

**THE CULTURE OF DELIBERATION IN MUSLIM  
SOCIETY AND THE CHALLENGE OF MUTUAL  
RESPECT AMONG CULTURES: SOCIAL AND  
POLITICAL PERSPECTIVES**

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**Abstract**

The paper makes a brief account of what H.A.R. Gibb said was the historic and decisive event in achieving consensus —the classical practice used in deciding the succession of the Prophet (*Ḥadrat Muhammad Rasūlullah Khātam un Nabiyyīn Ṣallallahu ‘alaihi wa ‘alā Ālihi wa Aṣḥābihi wa Ṣallam*) employing the procedure of al-Shūra or deliberation or consultation in the seventh century CE, the success of democratically electing the leader of the new emerging Muslim society. The paper explores several further cases of the more institutionalized culture of deliberation among the (Sunni) Muslim society across the socio-cultural changes from the medieval centuries up to the present day world, in multi-cultural societies. Deliberation is roughly of two types—democratic and undemocratic as in the Chinese political system. The concepts used include Al-Mawardi’s Ahl Ḥall Wal ‘Aqd (AHWA) —first suggested in the 10th century CE and fully developed some three hundred years later. The concept emerged in connection with the mechanism of electing the chief executive officer (CEO) in state governments which needed deliberation of AHWA’s members (those who are qualified to act on behalf of the Muslim community

in electing a caliph). The study is based on secondary data gathered from books and articles. The paper aims to contribute to “re-inventing democratic deliberation” in the past for better understanding the contemporary trend to move towards deliberation in democratic politics—which also gives positive impact to develop mutual respect among multi-cultural societies. The main finding of the study is that there is a significant spread of deliberation in politics and governments among Muslims—societies in the countries under study.

**Keywords:** *al-Shūra, Deliberation, Political Theory, Muslims Society, Multi-Cultural Societies*

### **Introduction**

Generally, while common people across the world, would perceive the concept of tolerance as accepting peaceful co-existence and multi-cultural differences; some thinkers and leaders may not know what makes “tolerance” differ from “mutual respect”: Bernard Lewis<sup>1</sup> a notable intellectual, once expressed his view about what is the right word instead of “tolerance”. “Tolerance is of course, an extremely intolerant idea, because it means ‘I am the boss: I will allow you some, though not all of the rights I will enjoy as long you behave yourself according to standards that I shall determine...’”. Lewis related an incident: “At the meeting of Jews, Christians and Muslims in Vienna some years ago the cardinal Archbishop Franz König spoke of tolerance, and I couldn’t resist quoting (George) Washington to him, he replied “You are right. I shall no more speak of tolerance. I shall speak of mutual respect”.

Lewis here refers to the famous letter written by Washington in 1790 to the Hebrew Congregation in Newport, Rhode Island, describing his view of religious liberty: “The Citizens of the United States of America have a right to applaud themselves for having given to mankind examples of an enlarged and liberal policy: a policy worthy of imitation. All possess alike liberty of conscience and immunities of citizenship. *It is now no more that toleration is spoken of, as if it was by the indulgence of one class of people, that another enjoyed the exercise of their inherent natural rights.* For happily the Government of the United States, which gives to bigotry no sanction, to persecution no assistance requires only that they who live under its protection should demean themselves as good citizens, in giving it on all occasions their effectual support”<sup>2</sup>.

For diverse societies in order to be able to arrive at the sense of mutual respects, it is essential that we do interaction and communication supportive to this end. A basic ingredient of these two things above is deliberation. In the context of Muslim society, deliberation is al-Shūra ---a value made mandatory in *The Holy Qur’ān* — as had been done when deciding the Prophet’s succession

to Abu Bakar (*Raḍi Allah ‘anhu*). H.A.R. Gibb calls this event the first historic and most decisive exercise of *ijma*’<sup>3</sup>. The consensus was arrived after negotiation, debate and deliberation was done by an elite of Madinah (al-Anṣar) and the elite from Muhājirīn; this is in modern term called elite deliberation. The consensus was made possible as the party from al-Anṣar accepted the argument that was based on Hadiths of the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātām un Nabiyyīn Ṣallallahu ‘alaihi wa ‘alā Ālihi wa Aṣḥābihi wa Ṣallam*) concerning qualification for leadership. Such an elite deliberation took place at the point of an abrupt historical change, the death of the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātām un Nabiyyīn Ṣallallahu ‘alaihi wa ‘alā Ālihi wa Aṣḥābihi wa Ṣallam*) and the days of mourning of the newly emerging Muslim Ummah. Having been informed that the citizens in the City of Madinah held a meeting to elect a new leader, three most senior and honorable elites led by ‘Umar ibn Khaṭṭāb (*Raḍi Allah ‘anhu*) hurried to the venue, interrupted and joined the session. It may be claimed that the meeting was then moving to the right direction, resulting in a better choice that fulfilled the terms and conditions. This first *ijma*’ or consensus, succeeded in maintaining the unity of the new Muslim society and polity—the Ummah that was in its early stage of formation. Though other claims may consider the event as the first controversy over electing/appointing a leader for Muslim Ummah, our claim at least follow H.A.R. Gibb’s account. Still, within the framework of teaching of Islam, *ikhṭilāf* (the acceptance of variants in perceiving Islamic doctrines), i.e. respecting the others’ views is also important. Nachi’s notion of *ikhṭilāf* recognizes “diversity in order to preserve unity at the heart of the community...in Peter Abelard’s term, this is called unity in diversity, or *diversa non adversa*”<sup>4</sup>. “*Shūra* or deliberation in a series of explanations is always associated with a discussion of consensus.”<sup>5</sup>.

While the significance of deliberation is valued both in politics and social affairs, political deliberation remains prominent. More than that, democratic deliberation is certainly preferable to those which are un-democratic. While deliberative democracy has currently been theorized, the “status” of deliberative democracy is frequently misunderstood—as though “replacing” the existing theories—as in the case of Wowor’s proposition<sup>6</sup>. He contends that as a response to current politics in Indonesia—whereby pluralism has also been adopted, along with influences of post-modernism—deliberative democracy is the alternative to existing democratic practice. Actually, this theory is not an alternative to some already existing theories; rather, its prime value is that it tries to make democracy work. This value is very likely applicable not only to politics in the context of liberal democracy in established democratic nations but also to politics within what Fareed Zakaria terms illiberal

democracy<sup>7</sup>. Also, it includes theoretical perspectives in the way *al-shūra* or deliberation is implemented, the way “local” democracy is practiced. In addition, the value gives reasonable grounds to re-invent illiberal democracy such as *Democracy’s Dharma* in Taiwan and the *Gotong Royong Democracy* in Indonesia.

The paper seeks to make an account of the significance of the practice *shūra* or deliberation as the legacy of Muslim society—the practice that emanated from the Quranic teaching about the mandate to perform *shūra* in carrying matters; the practice that evolves beginning in the seventh century CE until the modern times practiced by diverse Muslim societies across the globe thereby forming culture of deliberation. Above all, the grand norm is the verse of *The Holy Qur’ān*, demanding that “*O you who believe, obey Allah and obey the Messenger and those in authority among you*” (Al-Qur’ān 4: 59). The concept “culture” has a general meaning, namely values and norms that have been internalized and manifested in actions performed by given segments of a society from time to time. The first part of our efforts will be to trace the classical legacy of “deliberative democracy” practiced by elites of the newly emerging Muslim society in the seventh century CE—elites who were then followed by some proportion of all Muslims. A brief discussion of the teachings of the political thinker al-Mawardi (974–1058 CE) is also included. His political thought emerged after some three hundred years after the seventh century practice. He told that the ideal model of deliberating on (political) matters is emanating from, and implementing Allah Almighty’s command in *The Holy Qur’ān*. The second part presents historical facts that touch upon the theme: from the 10th century onward, including *al-shūra*’s further impacts on the practice of deliberation among multi-cultural societies in contemporary Indonesia.

It is our hope that this paper would be of some value to developing discourse on ideas of multiculturalism and on respecting other societies. One of the great leaps in the efforts of promoting to develop mutual respects has been done by the late Professor Azyumardi Azra (1955–2022).

We realize that this work is limited to cases of deliberation picked from the history of a few nations across the “Muslim world”. Cases taken from multicultural societies, such as a country like UK would certainly contribute to further studies on this subject.

### **Methods of the Study**

The paper, based on secondary data and analysis gathered from articles of scholars, seeks to pay more attention to the original practice of *Shūra* or deliberation by the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātam un Nabīyyīn Ṣallallahu ‘alaihi wa ‘alā Ālihi wa*

*Aṣḥābihi wa Ṣallam*)’s companions (*Raḍi Allah ‘anhum*); “avoiding” to a greater degree the theoretical traps of the term of *Ahlul Hall Wal ‘Aqd* (AHWA) coined by the notable scholar, al-Mawardi, who developed his thought three hundred years later. The chosen measure of “democratic” is the extent of participation in the elections by comparatively elites compared to that by other citizens; this parameter also applies in identifying democratic politics of Athens in classical Greece in about 500 BCE— in which elites in power were among the rich; or among the nobility, only men were participating, and only citizens living in the city. The method used in the analysis is descriptive analysis<sup>8</sup> to find the various practices of deliberation in Muslim societies through socio-cultural transformations from time to time. In order to grasp the very idea *al-Shūra*, understanding texts and contexts is a necessity, especially “...understanding the message of *The Holy Qur’ān* as a divine instrument which provides the right moral and ethical values for human action”<sup>9</sup>.

Those denying al Mawardi’s theory of the *caliph* in which the concept AHWA is paramount, may be inclined to undermine the practice of the 6th and 7th century CE application of *al-Shūra*. As a matter of fact, al-Mawardi’s term of AHWA is one thing—which can be discussed or criticized, but the practice of *Shūra* in its origin in the sixth/seventh century CE is another thing. Throughout this paper, the focus of the study is on reconstructing the idea of *Shūra* or deliberation from its original practice—not necessarily confined to a theory of the *caliph*. The original practice was certainly the practice by the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātam un Nabīyyīn Ṣallallahu ‘alaihi wa ‘alā Ālihi wa Aṣḥābihi wa Ṣallam*); the paper begins the study on the practice of *shūra* after the death of the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātam un Nabīyyīn Ṣallallahu ‘alaihi wa ‘alā Ālihi wa Aṣḥābihi wa Ṣallam*) given the task of the Ummah to have the successor to the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātam un Nabīyyīn Ṣallallahu ‘alaihi wa ‘alā Ālihi wa Aṣḥābihi wa Ṣallam*). After tracing its original form, the paper follows the development of the practice of deliberation and shows its relation to mutual respect among cultures in multi-cultural societies.

### Literature Review

Deliberation is roughly of two types—democratic as theorized by the advocates of deliberative democracy in the West and found in a few practices of contemporary Taiwan’s consensus conference, or Democracy’s Dharma, the participatory democracy of Chavez’s Venezuela, and the path to deliberative diplomacy of Scandinavian nations<sup>10</sup>. There is, also, a non-democratic type such as in the Chinese political system<sup>11</sup>. Of the democratic type, deliberation based on ‘*adat* (customary law) exists among a sub-culture across Indonesia— *kerapatan nagari* (village-level sessions within ‘*adat*

system of authority) in Minang culture in West Sumatra, Subak irrigation system in Bali, and Java's *rembug desa* (village-level deliberation)<sup>12</sup>. Deliberation is culture-bound in any given society; deliberation in a Muslim society is from the grand norm mandatory from *The Holy Qur'ān*—covering general course of actions, not just politics, whereas from the sociological perspective deliberation is applied in the framework of societal development—from traditional societies to modern, from monarchy's political system to democracy. Deliberation in democratic theory evolves from pure rationality to acceptance of non-rational dimensions in communication: for 1st generation (Habermas and Dryzek)<sup>13</sup>, deliberation is communication that is purely rational; for 2nd<sup>14</sup> non-rational as complex reality: Fusing rational communication with practical requirements whereby forms of communication other than reason should be included<sup>15</sup>; and the 3rd generation, when institutionalization takes place dealing with practical procedures and putting concepts into values. Within the 3rd generation, deliberative democracy is institutionalized in two (2) levels: in micro level, the characteristics are structured sessions, impartial participants, at a certain place and time, and within the state. Whereas in macro level, the main features are unstructured, discursive for eventually formulating opinion, civil society vis-a-vis state<sup>15</sup>. And most currently, Owen and Smith (2015) mentions the deliberative democracy in terms of system: discourse on deliberative system theory—the thing that indicates that Owen's and Smith's idea was in fact implicit in the book of Habermas<sup>16</sup> “*Between Facts and Norms: Contribution to A Discourse Theory of Law and Democracy*”. He claimed that there has been a gradual shift from Bourgeois type of democracy in industrial nations to a more deliberative, egalitarian one. Also, it is Habermas's contention that inclusion of religious ideas in public discourse is justified. The evidence was Habermas's intense discussions with some leaders of Churches in Rome in 2007.

One of the key concepts and terms is capacity to deliberate. Owen and Smith discuss this as follow:

“Many crucial features of a political system depend on the capacity of citizens to deliberate to produce the perspectives, claims, narratives and reasons on which the decision-makers depend, the capacity of citizens to select good decision-makers, and the capacity of those decision-makers to deliberate cogently”<sup>17</sup>

In consonant with Al-Mawardi's term of *Ahlul Hall Wal 'Aqd* (AHWA)—developed in the 10th century CE the capacity to deliberate in deliberative democratic theory would play a crucial position. Al-Mawardi is institutionalizing al-Shūra as a mechanism to elect chief executive officers (CEO) in state governments; it conveys qualification of AHWA members which includes capacity to

deliberate—resulting from their high competence and credibility to handle public matters. High personal qualities of AHWA members are more than the standards what Aristotle prescribed in ~350 BCE as high level of good citizens—temperance, justice, courage, and wisdom<sup>18</sup>. The 10th century CE conceptualizing of *al-Shūra* was the scholarly work of al-Mawardi. The classical *al-Shūra* is termed by him as AHWA. "Linguistically, the first word of the term, *Ahl*, refers to those who have the authority to decide a matter. The rest of the term combines two words *Al Ḥall* (cancellation), and *Al 'Aqd* (contract)<sup>19</sup>. The *Saqīfah* Accord of the seventh century CE was the first experience for a Muslim society to have a few prominent figures deliberating on political matters—after the exemplary *shūra* performed by the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātām un Nabīyyīn Ṣallallahu 'alaihi wa 'alā 'Ālihi wa Aṣḥābihi wa Ṣallam*); the first step of possessing an elected leader, and the first experience to have public engagement in a crucial political matter—electing their leader. These three pillars the electors, the elected, and the public accord—are the things that later on in more contemporary studies are perceived by some scholars as synonymous to J.J. Rousseau's "social contract". Al-Mawardi's scholarly work was written during the decline of the Abbasids. While his theory of the necessity to elect or appoint a caliph was meant to maintain law and order within Muslim society, al-Mawardi's concept conveys a message concerning the chief executive officer (CEO) of a state—either a leader in a Muslim state or in multi-cultural nations; thus, the concept of *caliph*, in modern times, should be extended to mean a chief executive officer (CEO) of a state.

Within state domain, a legal system supportive to mutual respect is necessary, and legal pluralism is advisable for multi-cultural nations. Black<sup>20</sup> asks if adopting Singapore's legal pluralism would work for Australia, given the loud voice of varied communities, including Muslims—one for all legal systems is considered insufficient. Therefore, mutual respect would require the presence of a plurality of systems, a legal "umbrella", "... 'mutual respect' requires citizens to be reasonable, inclusive, tolerant, and to substitute principled compromise for dogmatism, especially in the context of public deliberation." When presenting the critique by postmodernism, Bird mentions complaints by religious writers—referring to the writings of Walterstorf and Audi (1997) that religion has been excluded from 'public reason'; exclusion of religion is unfair, as Bird writes "because it infringes 'inequitable on the free exercise of their religion'...." <sup>21</sup>. This complaint should obtain resonance coming from the deliberative theory of democracy: Habermas welcomes religion into public discourse, and the third generation's institutionalization at the macro level which provides room for civil society—with partial participants, to participate in

‘public reason’. All issues discussed in the above paragraphs reflect the big challenge of the idea of secular politics of the 16th century CE when— under the paradigm of positivism — it was argued that the only reality is matter; when you find a phenomenon as metaphysical, it only shows you have not yet reached the reality which is matter. Habermas revolutionized this paradigm. Once he made a historical dialogue on this with the top authority of the Catholic Church in 2004 in Germany—a first “intellectual” discourse between (social) science and religion.

At the higher level of discourses on religion and social science, Bayer<sup>22</sup> describes the societal progress whose primary element is a relationship between religion, science and progress. Mårtensson begins his introduction to a collection of papers of such a conference by quoting two views that negate the co-existence of science and religion, especially Islam. One of the two is “... a news report about a public lecture on the topic of “The God Delusion” delivered in 2012 by ‘globally’ famous New Atheist Richard Dawkins. Dawkins was reported to contend that Islam does not cope with science<sup>22</sup>. Similar to Mårtensson, Lawrence<sup>23</sup>, basing his analysis on globalized world, finds that Islam—and so are other cultures—contributes to making globalization more humane. Two factors are significant—the dynamic of public digital communication and disperse population of Muslims across the globe.

Whenever faith and politics interact, religion is considered facilitating orientation, “Religion can thus facilitate special change of (social) ‘progress’, by marking certain courses of social action as ‘blessed’ and other ‘cursed<sup>24</sup>. While in the West, since the 16th century CE the idea of Great Separation has been in use, contemporary societies seem to have problems with it. The obvious problem was experienced by US president, Bush Jr., in handling and pursuing “war on terror”—instead of applying Great Separation, Bush Jr, made use of parts of his religious ideas to formulate the U.S. fight against terrorism. Kristianto’s idea of “partial inclusion of religion” shows a middle way—his “theory” re-visits the 16th century’s Great Separation of religion from politics. His idea of “theology of political spirituality” focuses on relationship between the Catholic Church and politics. In order that politicians perform better in their efforts of struggling against terrorism in Indonesia, politicians should include spirituality coming from their religion in political actions<sup>25</sup>.

In a broader horizon, with regard to the relation between Islam and the Muslim society, Marshall Hodgson finds it fruitful to re-write its history. More than a particularity of Muslims society alone, to Hodgson, World History is not divided: the Muslims history is also World History. It seems that Hodgson’s view could bring

flexibility of mutual respect between cultures. Burke III<sup>26</sup> finds Hodgson's term "Islamicate" crucial to understanding the impacting values of Islam amongst the Muslims and other people encountering them. Still about writing history properly, Thomson points to Noth's, and Conrad's<sup>27</sup> critique of 20th century scholars who advocate divergent "schools of thought" in historiography of early Muslims; instead, Noth and Conrad's thesis was the presence of a "unitary" practice of writing early Muslim history, that there existed "common literary forms ...and *topoi* ... utilized by early chronicles such al-Tabari, Ibn Ishaq, and al-Baladhuri."<sup>28</sup>

## Results and Discussion

### The Classical Legacy

The following is a concise description of the seventh century CE practice. The new emerging Muslim society began in 571 CE with the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātām un Nabīyyīn Ṣallallahu 'alaihi wa 'alā Ālihi wa Aṣḥābihi wa Ṣallam*) a messenger of Allah Almighty—the same status that the previous prophets like Noah, Ibrahim, and Mūsa (Moses), and Al-Masīh (Jesus) (*'Alaihim As-Salām*) had the developing community grew in the City of Madinah where the Anṣar (the natives), merged with the migrants (called al-Muhajīrun)—whose migration was under the command of Allah Almighty. Through the Prophet's hard efforts to invite people to become believers, the growing Muslims-community "conquered" the city of Makkah, the hometown of the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātām un Nabīyyīn Ṣallallahu 'alaihi wa 'alā Ālihi wa Aṣḥābihi wa Ṣallam*). It was something like coming back home. The culminating achievement was the establishment of the multi-ethnic city-state of Madinah, with several religious groups and ethnicities—al-Anṣar that consisted of the Aus clan and Khazraj clan; al-Muhajīrun that included one major influential clan, the Quraysh to which the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātām un Nabīyyīn Ṣallallahu 'alaihi wa 'alā Ālihi wa Aṣḥābihi wa Ṣallam*) belonged.

During the Prophet's tenure of prophet-hood, step-by-step educating, internalizing the values and morality had been done, along with the Prophet's status as the role model in tackling social, legal, and public matters. One relevant value had been deliberation or consultation, or *Shūra* on a number of matters. The elite of the Companions like Abu Bakar, 'Umar ibnu Khaṭṭāb, 'Usman ibnu Affān, and 'Alī ibn Abi Ṭalīb (*Raḍī Allah 'anhum*) possessed high personal qualities. With reference to Thaib (2005)<sup>29</sup>, Yusof, et.al. (2014), write that;

"In some instances, the Prophet (*Ḥaḍrat Muhammad*

*Rasūlullah Khātām un Nabīyyīn Ṣallallāhu ‘alaihi wa ‘alā ‘Ālihi wa Aṣḥābihi wa Ṣallam*) called a number of close Companions to join the consultation. At the beginning of Prophet-hood, the general practice of Shūra was mainly with the leading Companions, a selected number of tribal leaders, and men of supreme talents in the society. Then, in Madinah, the representatives from Aus and Khazraj (were) also invited as shūra members”<sup>30</sup>.

An abrupt change took place when the Prophet (*Ḥaḍrat Muḥammad Rasūlullah Khātām un Nabīyyīn Ṣallallāhu ‘alaihi wa ‘alā ‘Ālihi wa Aṣḥābihi wa Ṣallam*) passed away. A number of citizens in Madinah made an urgent meeting to discuss the new leader upon the vacuum of the leadership; at a Jew-owned Hall of the clan of Saqīfah. The deliberation was almost finished coming up with the sole candidate, Sa’d Ibn ‘Ubadah when in a hurry, Abu Bakar and ‘Umar ibn al-Khaṭṭāb (*Raḍi Allah ‘anhumā*), being informed of the event, hurried to the venue, accompanied by Abu ‘Ubaidah ibn Jarraḥ. Entering the hall, the three men interrupted the session. After a heated negotiation and deliberation both parties—elites in Madinah and those of Makkah came to the decision to elect one of the prominent Companions, Abu Bakar (*Raḍi Allah ‘anhu*). In the words of Jauhari<sup>31</sup>, the elites from Muhajirun and Anṣar “agreed to choose Abu Bakr as Siddiq (*Raḍi Allah ‘anhu*) as caliph. Abu ‘Ubaidah and the Anṣar took oath to Abu Bakr, followed by Sa’d Ibn Basir, then ‘Umar ibn Khaṭṭāb, and all the Muhajirīn and the Anṣar”<sup>31</sup>. The top figures mentioned by Al-Sarhi, et al.<sup>31</sup> include a closest Companion to the Prophet, Zubair Bin al-Awwam (*Raḍi Allah ‘anhu*), whose choice was then “endorsed by the general bay‘ah (pledge of obedience), in the year 11 A.H. /632 C.E.”

This is called ‘Saqīfah Accord’. It was the first experience for Muslim society to have a few prominent figures deliberating on political matters, on power politics so to say, with *the* decisive results—whose basis was of dual domain, i.e. efforts or reason-based and religious basis. The religious basis was especially the eligibility of the Quraysh as expressed in the saying of the Prophet (*Ḥaḍrat Muḥammad Rasūlullah Khātām un Nabīyyīn Ṣallallāhu ‘alaihi wa ‘alā ‘Ālihi wa Aṣḥābihi wa Ṣallam*). It was the first step of having a leader elected, and the first experience to have public engagement in a crucial political matter. These three pillars—the electors (later in the 10th century CE, termed AHWA), the elected, and the public accord—are the things that in later, more contemporary studies are perceived by some scholars as synonymous to J.J. Rousseau’s “social contract”. Three hundred years later, a notable jurist al-Mawardi, systematically theorized the state of the arts. Especially his work *al-Ahkam al-Sulthaniyyah* has become very well-known and has been considered the most authoritative theory of politics, and a *magnum*

*corpus*; the book was translated into several languages in the West and had been studied by international scholars worldwide. Its publication was made possible among others with the invention of the printing machine, "...the 'print revolution' also helped to define a 'classical' canon.... Published in Egypt in 1880, after it had already been published in Vienna 1850, al-Mawardi's work became quite popular...."<sup>32</sup>. His well-known term AHWA in the mechanism of election and his qualification of AHWA members are in essence picturing the third century CE events of (a) election of Abu Bakar, and (b) 'Umar ibn Khaṭṭāb's (*Raḍi Allah 'anhumā*) formation of an election committee consisting of a few credible and authoritative public figures (*Ahl al Shūra*) to elect the next caliph.

The end-result of the Prophet's succession being given to Abu Bakar (*Raḍi Allah 'anhu*) explicitly presented one crucial point, which is, the predominance of the "sub-ethnic" group of the Quraysh. Since the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātam un Nabīyyīn Ṣallallahu 'alaihi wa 'alā 'Ālihi wa Aṣḥābihi wa Ṣallam*) once gave his affirmation that it was the Quraysh being the center of the most powerful influence amongst the Arabs—both Arab-Muslims and Arab-infidels—the Saqīfah Accord also showed the winning of the argument of preference to have the leader from the Quraysh. This point became an effective basis for the elites in the deliberation to arrive at the accord to elect Abu Bakar (*Raḍi Allah 'anhu*), one of the closest Companions, most senior one, and of Quraysh descent. The concept of power and influence in political science has its relevance to the central position of the Quraysh amongst other tribes/clans of the Arabs—in terms of what Weber calls traditional authority. (In the present paper, Weber's concept is extended to mean the entity of tribe, being influential in general tribal, cross-cultural interaction, conflict and/or consensus). All these are very likely applicable in the case of the Quraysh predominance in economy in that era<sup>33</sup>. Many modern critics "condemn" this issue in al-Mawardi's political thought—a disposition that seems to be improper. It would be much proper to contend that the Quraysh predominance had become the great contributing factor in coming to the final decision. Al-Mawardi's prerequisite of choosing a leader from the Quraysh must be interpreted in context.

The best practice of the former caliph, Abu Bakar (*Raḍi Allah 'anhu*), in conducting consultation amongst elites was not institutionalized; it was developed by 'Umar (*Raḍi Allah 'anhu*) by establishing *Majlis Shūra* or Consultative Council in his government<sup>5</sup>. It had been 'Umar's idea of such a council that was formulated later on by al-Mawardi in the 10th century CE by coining the term *AHWA* to convey concepts and qualifications of the elite who have capacity to deliberate.

### Periods After the Classical Era

In the 10th century CE, during the rulership of the Abbasid dynasty, a notable jurist al-Mawardi, one of the most important among the *‘ulama* working for the regime, aside from writing his famous book in political thought, also had a post in “diplomatic” mission”. In his practice of deliberation —and negotiation—Al-Mawardi’s central concern was (a) solution to the pressure coming from the emerging political forces in the regions that challenged the Abbasids and (b) providing his advice to the Abbasid regime as to compromise while maintaining the legitimacy of “central government” of the Abbasids. In this conflictual situation, he tried to maintain law and order whereby the entity of the state (that was in the hands of the Abbasids) would remain in existence as the “central government”, and at the same time, concession was given to the prospective rebels to gain power as sub-rulers in the framework of “regional autonomy”. He performed dual functions—as a political thinker and also as the practitioner of negotiation and deliberation. As a notable jurist very knowledgeable in Islamic teaching, along with his tenure in political affairs, he was successful to find better ways in time of political anarchy. In providing advice, al-Mawardi’s role was similar to that of Machiavelli (1469 – 1527), author of the advice book *The Prince*: it was Machiavelli who “...assumed the role of an advisor, if not a preacher. He was anxious to become the advisor of the addressee of *The Prince* and thus to rise from his low, even abject, condition”<sup>34</sup>.

In the 16th century CE, in the Ottoman Empire, the right to practice consultation was given to those best perceiving Islamic law. As with other cases in states government across the world, changes in law had taken place. Such a dichotomy is similar to the idea of *civitas Dei* vs. *civitas terrena* in Christian political theology of Augustinus (354 – 430 CE)<sup>6</sup> —a theology of “anti-politics” that later on was reformed by Thomas Aquinas (1225 – 1274 CE). In the 16th century CE, the Ottoman Empire changed its Law from previous dichotomy of Hanafi’s (d. 766 CE) version of *Shari‘ah* —dividing Muslim societies vs. “others” to a more sensible view of peaceful co-existence formulated by Imam al-Shāfi‘ī (797 – 820 CE): from the dual opposing status of *dār al-Islam* vs. *dār al-ḥarb* to an additional status of peace *dār al-‘ahd* (or *dār al-ṣulḥ*): “...but with an unproven Shafi‘i influence, that provides a third category of *dār*, defined as *dār al-‘ahd* (“the Abode of the Covenant”) or *dār al-ṣulḥ* (“the Abode of the Reconciliation”)<sup>35</sup>. With such a legal reform, theoretically, mutual respects would be more facilitated. Such a change has indeed happened as a result of the Sultan al-Qanuni’s (“Suleiman the Magnificent”, “Suleiman the Lawgiver”, 1494 – 1566 CE) consultation or deliberation with the Grand Mufti (supreme religious scholar) of the Empire, Abu Su‘ud (Ebussuud Efendi, a Hanafi jurist

and *The Holy Qur'ān* exegete, 1490 – 1574 CE)<sup>36</sup>. In this regard, in 20th century's Indonesia, the flexible definition and concept of *dārul Islam* (*Dārul Islam*) made many 'ulama from NU and Muhammadiyah top leaders like Ki Bagus Hadikusumo (1890 – 1954CE) also contend that the (future) independence of Indonesia could be named *dārul Islam*. The term is so flexible that it is overlapping with *dārul 'ahd*<sup>37</sup>. Concerning such terms as *Dārul Islam*, *Dārul Ḥarb* and so on, it seems high time for scholars in Islamic studies to elaborate and develop these terms and concepts since they were produced by jurists who might have been lacking in mastering the state of the arts in political science.

In the era of Nusantara's (Indonesia's) *Walisongo* (revered saints of Islam), beginning in the 15th century CE and later during the establishment of several Islamic kingdoms along Nusantara archipelago, the best practice of deliberation included the one done by a team of *Walisongo*—supposedly nine prominent and most influential 'ulama—preaching the religion of Islam with the result eventually transforming Javanese into Muslim society. In the 15th century, adopting the *al-Shūra* of the 7th century, *Walisongo* in some cases set up an independent body of AHWA—by instituting a Board of Trustee, whereby a king was elected and was responsible to the AHWA and the citizens of the kingdom. *AHWA firmly performed the main tasks of appointing a king of Islamic kingdom and playing the crucial role of controlling over the performance of the respective rulers in compliance with Islamic law, Shari'ah*<sup>38</sup>. This was also a great success which very few scholars mention any more nowadays. One crucial issue had been, that the *Walisongo* exercised control over the king's performance. This superior position of 'ulama is of a higher status than a mere advisory role *in the sense of* al-Ghazzali (d. 1111), which cannot exercise control over the ruler. According to him, the ruler must “*seek out devout 'ulama ('ulama al-dīn) and ask for advice*”; the ruler is warned “*not to meet with 'ulama of worldly ambitions ('ulama al-su') who might inveigle, flatter and seek to please him in order to gain control over his terrestrial body by stealth and deceit*”<sup>39</sup>. Ghazzali's warning is similar to the advice of Machiavelli in early 16th century Italy, when Cesare Borgia (1475 – 1507) of Florence was in power: “*Those, the “lickers”, must be dismissed*”<sup>40</sup>. Such a high status of AHWA had several responsibilities which include controlling the performance of the king<sup>38</sup>. This is a much better practice than the way they had in some other Islamic kingdoms where the AHWA were coming from the subordinates and relatives of the king.

In the early 20th century CE, the days when elites of the newly proclaimed nation-state of the Republic of Indonesia were encountering the crucial issue of formulating the philosophical foundations of the state's ideology—after several days of

deliberation—Sukarno (1901 – 1970 CE), the first president, came to the prominent and charismatic leader of NU (*Nahdlatul Ulama*), Hadratu Syaikh Hasyim Asy'ari (1871 – 1947 CE). Sukarno was explaining the issue and deliberating on the matter, and asked for Hasyim Asy'ari's advice. It was written in the history of Indonesia that Hasyim Asy'ari took actions of “spiritual deliberation” that brought him to the advice written in Arabic *Jawi*, the draft of *Pancasila* (from the Sanskrit, means “Five Principles”) that was the best that Indonesia could have possessed.

The following is a list of a few practices in Indonesia: first, the practice by Pakde (Uncle) Karwo (Sukarwo), the former Governor of East Java; during his tenure (2009-2019), he used to make informal visits to the respective heads of political parties for negotiating ideas and deliberation; such actions and communication was often done prior to having formal meetings and sessions in the regional governmental framework. Sukarwo was of the opinion that the ‘*adat*-based *Gotong Royong* (mutual cooperation) was influenced by Islamic piety or *kesalehan sosial* (social piety) prevailing in the citizens of East Java; his view was based on Mohammad Sobary's work, *Kesalehan Sosial* (2007)<sup>41</sup>. Second, the inclusion of Syafii Maari (1935–2022 CE), Islamic scholar and a notable leader of civil society, in the deliberation held in 2015 by President Joko Widodo (b. 1961) in a crucial matter concerning the appointment of the national head of Indonesia's State Police or *Kepolisian Negara*; this was done to find options as a vast resistance to the policy was voiced by diverse civil society. The president invited nine-prominent figures—some of them coming from civil society— for deliberation that resulted in a change in the government's policy. Third, in the events of the consecutive Congresses in 2015 and 2019, held by the large “traditionalists Muslims organization, NU, it had been determined to employ *al-Shūra* conceptualized in the 10th century CE by al-Mawardi as AHWA, in electing the top leader (*Ra'is 'Am*) of NU's *Majlis Shūra* (Consultative Council). This was NU's response to many complaints of NU activists, who wanted to avoid money politics. In the eye of many activists, the AHWA procedure was also preferred and was regarded as the panacea for curing the illness of money politics. Instead of implementing the procedure of *one-man-one vote* election exercised by representatives, in these two national congresses NU implemented *an* election method by way of appointing nine prestigious ‘*ulama* (who qualified the AHWA standard, i.e. the “loose and bind” standard) to deliberate on the matter and decide on the choice. In these congresses, democratic deliberation was practiced by elites of NU's ‘*ulama*<sup>42</sup>. Fourth, in diplomacy and treaties, it is written in Indonesian history that in Nusantara, a “treaty” between the state of Saudi Arabia and the faith-based civil society from Nusantara was made: the deliberation famously done by

“traditionalists ‘*ulama*” in early 20th century CE on the issue of preserving a few spiritual and religious rituals, including the existence of the grave of the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātām un Nabīyyīn Ṣallallahu ‘alaihi wa ‘alā Ālihi wa Aṣḥābihi wa Ṣallam*) in Saudi Arabia. A special envoy flew to Saudi Arabia for *al-Shūra* or deliberation with King Saud for negotiation. The mission was successful. The Saudi king’s plan to wipe out the grave was canceled. This accord also shows that the Indonesian ‘*ulama* had their capacity to deliberate.

With regards to ‘*ādat*-based deliberation, one of its several, local, types that experiences significant impact of *al-Shūra* has notably been in use in the sub-culture of Minangkabau in West Sumatra, where the established hierarchical structure of ‘*ādat* authority, along with forums for *musyawarah-mufakat* (deliberation-for-consensus) has made *al-shūra* highly institutionalized. More than its social system—within Matriarchy—there has also been established a “philosophy” of the ‘*ādat* that is based on Islamic law: “‘*ādat basandi syara; syara basandi kitabullah*” (“*ādat* is based on Islamic law; Islamic law is based on *The Holy Qur’ān*).

From the account above we should be convinced that institutionalization of deliberation has been significant. Its institution has been made legitimate and, in the seventh century CE, was well-affirmed by ‘Ali ibn Abu Ṭalib’s (c. 600 – 661 CE) (*Raḍi Allah ‘anhu*) stance to refuse aspiration of several segments of the masses, demanding that ‘Ali (*Raḍi Allah ‘anhu*) be prepared to be taken allegiance. Rather, ‘Ali (*Raḍi Allah ‘anhu*) remained consistent, arguing that succession of the sultan/amir/caliph was the right of the *Ahl al-Shūra* set up by ‘Umar ibn Khaṭṭāb (*Raḍi Allah ‘anhu*). Taj describes how ‘Ali bin Abi Ṭalib (*Raḍi Allah ‘anhu*) respected the *Shūra* Council. He writes, “...many had directly approached to do *bay‘ah* [pledge of allegiance] on his hands; yet, he refused, stating that this matter is the right of the *Shūra* (parliament) to decide”. Taj also writes, “*Ibnu Khaldūn* in his *Muqaddimah* explained that the concept of *bay‘ah* (an oath of allegiance to the ruler) means to formalize one’s contract with one’s ruler; ....”<sup>43</sup>. And from the classical era to contemporary times, the culture of democratic deliberation has prevailed across the world, both exercised by civil society and some state actors. Such elite deliberation prior to public allegiance in the classical era could function as providing basis to develop into wider segments of the society in this era in exercising public deliberation; this prospect is not only made available within internal Muslim society, but also in the context of multi-cultural societies.

## Conclusion

In conclusion, in our contemporary political systems where

nation-state along with plurality of religion and cultures are accepted, the practice of shūra or deliberation in Muslim society has shown some significant contribution to strengthening social cohesiveness across cultures. In contemporary theory of deliberative democracy, such elite deliberation prior to public allegiance in the classical era had provided fruitful precedence for further emergence of deliberation among segments of the society afterwards. Within the “Muslim world”, progress toward more democratic politics was also shown by way of adopting a more moderate approach to understanding Islamic jurisprudence formulated and developed by the Sunni School of Thought—notably Syafi’i’s approach to formulating Islamic jurisprudence.

With the global mobility and migration of Muslim people, the culture of deliberation has done its part in enriching the existing practices of deliberation and, to a great extent, contributed to the formation of more democratic ones. This is especially true in many segments of the Indonesian society where a more Islamic worldview has been resulted, partly due to peaceful penetration of “Islamization” across the archipelago of Indonesia, instead of *Futūḥāt* (conquests).

Eventually, all the above development has given more or less significant impacts on democratic deliberations across cultures—thus contributed to developing mutual respect among multi-cultural societies. This capital social of the “Muslim world” could go hand in hand with the adoption of deliberative democracy that has been adopted and promoted by several state-actors and civil society across the world. These phenomena promise a better prospect for the increase of mutual respect across cultures and promoting democratic deliberation within Muslim–societies, as well as in multi- cultural societies.

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