

# Democracy, Economic Development and *Maqāṣid Al-Sharī'ah*

Murat Çizakça

**Abstract:** The statistics shows that of the richest top 20 countries in 2003, 19 were capitalist democracies. This article, thus, attempts to assess the potential association between economic development/capitalism and democracy. In arguing for a positive nexus between the two, it also aims to locate the historical roots of this relationship. In doing so, the paper argues that Western capitalism historically evolved from market economy and capitalism developed under Islamic civilizations, which preceded the modern nature of Western capitalism by at least six hundreds years. It also argues that fundamental principles of modern democracy can be traced back to political structure of the initial Islamic community. Therefore, it asserts that Islam neither impedes nor objects to democracy and also contains many features of capitalism. In supporting these assertions, the paper introduces the concept of intergenerational Al-Ghazālī Optimum and, therefore, argues that the most important values behind the political and economics success of the West can actually be found in a re-interpretation of *maqāṣid al-Sharī'ah*.

## I. Introduction

The question of democracy, economic development and *maqāṣid al-Sharī'ah* needs to be examined from the perspectives of several social sciences. Let us start with that of the political scientists. To do so, first of all, an accurate

---

MURAT ÇIZAKÇA, Professorial Researcher at the International Centre for Education in Islamic Finance (INCEIF), Kuala Lumpur, Malaysia.

The original idea of this article emerged during a discussion with Alparslan Açıkgenç of IIUM, Malaysia. The concept of Al-Ghazālī Optimum was reached independently yet jointly with Professor Sabri Orman. The author is grateful to Emin Köksal for his insight regarding the intergenerational Pareto optimum.

definition of democracy is needed. Based upon Ray (1998), Ahlmark (1998-99: 186) has suggested that a country is considered to be democratic, if

- (i) the leaders of the executive and legislative branches of the government are elected in competitive and honest elections;
- (ii) at least two independent political parties compete in these elections;
- (iii) at least half of the adult population votes in the elections;
- (iv) the political party in power has been changed at least once through free elections

While both Ray and Ahlmark appear to be in agreement on these conditions, I do not consider them to be sufficient and add the following, which I derive from the experiences of Turkey:

- (i) If the political parties are able to function freely and are not shut down or threatened with being shut down;
- (ii) If the following preconditions of democracy are fulfilled:
  - (a) The rule of law must be supreme, entailing equality of all citizens before the law and the obligation of the *state* to obey the law;<sup>1</sup>
  - (b) The state must respect property rights;
  - (c) Judiciary must be independent of the executive and legislative branches;
  - (d) The legislative should be superior to the executive;
  - (e) Basic freedoms (freedom of thought, worship, enterprise, etc.) must be respected by the state;
  - (f) The military must be under the authority of the democratically elected civilian government.

Do Muslim countries meet these conditions? Turkey meets Ahlmark's conditions, but not all of my conditions. In only four Arab countries (Palestine, Yemen, Algeria and Sudan) are presidents elected from among competing candidates with presidential term limits (UNDP, 2004: 5). But if we apply a rigorous test, combining Ahlmark's and my own criteria, no Islamic country, including Turkey, can pass. One may say, "So what? Why does it matter?" To answer that question, it is necessary to understand fully why democracy is so important and what the Islamic world is missing for the lack of it.

Obviously, the most attractive thing about democracy is that it allows people to change their government without bloodshed. Thus, come elections,

every four or five years, voters go to the voting boxes, drop in a few papers, and the government changes or is re-elected.

But there are other, less obvious but possibly more important considerations, for instance, the link between democracy and economic development. Of the richest top 20 countries in 2003, in terms of GNP per capita, 19 were capitalist democracies. The only non-democratic country, Brunei, obviously made it to the list thanks to its small population and vast oil wealth.<sup>2</sup> If the wealth of citizens is the most important measure of international success, then capitalist democracies are without doubt the most successful countries. Let us now consider why this is so.

## **II. Democracy and Waging War**

We may begin with the relationship between democracy and waging war. The democratic countries considered here are those that have satisfied the conditions described above in the period after Waterloo (1815). These nations were by no means more humane than the others. In fact, their cruelty towards the indigenous populations they colonized is well known. But, though deplorable, this is not what we shall discuss here. Instead we shall focus strictly on the link between democracy and war.

It has been said that a total of 70 wars were waged between 1816 and 1991, a period of about 175 years from the end of the Napoleonic wars roughly to the present. These wars were fought between 353 'pairs' of hostile countries. Among those 'pairs' of countries at war, while a non-democracy fought another non-democracy in 198 cases, and a democracy fought a non-democracy in 155 cases, a democracy never fought against another democracy at least in the nation-state period (Ahlmark 1998-99: 185-187). From this it may be concluded that democratic countries do not fight wars against each other. The economic implications of this observation should be obvious. Wars are terribly destructive, much more so in our days with ever more potent weapons. Therefore in a world dominated by democracies destructive wars and massive armies with their hugely expensive armaments can be avoided. The funds thus saved can be channeled to human and economic development projects instead. There is a strong link between democracies and economic development (Sen, 1999: 146-189; Hayek, 1994; Friedman, 1982).<sup>3</sup> But to reach to this happy state of affairs and avoid wars, the number of democratic countries should increase and democracy should become the predominant system of world politics. While this idea is correct, recent events have shown that how this is achieved assumes great importance.

Indeed, Iraq taught the world an important lesson that democracies should expand democratically and should be built up rather than being imposed. Or that democracy should first be desired by the population, and that it cannot be imposed by a foreign power, much less a hostile one.

### **III. Massacres**

During the period 1900–1987, 170 million civilians were killed for political reasons not on battlefields. The totalitarian and authoritarian countries killed 166 millions, while the democratic countries killed, mainly by aerial bombardments, about two millions. Thus, 98% of the victims were civilians killed by their own dictators.

If we add the American bombardments of civilians in Vietnam and Iraq,<sup>4</sup> the figure would probably be reduced slightly to about 95%. So we reach the conclusion: governments kill civilians. But the number of people killed by democratic governments is far lower. About 95% of the civilians so killed, were murdered by the dictators. Here are the details of some of the 20th century massacres, where non-democratic states killed their own citizens: the Ottoman Empire killed about 1 million Armenians (numbers and motives disputed) (Akçam, 2006), the Soviet Union killed about 62 millions; Communist China killed about 35 millions, Nazi Germany killed 21 millions; the Pol Pot regime in Cambodia killed two millions (out of a population of 7 million); in Rwanda within three months one million civilians out of 7 millions were killed; and most recently the Serbs in Bosnia killed 200,000 raped 40,000 and displaced 2 million Muslims. The total number of those massacred by the Communist regimes adds up to about 110 millions, about two-thirds of the 170 millions killed during 1900–1987.

Why was it that the Communist regimes were so particularly murderous? There are two reasons: first, the state controlled all the economic and political power, and secondly, all the civil society institutions, which could inform, criticize and protest, are silenced.

Thus, the more overwhelmingly the power of the modern state is concentrated in the hands of a certain group, and the more political freedoms are curtailed, the greater is the potential for crimes. The murder of 170 million peoples is like a modern plague.<sup>5</sup> The medicine against this plague is the separation of the executive, legislative and judicial powers, establishment of the rule of law and expanding the basic freedoms.

#### **IV. Famines**

It used to be argued that democracy was a luxury only the rich could afford, and that the poor countries needed to focus all their resources to avoid famines. Amartya Sen (1999:180) a Nobel laureate in economics, proved these arguments wrong. He showed that the great Bengal famine of 1943 with 3 million people dead occurred when India was under British rule. But after India became an independent democracy, there has not been a single famine in India. Sen (1999), thus, concluded that independent democratic countries with a free press do not experience famines.

Moreover, not only the rich Western democracies, but also the newly independent poor democracies such as India, Botswana and Zimbabwe successfully avoid famines. Famines occur, either in colonies ruled by foreign powers, such as Ireland and India, or, in countries governed by the Communists, or in countries governed by dictators. The most recent serious famines occurred in Sudan and in North Korea, both dictatorships (Ahlmark 1998-99: 194).

#### **V. Economic Development and Capitalism**

The preceding discussion indicate that the political scientists and the economists, have observed that (Sen, 1999: 180-181),

- (i) Ever since Napoleon, there has never been a war between two democracies;
- (ii) Democratic states do not kill their own civilians. They kill enemy civilians during warfare with non-democracies. But the numbers are significantly less than the crimes committed by dictatorships against their own citizens;
- (iii) Famines never occur in independent democratic regimes with a free press.

These are the most obvious reasons, according to the political scientists, why democracies are associated with sustained economic development.

But, there are equally important, yet less obvious reasons as well. A very important one is the institutional evolution. This is the perspective provided us by new institutional economics. Institutions have a powerful impact on transaction costs and via transaction costs on production and growth (Coase, 2005: 35). When a new institution, either reformed or imported from another culture, reduces transactions costs, this is reflected upon the aggregate demand and supply curves as rightward shifts leading to growth.

Moreover, according to the Coase Theorem, in a regime of zero transactions costs, negotiations between the parties would lead to a maximization of wealth. It follows that any reduction in transactions costs should lead to wealth enhancing negotiations. If this is correct, then the importance of institutional reforms or the cross-cultural borrowing of institutions should be obvious: in either case transactions costs are reduced with clear positive impact on the production and growth.

Modernizing dictators often borrow Western institutions or laws and impose them directly on the population. But this is the worst method of institutional borrowing. Because, according to Berkowitz and Pistor (2003) such elite-imposed cross-cultural institutional borrowing suffers from the full 'negative transplant effect'. Consequently, the effectiveness of the imported law and institutions is impeded. But the effectiveness (legality) of law or the institutions is important, because it affects the growth of per capita income. Berkowitz and Pistor have estimated that a one percent increase in the effectiveness (legality) of law or institutions enhances the GNP growth rate by as much as 4.75 %. Moreover, legality explains roughly 83 % of the variance in economic development (Berkowitz and Pistor, 2003). These are striking findings indeed and point to a dilemma: if the laws or institutions are cross-culturally imported and imposed by a modernizing elite or a dictator, they lose their effectiveness and curb economic growth. Therefore, it is much better, if institutions are imported by the peoples themselves, and after applying them successfully, the legal system responds and the imported institutions are eventually incorporated into law. The surest way for institutions to be borrowed from the bottom up is through a democratic process, which works as follows: People, usually those who are in contact with other cultures, learn about the institutions of these cultures; they express their desire for them through the free press and the political parties start a race to incorporate those institutions into the legal system. In short, democracy contributes to effective institutional evolution, which not only reduces transaction costs but also improves legality and economic growth.

I now turn to a sociological perspective. A well-known Polish sociologist Sztompka (1998) shown that democracies institutionalize distrust. They do this by establishing institutions, which act as pseudo insurance agencies and minimize our risks of trusting the others, particularly those who govern us. Such risk minimization takes place through the separation of powers, which control, check and balance each other. As a result, power invested on democratic governments is diluted. Because the prevailing risks in the society

are thus effectively minimized, people in democracies trust each other more. This, once again, reduces the transaction costs and enhances growth.

Economic history can also provide us with important insight about democracy and economic development. Consider that both the great empires of the Mediterranean, first the Byzantine and then the Ottoman, granted capitulations to the small, quasi-democratic city states of Italy, primarily Genoa and Venice.<sup>6</sup> Why should powerful empires grant trade and fiscal privileges to small city-states, indeed, what made these small entities economically so powerful? The answer lies in the way these small entities were governed. In order to survive the fierce inter-state rivalry, their princes borrowed from the merchants and in return were obliged to listen to their grievances. Thus these city-states became quasi-democratic and were primarily governed by merchant elites (Macdonald, 2006). So, rulers in these cities became sensitive to the needs of the merchants and passed laws that fulfilled their needs. We might wonder at this point, what exactly do the merchants want? Surely, they would want secure property rights, low taxes, economic freedom and minimum state interference in business. The point is; when these conditions are fulfilled and the institutions that the merchants need are established by the mercantile parliaments, economic growth occurs.<sup>7</sup> Furthermore, these arguments are not limited to the distant past, they are just as relevant for today. This is evidenced by the achievements of Singapore and Hong Kong during the twentieth century.

Returning to the medieval and pre-modern era, Venice and Genoa became so rich and powerful that they even occupied Constantinople in 1204, the once proud capital of the Byzantine Empire. Latest research has revealed that when the Ottoman Turks appeared in western Anatolia, there developed a symbiosis between the newcomers and the native Greeks, who found in the former, effective protection against the Italians. In short, the symbiosis between the Greeks and the Ottoman Turks played an important role in the establishment of the early Ottoman state (Inalcik, 1987; Lowry, 2003; Çizakça, 2005). But despite this rising Ottoman power, Genoa and Venice continued to flourish. Even the Ottomans could not destroy them. On the contrary, the Ottomans continued the centuries-old Byzantine policies and granted them capitulations. This is because these Italian merchants continuously brought silver to finance their trade deficit in the Ottoman ports.<sup>8</sup> Meanwhile the quasi-democratic mercantile city-states were growing richer while the Ottomans, obsessed with tax-revenues like the Byzantines, were choking their own entrepreneurs.

It was France and England which reduced the Italian city-states into insignificance. We will focus here on England. This is because, France and England followed during the seventeenth century diametrically opposite policies; while the former became an absolutist monarchy, the latter gradually became a democracy. France eventually exploded with the bloodiest revolution in history and succumbed to Napoleon's dictatorship only to be thoroughly defeated by England and her allies. England, by contrast, became the superpower of the eighteenth and nineteenth centuries.

But then how come the English became so powerful? I have a simple answer: by controlling their kings. Such controls originate in a document dated 1215 and known as Magna Carta. But the modern English democracy was born in 1688 with the Glorious Revolution. Already during the English civil war in the mid-seventeenth century, separation of powers was achieved and an independent judiciary was established. But it was with the Glorious Revolution that the legislature became superior to the executive. When William of Orange and Mary bowed in humility to the parliament, the rule of law was established. The King and the Queen declared that they would obey, like everyone else, the laws passed by the Parliament.

The Bank of England established in 1694 symbolizes the extension of the rule of law to fiscal matters. From this date on, the English domestic borrowing was strictly disciplined and could take place only subject to strict banking rules. In short, the King's powers were severely curtailed. Most importantly, he could no longer violate the property rights of his creditors.

The results were astonishing. England led by these weakened rulers controlled by democratic institutions, became a safe haven for investors. Savers, both English and continental, rushed to lend money to the English crown. Whereas before 1688 the crown could borrow only one million pounds at 30% interest, after 1688, it could borrow 17 million pounds at 3%. Capable of borrowing such huge amounts at such low rates, England soon began to transform this financial potential into military victories and emerged as the superpower of the eighteenth and nineteenth centuries (North and Weingast, 1989).

Economic historians have long debated the reasons why the industrial revolution occurred first in England and nowhere else. It will be argued here that the preconditions of democracy, that is, the rule of law, separation of powers and independent judiciary were completed for the first time by the English civil war and the Glorious Revolution. Based upon these, England gradually democratised, a process without which she would have failed to become the first industrial nation of the world.



## VI. Capitalism, Democracy and Islam

Let us now look at the Islamic world. Indeed, what about the Islamic world? First of all, neither democracy nor capitalism are contradicted by Islam. Since as mentioned above, most developed countries today are capitalist democracies, this means that there is ground for optimism for the Islamic world.

Let us, first of all, consider Islam's position *vis-à-vis* democracy. It is well known that when asked to appoint his successor, Prophet Muḥammad (*pbuh*) refused to do so. This is a subtle message given on his death-bed that Muslims should elect their own leaders. His refusal to appoint his successor can therefore be interpreted as a democratic principle in the contemporary sense. The tradition of the righteous caliphs also give similar messages (Ameer, n.d.: 127–33). Hierarchical dictatorships contradict the very spirit of Islam. This is because true governance, *ḥākimiyyah*, belongs to Allah, and what belongs to Allah should not be usurped by a man. Even the interest prohibition indicates clearly to democracy. For it is clear that interest prohibition leads Muslims to an economic system dominated by a spirit of risk sharing, *i.e.*, partnership. Partnership and contract/covenant are considered to be at the very heart of Islam.<sup>9</sup> Thus, if partnership and contract are at the very heart of Islam and the whole economic system is supposed to be based upon these, then it is only to be expected that these concepts be reflected in the Islamic political system as well. The Islamic political system must therefore be characterized by partnership and brotherhood. As a principle, such a system cannot be hierarchical and the leader's tenure must be ephemeral. This is because it would not be normal for one of the brothers to continuously rule and the others to be continuously ruled. A system (democracy) by which the rulers are regularly and continuously rotated (through elections) would therefore be in harmony with the spirit of Islam (Orman, 2000: 236-7).

If notwithstanding these favourable beginnings and inclinations to democracy, dictatorships came to dominate the Islamic world, this is most probably because of the Sasanid and Byzantine influences. It is well known that the Umayyads were particularly influenced by the Byzantine, and the Abbasids by the Sasanid traditions and institutions. Indeed, when Mu'āwiyah moved the capital to Damascus, for instance, he made Servilianus, the former Byzantine governor of Damascus, his chief consultant (Bulaç, 2002: 10). In short, Muslims need to relinquish these un-Islamic influences and return to their own origins. This is not really difficult. Because, elections a major principle of democracy, can be traced back to the initial years of Islam. Moreover, the *tradition* of the righteous Caliphs and Islamic political

philosophy also support such procedures, which have later become to be known as the democratic political structure. But going to the opposite extreme and creating a French-style republic should also be avoided. A combination of monarchy with democracy is also perfectly possible as is demonstrated by the highly successful European democratic monarchies. A monarchy that provides a symbol of unity for the nation and which voluntarily and gradually relinquishes power to the democratically elected legislative and executive branches as well as to an independent judiciary would also be perfectly acceptable.

As for capitalism, let us remember that with the exception of the Qur'ān, bulk of the *Shari'ah* was written down by men. And many of the great jurists were merchants. Let us remember particularly that Prophet Muḥammed (*pbuh*) himself was a merchant. Moreover, Abū Bakr was a cloth merchant and 'Uthmān was an importer of cereals (Goitein, 1968: 223). Therefore, there is nothing surprising about the fact that Islam favours merchants, property rights, free trade and market economy. Muḥammed al-Shaybani, Goitein, Udovitch, Rodinson, indeed, many great scholars of Islam, whether Muslim, Christian or Jewish, agree on these points (Bulaç, 2002; Udovitch, 1970; Rodinson, 1974).<sup>10</sup> My own conclusion is that Muslims had discovered capitalism about a millennium before Adam Smith and that there was a highly dynamic and successful Islamic capitalism. Western capitalism evolved from this original Islamic capitalism some six hundred years later by borrowing its institutions (Çizakça, 1996, 2000, 2006) and just like its Islamic precedent, it too was shaped by a strict usury prohibition (Munro, 2007). Thus the two capitalisms have common origins both philosophically and institutionally.<sup>11</sup> The two systems began to diverge during the eighteenth century under the influence of the European enlightenment and positivism. Post-eighteenth century European capitalism abandoned its medieval concerns about morality and ethics and began to differ therefore from its Islamic predecessor, which maintained its moral values.

Because an economic system that favours merchants, property rights, free trade and market economy is generally known as capitalist,<sup>12</sup> this author has no qualms about calling this Islamic economic system as such even though this term is so closely associated with the West. I have no qualms also because Islamic capitalism precedes the European one by at least six centuries. In other words, the West learned about and then borrowed this economic system from the Muslims (Çizakça, 1996; 2000; 2006). The West then called it "capitalism". Since the system was originally envisaged by the

Muslims, there is no reason why we should not use the name later on given to it universally. To be sure, these two capitalisms were not identical and while using the term we should be aware of these differences. To appreciate these, we need to go to the details.

Islamic capitalism prohibited usury but allowed free trade, legitimate profit and capital accumulation. It also protected property rights (*Hifz al-Māl*) as clearly expressed in the *maqāṣid al-Sharīʿah*. But it also warned wealthy Muslims that they would have to answer the following questions in the day of judgement: How did you earn your capital?; and how did you spend it?

Providing the wealth is earned through *ḥalāl* means and spent on one's family's needs and for the good of the society, the *Sharīʿah* approves of capital accumulation. Al-Ghazālī even considers the acquisition of goods for the fulfillment of needs as a form of worship. Wealth, for instance, is needed for the fulfillment of the pilgrimage. Consequently, accumulation of capital, according to al-Ghazālī, becomes a form of worship (Orman, 2002: 79). In short, Islamic capitalism allows accumulation of capital subject to ethical and *voluntary* self-controls and redistribution of wealth. *Zakāh* and *awqāf* are the institutions through which Muslims distribute their capital voluntarily. It was thanks to this unique and ethical capitalism, at least six hundred years before Western capitalism, that the Muslims were able to link the Mediterranean and the Indian Ocean world-economies (Wink, 1991: 34-36, Vol. 1). Moreover, they successfully maintained this linkage for a millennium. Indeed the Muslim domination of the Indian Ocean trade was challenged not so much by the Portuguese during the sixteenth century, but by the Dutch and the English during the seventeenth. The Portuguese domination was effectively prevented by an alliance of the Ottoman, Gujerati and Achenese sultanates.<sup>13</sup>

Moreover, there was a significant link between the much earlier Islamic capitalism and the later Western one. The link between Islamic capitalism and Western capitalism was provided by institutional borrowing. The West borrowed from the Islamic world, partnership techniques such as profit and loss sharing; combination of the capital of a multitude of capitalists, *arbāb al-māl*, and the transfer of this capital to the agent; the shares, *ashum*; cash transfer techniques, *ḥawāla* and checks, *ṣakk*; substitution of barter by money; and, of course, the *awqāf* without which, the formation of human capital would have been impossible (Çizakça, 1996; 2000; 2006).

To sum up, the wealthiest and most successful countries today have capitalist economies, yet, capitalism was invented by the Muslims.

## VII. Locating the Implications of *Maqāṣid Al-Sharī'ah*

Let us now focus on the other tenets of contemporary advanced countries; the basic freedoms. Are these values contradicted by Islam? Not at all! For evidence let us consider the *maqāṣid al-Sharī'ah* i.e., purposes or goals of *Sharī'ah* as identified by Imām al-Ghazālī at the beginning of the twelfth century. Consider the following quotation of al-Ghazālī:

“The very objective of the *Sharī'ah* is to promote the welfare of the people, which lies in safeguarding their faith, their life, their intellect, their posterity and their wealth. Whatever ensures the safeguarding of these five serves public interest and is desirable” (Chapra, 1992: 1).

In what follows, a modern re-interpretation of the *maqāṣid* will be presented.<sup>14</sup> In doing this I am encouraged by the *fiqh* rule known as *istiṣḥāb*, which prefers a positive approach to a new problem and considers prohibition as exceptional (Orman 2000: 233-34). The *maqāṣid* actually advise Muslim governments of the future whether to undertake or to reject a policy. As such it may be considered as the forerunner of the so-called “Pareto optimum” envisaged by Pareto in the early twentieth century.

As is well-known, the five components of the *maqāṣid* are as follows: *Ḥifẓ al-‘aql*, *ḥifẓ al-dīn*, *ḥifẓ al-māl*, *ḥifẓ al-nafs* and *ḥifẓ al-nasl*, i.e., the protection of reason, religion, property, the self and future generations. Benefiting from Pareto’s insight, we can argue that any policy that contributes to one of these components without undermining any of the other four, would be desirable. We would progress towards the ‘al-Ghazālī Optimum’ as long as we can improve one of the components without undermining any other. The ‘al-Ghazālī Optimum’ would be reached when it is no longer possible to improve any of the components without undermining one of the others.

Of the five components, *ḥifẓ al-‘aql* has been traditionally interpreted as the duty of the state to protect the reason or mind of its citizens and has taken the form of alcohol and drugs prohibition. This author prefers to interpret *ḥifẓ al-‘aql* as the duty of the state to protect freedom of thought including the freedom of press.<sup>15</sup> Indeed, we can argue, what good is ‘aql, intelligence, if it is not allowed to express its most important product, thought?<sup>16</sup> This is supported by the *Sunnah* of the Prophet (*pbuh*) and ‘Umar b. al-Khaṭṭāb. Indeed, it is well known that, when the Prophet (*pbuh*) made a statement, the Companions used to ask him if this was a revelation or his own personal opinion. If the latter, a discussion would follow. In fact, the decision to dig trenches around Mecca was the result of just such a discussion. It has also

been reported by Ibn ‘Abbās that when ‘Umar b. al-Khaṭṭāb had found out that Damascus was hit by plague he consulted several groups in his army before taking the decision not to go into the city.<sup>17</sup> The implication is clear, if the Companions could freely argue with the Prophet (*pbuh*) himself or with a powerful Caliph like ‘Umar b. al-Khaṭṭāb, freedom of thought existed and was practised in the very origins of Islam.

The next component, *ḥifẓ al-dīn*, has been traditionally interpreted as the duty of the state to protect Islam. *Ḥifẓ al-dīn* will be interpreted here as the duty of the state to protect the freedom of worship. Most Islamic countries have various Islamic as well as non-Islamic minorities and there is a need to protect their freedom of worship. This is a *sine qua non* condition for harmonious existence. Without such harmony, neither democracy nor economic development can be achieved.<sup>18</sup> Indeed, a settlement between the elites representing conflicting or rival groups is considered to be absolutely essential for democracy. Unless freedom of worship is granted, rival religious leaders cannot reach a settlement and failure to do so would obstruct democracy (Burton and Higley, 1987).

*Ḥifẓ al-māl* has been traditionally interpreted as the right of a Muslim to protect his property. This can be interpreted alternatively as the duty of the state to protect property rights, an absolutely important condition for democracy and economic development. Moreover, without effective property rights, accumulated capital of the Muslims would be hidden under the mattress, a condition frequently and strongly condemned by the Qur’ān (2:95; 9:34-35; 63:10).

*Ḥifẓ al-nafs* has been traditionally interpreted as the duty of a Muslim to protect his/her health and the prohibition to commit suicide. An alternative interpretation much more in line with democracy and economic development would be the duty of the state to protect human rights. While there is no standard and an all-encompassing definition of human rights, these rights pertain to the rights of the citizens *vis-à-vis* the state. Protection of unarmed citizens from the overwhelming power of the modern state constitutes the essence of contemporary human rights. What is needed here is the formation of a state that is strong enough to protect the country from the enemy but at the same time capable of controlling itself so as to respect the basic rights of its unarmed citizens. The concept of the rule of law, another *sine qua non* of modern democracy enables the individual citizen to sue the omnipotent state in case the latter has violated the law.

*Ḥifẓ al-nasl* has been traditionally interpreted as the duty of the state to protect future generations. In everyday life this has taken the form of

prohibiting *zinā*, adultery, and the harsh *ḥudūd* punishments inflicted upon the violators. But *ḥifẓ al-nasl*, if interpreted within the framework of the recent literature on intergenerational Pareto efficiency, grants the whole argument an intergenerational dimension (Sandler, 1999: 28). Indeed, the argument can be restated as follows: the “Al-Ghazālī Optimum” is reached only when it is no longer possible to improve one of the five components of *maqāṣid al-Shari‘ah* without harming any one of the remaining in the current or some other generation. Thus the *ḥifẓ al-nasl* criterion renders the ‘Al-Ghazālī Optimum’ relevant over time and space because it accounts for all periods.

### VIII. Conclusion

To the extent that income per capita indicates the success of a country, the most successful countries are democratic, capitalist countries enjoying freedoms of thought, worship and entrepreneurship. Islam neither objects to nor impedes democracy. On the contrary, based upon the *Sunnah* of the Prophet (*pbuh*), and interest prohibition and incentives for morally guided market economy, it can be deduced that Islam promotes democracy.

As for capitalism, it should suffice to say that the economic system developed by the Muslims once constituted one of the earliest, most successful and dynamic, positive and production-oriented capitalism witnessed by history (Heck, 2006). This Islamic capitalism that flourished from the seventh to the thirteenth centuries was so successful that it linked the Mediterranean and the Indian Ocean world-economies and maintained this linkage from the seventh century to the seventeenth. The West emulated this system by borrowing its basic institutions to develop the modern capitalist system.

Freedoms of thought and worship; property and human rights constitute the other tenets without which contemporary advanced societies cannot be imagined. We can find these rights enshrined in the *maqāṣid al-Shari‘ah* as envisaged by Imām al-Ghazālī. Benefiting from the insight provided by Pareto, a well known Italian economist (1848-1923), this article has introduced the Al-Ghazālī Optimum. Deducing from the *ḥifẓ al-nasl* of the *maqāṣid*, this optimum has then been extended to intergenerational Al-Ghazālī Optimum.

In summing, all the basic concepts and institutions of successful modern societies are either compatible with or developed by Islam. We conclude from this that Islam does not constitute an impediment to modern economic and political structures. On the contrary, providing Muslims interpret its

basic teachings correctly as inspired by *maqāsid-al-Shari‘ah*, Islam can be a powerful source of inspiration for the creation of wealth and happiness.

## NOTES

1. This principle has just been violated in Turkey. When a prosecutor sued a high ranking general, the Turkish General Staff not only did not permit the general to be tried, they also sued the prosecutor!
2. See: Human Development Index (UNDP, 2003). For further evidence see; Gwartney (1996). In 2005, of the top 20 countries with the highest GDP per head, 15 were capitalist democracies, 3 were tiny offshore islands involved in money laundering, and two were small oil exporting countries. See: *The Economist* (2005).
3. This link can also be observed in any source of international statistics. See for instance, *The Economist* (2005: 28).
4. American invasion of Vietnam is estimated to have caused 700,000 Vietnamese casualties as admitted by Dean Rusk (internet) while that of Iraq is estimated to have caused about 100,000 Iraqi deaths by 2004 (UNDP, *Arab Human Development Report*, 2004: 4).
5. Indeed, in 1348 about half of the population of Europe was killed by the black death. Remarkably, 170 millions was 56% of the population of the European area in 2005.
6. Capitulations were trade and fiscal privileges designed to attract foreign merchants to do trade in the imperial territorial waters. For further details see; Inalcik (2005). Such privileges were often denied to the local merchants leading to bitterness even violence.
7. For institutional reforms desired by the merchants leading to economic growth in medieval Genoa see Greif (1994: pp. 271–287).
8. For a recent contribution to a vast literature on this, see Munro (2006: pp. 10–12).
9. Man is considered to be bound in a covenant, ‘*ahd*, with God. But he suffers from forgetfulness, *nisyān*, and is called *insān*, a derivative of *nisyān*, precisely because having covenanted with God, he forgot his covenant. Al-Attas (1995: pp. 144–145).
10. On the many *ahadith* too numerous to repeat here see: Khan (1989). Also see the *hadith* stated in Heck (2006: 323).
11. On the impact of Al-Ghazālī on St. Thomas Aquinas see: Ghazanfar (2000).
12. For a very detailed and rigorous discussion on whether the Islamic economic system can be called capitalistic see Rodinson (1974). Rodinson first approaches the problem from a Marxist perspective and declines to call Islamic economic system capitalist but then admits that it possessed a highly sophisticated “capitalist sector”. He also admits (pp. 28–30) that “the merchants of the Muslim Empire conformed perfectly well to Max Weber’s criteria for capitalistic activity.”
13. The unconditional Portuguese control of the Malacca straits lasted for only about 20 years. From the 1530’s on the Sultanate of Atjeh emerged as a strong rival in Northern Sumatra. Supported by the Ottomans with firearms and a detachment of janissaries as well as gunners, the Atjenese defeated the Portuguese fleet in 1537. One year later Aden, at the entrance to the Red Sea, was conquered by the Ottomans. Subsequently, an alliance of Ottoman, Gujerati and Atjenese sultanates succeeded to continue to operate the spice trade along the traditional routes across the Indian Ocean and Ottoman lands. See Inalcik and Quataert (1994: 327-240) and Mills (2003: 10-25).

14. This is not the first attempt at a modern interpretation of the *maqāṣid*. Several scholars, particularly, Umer Chapra have attempted to do so. See his classic, *Islam and the Economic Challenge*. Even then, I submit this re-interpretation to my readers in all humility. What I am hoping is to contribute to an already ongoing discussion among contemporary scholars in the hope that together we will reach an *ijmā'*. On the absolute importance of focusing on the *maqāṣid* for the welfare of the contemporary Islamic world see the speech made by Dato' Seri Abdullah bin Haji Ahmad Badawi, Prime Minister of Malaysia in Magdalen College, The Oxford Centre for Islamic Studies, University of Oxford, on January 10th, 2004. The year 2006 witnessed a massive progress in the study of the *Maqāṣid*. The establishment of the *Al-Maqāṣid Center in the Philosophy of Islamic Law* in London was followed by the publication of two major works: Ibn Ashur (2006) and Ahmad Al-Raysuni (2006). I regret that these important works were not available to me at the writing of this article.
15. I adhere here to the definition of freedom as "a choice for the better", *ikhtiyār*, as discussed by Naquib Al-Attas in his *Prolegomena*, p. 33. This differs significantly from the Western concept of the freedom of press, which does not take into consideration such refinement. Had it been able to do so, the Danish caricature scandal would not have occurred harming Denmark, insulting the whole Muslim world and seriously harming East-West relations.
16. In 2003 the Middle East was declared to be the region with the least freedom of press (UNDP, *Arab Human Development Report*, 2004, p. 4)
17. I am grateful for these points to Orman. See also, Muhyiddin-i Nevevi. (1993) *Riyazü's-Salihin*. Ankara: Diyanet İşleri Bşk. Vol. III, s. 299.
18. This is supported by the Qur'an: "Let there be no compulsion in religion," (2: 256). The Qur'an also orders Jews and Christians to live by their faith; "So let the people of the Gospel judge by that which Allah has revealed therein, for he who judges not by that which Allah has revealed is a sinner," (5:47-50). From these verses it is clear that an Islamic state must advocate religious pluralism even to the extent of permitting multiple legal systems. Also see; Khan (n.d.).

## REFERENCES

- Ahlmark, P. (1998-99). "Conclusions from the 20th Century: How War, Mass Murder and Famine Are Related to Democracy and Dictatorship", *Wissenschaftskollegjahrbuch*, pp.184-199.
- Akçam, T. (2006). *A Shameful Act: The Armenian Genocide and the Question of Turkish Responsibility*. New York: Metropolitan Books.
- Al-Attas, S. M. N. (1995). *Prolegomena to the Metaphysics of Islam*. Kuala Lumpur: ISTAC.
- Al-Raysuni, A. (2006). *Imam Al-Shatibi's Theory of the Objectives and Intents of Islamic Law*. London: The International Institute of Islamic Thought.
- Ameer A. S. (n.d.). *The Spirit of Islam*. Lahore: Sang-e-Meel.
- Ashur, I. (2006). *Treatise on Maqasid al-Shari'ah*. London: The International Institute of Islamic Thought.



- Berkowitz, D. and Pistor, K. (2003). "Economic Development, Legality and the Transplant Effect", *European Economic Review*, 47 (1), pp. 165–195.
- Bulaç, A. (2002). "Şeriat ve Örf, Toplum ve Devlet (Shariah and Tradition, Society and State)", *Bilgi ve Düşünce (Knowledge and Thought)*, 1(2), November, pp.7-16.
- Burton, M. G. and Higley, J. (1987). "Elite Settlements", *American Sociological Review* 52, pp. 295-307.
- Chapra, M. U. (1992). *Islam and the Economic Challenge*. Leicester: The Islamic Foundation.
- Çizakça, M. (1996). *A Comparative Evolution of Business Partnerships*. Leiden: Brill.
- Çizakça, M. (2000). *A History of Philanthropic Foundations: Islamic World From the Seventh Century to the Present*. Istanbul: Bogazici University Press.
- Çizakça, M. (2005). *History of Civilizations*. Istanbul: Bahcesehir University Press.
- Çizakça, M. (2006). Cross-cultural Borrowing and Comparative Evolution of Institutions between Islamic World and the West", in S. Cavaciocchi (ed.), *Europe's Economic Relations with the Islamic World, 13th-18th Centuries*. Prato: Le Monnier/Istituto Internazionale di Storia Economica, F. Datini, Serie II, 38, p. 671-698.
- Coase, R. H. (2005). "The Institutional Structure of Production", in C. Menard and M. M. Shirley (eds.), *Handbook of New Institutional Economics*. Dordrecht: Springer.
- Friedman, M. (1982). *Capitalism and Freedom*. Chicago: The University of Chicago Press.
- Ghazanfar, S. M. (2000). "The Economic Thought of Abu Hamid Al-Ghazali and St. Thomas Aquinas", *History of Political Economy*, 32( 4), pp. 857-887.
- Goitein, S. D. (1968). The Rise of the Middle-Eastern Bourgeoise in Early Islamic Times, in S. D. Goitein (ed.), *Studies in Islamic History and Institutions*. Leiden: Brill.
- Greif, Avner (1994). "On the Political Foundations of the Late Medieval Commercial Revolution: Genoa During the 12th and 13th Centuries", *The Journal of Economic History*, 54 (2), 1994, pp. 271–287.
- Gwartney, J. (1996). *Economic Freedom of the World*. Vancouver: Frazer Institute.
- Hayek, F. A. (1994). *The Road to Serfdom*. Chicago: The University of Chicago Press.
- Heck, G. W. (2006). *Charlemagne, Muhammad, and the Arab Roots of Capitalism*. Berlin: Walter de Gruyter.
- Inalcik, H. (1987). "Stefan Dusan'dan Osmanli Imparatorlugu'na (From Stefan Dusan to Ottoman Empire)", *Fatih Devri Uzerinde Tetkikler ve Vesikalar (Research and Documents on Fatih Period)*, pp. 137–285 (Ankara: TTK-Turkish History Institute).
- Inalcik, H. (2005). "Imtiyazat", in *Encyclopaedia of Islam. Second Edition*. Leiden: Brill.
- Inalcik, H. and Quataert, Q. (eds.) (1994). *An Economic and Social History of the Ottoman Empire, 1300-1914*. Cambridge: Cambridge University Press.
- Khan, M. (n.d.). *The Islamic State and Religious Minorities, Islam for Today*. [online].
- Khan, M. A. (1989). *Economic Teachings of Prophet Muhammad*. Islamabad: International Institute of Islamic Economics.

- Lowry, H. (2003). *The Nature of the Early Ottoman State*. Albany: SUNY.
- Macdonald, J. (2006). *A Free Nation Deep in Debt*. Princeton: Princeton University Press.
- Mills, L. A. (2003). *British Malaya, 1824-67*. Selangor: The Malaysian Branch of the Royal Asiatic Society.
- Munro, J. (2006). *South German Silver, European Textiles, Warfare and Venetian Trade with the Levant and the Ottoman Empire, c. 1370-1720: A Non-Mercantilist Approach to the Balance of Payments Problem*. Paper presented at the XXXVIII Settimana di Studi sponsored by Istituto Internazionale di Storia Economica "F. Datini", 5 May 2006.
- Munro, J. (2007). *The Usury Doctrine and Urban Public Finances in Late Medieval Flanders*. Paper presented at the XXXIX Settimana di Studi, Fiscal Systems in the European Economy, Prato, 22-25 April 2007.
- Nevevi, Muhyiddin-i (1993). *Riyazü's-Salihin*. Ankara: Diyanet İşleri Bşk.
- North, D. and Weingast, B. W. (1989). "Constitutions and Commitment: The Evolution of Institutions Governing Public Choice in Seventeenth Century England", *Journal of Economic History*, 49 (4) December, pp. 803-832.
- Orman, S. (2000). "Çağdaş Arap Dünyasında Demokrasiye Geçişin Önündeki Engeller (Impediments in the Transition of Democracy in the Contemporary Arab World)", in A. Bardakoglu et. all. (eds.), *İslam ve Demokrasi (Islam and Democracy)*. Istanbul: Ensar.
- Orman, S. (2002). *Gazali'nin İktisat Felsefesi (Economic Thoughts of Ghazali)*. Istanbul: İnsan Yayınları.
- Ray, James Lee (1998). *Democracy and International Conflict*. Charleston: University of South Carolina Press.
- Rodinson, Maxime (1974). *Islam and Capitalism*. New York: Penguin Books.
- Sandler, T. (1999). "Intergenerational Public Goods, Strategies, Efficiency and Institutions" in Inge Kaul, Isabelle Grunberg, Marc A. Stern (eds.), *Global Public Goods*. Oxford: Oxford University Press.
- Sen, A. (1999). *Development as Freedom*. Oxford: Oxford University Press.
- Sztompka, P. (1998). "Trust, Distrust and Two Paradoxes of Democracy", *European Journal of Social Theory*, 1 (1), pp.
- The Economist (2005). *Pocket World in Figures*. London: Profile Books.
- Udovitch, A. (1970). *Partnership and Profit in Medieval Islam*. Princeton: Princeton University Press.
- UNDP (2003). *Human Development Index*. Oxford and New York: Oxford University Press.
- UNDP (2004). *Arab Human Development Report*. New York: United Nations.
- Wink, Andre (1991). *Al-Hind, The Making of the Indo-Islamic World, Vol. 1*. Leiden: Brill.