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## Islam and Deliberative Democracy

Mansour Mirahmadi<sup>1</sup>

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### ABSTRACT

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Theory of Islamic Shuracracy (a theory of political system in Islam) on the one hand and Deliberative Democracy (a theory of political system in the West) on the other, can be considered as the theoretical achievements in recent intellectual developments in both Islamic and Western thoughts. This article, in addition to elaborating on, and comparing of these theories, seeks to reconsider the relationship between Islam and Democracy in order to propose the idea of compatibility between Islam and Deliberative Democracy. For the author, these theories are compatible in the sense that they accept the process of “deliberation” in making the main political and social decisions. The adherents of these theories stress on consensus and mutual understanding instead of majority vote as the necessary criteria of legitimacy. These similarities raise the main question of this paper: What is the main cause of these similarities? Answering to this question, this paper tries to explain the recent intellectual developments in the Islamic thought in understanding religion and in the Western thought in understanding reason as the main epistemological resources of them.

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## 1. Introduction

The two theories of Islamic *Shuracracy* and *Deliberative Democracy* are the products of reformation in both Islamic and Western political thought in the contemporary era. Based on Western post-liberal theories, Deliberative Democracy is a theory that criticizes the foundations of democratic theories while trying to design and introduce a proper form of liberal political system. Stressing new interpretations of Shura and criticizing Muslim’s former

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1. Professor of Political Science, Faculty of Economics and Politics, Shahid Beheshti University, Tehran, Iran *E-mail address:* M\_mirahmadi@sbu.ac.ir (Corresponding Author)

political theories, the theory of Shuracracy also tries to offer a democratic and Shura-based model of political system.

In the present article, the affinities and resemblances between the theories of Islamic Shuracracy and deliberative democracy will be explained through discussing their features. The main purpose of this description of nearness is to reformulate the question of Islam and democracy with a new approach. I contend that the main reason for opposition to the idea of *Compatibility of Islam and Democracy* by some scholars is the disregard for the reformation in both contemporary Western and Islamic theories of democracy. These reformations have caused the new models of democracy to diverge from some of the traditional foundations of democracy and especially liberal democracy. They have also seriously challenged the idea of inherent incompatibility of Islam and democracy. In this article, on the basis of this idea, my attempt will be to introduce a new perspective on the question of Islam and democracy which would be able to explain the compatibility of Islam and deliberative democracy as one of the recent models of democracy.

## **2. The theory of Deliberative Democracy**

### **2-1. The concept of Deliberative Democracy**

Deliberative democracy is a model of democracy whose understanding is contingent on the understanding of the adjective “*deliberative*”. In other words, as some of the thinkers believe, democracy is an ambiguous and controversial concept (Green, 1993:2) and cannot be well understood separately from its adjectives. The word *deliberative* is the attributive adjective of *deliberation* which in the phrase of *deliberative democracy* indicates the ways in which decisions are made. In this theory *deliberation* means *political deliberation* which as some of the scholars have argued, is a unique and special kind of communication in the political sphere (Dutwin, 2002). Political deliberation is a consultative process considered as the most important procedure in political decision-making. Joshua Cohen calls it *Ideal Deliberative Procedure* and believes participants contribute to forming the aims of decision-making, democratic association seeks the common good and

also the ideal deliberative procedure provides a distinctive structure for addressing institutional questions (Cohen, 207-208).

One of the leading theorists of deliberative democracy, Joshua Cohen, defines this notion as “an association whose affairs are governed by the public deliberation of its members” (Cohen, 207). In describing deliberative democracy as ‘a necessary condition for attaining legitimacy and rationality with regard to collective decision making’ Seyla Benhabib makes it clear that it is a normative conception. Also, Jürgen Habermas in describing legitimate decisions and institutions as the ones that would be agreed to by those involved in a democratic procedure, stresses free and equal public participation (Cunningham, 2002:163).

With regard to the importance of political deliberation in the theory of deliberative democracy, Joshua Cohen introduces a specific understanding of the notion of deliberative democracy. He names it the *formal conception of deliberative democracy* and outlines five main features for it which includes:

1. “A deliberative democracy is an ongoing and independent association, whose members expect it to continue into the indefinite future;
2. The members of the association share ... the view that the appropriate terms of association provide a framework for or are the results of their deliberation. ... For them, free deliberation among equals is the basis of legitimacy;
3. A deliberative democracy is a pluralistic association. The members have diverse preferences, convictions and ideals concerning the conduct of their own lives;
4. Because the members of a democratic association regard deliberative procedures as the source of legitimacy, it is important to them that the terms of their association not merely be the results of their deliberation, but also be manifest to them as such;
5. The members recognize one another as having deliberative capacities, i.e. the capacities required for entering into a public exchange of reasons and for acting on the result of such public reasoning (Cohen, 212-213).

## **2-2. The theoretical foundations of deliberative democracy**

The theoretical foundations of deliberative democracy can be explained by referring John Rawls and Jürgen Habermas. Although the theoretical foundations of the thought of John Rawls and Jürgen Habermas have important differences, it seems that a kind of intellectual affinity and proximity can be observed in the direction of their thought. Thinking theoretically in the school of liberalism, Rawls deviates from the individualistic aspect of rationality in the school of liberalism in proposing the concept of deliberative rationality. Habermas, although theoretically belongs to the second generation of critical theory and critiques liberalism, emphasizes on the concept of deliberative rationality and the need for dialogue in the public square. This common orientation provides a suitable literature and a common ground for the author of this essay referring John Rawls and Jürgen Habermas.

Deliberative democracy is theoretically constructed on the basis of the central conception of *Justice* but with an interpretation which is different from the socialistic and ancient ones. This theory owes its foundations to the John Rawls *theory of justice*. Rawls theory of justice and his argument to derive this conception and to generate his two principles of justice have provided two main transitions from Social Contract Tradition and Classic Liberalism based on which, the foundations of Deliberative Democracy can be explained.

### **I. The concept of *Original Position***

Rawls theory of justice derives its principles- from the *Original Position* while in the theory of *Social Contract* arguments begin with the *state of nature*. Rawls explains this occasion with regard to conflicting interests and the necessity of fair agreement on them. Therefore, it could be said that Rawls theory of justice emphasizes on the conception of *agreement* instead of *contract*. While *contract* indicates the settlement of existing conflict of interest, *agreement* occurs before this conflict. Individuals, in the theory of social contract, contribute to the social contract because they are in a condition in which, peace and peaceful life are in jeopardy (Thomas Hobbes), there is no any guarantee of property rights and freedom (John Locke) and moral life is impossible (Jean-Jacques Rousseau) while in the Rawls theory of justice

and as a result of deliberative democracy, people reaches an *agreement* on the rules of the settlement of the conflict prior to its emergence. So, according to Rawls original position establishes fairness situation in which free and equal participants agree to the fairness situation of social cooperation.(Rawls, 80) In Rawls theory, since people are not in a majority-minority status, they obey their reason and therefore more reasonable decisions will be made and *justice as fairness* will be achieved.

## **II. The idea of *compatibility of justice and freedom***

The seeming incompatibility of justice and freedom has been one of the controversial problems in the contemporary Western political thought. Rawls tries to establish a kind of compatibility between them through his theory of justice. This idea can be derived from his two principles of justice:

“First: each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others;

Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage, and (b) attached to positions and offices open to all (Rawls,1999: 53).

It is clear that in the first principle, fundamental freedoms, equality of individuals and their equal right to enjoy these freedoms have been stressed. Thus, the first principle comprises both *freedom* and *equality*. In this principle, neither freedom nor equality has been limited to the political forms. This compatibility is also obvious in the second principle of justice. Rawls believes that inequalities could be just so long as they are in accordance with public interests. Therefore, these just inequalities are on one hand compatible with the norms and standards of justice and on the other hand guarantee the other people’s freedom. In this notion, the others’ freedom is respected through the acceptableness of inequalities and also justice is regarded through justifying them.

## **III. The notion of *deliberative rationality***

In introducing the concept of *original position*, John Rawls has tried to generate a fair process in which the principles of justice are agreed on. Thus, he has introduced *veil of ignorance* as another central idea of his theory. He

believes that the participants' being in such position makes decision-making and agreement just procedures. Such explanation raises a question that if the people make their decisions from behind a veil of ignorance they cannot recognize *good*. Hence, could they decide which one of the different interpretations of justice would be best advantageous? Shouldn't we think that their action is reduced to just a conjecturing? (Rawls, 441-442). Rawls replies to these questions based on the assumption that in this process the participants are in an agreement on the acceptance of *good* as a principle and thus they prefer more basic social goods to less important ones. Although they are deprived of information about their particular aims they have enough knowledge to prioritize different goals. Therefore, according to the theory of good and general facts of moral psychology their deliberation and reflections are no longer just a conjecturing (Rawls , 441-442).

Here, Rawls emphasizes a very important point. From his point of view all of the participants in the process of decision-making about the principles of justice have a general knowledge of justice. This knowledge is combined with another kind of knowledge and gives people the ability to set priorities. The other knowledge is one that is achieved through the process of deliberation with the others. According to him:

“The parties can rely on each other to understand and to act in accordance with whatever principles are finally agreed to... In reaching an agreement, then, they know that their undertaking is not in vain (Rawls, 1999:125)”.

In other words, Rawls regards the reached agreement as a public agreement rooted in reason and deliberative reason. Their act is a rational one. Rawls says “They are rational in that they will not enter into agreements they know they cannot keep, or can do so only with great difficulty (Rawls, 1999:125)”. Therefore, their suggestions finally would be agreed on by the others.

The theory of deliberative democracy also owes its theoretical foundations to Jürgen Habermas in addition to the Rawls' theory of justice. The most essential concepts of Habermas's thought which contribute in this aim are:

### **1-The public sphere as the context of deliberative reason**

Habermas regards the public sphere as the symbol of active and democratic participation. For him, this is a sphere of our social life that we can shape in it something, when confronting public opinion (Seidman, 1989:232). Therefore the public sphere is a realm of social life in which public opinion sets preferences and advantages. All of the participants to the process of deliberation express their opinions and logical arguments freely and equally. The Ideas which finally could achieve the others' agreement would determine the preferences based on which ultimate agreement would be reached. In other words, deliberative reason can only emerge in such context. Out of the public sphere, individual reason is determinant and entrance into the public sphere depends on a transition from individual reason to deliberative reason.

### **2-Consensual legitimacy**

According to Habermas, the legitimacy of laws and behavior of political systems could only be the result of the agreement which participants in rational talks and deliberations have been arrived at. According to him, only regulations and ways of action can be legitimate that toward them, all of the participants in the rational dialogue can reach to a consensus (Habermas, 1998). Thus, emphasizing on consensus, the theory of deliberative democracy diverges from the other theories of democracy about the sources of legitimacy. This divergence is based on the ways through which consensus and agreement would be arrived at.

### **3-Collective Agreement and Consensus**

*Collective agreement* and *consensus* are products of rational talk which the citizens participate in. By contributing to such talks, they perform a rational act which is based on communicative rationalism and leads to agreement. According to Habermas, reaching understanding is the inherent ability of human speech (Habermas, 1984:95). Based on this assumption that human speech is a rational action which inherently leads to mutual understanding and agreement, Habermas introduces the concept of *communicative action*. In his view, communicative action tends to reach, keep and renew agreement and obliges subjects to pay serious attention to each other's claims about their individual goals and aims.

According to Habermas's view, the notion of collective and consensual agreement also could contribute to constructing the theoretical foundations of deliberative democracy. Based on this notion, this theory transcends the rationality of the majority which is central in some of the democratic theories and arrives at deliberative rationality. Emphasizing on the deliberative rationality latent in agreement and consensus, Jürgen Habermas distances from the rationality of the majority which is latent in majority vote and provides requirements for transition to democracy.

### **2-3. Political system founded on deliberative democracy**

The theory of deliberative democracy accepts the central idea of liberal theories that the political life could be organized on the basis of reason while distances from the notion of self-principled individual rationality and regards a particular understanding of rationality as the basis of political life. Believing in capacities of individual reason, this interpretation puts the stress on the potential of deliberative reason as a more efficient basis. Joshua Cohen writes:

“While preferences are formed by the deliberative procedure, this type of preference formation is consistent with autonomy, since preferences that are shaped by public deliberations are not simply given by external circumstances. Instead, they are the result of the power of reason as applied through public discussion (Cohen, 1989: 207)”.

In fact, deliberative democratic system recognizes a free dialogue and “unconstrained dialogue requires the promotion of deliberative as opposed to strategic or instrumental rationality (Smith, 2003:57)”. Moreover, while the theory of deliberative democracy accepts the notion of political equality –as introduced in the theory of liberal democracy- extends the conceptual sphere of equality and also considers social equalities. Deliberative democratic system is a political system obligated to observe the equality of citizens which includes social equality in addition to political equality (equal right of sovereignty). Emphasizing on common interest is also another feature of the theory of deliberative democracy. This theory recognizes the existence of inequalities in society and tries to justify them by stressing on common interest instead of individual interest. Therefore, deliberative democracy while



respects individual interests of citizens, is a political system which tries to achieve common interest through setting up and applying proper mechanisms. Based on Rawls's theory of justice, the theory of deliberative democracy regards common interest as the central principle in discussions and decision-making processes and also on the basis of Habermas's theory, considers deliberation as the cause of the formation of common concerns and interests among people and believes that the legitimacy of state is consistent with these concerns and interests. The aforementioned features require the political system founded on deliberative democracy to set up particular mechanisms and procedures which includes:

### **1- Public Deliberation**

Deliberative democracy is "an association whose affairs are governed by the public deliberation of its members (Cohen, 1989: 207)". Public deliberation is a process in which decisions are made through talks, discussions and reasoning among equal and free citizens and democratic society is governed on the basis of these decisions. According to Gutmann and Thompson, "[Deliberation is] "a conception of democratic politics in which decisions and politics are justified in a process of discussion among equal citizens (Dutwin, 2002: 11)". On this basis, deliberation is an action with four main features. Firstly, deliberation must reflect equality to provide the principle of freedom of speech. Deliberation is also somewhere to present alternative ideas and information, and an opportunity for individuals to face with diverse views and information. Thirdly, it is a base for associational independence and autonomy and somewhere to connect the society. Finally, deliberation provides general and widespread citizenship where the people meet each other as citizens and not individuals (Dutwin, 2002: 11).

According to Joshua Cohen, *ideal deliberative procedure* includes three main steps: "There are three general aspects of deliberation. There is a need to decide on an agenda, to propose alternative solutions to the problems on the agenda, supporting those solutions with reasons, and to conclude by settling on an alternative." (Cohen, 1989: 213) He believes that public deliberation is a *free, reasoned* and *equal* procedure which aims to arrive at a rationally motivated *consensus*. (Cohen, 1989:214)

## 2- Mutual Understanding

As one of the prominent theorists of deliberative democracy, Joshua Cohen explains the legitimacy of the decisions which are made through the process of deliberation, on the basis of the necessity of consensus. But he admits that reaching consensus is an ideal goal and therefore sometimes, we may need to depart from it. He says, "Even under ideal conditions there is no promise that consensual reasons will be forthcoming. If they are not, then deliberation concludes with voting, subject to some form of majority rule (Cohen, 1989: 214) ".

Some of the other writers, admitting impossibility of reaching consensus in all cases, regard *mutual understanding* instead of *consensus* as the source of legitimacy to evade the *majority vote* as a challenging concept. They believe that if such understanding is achieved, the decisions will be valid and legitimate, moreover, to reach such understanding is practically feasible. Graham Smith attributes the idea of *Consensus*, as a regulative ideal or implicit standard of democratic dialogue to a large number of contributors like Joshua Cohen and Erikson while says that they are heavily influenced by heavily influenced by Jürgen Habermas's argument that consensus on moral norms is implicit within the very structure of speech acts (Smith, 2003:58). According to his view, although reaching consensus is a praiseworthy and ideal goal, practically, there are some concerns about it. He argues:

"Value pluralism, and the ensuing conflict and indeterminacy in moral and political debate, undermines a strong commitment to, or expectation of consensus (Smith, 2003: 59) ".

"Additionally, concerns have been raised that an expectation of consensus can create a barrier to critical dialogue and lead to further marginalisation of disadvantaged groups and perspectives (Smith , 2003: 59)".

Mutual understanding highlights the requirement on participants to confront the variety of points of view, and consideration of, their own and others' perspectives. It requires that citizens recognize the limitations and fallibility of their own perspectives and judgments. Mutual understanding solves the problem of sacrificed interests of the minority in majority democracy. The recognition of mutual understanding as a capacity enables the

theory of deliberative democracy to solve this problem. Emphasizing on mutual understanding makes it necessary to listen to the voice of the minority. For those in the majority on a particular policy, it requires the cultivation of the virtue of civic responsiveness, a willingness to listen to and reflect upon the perspectives of those in the minority. And for those in the minority, it requires the cultivation of civic endurance, the continuing and ongoing motivation to persuade others of the veracity and significance of their particular perspectives (Smith, 2003: 60). The idea of mutual understanding provides us with basic grounds of democratic legitimacy and also makes consensus unnecessary for us. Obviously, the idea of mutual understanding asserts that it is impossible to avoid consensus in many cases and thus tries to offer the idea of mutual understanding as an alternative to consensus.

### **3- Deliberative democracy and compatibility of freedom and equality**

The above discussions showed how the theory of deliberative democracy tries to overcome the problem of freedom and equality by providing proper mechanisms on the basis of deliberative reason, socio-political equality and common interest as the most important elements of deliberative political system. The theory of deliberative democracy, in the first step, places emphasis on public deliberation that plays a very important role in decision-making. Individuals can participate freely and equally in agenda setting, offering different solutions and their own preferences and finally selecting one of them. Thus, this theory sets ground for compatibility of freedom and equality by regarding deliberation as a public action on one hand and seeing it as a free, equal and reasoned action on the other hand. In this theory the parties are free because they can freely present and defend their own perspectives and also, they are equal because they are all in an equal position to do this.

Mutual understanding and consensus (if possible) as the rules of decision-making in the last step of deliberation have good capacities to solve the problem of freedom and equality. Consensus as an ideal which guarantees the principles of the equality of citizens and common interest makes it possible to put freedom and equality together. Consensus solves the problem of the minority latent in the theories of majority democracy. But, since consensus

faces with some problems in practice, the theory of deliberative democracy speaks of mutual understanding. Under such conditions the required grounds for citizen's free and equal participation are provided and also the idea of compatibility of freedom and equality reaches fulfillment.

### **3. The theory of Islamic Shuracracy**

#### **3-1. The notion of shuracracy**

Shuracracy is a concept combines *shura* and *cracy* and therefore its explanation requires a brief look at the notion of shura. The word of *shura* is derived from *shar -al-asal* which means getting honey from a beehive (Tabarsi, 1414:526) and thus is understood as extracting, contribution and help.(Esfahani, 277) Fakhreddin Tarihi says in *Majma al-bahrain: Almoshaverah* (deliberation) is derived from short-al-asal which means extracting honey from its place.(al- Turayhi. 1408: 559). Regarding this meaning, the word of shura has been applied in human social communications. In explanation of this word, Tarihi writes:

It is said that something has put under consultation among people when they are consulting on it. This word (shura) is derived of *moshaverah* which signifies examination and analysis until the truth is clarified, meaning that people don't do anything individually unless they made consultation with others before it (al- Turayhi. 1408: 559). Based on what discussed above, it can be said that *shura, mashverat, tashavor and moshaverah* are all derived from a same root word and signify extracting theory through some people's consultation with the others (Ibn Moharram, 233). This understanding of shura has been applied in some of its definitions. For instance, Muhammad Abdulghader Abu Fars says: "Shura means conflict of different opinions and orientations toward an issue and its examination by wise and discerning people to reach proper or the most correct view to act on that basis and achieve the best possible results (Abu Fares, 1987:10)".

In his definition of shura, Farid Abdulkhalegh also writes: "In political terms, sura means the Ummah's right of political participation in government issues and decision-making (Abd al- Khalegh,1419: 41)". Although in these definitions shura is considered as a political concept, it lacks some of the

necessary elements to be introduced as a model of Islamic political life and system. Some of the modern Muslim thinkers have paid attention to this. In their views, shura is an obligatory and mandatory concept. They believe that the legitimacy of political system and its decisions depends on applying shura in different levels of political system. For example, Muhammad Mehdi Shams-Al-din argues:

“No political order –for non-innocent ruler– and no intrusion in public issues is legitimate unless it is constructed on the basis of shura (Shams al –Din, 1421:107)”.

Tawfiq Muhammad al-Shawi is one of the modern Islamic thinkers who in his works introduces such understanding of shura. Separating *shura* from *mashverat* (deliberation) he writes: there is a difference between *shura* in its broad and strict meaning; He names the first one *Mashverat* or *Esteshareh* which includes all kinds of deliberation and consultation, even non-obligatory forms and separates it from its strict meaning which means obligatory decisions made by the public.( Shams al –Din, 1421:107).

And also:

“A legal (Sharia-based) way to freely exchange of perspectives and opinions before the people or Ahl-e-Hal-o-Aghd as their representative or as the representative of some particular people make any decision about all aspects of personal and social life in accordance with religious rules ( Shams al –Din, 1421:23)”. Therefore, it can be said that he distinguishes shura and mashverat (consultation) with regard to their being or not being obligatory. The shura’s decisions are obligatory while the decisions which are made on the basis of mashverat are not. Hence, being obligatory and legitimizing are two features of shura along with its being political. The combination of shura and democracy produced the term of Shuracracy which has been used for the first time by Fahmi Shenavi. He coined the term of shuracracy (Shura al-gharatia) by combination of shura and democracy (Ebrahim Ali, 1996). Despite its combined appearance of shura and democracy, Shuracracy is constructed based on the assumption that the principle of shura in the tradition of Islamic thought has such capacity based on which the shura-based political system can be founded. Shuracracy is a version of shura-based political system

which is formed around the shura as a central political concept. It is a symbol of Islamic political system that on one hand, believes in compatibility of Islam and democracy, and on the other hand accepts the possibility of establishing an Islamic political system relying on the principle of shura, and finally arrives at superiority of shura over majority democracy through reconstructing it.

### **3-2. Theoretical Foundations of Shuracracy**

The theory of Shuracracy is the result of a transition from non-obligatory to obligatory theory of shura. Dividing the theories of shura into these two categories is also considered as dividing them into old and new theories of shura. Mohammad Abdulghader Abufars distinguishes Islamic scholars views into two classes:

The first theory: Shura is obligatory for the ruler before decision-making.

The second theory: Shura **is preferred for the ruler** and is not obligatory for him (Abu Fares, 1987:18).

This classification shows the **point** of departure of the theory of shuracracy which is based on the acceptance of the first theory (its being obligatory). In addition to the acceptance of shura's being obligatory, the theory of shuracracy presupposes its being mandatory and legitimizing.

In the book of *Figh Al-Shura va Al-Estesharah*, Towfigh Mohammad Al-shavi argues the foundations and principles of his theory of "Public Shura". He believes that in Islam, shura is firstly a human theory and principle, secondly it is a social and moral principle and then it is a law for organizing the state (Al- Shavi, 1413:21). Therefore, in his view, shura is so generalized that can be considered as a general theory for human life and has such a broad scope that can embrace different spheres of human life; personal, social and political.

Shavi believes that shura is the pillar of the ruling structure because it is rooted in primary human and Ummah caliphate, and the caliphate of caliphs and the rulership of the rulers are subordinate to this real primary caliphate (Al- Shavi, 1413:27-28). Moreover, human reason and freedom is respected only through shura. In fact, shura is the symbol of public will. He says, "Public wills and decisions are named shura therefore shura means the same opinions,

thoughts and decisions of the public (Al- Shavi, 1413:23)". He believes that the principle of shura guarantees the rights that man has according to the principle of *caliphate on earth*. The principle of shura is derived from the rights that man based on the above principle has and will be resulted in social integration. Shavi says:

"The analysis of shura as a general theory shows us the human rights and freedoms, sovereignty of Ummah and also this point that in our Sharia (Islamic laws) human rights are not limited to individual freedoms –like freedom of opinion and right of possession- it relates the right of participation in public decisions to the right of sharing in public wealth and properties ( Al-Shavi, 1413:29).

Constructing of shura on the basis of deliberative reason (shura rationality) is a fine point that distinguishes the theory of shuracracy from prevailing intellectual tradition about shura and shura-based political system. On this basis shura is elevated to a place where although individual reason remains in the process of deliberation, the shura-based political system, based on such understanding of reason and emphasizing on the necessity of forming deliberative reason and replacement of majority vote by agreement and consensus approaches deliberative democracy.

Shavi tries to prove the legitimacy of shura by referring to religious sources. In brief, I only indicate how he has cited Quran:

Shavi mentions the two verses (Ayah) of shura (Shura: 38<sup>1</sup> and Ale-Imran: 159<sup>2</sup>) and alluding to the descent of the first in Mecca and the second in Medina writes:

"The significance that Quran has to prove the principle of shura can be derived from these verses. Since the beginning of holy prophet Muhammad's call to Islam in Mecca, He had made shura obligatory as a practice for constructing Muslims community and a basis for social order. Once again he

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1. "And those who respond to their lord and keep up prayer, and their rule is to take counsel among themselves, and who spend out of what we have given them (are praised)."

2. "And by the Mercy of Allah, you dealt with them gently. And had you been severe and harsh-hearted, they would have broken away from about you; so pass over (their faults), and ask (Allah's) Forgiveness for them; and consult them in the affairs. Then when you have taken a decision, put your trust in Allah, certainly, Allah loves those who put their trust (in Him)."

underlined this principle and made it the basis of political or legal structure when the Muslims organized an independent government in Medina.”(Al-Shavi, 1413:45)

As it is clear, Shavi regards the descent of the first verse in Mecca as introducing a method for social order and the descent of the second one in Medina as presenting a basis for political system. As discussed above, in this theory shura is firstly considered to be a general social order which includes all of the social affairs. Secondly it is a basis to establish a political system and finally after constructing the state it works as a supervisory institution that prevents the political system from becoming a dictatorship.

### **3-3. Islamic Shuracracy-Based Political System**

In Shavi’s thought, the theory of Islamic shuracracy is comprised of some elements and the political system that he has in mind can be clarified through explaining them. Shavi underlines the following factors to introduce his model of “Public Shura.”

The First Element: Law (Sharia)

In the theory of public shura, sharia is regarded as the main pillar of Islamic political system. Shavi believes that shura is “subordinate to sharia”(Al-Shavi, 1413:49) and is “an instrument sharia has made obligatory through which the decisions may be made by the public (Al- Shavi, 1413:80)”. Therefore, sharia is the main factor of shura-based system and we can say that the public shura is a sharia-based council and “a sharia-based council is circumscribed by the boundaries of sharia (Al- Shavi, 1413:84)”.

Shavi distinguishes legal and judicial representation from economic, political and social representation based on the obligation to sharia:

“Shura’s adherence to sharia as a substantive principle that characterizes Islam is due to the independence of sharia from state and independence of religious legislation (legislation on the basis of sharia) -in our opinion- that requires the independence of legislative and judicial administration from other forms of administration (political, economic, social and so on ( Al- Shavi, 1414:56)”.



In his opinion, religious legislation by jurists is permissible and consistent with sharia and its exclusive right to enact laws in shura-based political system.

#### The Second Element: Shura

Shavi deals with the subject of shura in some different levels and spheres that can be classified into two major categories of public and professional levels.

#### **I. Public Shura**

Shavi defines the public shura as a religious instrument for public decision-making (Al- Shavi, 1413:80). It shows that public shura occupies a very high place. It is evident that the public can't participate directly in all of the public spheres and therefore their public shura seems impossible, however, Shavi believes in its possibility in the form of "public vote". In his opinion main elements of shura includes:

- 1- Participation of all of the people (both elites and the masses) or their representatives by vote in every decision related to their public affairs to keep social integration and solidarity.
- 2- Freedom of opinion for all of the people (both elites and the public) and their right to freely participate in conflict of all of the opinions before making any decision which is binding due to being made by the public.
- 3- The aim of negotiations and debates is to enable the people to reach a balance among different opinions. A balance which is rational and realistic from the view point of the people's qualification and justice.
- 4- The preference of one opinion to another is given based on the essential principle of "rightness." In Islam, the criteria for rightness are being in accordance with Islamic foundations and principles of sharia. After free discussions and exchange of views about how valuable and how compatible with the goals it is, an opinion may be chosen on the basis of the principles of sharia.
- 5- Decisions are made by the public when consensus or, at least, consensus of the majority is achieved (Al- Shavi, 1413:82-83).

## II. Expert Shura

Shavi introduces expert shuras because public shuras are not feasible on all levels. Expert shuras are those which are organized for particular and expert aims on behalf of the public. Dividing shura members into the members of Council for Resolution and Settlement (Ahl-e Hal wa Aqd) and the Scholars (Ahl-e Zekr), Shavi speaks of two major shura who represents the people:

“The Council for Resolution and Settlement’s representation for Umma in shura’s political matters and the scholars’ representation for them in consensus and Ijtihad in the realm of religious (based on sharia) legislation (Al- Shavi, 1413:80)”.

- 1- The central place sharia occupies in shura’s decision-making and shura’s adherence to sharia necessarily entails the scholars’ authority in deriving religious laws to organize socio-political life. Broad knowledge of sharia and expertise in this field are counted as the most important qualifications required for law-making in shura-based political structure and as a result, the necessity of Ijtihad and deriving religious laws by the scholars is proved. Shavi attaches more importance to shura-based than individual Ijtihad. He regards shura-based Ijtihad as *consensual Ijtihad* and explains the differences it has with individual Ijtihad as following:

“(In individual Ijtihad) religious opinions and decrees (Fatwa) are issued by one or a group of scholars who are qualified for Ijtihad. But in consensual Ijtihad the right to Ijtihad is given to a group of scholars all of whom are required to have the qualifications are necessary for individual Ijtihad (Al- Shavi, 1413:186)”.

- 2- Council for Resolution and Settlement (Shuraye Ahl-e Hal wa Aqd) In Shavi’s theory, The Council for Resolution and Settlement which enacts laws in political, economic and social fields is an equivalent for parliament. With regard to sharia’s centrality in shura-based political system and the important place of scholars’ Ijtihad-based council in legislation based on the sharia, Shavi doesn’t see Council for Resolution and Settlement as an independent legislative institution and argues that:

“But the members of Council for Resolution and Settlement –or the council of political representatives or political council- are not independent in their legislation, even though the council is comprised of religious scholars too. This is because people have elected them for political affairs so they are not allowed to exceed their limits (as a political representative) but they have the right to suggestion and criticism (Al- Shavi, 1413:196)”.

In addition to judicial and popular supervision over the government, Shavi recognizes the same supervisory right for Council for Resolution and Settlement so we can regard it as one of the most important supervisory bodies. Overall, Shavi believes that the Council for Resolution and Settlement plays a merely political role which includes:

“To elect the ruler and to take the oath of allegiance to him, to keep him under control and supervision and finally to depose him when he loses his qualifications as a ruler (Al- Shavi, 1413:469)”.

#### **3-4. The Third Element: Ruler**

In Shavi’s theory of shura-based state, there is a ruler who is in charge of the execution of the laws but his position is subordinate to shura. In his opinion, the ruler is not only elected by the Council for Resolution and Settlement and considered as their representative but also one of its members (Al- Shavi, 1414:68). The ruler as the head of government doesn’t have the right to legislation and merely executes the enacted laws.

Based on the above principles and foundations, Shavi explains the advantages of shura-based political system. He believes that the realm of shura is broader than that of democracy because it is a social theory before being a political theory. Unlike democracy whose first goal is to establish a political system on the basis of majority rule. Therefore democracy is originally a political theory although recently some efforts have been made to apply it to all aspects of society (Al- Shavi, 1414:161). In his opinion the democracy which is established on the basis of parties’ numerical majority, paves the way to abuse the principle of majority rule (Al- Shavi, 1413:350). Whereas shura,

because of the aforementioned advantage, is free from the faults threaten those democracies. He writes:

“Islamic shura –in our opinion- because of its connection with sharia’s principles and obedience to sharia, proposes a remedy to protect the society against calamities may result from multiparty systems (in liberal pattern) or one-party systems or generally, party-based systems. We think that shura doesn’t forbid political parties however makes them, just like Umma and government, operate within the bounds of Sharia and this prevents the extremism which may lead to one-partism or, on the other hand, multipartism ( Al- Shavi, 1413:345)”.

Shavi’s emphasis on free dialogue in the process of decision-making and the necessity of reaching agreement and consensus is a very important note in his theory to protect the society against the disadvantages of multi-party and single-party structures. He says:

“Shura members’ primary goal is to reach consensus or, at least, an agreement which is obtained by the majority. This is why shura deems freedom of dialogue, persuasion and free discussion necessary for the members who have different opinions. So it is essential that every individual has the freedom to state his opinions and reasonings and also the right to challenge the opposite opinions because these free dialogues can cause the different opinions to come closer together in order to achieve an outcome which is more compatible with justice and its requirements ( Al- Shavi, 1413:355). In addition, Shavi believes that shura enjoys more profound principles and a more wide scope than contemporary theories of democracy because it not only pays attention to the ways how the society is structured and governed such as the election of the ruler, but also first of all deems it obligatory that individuals be completely free to participate in discussions based on the principle of equality (Al- Shavi, 1413:169). For the same reason, Shavi believes that, in shura, this is reasoning and not majority-rule based on which the decisions are made.

#### **4. Conclusion**

In this article, my attempt has been to discuss the concepts, theoretical foundations and general aspects of political systems which may be founded

on the two theories of *Deliberative Democracy* and *Islamic Shuracracy*. The above analysis shows that there are some important similarities and resemblances between them that will be briefly substantiated as the following:

### 1. Similarities in Theoretical Foundations

Although the two theories of deliberative democracy and Islamic shuracracy are theoretically derived from different origins, they are similar in some theoretical aspects. The most important similarity between their theoretical foundations is their reliance on *Deliberative Reason* as the most essential theoretical pillar they are founded on. As discussed before, in both of these theories, deliberative reason is regarded as the source of legitimacy of political decisions and behaviors. The theory of deliberative democracy emphasizes on agreement as one of the requisites of legitimacy and explains how it can be achieved through the process of deliberation. Also, the theory of shuracracy puts stress on the fundamental right of Umma to rule and argues that it is feasible through the process of deliberation. Reaching an agreement in the theory of deliberative democracy and Umma's achievement of right to rule through the process of deliberation mean that in both of them, legitimacy is based on deliberative reason and. In both of these two theories, the legitimacy of the decisions and behavior is achieved through deliberation and on the firm basis of deliberative reason.

Therefore, deliberative democracy is a product of a transition from individual reason of the majority to deliberative reason like Islamic shuracracy which is a product of a transition from individual reason of the ruler to Umma's deliberative reason.

### 2. Similarities in political structures and mechanisms

The fundamental resemblances between the two theories bring about their similar political structures and mechanisms. The most important similarities here are as follows:

### 3. Council and deliberative process

Both of these theories recognize council and deliberative institutions as two of the most important parts of the political structure. As discussed before, deliberative democracy underlines decision-making through the process of deliberation in which deliberation takes place among the people who have the

right to discuss about their and the others' priorities. Also, Islamic shuracracy recognizes this right for the participants. In this process, the participants exchange their views freely and equally and defend their own point of views by reasoning. So, both of these theories attach great importance to council (shura) and deliberative decision-making.

#### 4. Consensus

Primarily, both of the theories of deliberative democracy and Islamic shuracracy emphasize on reaching a consensus. Firstly, both of them deem it necessary to replace majority rule with consensus. Secondly, they seek consensus by preparing the way for free dialogue and reasoning about participants' priorities. They, contrary to the prevailing pattern of majority rule in conciliar decision-makings, deem consensus valid and if it is not possible to reach a consensus, then they will follow the majority rule. They accept the decisions are made by the majority because it is inevitable to compromise on the different opinions which cannot be united through consensus. Not because they are the best solutions.

Putting stress on consensus instead of agreement makes these two theories to prepare the ground for reaching it. Therefore, firstly, both of them regard all of the participants as equal individuals none of whom has supremacy over the others. Secondly, they underline the necessity of free dialogue to prepare the ground for expressing diverse view points and to familiarize the participants with them. In these two theories, the acceptance of an opinion depends on the strength of the reasoning behind it. Every participant can defend his/her viewpoints and priorities by reasoning and they will be accepted if he/she can convince the others to do so. Therefore, it can be said that in both of these theories, the strength of an argument and reasoning is the most important criterion for the acceptance of an opinion and making the final decision.

#### 5. Similarities in Theoretical Outcomes

As discussed before, the problem of freedom and equality is the most central problem the classic theories of democracy are faced with and the two theories of deliberative democracy and Islamic shuracracy offer solutions to this dilemma. Relying on their theoretical principles and some special

mechanisms, both of them try to solve the above problem by introducing the idea of *compatibility of freedom and equality*.

Deliberative democracy and Islamic shuracracy by establishing an evolutionary and balanced relationship between individual and societal rights, on one hand recognize fundamental individual rights and on the other hand try to establish an equality-based relationship between individuals and society on all levels. These two theories either recognize individual freedoms or protect the peoples' equality by introducing some mechanisms.

The acceptance of the idea of compatibility of freedom and equality means that these two theories have gone beyond majority-based democracies. Therefore, they pass majority-based theories and underline constructing a political structure in which all peoples' interests and not the interests of the majority are the central criteria for political decision-making and behavior. Therefore, regarding above discussions, it can be said that the most important theoretical outcome of these two theories is introducing a theoretical solution to the theoretical problem of freedom and equality in the realm of politics and political systems.

As discussed before, one can conclude that these similarities and resemblances: firstly, don't mean that these two theories are the same. Secondly, challenge the idea of *inherent incompatibility of Islam and democracy* and highlight *compatibility of Islam and deliberative democracy* as one of the newer democratic models.

Therefore, theoretically thinking about the Islamic state in the modern era, the article recommends that by recognizing the democratic capacities of Islamic thought, one can have a simple approach to the discussion of the relationship between Islam and democracy. Instead of trying to prove the compatibility of Islam and democracy with a combined approach that is strongly opposed by both traditional Islamic scholars and modernist thinkers, it is necessary to refer directly to Islamic teachings. Relying on democratic interpretations of them, particularly those presented by modern Islamic thinkers, we can deduct a particular type of democracy. This particular type of democracy is very close to the theory of deliberative democracy.

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