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Ibn-Khaldun Center for Development Studies

Islamic Reform Conference

October 5-6, 2004

Democracy and Ijtihad¹ – The Twin Pillars of Reform in the Islamic World

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Introduction

This article examines the current crisis in the Islamic world and attempts to define signposts. We will focus on two main points, democracy and ijtihad, both of which are needed to solve the crisis and develop Muslim societies. Democracy permits Muslims to create a political system that can serve the interests of the people and solve political conflicts and disputes peacefully. Ijtihad permits Muslims to reconcile their understanding of Islam and the message of the Qur'an with changing needs, circumstances, and priorities in Muslim societies. The hope for a better future hinges on democracy and ijtihad. Muslim Americans in particular and Muslim leaders in general must unite to provide a better vision for millions of young Muslims aspiring to live a more humane, honorable, and prosperous life in the 21st century while maintaining their heritage and religious faith.



¹ [Independent and authoritative interpretation in Islamic Law. Ijtihad is a process practiced previously by legal scholars to deduce secondary divine laws for regulating human life from their sources and to explain and articulate the law of God in a given situation based on expertise in jurisprudence, Prophetic traditions, the Qur'an, Arabic grammar, logic, and, increasingly, philosophy, economics, and sociology. Ijtihad was abandoned centuries ago in Sunni Islam as explained below.]

The Need for Democracy

In August 2004, we visited one of the most outstanding researchers and thinkers of democracy in the Arab world, Muhammad Talbi, in his home in the Tunisian capital, Tunis. Professor Talbi is critical not only of Arab governments, but also of Western governments, including the United States, which he accuses of hypocrisy and of supporting repressive regimes in the Arab world. Professor Talibi expresses optimism and sees signs that freedom and democracy will prevail in the Arab world. He states that current autocratic rulers are showing a spurious interest in democracy that does not include real freedoms, the peaceful transfer of power, an independent judiciary, or a free press. Autocratic regimes use police forces to silence all voices calling for reform or expressing opposition and criticism. He believes that freedom and democracy will not succeed in the Arab world without European and American economic and diplomatic pressure. Such pressure does not seem imminent or real to date. After the collapse of the communist regimes in the Soviet Union and Eastern Europe, the Arab world and the

Islamic world have come to more generally represent the new target in the conflict for the sake of individual welfare, freedom, and honor. Extremist thought and extremist doctrines are flourishing while peoples are denied their basic rights, honor, and any hope of a better future. More than one-half of the population of the Arab countries (about 300 million people) are under the age of 20. These young people are growing up in a climate of despair, violence, corruption, lawlessness, coercion, and poverty. The Arab states are rich in natural and human resources, but the overwhelming majority of the people are poor. Less than 5 percent of the population hold more than 90 percent of the capital, mostly through government corruption, bribery, and the theft of public funds. In addition, the unemployment rate is extremely high (between 30 and 40 percent) and is increasing at alarming rates.

This situation is dangerous not only for Arabs and Muslims, but also for the entire world in today's global village. To achieve peace and stability, international society has a moral obligation to promote freedom, justice, and honor, which are effective antidotes to extremism, violence, and despair. We will now briefly survey the situation of basic freedoms and democracy in the Arab world.

Freedom of the press: The media—including television, newspapers, and radio—are tools through which ideas are put forth and discussed. Government control of the media precludes the free exchange of ideas and strangles dialogue. Freedom of the media has begun to appear in the Arab world thanks to satellite dishes and the Internet. However, governments still impose their control on the written media (books, textbooks, newspapers, and magazines). In Nigeria, I met with the editor-in-chief of a moderate weekly newspaper with a circulation of 30,000 copies per week. Although the newspaper sells out as soon as it is placed in the markets, it faces severe financial difficulties, because governmental regulations require each copy to be sold at a nominal price of only 10 dinars (less than 10 cents). I learned from my Nigerian friend that he can sell 100,000 or 200,000 copies a week if he wishes, but doing so would damage his financial position. The only way for a newspaper in Algeria or the entire Arab world to be profitable is through advertising, most of which is controlled by the government. Some Arab countries (e.g., Egypt, Morocco, Algeria, and Lebanon) permit some freedom to journalists to write what they wish. This is no doubt a positive, praiseworthy development. However, even in these countries, journalists know that there are red lines that they cannot cross. In particular, they cannot explore issues of corruption, transparency, nepotism, and favoritism.

Permitting the growth of a free media in the Arab world is an essential first step toward achieving true political reforms and real economic development. A free media plays an important role in uncovering and curbing corruption, which, as we know, is a major problem in the Arab world.

A free economy: A free economy and freedom to invest are the key to prosperity. Most commercial and business opportunities are currently given to individuals loyal to the government, not based on their qualifications, but on their loyalty. Individuals who are close to the ruling elites are permitted to import without paying customs duties, while

customs duties of 82 percent to 100 percent are imposed on the independent enterprises of regular investors. Members and leaders of the opposition are usually not permitted to own private enterprises at all. The enterprises of businessmen who do not adhere to the regime's political program or dare to challenge the regime are shut down immediately.

Most of the Arab countries have a free economy, albeit without the protection of the rule of law, transparency, and accountability. This means that nepotism, corruption, and bribery constitute a major problem that threatens to cancel out any economic development that has been achieved in the past 10 or 20 years. In some Arab countries, we find that the friends or family members of the president or king own large enterprises that control a large percentage of the domestic economy. These enterprises obtain most of the government contracts and grants. However, taxes are rarely levied on them. Regular businessmen find it extremely difficult to do business or to remain in the market.

Without a climate of free competition and the rule of law, it is impossible for enterprises to succeed and create jobs. International development organizations (e.g., the World Bank, IMF, USAID Organization, European Union, etc.) must insist on transparency, the rule of law, and accountability if they wish to promote sustainable real economic growth. This cannot be achieved without greater political openness, freedom of the media, and a real democratic transformation.

Freedom of religion: Religious practices must be free from government interference. Freedom of religion is the only means to build a moral, strong society in which people treat each other with honor, respect, trust, and fairness. Government interference in religious practices impedes moral excellence and encourages hypocrisy and distrust. Many countries in the Middle East claim that they are secular. However, they exploit religion to gain legitimacy in the eyes of their populations. The entity most responsible in this regard is the ministry of religious affairs, which employs hundreds and thousands of preachers and imams. In the Friday sermon, the imams pray for support of the president or king. Islam has become a tool in the service of the ruling strata's caprices and ambitions. This crude exploitation of Islam does not increase the regime's popularity. On the contrary, it arouses the anger of citizens and worshippers. They perceive that the imam is forced to say what he says. Generally, worshippers feel anger and disgust and refrain from saying "amen." They are not necessarily hostile to the regime. Rather, they oppose the government's crude exploitation of religion, especially when elections approach. What would be the situation of the current rulers if the imams asked the faithful to support another candidate or party?

Religion, especially Islam, flourishes and resurges when people are permitted to freely practice the rites of their religion without government interference or control. No person or government has a monopoly on religion or may claim to represent God on earth. This is a weighty issue. The state obtains no benefit from alienating people from religion. In the Islamic Republic of Iran, which requires people to strictly adhere to Islamic law, 75 percent of the young people (between 20 and 30) do not pray or go to mosque regularly. This is the highest percentage in the Islamic world. It indicates clearly that governments

are harming religion in the name of Islam. What would happen if these policies failed to improve the lives of citizens? Would the people revolt against Islam?

Freedom of the judiciary: The biggest obstacle in the way of any true reform or democratic transformation in the Arab and Islamic worlds is the absence of an independent, fair judicial system. Most of the judges are appointed by the head of state. They receive their salaries and promotions from the minister of justice, who reports directly to the head of state. The judges are required to adhere to the government's political line and to issue judgments according to what they are ordered to do. The minister of justice writes the decisions in political cases in particular and in economic cases in general, and the judges have little input in these decisions. Egypt has perhaps the most independent judiciary in the Arab world. Egyptian judges may occasionally oppose the government, which is unheard of in the other Arab countries. Judges in the Arab countries are known to accept large bribes from people to rule in their favor. How then can we expect to establish a society of justice and equality as enjoined by Islam without giving judges more independence? Judges should be elected by the districts, not appointed by the executive authority. This is the only way to separate between the judicial and executive authorities and thus provide for protection and balance. Such a change, which is an essential requirement for democracy, is still lacking in most countries of the Arab and Islamic worlds. The United States and other countries in Western Europe have taken the far-reaching step of granting the defendant the right to choose whether to be tried by a judge, panel of judges, or a jury of his peers.

Without an independent judiciary, there can be no hope of building a truly democratic society, doing justice, or curbing corruption.

Freedom of organizations: The right of citizens to express their opinions freely and to participate with other citizens in organizing associations, entities, and political parties is a basic right in any democratic society. Governments have the right to supervise the formation and activities of these organizations to ensure that they operate within the framework of the law. However, they do not have the right to curb such organizations' freedom of expression. Unfortunately, the right of citizens to form organizations or parties in most Arab countries is incomplete due to bureaucratic regulations and government intervention. In the United States, any group of citizens can form an organization (nonprofit, for profit, or political) and register it within one or two days (a week at most). In the Arab world, this process takes years, and the result is usually a denial for unfounded reasons, such as the organization's similarity with another organization that belongs to individuals who are loyal to the government.

In a few Arab countries (chiefly Egypt, Morocco, and Jordan), we find a large and growing civil society. However, the organizations of civil society, even in these countries, cannot hold meetings, collect contributions, or organize demonstrations without the government's approval, which is never given. When the existence of open, free organizations is denied, citizens—particularly young people—organize radical, underground, violent movements. This leads to the growth of radical, extremist groups and ideologies. Can government policies be more shortsighted and shallow than this?

Free competition among ideas, and freedom of discussion and debate about problems and solutions among individuals and groups of citizens are the only ways to achieve democratic openness and the growth of a democratic culture.

Free elections: The only way to ensure that the government serves the people, not the opposite, is to elect officials who represent the people and are accountable to the people. Good intentions do not suffice. After several years in power, the ruler usually becomes surrounded by a retinue that tells him what he wants to hear. The regime collapses or at best the ruler becomes isolated.

The limiting of terms of office (to two or three terms not to exceed 15 years) is essential to ensure good administration. A leader or president will exhaust his energy and creativity after 10 or 15 years in power. The peaceful transfer of power is unknown in the Arab world today. Rulers and heads of state remain in power until they die or become senile.

The experts predict that the Islamic parties will win in any free, fair elections. If this is correct (and it is doubtful that it will happen in all cases), it will be the result of the mismanagement, corruption, and incompetence of current regimes. Sooner or later, the Islamic parties must be permitted to compete for political power. This is the only way to compel them to reduce the stridency of their tone and to put forth practical, feasible solutions instead of empty slogans. To facilitate the transfer of power through free, fair, and just elections, we can start by holding local and municipal elections. Parties and individuals that engage in or advocate violence must be prohibited from forming parties or competing for posts.

The Need for Ijtihad

The adoption and application of these values and the development of a progressive democratic culture and society require a new interpretation of Islam that is based on the changing requirements and circumstances of people. Muslims believe that Islam is “valid for any place and any time,” because it is flexible and adapts to changing situations. The Qur’an was revealed over the course of 23 years. Between one and five verses were revealed each time. Most of these verses were revealed in response to difficult situations or circumstances which the Prophet and the group of believers with him were forced to experience. There is a complete area of knowledge in Islam that deals with the reasons, circumstances, and meaning of the revelation of each verse or group of verses lest any verse be taken out of context and misunderstood or not applied correctly.

Muslims all agree that the Qur’an was revealed literally by God. However, there is some disagreement over the meaning of some verses and over which verses should apply to different situations and circumstances. Therefore, in the eight or nine centuries since the death of the Prophet, may God bless him and grant him peace, a large number of schools of thought have emerged regarding almost every issue. A complete area of knowledge

known as *ijtihad* was developed by Muslim theologians in order to understand the message of the Qur'an according to changing needs and circumstances.

The provisions of Islamic law are also subject to interpretation and to society's changing needs. The Muslim clerics are responsible for setting priorities regarding society's needs and deriving suitable solutions.

The Sharia [Islamic law] is a group of principles designed to protect the individual and society. The provisions of the Sharia are limited in time. In dealing with the changing needs of Muslim societies, Muslim clerics and jurists have used a firmly established process known as *ijtihad*. *Ijtihad* is based not only on the Qur'an and Sunna,¹ but also on reason, deduction, and the setting of priorities. Imam Al-Ghazzali (1058-1111) states, "The objective of Islamic law with respect to people is to protect five things: their religion, bodies, minds, children, and property." In 20th century, the Tunisian religious scholar, Al-Tahir Ibn-'Ashur, adds two other objectives, justice and freedom.

There are three examples that can clarify this point. Fifteen years after the death of the Prophet Muhammad, the Caliph Umar Ibn-al Khattab repealed the provision on the cutting-off of the thief's hand, because he believed that there was a legitimate need for theft due to the spread of hunger and poverty. He justified his clear violation of the Qur'anic verse in this regard by maintaining that the principle of justice had precedence. Based on this same logic, the Council of Muslim Clerics in Europe and the United States issued a fatwa [religious ruling] in 2000 permitting Muslims residing in the West to purchase homes by taking out a mortgage and paying interest. This clearly contradicts the Qur'an's prohibition on interest. However, well-known Islamic scholars of stature justified this fatwa. They maintained that such permission is necessary to permit Muslims to provide for their financial and social needs in the West.

Ijtihad teaches Muslims flexibility and urges them to learn from and interact with other religions, cultures, and civilizations. Islam believes that the truth is not the monopoly of anyone, and that a believer in the truth constantly seeks the truth and wisdom wherever they can be found. This tireless pursuit of the truth has led Muslims and Muslim scholars to respect the opinion of others and to be willing to change their views if they are proved wrong. Muslim clerics have said: "This is my opinion, and it might be wrong, and this is another's opinion, and it might be right." No one has a monopoly on the truth.

Ijtihad, as understood and practiced by the Muslim clerics means that the latter have changed their views based on the changing needs and circumstances of society. For example, Imam al-Shafi'i stated an opinion in Baghdad. A year later, he traveled to Cairo and provided a different opinion on the same issue. Someone reminded him that he had expressed another opinion in Baghdad the year before. His response: "That was in Baghdad. This is in Cairo. That was last year, this is now." In other words, the clerics regarded time, place, criteria, and circumstances as important factors when they issued an opinion on religion.

¹ [The statements and actions of the Prophet, later established as legally binding precedents in addition to the law established by the Qur'an.]

Ijtihad allowed Muslims and Muslim societies to adapt and evolve with changing circumstances and new discoveries. However, unfortunately, the door to ijtiḥād has been closed for more than 500 years. When Islamic civilization began to weaken in the face of Western progress, the clerics and Muslims in general sensed a danger. They decided that excessive innovation, adaptability, or ijtiḥād could weaken the creed. They declared the closure of a door to ijtiḥād. Whoever sought a legal opinion had to refer to the opinions of predecessors that were given centuries earlier.

That was the beginning of the decline of Islamic civilization. Since then, over the past four or five centuries, Islam has been isolated from reality and from modernity. The old system and the old interpretations can no longer provide answers to the difficult questions facing Muslims at present. Muslims are extremely attached to Islam and the Koran. However, the only answers they have are those given more than a thousand years ago. Those answers do not treat the current conditions, problems, and challenges facing Muslim countries and societies.

Muslims feel that they must choose between Islam and modernity, or between Islam and democracy. This is spurious. If a Muslim is made to choose, he chooses Islam and rejects anything that he considers foreign or contrary to his creed. Therefore, we are suffering a crisis in the Islamic world today. The only way out of this crisis is to resurrect the concept of ijtiḥād and to use it in creating a new interpretation of Islam and Islamic principles that is consistent with the word of God as revealed in the Qur'an and with the modern conditions, ideas, and values created by mankind in recent centuries.

The only way to solve the crisis of the Islamic world is to end tyranny and corruption and to establish freedom, equality, and justice. This is the call of our generation. After our fathers and forefathers freed us from the corruption of foreigners, new bands of oppressive, corrupt regimes gained control of our lives and societies. After 50 or 60 years of "independence," it is evident that these regimes have failed to provide jobs, honor, freedom, and the economic and social development required to achieve the hopes and aspirations of our peoples.

Democracy is the key to reopening the door of ijtiḥād. It supports freedom of discussion and the creation of a climate that encourages the true renewal of Islamic thought. Justice, freedom, limited government, and freedom to do business and invest are all principles underscored in the Qur'an and the Sunna of the Prophet, may God bless him and grant him peace. The values of freedom and liberty are not only consistent with Islam, they also promote Islam. For Islam emphasizes that there should be no coercion regarding religion, and that religion is a matter of choice. There is no room for imposing one's religion on others. In order for these values to find an attentive ear, they must be clarified in linguistic, cultural, and religious terms understood by the people. Religion and moral values are important, because they impel us to help others and to pursue integrity, justice, and family values and to live a good, unselfish life.

The United States, the European Union, and international society in general have a definite interest in putting real pressure on these governments. The only way to solve the chronic problems threatening peace and stability in the region and the world is through: true democracy in which moderate Islamic and secular parties can vie for power; political, economic, and judicial reforms; and a constructive dialogue on the role of Islam and the opposition in society.