

## **Muslims in Britain and the Elections: What does the Shari‘a say?**

**Shaykh Michael Mumisa**  
University of Newcastle Upon Tyne

Muslim participation in the elections has become an issue of intense debate in Britain between those calling for Muslims' full participation in the voting process and those who consider voting in a Western democracy as act of apostasy. A number of websites and literature have been produced telling Muslims that if they vote they will be consigned to the fire of hell. There is a great concern among some politicians and Muslim organizations that some Muslims, particularly the youth and women, will decide not to participate in the elections and thereby further marginalizing themselves. The voice of those opposed to the elections is becoming louder and more aggressive. The general consensus among some Muslim organizations and clerics is that those urging Muslims to abstain from voting in the elections represent only a minority view. By dismissing a growing number of voiceless Muslim youth as nothing but a small collection of poor young men and women who have been influenced and brainwashed by fundamentalists, the British media and Muslim organizations may be playing a very dangerous game. The problem will simply not disappear and the number of disgruntled voices will only continue to grow.

The approach often adopted by British Muslims when faced with a crisis is one of defensive apologetics, aggressive public relations, and damage control. An army of "community leaders" and clerics are called upon to explain to the wider British audience that "Islam is a religion of peace", "they are giving Islam a bad name", "they are just a minority". The word "community" is then repeated a number of times to suggest that there is a collective monolithic worldview against which these youth are deviating. What I call "the myth of the community" is then reinforced as a group that shares the same values, views, and beliefs. Thus, "community" becomes a term of exclusion and inclusion whereby some members are included while others are excluded.

While this approach may have been successful in presenting a favorable image of Islam to the 'outsiders', it has at the same time been alienating young Muslim men and women who feel that the "community's Islam" has failed to engage directly with the primary texts and sources of Islam. When it comes to serious questions relating to how specific verses of the Qur'an should be read and understood here and now, British Muslims have not even began to scratch the surface. What the youth want is a kind of "Biblical theology" of the Qur'an; a process whereby the Qur'an is interpreted and re-interpreted in order to provide answers on how Muslims should participate alongside the religious and cultural 'other' in solving society's problems. There has been no serious debate or discussion on specific verses dealing with Muslims' relations with Jews, Christians, Muslims' social and political role in Britain, among other things.

It is this failure by mainstream British Muslims to engage in a serious intellectual debate regarding the verses of the Qur'an and the traditions (hadith) of the Prophet which has caused a large number of young Muslims to go and look for answers among Muslim extremists who happen to be the only ones at the moment dealing directly with the primary texts but from an extremist point of view. Thus, the battle of Islam against extremism in Britain should not only focus on reclaiming the youth from extremist organizations but also on reclaiming the Qur'an itself from 'ideological interpretations'. This can only be possible if Muslims feel confident and qualified enough to go beyond ritualized Islam, metaphysical theorization, towards meaningful and self-assertive Islam.

### **What does the Shari‘a say about voting in Britain?**

I would like to argue here that while I do not share the view that voting in Britain is tantamount to apostasy, the question regarding Muslims' participation in so-called non-Islamic systems of government is not an isolated view but part of centuries of Islamic political thought and theo-legal discourse. I would like to mention right at the outset that there is no explicit textual evidence either from the Qur'an nor *sunna* (or *imitatio Muhammadi*) that can be used to substantiate the view that Muslims in Britain should not vote or that participating in voting is an act of apostasy.

Muslim legal theorists and pragmatists have always agreed that the Qur'an is not prescriptive in the sense that it provides detailed instructions on how laws should be applied or executed in society. Instead, it tends to be general providing only general principles and guidelines. The Muslim jurists such as Abu Hanifa, al-Shafi'i, Ja'afar al-Sadiq, Ahmad Ibn Hanbal, Malik, to name just a few, developed a means of deducing the law through a complex hermeneutical theory, whereby they were able to interpret the Qur'an and *sunna* in as extensive a manner as was possible, thereby making the limited legal verses of the Qur'an useful in providing answers to the new questions. Thus, the hermeneutical journey of the Qur'an followed a path of thought that winds its way through methodological debates that reflects hermeneutical notions developing with the interaction between Islam and the praxis of the post-Muhammadi context and the dialogue between these hermeneutical notions and the novel theological, social, and legal questions that emerged after Muhammad. This is not the place to discuss, even at rudimentary level, the development of Islamic legal theories and hermeneutics and their application in modern society. I have discussed this topic extensively in my book "Islamic Law: Theory & Interpretation" (Maryland, 2002) and my forthcoming book "Law, Hermeneutics, and Social Change in Muslim Legal Theory: A Close-reading of al-Shatibi's *al-Muwafaqat*" (2005). For the purpose of my argument, I will only discuss how the theories of *maqasid* (purpose of law in Islam), *masalih* (public interest), and *kulliyat al-abkam* (general and universal principles of law) can be applied in our attempt to explain why Muslims should vote in British elections. What is of particular interest to me is how Muslim legal classicists such as the great Abu Ishaq al-Shatibi (died. 1388) interpreted these theories.

Perhaps what makes al-Shatibi's theories unique and more relevant in contemporary times is that they were developed in 8<sup>th</sup> century Andalusia when most of the Muslim territories had come under Christian rule. After the fall of Muslim Spain to Christian rule there was an exodus of Muslims from the conquered territories to the Muslim lands and what was once a Muslim empire was declared an abode of war by Muslim jurists (*dar al-barb*). Muslims started living as minorities under a non-Muslim authority. A study of the legal questions posed to the Muslim jurists of that time helps to understand the complex nature of this new situation for the Muslims.

In a collection of the legal verdicts of the Grenada scholars titled *al-Hadiqat al-mustaqilla al-nadrat fi al-fatawa al-çadira 'an 'ulama' gharnata* (manuscript 1096. Cairo) we read that scholars started debating whether those Muslims who had not migrated to Muslim lands and had chosen to remain under Christian rule could be classified as believers. In a letter sent to al-Shatibi, the question was posed whether it was "permissible for the people of Andalusia (Muslims) to do business dealings with the people from the abode of war in those items the scholars (in the past and in the Muslims countries) prohibited, such as weapons, and other things, given the current situation in which the Muslims are in need of basic commodities such as clothes, food, and other things. Or is it that there is no difference between the situation on the people (Muslims) of Andalusia and those living in Muslim lands? Can one make wax and then sell it to a

perfume vendor knowing that he will in turn sell it to an unbeliever?” (see Ahmad Baba al-Timbukti’s *Nayl al-ibtihaj*)

Therefore, Al-Shatibi’s methodology and approach to Islamic legal theories and hermeneutics could develop taking into consideration the pluralistic and evolutionary nature of society. The theories of *maqasid al-shari’a* and *masalih* as interpreted by al-Shatibi and other classical Muslim jurists can enable Muslims to remain true to their doctrine and identity while at the same time taking part in a modern and pluralistic society. A theology of relations between Islam and the religious ‘other’ can be developed from *maqasid al-shari’a* and *masalih*.

What sets al-Shatibi’s interpretation apart from his predecessors is that he developed the theories by emphasising that the *maqasid al-shari’a* and *masalih* could override specific legal rulings. According to al-Shatibi, the verses revealed in Makka (or before the Prophet’s migration to Madina) deal with the universal principles (*kulliyat*) of law which underlie the application of law within society. These general and universal principle or the *maqasid* of law such as the notion of justice, morality and ethics, good social conduct and relations, protection of an individual’s life and property, among others, cannot be abrogated or revised. Specific legal rulings and injunctions (*al-juz’iyyat*) were revealed in Madina (or after the Prophet’s migration from Makka) as an interpretation of the universal and general principles. While abrogation in the specific legal rulings occurred due to social change, such abrogation was not possible in universal and fundamental principles of law since such principles are not bound by time and space. In his famous work titled *al-Muwafaqat*, Al-Shatibi argues that the universal principles such as our knowledge that justice is good and injustice is wrong, the protection of people’s properties and life, among others, are found in every religion because of the Qur’anic verse, “The same religion has He established for you that which he enjoined on Noah, the which we have sent by revelation to you, and that which we enjoined on Abraham, Moses, and Jesus” (Qur’an 52:13). The details of law (*juz’iyyat*) such as penal laws of Islam, the laws of inheritance for men and women, and other laws governing the individual and society as explained in the Qur’an or other religious texts differ from one religion to another, just as they differ according to time and space. Since such *juz’iyyat* are based on time and space, they should accept abrogation, revision, and change according to the needs of each society. In other words, the interests of society can override such *juz’iyyat* but they cannot override the *kulliyat*. Simply put, the *kulliyat* are the goals (or *maqasid*) of the *Shari’a* while the *juz’iyyat* are the means to those goals. The purpose of *Shari’a* is not to cut people’s hands or stone them to death (focusing on the *juz’iyyat*) but to establish a just society (focusing on the *kulliyat*). If suspending the *juz’iyyat* (specific legal rulings) will ensure the realisation of the *kulliyat* (universal principles), then such a suspension (*naskh*) will be legitimate under *Shari’a*.

With the concept of *maqasid al-shari’a* (intent and motive of Islamic Law), it becomes possible to apply the Qur’an to changing times and changing conditions in society, so that the *data revelata* remain dynamic and creative, always applicable and always invigorating society. Unfortunately, due to the development of legalism in Islam, the focus has shifted from the *kulliyat* to the *juz’iyyat*. Under correct interpretations of law in Islam, the change and the modification of *juz’iyyat* is acceptable in order to meet social change as long as such change does not undermine the *kulliyat*.

Therefore, any political and legal system that fulfils the *kulliyat* is acceptable and considered as fulfilling the requirements of the *Shari’a*. The question is, does the British and political systems fulfil the *kulliyat* as required under Islam? It is my opinion that the British legal and political systems as they stand at the moment meet the goals of the *Shari’a*. I am aware that there are still points of conflict with regard to certain ‘moral’ issues. Islamic law requires that we overlook such differences and focus on *masalih*

(public interests) and universal principles (*maqasid*) such as justice, respect and protection of a person's beliefs, protection of life, protection of sanity and intellect, preservation of lineage, and protection of a person's property or wealth, among others.

An example of how the interpretation of Islam in a society will be influenced by *masalih* (public interest) and *maqasid* (the purpose of law) is given by the famous classical theologian and theorist Ibn Taymiyya who is widely considered as the father of conservative Islam. His student Ibn Qayyim narrates that Ibn Taymiyya once said: "I was passing with some of my friends in the days of the Tartars, and saw a group of them [Tartars] who were drinking alcohol. One of my friends wanted to reprimand them, but I prevented him from doing so and said, Allah has prohibited strong drinks as they divert people from Allah and offering daily prayers, but strong drinks have diverted these people from committing murder, capturing children and plundering, so leave them alone." (see Ibn Qayyim's *I'lam al-muwaqqi'in*)

Thus, drinking alcohol, although *haram* (prohibited) under the Shari'a, in this case it was overlooked both as *masalih* (public interest) and the need of the time in order to save the people from murder and plunder and creating chaos in the society. Under Islamic law, the universal and fundamental principles are the spirit and the intention of the Law-giver (*qasd al-Shari'*) and will always override the specific legal rulings and other interpretations of law that are seen to be at odds with the spirit of the law. It is safe to say that according to this theory, the purpose of law in Islam is not necessarily to follow the letter of the law or to establish a theocracy and Islamic state, but to fulfil a higher goal and greater purpose (*maqasid*) of establishing a moral and just society. Whatever method can be used to reach this goal is considered "Islamically correct". If it is also possible to achieve this goal without having to apply Islamic laws, then suspending such laws is also considered "Islamically correct". If voting in the elections ensures that Muslims are able to live in peace and freedom, then it becomes a general obligation (*fard kifaya*) to vote for that party that best serves their interests (*masalih*).

The three main arguments which have been advanced by those against voting in Britain are (a) none of the political parties contesting the elections represented the aspirations of the Muslims, (b) Muslims cannot support any party which espouses only some policies that are Islamically applicable, and (c) instead of voting Muslims should fight towards the establishment of an Islamic state or caliphate.

The first argument is certainly not unique. It has been made by many individuals and Muslim organisations that believe that the government has not delivered on its promises. There is no doubt that there are Muslims who are disillusioned with the current state of affairs, and hold the current government responsible for what they perceive to be a deterioration in school standards, health care, safety and security, job opportunities, moral values, the war on Iraq, among other things. The reluctance or hesitancy of some Muslims to vote, or indeed their desire to vote for an "opposition" party, can be understood from this point of view.

The second argument is highly debatable. While the British system does allow practices which are at variance with Islamic norms and values, this does not negate the permissibility of participation in the system, provided that the following conditions are met :

1. the state is committed to the establishment of peace and justice.
2. the system guarantees freedom of religion.
3. the system allows for participation of all citizens in decision-making.

The British system meets these demands. Therefore, participating in the political system is both legitimate and desirable.

While Muslims are entitled to oppose any measure which they consider to be immoral, the definition of morality should not be confined to issues such as abortion on demand,

gay rights, gambling, among others, but should be broadened to include issues of housing, water, health care, economic and social justice, education and employment. These are recognised by Islam as fundamental and universal rights (*kuulliyyat*) and *maqasid* (purpose of law is Islam) to be enjoyed by every citizen. Muslims should have absolutely no hesitation in supporting initiatives to fulfill these fundamental rights; in fact, they should be actively involved with government, as well as in Non-Governmental Organisations promoting these and other related rights.

Furthermore, Muslim opponents of participation will have to learn to accept that it is not in the nature of a secular state to define issues of social morality, nor to enforce any particular standard of moral and ethical behaviour on its citizens. The responsibility is upon individuals and communities to ensure that they safeguard their religious values and that they do not become victims of what they consider to be social vices. They should focus their energies on constructive means of maintaining and promoting these values at the level of civil society rather than on attempting to compel the state to adopt them.

Muslims will have no advantage in isolating themselves from the mainstream of political life and becoming a marginalised community. They must commit themselves to a system of cultural and religious pluralism within which they are free to assert their religious freedom. While maintaining their specific religious identity in the Western democratic order, they must remain conscious of their British identity.

The debate engendered by extremist groups and their clerics, I venture to suggest, can in fact be seen in a positive light. It should provide a platform for Muslim theologians and Islamic legal theorists to debate important questions in relation to the role of Muslims in the broader British society, their approach to secular democracy, and their national/cultural identity. Through this process, it may indirectly help Muslims to focus on their future role and involvement in national life.

The interaction of Islam and the praxis of the British socio-political and cultural context have led to a civil war of ideas within Islam in Britain. It has caused a radical division between the so-called “progressive” elements schooled only in the secular sciences at Western universities while lacking even rudimentary knowledge of the classical Islamic sciences, and the “conservative” or “traditional” elements educated in the traditional universities and seminaries in the Middle East or Indo-Pakistan sub-continent and have not been equipped with the knowledge of contemporary humanities and social sciences.

The secular educated Muslim “experts” have only succeeded in scratching the surface of a complicated and highly sophisticated Islamic discourse in their media contributions and appearances. This has continued to frustrate the youth and other intelligent Muslims who are searching for sophisticated answers based on the primary sources of Islam. In order to maintain the link with the Islamic traditional legacy (*turath*), the traditionalists’ response has been a condemnation of any attempt to recast and re-interpret Islam from a contemporary perspective and have considered such an exercise a serious departure from orthodoxy and orthopraxy. While this attitude has been successful in preserving ritualised Islam and Muslims’ symbols of cultural nationalism (“Asian” cultures), it has failed in providing answers to a number of contemporary questions. The primary Muslim concern cannot be mere survival of an old tradition (*turath*) – Islam as a museum that displays once meaningful deposits – but the actualisation of a challenging message for a contemporary generation.

The future of Islam in Britain rests upon the emergence of a generation of young scholars who are schooled in both the classical Islamic disciplines and contemporary humanities and social sciences. A reader of the Qur’an who grew outside of Islamic life, who is attending a secular university, is more likely to see the Qur’an as a collection of

conflicting theological claims than is a reader who grew up with frequent participation in worship, who has access to the classical sciences of Islam. Lack of knowledge of the English is not the problem as suggested by the Muslim organisations in Britain and the Home Office. The problem is much more complex than that; it is one of methodology and approach. Traditional Islamic seminaries should stop producing graduates who are only able to function as Mosque Imams teaching ritualised Islam. The dominance of the modern Western idiom is such that the scholar of Islam (the *'alim*) must now conduct not merely a traditional discourse, but also a discourse cognisant of modernity.

Since the Muslim of today is very often exposed to contemporary disciplines, and thereby exposed and possibly co-opted by their associated worldviews and assumptions, it becomes imperative to address contemporary issues that are associated with the Western disciplines. Islamic scholarship can no longer ignore the host of other worldviews, religious or secular, with which it competes for the attention of contemporary human beings. To wish for Islamic disciplines which have no connection to the West is to forget that because of colonialism, globalisation, and migration, the Muslim is all too often caught up in images, concepts, and paradigms quite alien to classical and medieval Muslim scholarship.

Muslim organisations and groups in Britain should promote a serious intellectual debate that focuses on the primary sources and texts of Islam as points of reference. Such a debate will provide the platform to those who would otherwise have resorted to extreme measures in order to be heard.

April 2005