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Islamic Political Thought and the “Constitution of Medina”

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Abstract

The present inquiry is a contribution to the study of early Islamic political thought focusing on the earliest document of Islamic political doctrine, the so-called Constitution of Medina. What particularly distinguishes the procedure followed here is the attempt to establish a link between the source-critical approach to the study of early Islamic history and the historiography of Islamic political thought. This study will argue that the “Constitution of Medina,” whose authenticity is accepted even by the most skeptical scholars, can be a source for reconstructing a historically reliable understanding of early Islamic political thought. Without making a claim about the legitimacy of the source-critical approach, the objective here is to show how an unmediated study of this classic document made possible by the rise of the source-critical approach is a fruitful procedure. This will be shown through establishing a link between this unmediated approach and two of the classic issues in the thought of Muslim political thinkers: the questions of the relationship between Islam and citizenship and of the place of religious law in a Muslim political order.

Keywords

Islamic political thought – Constitution of Medina – secularism – Sahifa – toleration – citizenship – Islamic law

In 1924 a young graduate of al-Azhar by the name of Ali Abd al-Raziq (1888–1966) published a short but highly controversial treatise that has become

the classic work of so-called Islamic secularism. The treatise, titled *Islam and the Principles of Governance* (al-Islam wa usūl al-ḥukm) argues that Islam does not have a specific form of government and the political regimes established after the death of the prophet of Islam in Muslim lands had no religious basis. From this perspective, Abd al-Raziq suggested that Muslims are left free by their religion to organize their political lives according to human reason alone and claimed that nothing in their religion stops Muslims “from building their state and their system of government on the basis of past constructions of human reason, of systems whose sturdiness has stood the test of time, which the experience of nations has shown to be effective” (Abdel Razek, 2012, p. 118).

Abd al-Raziq’s whole thesis was based on a reevaluation of traditional Islamic sources, mainly the sayings and actions of Muhammad or the so-called prophetic *sunna* and the Qur’an: The reevaluation had as its objective to show that none of these traditional sources can be used to attribute a political teaching to Islam. It can be said that Abd al-Raziq’s thesis amounted to saying that Islam, on the basis of its most authoritative sources, is a purely secular religion, similar to what is often said of Christianity.¹ Abd al-Raziq’s comprehensive intellectual endeavor aimed to reimagine Islamic political thought by reevaluating the relationship between Islam and politics. His goal was to foster an inclusive Islamic perspective that could accommodate a political framework akin to modern liberal secular systems of his time. Whatever one might think of Abd al-Raziq’s specific political project, his approach remains intriguing: Any reasonable discussion of Islamic political thought must sooner or later deal with the traditional sources that are of the highest authority for every believing Muslim. In other words, the study of Islamic political thought is bound to return to the origin of the Muslim faith and its most authoritative sources. Despite the innovative character of Abd al-Raziq’s approach, however, any reader familiar with the traditional sources discussed in his book must confess that his treatment of them is often unconvincing: He is faced with traditional sources that only with considerable difficulty can be marshaled in his favor, a point which did not escape the attention of his numerous orthodox detractors.² In other words, although Abd al-Raziq was engaged in the most radical questioning of the received understanding of politics in Islam, his reliance on traditional sources made his thesis questionable.

Our situation has considerably changed since Abd al-Raziq’s time: While a return to the beginning of Islamic history in search of a genuine form of Islamic political thought is still tempting, this return cannot be accomplished

1 For a good summary and bibliography for this view see Yoder (1994, pp. 4–8).

2 For a good summary see Ali (2009, pp. 103–123).

in the same traditional fashion. There are powerful obstacles in every inquiry that promises to concentrate on this early period of Islamic history because, from the last decades of the 20th century onward, the reliability of the whole traditional history of early Islamic society and its primary sources has been challenged by many scholars.³ These new developments have provided fresh challenges as well as opportunities for scholarship on Islamic political thought, but despite the recent increase of interest in this source-critical approach among mainstream historians of Islam, the effects of this approach still wait to be substantially reflected in the studies on Islamic political thought. Currently, the source-critical approach and the study of Islamic political thought remain two independent fields without much cross-connection.

The objective of this study is to establish a connection between the source-critical approach and the study of Islamic political thought by concentrating on perhaps the most important political document surviving from early Islamic history, the document famously as well misleadingly called the “Constitution of Medina.” By focusing on one of the oldest documents in Islamic history and incorporating recent trends in the historiography of Islam, this essay intends to illuminate the theoretical aspect of the relationship between Islam and politics, thereby providing new insights into the contemporary issue of the relationship between Islam and liberalism. To do so, it will first provide a summary review of the source-critical approach as much as it is relevant to the study of Islamic political thought in order to justify the importance of the document under discussion. A crucial clarification is here in order: It is not the objective of this study to evaluate the merits of the source-critical approach in the historiography of Islam. As far as this study is concerned, the source-critical approach, which has many prominent adherents among the historians of Islam, is one approach among other legitimate scholarly approaches. What this study builds upon is only the observation that because of the rise of the source-critical approach, the traditional understanding of the sources for the study of early Islam have become controversial. The questions around the reliability of these sources have been the subject of much discussion in the scholarship in the last several decades without leading to any new consensus about them—it is reasonable to assume that, barring some unexpected radical discoveries, a new consensus around the early history of Islam in the near future will remain out of reach. However, the absence of such a consensus does not have to be seen, this study claims, as a negative development; it can be even considered a blessing in disguise by providing us with an opportunity to look at Islamic political thought and its classic sources with fresh eyes, to study them

3 For an introduction to the debate and bibliography see footnote 7 below.

unmediated through traditional sources. In other words, the source-critical approach is here presented as an opportunity to engage in a new interpretation of traditional Islamic texts from the perspective of political theory and as a way to introduce new elements to the debate around the relationship between Islam and politics in the context of contemporary discussions about liberalism and secularism in Islamic thought.

This study, like any other novel perspective on classic themes, will be unavoidably tentative and there will be certainly much to be developed in more comprehensive studies. This preliminary discussion, however, intends to show the fruitfulness of combining the study of the origins of Islamic political thought while taking the source-critical approach into account. The result of such a perspective has scholarly as well as practical advantages: With respect to scholarship, this study recognizes the importance of the debates around the traditional sources of early Islamic history and suggests a way forward without taking a definitive stance in favor of one or the other camp in the scholarship on the study of Islam. As for the practical side of things, this study introduces new elements to the ongoing discussion about the relationship between Islam and politics. A renewed emphasis on non-traditional sources using new approaches is bound to add fresh elements to a debate that does not seem to have lost its relevance in our contemporary culture. Finally, the source-critical approach to Islamic historiography, despite its prominence in academia, has yet to have an impact on public discussions about the relationship between Islam and politics. Taking this approach into account in scholarly studies on Islamic political thought, which are inherently of more practical concern, has the potential to contribute to contemporary debates around the place and role of Islam in the contemporary world—although how much this potential will be actualized depends on many other factors that need to be independently studied.

In order to show the advantages of the unmediated approach described above, I will concentrate on two main topics in the “Constitution of Medina”: The first concerns the issue of membership in a political society, or, to put it in Aristotelian terms, the question of who counts as a citizen. Considering the traditional view according to which Islam is a “religion and state [din wa dawla],” i.e., both a religious and a political system, the question of membership in a Muslim political order is closely related to the question of the role of religious affiliation in an Islamic political order: Are Muslims the only full-fledged members of an Islamic political order, or are equal rights of citizenship extended to non-Muslims?⁴ The second central topic studied

4 For a critical discussion of “the religion and the state” idea see Eickelman & Piscatori (1996, pp. 46–57).

below is the question of Islamic Law. Islam is a religion of law and therefore any political order making a claim to Islamic legitimacy must conform to a pre-determined body of rules, namely the Islamic Law (sharī‘a). As Khaled Abou El-Fadl explains, it is not certain that such a demand would leave room for democratic self-government (2003, p. 7). Perhaps even politics as the art of human deliberation and judgment about common affairs might not be easily reconcilable with this view. We shall see what the “Constitution of Medina” has to say on these two topics. The last section of this study will establish a link between the unmediated approach pursued here and political questions discussed by several contemporary Muslim thinkers.

The Problem of Sources and Early Islamic Political Thought

Considering the powerful arguments for its historical reliability and its status as a genuine document surviving from the earliest Islamic history, the Qur’ān seems to be the natural place to begin the study of early Islamic political thought.⁵ The Muslim scripture, however, is not an entirely suitable text for the study of political thought. The Qur’ān is not a political writing in the strict sense of the term but mainly a religious and liturgic one; as a written attestation of religious visions, it is problematic to use it as a straightforward political document. This obviously does not mean that the Qur’ān lacks any political relevance or that it cannot be read politically. But despite the possibility of a political reading of the Qur’ān, one cannot overlook the difference between the Qur’ān and a more straightforward political document like the “Constitution of Medina,” which is *exclusively* dedicated to the organization of a political order, distribution of power, and regulating the rights and duties of the members of that political order. Be that as it may, this is not the only or even the main problem in approaching Islamic political thought through the lens of the Qur’ān. The main problem of using the Qur’ān as a source of information is related to its essential dependence on extra-scriptural material, such as the so-called *sunna*.

The *sunna*, that is to say, the actions and speeches of the prophet of Islam, Muhammad, as they are reflected in his biography and “Traditions” related by his contemporaries (ḥadīth), is highly important for understanding the Qur’ān. The Muslim scripture, read in isolation from extra-scriptural material and by itself, is an enigmatic text with an allusive style: it refers to events without

5 For the reliability of the Qur’ānic corpus see Burton (1977, pp. 239–240); Donner (1998, pp. 35–61, 2008, p. 42); Neuwirth (2003); Whelan (1998).

narrating the basic information often necessary to make sense of them; it alludes to figures and places without naming them; and it describes individuals (believers, unbelievers, wrongdoers, hypocrites, etc.) in general terms without letting readers know who they were precisely and what their beliefs were. Even the language of the Qur'ān poses challenges as it uses terms and expressions whose meaning is obscure to even the oldest interpreters. As a result of these peculiar characteristics of the Qur'ān, the traditional exegetes have approached it through the framework of the sunna. They sometimes work under the interpretative principle that the Qur'ān was revealed in specific circumstances documented in the traditional biography of Muhammad and therefore must be understood in light of such circumstances; alternatively, some prophetic report is used to explain how a specific verse must be understood. These extra-scriptural pieces of information were an integral part of all traditional exegesis and were also authoritative for Western scholars prior to the rise of the source-critical approach. They not only provide links between Qur'ānic verses and different moments in the life of Muhammad, but also provide explanations of rare or ambiguous terms used in the Qur'ān, clarify vague passages by referring to external information, explain passages through paraphrasing, identify anonymous references, and clarify verses by narrative expansion.⁶ It seems, therefore, that in any effort to excavate early Islamic political thought, it is necessary to study the Qur'ān through the lens of the sunna.

It is however here that the challenge of the source-critical approach raises its head: The reliability of the sunna sources has been powerfully challenged by many scholars.⁷ The historians of this source-critical movement have called the reliability of all Muslim traditional sources and the prophetic sunna—which date from at least 150 to 250 years after the events of the life of Muhammad—into question and regard the information presented in them as historically unreliable. These scholars have argued that considering the unreliability of these sources a reconstruction of early Islamic history on their basis is not possible. These challenges have not gone unnoticed by less skeptical scholars and have become a major part of the discussions of mainstream historians of Islam. As a response to these concerns, some scholars have tried to sift through the traditional sources to arrive at “the kernel of truth” existing within them. These efforts, however, have themselves been regarded as controversial and failed to create a new consensus among scholars. As James Robson explains, even if there is a genuine kernel in these traditional accounts “no one has yet

6 See Raven (2001).

7 For a general introduction and bibliography of this source-critical approach see Görke (2011); Hoyland (2007).

provided a method of extracting this core” (1965, p. 464). In the words of Fred Donner, even if we accept the claim of less-skeptical scholars that many points in the traditional sources are reliable, there is as of yet no generally accepted and foolproof method for distinguishing what might be true from what might be false within these sources (2006, p. 34). The situation has not changed despite new developments in the field: Suggested new critical techniques have succeeded in producing only a very limited amount of information about the early history of Islam, thus leaving the reliability of much of the material present in the traditional sources still in doubt and open to skeptical objections. In other words, the result of these efforts has proved rather limited: The most promising methods have provided very few solid pieces of information about the early history of Islam that can be called reliable and safe from skeptical attacks. On the basis of this limited “kernel of truth,” one can hardly write a useful, let alone detailed historical narrative of early Islam.⁸ One cannot expect a reliable understanding of Islamic political thought and the early Muslim political doctrine on the basis of the few solid pieces discovered by these methods.

Facing such difficulties and being unable to fend off the tide of skepticism about the early sources, some scholars have given up on the reconstruction of the early history of Islam and instead concentrated their efforts on the study of these traditional late sources as a reflection of later Muslims’ beliefs about their own past.⁹ Such a view would be entirely destructive for our type of study—if what we have is only the constructions and imaginations of later generations, we must give up on the search for a historically reliable early Islamic political thought. There is, however, a way out of this conundrum. If the Qur’ān, as a mainly non-political, liturgic, and ambiguous text, is not readily available for the reconstruction of Islamic political thought, and if the extra-scriptural sources are subject to skeptical challenges, there is one prominently political source whose authenticity is accepted even by the most skeptical scholars: the so-called Constitution of Medina (the *Ṣaḥīfa* in what follows).¹⁰ The main transmitter of the *Ṣaḥīfa* describes this document as a

8 See Motzki (2000, 2003); Schoeler (2003).

9 See Rubin (1995).

10 The document is usually referred to as “Constitution of Medina” but it refers to itself as a “kitāb” (§ 1), or a “Ṣaḥīfa” (§ 49). The complete text of the *Ṣaḥīfa* is preserved in ‘Abd al-Malik ibn Hishām’s recension of Muhammad Ibn Ishāq’s biography of the Prophet and with some modifications in Abū ‘Ubayd al-Qāsim Ibn Sallām’s *Kitāb al-amwāl*. Ibn Ishāq (1955, pp. 231–233); Ibn Sallām (1968). For a discussion of other versions see Goto (1982). My references to *Ṣaḥīfa* in parentheses are to Ibn Ishāq’s version as edited and numbered in Lecker (2004, pp. 7–9).

pact that the prophet Muhammad established between the Jews and two other groups: Muhammad's Meccan followers—the Emigrants (*muhājirūn*) who left Mecca to follow Muhammad to the city of Medina—and Muhammad's Medinan allies, the so-called Helpers (*anṣār*). This, Muhammad's biographer reports, happened in 622 C.E. after Muhammad's migration (*hijra*) from Mecca to Medina. In these sources, the *Ṣaḥīfa* is depicted as a pact that was meant to create a polity in Medina consisting of these new Muslims and the Jewish population of Medina by establishing the relationship, rights, and obligations of the members of this new political entity. This document, which can be described as the most significant document surviving the life of Muhammad, is accepted as authentic not only by orthodox historians but also by the most skeptical scholars (Caetani, 1905, p. 403; Cook, 1983, p. 75; Crone, 1980, p. 7; Crone & Cook, 1977, p. 7; Humphreys, 1991, p. 92; Noth, 1989, p. 120; Watt, 1956, p. 225; Wellhausen, 1889, pp. 80–81).

There is substantial secondary literature on the *Ṣaḥīfa* which follows two different approaches: The first approach is born out of Western scholars' interest in the *Ṣaḥīfa* as a historical document useful for the reconstruction of early Muslim history, and consequently, this approach is predominantly uninterested in the political aspects of the *Ṣaḥīfa*. The present study does not follow the first approach because it is mainly interested in the political doctrine inherent in the *Ṣaḥīfa*. The second approach belongs to a wide trend of Muslim reformist thinkers who try to shape a new Islamic discourse that is more compatible with the necessities of the contemporary modern world and its liberal ideas like constitutionalism, religious pluralism, tolerance, individual rights, and citizenship. Some of these contributions are anachronistic. For instance, some have interpreted the *Ṣaḥīfa* as the “constitution” or manifesto of an Islamic state that already includes these very modern concepts and ideas. The classic example of these modernist studies is Muhammad Hamidullah's (1975) work, the title of which quite clearly stands for the general direction of these studies: *The First Written Constitution in the World*.¹¹ There are more nuanced and fruitful applications of the *Ṣaḥīfa* by Muslim thinkers that do not fall victim to such anachronisms, one of which is discussed in the last section of this study. What particularly distinguishes the inquiry here presented is that the existing writings on the *Ṣaḥīfa* tend to base their interpretations on the knowledge obtained from traditional sources, which makes them susceptible to source-critical challenges. Taking these challenges seriously here, I will not contextualize this document and I refrain from using these sources. The

11 For a critical discussion of this Muslim approach to *Ṣaḥīfa* and bibliography see Emon (2001, pp. 120–133); Sardar Ali (2016, pp. 51–56).

discussion below is a direct engagement with the *Ṣaḥīfa* unmediated through traditional sources. The only other source that I will occasionally refer to is the Qur’ān. My references to the Qur’ān are meant only to emphasize a point already deduced from the *Ṣaḥīfa*. In other words, my argument is not reliant on the Qur’ān and is meant to stand on its own. The objective here is to make this document speak independently of other traditional sources in order to see what it can tell us about Islamic political thought and to see how the fruits of this approach can enter into conversation with other classic reflections on the political aspects of Islam.

Umma, Toleration, and Political Perennialism

The *Ṣaḥīfa*, in the version we use here, consists of sixty-four clauses and discusses various aspects of a new polity. The first clause describes the text as a document from “Muḥammad the Prophet” concluded between “the *Mu’minūn* and *Muslimūn* of Quraysh and Yathrib,” on the one hand and another, unspecified group described as “those who join them as clients, attach themselves to them and fight the holy war (*jāhada*) with them,” on the other.¹² The second clause claims that these three groups are of “one *Umma* to the exclusion of others.” What above all clarifies the fundamental character of the regime described in the *Ṣaḥīfa* is the term “*umma*,” used twice in the document (§§ 2, 28). Some scholars have claimed that *umma* here is devoid of any religious connotation and has a purely political meaning: a “political unity,” a “political confederation,” or simply “a group” (Gil, 1974, p. 50; Serjeant, 1964, p. 12, 1978, p. 4; Watt, 1956, p. 241; Wellhausen, 1889, p. 74). But in another text from the same period and environment, namely the Qur’ān, in most relevant cases *umma* has a clear religious meaning and denotes people united by religious faith.¹³ There seems to be no good reason for arguing that *umma*’s meaning in the *Ṣaḥīfa* differs or radically diverges from its usage in the Qur’ān (Rubin, 1985, p. 12; Serjeant, 1962, p. 49).

Umma, as it is depicted in the *Ṣaḥīfa*, is a religious community defined by religious principles and loyalties. The reason for the resistance of some scholars to this religious understanding of *umma* seems to be the lack of consensus about the status of the Jews in the regime of the *Ṣaḥīfa*. The place of Jews in the

12 This is Michael Lecker’s translation but it must be emphasized that *jāhada* similar to other derivatives of the root j-h-d does not necessarily have to be understood in military terms. See the discussion in Landau-Tasseron (2003).

13 See, e.g., Qur’ān 5:48, 16:93, 21:92, 43:33.

Ṣaḥīfa has received much attention from scholars because of the contentious issues involved in Muhammad's relationship with the Jews of Medina and, according to traditional sources, their violent persecution. Putting aside, however, the traditional sources depicting a tumultuous relationship between Muhammad and the Jews, from the Ṣaḥīfa one can say that the Jews are a full part of the *umma*: They share in war expenditures, take part in battles, and their share in the booty is equal to that of others. Their inclusion, however, does not seem to mean religious conversion: The Jews like the other members of the *umma* retain their different faith. This creates a problem in understanding the religious character of the regime of the Ṣaḥīfa. If the Ṣaḥīfa's political order is founded on a religion, it is not clear what that religion is: Which religion includes both Jews and Muhammad's followers but excludes unbelievers (*kāfirūn*) and polytheists (*mushrikūn*)? The Jews are allowed to practice their own religion within the one *umma*, therefore this common *umma* cannot be an entirely exclusive religious community. This seems to be the main reason why some scholars have tried to give a non-religious connotation to *umma*.

A way to clarify the religious character of the community described in Ṣaḥīfa is to understand the composing elements of that society. One can distinguish five main different groups of people in Ṣaḥīfa: *mu'minūn*, *muslimūn*, *mushrikūn*, *kāfirūn*, and the Jews. *Mu'minūn* is frequently used, *muslimūn* are mentioned thrice (§§ 1, 28, 44). *Kāfir* and *kāfirūn* appear twice (§ 15), and *mushrik* only once (§ 23). Although making sense of the political order described in Ṣaḥīfa is difficult without at least knowing the identity of these groups, among these only the Jews have a clear identity. The first clause clearly distinguishes between *mu'minūn* and *muslimūn* and clauses 28 and 44 refer only to *muslimūn*. Michael Lecker surmises that *mu'minūn* were from Quraysh and Yathrib and that they included both the Helpers and the Emigrants.¹⁴ They were therefore what we traditionally call "Muslims." *Muslimūn*, on the other hand, were from Yathrib; some of them may have belonged to the Jews. Lecker believes that "perhaps they were prepared to recognize Muhammad as the Messenger of Allah—at least to the Arabs, if not to the whole of mankind" (2004, p. 44). The *muslimūn* of the Ṣaḥīfa were, therefore, not precisely Muslims in our sense of the term but rather included Jews who were open to the prophethood of Muhammad. Lecker's hypothesis, although intriguing, lacks satisfactory evidence. Paul Lawrence Rose, following

14 Quraysh was Muhammad's tribe in Mecca which persecuted him and his followers. Muhammad's Meccan followers were called the Emigrants (*muhājirūn*) who left their tribe (Quraysh) and their city to follow Muhammad to the city of Yathrib. The city of Yathrib was subsequently known as Medina ("the city of the Prophet"). Muhammad's Medinan allies were called the Helpers (*anṣār*).

Robert Bertram Serjeant, claims that *mu'minūn* are actually non-Muslims; they are those who were party to a mutual security pact (*amān*)—they are “the faithful,” “the guarantors.” They are the Arab tribes and individuals of Medina who had not converted to Islam. *Muslimūn*, on the other hand, are those converted to Muhammad’s religion, i.e., they were close to what we today call Muslims.¹⁵ Rose, again following Serjeant, claims that *kāfir* does not mean an unbeliever or infidel but rather “the disowned” (Rose, 2011, p. 19; Serjeant, 1978, p. 22).¹⁶ Rose-Serjeant’s claims are, however, problematic: Although *mu'min* can mean what Rose and Serjeant claim, it is not used in this sense in the Qur’ān. Furthermore, it is unreasonable to apply this epithet only to a part of the participants while the obligations of the treaty are distributed equally among all the members of the pact. In any case, it seems that in most instances *mu'minūn* includes all the participants in the agreement. Furthermore, clause 28 implies that the Jews and *muslimūn* both are subgroups of *mu'minūn* (Denny, 1977, p. 43).

Who, then, are the *mu'minūn*? It seems that in the *Ṣaḥīfa*, *mu'min* is someone who believes “in Allah and the Last Day” (§ 25). There is also the importance of *taqwā* (piety) in the *Ṣaḥīfa*, which makes one believe that upright character is of particular importance (§§ 14, 22, 63).¹⁷ Considering the exclusion of polytheists and unbelievers, one can conclude that the religion of *Ṣaḥīfa* is a kind of monotheism that particularly values piety and belief in the Day of Judgment. This religion can welcome Jews and Muhammad’s followers while excluding those who do not subscribe to strict monotheism (e.g., trinitarian Christians and polytheist pagans) as well as those who do not believe in the final judgment and do not lead a pious life.¹⁸ This understanding of the religious community of the *Ṣaḥīfa* is close to Fred Donner’s view of early Islam. In Donner’s view, in the early days of the “Muslim” community, the followers of Muhammad formed an ecumenical religious movement consisting of monotheists with different belief systems who identified themselves as *mu'minūn*. Donner believes that *mu'minūn* included both the Jews and “Muslims” in our sense of the term. In other words, *mu'minūn* includes both the followers of Muhammad as well as those who shared belief in the oneness of God, the Last Day, and led a pious life. In this group, *muslimūn* were, according to Donner, those non-Jews who followed the Qur’ānic Law (2010, p. 73).

15 Serjeant believes that “Muslim” is a term applied to those followers of Muhammad who lacked tribal affiliation (1964, p. 11).

16 It seems that regarding the identity of *muslimūn* Uri Rubin shares Rose’s view (1985, p. 17).

17 In the Qur’ān *mu'min* is also defined as someone who believes in God, and the Last Day, and leads a righteous life. Some passages suggest that the Jews and Christians are also considered *Mu'min*. See Qur’ān 3:113–116 and Donner (2010, pp. 56–74).

18 See, e.g., Qur’ān 2:8, 4:38, 9:29 and Crone (2012).

If Donner's hypothesis is correct, one can clearly see that the *Ṣaḥīfa* finds another example of a politico-religious community that was common in pre-modern times. Although its extent should not be exaggerated, there is a certain kind of religious pluralism in the *Ṣaḥīfa* similar to that of other pre-modern political orders. The religious community of the *Ṣaḥīfa* excludes pagan unbelievers as well as polytheists, but it seems to extend toleration to all monotheists.¹⁹ Such a religious polity is certainly different from confessionally neutral modern regimes. One should not, however, lose sight of the fact that up until the 17th century, no Western thinker argued for the possibility of an atheistic society and they thought that some kind of religion is necessary for the functioning of decent political order (Strauss, 2021, pp. 103–107). Even a great champion of toleration and free society such as John Locke excluded atheists from toleration because, he argued, “promises, covenants, and oaths, which are the bonds of human society, can have no hold upon or sanctity for an atheist” (1963, p. 93).²⁰ One should not underestimate the political importance of some of the specific religious beliefs mentioned in the *Ṣaḥīfa*: It is said that the God-fearing *mu'minūn* remain true to the treaty (§ 22); that those who believe in Allah and the Last Day will refrain from supporting or giving shelter to a murderer and that whoever does, will endure the curse of Allah and will suffer the wrath of Allah on the Day of Resurrection; and that the repentance or ransom of such a lawbreaker will not be accepted (§ 25). These threats, which might sound like empty and rather conventional tropes, were taken much more seriously in the past—they were the guarantees on which the political society was founded.

Serjeant's rather confusing description of the political order established by the *Ṣaḥīfa* as both “secular” and “theocratic” reflects the unusual characteristics of the religious order of the *Ṣaḥīfa*. Serjeant claims that despite the theocratic character of “confederations in ancient and even contemporary Arabia” the political order established by Muhammad does not share this theocratic characteristic because the Jews were also included in this confederation. He

19 Amir Arjomand claims that the *Ṣaḥīfa* is the basis of religious pluralism in Islam. One must, however, bear in mind that the inclusion of the Jews in the *umma* is very different from the classical institution of *dhimma*, which transforms the so-called People of the Book to second-class citizens (Air Arjomand, 2009, p. 560). Amir Arjomand, following Wellhausen, also claims that the *Ṣaḥīfa* recognizes the presence of not only Jews but also pagans. Clause 23 on which he bases this claim, however, does not seem to bear this meaning (Amir Arjomand, 2009, p. 567; Wellhausen, 1889, p. 69). Cf. Donner (2002, p. 291). Contrary to Serjeant's claim, it is improbable that *kāfir* has only a political significance, but, regardless, *mushrikūn* is clearly a religious category (Serjeant, 1978, p. 11).

20 Locke even argued that Roman Catholics and Muslims should not be tolerated because they yield obedience to foreign princes.

claims, however, that this political order was not entirely novel because “the Quraysh pantheon at Mecca” also tolerated different cults, including Christianity (Serjeant, 1978, p. 2). There are several problems with Serjeant’s view: First, the political order of the *Ṣaḥīfa* is very much theocratic. The problem of including Jews in the *umma* can be solved by taking the missing link into account, a religion that can unite both the Jews and Muhammad’s followers under the guidance of a divine judge, namely Muhammad. Furthermore, Serjeant ignores the difference between the polytheist pagans of Mecca and Muhammad’s monotheism. Polytheist religions, like the paganism of the Romans, generally tolerated other cults, a historical example that played an important role in the formation of the European idea of toleration.²¹ The Romans had, however, difficulty in dealing with monotheistic religions like Judaism and Christianity because the monotheism of these religions did not allow the worship of other deities. Jews and Christians refused to participate in Roman religious ceremonies, did not recognize the Roman gods, and did not make offerings to them. This seems to have been also the attitude of Muhammad’s followers in Mecca, hence their persecution by the Meccan pagans, who in principle tolerated other cults. What we can surmise from the allusions of the *Ṣaḥīfa* to *kāfirūn* and *mushrikūn* is that Muhammad’s monotheist followers did not tolerate polytheistic cults—it might be significant that there is no mention of Christians in the *Ṣaḥīfa*, perhaps due to their trinitarian beliefs, which were believed to be incompatible with strict monotheism.

The picture of the early Islamic regime in traditional sources is quite different from the view of the *Ṣaḥīfa* presented above: the traditional sources depict a series of breaks between Muhammad and the Jews of Medina which led to the eventual violent elimination of the Jews from the community established in Medina. Some scholars have questioned the reliability of these reports and surmised that these traditions greatly exaggerate these conflicts or might even have been completely invented to respond to some later politico-religious needs (Cook, 1983, p. 75; Crone & Cook, 1977, p. 7; Donner, 2010, p. 73; Hoyland, 1997, p. 554ff.; Jansen, 2008, pp. 311–317). These scholars found their view in early non-Muslim sources which, similar to the *Ṣaḥīfa*, depict an entirely different picture: a community consisting of Jews and the followers of Muhammad engaged in fighting side by side well after the supposed break with the Jews depicted in traditional sources. Even an early Armenian source claims that the governor of Jerusalem in the aftermath of the Muslim conquest was a Jew (Crone & Cook, 1977, p. 6). Later Muslim sources tend to claim that non-Muslim followers of Muhammad who participated in the conquests must

21 See Assmann (2005); Callanan (2018, pp. 207–213); Hume (2007, pp. 60–62 (Section 9)).

have been converts from Judaism or Christianity to Islam. But non-Muslim and earlier sources suggest rather that these remained in their own religion and only later did Muslim sources try to depict them as converts to harmonize the traditions with the new and later understanding of Islam as an exclusivist religion. Whatever our view of these conflicting reports, one should confess that the religious community depicted in the *Şahîfa* is not close to what is found in traditional accounts. Nor can one find a similarity between the political order of the *Şahîfa* and the historical experience of Muslim societies. There is nothing resembling the status of the dhimmî population under Islamic rule. In fact, there seems to be no second-class body of citizens in this political order. We shall come back to the political importance of this aspect of the *Şahîfa* by referring to its place in the thought of Räschid al-Ghannüschi.

Muhammad and the Law

One of the major characteristics of the *Şahîfa* is that, apart from very general provisions regarding blood money and ransoming captives, this document is entirely silent about anything approaching a system of jurisprudence that resembles the traditional Islamic Law (*sharī'a*).²² This is particularly impressive as law occupies a prominent place in classic Islamic thought, so much so that one can describe Islam as emphatically a religion of law. As we shall see, the prominence of law plays an important role in reflections on Islamic political thought and poses significant challenges to the formation of a modern Islamic regime. As far as the *Şahîfa* is concerned, it seems that the political doctrine of the *Şahîfa* is a peculiar marriage of radicalism and conservatism: It finds an entirely novel political order uncommon to the Arab tribal and stateless society on the one hand while accepting the tribal practices and its customary forms of conflict resolution on the other. If one is meant to deduce a coherent political doctrine from the *Şahîfa*, one must conclude that it is founded only on a general adherence to monotheism and principles of peaceful co-existence such as mutual self-defense and acceptance of the status of Muhammad as a divine ruler. Other aspects of social life, often addressed in the classic Islamic Law and political thought, are left quite untouched. The only objective of the pact seems to be limited cooperation, internal security, and outside defense. One can argue that such a regime would not, in principle, clash radically with the customary practices of any society, be it medieval or modern.

²² Cf. Goto's claim that some parts of the *Şahîfa* intimates that Muhammad might have also been a legislator (1982, p. 11).

There are, however, at least two other ways of interpreting the absence of an elaborate system of laws in the *Ṣaḥīfa*. The first approach is to rely on an influential idea among certain scholars of Islam: They have argued that there have been powerful apocalyptic elements in early Islam and that Islam may originally have been an apocalyptic movement. Some have even called these apocalyptic elements the fundamental core of Muhammad’s religious message and the primary theme of his teaching.²³ According to this view, some passages in the Qur’ān show that the first Muslims believed that the End of Times, or in Qur’ānic terms “the Day of Judgment” (*yawm al-dīn*) was near (see Qur’ān 33:63, 47:18) and assumed that the world would end in the near future—even in their own lifetime. Even Muhammad’s famous title in the Qur’ān, the “seal of prophets” (*khātam al-nabiyyīn*) (Qur’ān 33:40), might have meant that he is the last prophet in the sense that he is the one coming just before the End of Times (Friedmann, 1989, p. 55). In this perspective, Muhammad only preached righteous behavior to his followers because they were waiting and preparing themselves for the arrival of the End of Times. What also reinforces the apocalyptic reading of the *Ṣaḥīfa* is that there is nothing in this document resembling any formal structure of authority among the members of the community or between Muhammad and the members of the new *umma*: No aristocracy, nor a representative or administrative body, or priesthood class is mentioned. This absence of a complex political structure and detailed legislation gives us the impression that the regime of the *Ṣaḥīfa* was not meant to be permanent. Perhaps because of the apocalyptic nature of Islam, Muhammad’s regime possessed a temporary character and therefore no provisions were made for the long term. It goes without saying that apocalypticism in precise terms is not entirely compatible with political theory; any genuine political doctrine presupposes a measure of durability that is lacking in apocalyptic thought—one cannot organize a society if one does not imagine a durable regime.

By Muhammad’s death, however, it must have been clear that the Last Day was not near, or at least that someone must succeed the Prophet in the period between the death of Muhammad and the Day of Judgment. In this regard, one should mention an interesting point about Abū Bakr, the immediate successor of Muhammad, according to traditional accounts. There are some sources in which Abū Bakr seems to have been forgotten, as if the first caliph was ‘Umar

23 For a detailed bibliography for the scholarship on Islamic apocalypticism see Amir-Moezzi (2016). It should be emphasized here that apocalyptic ideas are unevenly distributed in the Qur’ān. Here it is presupposed that the Qur’ān is a unitary text with a coherent worldview but this can be questioned.

ibn al-Khattāb, the second caliph in the standard accounts, rather than Abū Bakr (Crone & Hinds, 1986, p. 112). We have no reason to believe that Abū Bakr was not the immediate successor of Muhammad, but he appears to have been a ruler different from his successors. The doctrinal difficulty of imagining a ruler between the last prophet (Muhammad) and the End of Times might have been the reason for this irregularity; there seems to be no place for such an intermediate ruler because in Muhammad's lifetime or just after his death the world must have ended. This might also explain 'Umar's sobriquet, *al-fārūq*, in Muslim traditions the second caliph, which is etymologically related to the Syriac word for "savior" or "redeemer."²⁴ It is possible that after Muhammad's death (and in a chronological readjustment common to apocalypticism) the End of Times was pushed back, and Abū Bakr became the herald of the apocalyptic event, with 'Umar now expected as the eschatological redeemer who would come at the End of Times.

The apocalyptic perspective is not, however, the only perspective that can explain the absence of elaborate political structures and laws in the *Ṣaḥīfa*. A regime of laws and governmental structures is not the only model one can think of while trying to make sense of the political regime of the *Ṣaḥīfa*. The polity of the *Ṣaḥīfa* might have been closer to the rule of a divine man who is meant to legislate and reorganize the political order at his discretion rather than the rule of laws and procedures limiting his actions. Incidentally, this corresponds to the view of those Muslim philosophers who considered the first ruler (*al-ra'īs al-awwal*), who legislates based on his superior knowledge and at will, inherently superior to the rule of "the king of the tradition" (*malik al-sunnah*) who only implements the laws set down by a wiser predecessor (Colmo, 1998, pp. 722–724). In this perspective, the status of Muhammad in the pact is much more important than the absence of laws and political structures. The pact constitutes a new polity and designates an authority within it. The members are instructed to refer their differences to Allah and his prophet Muhammad (§§ 26, 52). It seems that Muhammad owes his authority to his special status as the prophet of God. He is called "the Prophet" (*al-nabī*) and "the Messenger of God" (*rasūl Allāh*) (§§ 1, 63), which indicates that his authority is somehow theological. He is an adjudicator with divine authority.²⁵

24 Crone & Cook (1977, pp. 3–6). Cf. Bashear (1990, p. 69); Donner (2000).

25 Watt's claim that Muhammad occupied the place of one tribal chief among others is quite inexact. His position was certainly above others and alongside Allah, and as God's prophet he played the role of the supreme authority (Watt, 1956, p. 228). Cf. Wensinck (1975, p. 70). Some Qur'anic verses might be a reflection of the role of Muhammad as an adjudicator with divine authority: Qur'an 10:47, 4:59, 24:47, 42:10.

Serjeant describes Muhammad’s position in the *Ṣaḥīfa* as a “judge-arbiter, a *ḥakam*,” and suspects that his immediate followers, from Abū Bakr to ‘Ali, might have continued the same tradition (1978, p. 2). Serjeant’s hypothesis about the successors of Muhammad is intriguing, but one should perhaps radicalize one’s view of Muhammad’s successors: They were granted the official title of caliph, *khalīfat allāh*, meaning “the deputy of God,” which implies a strong religious authority. This title seems to be a reflection of the fact that Muhammad’s religious status was inherited by his successors after his death. But the dominant view held by classical historians, who here follow the standard “Sunni” Islamic view, is that the caliphate was only a political institution and that after Muhammad his politico-religious status did not pass to his successors, who never enjoyed religious authority. According to this view, the religious authority of Muhammad was passed entirely to scholars, who by transmitting their recollections of Muhammad’s deeds and example became the official authority of Muslim beliefs (Arnold, 1924, p. 14; Watt, 1971).

This conventional view has been challenged: Patricia Crone and Martin Hinds have argued that the early caliphate was *not* only a political institution but the genuine continuation of Muhammad’s politico-religious status in which all authority was concentrated. In this critical view, the caliph was charged with the definition of Islamic Law, allegiance to him was necessary for a Muslim’s salvation, and the caliphs were seen as God’s agents quite independently from the Prophet without owing their authority to him (1986).²⁶ Serjeant’s claim that Muhammad’s immediate successors might have assumed the position of a judge (*ḥakam*) finds its confirmation in the fact that one of the common offices attributed to the caliphs was judge. In the Qur’ān also *khalīfa* is explicitly mentioned in connection with *ḥakama*, rendering judgment and adjudication. It is, however, interesting that in the Qur’ān, David is addressed by God as someone who has been made *khalīfa* upon the earth to judge between the people (Qur’ān 38:25, 21:78). In other words, just like in the *Ṣaḥīfa*, the political and judicious powers are in the hand of a divinely-appointed prophet and not any ordinary mortal.

According to the traditional Islamic view, Muhammad did not explicitly designate anyone as his successor, thereby opening the way for more traditional Arab practices of finding the successor of a tribal leader. It is, however, difficult to harmonize this view with what we find in the *Ṣaḥīfa*. It is doubtful that another person, devoid of the prophetic gift, could occupy Muhammad’s place as it is described in the pact. If the continuation of the political regime

26 Over the past three decades this once controversial position has been quite widely accepted by many other scholars. See Marsham (2018).

described in the *Ṣaḥīfa* requires the presence of a divine ruler, one should expect that Muhammad's immediate successors might have assumed a comparable prophetic role. It is therefore significant that in some sources the caliphs were claimed to possess a kind of divine insight (*ra'y*) which made the source of their judicial decisions ultimately divine (Crone & Hinds, 1986, p. 56). This theory of legitimate succession to Muhammad is precisely the doctrine attributed to the *Shī'ites*: They also consider the ruler of the Muslim society God's deputy, count him as necessary for the salvation of his followers, believe that he is essential for the formulation of Islamic Law, and above all view him as someone possessing divine gifts which make him superior to ordinary men. According to Patricia Crone and Martin Hinds, the *Shī'ites*' concept of the head of state is not a deviation from the true Islamic conception but the original and archaic form that was replaced because of a conflict between the caliphs and early scholars who wanted to wrest away the religious leadership from the caliphs so as to take it over themselves (1986, p. 105).²⁷ In this regard, the *Shī'ites* did not raise the status of their leader to the level of Muhammad; this was already the case for the successors of Muhammad who wanted to implement the original Islamic political doctrine after the Prophet. This view has recently become a focus of study among scholars, especially those who have concentrated on the status of 'Ali in early Muslim thought and *Shī'ite* beliefs, the beliefs that later on were designated as heretical and innovations by the Sunni orthodoxy. It has been argued that in some early Muslim writings and even in the *Qur'ān*, 'Ali occupied the place of a divine successor to Muhammad, a figure coming at the End of Times.²⁸

Pluralism beyond the *Shari'a*

It would be rash to maintain that the foregoing observations suffice for speaking with certainty about the conception of membership in Muslim society and the place of law in political order prevalent in early Islamic political thought. What they intend to accomplish, however, is to draw attention to the possibility that taking the source-critical approach into account and pursuing an unmediated study of classic sources can significantly affect our understanding of the

²⁷ As previously mentioned, the special status of Muhammad in the *Ṣaḥīfa* reminds one of Alfarabi's idea of the ideal kingship. It is therefore not surprising that on the basis of similar resemblances, some have spoken of the Shiite sympathies of Alfarabi. See Najjar (1961).

²⁸ See, e.g., Amir-Moezzi (2014, 2016).

relationship between Islam and politics. Let us remind ourselves of the two points that can be deduced from the discussion above.

The first point concerns the denominational character of the regime depicted in the *Şaḥīfa*. What is above all intriguing is the pluralistic character of the citizen-body which reflects a quasi-“perennialist” perspective. In the same way that the Qur’ān emphasizes the universal character of its belief system as the common denominator of all true religions, the primordial religion of mankind, the political order of the *Şaḥīfa* seems to have been an attempt at creating a political order on the basis of this perennialist idea, a position essentially different from, and perhaps superior to, the common toleration that tolerates only differences of opinion.²⁹ Marcia K. Hermansen has claimed that a perennialist view of religious traditions can be a recipe for contemporary mutual understanding of adherents of different religious denominations (2016). In this perspective, the political order of the *Şaḥīfa* can be seen as a historical example of such a polity: a denominational regime that at the same time tries to include different religious traditions in a singular “Church” on the basis of the idea that they all contain the perennial truth common to all true religious traditions.

The peculiar character of the citizen body as reflected in the *Şaḥīfa* has attracted some attention from Muslim modernist thinkers. An example is Rāschid al-Ghannūschī, the political thinker who played a role in the democratic transition in Tunisia. Al-Ghannūschī faced one of the classic problems of Islamic political thought in its encounter with the idea of democracy. A democracy, as the term itself and the long Western reflection on it suggest, is a government of the people. But how should “the people” be understood? In every democracy, even the most inclusive one, some categories of individuals are excluded from the citizen body. Any criterion for exclusion can potentially become controversial, but in the case of Islamic democracy such controversies can take a religious character: Can a democratic regime exclude and include individuals on the basis of their religious affiliation? It seems that such a criterion of inclusion and exclusion is not what we usually accept as justified in a modern democracy; we would even seem to have difficulty entertaining the idea of a democracy in which some individuals are accepted as citizens but with diminished individual rights because of their religious affiliation (Bahlul, 2004, pp. 113–114). This is a problem that al-Ghannūschī faced while theorizing his idea of an Islamic democracy. He originally claimed that non-Muslims are in a sense only residents with diminished rights in a Muslim regime and cannot attain full citizenship unless they convert to Islam (Bahlul, 2021, p. 307).

29 See Qur’ān 3:67, 3:84, 30:30; Rubin (2001, 2:402–3).

In recent years, al-Ghannūschi has rethought his original vision, making quite a few changes, and has moved toward what Andrew March describes as “Muslim Democracy” in contradistinction to “Islamic Democracy.” He has now turned to the *Şahīfa* as a text more welcoming of a modern Muslim society characterized by pluralism. Al-Ghannūschi emphasizes, rightly, the inclusive character of the *umma* in the *Şahīfa* and claims that this document can act as a basis for organizing a society on the basis of Islam in which non-Muslims can be a part of the citizen body. In other words, al-Ghannūschi claims that secularism is not a precondition of a pluralist democracy but that an inclusive society can be constructed on the basis of Islamic teachings deduced from traditional sources, in this case, *Şahīfa* (March, 2019, pp. 212–213). One point, however, to bear in mind is that, as our discussion above tried to show, in the end, the political regime depicted in the *Şahīfa* is denominational: It is more inclusive because it seems to welcome all monotheists who lead a pious life and believe in an afterlife but still excludes those who do not subscribe to these principles. In other words, it is doubtful that one can justify a wholly inclusive regime on the basis of this document. Such difficulties in al-Ghannūschi’s dual allegiance to Islam and democracy have not escaped the attention of acute readers of al-Ghannūschi (March, 2019, pp. 209–228).

The second point that can be deduced from the interpretation offered in this inquiry concerns the place of law in the *Şahīfa*. As mentioned before, Islam has been traditionally described as a religion of law, leading to the question of whether the existence of a fixed and immutable set of laws of divine origin is compatible with the idea of a sovereign popular regime (El-Fadl, 2003, p. 7). Muslim thinkers have pursued different directions to address this question: As March explains, in the revised version of al-Ghannūschi’s political vision, in contradistinction to the traditional Islamic perspective, “the ‘sharī’a’ is ... an almost generic commitment to the rule of law and limited government, rather than a denser corpus of rules, methods, and principles” (2019, p. 216). The more radical strategy is pursued by Abdullahi Ahmed an-Na’im who, facing the incompatibility of the *sharī’a* with what he considers to be universal standards of human rights, advocated setting “aside clear and definite texts of the Qur’ān and Sunna of the Medina stage” because he believes the material from this period of Islamic history justifies a system of the *sharī’a* incompatible with the universal precepts of human rights (1990, p. 180). What is particularly interesting is that despite an-Na’im’s radicalism, he is here following the traditional view according to which the traditional *sharī’a* relies upon and is the fruit of the Medinan part of Muhammad’s prophethood. It is therefore significant to consider that, as it was explained above, the *Şahīfa* as the prominent document of the Medinan period does not betray a prominent

concern with anything approaching the traditional shari‘a. The absence of Islamic Law in Ṣaḥīfa should be considered a significant from the point of view of the contemporary concerns of Muslim political theory and practice and this might prove to be a promising point of departure for elaborating a Muslim political doctrine for modern Muslim societies.

Could the absence of law in the Ṣaḥīfa and its tendency to embrace the customary practices of the society justify something close to what Abd al-Raziq claimed, an Islamic political theory open to embracing the secular practices of modern societies? Or more generally, would not the unmediated approach to the Ṣaḥīfa illustrated in this study provide a more favorable point of departure for Abd al-Raziq, al-Ghannūschī, an-Na‘im, and other Muslim modernists who advocate a political Islam in harmony with modern politics? Keeping these provisional and tentative observations in mind, it remains to be seen, in supplementary studies, how this case study can be replicated in the case of other aspects of Islamic political thought and other classic sources and whether such an altered understanding can have an impact on the practical questions facing contemporary debates on the place and role of Islam in the politics in different parts of the world.

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