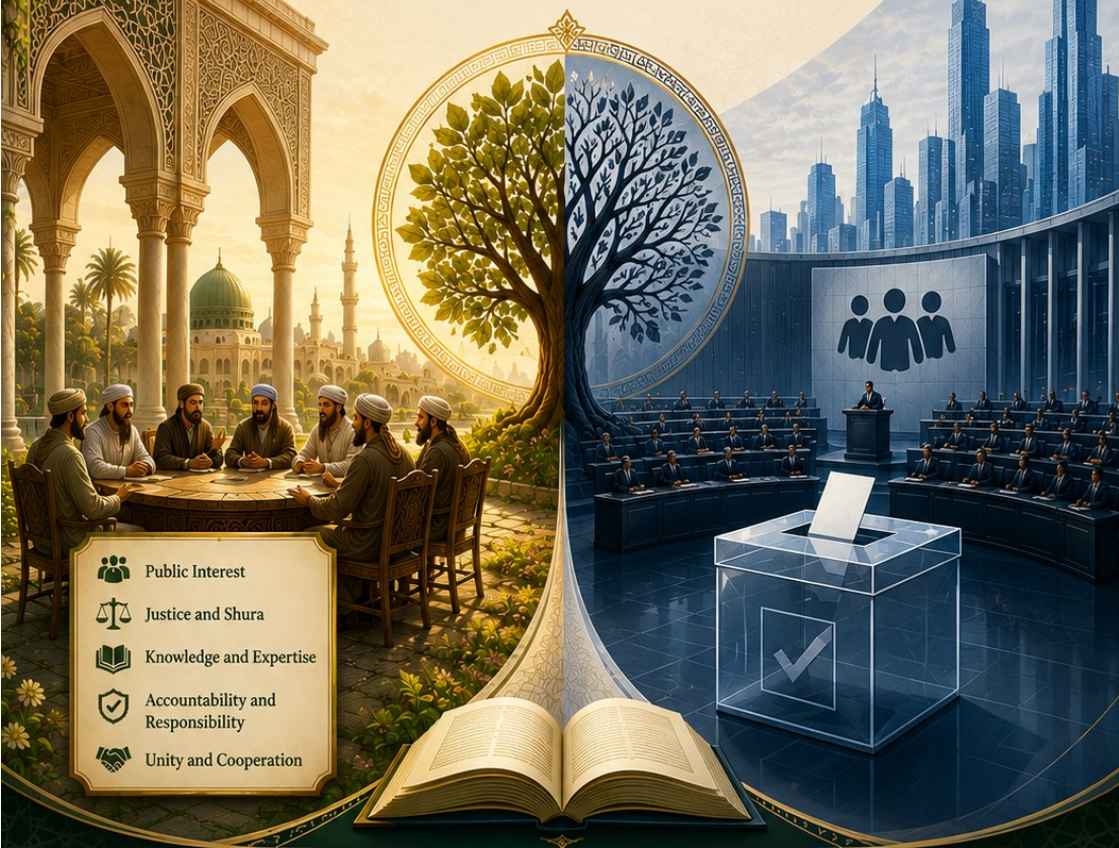




# CONSULTATION BEFORE DEMOCRACY

A COMPARATIVE STUDY IN POLITICAL THOUGHT  
AND THEORY AND APPLICATION



Public Interest



Justice and Shura



Knowledge and Expertise



Accountability and  
Responsibility



Unity and Cooperation

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## Abstract

This study examines the principle of “Shura Before Democracy” through a comparative analytical approach aimed at identifying the intellectual and constitutional foundations of *Shura* in Islamic political philosophy and comparing them with democracy, constitutional monarchy, and parliamentary systems. It explores the points of convergence and divergence among these models while assessing the extent to which *Shura* can provide a comprehensive political and constitutional theory capable of meeting the requirements of the modern state. The study adopts comparative analysis as a means of understanding the nature of each system, the foundations of its legitimacy, the source of its authority, the mechanisms governing the exercise of power, and the limits imposed upon it, ultimately evaluating the place of *Shura* within contemporary constitutional thought.

The first chapter examines *Shura* in Islamic political philosophy by defining its concept and identifying its foundations in the Qur'an and the Sunnah, as well as its practical application during the era of the Rightly Guided Caliphs. It then analyzes the principal foundations of Islamic political philosophy, including the concept of political authority, the source of legitimacy, the pledge of allegiance (*Bay'ah*), the relationship between the ruler and the community (*Ummah*), and the objectives pursued by the Islamic system of governance. The chapter concludes by identifying the constitutional principles derived from *Shura*, including justice, equality, the supremacy of Islamic law (*Sharia*), accountability, responsibility, and the protection of rights and freedoms.

The second chapter presents a comparative study of *Shura* and democracy. It begins by examining the historical origins, development, and fundamental principles of democracy before comparing the two systems with regard to political participation, the selection of the ruler, oversight, accountability, and the transfer of power. It further analyzes their differences concerning the source of sovereignty, the source of legislation, the limits of majority rule, religious authority, and the concept of rights and freedoms. The chapter concludes by evaluating whether *Shura* precedes democracy from historical, intellectual, and institutional perspectives.

The third chapter explores the relationship between *Shura* and modern constitutional systems through a comparative analysis of *Shura* and constitutional monarchy with respect to the nature of political authority, the constitutional position of the head of state, legitimacy, and the limits of governmental powers. It also examines the similarities and differences between *Shura* and parliamentary systems regarding the organization of the legislative and executive branches, political responsibility, parliamentary oversight, and the separation of powers, drawing upon a number of comparative constitutional models.

The fourth chapter investigates the possibility of constructing a contemporary constitutional theory founded upon *Shura*. It identifies the constitutional principles capable of supporting a modern system of government that reconciles authenticity with modernity, examines the limits of compatibility between *Shura* and democracy, and proposes a constitutional framework that clarifies the place of *Shura* within the organization of the state, the structure of government, the relationship

among the branches of power, the mechanisms for selecting the ruler, the guarantees of constitutional oversight, and the protection of rights and freedoms. In doing so, it seeks to demonstrate that *Shura* constitutes a constitutional framework capable of development and practical application within the contemporary state.

## Introduction

The organization of political authority and the determination of the source of its legitimacy have long been among the oldest questions confronting human thought. Throughout history, civilizations and philosophical traditions have sought to establish frameworks capable of achieving justice, safeguarding rights, ensuring stability, and regulating the relationship between rulers and the governed. This historical development has produced a variety of systems of government, among which democracy, constitutional monarchy, and parliamentary government have emerged as the dominant institutional models in most contemporary states and as principal reference points in modern constitutional and political thought.

In contrast, Islamic political philosophy has developed a comprehensive conception of political authority founded upon the principle of *Shura*, which constitutes one of the fundamental pillars of governance in Islam. The Qur'an affirms this principle in several passages and identifies it as a defining characteristic of the believing community. The Prophet Muhammad (peace be upon him) implemented it in both political and administrative practice, and the Rightly Guided Caliphs continued to apply it in the administration of public affairs. *Shura* was therefore not merely an ethical recommendation; rather, it represented a fundamental principle of governance and a mechanism for regulating the exercise of political authority by linking it to responsibility and by involving those possessing knowledge, expertise, and sound judgment in the decision-making process. In this way, it serves to promote justice, protect the public interest, and prevent arbitrary rule.

The significance of *Shura* extends beyond its historical and religious dimensions to encompass its broader civilizational and practical relevance. The principles upon which it is founded—consultation, participation, accountability, responsibility, and respect for the public interest—remain among the essential values underlying sound systems of governance, regardless of differences in constitutional structures or institutional procedures. Consequently, *Shura* has retained a prominent place within Islamic political thought throughout history and has attracted increasing attention in contemporary constitutional and political scholarship seeking models of governance capable of reconciling authenticity with effectiveness, and religious principles with the requirements of the modern state.

Nevertheless, the concept of *Shura* has remained the subject of considerable debate in contemporary political thought. Some scholars have regarded it as the Islamic equivalent of democracy, while others have argued that the two systems are fundamentally distinct, each resting upon a different philosophical foundation that precludes meaningful convergence. This divergence has given rise to numerous comparative studies that have focused primarily on their apparent similarities and differences without examining in sufficient depth the philosophical and constitutional foundations upon which each system is based or the historical context in which it developed. As a result, there is a need to re-examine *Shura* as a comprehensive political theory rather than merely as a concept to be assessed according to its degree of similarity to, or divergence from, democracy.

# **Chapter One: Shura and Islamic Political Philosophy**

## **1. The Concept of Shura and Its Foundations in Islamic Law**

Shura (consultation) is one of the fundamental principles upon which the Islamic political system is founded. It constitutes a central pillar governing the relationship between political authority and the Muslim community (Ummah), while guiding the decision-making process in a manner that serves the public interest. In the Islamic sources, Shura is not presented as an incidental political procedure or a temporary mechanism for managing particular affairs; rather, it is established as a comprehensive governing principle for the exercise of authority. It affirms that sound judgment is achieved through consultation and that the realization of justice and the protection of society's interests require recourse to those distinguished by knowledge, expertise, and sound judgment.

Linguistically, *Shura* denotes the process of eliciting and expressing opinions through consultation and deliberation. In its technical sense, it refers to the process of exchanging views among qualified individuals and experts with the aim of reaching the opinion that is most consistent with truth and most conducive to the public good, within the framework of the principles and objectives of Islamic law (*Sharia*). Shura is founded upon the values of responsibility, trustworthiness, and competence. Its purpose is not merely to collect opinions or to adopt the view of the majority for its own sake; rather, it seeks to arrive at the decision that best

promotes justice and the public interest while remaining consistent with the rulings and higher objectives (*Maqasid*) of the Sharia.

The Qur'an establishes the principle of Shura in more than one passage, describing it as one of the defining characteristics of the believing community. Allah, the Exalted, states: "And whose affairs are conducted by mutual consultation among themselves" (Qur'an 42:38). This verse demonstrates that consultation is not simply an organizational option but an essential characteristic of the Muslim community in the management of its public affairs. Likewise, Allah addressed the Prophet Muhammad (peace be upon him), saying:

"So by mercy from Allah, you were gentle with them. Had you been harsh and hard-hearted, they would have dispersed from around you. Therefore pardon them, ask forgiveness for them, and consult them in matters [of public concern]." (Qur'an 3:159)

Although the Prophet (peace be upon him) was guided by divine revelation, Allah nevertheless commanded him to consult his companions. This command underscores the significance of Shura, firmly establishes it as a permanent principle for the Muslim community, and teaches subsequent rulers that public affairs should be administered through consultation rather than unilateral decision-making.

The Prophetic Sunnah further reinforced this principle through practical application before theoretical elaboration. The Prophet (peace be upon him) consistently consulted his companions on matters concerning which no revelation had been received,

particularly in military affairs, administration, and issues affecting the public interest. During the Battle of Badr, he accepted the opinion of Al-Hubab ibn al-Mundhir (may Allah be pleased with him) regarding the selection of the battlefield. At the Battle of Uhud, he adopted the view of the majority of his companions to confront the Quraysh outside Madinah, despite his initial preference to remain within the city. He likewise consulted them during the Battle of the Trench, concerning the Incident of the Slander (*Hadith al-Ifk*), during the negotiations leading to the Treaty of Hudaibiyyah, and on numerous other occasions that demonstrate Shura as a consistent method of governing rather than an exceptional practice. Abu Hurairah (may Allah be pleased with him) narrated: "I have never seen anyone who consulted his companions more frequently than the Messenger of Allah (peace be upon him)." This statement reflects the central practical role that consultation occupied in the Prophet's leadership.

Following the Prophet's death, the Rightly Guided Caliphs continued to strengthen and institutionalize this principle. Abu Bakr al-Siddiq (may Allah be pleased with him) regularly convened the leading Companions to deliberate on major public matters and extraordinary circumstances, refraining from making unilateral decisions regarding the affairs of the Ummah. This was evident in his consultation concerning the campaigns against those who refused to pay Zakat and the compilation of the Qur'an. Umar ibn al-Khattab (may Allah be pleased with him) followed the same approach by establishing a council composed of senior Companions and distinguished advisors to whom he referred significant matters of state. He is famously reported to have said: "There is no good in a matter decided without consultation." He also arranged for the

selection of his successor through a consultative council consisting of six eminent Companions, thereby seeking to establish a collective mechanism for choosing the leader of the Muslim community.

Uthman ibn Affan and Ali ibn Abi Talib (may Allah be pleased with them both) likewise continued to regard Shura as the principal foundation for governing the state and making public decisions, notwithstanding the differing political circumstances that characterized their respective caliphates. The experience of the Rightly Guided Caliphs demonstrates that Shura was not merely a theoretical ideal; rather, it evolved into an institutional practice that significantly influenced the administration of the Islamic state. It reinforced the principles of participation, shared responsibility, and reliance upon individuals possessing knowledge and expertise, thereby promoting the public interest and strengthening the legitimacy of governmental decisions.

Both the revealed texts and their historical implementation clearly demonstrate that Shura is far more than a procedural mechanism for decision-making. Rather, it constitutes a fundamental constitutional principle within Islamic political philosophy. It is founded upon the participation of qualified and competent individuals in the management of public affairs, balancing the authority of the ruler with accountability and responsibility, while making justice and the public interest the ultimate objectives of governance. For this reason, Shura occupies a central position in the development of Islamic political theory and has become one of the principal foundations upon which classical Islamic constitutional and political jurisprudence has organized the concepts of government and state administration.

## **2. Islamic Political Philosophy**

Islamic political philosophy presents a comprehensive conception of political authority and the state, founded on the premise that governance is neither an end in itself nor a privilege granted to those who hold power. Rather, it is a public function and a legal and moral trust (*amanah*) entrusted to the ruler for the purpose of establishing justice, safeguarding the public interest, maintaining public order, protecting rights, and realizing the higher objectives (*Maqasid*) of the Sharia. Accordingly, Islamic political thought does not regard political authority as the personal entitlement of the ruler or the exclusive possession of a particular class or group. Instead, it views authority as a responsibility grounded in duty and accountability, subject to a comprehensive set of legal and ethical principles that define both its objectives and its limits.

Within this framework, the legitimacy of political authority in Islamic political thought rests upon a dual foundation: adherence to the principles of the Sharia and the acceptance of the community (*Ummah*) of the individual entrusted with the administration of its affairs. The Sharia constitutes the supreme normative framework from which the state derives its fundamental legal principles, while the Ummah confers authority upon the ruler through legitimate means that reflect its consent and choice. Consequently, political legitimacy cannot be established merely through the acquisition of power or the possession of coercive force. Rather, it depends upon fidelity to the Sharia, the realization of justice, and the faithful discharge of the responsibilities entrusted to the holder of public authority.

One of the most significant mechanisms embodying this concept is the *Bay'ah* (pledge of allegiance). The Bay'ah is not merely a ceremonial procedure marking accession to office; rather, it constitutes a legal and ethical covenant founded upon mutual consent and reciprocal obligations between the ruler and the Ummah. Through this covenant, the ruler undertakes to uphold the principles of Islam, establish justice, protect rights, and safeguard the welfare of the people, while the community commits itself to obedience in lawful matters, respect for public order, and cooperation in advancing the common good. In this sense, the Bay'ah represents a relationship of reciprocal responsibility rather than one of unconditional submission or unrestricted delegation of authority.

Islamic political philosophy also establishes a balanced relationship between the ruler and the Ummah based upon the principle of reciprocal rights and obligations. The community is not reduced to a passive object of political authority, nor is the ruler regarded as the absolute source of that authority. Rather, the ruler is entrusted with administering public affairs in accordance with the principles of the Sharia and in pursuit of the people's welfare. He remains accountable before Allah for the exercise of his authority and bears both political and moral responsibility toward the Ummah. At the same time, the Ummah constitutes the institutional and social framework within which political authority performs its functions and serves as an active partner in promoting the public good. The relationship between the two is therefore founded upon cooperation, sincere counsel (*Nasihah*), and shared responsibility, thereby ensuring the stability of the state and the realization of its fundamental objectives.

Islamic political philosophy extends beyond regulating the relationship between ruler and ruled to defining the very purpose for which political authority exists. Governance in Islam is not an independent objective but rather an instrument for achieving a number of higher purposes, foremost among them the establishment of justice, the preservation of religion, the protection of life, the safeguarding of property, the preservation of human dignity, the maintenance of security and public order, the promotion of equality and compassion, and the advancement of society's collective welfare. Consequently, the legitimacy of political authority is measured by its capacity to realize these objectives rather than by its mere continuity in power or its ability to retain the instruments of coercion.

These principles demonstrate that Islamic political philosophy is fundamentally a normative philosophy integrating both ethical values and institutional structures. It subjects political authority to the objectives it is intended to serve and links its legitimacy to the realization of justice and the public interest. This distinctive feature sets it apart from many political theories that derive legitimacy primarily from historical, sociological, or purely contractual foundations. At the same time, this conception illustrates that governance in Islam cannot be separated from an integrated moral and legal framework that places the individual, society, and justice at the center of political authority, thereby offering a political vision that extends beyond the mere organization of state institutions to the realization of the higher purposes for which the state itself exists.

### **3. Constitutional Principles Derived from *Shura***

In Islam, *Shura* extends far beyond serving as a mechanism for consultation or a procedural method of decision-making. Rather, it constitutes the foundation of a comprehensive set of constitutional principles governing the organization and exercise of political authority. *Shura* is not an end in itself but a normative and institutional framework whose influence permeates every component of the political system. It establishes the principles that define the nature of government, regulate the relationship between political authority and society, and direct the institutions of the state toward the realization of the public interest. Accordingly, the constitutional significance of *Shura* is measured not merely by its existence as a consultative procedure but by the legal principles and institutional safeguards it generates to regulate the exercise of authority and prevent its deviation from the objectives for which it exists.

Foremost among these principles is justice, which represents the central objective underlying all rules relating to governance and public administration in Islam. Political authority derives its legitimacy not simply from its existence but from its ability to establish justice among the people, prevent oppression, protect rights, and ensure that every individual receives his or her due without discrimination or favoritism. For this reason, the concept of good governance in Islamic jurisprudence has traditionally been inseparable from the realization of justice, regarded as the essential foundation upon which social stability, public

confidence, and the proper functioning of state institutions depend.

Closely connected to justice is the principle of equality, which constitutes one of the fundamental pillars of Islamic political philosophy. The underlying premise is that all human beings possess equal inherent dignity and are equal before the general rules governing society. Discrimination based on lineage, race, wealth, or social status is therefore inconsistent with this principle. Equality is reflected in the reciprocal allocation of rights and obligations and in the subjection of all individuals—including those exercising political authority—to the same legal framework. This reinforces the notion that public office does not confer legal privilege or exempt its holder from the requirements of justice or the rule of law.

Another constitutional principle derived from Shura is the supremacy of the Sharia, which serves as the highest normative authority governing the actions of the state and defining the limits of its powers. Islamic political philosophy does not regard human will as the ultimate source of legislation; rather, it operates within the comprehensive principles and general rulings established by the Sharia. Consequently, state institutions exercise their constitutional functions within this normative framework, thereby ensuring that political authority remains consistent with the legal and ethical foundations of the Islamic political order and preventing the exercise of arbitrary or unlimited power.

Shura likewise establishes the principle of accountability and responsibility. In the Islamic conception of governance, the exercise of political authority is

inseparable from responsibility for its proper administration. The ruler and all public officials are accountable for the faithful performance of their duties and for advancing the public interests entrusted to them. The exercise of authority is therefore accompanied by accountability before Allah, as well as political and moral accountability before the Ummah. This dual system of responsibility reinforces the principle that no public official is immune from accountability and affirms that the exercise of public office constitutes a trust (*amanah*) rather than a privilege.

Collectively, these principles affirm the protection of rights and freedoms as one of the primary objectives of government. The purpose of political authority in Islam is not confined to maintaining public order or administering the affairs of the state; it also encompasses the preservation of human dignity, the protection of fundamental rights, and the safeguarding of legitimate freedoms within the framework of public order and the principles of the Sharia. Accordingly, the protection of rights and freedoms emerges as a natural consequence of the constitutional principles upon which Shura is founded. Justice, equality, the supremacy of the Sharia, and accountability together constitute a system of guarantees designed to prevent the abuse of political authority while ensuring respect for the individual as the central concern of the political order and one of the principal purposes for which the state exists.

It follows that Shura is far more than a procedural mechanism for organizing decision-making. Rather, it provides the constitutional foundation for an integrated system of governing principles. These principles operate in harmony to establish a coherent theoretical framework that directs the exercise of political authority

toward the realization of justice, the protection of rights, the subjection of government to accountability, and its adherence to a supreme legal and ethical authority. In this way, Shura acquires a constitutional dimension that extends well beyond consultation itself, forming the basis of a comprehensive philosophy of constitutional governance and good government in Islam.

## **Chapter Two: Shura and Democracy**

### **1. Democracy: Origins and Historical Development**

Democracy has emerged as one of the most influential concepts in modern political and constitutional thought. It has become the principal framework upon which the majority of contemporary political systems organize the exercise of public authority, define the relationship between the state and society, and confer legitimacy upon government. Despite its widespread use in political and legal discourse, democracy does not represent a single, fixed model. Rather, it is a concept that has evolved over many centuries, shaped by profound intellectual, social, and economic transformations. As a result, democracy has come to denote a comprehensive system of principles, institutions, and mechanisms governing the exercise and transfer of political power.

Etymologically, the term *democracy* derives from the Greek words *demos* (the people) and *kratos* (power or rule), literally meaning "rule by the people." In political theory, democracy refers to a system in which political authority is vested in the people, who constitute the ultimate source of political legitimacy. This authority may be exercised either directly by citizens themselves or indirectly through freely elected representatives chosen in accordance with established electoral procedures. Democracy therefore extends beyond the mere conduct of elections; it encompasses a comprehensive framework of constitutional principles and institutional arrangements designed to facilitate public participation in political life, regulate the exercise of governmental

authority, and establish safeguards against the abuse of power.

The historical origins of democracy are generally traced to the ancient Greek city-states, particularly Athens during the fifth century BCE, where the earliest form of direct democracy emerged. Under this system, citizens participated personally in public decision-making through popular assemblies. However, this early democratic model was limited in scope, as political participation was confined to a relatively small segment of the population while excluding women, slaves, and foreigners. Following the decline of Greek civilization, democratic institutions largely disappeared for many centuries before gradually re-emerging during the European Renaissance and subsequently the Enlightenment. During this period, influential political theories concerning the social contract, natural rights, popular sovereignty, and the separation of powers were developed by prominent philosophers and political thinkers. These ideas profoundly influenced constitutional developments, particularly during the American and French Revolutions, and laid the intellectual foundations for modern constitutional government.

Throughout the nineteenth and twentieth centuries, democracy underwent significant transformation. Its development was no longer limited to expanding political participation but extended to strengthening fundamental rights and public freedoms, reinforcing judicial independence, promoting political pluralism, protecting the rights of minorities, and consolidating the rule of law. Consequently, the contemporary understanding of democracy has become inseparable from a comprehensive framework of constitutional and

institutional guarantees designed to ensure that political authority is exercised within the limits of law while preventing its monopolization or abuse.

As democracy evolved, several institutional forms emerged, reflecting different methods through which the people exercise political authority. Direct democracy enables citizens to participate personally in making public decisions without the mediation of elected representatives. Although historically significant, this model has become largely impractical in modern states because of large populations and the increasing complexity of governmental functions. Representative democracy, by contrast, has become the predominant model in contemporary constitutional systems. Under this arrangement, the people exercise their sovereign authority through elected legislatures or representative bodies entrusted with legislative, supervisory, and public policy functions. A third model, semi-direct democracy, combines elements of both systems by allowing citizens to elect representatives while also enabling direct participation in certain public matters through constitutional mechanisms such as referendums, popular initiatives, and, in some jurisdictions, procedures for the recall of elected officials.

Contemporary democracy rests upon a number of fundamental constitutional principles that define its legal and political character. Foremost among these is the principle of popular sovereignty, according to which political authority ultimately derives from the people. Democracy also requires political pluralism, ensuring freedom to establish political parties and to compete through the open exchange of political ideas. Free and fair elections serve as the primary mechanism for selecting public officials, while the separation of powers

prevents the excessive concentration of governmental authority in a single institution. Equally essential are the rule of law, which subjects both public authorities and private individuals to the law, and judicial independence, which guarantees the protection of rights and the impartial resolution of disputes. These institutional foundations are complemented by the constitutional protection of fundamental rights and freedoms, including freedom of opinion and expression, freedom of association and organization, political participation, and equality before the law.

It follows that democracy can no longer be understood merely as a mechanism for selecting rulers. Rather, it has developed into a comprehensive political philosophy and constitutional system founded upon a coherent set of principles, institutions, and legal guarantees intended to regulate the exercise of political authority, promote meaningful political participation, protect fundamental rights and freedoms, and ensure that the state remains subject to the rule of law. Its historical evolution further demonstrates its capacity to adapt to changing political and social conditions, explaining the diversity of democratic models across constitutional systems while preserving the core principles that continue to define contemporary democratic governance.

## **2. Areas of Convergence Between *Shura* and Democracy**

Although *Shura* and democracy differ fundamentally in their philosophical foundations and normative sources, this does not preclude the existence of a number of shared constitutional and political principles. Both systems seek to regulate the exercise of political

authority, prevent the concentration of power in the hands of a single individual or institution, and establish mechanisms through which society participates in the management of public affairs. While they employ different methods and operate within distinct legal and philosophical frameworks, an objective comparative analysis requires distinguishing between areas of convergence in their general principles and the fundamental differences in the intellectual and constitutional foundations upon which each system is built.

Among the principal areas of convergence are the following:

- **Political Participation**

Both *Shura* and democracy reject the monopolization of opinion and unilateral decision-making in public affairs. Under the system of *Shura*, participation is achieved by involving individuals distinguished by knowledge, expertise, competence, and sound judgment in the deliberation of public issues and the formulation of decisions that best serve the public interest. Democracy, by contrast, facilitates participation through the direct involvement of citizens or through representatives freely elected to act on their behalf. Although the scope and mechanisms of participation differ considerably between the two systems, both share the underlying principle that public decisions should not be made in isolation from the community.

- **Selection of the Ruler**

Neither system, in principle, regards political authority as an absolute personal entitlement acquired solely by an individual's own will. In Islamic political philosophy, the assumption of public authority is linked to the acceptance of the *Ummah* through legitimate means recognized by the legal tradition. In democratic systems, the selection of rulers is based upon the popular will as expressed through free and fair elections. Accordingly, both systems recognize that the exercise of political authority requires a legitimate foundation, even though they differ regarding the nature of that legitimacy and the constitutional principles governing its establishment.

- **Oversight of Political Authority**

Both systems acknowledge that political authority may deviate from its proper objectives in the absence of effective mechanisms of accountability and oversight. Within *Shura*, oversight is exercised through sincere counsel (*Nasihah*), the expression of informed opinion, the evaluation of governmental performance, and the Islamic principle of enjoining what is right and forbidding what is wrong, all within the limits prescribed by the Sharia. Democratic systems, on the other hand, rely upon an institutional framework that includes parliamentary oversight, judicial review, an independent media, and scrutiny exercised by public opinion. Despite these differing mechanisms, both systems pursue the common objective of preventing the abuse of political power

and ensuring that governmental authority remains directed toward the public interest.

- **The Principle of Responsibility**

Neither *Shura* nor democracy regards political authority as an unrestricted privilege devoid of corresponding obligations. Under the system of *Shura*, the ruler bears responsibility for governing the affairs of the community faithfully, establishing justice, and fulfilling the trust entrusted to him. Likewise, officials within democratic systems are subject to political and legal accountability for the exercise of their public functions and may be held responsible or removed from office through constitutional and legal procedures. This shared principle reflects the common understanding that authority is inseparable from responsibility and that political legitimacy necessarily requires the possibility of holding public officials accountable for their conduct.

- **Transfer of Political Authority**

The two systems also converge in rejecting the permanent monopolization of political power, although they differ significantly regarding the mechanisms through which leadership is transferred. The tradition of *Shura* does not recognize political authority as a perpetual entitlement vested in a particular individual and historically witnessed several legitimate methods through which leadership passed from one ruler to another, reflecting the circumstances of different historical periods. Democracy, by contrast, regards the regular and peaceful transfer of power as one of its defining characteristics, achieved principally through periodic elections and constitutionally prescribed

procedures of succession. Thus, while both systems recognize the principle that political authority should not remain permanently vested in a single individual, they differ substantially regarding the constitutional mechanisms governing its transfer.

These observations demonstrate that *Shura* and democracy converge on several general constitutional principles relating to the organization of political authority, public participation, governmental oversight, accountability, and the orderly transfer of power. Such convergence, however, should not be understood as implying identity between the two systems or equivalence in their underlying philosophies. Their similarities are confined to certain constitutional objectives and institutional functions, whereas each system remains rooted in its own distinctive intellectual tradition, normative framework, and constitutional philosophy.

### **3. Points of Divergence Between *Shura* and Democracy**

Despite the existence of several shared constitutional principles between *Shura* and democracy, the two systems are founded upon distinct political and constitutional philosophies. These differences are reflected in their respective conceptions of the source of political authority, the basis of legislation, the process of decision-making, the limits of collective will, and the nature of rights and freedoms. Consequently, similarities in certain institutional mechanisms or governmental objectives should not be understood as implying that the

two systems are identical or that one merely represents a variation of the other. Each possesses its own conception of the state, the function of political authority, and the foundation upon which governmental legitimacy rests.

The principal areas of divergence include the following:

- **Source of Sovereignty**

The most fundamental distinction concerns the location of sovereignty. In democratic theory, sovereignty resides in the people, who constitute the original source of political authority. Public institutions derive their legitimacy from the popular will, and, within the limits established by the constitution, the people possess the authority to amend the fundamental legal rules governing society. In the system of *Shura*, however, ultimate sovereignty belongs to the Sharia, which serves as the supreme normative authority. The *Ummah* exercises its role by selecting those who govern, supervising their performance, and participating in the administration of public affairs within the framework established by the Sharia. Accordingly, the collective will of the community operates within the limits of Islamic legal principles and does not constitute an autonomous or unrestricted source of authority independent of them.

- **Source of Legislation**

A closely related distinction concerns the origin of legislation and the scope of legislative authority. In democratic systems, the enactment, amendment, and repeal of laws fall within the competence of

institutions representing the popular will, provided that the constitutional procedures prescribed for legislation are observed. In the system of *Shura*, by contrast, the fundamental principles and general rules of legislation are derived from divine revelation. The role of public authority is therefore not to create legal norms independently but to exercise *ijtihad* in interpreting the revealed texts, applying them to new circumstances, and enacting regulations and administrative measures in areas where no explicit textual provision exists, provided that such measures promote the public interest without contradicting the principles and higher objectives (*Maqasid*) of the Sharia. Although the sphere of *ijtihad* within the system of *Shura* is broad and adaptable, it remains governed by the normative framework of Islamic law and does not extend to overriding or suspending its foundational principles.

- **The Limits of Majority Rule**

Another fundamental difference concerns the role assigned to majority opinion. Democracy generally regards majority rule as the principal mechanism for resolving political and legislative disagreements, while modern constitutional systems impose legal limitations to safeguard fundamental rights and constitutional values. Within the system of *Shura*, however, the determination of the most appropriate course of action is not based solely upon numerical majority. Rather, greater weight is accorded to the strength of legal reasoning, the soundness of *ijtihad*, and the judgment of individuals possessing knowledge, expertise, and professional competence. Accordingly, *Shura* does not presume that all opinions possess equal intellectual or legal value. It

distinguishes between those qualified to exercise informed judgment regarding matters affecting the public interest and those lacking the expertise necessary to evaluate such issues. The determination of the political direction of the community is therefore not based exclusively upon the numerical counting of votes but upon the preference for the opinion advanced by those possessing recognized competence and specialized knowledge, reflecting the principle that the administration of public affairs requires expertise, wisdom, and professional qualification, just as in other fields of specialized human activity.

This approach does not imply the exclusion of the broader community from participation in public affairs. Rather, it reflects the principle that public participation should operate in harmony with specialization, allowing every individual to contribute within the sphere of his or her competence while entrusting technically complex matters to those possessing the requisite scholarly and practical qualifications. Contemporary democracy, by contrast, is founded upon the principle of political equality, according to which every eligible voter possesses an equal vote in selecting representatives regardless of differences in education, expertise, or familiarity with public affairs. Consequently, *Shura* offers a more specialized conception of public decision-making by linking political authority to competence and expertise, whereas democracy assigns equal political weight to each vote despite substantial differences in knowledge, experience, and the capacity to evaluate the public interest.

- **Religious Foundation**

*Shura* forms an integral component of a comprehensive Islamic legal and moral order grounded in the Qur'an, the Prophetic Sunnah, and the higher objectives (*Maqasid*) of the Sharia. The institutions and functions of the state operate within this overarching normative framework. Democracy, on the other hand, is not inherently linked to any particular religious tradition. It may function within states possessing diverse religious identities or within constitutional systems based upon the separation of religion and the state. Its normative foundation therefore varies according to the constitutional choices and historical circumstances of each political community.

- **The Concept of Rights and Freedoms**

The two systems also differ in their understanding of rights and freedoms. Modern democratic theory generally regards fundamental rights and freedoms as inherent rights belonging to the individual, while constitutions and legislation determine the scope of their exercise and the permissible limitations upon them. In Islamic political philosophy, rights and freedoms likewise occupy a central position, but they are understood as forming part of the comprehensive legal order established by the Sharia. They exist to safeguard human dignity and promote individual and collective welfare and are exercised within the framework of the objectives and values of Islamic law. This approach seeks to maintain an equilibrium between individual liberty and the public interest, as well as between personal rights and collective responsibility.

These distinctions demonstrate that the differences between *Shura* and democracy extend far beyond procedural mechanisms and reflect fundamentally different constitutional and philosophical foundations. Democracy represents a political theory in which the popular will constitutes the central organizing principle of the constitutional order. *Shura*, by contrast, presents a constitutional conception that combines the normative authority of the Sharia, the participation of the *Ummah*, reliance upon individuals possessing knowledge and expertise in public decision-making, and the subordination of political authority to the objectives of justice and the public interest. Accordingly, *Shura* cannot be understood merely as a consultative procedure; rather, it establishes a comprehensive philosophy of governance that seeks to reconcile public participation with competence, collective will with a higher normative authority, and political power with the pursuit of justice and the common good.

## **Chapter Three: Shura and Modern Constitutional Systems**

### **1. *Shura* and Constitutional Monarchy**

Constitutional monarchy is one of the most prominent forms of contemporary government and has been adopted, in varying forms and degrees, by numerous states. Although constitutional monarchies differ significantly in their institutional arrangements, they share the defining characteristic of combining hereditary succession to the throne with the exercise of governmental authority within the framework of a constitution that allocates powers among the state's constitutional institutions. When compared with the concept of *Shura* in Islamic political philosophy, this model raises important questions concerning the nature of political authority, the constitutional position of the head of state, the basis of succession, the source of political legitimacy, and the legal limitations imposed upon the exercise of power.

Constitutional monarchy seeks to reconcile the continuity of the monarchical institution with adherence to constitutional norms. The monarch symbolizes the unity, continuity, and identity of the state, while the government and the legislature exercise a substantial portion of executive and legislative authority in accordance with constitutional provisions. The constitutional powers of the monarch vary considerably from one country to another. In some constitutional monarchies, the monarch performs predominantly ceremonial functions, whereas in others the monarch retains significant constitutional powers. Nevertheless, the common feature of all constitutional monarchies is

that political authority is exercised within a constitutional framework that defines institutional competences and regulates the relationship among the organs of the state.

The system of *Shura*, by contrast, does not prescribe a particular institutional form of government. Rather, it is primarily concerned with the principles governing the exercise of political authority. Accordingly, *Shura* neither requires nor excludes a monarchical system, provided that the governing structure adheres to the foundational principles of Islamic governance, foremost among them justice, the supremacy of the Sharia, the promotion of the public interest, and accountability in the exercise of public authority. Consequently, *Shura* is not tied to a rigid constitutional model but instead provides a normative framework capable of accommodating different institutional arrangements for the organization of political power.

The constitutional position of the head of state also differs between the two systems with respect to the basis upon which authority is exercised. In a constitutional monarchy, the monarch derives his constitutional status from the provisions of the constitution and from the hereditary rules governing succession to the throne established by the constitutional order of the state. His powers are exercised within the limits prescribed by the constitution. In Islamic political philosophy, however, the head of state holds a general public trust for the administration of the affairs of the *Ummah* and the promotion of its welfare. The legitimacy of his authority derives not merely from the office he occupies but from his commitment to the principles of the Sharia and his responsibility to establish justice, protect rights, and advance the public interest.

A further distinction arises in the relationship between the concepts of *Bay'ah* (pledge of allegiance) and hereditary succession. In constitutional monarchies, hereditary succession constitutes the primary mechanism for transferring the throne, while the constitution or the legal rules governing the royal family determine the order of succession and the conditions under which the crown passes to a successor. In the Islamic conception, however, the *Bay'ah* serves as the principal mechanism for conferring political legitimacy upon the assumption of public authority by expressing the acceptance of the *Ummah* of the individual entrusted with governing its affairs. This does not preclude certain Islamic political systems from adopting hereditary succession as a method of selecting the ruler. Nevertheless, hereditary succession alone is not regarded as sufficient to establish legitimacy within Islamic political thought. It must be accompanied by the essential conditions of legitimate governance, including the capability to discharge the responsibilities of office, adherence to the principles of the Sharia, and the effective pursuit of the interests of the community.

The two systems also differ in the constitutional foundation of political legitimacy. In constitutional monarchy, legitimacy is derived primarily from the constitution, which defines the structure of the state, allocates governmental powers, and regulates the succession to the throne. All state institutions are bound by its provisions as the supreme law of the land. Within the system of *Shura*, however, legitimacy ultimately rests upon the normative authority of the Sharia, which constitutes the primary source governing the organization and exercise of political authority. At the same time, the detailed regulation of governmental institutions and constitutional procedures may be

established through constitutions and statutory laws, provided that they remain consistent with the principles of the Sharia. Accordingly, the existence of a written constitution governing state institutions is not incompatible with the system of *Shura*, so long as that constitution remains aligned with the normative principles upon which Islamic governance is founded.

The two systems nevertheless converge in recognizing that political authority must be subject to legal limitations, although the nature of those limitations differs substantially. In constitutional monarchies, constraints upon governmental power are established through constitutional provisions, the separation of powers, judicial review, political accountability, and other institutional mechanisms designed to prevent the concentration of authority in a single individual or institution. Under the system of *Shura*, political authority is first and foremost limited by the principles and objectives (*Maqasid*) of the Sharia, together with the foundational values of justice, accountability, and the promotion of the public interest. These normative constraints may subsequently be reinforced by constitutional and legal mechanisms regulating the exercise and supervision of public authority.

It follows that *Shura* and constitutional monarchy should not necessarily be regarded as mutually incompatible constitutional models. Their comparison concerns not the external form of the state but the principles governing the exercise of political authority. Constitutional monarchy represents a particular institutional arrangement for organizing government, whereas *Shura* constitutes a constitutional philosophy and a governing principle capable of operating within a constitutional monarchy or within other constitutional

forms, provided that the exercise of political authority remains consistent with its fundamental normative principles.

## **2. *Shura* and Parliamentary Systems**

Parliamentary systems are among the most widely adopted forms of constitutional government in the contemporary world. They are characterized by cooperation and equilibrium between the legislative and executive branches, the political accountability of the government before parliament, and the peaceful transfer of political authority in accordance with constitutional procedures. When this model is compared with the principle of *Shura* in Islamic political philosophy, a number of institutional similarities become apparent, alongside fundamental differences concerning the normative framework and the constitutional foundations upon which political authority is exercised.

The parliament occupies a central position within the parliamentary system. As the elected representative body expressing the general will of the people, it is entrusted with the enactment of legislation, approval of the state budget, oversight of the executive branch, and participation in the formulation of public policy. Within the system of *Shura*, the existence of a consultative council (*Majlis al-Shura*) or a similar advisory body likewise serves to facilitate participation in the management of public affairs. Its function, however, extends beyond political representation alone. It is intended to draw upon the knowledge, expertise, and competence of qualified individuals in examining

matters of public concern and providing informed advice. Accordingly, *Shura* does not exclude the existence of a representative institution but supplements the principle of representation with the principles of expertise and professional competence, thereby linking public decision-making to the promotion of the public interest and sound judgment rather than to numerical representation alone.

With respect to the executive branch, parliamentary government entrusts the administration of the daily affairs of the state to the cabinet, whose continuation in office depends upon maintaining the confidence of parliament. The government's political survival is therefore contingent upon retaining parliamentary support. In Islamic political philosophy, the executive authority is entrusted with implementing the law, promoting the welfare of the *Ummah*, and establishing justice. Those who exercise executive authority are regarded as trustees of public office, responsible for the faithful discharge of their duties. Thus, while both systems share the objective of ensuring the sound administration of public affairs, they differ with respect to the constitutional foundations from which executive legitimacy is derived and the mechanisms through which executive authority is constituted.

One of the most significant points of convergence lies in the principle of political accountability. Parliamentary systems are founded upon the principle that the government is accountable to parliament, which may question ministers, investigate governmental conduct, and withdraw confidence from individual ministers or the government as a whole whenever parliamentary confidence has been lost. Within the system of *Shura*, accountability likewise constitutes one of the

fundamental principles of governance. The ruler and all holders of public office are answerable for the proper performance of their responsibilities and for safeguarding the interests of the *Ummah*, reflecting the understanding that public office is a trust (*amanah*) rather than a personal privilege. Consequently, both systems reject the concept of absolute and unrestricted political authority, even though they employ different constitutional mechanisms through which accountability is exercised.

Parliamentary oversight likewise represents one of the essential pillars of parliamentary government. Parliament supervises the executive through a variety of constitutional instruments, including parliamentary questions, interpellations, committees of inquiry, debates concerning public policy, and, where appropriate, votes of no confidence. Under the system of *Shura*, however, oversight is not confined to a single constitutional institution. Instead, it derives from the broader principle requiring the evaluation of governmental performance, the provision of sincere counsel, the accountability of public officials, and the prevention of abuses of political authority. Where a contemporary constitutional system inspired by Islamic principles adopts a parliamentary institution, parliamentary oversight may therefore be regarded as an effective institutional mechanism for implementing the principles of *Shura* within an organized constitutional framework.

The separation of powers also occupies a central position within parliamentary systems, although it generally assumes the form of cooperation and constitutional balance rather than rigid institutional separation. Certain governmental functions are shared between the

executive and legislative branches, while each retains its constitutional independence within the sphere of its assigned responsibilities. Islamic political philosophy, by contrast, does not prescribe a specific theory of separation of powers in the sense developed by modern constitutional scholarship. Nevertheless, it recognizes the principles of allocating governmental functions, preventing arbitrary rule, and ensuring that all who exercise public authority remain subject to legal and ethical constraints. Accordingly, there is nothing within the system of *Shura* that precludes the adoption of the separation of powers as an institutional mechanism for realizing its objectives, provided that such an arrangement remains consistent with the principles of the Sharia and contributes to the advancement of justice, the prevention of excessive concentration of political authority, and the establishment of effective checks and balances among the institutions of the state.

## **Chapter Four: The Constitutional Theory of *Shura***

### **1. *Shura* as the Foundation of a Modern Constitutional System**

*Shura* may be understood as the foundation of a comprehensive constitutional system designed to regulate the exercise of political authority, define the powers of public institutions, subject governmental action to the rule of law, safeguard fundamental rights, and promote justice. While modern constitutional systems have developed sophisticated institutional mechanisms to realize these objectives, *Shura* articulated, from its earliest formulation, a set of general constitutional principles capable of providing the normative foundation for a modern state that reconciles the enduring values of Islamic law with the institutional requirements of contemporary constitutional governance.

The first of these principles concerns the foundations of the state. Within the system of *Shura*, the state is not regarded as an end in itself but as an instrument for realizing the higher objectives (*Maqasid*) of the Sharia, including the protection of religion, life, intellect, property, and human dignity, together with the establishment of justice throughout society. Accordingly, political authority within the Islamic state is not founded upon coercion or privilege but upon public trust (*amanah*) and responsibility. Its legitimacy depends upon promoting the public interest within the framework of the Sharia while encouraging participation in public affairs, respecting competence and merit, and ensuring

that public office is entrusted to those qualified to discharge its responsibilities. In this way, *Shura* seeks to achieve an equitable balance between the rights of society as a whole and the rights of individual members of the community.

This constitutional conception naturally gives rise to the rule of law, although, within Islamic jurisprudence, the supremacy of law is fundamentally understood as the supremacy of the Sharia, which constitutes the highest normative authority to which all branches and institutions of government are subject. Both rulers and citizens stand equally before the principles of the Sharia, and no individual possesses the authority to suspend or disregard its provisions for personal or political advantage. Likewise, every public act and governmental decision must rest upon a legitimate legal foundation. This requirement serves to prevent arbitrary exercises of power and makes legal legitimacy an indispensable condition for the valid exercise of public authority. Consequently, within a constitutional order founded upon *Shura*, the rule of law is not merely a procedural principle but a substantive constitutional doctrine requiring that all persons and institutions remain subject to a supreme legal order from which no one is exempt.

*Shura* is also fully compatible with the separation of powers, even though this principle was not historically formulated in the precise doctrinal language developed by modern constitutional scholarship. At its core, *Shura* is based upon the allocation of governmental responsibilities, the prevention of excessive concentration of authority in the hands of a single individual or institution, and the establishment of mechanisms of institutional balance and reciprocal oversight among the organs of the state. The separation

of powers therefore does not conflict with the principles of *Shura*; rather, it may be understood as an effective constitutional mechanism for realizing its objectives by limiting arbitrary government, strengthening institutional accountability, and ensuring that each branch of government performs its constitutional functions independently and without encroaching upon the powers assigned to others.

The constitutional structure envisioned by *Shura* is further completed by the principle of judicial independence, which constitutes one of the most essential guarantees of justice and the rule of law. Within the Islamic legal tradition, the judiciary is regarded as an independent authority entrusted with the resolution of disputes, the protection of rights, and the impartial administration of justice free from interference by the executive or any other public authority. Islamic jurisprudence developed a range of legal safeguards designed to preserve the independence of judges and protect them from political pressure, personal influence, or arbitrary interference, recognizing that genuine justice can be achieved only through an impartial and independent judiciary. This principle naturally corresponds with the constitutional state of the modern era, in which judicial independence constitutes one of the principal foundations of constitutional legitimacy and the primary institutional safeguard for the protection of rights, fundamental freedoms, and the principle of legality.

These considerations demonstrate that *Shura* extends far beyond the simple recommendation of consultation in public decision-making. Rather, it offers a comprehensive constitutional framework capable of serving as the normative foundation of the modern state.

It establishes a constitutional order grounded in legitimacy, the rule of law, the distribution of governmental powers, judicial independence, and the subordination of political authority to responsibility, justice, and the public interest. Consequently, drawing upon the principles of *Shura* in the construction of a modern constitutional system does not require a return to rigid historical models. Instead, it involves applying its enduring constitutional principles in the development of contemporary institutions that harmonize the permanent values of Islamic law with the most advanced achievements of modern constitutional governance in organizing political authority and safeguarding fundamental rights.

## **2. A Constitutional Model Based on *Shura***

Translating *Shura* from the level of a general constitutional principle to that of practical constitutional governance requires the development of an institutional model that defines the structure of the state, the system of government, the method for selecting the head of state, the relationship among the branches of government, and the constitutional guarantees protecting rights and fundamental freedoms. Such a model does not entail the replication of any particular historical arrangement. Rather, it seeks to establish a contemporary constitutional order grounded in the principles of the Sharia while simultaneously benefiting from modern constitutional mechanisms that have demonstrated their effectiveness in regulating political authority, preventing abuses of power, and safeguarding individual rights.

With respect to the structure of the state, *Shura* does not prescribe a single mandatory constitutional form. Whether the state is unitary or federal, monarchical or republican, is not, in itself, determinative. Instead, *Shura* requires that the constitutional order be founded upon the unity of its normative framework, the rule of law, the realization of justice, and the promotion of the public interest. Accordingly, the principles of *Shura* may be implemented within a unitary state that distributes powers between the central government and local authorities, or within a federal system that grants constituent regions a degree of constitutional autonomy while preserving the unity of the state. The decisive consideration is therefore not the formal designation or institutional structure of the state, but the extent to which its constitutional institutions embody the principles of consultation, accountability, justice, and good governance.

The system of government envisioned under this constitutional model should likewise be constitutionally limited, ensuring that political authority is never left to the unrestricted discretion of an individual or institution. Such a system should be founded upon a written constitution affirming the normative authority of the Sharia, defining the powers of the branches of government, regulating mechanisms of oversight and accountability, and guaranteeing meaningful public participation. It may assume the form of a constitutional monarchy, a constitutional republic, or a mixed constitutional system, provided that political authority is understood not as an absolute right or personal privilege but as a public trust exercised within the framework of responsibility, accountability, and service to the interests of the *Ummah*.

The selection of the head of state occupies a central position within a constitutional system founded upon *Shura*, since political legitimacy cannot be established merely through the possession of power or membership in a particular family or social group. The process of selection should therefore ensure broad public acceptance while requiring that candidates possess the competence, integrity, and capacity necessary to discharge the responsibilities of public office. This objective may be achieved either through a broadly representative body of *Ahl al-Hall wa al-'Aqd*—comprising representatives of the *Ummah* together with individuals distinguished by scholarship, expertise, and professional competence—or through a system of popular elections preceded by constitutional procedures designed to verify that candidates satisfy objective qualifications for office. Such an arrangement combines public participation with safeguards ensuring that the destiny of the nation is not determined by individuals lacking the minimum qualifications necessary for responsible political leadership.

The requirement of competence should not be understood as diminishing the right of the people to participate in selecting their leaders. Rather, it seeks to regulate that participation in a manner that prevents the political process from degenerating into competition driven primarily by emotional appeals, financial influence, or political propaganda. The system of *Shura* proceeds from the premise that public office constitutes one of the gravest responsibilities within the constitutional order. Consequently, it should not be entrusted to those lacking the knowledge, experience, integrity, or sound judgment necessary for effective governance. Likewise, the choice among candidates should not depend solely upon numerical support

without due consideration of their qualifications and their capacity to safeguard the state and promote the welfare of society.

The relationship among the branches of government should be founded upon a clear distribution of constitutional powers, balanced institutional cooperation, and reciprocal oversight. The legislative authority should be entrusted with enacting laws and regulations in areas open to *ijtihād* and legislative regulation, provided that such legislation does not contradict definitive provisions of the Sharia or the fundamental constitutional principles of the state. The executive authority should be responsible for implementing the law and administering the affairs of government, while the judiciary should resolve disputes, review the legality of governmental acts and administrative decisions, and protect constitutional rights and freedoms. Such a distribution of powers prevents the concentration of political authority and ensures that every constitutional institution remains accountable within the scope of its assigned responsibilities.

The proposed constitutional model may further include an elected legislative assembly representing the *Ummah*, together with a higher constitutional council composed of distinguished scholars, legal experts, and specialists. This body would be entrusted with reviewing major legislative proposals, ensuring their constitutional and Sharia compliance, and examining matters requiring advanced technical or specialized expertise. Such an institutional arrangement would reconcile democratic representation with professional competence, ensuring that neither numerical majorities exercise unrestricted legislative authority nor specialized experts become

detached from the will and interests of society. The constitutional framework should also establish an independent constitutional court, or an equivalent supreme judicial body, possessing jurisdiction to review the constitutionality of legislation and subordinate regulations, resolve disputes among the branches of government, and safeguard the state's fundamental constitutional principles. Oversight of the conformity of legislation with the Sharia should not be entrusted to the executive branch but rather exercised by an independent institution combining constitutional expertise with recognized knowledge of Islamic jurisprudence. Its decisions should be rendered through transparent, reasoned procedures that promote legal certainty and prevent the political misuse of religious authority.

With respect to the protection of rights and fundamental freedoms, a constitutional system based upon *Shura* proceeds from the premise that human dignity and fundamental rights are not concessions granted by the state but inherent rights recognized and protected by the Sharia. These include the right to life and personal security, equality before the law, the inviolability of the home, access to justice, freedom of opinion and expression, freedom of belief within the framework of the principles of the Sharia, and the rights to property, work, education, and participation in public affairs. The mere constitutional recognition of these rights, however, is insufficient. They must be reinforced by effective judicial and institutional guarantees capable of preventing arbitrary restriction or suspension. Limitations upon fundamental rights should therefore be imposed only by law, pursue legitimate constitutional objectives, satisfy the requirements of necessity and proportionality, and remain subject to judicial review. Individuals must also be afforded effective remedies

enabling them to challenge governmental actions that violate their constitutional rights. In addition, the state should bear legal responsibility for unlawful acts committed by its public authorities, while institutions entrusted with protecting rights and freedoms must enjoy genuine independence from executive control in order to ensure their effectiveness and credibility.

## **Recommendations**

### **1. Reconstruct the constitutional theory of *Shura***

within a contemporary scholarly framework by promoting specialized research that integrates Islamic political jurisprudence with the achievements of modern constitutional law.

### **2. Promote comparative constitutional studies**

examining *Shura* alongside different constitutional systems, with particular emphasis on practical applications, institutional design, and operational mechanisms rather than solely conceptual or terminological comparisons.

### **3. Advance Islamic constitutional jurisprudence (*ijtihad*)**

to provide practical and intellectually rigorous responses to contemporary constitutional issues, including the organization of governmental powers, constitutional review, judicial independence, and the protection of fundamental rights and freedoms.

### **4. Benefit from comparative constitutional experience**

in designing governmental institutions, systems of constitutional oversight, and mechanisms of good governance, while preserving the constitutional identity and normative values upon which the Islamic political system is founded.

## **5. Strengthen constitutional education and awareness**

by incorporating comparative Islamic constitutional thought into university curricula and academic research programs, thereby preparing a new generation of scholars capable of developing this field on the basis of sound and rigorous academic methodology.

## **6. Encourage interdisciplinary research**

that brings together constitutional law, Islamic jurisprudence, political science, and political philosophy in order to develop a more comprehensive understanding of questions relating to governance, constitutionalism, and the modern state.

## **7. Shift the focus from theoretical debate to institutional development**

by emphasizing practical mechanisms for implementing constitutional principles within state institutions, thereby enhancing the effectiveness of public administration, strengthening constitutional governance, and promoting political stability.

## **8. Expand future research**

on *Shura* and Islamic constitutional theory, particularly with respect to the relationship between *Shura* and the modern state, constitutional review, constitutional justice, electoral systems, and mechanisms for selecting public leaders, thereby contributing to the continued development and enrichment of Islamic constitutional thought.

## Conclusion

This study originated from a question that extends beyond the conventional comparison between two political systems to a broader inquiry into the constitutional foundations upon which good governance in the contemporary state should be based. It sought to re-examine the premises of constitutional thought by exploring whether *Shura* should be regarded merely as a historical practice associated with a particular period or as a political theory capable of renewal, adaptation, and continued relevance within the framework of the modern state.

The study has shown that much of the scholarly debate surrounding *Shura* over recent decades has been preoccupied with demonstrating either its similarity to democracy or its distinction from it, while overlooking a more fundamental issue: the intrinsic value of *Shura* as an independent constitutional framework for the organization of political authority. Accordingly, this study has sought to move beyond formal comparisons toward an examination of the principles, objectives, and normative foundations underlying each system, on the premise that constitutional systems are defined not by their names but by the conception they offer of the relationship between political authority, law, and the individual.

The study further demonstrates that modern constitutional development does not necessarily require abandoning the Islamic political tradition, nor does it require preserving that tradition in its historical form without adaptation. Genuine constitutional renewal is achieved neither by reproducing historical experiences

nor by merely transplanting contemporary constitutional models. Rather, it requires the construction of a constitutional theory capable of responding to changing political realities while preserving the permanence of its foundational principles. Viewed through the lens of its higher objectives (*Maqasid*), *Shura* emerges as an intellectual framework capable of supporting the development of modern constitutional institutions without compromising their identity or normative foundations.

The study also emphasizes that the success of any political system depends not solely upon the quality of its constitutional texts or the soundness of its institutional architecture. Equally essential are a constitutional culture founded upon respect for the rule of law, a high level of constitutional awareness, genuinely independent institutions, and a collective understanding that political authority exists to serve the public interest rather than private advantage. However carefully drafted constitutional provisions may be, they cannot achieve their intended purposes unless accompanied by a sincere commitment to uphold both their letter and their underlying spirit.

From this perspective, the future development of Islamic constitutional thought should not be confined to defending historical models or rejecting modern constitutional systems merely because they differ in their intellectual origins. Rather, it should contribute constructively to the formulation of constitutional solutions better suited to addressing the challenges of the contemporary state by drawing upon the accumulated experience of humanity, the achievements of comparative constitutional law, and the enduring principles of Islamic political philosophy, without

relinquishing the distinctive intellectual identity that characterizes *Shura*.

Ultimately, this study seeks to present a scholarly vision capable of contributing to the further development of Islamic constitutional thought. It aspires to serve as a step toward fostering deeper academic discussion on the possibility of constructing a contemporary constitutional theory of *Shura*—one capable of moving beyond theoretical discourse to practical constitutional implementation, and of transforming intellectual reflection into effective institutions that promote stability, strengthen justice, safeguard fundamental rights, and serve the human person, who remains the ultimate purpose toward which every constitutional system should be directed.

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## SHURA IS NOT A RELIC OF THE PAST. IT IS A FRAMEWORK FOR THE FUTURE.

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Its roots in the Qur'an and Sunnah, and its practice during the era of the Rightly Guided Caliphs.



**SHURA & DEMOCRACY**  
A comparative analysis of legitimacy, participation, accountability, and the limits of majority rule.



**SHURA & MODERN SYSTEMS**  
A comparison with constitutional monarchies and parliamentary systems worldwide.



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DAR AL-THANI