam 2013, 169; Wink 2020, 193-201.

In the nineteenth century, ulema-state alliances faced crises due to state modernization policies (in the Ottoman Empire and Egypt) or European colonization (in most other parts of the Muslim world). In the early- and mid-twentieth century, many Muslim countries gained independence. Most Muslim state builders were secularists and they established secular republics.[28] As I noted in the introduction, this secularization trend in the Muslim world took place between the establishment of the Republic of Turkey and the Islamic Revolution in Iran. In the last four decades, however, almost all Muslim countries have experienced various degrees of social, political, and legal Islamization.

The main ideological framework of Islamization has been the idea that secular ideologies have failed to solve socioeconomic and political problems and the solution is to 'return' to Islam, which is a comprehensive doctrine that guides Muslims on every detail of life. Although Islamists have gained formal power in only a few countries, they have shaped the public discourse and driven the Islamization process across the Muslim world. Islamist ideologues, including Hassan al-Banna (the founder of the Muslim Brotherhood in Egypt), Abul Ala Maududi (the founder of Jamaat-i Islami in the Indian subcontinent), and Ruhollah Khomeini (the founder of the Islamic Republic of Iran), championed the integration of religion and state, going beyond the pre-modern notion of the ulema-state alliance. Al-Banna (1906–1943) popularized the idea that Islam is both religion and the state ("*al-Islam din wa dawla*"),[29] while Khomeini (1902–1989) institutionalized the guardianship of the jurist (*velayat-e faqih*), which entailed the ulema's domination of both judicial and executive powers in post-revolutionary Iran.[30] Recently, the Taliban's retaking of power in Afghanistan has shown that such a system, where the ulema say 'we are the state,' could be possible even in a Sunni-majority country.

Recent Islamization has occurred in various ways in different countries: Islamization happened through a popular revolution in Iran, a military coup d'état in Pakistan and Sudan, a grassroots movement in Egypt, and multiparty elections in Turkey. The main actors of Islamization have been Islamist politicians, Sufi shaykhs, and the ulema.[31] Regardless of their internal disagreements, these actors have agreed on the importance of making sharia the backbone of society and the state.[32]

[28] Kuru 2009, 247-54; Azmeh 2019, chs 4-5.

[29] Al-Banna 1979 [1938–45], 179; also 18, 317, 356.

[30] Khomeini 1981 [1970].

[31] Bacik 2020; Azmeh 2019, ch 6.

[32] The way the Muslim Brothers led the drafting of a new Egyptian constitution in November 2012 reflects Islamists' acknowledgment of the ulema's authority to interpret sharia. Islamist Brothers

Sharia, however, has remained essentially frozen for centuries, unable to respond to the needs of contemporary Muslim societies. Sharia has failed to update to modern conditions due to the limitations of the dominant legal method, which rejects people's participation, rational argumentation, and empirical observation.

In countries where legal Islamization has occurred, the conditions have worsened for religious minorities and women, as well as for Muslim men. Existing sharia rules about the status of non-Muslims violate the principle of equal citizenship, which is a requirement for democracy. Medieval Muslim states designed their relations with non-Muslim subjects through the concepts of protected people (*dhimmi*) and poll tax (*jizya*). In the Middle Ages, these states' policies toward Christian and Jewish subjects were comparatively better than Christian states' treatment of Muslims and Jews.[33] Today, however, these policies are incompatible with democratic standards. Abdulaziz Sachedina quotes Shafii, who argued that Muslim rulers should prohibit their Christian subjects from building new churches, riding horses, and wearing dresses similar to that of Muslims. Sachedina concludes, "Most of the past juridical decisions treating non-Muslim minorities have become irrelevant in the context of contemporary religious pluralism, a cornerstone of interhuman relations".[34]

Sharia rules also include many restrictions on gender equality. Islamic family law favors men over women in marriage, divorce, and inheritance. Additionally, many classical texts, including Ghazali's *Revival*, promote misogyny if they are not read critically.[35] Moreover, classical texts promote a legal mentality that would make public life restrictive for everyone. Like Ghazali's *Revival*, Mawardi's (972-1058) *Ordinances of Government* (*Al-Ahkam al-Sultaniyya*) has been widely read throughout the Muslim world. Both books emphasize the duty of 'commanding right and forbidding wrong' (*amr bi al-maruf wa al-nahy an al-munkar*) in ordering public life. Mawardi emphasizes that it is primarily the caliph's job to authorize public morality officers, while officers' duties include forcing men to perform Friday prayers, preventing men and women from speaking together in public, pouring out alcohol, and destroying most musical instruments.[36] By contrast, Ghazali requires each Muslim to command right and forbid wrong. For example, a child can pour out his father's alcohol depending on the level of the latter's possible anger and

constitutionally empowered Al-Azhar's senior ulema with a consultative authority "in matters relating to" sharia (article 4), which was "the principal source of legislation" in Egypt (article 2).

[33] Goddard 2000, 68.

[34] Sachedina 2001, 68.

[35] Al-Ghazali 1984 [c. 1097], 57, 62–5, 90–105, 115–26. See also Ibn Taymiyya 2005 [1309-14], 238.

[36] Al-Mawardi 1996 [1045–58], 260–79.

retribution. Ghazali defines several steps of commanding right and forbidding wrong, including providing information, giving polite advice, threatening advice, physical intervention, and coercion. While following these steps, individuals do not need permission from political authorities; they can even use violence if necessary.[37] To put these ideas into practice in contemporary societies, either an authoritarian state with a religious police (à la Mawardi) would need to be established, or anarchy would rule, in which citizens constantly intervene in each other's daily lives even by force (à la Ghazali). Hence, the concept of 'commanding right and forbidding wrong' in Islamic law needs a modern interpretation to become compatible with democracy and individual freedom.

The practical impacts of the rules about commanding right and forbidding wrong are visible in the establishment of religious police in countries such as Saudi Arabia, Iran, and Malaysia. A legally more widespread problem is sharia rules about punishing apostasy and blasphemy. As a result of legal Islamization in the last four decades, many Muslim countries have passed laws regarding such punishments. Today, 38 out of 50 Muslim countries have laws punishing blasphemy,[38] while 21 also have laws punishing apostasy or leaving Islam.[39] These laws restrict freedom of speech and violate religious freedom; thus, they weaken the chances of democratization.[40]

Historically, the dominant Islamic legal method was an important component of ulema-state alliances that dominated Muslim societies by marginalizing independent thinkers and economic entrepreneurs. In modern times, this method hinders sharia from adapting to rapidly changing conditions. Recently, utopian Islamist discourses have gone even beyond the classical ulema-state alliance and claimed a totalitarian unification of religion and politics. Due to Islamization, outdated sharia rules have recently had various degrees of influence in different countries in the last four decades. In many Muslim countries, these rules have made the problem of authoritarianism even deeper by imposing new restrictions on religious minorities, women's rights, and individual freedoms.

Conclusion

Democracy is now in crisis worldwide. Muslim countries are not only part of this global crisis, but also show a disproportionately high level of authoritarianism. The problem of autocracy in the Muslim world has multiple structural and agency-

[37] Gazali 1974 [c. 1097], 753–834. See also Cook 2000, 427–46.

[38] USCIRF 2020.

[39] Pew Research Center 2022.

[40] Kuru 2020b; Kamali 1994, 93-100.

based causes; some of them are material while others are ideational. This essay focused on an ideational problem: the dominant method of Islamic law. This is a very persistent method; it is even regarded as sacred by many Muslims. By contrast, the essay emphasized that this is a man-made method, which became dominant in the Muslim world only after the eleventh century. In the first five centuries of Islamic history, there was intellectual dynamism with diverse methods of Islamic law. The method of Abu Hanifa, for example, encouraged reason-based judgments. After the eleventh century, however, the ulema-state alliance consolidated its legitimacy by making Shafii's method (based on the Qur'an, hadiths, the ulema's consensus, and analogical reasoning) dominant while eliminating alternative, reason-based approaches. Hence, this essay stressed that early Islamic history could inspire the emergence of new Islamic legal methods in the future. These new methods may involve the inclusion of rationalism and empiricism into jurisprudential criteria while challenging the textual literalism of the dominant method.[41]

Another reason to be optimistic about the possibility of new legal methods is that there is nothing in the Qur'an or hadiths legitimizing the ulema's alliance with the state or prioritizing their consensus. Some ulema have used one phrase in the Qur'an (4:49) – '*uli'l-amr*' ('those who have authority') – to justify the ulema-state alliance, but the verse refers to neither the *ulema* nor the rulers.[42] They also use the above-mentioned hadith, "My community will never agree upon an error," to highlight the ulema's consensus, but in fact the hadith refers to the Muslim community at large, not the ulema.[43] Further research is necessary on new Islamic legal methods and their probable politico-legal effects.[44] I look forward to reading them in the pages of *Muslim Politics Review*.

[41] Late Abdulhamid AbuSulayman's book (1993, 78-81) can be seen as an example of a search for a new Islamic legal method. He criticizes some traditionalist jurists for disregarding the context, or in his words, the "space-time element". He emphasizes how Shafii's ideas on international politics became outdated in the modern context: based on a literalist understanding of the Quranic verse 8:66, Shafii claims that it is *haram* (forbidden) to run away in battle if the enemy is only twice the size, and again with a narrow understanding of Prophet Muhammad's *sunna* (manner of acting), Shafii argues that Muslims cannot hold a truce with non-Muslims for more than ten years. See also Kamali 2003, 500-12.

[42] Ibn Taymiyya 1994a [1309–14], 184, also 190; Ibn Taymiyya 2005 [1309-14], 244, also 256.

[43] Al-Ghazali 2018 [1109], 367-444, esp. 373.

[44] Some also refer to a fabricated hadith to justify the ulema-state alliance: "Religion and royal authority are twins, who cannot exist without each other; because religion is the foundation of royal authority and royal authority is the guard of religion." As I repeatedly show in my recent book, this is a Sasanian maxim, not a hadith. Kuru 2019.

I am not suggesting a political system solely based on new Islamic legal methods. A system based on religious laws cannot be democratic even if these laws are produced by reformist methods that embrace rationalism and empiricism. In democracies, laws are made by the people's participation and public discussions based on their needs and demands. Nonetheless, new Islamic legal methods may inform the democratic process with certain principles. In this regard, Islamic legal methods reformed by embracing rationalism and empiricism can be part of democratic participation and discussions.

If Muslim societies do not develop new legal methods, then their only option for democratization will be a complete legal secularization[45] by turning sharia into a matter of history, except the rules of worshiping (prayers, fasting, almsgiving, and pilgrimage). This is because the dominant legal method is not compatible with democracy. The association between authoritarian policies and Islamization in the last few decades has created significant discontent, especially among the youth. Many young people in countries such as Iran and Turkey associate Islam with authoritarianism, resulting in their leaving Islam.[46] Thus, the dominant method of Islamic law not only hinders democracy but also damages the image of Islam in the minds of many young Muslims. In other words, Muslim politics faces the dilemma between not only sharia and democracy, but also between keeping sharia-based autocracies and losing the young generation.

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[45] Kuru 2020a.

[46] Arab and Maleki 2020; Girit 2018.

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