Refereed Academic Study

Hamas's Political Vision

Prof. Yusuf Rizqa

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Introduction

This study discusses Hamas's political vision by examining specific issues, namely: religion and state, patriotism and secularism, democracy and the power of the people, political pluralism, and human rights, with the aim of identifying Hamas's theoretical and practical attitude on these issues. The researcher in his approach relies on ideological and political determinants contained in Hamas's written documents, or statements by Hamas leaders, cross-referencing it with Islamic political literature, especially that of the Muslim Brothers (MB) movement. The research applied the analytical descriptive approach, only offering a deeper historical background to attitudes and facts when necessary.

First: On Hamas's Political Ideology

There is a difference between Islamic ideology and Islam itself. Islamic ideology is the intellectual product of Muslims aimed at meeting the interests of the community, and serving religious principles in general, whereas Islam is divinely revealed and contains a fixed set of laws. Accordingly, ideology can be developed, changed, and can tolerate multiple points of view, by virtue of changing reality and differences of opinions. Therefore, adherence to ideological principles is contingent upon its consistence with general Islamic rules and principles.[3]

Our understanding of the difference outlined above is necessary if we are to understand Hamas's ideological and political vision on the issues pertinent to the research, which revolve around: religion and state, patriotism and secularism, democracy and the power of the people, political pluralism, and human rights, on the basis that these themes are components of the organization's political and ideological vision, and on the basis that Islam has put forward general principles for politics, which constitute a binding reference to the details that Muslims develop to manage their affairs and serve their interests, according to their changing temporal,

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[1] This is a refereed study. It was published in the Arabic Version the Book: *Islamic Resistance Movement-Hamas: Studies of Thought and Experience* (pp. 61–108), edited by Dr. Mohsen Moh'd Saleh. Al-Zaytouna Centre for Studies & Consultations published the Arabic version in 2014. Al-Zaytouna Centre will publish the English version soon.

[2] Professor of literature and criticism at the Islamic University of Gaza. In 2006, Rizqa served as the Minister of Information in the tenth government of the Palestinian Authority, and during 2007–2014, he was the political advisor of the Prime Minister Isma'il Haniyyah. He authored many articles and researches in literature, criticism and political sciences.

[3] Muhammad al-Ghazali, *Laysa min al-Islam* (Not of Islam), 6th ed. (Cairo: Maktabat Wehbeh, 1996), pp. 136–139.

spatial, and cultural needs. It is their right to establish institutions and necessary mechanisms to convert general Islamic provisions or principles into functioning mechanisms and specific institutions. This is what we call the political ideology of Hamas.

Hamas is a Palestinian national liberation movement with an Islamic frame of reference. It has defined itself in its Charter as being an "Islamic Resistance Movement: Islam is its system. From Islam it reaches for its ideology, fundamental precepts, and world view of life, the universe and humanity."[4] Although it is a resistance movement working to liberate the land and people, "it is not a military group but a comprehensive liberation movement…operating in various fields and arenas, and has its own goals and political vision. It is a popular movement living the concerns of its people at home and abroad, defending their interests and seeking to serve them."[5] Hamas also identified its relationship with the MB movement, and stated that "the Islamic Resistance Movement is branch of the Muslim Brotherhood chapter in Palestine."[6]

But it does not seem that the idea of Hamas being a "branch" is very accurate, because it would suggest that there are two organizations in Palestine: A Muslim Brotherhood chapter, and a branch, Hamas. But in reality, this is not the case. When Sheikh Ahmad Yasin was interviewed on the television program *Shahid 'Ala al-'Asr* (Witness to an Era), he was more accurate, saying, "We are of the Muslim Brotherhood…We are an extension of the Muslim Brotherhood all over the world."[7] Based on the above, we can say: The sources of Hamas's political ideology are made up of:

1. Islamic political ideology produced by Islamic thinkers, past and present.
2. The MB movement's political ideologies and their interpretation of Islam.
3. The ideology of Hamas leaders, thinkers, cadres and their political literature.

I find myself leaning on the first and second sources in my approach to understand Hamas's political vision, the topic of this study, given the lack of information regarding the third source. This lack of information, which Khaled Hroub

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[4] Charter of the Islamic Resistance Movement (Hamas), August 1988, Article 1. The charter was translated by Muhammad Maqdsi for the Islamic Association for Palestine, Dallas, Texas, in 1990, and was published in *Journal of Palestine Studies*, Institute for Palestine Studies (IPS), Beirut, vol. XXII, no. 4, Summer 1993, pp. 122–134, http://www.palestine-studies.org/sites/default/files/jps-articles/1734.pdf

[5] Interview with Khalid Mish'al, *Assabeel* newspaper, Amman, 23/8/2010.

[6] Charter of Hamas, Article 2.

[7] Ahmad Mansur, *Ahmad Yasin Shahid 'ala 'Asr al-Intifadah* (Ahmad Yasin Testifies to the Era of the Intifadah*), Silsilat Kitab al-Jazira - Shahid 'ala al-'Asr (2)* (al-Jazira Book Series, Witness to an Era (2)) (Beirut: Arab Scientific Publishers and Dar Ibn Hazm, 2003), p. 253.

characterized as "scarcity,"[8] has some justifications, such as the lack of special intellectual experience and political experience, as well as preoccupation with the *Intifadah* and resistance and their implications. Before we delve into the issues of the research, I would like to note the following:

1. The lack of studies by Hamas on the topics of this research whether solely their own work or in collaboration with others. What we found was of the generalist type, or focused on historical events and developments.

2. The Hamas charter has not discussed directly or in detail Hamas's political vision, and was dominated by a generalist moral vision without a specific political vision.

3. The issues of democracy, pluralism, religion and state, patriotism, and secularism have not been given the same priority enjoyed by the resistance and the religious call within Hamas. When Yasir 'Arafat created the Palestinian Authority (PA) after the Oslo Accords, this did not prompt Hamas to engage in politics or build its own theory.

4. The nature of the conflict with the occupation, and Hamas's preoccupation with its issues, outcomes, and implications, combined with the absence of any hope for the imminent creation of the Palestinian state, meant that these issues took a back seat.

5. Hamas does not represent a special ideological trend in its understanding of democracy. Instead, its understanding is part of the overall Islamic understanding of democracy, in line with the prevailing ideas of Islamist thinkers, calling for flexibility and engagement with others and other democratic countries.

6. Hamas's practical record was a useful source for this study, especially as regards its participation in the elections and the cabinet in 2006, in addition to the Palestinian Basic Law upon which Hamas's experience in power was based.

7. It is important to point out that Palestinians have had no state since 1948. The PA failed to build state institutions, and a constitution and laws regulating political life must be prepared comprehensively. The PA focused on pushing back the occupation and its aggression, while trying to address the daily needs of government.

Second: Religion and State

Hamas is no different from the MB movement in its vision of the state, its function, and the necessity of establishing it. The state in the Islamic ideology is a "necessary instrument" for the implementation of Shari'ah (Islamic Law), safeguarding faith,

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[8] Khaled Hroub, *Hamas: al-Fikr wa al-Mumarasah al-Siyasiyyah* (Hamas: Political Thought and Practice) (Beirut: Institute for Palestine Studies, 1996), p. 275.

achieving the interests of society, and managing the affairs of citizens. Because of this, and given—as Rashid Ghannushi said [9]—the "state's indispensability to society," Hamas made resistance against the occupation, self-determination, and the establishment of the Palestinian state its primary advocacy and political goals.

Hamas calls for the establishment of an "Islamic" state, but not a "religious" state or a theocracy. In this regard, Hamas refuses the separation of religion from state, and sees it as a Western idea, stemming from a particular experience that has nothing to do with the Arab and Muslim environment.

Instead, Hamas calls for a comprehensive integration of politics and religion, in line with the approach of Hasan al-Banna who said, "Governance in the books of *fiqh* [jurisprudence] is classed under doctrinal beliefs and fundamentals, not secondary jurisprudence branches. Indeed, Islam is ruling and implementation, legislation and education, and law and judiciary, none is separable from the other."[10]

Hamas thus affirms that polity is part of religion, and Hamas leader Ibrahim al-Maqadmah, considered the political position as tantamount to a *fatwa* (a religious ruling issued by a Muslim scholar) in one way or another.[11] Maqadmah called on Muslim scholars to become involved in politics, telling them that they are more deserving of political work, because they understand religion and the interests of the *Ummah* (the Nation).[12] Maqadmah's appeal stems from a special Palestinian-Arab experience, where liberals and leftists monopolized power for many decades. The criticism by Hamas and the MB movement of Arab governments is that they have not done their duty to safeguard Islam and implement its provisions as required by Shari'ah, while not realizing dignity, development and progress for the *Ummah*.

Palestine is not a state, it is an Authority without real sovereignty. It is less than a state. Therefore, Hamas has criticized the PA and the Arab states, since it is keen to establish a sovereign Palestinian state, which would fulfill its responsibilities set by Islamist principles, without the intervention of Israel or any other state.

Rejecting the separation of religion and state, and adopting the principle of integrating them, does not mean that Hamas calls for a theocracy in Palestine. To be

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[9] Rashid al-Ghannushi, *al-Hurriyyat al-'Ammah fi al-Dawlah al-Islamiyyah* (Public Freedom in the Islamic State) (Beirut, Centre for Arab Unity Studies, 1993), vol. 1, p. 146.

[10] Hasan al-Banna, *Majmu'at Rasa'il al-Imam al-Banna* (The Collected Epistles of Imam al-Banna), *Silsilat min Turath al-Imam al-Banna (15)* (Imam al-Banna Legacy Series (15)), 2nd ed. (Giza: Al-Basa'ir li al-Buhuth wa al-Dirasat, 2010), p. 351. Banna also said, "We believe that the rulings of Islam and its teachings are comprehensive in managing the affairs of people in this life and the hereafter,… Islam is creed and worship, a homeland and a nationality, a religion and a state, a book and a sword, and the Quran states all of this," *Majmu'at Rasa'il al-Imam al-Banna*, p. 330.

[11] Ibrahim al-Maqadmah, Public Opinion in the Muslim Society: Scholars and Rulers, *Al-Risalah* newspaper, Gaza, 26/2/1998. (in Arabic) Ibrahim Ahmad Khalid al-Maqadmah (1952–2003), a Hamas leader in the Gaza Strip, member of Hamas politburo, medical doctor, a thinker and a caller to Islam, who was assassinated by the Israeli planes in 8/3/2003.

[12] Ibrahim al-Maqadmah, To the Scholars of Islam, *Al-Risalah*, 31/10/2003. (in Arabic)

sure, the Islamist ideology adopted by Hamas, rejects a "religious" state in that sense, and calls for a "civil" state with an Islamic frame of reference. Hamas refuses characterizing the Rightly-Guided Caliph state as being a theocracy.

The *Ummah* in Islamic thought is "the bedrock of sovereignty and power…and the state is authorized by this *Ummah* to exercise its jurisdictions and functions as mandated."[13] This mandate prevents the state from bypassing established tenets of Islamic law. Meanwhile, rejection of the religious state has been pronounced repeatedly by leaders of the MB movement and Hamas leaders, such as 'Abdul Qadir 'Odeh, Hasan al-'Ishmawi, and Ma'mun al-Hudaibi who have stated that there is no such thing as a religious state in Islam, which would claim to have a divine right to rule, or that it is infallible, though it nonetheless must adhere to Islamic principles. Thus, the *Ummah* can exercise its role in evaluation or impeachment.[14]

According to Jamal Mansur, a prominent Hamas leader, "There is no such thing in Islam as theocracy, which declares it represents the will of *Allah* on Earth…." The first Muslim caliph had clearly declared that he was under the law and the will of the *Ummah*, saying, "Obey me as long as I obey Allah with you, but if I disobey Him then I shall command no obedience from you."[15]

Third: The State, Constitution, and the Law

In the civil state, the people are ruled by the law and the constitution, which represents the governing frame of reference for the law. They are both developed by the people, and are both subject to being amended and changed according to specific mechanisms and procedures in civil and democratic systems. The constitution and the law can be seen as the benchmark for the nature and identity of the state.

Hamas advances the slogan "[Pleasing] *Allah* is our purpose, the Qur'an is our constitution," the same slogan that has been used by the MB movement since the days of Hasan al-Banna. However, Hamas do not say or mean that the slogan is an alternative to a constitution drafted by the people, and adopted by the people as a

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[13] Muhammad 'Abdul-Fattah Futuh, *al-Dimuqratiyyah wa al-Shura fi al-Fikr al-Islami al-Mu'asir: Dirasah fi Fikr al-Shaykh Muhammad al-Ghazali* (Democracy and Shura in Contemporary Islamic Thinking: A Study of the Thought of Sheikh Muhammad al-Ghazali) (Cairo: Shorouk International Bookshop, 2006) p. 34.

[14] Ma'mun al-Hudaibi in: Hazem al-Ashheb and Farid Ibrahim, *Misr Bayna al-Dawlah al-Diniyyah wa al-Madaniyyah (*Egypt Between the Religious and Civil State) (n.p.: Al-Dar al-Masriyyah li al-Nashr wa al-Tawzi', 1992), p. 49; See also 'Abdul Qadir 'Odeh, *al-Islam wa Awdáuna al-Siyasiyyah* (Islam and Our Political Conditions), 9th ed. (Beirut: Resalah Publishers, 1997), pp. 101–102; See also Muhammad Salim al-'Awwa, *Fi al-Nizam al-Siyasi li al-Dawlah al-Islamiyyah* (On the Political System of the Islamic State), 2nd ed. (Cairo: Dar El-Shorouk, 2006), p. 206. 'Abdul Qadir 'Odeh (1906–1954), Hasan Muhammad al-'Ishmawi (1921–1972), and Muhammad Ma'mun Hasan al-Hudaibi (1921–2004) are all Muslim Brotherhood leaders in Egypt.

[15] Jamal Mansur, Palestinian Democratic Transformation, an Islamic Perspective, unpublished memo, Nablus, 1996, p. 9. (in Arabic) Jamal 'Abdul Rahman Mansur was a Hamas leader in the West Bank who had been expelled to Marj al-Zuhur in 1992. He was assassinated by Israeli warplanes at his office in Nablus in 2001.

binding frame of reference to the system of governance and the law. The Qur'an does not need a referendum to be approved, but a constitution does. Hamas thus demanded what Hasan al-Banna and the MB movement has always demanded: For the Shari'ah to be the primary source of legislation.[16]

Hasan al-Banna made a distinction between the constitution and the law. He said that the constitution is the general system of governance that defines the boundaries of authority, the duties of rulers, and their relationship with the populace. The law regulates relationships among individuals, protects their moral and material rights, and holds them to account for their actions.[17]

Since there are several systems of governance, all man-made, Banna favored the "constitutional system of government," about which he said, "This is the closest system among existing systems in the world to Islam."[18] He explained this further by saying that when the researcher considers the principles of the constitutional system of governance; which are to maintain personal freedoms, consultations (*Shura*), derive power from the *Ummah*, and the responsibility of the rulers before the people, who can be held accountable for their actions; and the statement of the limits of each branch of power, he will soon realize that these are all equivalent to the teachings of Islam and its rules concerning the form of governance.[19] These rationales together form the basic principles and mechanisms of democracy.

Hamas's political ideology does not deviate from that of Hasan al-Banna in this regard. However, Hamas did not concern itself with the question of the constitution, and did not attempt to draft a constitution for the state. For one thing, the Palestinian state does not exist, and Hamas, like many other Palestinian factions, is preoccupied with liberation from the occupation and achieving self-determination. So not surprisingly, one can conclude that one of the main disadvantages of the legislative and legal status quo in the occupied Palestinian territories is the "absence of the constitutional reference represented in a constitution."[20]

The PA is less than a state. When it was established on limited parts of the occupied territories in 1994 under the Oslo Accords, the PA did not try to draft a constitution, and its rule was based on two things:

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[16] *Majmu'at Rasa'il al-Imam al-Banna*, p. 564.

[17] *Ibid.*, p. 355.

[18] *Ibid.*, p. 353.

[19] *Ibid*. In another part, he said, "Politics itself are not inconsistent with the constitutional system, and is its foundation as set forth in God's declaration," "Their (i.e. Muslims) affairs are conducted by consultation among them," *Surat Ash-Shura* (The Consultation): 38, http://quran.com/42

[20] Khaled Hroub, *Hamas: al-Fikr wa al-Mumarasah al-Siyasiyyah*, p. 24.

First: The interim Basic Law, defined by its preamble as follows:

> This Basic Law has established a firm foundation, representing the collective conscience of our people, including its spiritual components, its national faith and its nationalist loyalty. The titles of the Basic Law include a group of modern constitutional rules and principles that address public and personal rights and liberties in a manner that achieves justice and equality for all, without discrimination. Further, they ensure the rule of law, strike a balance between the executive, legislative and judicial branches, and draw lines between their respective jurisdictions in a manner that ensures independence to each of them while coordinating their roles to achieve a high national interest that will serve as a guide to all.[21]

Article 4 of the law identified the relationship between religion and the state, and stated, "Islam is the official religion in Palestine. Respect for the sanctity of all other divine religions shall be maintained." Article 5 identified the system of the governance, stating, "The governing system in Palestine shall be a democratic parliamentary system, based upon political and party pluralism. The President of the National Authority shall be directly elected by the people." And in Article 6, the Basic Law established the rule of law, stating, "The principle of the rule of law shall be the basis of government in Palestine. All governmental powers, agencies, institutions and individuals shall be subject to the law."[22]

Jamal Mansur saw that the Basic Law contained a reasonable balance. Despite some reservations, Mansur said the Basic Law was an acceptable basis for a political system that covers most of the requirements of democracy.[23] After winning in the 2006 elections and presiding over the tenth government, Hamas adhered to the Basic Law, and continues to respect it despite the Palestinian division.

Jamal Mansur defines the state of law as, "the state where the actions and affairs of government are subject to specific rules and regulations."[24] Mansur has also said, "The rule of law is an acceptable principle that is in line with the spirit of Islam."[25] This definition is actually based on a realistic experience in Palestine that saw serious violations of the Basic Law by the Executive Branch.

Second: The rule through the notion of historical leadership and personal charisma of the leader. This patriarchal society was criticized by the well-known scholar Hisham Sharabi, who said that power there is in the hands of a few men who speak

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[21] 2003 Amended Basic Law, Introduction, site of The Palestinian Basic Law, http://www.palestinianbasiclaw.org/basic-law/2003-amended-basic-law
[22] Ibid., Articles 2 and 5.
[23] Jamal Mansur, op. cit., p. 24.
[24] *Ibid.*, p. 9.
[25] *Ibid*.

on behalf of the people but not to the people, and who believe that they are infallible.[26]

Such a rule is considered a clear violation of the rule of law and the concept of democracy. It is a good recipe for tyranny. For this reason, Hamas called for the rule of law, and for making it binding for both rulers and the ruled.[27] Hamas's attitude led it to conflict and divergence with the ruling PA.

Fourth: Hamas and Nationalism

The notion of Hamas and the MB movement of nationalism is in complete harmony with that of religion. For these movements, religious dimensions supersede other dimensions championed in the patriotic and nationalistic ideas of Europe in the Renaissance. It also seems that the notion of nationalism did not carry specific connotations even for those who advocated it in the Arab world in the early modern era, some of whom presented the idea as an alternative to pan-Islamism, the broader concept championed by the MB movement.

Hasan al-Banna, in a comparison between the nationalists' notion of nationalism and the MB's notion of nationalism, says:

> If the advocates of patriotism mean love for one's homeland, attachment to it and sentiment and affection towards it, it is something anchored in the very nature of the soul, for one thing; it is prescribed by Islam…. Or if they mean that it is necessary to make every effort to free the land from its [usurpers], to defend its independence, and to instill the principles of freedom and greatness in the souls of its people then we are with them in this too. For Islam has greatly stressed this… Or if they mean by 'patriotism' to reinforce the bonds which unite individuals within a given country, and to show them a way of utilizing this reinforcement for their best interests then we also in agree with them on this. For Islam regards this as a necessary religious duty… However if they mean by 'patriotism' the division of the nation into parties which engage in mutual throat cutting, hatred and reprehension, hurling accusations at one another, …This type of patriotism is a forged one, which does no good, neither for its advocates nor for people in general.[28]

With the absence of an accurate definition of the concept of nationalism during that early period that saw the rise of nationalism and the decline of the pan-Islamic bond, Hasan al-Banna made a distinction between two kinds of nationalism, one real and one false. Banna analyzed false nationalism through what actually happened in Egypt and other Arab countries in that period, where nationalism meant fervor for the individual country, and dividing the *Ummah* into rival factions. False

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[26] See Khaled Hroub, *Hamas: al-Fikr wa al-Mumarasah al-Siyasiyyah*, p. 18.
[27] Jamal Mansur, op. cit., p. 9.
[28] Hasan al-Banna, Our Message, site of Young Muslims, http://web.youngmuslims.ca/online_library/books/our_message/

nationalism for Hamas and the MB movement is that divisive nationalism that was not known to the Arab and Muslim world, and which came with colonialism and the rise of materialism, nationalism, and geographic divisions in Europe.

Advocates of nationalism, with its narrow geographical connotation, had indirectly helped revive the Islamic bond from under the rubble, to supplement the idea of nationalism with Islamic concepts based on faith, while ignoring geography, ethnicity, and the divisions of the Sykes-Picot Agreement, which nationalism advocates had accepted. Hasan al-Banna says, "The Muslim national horizon widened, transcending the geographical national borders and blood-based nationalism, to the nationalism of noble principles and correct beliefs."[29]

Hamas, in its understanding of nationalism, does not deviate from what the founder Hasan al-Banna said. Its charter states, "Nationalism, from the point of view of the Islamic Resistance Movement, is part and parcel of religious ideology…If other nationalisms have material, humanistic, and geographical ties, then the Islamic Resistance Movement's nationalism has all of that, and, more important, divine reasons providing it with life and spirit."[30]

The concept in Hamas and the MB movement of nationalism, on one hand, is based mainly on faith, noble principles, and rejecting factionalism, and on the other hand, it is based on the notion of the "joint defense" of the Arab and Muslim world and the protection of its rights and interests, as if it is a religious duty. Hasan al-Banna, speaking on the idea of the Islamic homeland, wrote, "The preservation of every inch of the land is an Islamic duty that God shall hold us accountable for."[31] Banna also wrote, "For every region in which there is a Muslim saying: 'There is no God but Allah, and Muhammad is the Messenger of Allah.', is our homeland, inviolable and sacred, demanding love, sincerity, and sincere effort for the sake of its welfare."[32]

It is obvious that Hamas would accept and welcome this notion, when there is a negative discrepancy between theory and implementation in the Arab reality. For this reason, Hamas made it part of its charter, because Palestine would benefit the most from it. Hamas stated, "There is not a higher peak in nationalism or depth in devotion than Jihad when an enemy lands on the Muslim territories. Fighting the enemy becomes the individual obligation of every Muslim man and woman."[33]

The idea of liberation is a third dimension in Hamas's understanding of nationalism, a dimension closely linked to the previous two (faith and joint defense). Sheikh Ahmad Yasin said, "Since our homeland is under occupation, we want to liberate it.

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[29] *Majmu'at Rasa'il al-Imam al-Banna*, p. 65.
[30] Charter of Hamas, Article 12.
[31] *Majmu'at Rasa'il al-Imam al-Banna*, p. 132.
[32] Hasan al-Banna, Our Message.
[33] Charter of Hamas, Article 12.

Then, we have two causes, faith and the homeland."[34] In turn, when Mish'al addressed the Arabs after explaining the flaws of narrow nationalism, he said, "Let us come together and share responsibility. Narrow nationalism must not hinder the *Ummah* from fulfilling its true role in the issue of Palestine."[35]

Hence, Hamas has in its political strategy the liberation of Arab and Islamic depths, blaming backwardness and defeat largely on narrow nationalistic rivalries, stating that "the narrow nationalistic logic does not befit nor fulfill even the requirements of nationalism itself, which some have chosen and restricted themselves to,"[36] i.e., in the context of large international blocs.

Hamas, in the electoral program of the Change and Reform bloc, called for "strengthening relations with the Arab and Islamic world in all areas, being the strategic depth of Palestine."[37] The Islamic National Salvation Party (founded by Hamas) called on the Arab and Muslim *Ummah* to shoulder their responsibilities in liberation, and stated in its principles, "Arabs and Muslims are single *Ummah* and it is their duty to liberate Palestine."[38]

Pan-Islamism is not incompatible with nationalism in Islamic ideology or the ideology of the MB movement and Hamas. Islamists perceive pan-Islamism as a broad vessel that can accommodate nationalism and pan-Arabism, accepting their positive accepts and adding to them the faith-related dimension, joint defense, and liberation, in addition to Arab unity, the fourth important dimension. Hasan al-Banna argues that the Islamic concept of nationalism does not lead to fragmenting the Arab and Islamic *Ummah*, which today consists of many countries and many religious elements, because Islam, being the religion of unity and equality, guarantees a bond among all as long as they collaborate for the greater good: "Allah does not forbid you from those who do not fight you because of religion and do not expel you from your homes - from being righteous toward them and acting justly toward them. Indeed, Allah loves those who act justly."[39]

Returning to the program of the Change and Reform bloc, which represents Hamas in the Palestinian Legislative Council (PLC), we find great relevance with the fourth dimension of the notion of nationalism. The program stated, "The Palestinian people are a single unit, wherever they may be, and are an inseparable part of the

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[34] Ahmad Mansur, *op. cit.*, p. 81.

[35] Interview with Khalid Mish'al, *Assabeel*, 23/8/2010.

[36] *Ibid*.

[37] See Change and Reform bloc, Electoral Program for the 2nd legislative elections of 2006, site of Hamas's Change and Reform bloc in Palestinian Legislative Council, Gaza, 2006, Article 1, http://www.islah.ps/new/index.php?page=viewThread&id=128 (in Arabic)

[38] Islamic National Salvation Party, *al-Nizam al-Asasi* (Basic Law), (Gaza: 1996), p. 3. The party is one of Hamas's political arms.

[39] *Majmu'at Rasa'il al-Imam al-Banna*, p. 131; *Surat al-Mumtahanah* (She that is to be examined): 8, http://quran.com/60

Arab-Muslim *Ummah*." "Verily, this brotherhood of yours is a single brotherhood, and I am your Lord and Cherisher: therefore serve Me (and no other)."[40]The bond in the text does not just refer to the political concept of the unity of the Arab nation, but also adds to it religious dimensions that give it a measure of holiness, since the Arab nation is part of the Muslim *Ummah*, both part of the bond of Islam.

The program rejects ethnic, regional, country-specific, and sectarian calls, which aim to fragment the *Ummah*, and it calls for encouraging any effort for unity between any two Arab or Muslim countries or more, all the way to total unity.[41]The Islamic National Salvation Party made Islamic solidarity and adopting Arab and Islamic causes one of its goals.[42]

Hamas's alliances with other Palestinian factions, especially the ten-faction alliance or The Alliance of Palestinian Factions which had its early beginnings in a meeting held in October 1991, included secular and leftwing factions in addition to the communist party, can be seen as evidence of Hamas's flexibility in its understanding of nationalism; Hamas did not find a conflict between nationalism and Islamism in its practical relations with others, which is due to Hamas's successful combination of nationalism and Islamism, and the ideas of joint defense and liberation.

At the level of the Palestinian interior and the alliances on a clearer political standpoint, i.e., the unity to protect Palestinian rights and liberation, Hamas deals with nationalism as a notion and a call. Hamas has always asserted that the homeland can accommodate everyone, regardless of their ideological differences and political attitudes. Hamas has stressed that "the Palestinian people is a single unit everywhere they are present."[43] Hamas has said, "Palestine…is the homeland of all Palestinians at home and in the Diaspora, regardless of their religious, ethnic, and political affiliations."[44] Hamas rejected the claim that its Islamic understanding of nationalism can fragment the people and lead to sectarian conflict. Its charter thus stressed, "In the shadow of Islam it is possible for the followers of the three religions-Islam, Christianity, and Judaism-to live in peace and harmony."[45]

Hamas deals with the notion of nationalism at the level of Arab relations with the same political standpoint. Thus, we find Hamas rejecting the use of force and violence to resolve problems between Arab countries. Based on this, Hamas rejected Saddam Hussein's invasion of Kuwait in August 1990, and called for restoring Kuwait as a free and independent country, which contributes with its capabilities

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[40] Change and Reform bloc, Electoral Program for the 2nd legislative elections of 2006, Article 3; and *Surat al-'Anbya'* (The Prophets): 92, http://quran.com/21

[41] Change and Reform bloc, Electoral Program for the 2nd legislative elections of 2006, Foreign Relations, p. 4.

[42] Islamic National Salvation Party, *al-Nizam al-Asasi*, p. 4.

[43] Change and Reform bloc, Electoral Program for the 2nd legislative elections of 2006, Article 3, p. 2.

[44] Islamic National Salvation Party, *al-Nizam al-Asasi*, p. 3

[45] Charter of Hamas, Article 31.

and wealth to the development of the Arab world. Hamas called for a solution to the conflict between Kuwait and Iraq in the Arab-Islamic framework.[46] Khalid Mish'al also called for a gradual approach to ending the current state of narrow nationalism and general political fragmentation, especially at the official level, believing that the popular level is healthier than the official one.[47] The dimensions that Hamas assigned to nationalism are based on two levels: one religious and one political, which complement one another.

Fifth: Hamas and Secularism

It seems that we need to differentiate between theory and practice in our approach to Hamas's political position on secularism. Prior to that, we would like to alert the reader to the lack of information attributable to the leaders of Hamas on the subject. We did not find in the official sources of the movement any great interest in the topic, and did not find details about Hamas's vision and political position on it.

The lack or scarcity of information in the official documents of the Hamas movement or in the statements of its leaders, is due to many reasons, including: Hamas's preoccupation with managing the conflict with the occupation and liberation as a priority that does not have room for competition with secularism and other ideologies, which are accommodated by political and partisan pluralism. Another reason is Hamas's keenness to safeguard international Palestinian relations, to protect the national arena from disputes and side battles.

The Palestine Liberation Organization (PLO)'s adoption of the idea of the democratic secular state is incompatible with Hamas's vision for a Muslim state, and its conception of the relationship between religion and state. This means that any new ideological disputes could exhaust the Palestinian factions and also society. For this reason, Hamas avoided delving into the issue of secularism. Indeed, preoccupation with ideology here serves little purpose, since the state is non-existent, and liberation needs everybody's efforts.

In light of the above, we may say: It is possible to determine Hamas's position on secularism as being in two levels with some variation between them: One theoretical, and another practical.

First: At the Theoretical Level

Here, the ideology that explains secularism away as non-religiosity, or as an anti-religion philosophy, and a call for the separation of religion and state, is rejected by Hamas. Hamas's charter states, "Secularist ideology is in total contradiction to religious

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[46] Hamas Media Office, *Watha'iq Harakat al-Muqawamah al-Islamiyah* (The Documents of the Islamic Resistance Movement), statement no. 61 and 63, pp. 58–61, and 65–69.
[47] Interview with Khalid Mish'al, *Assabeel*, 23/8/2010.

ideologies, and it is upon ideology that positions, actions, and decisions are made."[48] However, this lacks accuracy and detail, for not all secularists are created equal, and decisions are not always made based on their ideological or philosophical ideas. Hamas itself has adopted political positions and acted on the basis of interests, bypassing ideological theories.

Hamas has rejected the secularism of the PLO, and stated, "When the Palestine Liberation Organization adopts Islam as its system of life, we will be its soldiers."[49] But this position did not last for very long, and Hamas itself later overturned it through its political and practical positions.

Hamas's rejection of the PLO's exclusive representation of the Palestinian people may be attributed to two main reasons: First, because of the PLO's secularism; and second, because Hamas is not a part of the PLO and is not represented in its institutions, and therefore, recognizing the exclusivity of its representation would mean that Hamas is invalidating itself.

Hamas's accession to the PLO has been delayed and to date, for many reasons including some already mentioned, but also for other reasons related to the size of representation in the Palestinian National Council (PNC), elections of the PNC and the Executive Committee of the PLO, and differences over the political vision concerning the conflict with the occupation.

The text quoted from the Charter has ideological significance, containing a generalist judgment rather than a political position. Generalist judgments as such can be seen as flaws in the Charter, as Khaled Hroub and others have remarked,[50] calling on Hamas to reconsider it.

Second: At the Practical Level

If we move to analyzing Hamas's position on secularism from theory to practice, we will find that Hamas has adopted flexible attitudes, revealing inconsistency between its theory and practice. Hamas took part in building many political alliances with secular and leftwing Palestinian factions against the occupation, the Oslo Accords, and Fatah's monopoly of Palestinian decision-making. Hamas's practical conduct has prompted researchers to say that "Hamas has overcome the barrier of secularism in its alliances with others."[51] Some have explained this as duplicitous, but for Hamas, it was a legitimate tactic, and is part of what is acceptable under Shari'ah, which accommodates supreme interests and priorities when interacting with reality. Hamas's practical position can be attributed to three main reasons:

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[48] Charter of Hamas, Article 27.
[49] Ibid.
[50] Khaled Hroub, *Hamas: al-Fikr wa al-Mumarasah al-Siyasiyyah*, pp. 125 and 210.
[51] *Ibid.*, p. 146.

a. The overall political situation in Palestine, which focuses on liberation over theory and ideological differences.

b. Hamas's rising strength and clout.[52]

c. The evolution of Hamas's political ideology, and its experience in power and in assuming public responsibilities.[53]

Notwithstanding the reasons explaining the evolution of Hamas's attitudes and its alliance with secular and leftwing factions, its flexible position has broken a traditional Islamist attitude that others continue to cling to. This is something that Fathi al-Shiqaqi, secretary general of the Islamic Jihad Movement in Palestine (PIJ), confirmed by saying, "Hamas has shown clear flexibility regarding alliances inside the Palestinian movement with opposition factions, breaking a traditional Islamic taboo in this regard."[54]

Hamas has bypassed its condition stated in the Charter. Indeed, all parties in the alliance kept their own ideologies and visions, and worked together on common grounds. The idea of liberation and the state, the primary priority on the agenda of Palestinian national action, facilitates the task of overcoming the issue of secularism. The Hamas leader 'Issa al-Nashshar says, "Hamas loses nothing by engaging others, by being the primary advocate of a call. Hamas meets with every faction that adopts resistance to repel the occupation."[55] Meanwhile, Khalid Mish'al says, "We are not advocates of detachment from reality. Our policy is to interact and influence reality."[56]

Hamas, gradually, has gone beyond its Charter, and abandoned its condition for acceding to the PLO, that the latter renounces secularism. Instead, Hamas focused on the principles of democracy, pluralism, and elections, and its Charter is no longer a constraint on its political position. This is a sign of maturity for Hamas in dealing with the concept of democracy, and giving precedence to priorities and ultimate goals over abstract theories in political practice.

Hamas participated in the 2006 elections under the umbrella of the Basic Law, which regulates the jurisdictions of the branches of power and which contains laws. When Hamas won the majority of seats in the PLC, and was tasked with forming a government, it made an offer to the secular, leftwing, and Islamist Palestinian factions to form a coalition government and share responsibility. Secularism was not

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[52] *Ibid.*

[53] See Yusuf Rizqa, *al-Tariq al-Sa'b: Tajribat Hamas fi al-Hukumah al-Hadiyah Asharah (Gaza)* (The Difficult Road: Hamas's Experience in the 11th Government (Gaza)), part 1, p. 133, and part 2, p. 109.

[54] Khaled Hroub, *Hamas: al-Fikr wa al-Mumarasah al-Siyasiyyah*, p. 148.

[55] *Ibid.*, p. 147.

[56] *Ibid.*, p. 70.

an obstacle to this offer, and Islamism was not an obstacle for others to accept it, and they rejected the offer to participate in the government for political reasons.

Hamas's educational and ideological literature criticizes secularism as an ideology and political philosophy that calls for the separation of religion from politics and the state. This critical position remains in the framework of the group's internal structure, but when it deals with secular Palestinian factions, it sides with supreme interests and political realism in determining its political position. In other words, the difference in ideological visions does not, from a Shari'ah standpoint or from a logical standpoint, prevent cooperation in issues of the homeland, the nation, the resistance against occupation, and liberation. Hamas leaders sometimes need to make more of an effort to convince the members of the group and others to answer their questions about the disparity between theory and practice in dealing with secularism.

On the other hand, the Islamic National Salvation Party, which emerged from the Hamas movement in 1996, has overcome this issue, and did not address secularism in its bylaws or relations with others. One of its main goals is to build Palestinian civil society.[57]

Sixth: Hamas and Democracy
1- Democracy and Shura

The concept of democracy is considered one of the political concepts that have their roots in Western thinking and philosophy. Western thinking has perceived democracy as the ideal model for a free political system against tyranny. But the concept and the term is the source of debate in the Arab world and in Islamic thinking, regarding the relationship between democracy and the concept of *Shura* among Muslims. Shura is an Islamic term clearly mentioned in the Qur'an, representing a pure alternative to the concept of democracy that has come from the West to Muslim society, and which represents Western philosophy and political experience.

The concept of democracy is not entirely acceptable for the religious members of Islamc groups. Some reject it and do not use it in their political discourse, while others accept it and tolerate its use in their political discourse and also practice, on the grounds that it is an institutional system designed to counter tyranny, developed by people to protect individuals and society.

Remarkably, some Muslims are staunchly opposed to democracy, and insist on using the term *Shura* instead. This has raised doubts in the West about the attitude of Islamic ideology and Islamist groups on democracy. Therefore, we shall begin by defining *Shura*.

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[57] See Islamic National Salvation Party, *al-Nizam al-Asasi*.

There are many definitions for *Shura* in Islamic thought. However, they are all based on two components. The first one is the right of the nation or its representative to express opinion on public affairs and partnership in decision-making. The second for the *Shura* council not to violate any definitive texts and general Islamic principles that cannot be subject to consultation or reinterpretation.[58]

Bassam 'Atiyyah defines *Shura* by saying that it is a way to know the opinion of the nation or its representatives in issues that concern it as a group or that concern a segment of it, provided that this does not clash with definitive scriptures and their meaning as agreed on by consensus, which have the quality of being eternal.[59] From this definition, it may be inferred that rulers have no right to make an absolute decision regarding anything of relevance to public affairs before discussion and deliberation with the nation's participation or the participation of its representatives in the *Shura* institution or "parliament." These principles are considered binding and standard in the *Shura* practice and the decisions it issues. The concept of *Shura* in this sense is not cause for any dispute between Islamic thinkers. By contrast, democracy causes some differences among them. Therefore, we have decided to approach its definitions in brief, given the nature of the research.

One of the oldest, most common—and most controversial to Islamist—definitions is that democracy is "rule of the people by the people."[60] This definition later became the rule by the majority through the elected representatives of the people. *Mawsu'at al-Siyasah* (The Political Encyclopedia) defines it as: "A political social system that regulates the relationship between the members of society and the state, in accordance with the principle of equality between citizens, and their free participation in legislation that regulates public life."[61] Another definition says, "the democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote"[62]; or collective rule based on elections.[63]

The definitions of democracy mentioned above contain common governing principles, including: the power of the people or the nation; the rule of the majority; *Shura*, and elections. Thinkers believe that it is possible to measure the state of democracy procedurally through important benchmarks, including: the state of

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[58] See Muhammad Futuh, *op. cit.*, p. 27.

[59] *Ibid.*

[60] *Ibid.*, p. 25.

[61] Abdul-Wahhab al-Kayyali et al., *Mawsu'at al-Siyasah* (Political Encyclopedia) (Beirut: Arab Institute for Research and Publishing, 1981), part 2, p. 751.

[62] Gerry Mackie, Schumpeter's Leadership Democracy, Forthcoming, Political Theory, University of California, San Diego, Department of Political Science,
http://pages.ucsd.edu/~gmackie/documents/SchumepetersLeadershipDemocrac.pdf

[63] Robert Dahl, *Muqaddimah ila al-Dimuqratiyyah al-Iqtisadiyyah* (A Preface to Economic Democracy), Muhammad Mustafa Ghoneim (translated) (Cairo: al-Dar al-Dawliyah li al-Nashr wal-Tawzi', 1992), p. 45.

human rights; and political and partisan pluralism; freedom; the separation of powers and independence of the judiciary; the integrity of elections; the peaceful transfer of power; and control and accountability. [64] These benchmarks are something that democratic experience added to the concept of *Shura*, which set the general principles for political life, but left the details and mechanisms for human experience and the requirements of time and place.

Hamas confronted tyranny by calling for democracy, adopting the benchmarks mentioned above. Hamas used it as something synonymous to *Shura* in the Islamic concept in practice. Hamas did not delve into the difference between democracy and *Shura*, which means that Hamas dealt with the concept of democracy in the general understanding opposed to tyranny and autocracy, and adhered to the mechanisms of democratic work in practice, albeit Hamas continued to prefer the term *Shura* over the term democracy in its written documents.[65] For one thing, it would have caused disputes among Muslim populations, given what the Western term carries in terms of negative connotations linked to philosophy and distorted Western practice.

Hamas did not try to explore the rift between *Shura* and democracy. Hamas did not delve into the debate among Muslim thinkers on this matter, and did not try to select a particular definition over another, or develop its own definition. Hamas continued to deal with the notion of democracy in general terms, focusing on mechanisms and institutions that have become the essence of democracy for Hamas.

Some have understood from the words of Jamal Mansur that Hamas dealt very cautiously with the term democracy, being also the product of the colonial powers. But this apprehension began to recede in Islamist circles including Hamas, following efforts by Muslim thinkers to rid the term of its negative baggage, and focus on its positive connotations. In the light of his evolution and acceptance of the term and underscoring of its overwhelming advantages, Jamal Mansur, Hamas leader, chose the definition of the term from The Political Encyclopedia mentioned above, while stressing that democracy is not an ideology but a methodology and mechanism for decision-making.[66]

Hamas's leaders and Hamas's literature did not tackle the dialectical relationship between *Shura* and democracy, and left this for Muslim thinkers, because Hamas is not a cultural movement (although cultural activities are part of its interests), it is rather a movement with Islamic identity while being a resistance and national

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[64] See Maʿan Abu Nawwar, *Fi al-Dimuqratiyyah al-Hadithah* (On Modern Democracy) (Amman: al-Muʾasasah al-Arabiyah li al-Dirasat, 1992), p. 23.

[65] See Hamas, Bylaws, Gaza, 2012 (in Arabic); and the Change and Reform bloc, Electoral Program for the 2nd legislative elections of 2006.

[66] See Jamal Mansur, op. cit., p. 8.

liberation movement as defined by Khalid Mish'al. [67] Hamas therefore rejects tyranny and occupation, and accepts their antithesis, that is, freedom and justice, which should be safeguarded under democracy.

Hamas, in its political experience in power, had encounters with Palestinian Salafis who reject democracy and declare those who advocate it as apostates. Hamas refused their logic, and their claim that those who partake in the elections of the PLC and adopt democracy are giving the right of legislation to people when this is the sole purview of *Allah*,[68] and are therefore engaging in idolatry. Indeed, this view is loose, illogical, and inconsistent with Islamic law and reality. In other words, Hamas believes in ruling according to *Allah*'s law, and believes that democratic practice must not violate definitive scriptures with conclusive meaning. However, it believes at the same time that there are broad shared grounds with democracy that are considered permissible according to the supreme goals and priorities of Islam. Hamas also believes in gradualism in building Muslim society, and creating a favorable environment for the application of the provisions of Islam. The PLC and its parliamentary blocs operate in the scope of the permissible that Shari'ah has left for people to interpret by themselves. Therefore, Hamas believes that Islam has developed *Shura* as a general concept, and left the details and mechanisms for the circumstances of time, place, and people, in a way that would fulfill the general interests of society and the nation,[69] something that is consistent with democracy.

Extremists do wrong to Islam in two ways; one, by comparing it to democracy; and two, by claiming that Islam is against democracy. Indeed, comparing the two is wrong, and claiming that there is incompatibility between them is a transgression. The comparison is invalid between Islam, which is a religion and a message containing principles that regulate how people worship *Allah*, what morals they should have, and how they deal with one another; and democracy which is a system of governance and a mechanism for participation, which contains themes carrying many positive values.[70]

What is unlawful to legislate in *Shura* councils because it contradicts Shari'ah, is also unlawful to undertake in democratic institutions. Indeed, *Shura* in the Arab-Islamic environment can represent the foundations or the philosophical backgrounds of

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[67] See Interview with Khalid Mish'al, *Assabeel*, 23/8/2010; See also Fahmi Huwaidi, *Felesteen* newspaper, Gaza, 14/10/2012.

[68] This is the view of the Salafi group in Gaza called (Jaljalat). Their view leans on the words of Ayman al-Zawahiri, who said, "All those who participated in the elections, while aware of the nature of democracy is an apostate who has left the pale of Islam." See Ayman al-Zawahiri, *al-Hasad al-Murr: al-Ikhwan al-Muslimun fi Sittina 'Aman* (Bitter Harvest: The Muslim Brothers in Sixty Years) (Amman: Dar al-Bayan, n.d.), p. 14.

[69] See Muhammad Salim al-'Awwa, *al-Fiqh al-Islami fi Tariq al-Tajdid* (Islamic Jurisprudence on the path to Renewal, 2nd ed. (Beirut: al-Maktab al-Islami, 1998), p. 49.

[70] See Jamal Mansur, op. cit., p. 66.

democracy, and democracy can constitute the methods, mechanisms, and institutions that apply these foundations.[71]

Democracy is a "Western version of the Islamic *Shura*," according to Tawfiq al-Shawi.[72] Shawi argued that democratic systems put this Islamic concept into practice, through practical mechanisms. Therefore, it is possible to benefit from these mechanisms that are compatible with Islamic values and principles. Otherwise, rejecting these mechanisms would be in the interests of an unacceptable alternative, namely, political tyranny or absolute autocracy, as argued Rashid Ghannushi[73], whose views are acceptable to Hamas and its leaders.

2- **Shura is Binding**

While Shura/Democracy as principles and mechanisms is consensually agreed upon, the issue of whether Shura council decisions are "binding" is the subject of debate among Muslim thinkers. Some believe that they are binding, and call for adopting the principle of majority voting in decision-making, to prevent monopoly by the ruler or executive branch over decision-making in relation to the supreme interests of the people, which are the prerogative of *Shura* councils. Others believe they are not binding, in many cases that scholars have described at length.[74] Hamas chose the first view and adopted in its bylaws, stating, "Binding *Shura* is the basis used in decision-making."[75]

This choice reflects a politically and organizationally stable position by Hamas, which had been confirmed by Sheikh Ahmad Yasin, from his place of incarceration, when he addressed the leadership in 1993, telling them, "Shura for us is binding, and no person or a clique should monopolize decisions that affect the future of our call [i.e., Hamas]. Any decision made by the majority would be binding for all."[76]

The actual practice of Hamas's institutions conforms with the commitment of its leaders and cadres to the view of *Shura* as binding. For instance, the General Shura Council has revoked many decisions by the movement's politburo, which is the executive branch in Hamas. Hamas chose to have *Shura* as binding in its bylaws, and did not preoccupy itself with contentious issues that have preoccupied thinkers. Hamas saw that the binding nature of *Shura* immunizes its decisions against

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[71] Muhammad Futuh, *op. cit.*, p. 48.

[72] Tawfiq al-Shawi, *Fiqh al-Shura wa al-Istishara* (The Fiqh of Shura and Consultation), 2nd ed. (Al-Mansura: Dar al-Wafa' li al-Tiba'a wa al-Nashr wa al-Tawzi', 1992), p11; See also 'Abdul Hamid al-Ansari, *al-Shura wa Atharuha fi al-Dimuqratiyyah* (Shura and its Effect on Democracy) "A Comparative Study" (Cairo: Dar al-Fikr al-'Arabi, 1996), p. 427, where he wrote that Quasi-direct democracy is the closest to Shura in Islam.

[73] Rashid al-Ghannushi, Exclusion of Shari'ah and the Islamic Ummah: The Implications of Fearing Strife, *Al-Muntalaq* magazine, Beirut, Issue 110, 1995, pp. 32-33. (in Arabic)

[74] See Muhammad Futuh, *op. cit.*, p. 40.

[75] Hamas, Bylaws, Article 7, Clause 2, p. 5.

[76] See Khaled Hroub, *Hamas: al-Fikr wa al-Mumarasah al-Siyasiyyah*, p. 64.

mistakes and prevents monopoly and tyranny. When Hamas participated in the PLC elections of the PA in 2006, it adhered to the principles of the Basic Law and its provisions, which give the Council the right to approve the government, the right to give it a vote of no confidence, and the right to monitor it and hold it accountable. Its decisions are adopted by a majority vote. The decisions of the majority are binding to the government.[77]

3- Democracy and its Applications

Most of the debate about the concept of democracy and its applications in modern Islamic thought is centered on specific issues, including: sovereignty of the people, elections, the principle of majority rule, separation of powers, political and partisan pluralism, human rights, and freedoms. We will consider these issues through three axes:

a. Elections and the rule of the people.
b. Political and partisan pluralism.
c. Human rights and freedoms.

Through these, we aim to identify Hamas's position and political approach towards these issues.

First Axis: Elections and the Sovereignty of the People

1- People are the Authority

One of the most contentious issues of democracy for some segments of the Muslim public is that "People are the Authority." The source of the confusion comes from the fact that they link this statement to the concept of divinely revealed legislation. Indeed, if people are the authority, including the power of legislation through parliaments, then where do we place this with divine legislation?

The confusion comes also from the fact that this statement is the result of Western thinking and Western democracy, which separated religion from the state and legislation, and advocated the rule of the people by the people. This has required Muslim thinkers to introduce an Islamic understanding of this statement in a manner that ends ambiguity.

Muslim thinkers have argued that legislation itself is restricted in democratic systems and *Shura* by the constitution. In the constitution, there are governing principles to address any possible conflict with Shari'ah, usually the main or primary source of legislation, and laws in the constitutions of Arab and Islamic countries.

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[77] See 2003 Amended Basic Law, Article 78 and others, site of The Palestinian Basic Law,
  http://www.palestinianbasiclaw.org/basic-law/2003-amended-basic-law

If we analyze Hamas's position on this issue, we will find that it accepts the meanings assigned by Islamic theories to the statement about democracy, including the nation's right to choose its rulers. This right is translated through the democratic process, for example involving elections and voting, and the decisions of the majority.

Some Muslim thinkers believe that the electoral system achieves the purposes of the *Bay'ah* [Pledge of allegiance to the ruler] system, which the early Muslims adopted, and which gives the nation the right to appoint and impeach rulers. The Islamic system of *Bay'ah* is a cornerstone of *Shura* in Islam.[78] The concept of *'Aqd* [contract] between rulers and the ruled is also achieved, where the contract compels the rulers to fulfill their duties; otherwise, the nation has the right to impeach a ruler and end the contract with him. Elections are the easiest mechanism in the modern era to fulfill the concepts of *Bay'ah* and *'Aqd*, giving a peaceful mechanism for terminating the contract and impeaching the ruler through elections that take place every four years in many countries.[79]

The well-known thinker, Muhammad 'Amarah, differentiates between religious pledge of allegiance and political pledge of allegiance, because the former means: Joining and believing in a religion, where it would be a duty, and renouncing it would be apostasy. While the latter involves the ruler or the state, and is voluntary, tolerating dissent. This pledge of allegiance is linked to worldly matters, and makes it possible to appoint or impeach the ruler. As for issues linked to religious rites, they have nothing to do with this political pledge of allegiance.

Hamas compels its members to engage in the "organizational" pledge of allegiance, which is of the political kind that 'Amarah outlined, even though it has a religious overtone.[80] The idea is to enhance loyalty and organizational commitment. It is a political pledge of allegiance, which, if renounced, does not result in any religious judgment or blame. Similarly, for those who do not accept this pledge of allegiance, there are no religious responsibilities or duties. For Hamas, the pledge of allegiance is organizational and political, and gives the pledger of allegiance organization rights similar to those rights given to members of liberal and leftwing parties, including, for example, the right to participate in the internal elections of the movement. Those who renounce their organizational pledge of allegiance merely lose their organizational rights.

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[78] See Muhammad Futuh, *op. cit.*, p. 53; and Muhammad Hasan al-Amin, An Islamic View of Democracy, *Al-Manaber* magazine, Beirut, Year 6, Issue 66, January-February-March 1992, p. 64. (in Arabic)
[79] See Muhammad Futuh, *op. cit.*, p. 36.
[80] See Hamas, Bylaws, Article 11.

2- Nomination and Campaigning

Nomination and campaigning are among the principles and requirements of elections in the democratic system. There can be no elections without campaigning and nomination of individuals by themselves or by political parties. However, a segment of Muslim thinkers rejects nomination and campaigning in principle, and prohibit it based on their understanding of some religious texts, including the *Hadith* (the record of the sayings of Prophet Muhammad (SAWS)), "We do not assign the authority of ruling to those who ask for it, nor to those who are keen to have it."[81] Hamas applies this principle in its internal elections, where in the internal electoral law it was stated, "Nomination to posts and campaigning in all phases of the electoral process are prohibited."[82]

However, Hamas accepts nomination and campaigning in the democratic process in general elections and municipal elections, as well as elections in institutions, trade unions, and student bodies. It could therefore be said that Hamas has two positions on the principle of nomination and campaigning, rather than one. Often, we find a clear impact by the second position on internal elections, where Hamas detects violations against the prohibition of nomination and campaigning in internal elections.

On the other hand, another segment of Muslim thinking understands that nomination for leadership posts is only prohibited in the context of fraud, deception and misleading propaganda. They say: The goal of nomination is announcing that a candidate has fulfilled the requirements and qualifications needed for a post.[83]

Further reinforcing the view of the second faction is its realism in facing developments, and the participation of Islamist groups in general elections, where they adopted the same methods and mechanisms adopted by other liberal and leftwing parties, with nomination and campaigning by candidates becoming part and parcel of political life in Arab and Muslim countries, and being one of the requirements of the democratic process. To guide these procedures Islamically, Sheikh Yusuf al-Qaradawi, the world-renowned Muslim scholar, reckoned that the process of selecting the candidate by the voter is an act of attesting to the candidate's merits, for which the voter is accountable under Shari'ah, just like other issues, a Muslim is accountable for. For this reason, he finds it mandatory that the voter should investigate his selection on Shari'ah-based criteria rather than partisan

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[81] *Sahih Bukhari*, vol. 9, Book 89, no. 263, site of Sahih Bukhari, http://www.sahih-bukhari.com/Pages/Bukhari_9_89.php

[82] Hamas, Bylaws, Annex: Electoral Law - General Rules 12, p. 59.

[83] Abdul Wahab al-Masri, Democracy in the Contemporary Islamic Discourse, *Al-Mustaqbal al-Arabi* Journal, Centre for Arab Unity Studies, Beirut, Year 10, Issue 164, October 1992, p. 173. (in Arabic)

criteria, which include honesty and strength of character, pursuant to the verse, "Indeed, the best one you can hire is the strong and the trustworthy."[84]

3- The Principle of Majority Rule

One of the democratic principles in elections and the work of parliaments is that decisions should be made by majority vote, as determined by procedural texts. Indeed, seeking unanimous agreement would disrupt life and work, because this is often impossible. It seems that the principle of majority rule has basis and is accepted in Islamic thought. Fahmi Huwaidi writes:

> Objectively speaking, there are two criteria for what is right, and only two. If on a certain matter there is definitive religious text, then there is no room for second-guessing or interpretation, and this would be the standard by which everyone in the *Ummah* should abide.
>
> Beyond this narrow and limited scope, the opinion belongs to the nation, and the right thing is what the majority of its representatives agree upon. Nothing can supersede the majority opinion; otherwise, it would be a justification of whim and tyranny, exposing the interests of the nations to the risks of chance that may either satisfy or disappoint.[85]

It seems that the principle of majority rule is no longer the subject of debate among Islamic movements, or an issue of contention when it comes to practical measures. Hamas has adopted this principle, even when there is a possibility that the opinion of the minority is the right thing in rare occasions. Mahmud al-Khalidi states, "The principle of majority rule is a manmade rule, not a fixed Islamic principle."[86] But the issue in practice for Hamas is not about right and wrong, or the Islamic merits of the principle or its manmade nature, because right and wrong in issues that that have room for opinion is a relative matter, linked to achieving interests, and simplifying the mechanisms for decision-making, because full consensus is almost impossible and does not work as a mechanism for decision-making.[87]

Hamas adopts the principle of majority rule in its internal elections and in making many other decisions and procedures. Hamas accepts this principle also in general elections, and the administration of legislative and trade union councils, and accepts the idea of a referendum on issues that require it.

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[84] *Surat al-Qasas* (The Stories): 26, http://quran.com/28

[85] Fahmi Huwaidi, *al-Islam wa al-Dimuqratiyyah* (Islam and Democracy) (Cairo: Markaz al-Ahram li al-Tarjamah wa al-Nashr, 1993); See also Hasan al-Turabi, Shura and Democracy: Dilemmas of Terminology and Concept, *Al-Mustaqbal al-Arabi Journal*, Centre for Arab Unity Studies, Beirut, Issue 75, May 1985, p. 13. (in Arabic)

[86] See Mahmud al-Khalidi, *al-Dimuqratiyyah al-Gharbiyyah fi Daw' al- Shari'ah al-Islamiyyah* (Western Democracy in the View of Shari'ah) (Amman: Maktabat al-Risalah al-Hadithah, 1986), p. 131.

[87] See Jamal Mansur, op. cit., p. 2.

4- The Principle of Separation of Powers

One of the democratic principles and procedures is the separation of powers—executive, legislative, and judicial—from one other. The goal is to achieve justice and prevent tyranny and the predominance of the executive authority, the branch with the means and funds to dominate, over the legislative and judicial branches. To be sure, Islamic political thought has emphasized the importance of this principle; however, one might find differences among Muslim thinkers regarding the degree of separation, and whether it should be absolute or relative, i.e., attenuating.[88] For example, Rashid Ghannushi believes that separation of powers in Islam must take place on the basis of cooperation between the branches of power, rather than competition and conflict, because the entire state is an executive instrument subject to the authority of the entire nation.[89]

We find that Hamas has two stances regarding the issue of the separation of powers: One at the general level in society, where it calls for the separation of powers to prevent tyranny, and the predominance of the executive branch over other authorities. Hamas does not reject the idea of cooperation among the branches of powers, and understands the responsibility of the state with all its branches, based on what is stated in the Palestinian Basic Law.[90] Hamas does not object to the implementation of the idea of cooperation mentioned by Ghannushi and Jamal Mansur.[91] Furthermore, Hamas's concept of opposition in partisan work and the PLC differs from the concept in the West. Hamas believes that opposition in Islam is obliged to cooperate with the executive branch of the ruling administration, in light of the verse, "*And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And fear Allah; indeed, Allah is severe in penalty*,"[92] because partisan opposition based on rivalry and nitpicking to topple the government and take its place weakens the state, and perhaps harms the interests of the people. This was the opinion of Ibrahim al-Maqadmah in his lectures. Hasan al-Banna, in turn, saw that rivalry among Egyptian parties stems from personal and partisan motives, leading him to personally reject partisanship in the era of decolonization.[93]

The second position has to do with the fact that the separation of powers between the executive, legislative and judicial branches is not entirely complete at the internal level in Hamas. However, the separation does exist. The powers available to the legislature and the judiciary are at an advanced state compared to other

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[88] *Ibid.*, p. 4.
[89] Rashid al-Ghannushi, *al-Hurriyyat al-'Ammah fi al-Dawlah al-Islamiyyah*, p. 247.
[90] 2003 Amended Basic Law, Article 2, site of The Palestinian Basic Law,
   http://www.palestinianbasiclaw.org/basic-law/2003-amended-basic-law
[91] See Jamal Mansur, *op. cit.*, p. 5.
[92] *Surat al-Ma'idah* (The Table Spread): 2, http://quran.com/5/2
[93] *Majmu'at Rasa'il al-Imam al-Banna*, p. 364.

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movements and parties similar to Hamas in the Arab and Muslim world. Moreover, these branches carry out their work in exceptional circumstances due to the Israeli occupation and siege at home, and because of the difficulties involved in work, movement, meeting (especially after the departure of Hamas from Syria) and making related security arrangements at home and abroad.

Second Axis: Political Pluralism

Difference is a universal law. Political pluralism is an expression of the principle of difference, and the organization of differences in society.[94] For Muhammad Salim al-'Awwa, difference is taken as a given, because it is a reality that no sane person can deny. Having different opinions is an undeniable right.[95] Positive pluralism, so to speak, would have people of different views recognize one another, with the "will to coexist."[96] When the will to coexist is absent, pluralism becomes something negative.

Yusuf al-Qaradawi divides differences into two parts: the first is one of diversity and the other is one of antagonism. The first does not entail a risk to the cohesion of society and the nation, because diversity leads to complementarity.[97] But antagonistic types of differences lead to fragmentation and dissent, which is a threat to the cohesion of the community. On the second type, Hasan al-Banna said, after witnessing partisan life in Egypt, "The [Muslim] Brothers believe that this partisanship has spoiled for people all the facilities of their lives, disrupted their interests, damaged their ethics, torn apart their bonds, and had the worst effects on their private and public lives."[98] Therefore, Muslim thinkers surrounded pluralism and partisanship with guarantees that prevent abuses, and stop pluralism from turning into an antagonism that reason and religion both reject.

Yusuf al-Qaradawi believes that political pluralism prevents tyranny.[99] It is necessary to achieve many Islamic values like freedom, equality, and *Shura*.[100] In pluralism, we can find a solution to the question of minorities, regulating differences and rights on the basis of citizenship, which means that the homeland belongs to all its citizens, all of them having equal rights.

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[94] See Muhammad Futuh, *op. cit.*, pp. 61 and 63.

[95] See Muhammad Salim al-'Awwa, Political Pluralism from an Islamic Perspective, *Al-Insan* magazine, Paris, Year 1, Issue 2, August 1990, p. 22. (in Arabic)

[96] See *Ibid.*, p. 9.

[97] Yusuf al-Qaradawi, *Fatawah Mu'asirah* (Contemporary Islamic Religious Rulings) (Al-Mansura: Dar al-Wafa' li al-Tiba'a wa al-Nashr wa al-Tawzi', 1993), part 2, p. 658.

[98] *Majmu'at Rasa'il al-Imam al-Banna*, p. 364.

[99] See Yusuf al-Qaradawi, *op. cit.*, p. 652.

[100] See Muhammad Salim al-'Awwa, Political Pluralism from an Islamic Perspective, p. 56; and Abdul Raziq 'Eid and Muhammad Abdul Jabbar, *al-Dimuqratiyyah Bayna al-Islam wa al-'Ilmaniyyah* (Democracy between Islam and Secularism) (Damascus: Dar al-Fikr, 1999), p. 43.

There can be no democracy without political pluralism, and no pluralism without organized parties and regulatory laws. Parties in the democratic system have many tasks, whether the parties are in power or in the opposition. Yet despite its importance and role, there have been varied positions among Muslim thinkers. This difference in views does not stem from the principle of political-partisan pluralism, but rather stems from having a faction rejecting partisanship because of negative practice in their countries. Some of the proponents of this view might also adduce the fact that the Qur'an had criticized partisanship. However, this is not valid, because the Qur'an also praised it in other places. Furthermore, those rejecting partisanship did not dig deeper into the nature of what the Qur'an had criticized in this regard. To eliminate ambiguity, Muhammad Salim al-'Awwa, the Egyptian Islamist thinker, showed that the Qur'an's criticism was only of those parties based on idolatry, paganism, polytheism and enmity against Islam and the Muslims,[101] or those parties that spread fragmentation and vision as Hasan al-Banna stated. For this reason, Ishaq al-Farhan laid the condition that parties must not violate Islamic principles.[102]

Yusuf al-Qaradawi defines a political partyas: "A group of members who share certain ideas, and consider them the closest to the Truth."[103] Qaradawi requires parties to recognize other parties, and not to be established on regional, ethnic, or religious bases, or something similar.[104]

Parties in the modern era constitute the most mature and most capable institution in society to lead and develop a democratic political system; they are the best equipped to interact with issues of democracy: such as elections and the rotation of power; fulfilling the principle of monitoring and accountability; and the organization of the parliamentary opposition. No one can imagine an effective political opposition emerging without strong parties. The absence of parties and a strong purposeful opposition equates to tyranny.

Communist parties are not considered a big problem for many Muslim thinkers in the democratic system when talking about partisan political pluralism, despite acknowledging the differences that exist between them. Both sides agree on the fundamentals of government, including that the nation is the source of power, and that the members of the nation exercise their powers using sound mechanisms including regular elections. Among those thinkers is Yusuf al-Qaradawi, Rashid Ghannushi, and al-'Awwa, "as long as this remains within the scope of the freedom

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[101] Muhammad Salim al-'Awwa, Political Pluralism from an Islamic Perspective, p. 22.
[102] See Ishaq al-Farhan, The Islamic Position on Political Participation, *Al-Nadwah* magazine, Amman, vol. 7, Issue 1, February 1996. (in Arabic)
[103] Yusuf al-Qaradawi, *op. cit.*, p. 656.
[104] *Ibid.*, p. 565.

of expression."[105] However, these parties can oppose the political position and the state, but must not preoccupy themselves with combating Islamic creed. Al-'Awwa accepts that the Communist party should take power if the nation grants it its confidence in free and fair elections, attributing this scenario to the failures of Islamic parties.[106]

Hasan al-Turabi, the Sudanese Islamist thinker, probably speaking from the Sudanese experience, believes that there is no good in the emergence of atheist communist parties. [107] For his part, the Grand Ayatollah Muhammad Hussein Fadlallah, the Shiite religious authority, sees links between allowing their emergence and the international situation. For him, non-Islamic parties may emerge if the international situation or circumstances require it. In other words, he views it as a provisional matter.[108]

The above shows the richness of Islamic political thought in its approach to the issue of political and party pluralism. However, we observe that there is want in Hamas's intellectual approach of this issue. Hamas has dealt with it in a general manner and in broad terms, which we believe is due to Hamas's preoccupation with liberation, and the search for a state. In addition, Hamas is satisfied with following the ideological lines of the leaders of the Islamic movement and thinkers like Hasan al-Banna, Qaradawi, al-'Awwa, Ghannushi, Hasan al-Turabi, and others, and draws from their ideas without reservation, in a way that is commensurate with the Palestinian situation.

We do not find disparities between Hamas's words and deeds on the issue of pluralism, and what has been quoted from the sources above. Accordingly, consideration could be given to these sources on the basis that they compensate for Hamas's lack of interest in political theory. But Hamas's charter does tackle factional pluralism in its Islamic and national parts, stating that for the nationalist movements in the Palestinian arena, and given "due respect, and considering its situation and surrounding factors, Hamas will lend support to it as long as it does not give its loyalty to the Communist East or the Crusading West."[109]

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[105] Rashid al-Ghannushi, Exclusion of Shari'ah and the Islamic Ummah, pp. 34–35.

[106] See Mustafa Mashhour et al., *al-Ta'addudiyyah al-Siyasiyyah: Ru'yah Islamiyyah* (Political Pluralism: An Islamic Vision) (Cairo: Markaz al-Dirasat al-Hadariyyah, 1994) p. 54, quoting Muhammad Salim al-'Awwa; See also Muhammad Khatami, Religion and Democracy: Questions about the Religious State, *Al-Muntalaq*, Issue 115, Spring-Summer 1996, p. 54. (in Arabic)

[107] See Hasan al-Turabi, *al-Harakah al-Islamiyyah fi al-Sudan: al-Tatawwur wa al-Kasb wa al-Nahj* (The Islamic Movement in Sudan: Evolution, Gains, and Approaches) (Khartoum: n.p.f., 1989), p. 245.

[108] See Muhammad Hussein Fadlallah, *Ta'ammulat fi al-Fikr al-Siyassi al-Islami* (Contemplations in Political Islamic Thinking), *Silsilat Kitab al-Tawhid (4)* Kitab al-Tawhid Series (4) (Beirut: Mu'asasat al-Tawhid li al-Nashr al-Thaqafi, 1995), pp. 40–41.

[109] Charter of Hamas, Article 25.

On the Islamic part, the Charter states:

> The Islamic Resistance Movement regards the other Islamic Movements with respect and honor even if it disagrees with them on an issue or viewpoint. However, it agrees with them on many issues and viewpoints and sees in those movements—if they have good intentions which are purely for Allah's sake—that they fall within the area of *Ijtihad* [Creative self-exertion to derive legislation from legitimate sources. (I. Faroqui, Islamic English.)][110]

In these two texts, there are hallmarks of a political approach dominated by generalist ideas and moral vision, emphasizing respect and appreciation on two conditions:

First, that the other factions do not align with the eastern or western powers, without defining what its definition of alignment as that would prevent respect and appreciation, and how this would be expressed. This condition is clearer and more specific for Islamic thinkers, who rejected the emergence of atheistic communist parties because of their hostility to religion. This also conflicts with the prevailing view that accepts all parties and accepts that the communist party would take power if the nation chooses so in free and fair elections, something that is acceptable to Hamas founder Ahmad Yasin.

Second, there is the endeavor to liberate occupied lands. Liberation is a major idea in the philosophy of Palestinian pluralism, and for both resistance factions and political parties.

Hamas's Charter determines its position on what is already on the ground, more than on pluralism from a political-theoretical perspective, and its relation with democracy and tyranny. The same position based on "respect" is reiterated by Hamas leaders, including Ahmad Yasin, who says of the relationship between his group and Fatah, "We overcame our differences during the *Intifadah*, and joined into resistance, and collaboration returned…there are no differences now [i.e., clashes]. Differences exist over political matters: Oslo [Accords], Oslo's path, but for us as resistance factions, we have no differences or conflicts."[111]

Palestinian society is not familiar with political partisanship in its political sense as is seen in the West or in stable countries, where the party is an organized group and a system that aims to take power by itself or in a coalition with other parties.[112] Resistance action has overshadowed political theorizing and concerns. The PLO does not represent a real partisan-coalition phenomenon, but it is a representation of factions, based on quotas rather than program-based partisan competition.[113]

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[110] Ibid., Article 23.
[111] Ahmad Mansur, *op. cit.*, pp. 249–250.
[112] Yusuf al-Qaradawi, *op. cit.*, p. 656.
[113] See Jamal Mansur, op. cit., p. 35.

Partisan life needs stability and public action, things that the Palestinian scene lacks. Because of resistance, Hamas like other Palestinian factions pursued secretive action, and many of its activities take place in the political underground. Hence, Hamas has defined itself as a resistance movement rather than a political party. In 1995, Hamas decided to establish a political party—The Islamic National Salvation Party—for objective reasons relating to the movement and to the environment created after the Oslo Accords, without there being a well-developed political life in Palestine, or laws that regulate political parties. It was established in the Gaza Strip (GS), and did not branch out to the West Bank (WB) by a decision of Hamas itself. Hamas, at the same time, did not give the party a broad and independent margin of action that would preserve its personality and progress. For this reason, it declined, and later on turned into a skeleton party. This was in favor of Hamas itself, something that could be understood as a negative retreat from the concept of political and party pluralism, at least by Hamas's rivals. Meanwhile, many Hamas leaders understood that the matter was not related to differences over pluralism, but that the idea was not ripe enough to make a decision on whether the party would be the façade of that pluralism, or Hamas itself should continue playing this role. The decision in the end was that Hamas should continue playing a political role, as most other Palestinian factions do.

It appears difficult for political parties to succeed when there are resistance factions seeking liberation. It is also difficult for resistance factions to give up their positions and roles in favor of political parties. For this reason, Fatah did not establish a political party, even though some of its younger leaders called for it. It should be said here that the Islamic National Salvation Party, in its bylaws adopted in 1995, presented a more developed project for a party that went ahead of existing factions in regard to the concepts of democracy and party pluralism, which the bylaws said were "a right guaranteed to everyone in the framework of Shari'ah and law."[114] Nevertheless, we can say two main things about Hamas and other factions:

1. Hamas and other factions undertake actions and policies that are the purview of political parties. For this reason, we can say that they fill a partisan vacuum with the Palestinian interpretation of the concept.
2. These factions are prepared organizationally to transform into political parties, when liberation is achieved and a stable independent state is created, creating a sound environment for a more developed partisan life.

The PA under Yasir 'Arafat tried to make strides towards the establishment of a pluralistic partisan life though the Parties Draft Law of 1995, prepared by the Office

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[114] See Islamic National Salvation party, *al-Nizam al-Asasi*.

of the Fatwa and Legislation.[115] The Palestinian Basic Law identified the system of government in Palestine as "a democratic parliamentary system based upon political and party pluralism."[116] But the law in question has yet to be passed (end of 2012). This, in the opinion of the researcher, has to do with the lack of development of partisan life in Palestine, meaning: free and fair elections; the peaceful transfer of power; and the formation of the opposition, which engages in monitoring and accountability, and so on and so forth.[117] This has led Jamal Mansur to conclude that there is something suspicious about the PA's attitude on real partisan pluralism.[118]Here it is worth mentioning some of the main barriers to political and party pluralism:

1. The factional and revolutionary political heritage, and its traditions that sometimes conflict with the requirements of partisan work, like quotas, historical leadership, political monopoly, and the absence of rotation of posts and political programs.
2. The overlap between liberation and nation building, and its impact on remaining hesitant about developing partisan life, in addition to the Israeli factor and the ambiguity of the stance of the Palestinian factions towards this issue.
3. The absence of a legal basis for organizing political life and the failure to pass a law on political parties. It follows from these obstacles that the ambiguity between the nature of resistance factions and stable political parties will continue to be prevalent during the current stage.[119]

Hamas addressed the barriers to political-partisan pluralism early on, calling for a real democratic system, political-partisan pluralism with regulatory laws, and for reinvigorating the power of the people through elections. In this regard, Ahmad Yasin said, "I want a multi-party democratic state, and power to be given to those who win the elections…even if the communist party should win, then I would respect the desires of the Palestinian people."[120] Yasin made those remarks in 1989, before the creation of the PA under the 1994 Oslo Accords. This was confirmed by Mahmud al-Zahhar, who said, "Hamas respects the opinion of the Palestinian street, even if it was contrary to its desires. But others must also respect the views of the

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[115] Office of Fatwa and Legislation, one of the institutions of the Ministry of Justice in the Palestinian National Authority, studies laws before approving them, and oversees the publication of *Al-Waqai' al-Filastiniyyah* magazine (Palestinian official gazette).
[116] 2003 Amended Basic Law, Article 5.
[117] See Jamal Mansur, op. cit., p. 37.
[118] *Ibid.*
[119] See *Ibid.*, p. 38.
[120] Interview with Ahmad Yassin, *Annahar* newspaper, Jerusalem, 30/4/1989.

Palestinian street, if it says yes to Islam."[121] Thus, we infer that Hamas accepts political pluralism without conditions, which is the view that many Muslim thinkers and scholars favored as detailed earlier.

'Ali al-Jarbawi, professor of Political Science, believes that Hamas "has secured for itself a distinguished position in the Palestinian political landscape by accepting ideological pluralism in the Palestinian arena, and dealing with the latter on the basis of that reality, confirming its pragmatic approach."[122]

Hamas has considered political and party pluralism as an instrument to organize political and non-political differences and manage them by using peaceful democratic mechanisms. The movement confirmed in statements by its leaders that it categorically rejects internal violence and political assassinations, calling on other Palestinian factions to treat it in kind. 'Abdul Aziz al-Rantissi, a leader and a cofounder of Hamas, said, "Hamas will oppose autonomy, but will not use violence against any party that chooses the path of self-rule, and it asks others to respect any faction that expresses its opinion…and respects other views. We have no qualms about cooperating with any other faction in a way that serves the Palestinian issue."[123]

Hamas's practical record has confirmed its acceptance of pluralism, its belief in national dialogue, and managing internal disputes by peaceful means, as Hamas entered into alliances with ten factions. When Hamas formed its cabinet in 2006, after winning the elections, it offered to include all Palestinian factions in the cabinet, including the Palestinian People's Party (PPP). Hamas continues to call for the formation of an expanded national coalition government, because the burdens of the Palestinian issue are too much for one faction, and therefore need everybody's concerted efforts.

> Khalid Mish'al has previously stressed the special nature of the Palestinian situation, adding to the ideas of democracy and elections the notion of "partnership." He said:
> Building institutions and national Palestinian reference frames should always be on democratic foundations, led by free and fair elections and equal opportunities. In addition, there is the principle of partnership and coalition-based work, because it is not right to make do with elections…partnership must be in all stages regardless of the odds for success.[124]

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[121] See Interview with Mahmud al-Zahhar, *Al-Watan* magazine, Gaza, 19/8/1995.

[122] See Khaled Hroub, *Hamas: al-Fikr wa al-Mumarasah al-Siyasiyyah*, p. 238.

[123] Interview with 'Abdul Aziz al-Rantissi, *Al-Fajr* newspaper, Jerusalem, 3/8/1992.

[124] Working paper by Khalid Mish'al, presented at the conference titled: Islamists and Democratic Governance: Experiences and Future Directions, Doha Series (Doha: Arab Center for Research & Policy Studies, 2012), p. 4. (in Arabic)

Third Axis: Hamas and Human Rights and Freedoms

Among the basic principles of democracy is that of human rights and freedoms. This is the basis that modern Islamic thought launched itself from, in linking democracy to *Shura*, where this basis enjoys or almost enjoys the unanimous endorsement of Muslim thinkers.[125] At the same time, one almost does not find any disagreements between the Universal Islamic Declaration of Human Rights, published in Paris in 1981, and the Universal Declaration of Human Rights adopted by the United Nations (UN), concerning the human rights and freedoms.[126]

The bulk of the rights stipulated in international conventions on human rights in general do not conflict with the rights and freedoms in Islamic law, according to the Egyptian Thinker Esmat Saif al-Dawlah.[127] Yusuf al-Qaradawi even believes that Islam was ahead of democracy, with the rules, principles, and rights it has enshrined.[128]

Human rights are defined as: a set of natural rights that man possesses, which continue to be valid even if they are not recognized or were violated by a given authority.[129] Freedom is defined as: A person doing as he pleases while being responsible.[130] It is usually linked to the freedom of choice and bearing responsibility for it.[131]

Protecting human rights and freedoms is "the basis of governance in Islam," according to the Muslim Scholar Muhammad al-Ghazali. Because of this, they need political and legal guarantees to protect them from violation and tyranny. For this reason, democratic countries included these rights and freedoms in their constitutions. Muslim thinkers have continued to call for them.[132] The Palestinian Basic Law devoted its second section to the issue of rights and freedoms in article 9–34.[133]

Islamic thought is distinguished from democracy in its approach to human rights and freedoms, which it considers "duties" that cannot be waived, and rejects violations

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[125] See Muhammad Futuh, *op. cit.*, p. 10.

[126] *Ibid.*, p. 166; and the site of The Universal Declaration of Human Rights, http://www.un.org/en/documents/udhr/#atop

[127] Muhammad Emara, *al-Islam wa Huquq al-Insan: Darurat la Huquq* (Islam and Human Rights, Necessities not Rights), *Silsilat 'Alam al-Ma'rifah (89)* Alam al-Maarifa Series (89) (Kuwait: al-Majlis al-Watani li al-Thaqafa wa al-Funun wa al-Adab, 1985), pp. 37–39.

[128] See Yusuf al-Qaradawi, *op. cit.*, p. 638.

[129] See 'Issa Bairam, *al-Hurriyyat wa Huquq al-Insan* (Freedoms and Human Rights) (Beirut, Dar al-Manhal al-Lubnani, 1998), pp. 13–14.

[130] *Ibid.*, pp. 40–41.

[131] See Muhammad Salim al-'Awwa, Political Pluralism from an Islamic Perspective, p. 24.

[132] See Muhammad Qutb, *Khutab al-Shaykh Muhammad al-Ghazali fi Shu'un al-Din wa al-Hayat* (The Sermons of Sheikh Muhammad al-Ghazali in the Affairs of Religion and Life) (Cairo: Dar al-I'tissam, 1986), p. 119.

[133] 2003 Amended Basic Law, Articles 9–34, site of The Palestinian Basic Law, http://www.palestinianbasiclaw.org/basic-law/2003-amended-basic-law

against them. Islamic thought links them to the implementation of religion, because some of these rights and freedoms are linked to physical and mental health first, and worship second. By contrast, human rights and freedoms have the power of law in the West. They are not only basic values to build society but also political demands.[134]

Hamas sees these rights and freedoms as values that must be respected by both the authorities and society. Muhammad Salim al-'Awwa believes that defending human rights and freedoms is a threefold duty in Islam:

1. Promotion of virtue and prevention of vice.
2. Cooperation in righteousness and piety.
3. Fighting injustice.[135]

These three dimensions are the basis of Da'wah (preaching about Islam) and political work of Hamas. They are both an individual and a collective right. Ibrahim al-Maqadmah says, "Every person can say the truth and not fear any blame, and the ruler must heed the truth and defer to the truth."[136]

Some thinkers divide human rights to three sections:

1. Political rights and freedoms.
2. Individual rights and freedoms.
3. The rights that are related to essential humanitarian, economic, and social needs.[137]

Political rights and freedoms are a priority for thinkers and those who believe in these values, being an important part of personal freedoms that guarantees other freedoms. Political rights include the right to vote, freedom of speech, freedom of research, the right to a fair and impartial election held at reasonably frequent intervals, and the right to form unions and political parties, etc. They also include the right to hold public office without discrimination or exclusion, subject to competence.[138]

Those who enjoy their political freedoms must also enjoy other rights such as education and securing the necessities of life, because there is a close relationship

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[134] Muhammad Futuh, *op. cit.*, p. 68.

[135] Muhammad Salim al-'Awwa, *al-Fiqh al-Islami fi Tariq al-Tajdid*.

[136] See Sharif Abu Shammaleh, *al-A'mal al-Kamilah li al-Shahid Ibrahim al-Maqadmah* (Complete Works of Martyr Ibrahim al-Maqadmah), (n.p.: n.p.f., n.d.), p. 470.

[137] Muhammad Futuh, *op. cit.*, p. 31.

[138] See Muhammad al-Ghazali, *Huquq al-Insan Bayna Ta'alim al-Islam wa I'lan al-Umam al- Muttahidah* (Human Rights Between the Teachings of Islam and the United Nation Declaration) (Cairo: Dar al-Da'wa, 1993), pp. 63–64; and Robert Dahl, *op. cit.*, p. 29.

between what is personal and what is political.[139] Some have equated political freedom with democracy itself.[140] The enjoyment among the people of their rights and political freedoms would mean that they enjoy, therefore, their other rights, because conflict with authority lies in rights and political freedoms. To regulate the exercise of individual and public freedoms, Islam put forth several rules, including:

1. To avoid offending others.
2. Freedoms must not deviate from the provisions and boundaries of Shari'ah.
3. Required freedoms should aim to tell and defend the truth without slander.[141]

Exercising these rights requires a delicate balance between the individual and the community on the one hand, and between them and the authorities on the other, in a manner that preserves the rights of individuals and groups, and preserves the role and prestige of the authorities.

We said that political freedoms guarantee other freedoms and rights. For this reason, Hamas focused on political freedoms, and resisted tyranny, suffering arrests and exclusion from public posts, despite the fact that its internal resistance was peaceful and non-violent. However, on a few occasions, Hamas was forced to defend its rights by force, happened on 14/6/2007.

Jamal Mansur says, "We are at the forefront of supporters of respect for human rights and securing those rights for all people, and to facilitate access to the exercise of freedom in the context of ethical and legal systems. Violation of rights and freedoms under any guise – even if it is Islam itself – disrespects humans."[142]

Hamas's view of human rights and freedoms is identical to that of the MB movement and modern Islamic thinking at large, which we have referred to previously. This view is based on two things: First, accepting universal principles and international conventions on human rights and freedoms, especially the 1948 UN Universal Declaration of Human Rights, because they agree with Islamic Shari'ah. For this reason, it has called on regimes and authorities to secure these rights for all people, without discrimination based on identity or religion. The second thing is that the exercise of human rights and freedoms has specific controls in Shari'ah and other laws, as mentioned above. The beneficiaries, whether they are individuals, groups, or authorities must comply with these regulations.

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[139] See Ahmad Mubarak, *Al-Islam wa Azmat al-Dimuqratiyyah* (Islam and the Crisis of Democracy) (Tripoli, Libya: Publications of Risalat al-Jihad, 1986), p. 56.

[140] See Muhammad Futuh, *op. cit.*, p. 170.

[141] See Bashshar 'Awwad Ma'rouf, Freedoms, Their Types, and Their Rules Under Islam, *Afaq al-Islam* magazine, Amman, Year 2, Issue 3, September 1994, p. 69. (in Arabic)

[142] Jamal Mansur, op. cit., p. 13.

Hamas delved into democracy as a matter of human rights and freedoms, when it saw that Western societies were advancing towards justice, equality, and development thanks to the state of public freedoms, with members of society enjoying their human rights under the protection of a democratic state, and awareness of public opinion and its dominion. Meanwhile, Arab and Muslim societies lived under tyranny, authoritarianism, and rule by autocratic dynasties, where the authorities assault the rights of individuals and groups and their freedoms, suppress public opinion, and falsify the will of the people in the pro-forma elections that take place as a smokescreen.

Hamas's history is rich in resistance against the assault of ruling authorities on Palestinian human rights and freedoms. Hamas's literature is rife with calls for public freedoms, and the exercise of human rights in full, a position that can be seen in Hamas's attitude on the PLO and the Oslo Accords, and the PA's detention of Hamas leaders and cadres in 1996. The common denominator among these positions is that Hamas demanded its political and human rights in general, and the rights of Palestinians to be given by the PA, which shunned to those rights and demands and resorted to violence and repression. Hamas remained committed to the principles of peaceful advocacy for its demands.

We can also consider Hamas's resistance against the Israeli occupation from the standpoint of Hamas's commitment to its national rights and human rights endorsed by international conventions. Indeed, the Israeli occupation represents the most shocking model of cruelty in violation of Palestinian human rights and freedoms. The cooperation of Hamas and its government in the GS with the UN Fact-Finding Mission on the Gaza Conflict that investigated war crimes during the Israeli aggression on the GS in 2008–2009, its acceptance of the report (aka the Goldstone Report), and its request to the UN to implement its provisions, were evidence that Hamas is committed to human rights, and accepts international conventions governing such rights.

Those interested in identifying Hamas's attitudes on human rights and public freedom, particularly political freedom, must track Hamas's record from the days it was a Da'wah movement in the 1970s, through to when it participated in the first *Intifadah* in 1987, and later when it took part in the political process and elections in 2006.

In the first stage, Hamas adopted the principles of the promotion of virtue and prevention of vice, cooperation in righteousness and piety, and fighting injustice, as fixed bases and mechanisms to defend human rights and freedoms in the face of tyranny.

In the second stage, Hamas combined Da'wah in the Palestinian interior, and popular and military resistance against the Israeli occupation, in fulfillment of these rights.

In the third stage, Hamas participated in the political process and elections on the basis of a political platform whose essence was promoting freedom and human rights. Its tenure in power and the premiership saw some progress in human rights issues, and cooperation with civil society organizations, despite the difficult circumstances in which it was forced to operate.

Ibrahim al-Maqadmah calls on the PA to give the people real freedoms, and says, "We want real freedom of opinion to prevail among us, as set forth by Islam under fair governance that would safeguard human rights, led by the right to human dignity. We want to have our own legal and judicial system, which is not polluted by whims and the contingent economic interests of a certain class."[143] Maqadmah was not comfortable with the work of the PA's institutions in that period, where institutions seemed a formality devoid of powers in tandem with the predominance of the security forces. Maqadmah was one of those arrested and brutally tortured in 1996.

The experience of Hasan al-Banna when he ran for Egyptian parliamentary elections, the experience of the MB movement in Jordan and their participation in parliament and the government, and Hamas's experience in the 2006 elections, where it ruled in accordance with the Palestinian Basic Law, in addition to the participation of the Freedom and Justice Party in Egypt in the elections after the revolution of 25/1/2011 and the victory of Muhammad Morsi in the presidential election, are all proof that Hamas and the MB movement accept democracy and respect its mechanisms and institutions, and by extension, that they are committed to human rights and freedoms; they also reject some Salafi and extremist attitudes that proscribe democracy and elections.

Among the established principles for the MB movement and Hamas is that to protect human rights in the case of a dispute with the ruling authorities, the parties should resort to the constitution, the law, the parliament, the judiciary, or public opinion through peaceful means. Hamas's adoption of these measures means that Hamas recognizes that the nation is the source of power (when not inconsistent with the unequivocal texts of Islam), and accepts operating under the working mechanisms and institutions that were created by modern democracy, in defense of its rights, human rights, and public freedoms.

A quick look at Hamas's internal structure gives one a good idea about the democratic practice of the Hamas movement among its members. The movement has a leader, *Shura* council, and administrative councils, as well as regional leaders.

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[143] *Al-Risalah*, 22/11/2011; and Sharif Abu Shammaleh, *op. cit.*, p. 159.

They all reach their posts through free elections, which are not accompanied by any nomination or campaigning according to Hamas's internal electoral law. Voters enjoy all their organizational and human rights, and their freedoms with equality and justice in accordance with the regulations prescribed by the *Shura* councils.

Actually, the 2011 amendments of Hamas's internal law adopted the principle of rotation of power at the organizational level, where the regulations give the leader a maximum of two four-year terms, a central principle in democracy. Hamas has turned away from the view of a group of thinkers who believe that the leader in the Islamic system should rule for life. Hamas's practical applications show that it accepts what Islamic thinkers wrote about democracy and *Shura*, and hence, has exhibited no dichotomy between theory and practice except in special cases.

In Hamas's literature, there is a lot of talk about justice and equality among people, regardless of religion, gender, or color. Hamas views this as values linked to religion and human rights. Its perception of justice and equality is imbued with a political stance in dealing with the international community and UN institutions, where Hamas complains of Western and Security Council bias for Israel. The most important reservation Hamas has on Western democracy is the absence of justice and equality in issues related to Palestinian rights and the conflict with the occupation.

Seventh: Hamas and the Rights of Minorities

Historically speaking, there is no sectarian problem in Palestine, neither before the occupation of Palestine nor after. There have been no problems caused by the presence of religious or ethnic minorities in the history of Palestine, where the relationship between the Christian community and the Palestinian Muslim majority is based on tolerance and co-citizenship. All people in Palestine have equal rights and duties.

Khalid Mish'al says, "We deal with Christian brothers as an essential component of the people and the homeland, and an active part in the fight against occupation, away from considerations of who is Muslim and who is Christian. We are partners in the homeland, and everyone has rights and responsibilities."[144]

Christians in Palestine do not constitute their own political party or resistance factions. They are present in all Palestinian factions, especially the Democratic Front for the Liberation of Palestine (DFLP) and the Popular Front for the Liberation of Palestine (PFLP), as well as the Fatah movement. Some Christian leaders assumed important posts in the PA and the inner sanctum of Yasir 'Arafat and the PLO.

Because Hamas is an Islamist movement and a national liberation movement, it has paid considerable attention to Christians and others, setting forth its position in this

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[144] Interview with Khalid Mish'al, *Assabeel*, 23/8/2010.

regard in its Charter, stating, "The Islamic Resistance Movement is a humanistic movement that takes care of human rights and follows the tolerance of Islam with respect to people of other faiths. Never does it attack any of them except those who show enmity toward it or stand in its path to stop the movement or waste its efforts."[145]

In reference to historical co-existence and tolerance in Palestine, the Charter says, "In the shadow of Islam it is possible for the followers of the three religions—Islam, Christianity, and Judaism—to live in peace and harmony, and this peace and harmony is possible only under Islam: The history of the past and present is the best written witness for that."[146]

Hamas is not hostile to Jews because of their religion and their beliefs, but is only hostile to those who assaulted and occupied Palestine, and forcibly expelled Palestinians from the land. Indeed, Hamas's position is not related to "creed" as much as to confronting the assault.[147] Hamas therefore does not take a position hostile to anyone based on their creed or ideology, but only against those whose creed and ideology turns into aggression and assault, and therefore stresses that the conflict with Zionism is cultural.

Khaled Hroub identifies what can be termed the specific political principles governing Hamas's relationship with Christians, including:

1. Christians in Palestine are an integral part of the Palestinian people, the Arab nation and its cultural identity.
2. Christians have the same civil rights as the rest of the Palestinian people and the Arab nation.
3. Reminding them of the importance of their bond to their land and holy sites based on religious and national perspectives.
4. Emphasizing the importance of their participation in political life and the struggle of the Palestinian people in the period of the occupation and after liberation, and working to inducing them into national action and institutions.[148]

Membership of the Islamic National Salvation Party, Hamas's political arm, is open to Christians on the basis of co-citizenship. In 2006, Hussam al-Tawil, a leading Christian Palestinian figure, won on Hamas's electoral list, and Judah Georges Morqos, a Christian from Bethlehem, joined the Hamas-led government under Isma'il Haniyyah in 2006. In general, Hamas's commitment to defending the rights

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[145] Charter of Hamas, Article 31.
[146] Ibid.
[147] Khaled Hroub, *Hamas: al-Fikr wa al-Mumarasah al-Siyasiyyah*, p. 152.
[148] *Ibid.*, p. 47.

of Christians in Palestine is based on two foundations, one religious and another democratic.

An evaluation of the presence of minorities in senior positions and the PLC reveals that they are actively present in official and popular positions, beyond their demographic representation. Representation in the PLC is guaranteed under the quota system for Christians and Sumerians, while posts are open to them like all other sectors of the population. For this reason, they have a double chance.[149] Jamal Mansur believes that the quota system enshrines sectarianism and conflicts with democracy, but accepts it because the Christian community accepts it, and feels it is fair.[150]

If we return to the program of the Change and Reform bloc, which represented Hamas in the PLC, we find that item No. 10 of the internal policy calls for "respecting and ensuring the rights of minorities in all fields on the basis of full citizenship."[151] The program calls for "preserving the Palestinian Islamic and Christian endowments and protecting them from assault and tampering… ."[152] This is a very important appeal in the face of Israeli aggression against the rights of Muslims and Christians through acquisition, Judaization, and confiscation of their properties, especially in Jerusalem.

The program also calls for "justice and equal opportunities for all citizens in hiring, employment, and promotion."[153] These principles cover minorities necessarily. Despite the fact that Israel is the one summoning and exploiting religion in the conflict, Hamas does not view religion as the creator of the conflict and resistance, but rather the occupation. Khalid Mish'al says, "We do not fight the Zionists because they are Jews, but we fight them because they are occupiers. The reason behind our war with the Zionist entity and our resistance against it is the occupation, not the difference in religion."[154]

Hamas's commitment to the rights of minorities is part of its commitment to human rights in general, as established by Shari'ah and international conventions. Its commitment is reinforced by the fact that Palestinian are the people in the world most affected by occupation and violations of human rights, while lacking the sort of international protection of their rights enjoyed by others in the world.

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[149] Jamal Mansur, op. cit., p. 43.
[150] *Ibid.*, p17.
[151] Change and Reform bloc, Electoral Program for the 2nd legislative elections of 2006, p. 3.
[152] Ibid.
[153] Ibid.
[154] Interview with Khalid Mish'al, *Assabeel*, 23/8/2010.