

CONCEPT NOTE

Religion in Constitutions within a Global Context: Political, Legal and Cultural Dimensions

The first Islamic state founded after the Prophet's *hijra* (migration) to Medina was based on a written constitutional document. This important political and legal precedent could have become a seed for a detailed constitutional law in Islamic history. For cultural, social and political reasons, however, that did not happen. The lack of a tradition of written constitutions is probably one the reasons behind the scarcity of political institutions and procedures in the long Islamic political experience, despite the richness of the Islamic scripture and its foundational era in political values and rulings.

Under the pressure of the Western expansion, Muslim-majority societies began to feel this constitutional and procedural void at the beginning the 19th century CE (13th century H). Therefore, Muslim-majority countries started to adopt constitutional and semi- constitutional documents to regulate their political structure. Among these early constitutional documents are the Egyptian Siyasatnameh Law of 1837, the Law of the Tunisian State of 1861, and the first Ottoman Constitution of 1876. Written constitutions spread across the Islamic world afterwards.

Despite the fact that all Muslim-majority countries (more than 50 countries) have written constitutions today, the position of Islam in the public arena - and in the constitutions in particular - remains a source of cultural tension and social division within many of these countries. Among the reasons behind these tension and divisions is the lack of awareness of the issue of religion in constitutions on a global level. Contrary to the beliefs of some Muslim elites in Muslim-majority countries, a closer look at constitutional texts on religion around the world shows that this issue is not a purely Islamic dilemma; rather it is a global phenomenon.

Several non-Muslim countries, for example, explicitly have an official religion, or require a specific religious affiliation by the head of the state, in their constitutions. Some of these countries are well-established democracies in central and northern Europe. Among the

constitutions that explicitly make Catholicism an official religion are those of Argentina, Mexico, Honduras, Salvador, Malta, Monaco, Uruguay, Liechtenstein, Peru, Costa Rica, Andorra and Panama. The constitution of Argentina adds to this, "The Federal Government supports the Roman Catholic Apostolic Faith," and the constitution of Panama makes the free practices of other religions limited by the "respect for Christian morality."

Some Western European countries recognize the Evangelical Lutheran Church in their constitutions as the official church, that "shall be supported by the State," according to the constitutions of both Denmark and Iceland. Among the constitutions that recognize Orthodox Christianity as an official religion are those of Greece, Georgia and Bulgaria. The constitution of Armenia also "recognizes the exclusive mission of the Armenian Apostolic Holy Church as a national church." Likewise, several Asian countries have Buddhism as an official religion in their constitution, including Cambodia, Sri Lanka, Bhutan and Myanmar, and the constitution of India opens the door for the government's support of the "Hindu religious institutions of a public character." The Israeli Basic Laws, which serve as a constitution for Israel, emphasize the Jewish character of the state, and prevent any person from being "a candidate for election to the Knesset [Israeli parliament]" if he or she, "expressly or by implication," negates "the existence of the State of Israel as a Jewish and democratic state."

The constitutions of Denmark and Norway require the kings of these two countries to be a follower of the Evangelical Lutheran Church, while the constitutions of Cambodia and Thailand require their kings to be Buddhist. In this context, we should not forget that one of the official titles of the Queen of England is the "Defender of the Faith and Supreme Governor of the Church of England."

Respect for "Christian values", pride in these values, and the use of them as a source of inspiration are present in several constitutions, including those of Norway, Latvia, Nicaragua and the Bahamas. The "Christian principle of social justice" is affirmed in the constitution of Costa Rica, while Bulgarians pride themselves in the preamble of their constitution on being "a part of Christian Europe." Other countries, like Poland and Norway, express in their constitutions their pride in a "Christian heritage". Zambia affirms in the preamble of its constitution that it is "a Christian nation." The constitution of Panama makes "respect for Christian morality" a

precondition for the freedom of practicing other religions, and Greece's constitution guarantees the freedom of expression provided it does not include "an offence against the Christian or any other known religion."

These are only examples of this global phenomenon. Two studies by the American PEW Center show that "in 30 countries, heads of state must belong to a certain religion," and that "God or the divine is referenced in every [American] state constitution." In a more detailed study, PEW Center finds evident that "More than 80 countries favor a specific religion, either as an official, government-endorsed religion or by affording one religion preferential treatment over other faiths."

Many scholars who studied constitutional relations between state and religion in a comprehensive way have concluded that almost all states in the world today support religion one way or another. No state is 'neutral' -in the proper sense of this word- regarding religion, except two or three countries at most. The motivations behind a state's support of religion are, however, very diverse. Among these motivations are sincere religious conviction, the search for political legitimacy, and the attempt to control religion. In most cases, the motivation is a combination of all these factors. Regardless of the nature of such motivations, however, this universal support of religion by the states shows the power of religion and its deep presence in modern societies.

Goals of the conference:

This two-day conference is a multinational academic gathering to discuss the religious question in world constitutions in a comprehensive and comparative manner. Among the goals of the conference are the following:

1. Creating more awareness of the issue of religion in constitutions, within a broad humanistic perspective, and without apologies and argumentations.
2. Moving the academic and political dialogue on this issue from the Islamic and local context to the universal and humanistic context.
3. Opening new horizons for studying Islamic constitutionalism and Islamic political values in a global context.

4. Building more bridges between Islamic political thought and modern democratic values, and fostering greater understanding between different cultures and religions.
5. Helping Muslim-majority societies overcome some of their chronic structural problems by bringing more clarity to this issue.

Outcomes of the conference:

The main outcome of this conference will be a peer-reviewed and edited volume in the Arabic language. The conference coordinator will translate the papers submitted in English and French into Arabic. Some papers might also be published in *Tajseer*, the academic peer-reviewed Journal of the Ibn Khaldon Center. Other parallel events on the topic of the conference will be organized, such as public lectures and panels.