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Rāshid al-Ghannūshī and the Questions of Sharī‘ah and Civil Society

> "Secularism came to us on the back of a tank, and it has remained under its protection ever since." Rāshid al-Ghannūshī, *Muqarābāt fī'l 'ilmāniyyah wa'l mujtama' al-madanī* (London: al-Markaz al-Maghāribī li'l Buḥūth wa'l Tarjamah, 1999), 175.

Recently, Western scholarship on the subject of Islamism has been prolific. Some have studied this phenomenon with a specific goal in mind: to redefine Western interests in the Arab world, especially in the wake of the collapse of Soviet communism and the need to find a new international enemy. This trend is on the rise since the tragic attacks on the United States on September 11, 2001.[1] Others have focused on the political dimensions of Islamism at the expense of its theological, philosophical, historical, and legal contexts.[2] Some Arab scholars have even followed suit in defining Islamism in mere political terms.[3] It is possible to argue that Islamism is the natural expression of a dominant trend of thought, and one must take its claim that it has remained true to the basic theological principles and historical vision of Islam seriously.

Islamism adheres to the following Islamic theological premises: the oneness of God, the unity of humanity, the oneness of prophecies, and the universality of the Islamic message. First, Islamists believe the Qur'an, the fountainhead of Islamic metaphysics, expresses the Islamic doctrine of man with superb clarity, which is the expression of universal human characteristics.[4] Second, Islamic history is an indivisible part of human history, and is subject to its laws and fluctuations. The Islamic human endeavor must be distinguished from Divine Revelation, but from a normative point of view, Revelation and human history go hand-in-hand. Third, Muslims have been entrusted with a universal message. Their task in the world of today is, perhaps, more arduous and demanding than that of Muslims in the first century of Islam. Contemporary Muslims face new hurdles such as alienation, economic disparities, social injustice, and new forms of colonial domination and hegemony. Fourth, Islam repeatedly affirms the organic connection between Muslims and life. As an historical religion, Islam has never isolated itself from the socio-economic, political, and military processes of life. In the final analysis, these four premises underlie modern Islamic discourse.

In treating contemporary Islamism, one must carefully examine the relationship between Islam and society in the contemporary Arab world.[5] For the most part, Islamism has been an oppositional religious and political movement in the Arab world since independence. Obviously, Islam or Islamism cannot be reduced to

politics, ideology or social movements alone. These may, of course, be facets or manifestations of Islam in the modern world but do not represent its totality. In the same vein, Islamic movements, as socio-political and religious movements, are only one facet of Islam, and their theological discourse or/and ideological contention is one among many others. Furthermore, in most Arab countries since 1967, the Arab political elite have usurped official expressions of Islam and made it impossible for other voices to be heard.

The major thinkers of the Muslim Brotherhood movement in the modern Arab world, such as Ḥasan al-Banna,[6] ʻAbd al-Qādir ʻAwdah,[7] Sayyid Quṭb,[8] Muḥammad al-Ghazālī, ʻAlī Gurayshah, Yūsuf al-Qaraḍāwī, Saʻīd Hawwa,[9] Ḥassan al-Turābī,[10] and Rāshid al-Ghannūshī, have discussed a wide range of issues in light of the original theological and Qur'anic formulations of Islam in the context of Western colonialism and the political divisions (the rise of the nation-state) that arose in the post-colonial era. Such issues as Islamic theory of knowledge, the theory of man in the Qur'an, *Jāhiliyyah* (pre-Islamic conditions) and Islam, social justice in Islam, the intelligentsia (religious and secular) and power, the West, capitalism and socialism, the formative phase of Islam and early Islamic philosophy and thought, and the possibility of an overall reconstruction of Islam in the modern world have formed the intellectual core of Islamic social movements. These questions, no doubt, are very complex, and there is no indication that the intellectual leaders of the Islamic movements have discussed them in a monolithic, ahistorical, or superficial past-oriented fashion. Therefore, in studying the religious and societal dimensions of the modern Arab world, or of any post-colonialist situation of the Third World, one must take into consideration the complexity of the relationship between state and religion and the social or political roles that Muslim institutions and ideas play in the contemporary Arab world. Seen in this light, a critical sociology of religion, that is, Islam, must be formulated using the most advanced philosophical methods and social science concepts.

One may delineate two general positions that underlie the debate about the Sharīʻah in contemporary Arab discourse: the first, represented by a variety of Muslim thinkers, Sharīʻah professors, and Islamic activists, argues that the application of the Sharīʻah at all levels of society is the way to guarantee civil liberty for all citizens, Muslims and non-Muslims alike. On the other hand, a number of thinkers, mainly scholars and other academics, argue that the Sharīʻah's application is nothing less than the legalization of irrationalism in Arab society, and that implementing the Sharīʻah in any form would lead to egregious human rights violations, especially those of women and minorities. It is conspicuously clear that the Arab political system, on the whole, has suppressed Islamism as a political force, which has made it difficult if not impossible to ascertain verity of Islamism's claim that implementing the Sharīʻah is the only solution to the predicament of contemporary Arab societies. However, it is clear that the Sharīʻah does not offer ready-made solutions; on the contrary, one has to rethink its salient premises in view of the dramatic changes affecting Arab societies since the birth of the modern nation-state.

CONTEMPORARY ISLAMISM AND THE CONCEPT OF *MAṢLAḤAH*

As has been pointed out earlier, Islamic resurgence in modern history is a complex socio-religious, ideological, and historical phenomenon that has gone through various transformations since the eighteenth century. In the beginning, before the intrusion of the West in the Muslim world, Islamic resurgence in the form of the Wahabiyyah, Sanūsiyyah, and Mahdiyyah stressed the purification of religious doctrine against all sorts of superstitions and innovations in doctrinal principles.[11] The reformers of this period understood the application of Sharīʿah as simply the repair and purification of religious belief. In the second phase, resurgence in the form of Islamic reform in the nineteenth century was a reaction to the severe decline experienced by Muslim societies under the direct threat of imperialism. Ṭahṭāwī, ʿAbduh, Afghānī, and Kawākibī understood the severity of the situation and searched for some sort of rapprochement between the advanced West and the less advanced Muslim world. ʿAbduh sought a new legal formulation and new form of *ijmāʿ*, or consensus. He argues:

> Why do we stop, in legal matters, with the Ḥanafī writings although there is an urgent need to renew in all matters related to this life? We must change those aspects of Muslim civil life that are incompatible with the modern life on the basis of a new *ijtihād* and a new *ijmāʿ*.[12]

ʿAbduh couched his reformist ideas in the legal language of the great Andulasian jurist of the eighth Muslim century, Imām Abū Isḥāq Ibrāhīm al-Shāṭibī, author of *Muwāfaqāt fī Uṣūl al-Sharīʿah*, one of the greatest legal works in Islamic jurisprudence. Shātibī speaks of the intentions of the Sharīʿah (*maqāṣid al-Sharīʿah*) as being commensurate with the general welfare of the people, in this life and in the hereafter. He drew the attention of many of his students to this important work. In the third instance, the Islamic legal response was formulated against the background of the spread of Westernization in the Muslim world and the abolition of the Ottoman caliphate, the symbol of the Muslim ummah's political unity.

This legal response took two forms: one under the auspices of the Ikhwān and Ḥasan al-Banna. Its goal was to apply the Islamic Sharīʿah by establishing an Islamic political regime. The second was represented by ʿAbd al-Razzāq al-Sanhūrī. Although al-Sanhūrī advocated the implementation of Sharīʿah, he also preached the necessity of understanding Sharīʿah in the context of comparative international law.[13] The third response took place in the context of the nation-state. One of the best representatives of the Egyptian case is Shaykh Maḥmūd Shaltūt and Muḥammad Abū Zahra, who espoused the reform of Sharīʿah rules in order to meet the demands of the modern age.[14] In the final instance, there are current legal formulations that are informed by the diverse Islamic legal tradition and by Shāṭibī's *Muwāfaqāt*. Some of the best advocates in the Arab world today are ʿAbd al-Karīm Zaydān, al-Būṭī, Fahmī Huwaydī, Ṭāhā Jābir al-ʿAlwānī,[15] Salīm al-ʿAwwa, Ḥassan al-Turābī, Aḥmad Kamāl Abū'l Majd, Rāshid al-Ghannūshī,

though there are many others. On the other side of the debate, four major thinkers, all of whom were Egyptian, tried to prove that the implementation of Sharī'ah is impossible in the contemporary Arab world due to theological as well as modern reasons. These four are: Muḥammad Sa'īd al-Ashmāwī, Naṣr Ḥāmid Abū Zayd, Fu'ād Zakariyya, and Rashād Salām.[16]

The debate over the Sharī'ah, besides reflecting two irreconcilable positions on the nature of civil society in the Arab world, also reflects deep disagreement in modern Arab intellectual history over the meaning of Islamic revelation, the nature of society as erected by the Prophet and the early companions in Medina and Mecca, the role of jurists throughout Islamic history, the meaning of Islamic history in general, and the main components of the Islamic and Arabic personality. The proponents of the Sharī'ah in the contemporary Arab world draw on a plethora of material in classical Islamic legal and theological thought.[17] However, the content of their main arguments is conditioned by two main sources: the first, somewhat practical, is the failure of the current political elite in the Arab world to modernize society. The second is theoretical and focuses on how to safeguard the rules of the Sharī'ah under the above-stated conditions. For the purpose of safeguarding the rules of the Sharī'ah, many begin by defining its main objectives (*maqāṣid al-Sharī'ah*) and how they might be interpreted at the present time.

Proponents of Sharī'ah in the Arab world are united on a vastly ambitious program, an ideal if not a backward program, in the view of their opponents. Proponents often begin with the theoretical premise of the Sharī'ah's main objective, which is to preserve the interests of the people (*maṣāliḥ al-'ibād*). Many agree with Imām Ghazālī's definition of *maṣlaḥah*: "What we mean by *maṣlaḥa* is the preservation of the *maqṣūd* (objective) of the law (*shar'*) which consists of five things: preservation of religion, of life, of reason, of descendants, and of property. What assures the preservation of these five principles (*usūl*) is *maṣlaḥa*, and whatever fails to preserve them is *mafsada* and its removal is *maṣlaḥa*."[18] Most contemporary Islamist thinkers argue, however, that the Sharī'ah's objectives can only be guaranteed within an Islamic political system. In other words, a state is needed in order to enforce the law. In the opinion of Mahmūd Shaltūt, the term 'Sharī'ah' means all those "systems legislated by God, or whose sources are legislated by God, for the purpose of organizing man's relationship with God, with the Muslim community, with the human community, and life in general."[19] I will argue in this chapter that the call to implement the Sharī'ah in many Arab countries is as elusive as ever, especially with the banishment of intellectual leaders of the Islamic movements, one conspicuous case of which is the career of the Tunisian Islamist Rāshid al-Ghannūshī. Almost all Arab ruling elite are united on the notion of preserving the *status quo* against any alternative, Islamist or otherwise.

THE CONTRIBUTIONS OF RĀSHID AL-GHANNŪSHĪ

Rāshid al-Ghannūshī represents the first generation of active Tunisian Islamists who opposed the post-colonial secular state.[20] It is difficult to assess the impact of Ghannūshī's ideas on the intellectual scene within the Arab world, mainly because he has been in exile in England since 1989, and unable to travel to most, if not all

Arab countries.[21] The founder of the Nahḍah Party in Tunisia in the early 1980s, he sought to play the democratic game in a country that pays only lip service to democracy. The result has been his imprisonment and exile, which, to a large extent, define the career of many Islamist intellectuals in the modern Arab world.[22] In a moving introduction to his masterpiece, *al-Ḥuriyyāt al-ʿāmmah fī'l dawlah al-islāmiyyah* (*Public Liberties in the Islamic State*),[23] Ghannūshī speaks about his three years of *miḥnah* (plight) in a Tunisian prison as well as the *mihnah* of many years of exile. Imprisonment was, to a certain extent, helpful in reflective praxis; it gave Ghannūshī the time and leisure to ponder, in the manner of veritable Sufi shaykhs, the secrets of this world, the nature of power relations in the contemporary Arab world, the destiny of the Muslim world, the meaning of freedom and democracy in the New World Order, and the plight of the Third World in the neo-colonialist age. Ghannūshī's reflection on these matters also represents the thought of many Arab and Muslim intellectuals, living at home or in exile.

Ghannūshī, like many contemporary advocates of the Sharīʿah in the Arab and Muslim world, offers a consistent theoretical Islamic treatment of the prevailing intellectual and religious conditions in the contemporary Arab world, most notably in Tunisia. Within the confines of Islamic religious text, he criticizes what he considers un-Islamic behavior.[24] Ghannūshī's Islamist endeavor is the latest manifestation of the modern renaissance project begun in the eighteenth century, before Western intrusion into the Muslim world. The main question is, why has this project failed to materialize yet in most Arab countries and what can a minor group of Islamist thinkers in exile do to resurrect this project? In my opinion, it is impossible for Islamism to resurrect the Islamist project under the prevailing world political conditions.

Ghannūshī, thought, shies away from advocating violence to achieve the central objectives of his movement. To the contrary, he affirms without hesitation that the first priority of the Islamic movement should not be to reach power, "The Islamic movement must not have the government as its first priority. Takeover of the government should not be the biggest achievement possible. A bigger achievement would be if the people would love Islam and its leaders."[25] This is a radical departure from the main objectives of classical Islamism in the first half of the twentieth century. Islamism then believed that in order to implement "the correct rules of the Sharīʿah," an Islamist political system must be established. Ghannūshī realizes that this classical proposition of Islamism is untenable in contemporary Tunisia, and perhaps in the rest of the Muslim world. Instead, he posits that the Islamic movement should actively enhance the foundations of civil society and promote democracy. In this regard, Ghannūshī rejects violence as a means of solving intractable problems between the Islamic movement and the ruling secular political elite. Violence has proved, however, to enhance the regime's standing and give it more power with which to repress the Islamic movement.[26]

Although critical of the current Arab political elite, Ghannūshī's essential problem is with the worldwide metamorphosis of classical colonialism to neocolonialism and globalization. He contends that colonialism has changed its tactics since inception; however, it has not altered its aim of manipulating and exploiting the vulnerable Third World. Within the Muslim world, a major conflict

exists over the identity of society between two conglomerate forces: the "Islamic school" on the one hand, and the school of "Westernization and dictatorship" and its secular allies in the contemporary Arab world on the other.[27] Westernization is highly entrenched in the Muslim world, and far from representing an enlightened and cultivated school of thought, represents both "violence and hypocrisy."[28]

MODERNITY AND SECULARISM IN GHANNŪSHĪ'S THOUGHT

In his youth, Ghannūshī was very much influenced by Arab nationalism as espoused by Nasserism.[29] However, he found the nationalist project wanting on a number of grounds, especially at the level of "Arab and Muslim identity."[30] Ghannūshī valued the nationalist project for its attempt to achieve political independence from colonialism; however, he faults nationalism for only going half way. Nationalism failed to construct a true project of intellectual and cultural emancipation since it remained, at heart, indebted to the mental and scientific contributions of Western modernity. Nationalism gained politically but lost intellectually.

Nationalist intellectuals in the Arab world, most specifically in Tunisia, remain captive to the contributions of Western modernity without attempting in a real sense to make their contribution to this modernity. The fascination with the culture of the dominant West is the rule rather than the exception. What Ghannūshī powerfully uncovers is the crisis of the bilingual intelligentsia in the post-colonial state in the Third World. This is not specifically an Arab or Muslim problem. Further, this problem goes beyond the dictatorship of the ruling elite in the Arab world. What kind of worldview should the Arab world adopt after colonialism? Ghannūshī's simple answer is Islam, or Islam interpreted in light of the dramatic changes affecting Muslim societies after the end of colonialism. However, are Arab intelligentsia willing to pay a price as has Ghannūshī?

Ghannūshī advocates a new understanding of Islam capable of coexisting with the challenges of the contemporary world. Neither nationalism nor political oppression is the answer, in his view. He posits that a radical examination of early Islamic philosophy is urgent. He argues, "we defeated and backward Muslims who live in countries permeated by all sorts of cultural trends and while our societies undergo the most dangerous contradictions and crises, what benefit can we derive from studying the Mu'tazilite position on the attributes of God, whether they are self-sufficient or an extension of the self, or studying Ibn Rushd's position on the universe, whether it is uncreated or created, or studying Ibn Sina's opinion about the self and its permanence?"[31] Modern Arab and Muslim intelligentsia must put aside these arguments so as to focus on a rationalist Islamic system that can deal with the issues of the modern world, one of which is modernity.

Ghannūshī draws a distinction between two types of modernity: first is what he sees as the genuine modernity of the West, and the other is the fake, aborted modernity of the Westernized elite in the Arab world.[32] To his mind, Western modernity is the product of specific historical and philosophical factors brewing under the surface for many centuries and which resulted in a great scientific and rational movement leading to progress, science, liberalism, unfettered criticism, democracy, and rebellion against political and religious dictatorship.[33] Ghannūshī

sees Western modernity as a natural expression of the political, intellectual, and economic evolution of the Western world after the industrial revolution. He is less critical of the genesis of Western modernity than one might expect. He approaches modernity as an idea, which is why he calls on Muslim intelligentsia to accept the positive and liberating aspects of Western modernity. He states, "We want modernity, contrary to the ridiculous allegations made by those opposed to political Islam, but inasmuch as it means absolute intellectual freedom, scientific and technological progress; and promotion of democratic ideals."[34] On the other hand, only a handful of people educated in the schools of the West welcomed the introduction of modernity into Arab and Muslim societies and tied the destiny of modernity to the political and social interests of their class. Modernity thus ceases to be a movement of rationalism and becomes a tool of class and an elite privilege. In other words, modernity is confiscated and its intellectual and cultural foundations obscured. However, it is not clear to which class Ghannūshī refers. Was the nationalist movement under colonialism a beneficiary of Western modernity?

There was a tiny class of indigenous Westernized intellectuals who benefited from the achievements of modernity and who sent their children to the schools of the West. This trend, far from subsiding after independence, became the landmark of the new nation-state. The ruling elite in the Arab world, receiving their basic education and inspiration from the West, were intent on obscuring the rational foundations of that modernity, which also built a somewhat progressive civil society in the West, according to Ghannūshī. The fake modernizing elite in the Arab world has been busy dislodging the masses from their well-entrenched historical and cultural identities, driving a wedge between the masses and their true religious leadership, and making them subservient to foreign powers. Here, Ghannūshī assumes that on the eve of the nation-state there was a well-entrenched and unified religious leadership in the Arab world, which is far from true. The Arab masses grew tired of fake modernity only after it failed to improve their lot. More often than not, official religious intelligentsia were supportive of the introduction of modernity into Arab societies.

Ghannūshī correctly argues that "an authentic modernist perspective" cannot be merely transferred from one culture to another. It must be indigenous, homegrown, so to speak. That is, it must infuse all aspects and levels of society with real democratic spirit. Second, the political elite have exploited modernity in order to maintain their interests. Ghannūshī gives Tunisia as an example of what he calls "deformed modernity." He says that the power elite in Tunisia today, a minority regime, is made up of three complementary power blocs in society that stand against the formation of a new civil society: the police force, the corrupt business elite, and a good number of bankrupt Leftists. These forces are united on a plan to prevent Islamic forces from gaining ground in society for fear of losing their carefully guarded privileges, through either peaceful or violent means.[35] This fake modernizing bloc in Tunisian society has utilized oppression and the banner of democracy and the emancipation of women to remain in power. Ghannūshī argues,

> Language causes us to fall in drastic errors when we state that there is a conflict in the Muslim world between modernity and fundamentalism, between

> democracy and fundamentalism, or between secularism and Islamism. We must be wary of such confusion. For example, the meaning of both Western secularism and modernity has no precedent in the Muslim world. Modernity, secularism, and democracy in the West have freed the intellect and people by granting them authority, and have separated the institution of the state from the personality of the ruler by making him a true servant of the people. However, the alleged modernity and secularism of Bourgiba, Atatürk, the Shah of Iran, and the rest of the world dictators, and their few disciples, have not followed in the footsteps of the Western conception.[36]

I find it surprising that Ghannūshī is uncritical when it comes to the genesis and evolution of Western modernity. In his view, modernity in the West has created a dynamic society built on institutional and legal principles. Seen from this angle, Islamism need not be in conflict with modernity. The Islamist movement would like to implement this productive side of modernity in the Arab world. Practically speaking, however, in the Arab world, modernity has meant total alienation and the loss of cultural and religious values.[37]

In his sustained critique of the Arab political elite, especially in North Africa, Ghannūshī argues that this group prefers violence, both physical and psychological, to solve their problems and blame Islamist forces for the failure of the economy and modernization, "Claiming to undertake a modernizing mission, the state in the Arab Maghreb justifies the pursuit of an authoritarian policy and the exercise of oppression in order to fulfill its mission. Society is, therefore, not the source of authority but its field of action."[38] Modernization and Westernization projects have been crushingly defeated in most Arab countries, especially in North Africa. What has happened is that the military or security forces of the ruling political elite intrudes on the public space of civil society, "In most Arab countries, the project of modernity, or that of Westernization, has rested captive in the efficient hands of the security forces, those who are quick to use physical violence."[39]

Although praising the intellectual and scientific achievements of Western modernity, Ghannūshī is critical of the New World Order and the hegemonic policies of the West, which collude with those of Zionism in the Middle East. Ghannūshī doubts the integrity of the Western political system when it comes to bringing democracy to the Arab world, "Just like the *mission civilisatrice* was the motto representing the hegemony of the West in the past, today democracy represents the ideology of the hegemonic Western world."[40] However, in spite of the failure of the Western world to impose "democracy" on its allies and protégés in the Arab world, democracy remains the preferred option of Islamic movement at the present time. Ghannūshī contends that for the Islamic movement,

> the second best alternative…would be a secular democratic regime which fulfills the category of the rule of reason…What matters in such a system is that despotism is averted. A democratic secular system of government is less evil than a despotic system of government that claims to be Islamic.[41]

MAQĀSID AL-SHARĪʿAH (THE OBJECTIVES OF SHARĪʿAH)

As seen earlier, Islamism emerged as a response to failed modernity, especially after 1967. Contemporary Islamism, being a religious and social phenomenon, has been inspired by classical Islamic legal thought to develop a critique of current conditions. Ghannūshī's point of contention is to bring the objectives of the Sharīʿah to focus in a sea of political trouble and uncertainty. Like many Salafī and reformist thinkers in the modern Arab world, he relies heavily on classical Islamic Fiqh works dealing with the concept of *maṣlaḥah*, and especially on Imām Abū Ishāq Ibrāhīm al-Shāṭibī's *magnum opus*, *al-Muwāfaqāt fī Uṣūl al-Sharīʿah*, referred to earlier.

Shāṭibī begins with the premise that God instituted laws for the purpose of ensuring the common good of the people (*masālih al-'ibād*), in this life as well as in the hereafter. Shāṭibī divides the main objectives (*maqāṣid*) of the Sharīʿah into three broad categories: (1) *maqāṣid ḍarūriyyah* (necessary objectives); (2) *maqāṣid ḥājiyyah* (needed objectives), and (3) *maqāṣid taḥsīniyyah* (commendable objectives).[42] The first category includes five objectives, which revolve around the preservation (*ḥifdh*) of religion, self, procreation, property, and intellect.[43] These objectives are necessary in the sense that without them, the common interests of the people in this life and in the hereafter cannot be maintained. For example, *ʿibādāt* (acts of worship) are needed in order to ensure the preservation of religion in man's life. The second category of *ḥājiyyāt* is based on the notion of making the necessary objectives of the Sharīʿah easily accessible by removing any form of hardship or strict literal interpretations of the main rules of the Sharīʿah. Concession in prayer while traveling is one form of removing this sort of hardship. The third category of *taḥsīniyyāt* (commendable objectives) concerns the adoption of moral behavior and the best social customs related to cleanliness, etiquette, and praiseworthy behavior.[44] To Shāṭibī's mind, the purpose of divine legislation is to establish the common interests of the people in this life and the hereafter. Thus, the five necessary objectives of the Sharīʿah, common to all humanity, are absolute and constitute the basis of the well-being of any ummah, political or religious.

Against the context of the above categories, as elaborated by Shāṭibī, Ghannūshī discusses what he terms "the general framework for human rights in Islam," which are based on the following principles: (1) freedom of doctrine; (2) respect for the human self; (3) freedom of expression and movement; (4) economic sufficiency, and (5) social well-being.[45]

To give some balance to our discussion, it is important to highlight the main theses of opponents of Sharīʿah implementation in contemporary Arab society. As has been mentioned above, herein lies a basic, irreconcilable conflict between two opposing worldviews. The opponents of Sharīʿah implementation advance the following premises that support, in their mind, the incompatibility of the Sharīʿah with the prevailing conditions: first, contemporary religious discourse in the Arab world, whether radical or moderate, oppositional or official, elite or popular, stresses some basic features: the supremacy of the text (*naṣṣ*) and God's

deputy-ship (*hākimiyyah*).[46] The call to implement Sharī'ah is but an ideological cover to attack rationalism, secularism, nationalism, and modernity in the name of religion. The dominant religious discourse in the Arab world uses *takfīr* (declaring someone or something to be an infidel) as the most effective weapon to attack and discredit opponents of Sharī'ah. Such people as Sayyid Quṭb and Omar 'Abd al-Raḥmān and other Muslim radicals have used this discourse as the Azhar, as an official institution, has used *takfīr* to discredit the enemies of the Sharī'ah application. In an age dominated by ignorance and the absence of rationalism, religious discourse strips Islam of its historicity and diversity: it reduces it to ahistorical essentials.[47]

Second, law is the product of social factors and not revelation. Law, far from being accidental, is the product of a confluence of social, economic, political, and religious factors.[48] Early Islamic law went through three phases of evolution: the Meccan, Medinan, and post-Medinan, that is, empire-bound, law. In the first place, Fiqh was still tribal-bound, and in the second, it was directed by the demands of the nascent state of Medina. However, in the third phase, Islamic law, that was still characterized by the simplicity of Arabia, stood up to the legal and intellectual challenges of the Persian and Byzantine civilizations and amalgamated some of the central principles of these civilizations into its worldview.

Fiqh, as a human Islamic legal science, developed into law and matured to reflect the needs of the expanding Islamic empire. This empire-bound law was more distinguished by reasoning than it was by the use of original sources, that is, the Qur'an and the Sunnah. In other words, Fiqh superseded the text. The primacy of original sources receded whereas reliance on reasoning expanded. In its process of building a multiglot and multiethnic empire, the new Muslim state built by the Ummayyads and Abbasids could not rely on a text (that is, the Qur'an) that was not constitutional, to begin with. The new sciences of the conquered civilizations formed the basis of the constitution of the new empire.[49]

Third, *ijmā'* as a legal mechanism to ensure the consensus of the ummah over the election of a certain person to preside over the state, ensured the continuous hegemony of the ruling political elite throughout Islamic history with strong religious and legal justification. The dominant Islamic discourse throughout Islamic history has been the product of an alliance between "the *fuqahā'* class and the political elite."[50] According to Ḥassan Ḥanafī, the Muslim state, to a large extent, relied on the authority of the *fuqahā'* "to justify and defend its own authority against the attacks of the opposition, and the *fuqahā'* became an important component of authority in our tradition."[51] Muslim rulers throughout Islamic history have used religion to ward off rebellion and dissent.

Fourth, the strong alliance between the *fuqahā'* and the political elite in classical Muslim society created a certain form of religious identity that was protected by the *fuqahā'* and justified by religious text. Human rights were tied up in this religious identity. In other words, not all people shared the same level of citizenship. Non-Muslims were considered inferior to Muslims.[52] The Muslim notion of the welfare of people applies in principle to Muslim citizens, who are in the majority and not to the non-Muslims.[53]

HUMAN RIGHTS IN GHANNŪSHĪ'S THOUGHT

It is beyond the scope of this chapter to analyze the immense literature on Islam and human rights. Others have attempted this analysis elsewhere.[54] In her controversial although useful book, *Islam and Human Rights: Tradition and Politics*, Ann Elizabeth Mayer argues that in its classical form, the Sharīʿah contains principles that are greatly at odds with the Universal Declaration of Human Rights, especially with respect to the following questions: religious freedom (that is, the freedom to convert from Islam); the rights of women,[55] and the status of minority groups within the Muslim world. Mayer argues that in spite of the fact that those involved in the development of international human rights law have treated "Islamic law and Islamic thought" as irrelevant, it remains an undisputed fact that the Sharīʿah falls short of the promulgated international standards. Furthermore, and on the practical plane, there have been gross violations of human rights in a number of Muslim countries, including the Sudan, Pakistan, and Algeria.[56] An-Naʿim reinforces this idea by arguing that a substantial revision of those Sharīʿah principles that discriminate against women and minorities must take place. An-Naʿim's view, Muslims, if they desire to "exercise their legitimate collective right to self-determination…[they must] not violate the legitimate right of self-determination of individuals and groups both within and outside the Muslim communities."[57] Theoretically, the above positions, although emanating from different theological and ideological premises, incorporate and promote the idea of human equality, in the secular humanistic sense, as the main yardstick against which the issue of Islam and human rights must be judged. In their different ways, each position intends to rid the Sharīʿah of its supposed parochialism and its allegedly faulty theological presuppositions, and open it to the vast field of critical inquiry. Equality of all human beings, regardless of race, religion, language, and origin is the main premise.

Philosophically, Ghannūshī lends his wholehearted support to the notion of equality, which to his mind is one of the absolute principles of the Sharīʿah.[58] However, his premises are somewhat different from those espoused by the two authors above. We must remember that Ghannūshī is first and foremost an *ʿālim*/ideologue, who represents an oppositional religious movement and who has suffered punishment and exile because of his ideological and religious commitments. Ghannūshī does not speak purely as a scholar but also as an activist whose main purpose is to change a government that has violated his and others' human rights with the support of Western powers, tacitly or explicitly.

Furthermore, and in spite of his bitterness toward the West for supporting the current government in Tunisia, Ghannūshī sticks to the concept of an unfettered freedom as the main criterion of both individual and human progress. He does not buy into the arguments of many Western legal scholars, such as Ann Elizabeth Mayer, that "individualism is a fundamental ingredient in the development of Western human rights concepts."[59] He believes that what dictates both the domestic and foreign policies of the West, especially in relation to the Third World, is the national interest of the West. This was amply illustrated in the second Gulf War in which the West intervened on behalf of Kuwait against Iraq. In fact, the Western world has thrived on its exploitation of the Third World.[60]

In his treatment of the concept of equality, Ghannūshī marshals a great deal of Qur'anic evidence to prove that the Sharī'ah protects freedom of doctrine and that in Islam, this freedom is the mother of all public freedoms. The Qur'anic principle "No coercion in religion" means that all citizens in the Islamic state constitute one political ummah, although they may belong to a plurality of religious affiliations. Ghannūshī maintains that the Medina constitution was an embodiment of one political ummah with religious pluralism. In other words, religious pluralism does not negate common political and social responsibility in an Islamic framework. Furthermore, religious pluralism means, besides religious freedom, the expression of one's religious identity as long as it does not impose on the public feelings of Muslims.[61] The Islamic doctrine of freedom and the respect for the human individual regardless of his/her race, religion, and social background constitutes the basis of the Islamic worldview developed by the Prophet. In the final analysis, what Ghannūshī is saying is that the Sharī'ah, because it is divinely inspired and its focus is on the common good of the people, any people, cannot be discriminatory in nature. Ghannūshī believes the Qur'an to be a theological text with the highest degree of integrity and comprehensiveness. That is to say that the Qur'an, as the source of Sharī'ah, cannot contain two levels of meaning, as Abdullahi An-Na'im and his teacher Ustadh Mahmoud Ṭāhā claim. According to An-Na'im, Ustadh Mahmoud Ṭaha argues that

> a close examination of the…Qur'an and *Sunnah* reveals two levels or stages of the message of Islam, one of the earlier Mecca period and the other of the subsequent Medina stage…[T]he earlier message of Mecca is in fact the eternal and fundamental message of Islam, emphasizing the inherent dignity of all human beings, regardless of gender, religious belief, race, and so forth. That message was characterized by equality between men and women and complete freedom of choice in matters of religion and faith.[62]

Ghannūshī's perspective differs from An-Na'im's in that he considers the Qur'an to be a theological unity. He also sees real freedom in Islam as an expression of human servitude to God (*'ubūbdiyyah lilah*). It is this servitude which defines the pristine nature of man.[63]

Regardless, it remains to be seen whether the Arab political elite are interested in the implementation of Sharī'ah. As I have argued in Chapter 3 of this work, the Arab political elite only pay lip service to religion in public. Most of them are not religious in private and interested only in a superficial discussion of the precepts of the Sharī'ah.

STATE, DEMOCRACY, AND CIVIL SOCIETY

Political authority is necessary for the purpose of guaranteeing the objectives of the Sharī'ah, and, consequently, of the *masālih* (interests) of the people. Sovereignty rests ultimately with God alone. These are well-known arguments from classical Fiqh manuals. However, actual sovereignty in the Arab world has rested with a Westernized elite that is only superficially supportive of the

objectives of Sharīʿah. This elite is assisted by token official ulama who neglect their legal duties as advisors to people in power. This says a lot about the predicament of the official religious class in the contemporary Arab world and about the relationship between religion and society.

As mentioned above, in spite of his deep dissatisfaction with the state of political affairs in the Arab world in general, and Tunisia in particular, Ghannūshī refrains from advocating violence as a means of attaining Sharīʿah's objectives. Although he is skeptical of the Western philosophy of democracy and its modern historical manifestation in the context of colonialism, Ghannūshī is convinced that political authority can be attained only through democratic means. "After idolatry, despotism is the greatest enemy of Islam,"[64] he declares. Islam thrives only in the context of freedom. Islam is both religion and state, or, in other words, political authority is a major dimension of Islam. Authority though is a means to an end, which is to establish justice in society, which is also the principle objective of Sharīʿah.[65] Ghannūshī reiterates the classical legal Islamic position on the state, which can be summarized as follows: "The purpose of establishing the state (that is, *Imāmah*) in Islam, as stated by medieval Muslim political thinkers, is to maintain law and order, to defend the faith, and to protect the community from schism."[66] He argues along the same lines that establishing an Islamic political system is a religious duty, as well as a national, human, and strategic interest. This is a tall order given the state of the world today. When Ghannūshī speaks about Islam, he means the Islamic movement he represents. The question is: can this Islamic movement mobilize enough mass support, as was the case in Iran in the late 1970s, to secure political power? Ghannūshī uses ummatic terms to refer to the entire Muslim world. He says that in the absence of an Islamic political system, the Muslim ummah suffers from political division, exploitation, and dependence on the West. The Muslim ummah is doomed to failure unless a state is first established. To the minds of Islamists, the state, once controlled by the Islamists, becomes a source of liberation and emancipation for the people since it is the embodiment of supreme justice, that of the Sharīʿah. In other words, the state is a practical construct needed to safeguard the Sharīʿah. One is justified, therefore, in defending the state on practical and functional grounds.

Most Islamists do not share the Marxist formulation of the state that, first, it is a coercive apparatus or "the concentrated and organized violence of society"; second, that it is an instrument of class domination, and, third, that it is subordinate to civil society.[67] Islamists envision the state as the historical or concrete embodiment of divine justice. To put it simply, the state is an instrument of Sharīʿah, the only source of justice in this world, and the only embodiment of God's will in history. In this sense, Islamists share some of the central Hegelian premises about the role of the state in history and its embodiment of a divine will.[68]

By identifying the state with Sharīʿah justice, Islamists raise serious doubts about the viability of contemporary political systems in power in the contemporary Arab world, their use of coercion to remain in power, and the failure of their modernization projects. Islamists remain convinced that the contemporary state in the Arab world depends in the last resort on violence. Therefore, the Islamists' practical predicament is how to effect sufficient political and religious change

in society to make it possible for them to control the state without having to use violence. This is a difficult dilemma indeed.

According to Islamists, one way of controlling the state is by a gradual application of Sharī‘ah. It is possible to distill a number of basic positions shared by contemporary Islamist thinkers about the application of Sharī‘ah, with some minor variations. The following propositions form the basis of Islamists' arguments concerning the viability of the Sharī‘ah in the contemporary Arab world:

First, Islamic political theory has dealt at length with the subject of public liberties from the angle that Islam is both religion and state or that state is a central dimension of Islam.[69] Authority falls under the category of the means (*wasā'il*) and not objectives (*maqāṣid*) of the Sharī‘ah. The function of authority is to guard both religion and life, and the enforcers of authority, the political elite, are the employees and servants of the ummah.[70] In the words of Imām al-Ghazālī, "religion is the foundation or the base and authority is the guard."[71] The foundation of an Islamic state is a legal Islamic duty and a national and humanitarian interest.

Second, the Sharī‘ah is immutable in that it intends to safeguard the interests of the people. It has no other function. Justice and compassion reflect divine will. The above is clearly stipulated by the Qur'an and the clear Sunnah of the Prophet. In other words, the Islamic worldview, as opposed to the modern Western mindset, to use a term from Huston Smith, derives from the notion that God is the source of legislation and human beings are God's vicegerents on earth. Islam is a colossal emancipatory, revolutionary system,[72] which guarantees human freedom as a form of trust between God and man. To the mind of Ḥassan al-Turābī, for example, liberty is embedded in the Islamic doctrine of the oneness of God. In other words, liberty has metaphysical absolutes that cannot be defined by reason alone. The Western concept of individual liberty, which evolved after centuries of conflict between the feudal-religious and the capitalist system, produced a centralized form of authority in the hands of the state, which has become the only measure or criterion of freedom in the contemporary capitalist system. Turābī argues that human beings can attain true freedom only if they submit themselves to God, and this submission becomes the true measure of freedom in society, "Liberty is a means to worship God, and a method that liberates man from submission to both things and other human beings in order to worship God alone… Absolute liberty can be achieved only through worship."[73] This metaphysical conception of liberty can take concrete form only in a state that is ruled by Sharī‘ah, as the embodiment of divine will in life.

Third, the Islamic state is based on two main principles: the Qur'anic text and *shūrah*. The text establishes the main theoretical principles of doctrine and conduct of life. The Qur'anic text has established the most precise characteristics of the Islamic worldview, and God's will has become embodied in His Sharī‘ah, as Ghannūshī would say.[74] Political legitimacy must be based on the text, both the Qur'an and the Sunnah, "The Islamic text, both the Qur'an and the Sunnah, besides being the highest authority, underlies the major foundation on which Muslim society was erected. The text is the foundational authority that has given a sense of organization to the Muslim community, state, and civilization."[75]

The text is the *raison d'être* of the ummah, and without it, the ummah has no meaning or personality. *Shūrah*, on the other hand, is not a marginal Qur'anic injunction but one of the main principles of Islam.[76] For example, the Egyptian jurist Ahmad Kamāl Abū'l Majd argues that Qur'anic text must be the launching pad of any discussion about the Sharīʿah's application in modern Arab society. However, the text must not devalue the role of reason in explicating the right legal rules in a changing social and historical environment. Therefore, *ijtihād* is the most valued process that explains the rules of the text in a changing situation. In other words, reason must be an aid to revelation in creating an Islamic systematic theology that is both modern and authentic. In this sense, Abū'l Majd, as well as many other Islamist thinkers, has defined several issues: first, it is impossible to separate legislative injunctions from their Qur'anic worldview as well as from their social and historical contexts; second, Sharīʿah and Fiqh are not the same. Sharīʿah rules are contained in the Qur'an, whereas Fiqh is a legal science created by jurists. Put simply, Sharīʿah is divine, and Fiqh is human. Third, the exertion of *ijtihād* in Sharīʿah is almost an open field since original texts have not dealt with many issues that still bewilder the modern Muslim mind.[77]

Fourth, Fiqh must reflect the social and cultural realities of Muslims. In other words, one must investigate social phenomena, any change in social structure and mentality, and social dynamics before any Fiqh judgment is passed. Therefore, according to this view, a sociological judgment is critical. In other words, the *faqīh* must be a hidden sociologist, or must seek the aid of sociologists when passing judgments about the state of men and women in society. In discussing modern conditions and their impact on Muslims, Abū'l Majd says that the ulama, who have been entrusted with the responsibility of providing adequate answers to the dilemma of contemporary Muslims, have done their job poorly. The only answer to the predicament of the ulama is the use of *ijtihād*.[78]

Fifth, the classical theory of *ijmāʿ* must be revisited in order to determine the proper way to ensure the legal conduct of the Islamic state envisaged by Ghannūshī. He implicitly argues that if *ijmāʿ* exists at all nowadays, it does not reflect the opinion of the Muslim community. *Ijmāʿ* emerged in the formative phase of Islam as a legal movement reflecting the desire of the whole Muslim community to act in unison in response to the multitude of challenges and problems facing the nascent Muslim community. As the community grew, *ijmāʿ* became a binding legal and political force, and its authority was justified by a number of Muslim scholars and jurists. Ghannūshī argues that the doctrine of *ijmāʿ* is an explicit invitation to recognize public opinion and its role in conducting the affairs of Muslim society. In other words, *ijmāʿ*, as Gibb notes, is "*vox populi*, the expressed will of the community…demonstrated by the slowly accumulating pressure of opinion over a long period of time."[79] Ghannūshī states that *ijmāʿ*, as a vehicle of public opinion and a progressive and binding force, must be reinstated in the contemporary Arab world in order to ensure democracy. Ghannūshī takes up the issue of '*ahl al-ḥall wa'l 'aqd*' (the people of loosening and binding), those in position to give advice to political authorities about affairs of state. He agrees with Muḥammad 'Abduh and the modernist school in Islam that the *faqīhs* in the strict sense cannot be the only people of "loosening and

binding."[80] To him, these people are the open-minded ulama and the intelligentsia who have something to say about the religious and political situation of their society.

Sixth, justice is at the core of Islamic public liberties. The main goal of the Sharī'ah is to safeguard these liberties as a form of upholding the public interest (*al-maṣlaḥa al-'āmmah*).[81] In Ghannūshī's words, man is duty-bound to protect his life by refusing to submit to any form of emotional or physical assassination, and is also responsible for fighting against any form of slavery and for the sake of a progressive and happy community. This duty falls in the realm of the sacred, which means that it is on par with any other sacred duty in Islam, such as worship or fasting.[82] The goal behind the search for knowledge in Islam is not to attain mental leisure or academic neutrality but to achieve an Islamic revolution that eradicates dependency and human forms of authority and liberates the poor and disadvantaged from every form of oppression and injustice.[83]

Seventh, Islam has guaranteed the freedom of belief, which is defined as the freedom of any individual to have the right to choose the religious doctrine that suits his/her needs. "No coercion in religion" is the most primordial theological position that protects man's religious pluralism. Modern Islamists believe that Muslims and non-Muslims can constitute a common political ummah, within which religious pluralism is protected. Non-Muslims have the right to express their different religious and cultural personalities as long as they do not infringe on the rights of Muslims to express their Islamic personality.[84]

Eighth, the contemporary capitalist system, pioneered by the United States, has proven to be an impediment to the implementation of the Sharī'ah, and hence, true justice, in the contemporary Arab world. Since the disappearance of the Soviet system and the beginning of the New World Order, the capitalist system has found a new international enemy in Islamic resurgence and the Muslim world. The capitalist system does not care in principle about the essential rights of human beings; all it cares about is the national interest of this or that state.

Ninth, democracy and nationalism have been intertwined since the appearance of the modern nation-state in Western Europe. However, the nation represents or reflects the aspirations of a limited political and social community, whereas the ummah reflects the aspirations of the larger or more universal Islamic community. Furthermore, democracy, although guaranteeing free elections and rights of citizenry, has failed to express the spiritual and intellectual quest of man. In the absence of the Islamic political system, argues Ghannūshī, the Western political system that has developed over many centuries is the best man-produced system to which Muslims must aspire in their struggle to establish their Islamic state, "a partial or loose freedom is always better than dictatorship."[85]

Tenth, religion preceded state in Islam, that is, religion was the *raison d'être* of political authority, especially during the reign of the Rightly Guided caliphs, before Islam became a complex multiglot and multi-religious empire. However, with the evolution of the state in the post-Ummayyad phase and the increasing ethnic and social pluralization of society as time progressed, the state became primary. In the minds of some early Ummayyad and Abbaside jurists, state was synonymous with civil society. Other jurists dissented and formed their own

associations and *awqāf* that were independent from the authority of the state. Civil society evolved in contradistinction to the state by building its autonomous associations and institutions, especially in the area of religious and educational endowments. The modern state in the Arab world began to spread its hegemony over society at large by dismantling all elements of civil Muslim society, nationalizing the religious property and other endowments and placing educational religious institutions under its control.[86] In Ghannūshī's mind, the modern state is totalitarian in principle, and hence the difficulty facing civil society is to shake off its entrenched political and military foundations.[87] In other words, despotism is identical with the origins of the modern Arab state, especially as it destroyed the religious associations of pre-modern society.[88]

The Islamic movement, aided by the teachings of the Sharīʿah, is the only movement to Ghannūshī's mind that offers a new vision of civil society. This vision is comprehensive, patriotic, international, liberationist, and Salafī in orientation.[89] Ghannūshī speaks more like a theologian or philosopher than a politician. It is extremely difficult to determine the strategy needed to achieve the lofty goals he has set for his movement. If the democratic option in the Arab world is out, what other options remain, except the resort to violence?

THOUGHTS ON *IJMĀʿ* AND EARLY ISLAMIC HISTORY

Receptive to any indication of democratic feeling that may manifest from undemocratic arteries of contemporary political systems in the Arab world, Islamists have turned their intellectual ammunition towards reconstructing the legal and religious foundations of the Islamic system they envisage. As has been mentioned earlier, to the mind of the Islamists, authority is the twin sister of religion; religion cannot be established properly unless some form of political authority stands behind it. Most contemporary Muslim jurists are agreed that both the Qur'anic text and *shūrah* represent the most essential foundations of the Islamic state. The text is the embodiment of justice and the *shūrah* is the mechanism to preserve this justice.

Islamists' quest for a just Islamic order (both religious and political) in the modern world has taken them back to early Islam, and the role of the *shūrah* in the famous Saqifah meeting to elect a leader after the death of the Prophet (632 CE). The *ijmāʿ* (consensus) of the meeting leaders was to elect Abū Bakr as the first caliph after the Prophet, an *ijmāʿ* that gained the wrath of future Shī'is, who saw that ʿAlī was more suitable for the job. To many Shīʿis, the Sunni *ijmāʿ* and the events following from the election of Abū Bakr represent only one version of Islamic history. In fact, to some, the triumph of the Islamic revolution in Iran in 1979 is proof that the Shīʿī version of Islamic history is the most credible, since it has been the most impressive revolutionary event in the history of modern Islam. Although the doctrine of *ijmāʿ* played a central role in spreading the Prophet's message after his death, as ʿAllāl al-Fāsī argues,[90] most contemporary Islamist jurists speak ill of Islamic history since the death of the fourth caliph, ʿAlī bin Abī Tālib. By raising this point, I share one of the main theses of Samir Amin, who argues that most modern Islamists think of Islamic history of the past fourteen

hundred years as little more than the history of the betrayal of Islamic principles and ideals.[91]

Ghannūshī addresses why things shifted from the sublime principles of Islam, especially that of the *shūrah*. He notes change even during the reign of the Rightly Guided caliphs, especially Othman and ʻAlī, the last two. The dramatic expansion of the early Islamic state, and the conquest of new civilizational centers in Persia and North Africa ushered the nascent Islamic state into a complex new phase that was too much for its founders to handle. The main victim of this was the *shūrah* strategy that led overnight to a new form of dictatorship and usurpation of power from the ummah and its representatives, the people of *Ḥall and ʻAqd* (consultative assembly).[92] The overseers of the institutional caliphate were swept by dictatorship. Sayyid Quṭb calls this period *al-fiṣām al-nakid* (bitter schizophrenia).[93] The usurpation of power is set in a dichotomous process, between the political elite and the religious class. The Muslim world today still suffers from it. The religious class, for fear of losing Islam, tended to be more conservative and less innovative in matters of religious thought and theology.[94]

TOWARD AN ISLAMIC POLITICAL SYSTEM

A great deal of Muslim intellectual focus has gone to the necessity of reestablishing an Islamic political system after the historical demise of the Ottoman caliphate in the wake of the triumph of Kemal Atatürk's brand of nationalism in Turkey. Muslim parties, such as the Ḥizb al-Taḥrīr established by Taqiy al-Dīn al-Nabahānī, and the Muslim Brotherhood movement fought relentlessly with other distinguished Muslim thinkers to justify reestablishing the caliphate. To all Muslim jurists, from ʻAbd al-Qādir ʻAwda to Ḥasan al-Banna and Muḥammad Abū Zahra, establishing the caliphate as a religio-political institution is a religious duty similar to that of jihad or prayer, and the failure to do so is an "undisputed sin."[95] These attempts have come to naught. Modern Islamic political thinking, radical or conservative, does not contemplate the state becoming some sort of classless society, as Lenin envisioned in some of his writings. Most Muslim thinkers consider the state a precursor to the flourishing of religion on earth.

In the mind of famous Egyptian jurist ʻAbd al-Razzāq al-Sanhūrī,[96] the Imāmate, that is, the political leadership of the Muslim ummah, is a religious obligation and the Imām must be elected by the populace. Ghannūshī sees this has been impossible to realize in modern times because of the strong alliance between the political dictatorship in the Arab world and "the remnants of political and religious feudalism."[97] The Imāmate, although based on divine sources, is a civil form of authority that derives legitimacy from the peoples' freely given acceptance. Ghannūshī is, no doubt, uneasy about the cooperation between a significant sector of the ulama, the official ulama, and the ruling power elite, and the attack both have launched against any other interpretation of Islam in the modern age. At the very least, the ulama must engage in peaceful *jihād* against oppressive rulers in the modern Arab world.

It is true that the Muslim community is legally-bound to disobey that ruler if he does not apply explicitly the rules of the Sharīʻah. But do not most Arab rulers

claim they apply the Sharīʻah? Ghannūshī notes that the doctrine of obeying tyrant rulers for fear of anarchy is groundless in Islamic law, since the ruler must act as the servant of the community and fulfill its wishes by applying Sharīʻah. Muslims have the right to rebel against any ruler who has suspended Sharīʻah and placed the destiny of the ummah in the hands of foreigners. Most rulers in the Arab world seem to qualify.

CONCLUSION

The critical writings of contemporary Islamists are more than a mere exercise in intellectual futility. They are bitter, piercing, passionate, and revolutionary. Ghannūshī's bitterness with things un-Islamic is reminiscent of Muḥammad ʻAbduh in the nineteenth century. Decline and stagnation have suspended Muslim reason and spread many unwanted mental and psychological diseases. If Islam was a giant advance that transcended the unacceptable in Arabia, the "garbage of our decline" (*mazābil inḥītātīna*) has accumulated over the past centuries.[98] Against this background, it is impossible for the committed Muslim intelligentsia to do its work in peace. Perhaps suffering both imprisonment and exile will become the only alternative to this debilitating and confusing state of affairs. Ghannūshī's *magnum opus*, *al-Ḥuriyyāt al-ʻāmmah fī'l dawlah al-islāmiyyah*, is a product of both revolution and exile. It is reminiscent of Antonio Gramsci's classic, *Prison Notebooks*. Of course, there are some unbridgeable differences between Gramsci's thought and Ghannūshī's. However, both are preoccupied with similar problematics: state, hegemony, and the best means of establishing civil society.[99] Gramsci suffered imprisonment and death for his ideas, and Ghannūshī has suffered imprisonment and exile. Ghannūshī summarizes succinctly the imagining of the contemporary Islamist intelligentsia, an intelligentsia that was nurtured and bred in secular schools and philosophies of the West, but which rebelled against the West's preordained categories of thought.

Ghannūshī represents a new type of pious Muslim intellectual who envisions a new political community free from repression and injustice. He also envisions a new political community unsupported by a corrupt and feudal-minded religious class. It is paradoxical to note that the resurgence of Islamic activism after 1967 gave the corrupt religious class of the ulama a new legitimacy and role to play by the waning nationalist state. In the age of the nationalist triumph, the state tried to minimize, control, and bypass the authority of the ecceliastical class. After 1967, this class became the spokespersons of religious and political order and the self-proclaimed enemy of terrorism in society. The alliance between the official religious class and the ruling elite in Ghannūshī's native land is as strong as ever. In a sense, this alliance has postponed the fate of Ghannūshī's movement for a long while.

It is important to point out that contemporary Arab intelligentsia is torn between two different worldviews. The Westernized intellectual elite have lost their real affinity and connection with the masses, erected new barriers by aligning with the ruling class, "it is barely different, in its connection with the masses, from the white minority in Apartheid South Africa."[100] The depth of the crisis in contemporary

Arab society is not philosophical or epistemological, or even intellectual, but rather social and historical. The crisis is compounded by the fact that the traditional ulama class has forsaken its position of mediation between the ruling elite and the masses. One must understand mediation as the sustenance of a certain form of relationship between the masses and the power elite, where the latter is placed in a position to listen to the complaints of the former. The new intellectual elite, educated in the West and who prey on its rationalism, have found themselves totally disconnected from the agonies and complaints of the masses. Their alliance with the ruling elite has further cut it off from its indigenous society. "The disintegration of our civilizational personality"[101] (*inḥilāl shakhṣiyatunah al-ḥadāriyyah*) has been made possible by the confluence of international and local factors, all of which reinforce the need of the Arab world for a true democracy. Violence is what distinguishes the contemporary Arab state in relation to society, argues Ghannūshī. Through the medium of modernization and the philosophy of modernity, the ruling elite is unrelenting in superimposing its vision on the rest of society. Meanwhile, the West nourishes its allies in the Arab world with the philosophy of modernity, just another form of Western dictatorship imposed on the Arab world.[102]

In addition to suffering imprisonment and exile, Ghannūshī has been attacked by a number of Muslim groups, especially in Britain, his country of exile. Some members of the Taḥṛirī and Salafī groups have accused him of harboring "Western concepts that are alien to Islam, such as democracy and public liberties, for whose benefit he seeks to alter Islam's concepts claiming they are flexible and capable of modifying whenever we want depending on our interests or according to our own reasoning."[103] Contemporary Islamists are highly suspicious of the ruling political elite and their modernization/Westernization project. In their struggle against the prevalent Western legal language in the Arab world, they propose the establishment of the Sharī'ah and following the ultimate authority of the Qur'an and Sunnah,

> the discourse used Muslim vocabulary and terminology and insisted on the right to be different or at least distinctive. Instead of "natural law" it was "God's deputyship"; instead of "human rights" it was 'the legitimate rights stipulated by the Sharī'ah'; instead of "democracy" it was *shūrah*, or "consultation"; instead of "parliament" it was *ahl al-ḥall wa-l-'aqd* (the body of influential people).[104]

Some contemporary Islamists have learned the hard way that attacking society without providing legal or religious alternatives is far from enough. A serious attempt has been made to deal with the Sharī'ah, Fiqh, Islamic history, Islamic political theory, and modern conditions in order to avoid the mistakes of Islamists in the 1950s and 1960s.[105] Although this discourse has appealed to a good number of educated Muslims, it has not yet done much to change the political situation in the Arab world.