

Islamic Constitutionalism and the Concept of Democracy*

*Azizah Y. al-Hibri***

I. INTRODUCTION

Recent developments in the Arab World, especially those surrounding the Gulf War, prompted demands for the introduction of democratic changes to systems of government in that region. These demands spurred a broad-based debate among Muslims concerned about the correct Islamic point of view on the subject. This article contributes to the debate by analyzing Islamic constitutionalism's position on democratic governance. To render such analysis more accessible to a Western reader, it shall be conducted by considering the Islamic system of governance in light of principles basic to Western democracies in general, and the United States in particular. This approach is being used solely for heuristic purposes. It is not meant to suggest that Western democratic principles provide the ultimate criteria in determining the democratic character of alternative systems of government. This latter point is quite important given the fact that some Muslim thinkers believe that, if fully developed, the democratic character of a modern Islamic system of government would surpass that of any existing Western system.¹

In the predominantly secular world of Western democracies, the concern with the correct Islamic point of view may appear quaint. For, it seems that the Arab World continues to lag behind the West in terms of political development. More specifically, it has yet to fully undergo

* Editor's Note: Because the accuracy of reprints of older Islamic works depend upon the city in which the works were reprinted, the city of publication has been included, where appropriate, in order to indicate the reliability of the cited sources. As a result, these citations do not conform to the standards of the Bluebook. The *Journal* would like to thank Mrs. Nelly ElSanadi, of the C.W.R.U. School of Law Library Staff, for her assistance with the verification of Islamic sources.

** Professor of Law, T.C. Williams School of Law, University of Richmond. The author thanks Dr. Jamal Badawi, Chair, Islamic Information Foundation (Canada), Dr. Mahmoud Abu-Saud, President, American Muslim Council (USA), and Professor John Paul Jones, T.C. Williams School of Law, for their valuable comments on earlier drafts of this article. The author also acknowledges the valuable assistance of Mr. Gamil Youssef, Librarian at the Oriental Division of the New York Public Library, for facilitating her research.

¹ See, e.g., TAWFIC AL-SHAWI, *SIYADAT AL-SHARI'AH AL-ISLAMIYYAH FI MISR* 118, 120 (Cairo 1987) who expresses this point of view forcefully. Cf., ABD AL-RAZZAQ AL-SANHURI, *FIQH AL-KHILAFAH WA TATAWOURUHA* 230 (1926, N. Sanhuri & T. Shawi trans., Cairo 1989) (argues that the Islamic system of government is quite similar to the system of government in the United States).