SOMALI SCHOOL OF GOVERNMENT

LESSON 1 – INTRODUCTION TO GOVERNMENT

Part 1: Learning the skills of self-government

Somalia's desire for self-government comes from a long-suffered thirst for both order and progress.

Government by Somalis, for Somalis can be traced back through a history of governance by tribal wisdom, with guidance from religious ideals. Somalia has also, in living memory, experience of some of the better aspects of colonial systems.

Unique identity

The Islamic religion and languages have given Somalia a unique African identity. As trading people for centuries, Somalis have also adapted traditional and imported systems of decision-making to suit their needs.

To rebuild their government, Somalia's Transitional governments have also drawn on experience from other successful systems in the region. And in the wider world. Government, Somali-style, now has an historic opportunity to learn from others' successes and mistakes – as well as from its own.

Parliamentary democracies promote both stability and progress

In 2015, a majority of the world's countries had become **democracies** (this is, systems of government where decisions are made by a **majority** of citizens, see Bkgrndr 1-1. In 2024, the number of democratic countries was 91. Democracies have elections and a national **parliament**, consisting either of one debating **chamber** (*unicameral parliament*) or two (*bicameral*).

This transition to democracies has mostly happened in the last 100 years. In 1900 less than 10 countries in the world were democratic, in 1942 (during WWII), it was just 12. However, in 2025, because of a loss of freedoms in many countries, democracies worldwide are in decline.

The impact of the past

The system in place when Somalia's General Siyad Barre was overthrown was one that *imposed* a vision of order and progress. Barre dissolved parliament when the prime minister was killed in 1971. However, after 21 years of top-down rule and **dictatorship**, this system left the country traumatised by wars and on the verge of economic collapse.

Clan co-operation, clan clashes, tribal wars and foreign interference are facts of history. And the introduced systems of government that were designed to bring the fruits of unity and peace - especially the delivery of education, medical progress and useful technology - turned out to be less than successful. And often disastrous.

The power of governments became excessive

Since independence from colonial rulers in the 1960s, new government systems in many parts of Africa mirrored the worst aspects of 'Big Man' excess.

Those who ruled without the feedback of representative councils, or who ignored such feedback, became corrupt and harder to remove than in traditional times., see Bkgrndr 1-2. Often backed by powerful militaries, many rulers lacked traditional restraints on personal power. Militaries took sides and interfered in politics. Most, if not all, were funded from abroad. With this new military power these Big Man leaders were able to survive longer than previous leaders who neglected the people.

For self-government, knowledge is power

The experience of the last 25 years is proof of the Somali proverb: 'To be without knowledge is to be without light.' This series of backgrounders aims to provide information about how different governments work, how they have developed, and how they can serve the people that they represent. They are guides to understanding the processes of good national and regional decision-making – so that all can enjoy the fruits of peace and unity.

This guide is organised into ten lessons or 'backgrounders', see Bkgrndr 1-3. It outlines different forms of government and compares their features and qualities. The lessons are on topics that aim to inform leaders, civil service workers, and all citizens about the origins and techniques of good governance.

How to participate in government

How well a system of government or rule actually works can be judged against traditional standards of *justice*, *accessibility* and *acceptance*. Modern standards also emphasise *efficiency*, *effectiveness* and *equity*. By comparing other governments, in the region and worldwide, especially ones similar and/or successful, leaders and citizens can better judge what to accept and what to reject. To make these comparisons, citizens must be aware of their own history. To learn how politics has worked – and to participate more fully – citizens should also know some of the language it uses.

Importance of history

The first wisdom of government is that history is important, see Bkgrndr 1-4. And that anyone ignorant of the past is in danger of repeating it. The **Development of Parliaments** topic (Lesson 2) will therefore examine the origins of parliaments as debating and decision-making institutions.

It will also outline the origins of parliamentary systems, including those assemblies headed by a president and/or prime minister.

Life is politics

According to the first person to compare more than 150 political systems 2, 350 years ago[1], all human life is political. Because we are naturally interested in the welfare of ourselves and those around us, we are in Aristotle's words "political animals".[2]

A useful definition of political activity is therefore: "a group activity that reaches collective decisions about how to relate to others, how best to use resources, and how to plan for the future."[3]

'Government' is the word given to 'ways of making and enforcing these collective decisions'. However, **governance** is used more often to emphasise that participating in this collective decision-making involves more than the organisation of government or its formal site.

The language of politics

There are two distinct activities in governance: **legislative** (law-making) and **executive** (the carrying out of laws) functions of government. They make possible future planning and wealth creation. **Executive government** is the name given to those with the power to enforce action – often the President and/or Prime Minister and cabinet. In modern democracies this power is checked by an independent **judiciary** (judges), using a written or unwritten constitution.[4] Keeping a check on unresponsive or excessive executive power is a major reason **pollster** have recorded the widespread desire, in Muslim-majority countries where elections are held, for both democracy and the rule of law. And often with an express desire that ***Shariah*** is used for this role. See Bkgrndr 1-5.

Politics answers the questions: 'Who gets what, when and how?'

Politics is often called 'the art of the possible.' It deals with the problem of order and power, and seeks to answer the questions 'who gets what, when and how?' And as those with power will always be tempted to use it on others, governments have developed to protect

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[1] Aristotle (1962 edition) *The Politics,* trans. T Sinclair: Harmondsworth.

[2] For Somalis this is reflected in the experience of the first ten years of independent government during which polls frequently showed political engagement of over 90 percent. Political commentators – those hired by news media or other governments to clarify issues – reported that Somalia was then a place of strong debate characterised by independent thinking and an egalitarian spirit. The phrase "every man is his own sultan", quoted to a British colonel in 1910, had then a positive meaning.

[3] Hague, R., Harrop, M., (2013). *Comparative government and politics: An introduction*, 9th edition; Houndmills, Basingstoke, Hampshire: Palgrave Macmillan. p.5-6

[4] Preamble of Argentine Constitution: *We, the representatives of the people of the Argentine Nation, assembled in General Constituent Congress by the will and election of the provinces that compose it, in fulfilment of pre-existing pacts, with the purpose of establishing the national union, ensuring justice, consolidating domestic peace, providing for the common defence, promoting the general welfare, and securing the benefits of liberty for ourselves, for our prosperity, and for all people of the world who wish to dwell on Argentine soil; invoking the protection of God, source of all reason and justice, do ordain, decree, and establish this Constitution for the Argentine Nation.* [With changes of some language: 'men', 'God', and 'Argentine' – ideals in this constitution could usefully be included in many nations' Constitutions for emphases not just on equality and equity but also generosity. Like maxims,"If you find yourself more fortunate, build yourself a bigger table not a taller fence", WWII's Polish Free Army's: "For our freedom, and for yours."
Aristotle (1962 edition) *The Politics,* trans. T Sinclair: Harmondsworth.

us from "the harm we would otherwise inflict on each other in our quest for gain and glory."[5]

Modern politics (the word comes from *polis:* a 'city-state') often has to resolve complex problems involving many different interests.

Some politics are complicated

Some forms of "doing politics" may require expert knowledge, as well as tradition. For complex situations, an understanding of the many sides to issues is required. That is, if politics is to serve a community which has "grown too complicated for either tradition alone or arbitrary (unreasoned) rulings to preserve it – without undue use of force."[6]

Government, then, is not just a bigger tribal council, a larger assembly or a national parliament. Government can include all small acts of governance. But simple or complex, government is the process of politics by which groups and organisations make and carry out decisions for the whole community.

Part 2: What knowledge is needed to participate in Somalia's self-government?

The skills of compromise

Politics can itself be educational. It can enlighten those taking part about the difficulties involved in reaching decisions which are fair to all. 2, 500 years ago the word '*idiote'* was invented to mean adults who took no part in politics. Politics can teach us not just the 'art of the possible' but also the skills of compromise. All political scientists agree that ***making and accepting compromises is the essential skill for democratic government***.

Seldom can everyone get exactly what they want. With compromise, decisions are taken, progress is made, but often no one gets exactly what they originally desired.

Different attitudes to politics: strength as widespread participation

Some still see politics as a competition producing winners and losers. Those who emphasise compromise see it as a "peaceful process of open discussion leading to collective decisions acceptable to all stakeholders." [7]

However, 'strong leaders' or **dictators** with narrow views in pursuit of single goals, and with unchanging ideas, do produce many more losers than winners. Often, they themselves create these 'losers' by excluding minorities or sections of the community. Governments in Africa in the three generations after the 1960s were often dominated by such leaders.

Today's success stories in Africa are developing **civic institutions** and **feedback mechanisms**. These include leaders who listen, meetings with **consensus voting**, **constitutional lawyers**, democratic **political parties**, trustworthy **pollsters** to measure **public opinion**, honest

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[5] Hobbes, T. (1651) *Leviathan,* 1968 edition. M. Oakeshott: Toronto: Cromwell-Collier.
[6] Crick, B. (2005) In defence of Politics, 5th edition. London: Continuum.
[7] Hague, R., Harrop, M., (2013). *Comparative government and politics: An introduction*, 9th edition Houndmills, Basingstoke, Hampshire: Palgrave Macmillan. p.3.

scrutineers for elections, **ombudsmen** to oversee government departments, and easier ways for any citizen groups to make formal **submissions** to government about local issues.

Why study political systems and policies?

A key reason for studying different political systems is to learn the best ways to 'pull the levers of power'. Another, at least in some forms of government, is to learn how to prevent the misuse of power. To prevent power misuse, we must understand how political and military power works. And the ways that have developed to check its misuse.

As the saying goes, no one wants to prevent death by foxes to be killed by lions. In low-income countries, these lions may be governments dominated by individuals, clans or unchecked executives. In high income countries they may be competing larger – or outside – forces. Death by such lions comes about by power inequalities, or loss of economic sovereignty. Manipulation of information or of electorate boundaries – or, as recently, a lack of interest in politics - can let loose lions. Knowledge of how power works can help citizens check or counter them.

The science of consultation

High income countries that develop effective systems of government can still decline. Even with feedback to government from organised **interest groups**, and the input of challenging ideas from gathered public opinion, a small group of 'winners' can dominate and exclude others. However, when well thought-out policies and ways of achieving goals become law – and are enforced for the good of all – disadvantaged groups in society rise along with others. Lack of participation, or lack of **corporate responsibility**, can still result in 'the rich getting richer, and the poor poorer.' But with effective **public consultation** and **fair taxation** - and public **watchdogs** with the necessary teeth of enforceable sanctions - excessive power can be checked. The science of consultation includes **scientific polling**, **focus groups** and well-advertised calls for **submissions to government** (with sufficient time to allow affected people to submit them.)

Good policies plus widespread participation leads to good governance

Grassroots organisations are the heart of what is called **civil society**. Formal centralised government has big advantages, however. With a centralised government decisions can be made and enforced peacefully. Policing, security and infrastructure can be guaranteed. Strong government, however, always carries the real danger of abuse of authority.

Also, studies have shown that rather than focusing on strong government, an emphasis on plans for action or **policies** of governments - along with activities that support them - ensures greater citizens participation. And ensures citizen satisfaction with ruling governments.

Participation equals good governance equals fairer outcomes for all. Many **international agencies** suggest that in new democracies effective governance is crucial to economic

development (World Bank, 1997)[8]. When examining the quality and effectiveness of rule, these agencies say, it is better to focus on **government policies and activities** - rather than on the institutions of rule themselves.[9]

Importance of the courts, the media, and vigilance

If we want to secure the benefits of government while limiting its dangers, a key question is the age-old one: who will guard the guards[10]. In low-income countries, political system can become the property of a dominant clan or even individual. In any country, political parties with little support can still manipulate public opinion: corporations with big pockets can still buy influence, block reforms, avoid or evade taxation responsibilities. And if, as the saying goes, the price of liberty is eternal vigilance, keeping politicians honest is everyone's job in democracies.[11]

How to judge which system fits best

Modern communication has made our world inter-connected. It is easier, if we have satellite coverage, to know about others. Therefore, making sense of events is not just interesting but important. We cannot avoid knowing there are vastly different incomes, different methods of governance, low-wage economies, and countries with working social security safety nets. Of course, we could study other systems to congratulate ourselves on the superiority – or simplicity – of our own system. But by making comparisons we can often judge the correctness of our own ideas. We can also come to a solid basis for our judgements using agreed-on standards. This avoids both self-congratulation and guesswork.

Civic values: the art of politics teaches us tolerance – and produces stability

In politics, to "be a foreigner in your own land" has value in itself. This habit of seeing things as if we are foreigners, helps us to appreciate differences and the reasons for them. Tolerance, both as a personal and a **civic virtue**, can be learned. Examining why countries choose particular methods can also reveal the features of each system – in terms of basic values such as stability and effectiveness. And the methods they use to achieve justice for all, termed **social justice**.

Most countries adopt and adapt others' practices, wherever suitable. This process in business and in government is called best practice. Or simply 'good practice,' as it is termed in the guide for parliaments worldwide (See Bkgrndr 1-6), put out by the 125 year-old union of parliaments, the Inter-Parliamentary Union (IPU). [12] Modern leadership styles such as servant-leadership are also challenging previous corrupt models, both in business and government. Leadership that serves others is good for all.

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[8] World Bank (1997) *World Development Report: The State in a Changing World* (Oxford: Oxford University Press).

[9] Hague, R., Harrop, M., (2013). *Comparative Government and Politics: An Introduction*, 9th edn Houndmills, Basingstoke, Hampshire: Palgrave Macmillan. p.6

[10] Allen, R.E. (2006). Plato*: The Republic.* New Haven: Yale University Press.

[11] From a speech by abolitionist Wendell Phillips on **January 28, 1852.**

[12] http://www.ipu.org/dem-e/guide.htm

LESSON ONE FURTHER READING:

Parts 3, 4 & 5 are further readings on the ways governments can be categorised, the various types of democracies, and the ways both of these have developed. Or have not developed.

They also outline the ways in which power is achieved – and how it can be checked and balanced out in *responsive democracies*. That is, those with key institutions which do this.

PART 3: Learning by making comparisons [htxt P6]

PART 4: Why democracy – and which type? [htxt P6]

Part 5: How some governments can self-correct while others self-protect [htxt P6]

BACKGROUNDERS

BKGRNDR 1-1

ON MAJORITIES – KINDS, AND DEGREES OF, MAJORITIES

A general definition of 'majority' is any number greater than 50 percent. But in the development of democracy, varying degrees of majority rule have been agreed on as satisfying a definition of 'most.' This includes the need for an acceptable – and accepted – level of community agreement, 'buy-in' or assent.

Degrees of democracy: from unanimity to plurality

Unanimity: All need to agree, assent or at least acquiesce (agree to go along with)

Concurrent majority: More than one majority required: for example, most voters plus most provinces

Qualified majority: More than a simple majority: typically, two-thirds (for impeachment of a president, for example)

Weighted majority: A majority after adjusting votes for differences in voting power: for example, shareholders may have one vote per share

Absolute majority: More than half of those entitled to vote (even if 51 %)

Majority (**simple majority**): More than half of those who actually voted (even if 51%)

Plurality: The largest number of votes – but not necessarily a majority

BKGRNDR 1-2

Democracy – African style

African democracy before European colonisations

In his 1959 classic *African Nationalism*,[13] Ndebele Sithole argued 'it is bad history and bad civics' to deny African democracy before European colonisation. And if the essence of democracy is the will of the people ('*intando yabantu'*), Sithole went on, his research proved African people had it 'since the dawn of their history.'

A call for self-rule and self-determination

He concluded his book with a call for the right to *ukuzibusa* (self-rule) and *kuziwitonga* (self-determination) in a way that showed 'the will of the majority of the people.'

After giving colonisers credit for some improvements to native African democracy, Sithole cites a number of examples from differing parts of Africa to contradict the idea 'democracy was European-introduced to Africa.'

'European dictatorship'

In fact, according to Sithole, since Europeans ruled 'not according to the voice of the majority, but according to that of a minority' the African did not 'come into contact with European on a democratic but on a dictatorial level.' Therefore African nationalism, Sithole maintains, is simply a stand against 'European dictatorship.'

And while European leaders at the time were self-appointed to their positions of authority, the African ruler on the other hand owed his power to the people themselves 'who dismissed him from office if they were dissatisfied with him.'

The king is the people

Declaring it typical of African history, Sithole quotes his own tribe's view that the Ndebele big chief or king embodied clearly what was in his people. And that if the king failed to reflect this, the people defied him. Ndebele asserts, therefore, the king's only true voice was that of his people. He quotes a Ndebele saying:

> '*The King is the people. To respect the King is to respect oneself. He who despises the king despise us. He who praises our king praises us. The King is us*.'

Using other examples from Ghana's customary law, and from Nigeria's Yoruba people, Sithole says the people had real power against tyrants – and against abuse of power. A Ghanese chief who abused his power would be warned by elders that his behaviour was 'alienating his subjects and bringing his stool in disrepute.'

'We do not wish his ears to be hard of hearing'

[13] N Sithole, *African Nationalism*, (1959; 1968) Oxford Univeristy Press, Capetown.

Sithole cites from the Ghanese chief-making ceremony the enstooler's chant on behalf of the people:

> *we do not wish greediness … we do not wish his ears be hard of hearing … we do not wish that he should act on his own initiative … that it should ever be said, 'I have no time. I have no time … We do not wish personal abuse.*[14]

Chiefs were dependent upon advice for their office

According to Sithole, it was obvious from the way elders dealt with the usual complaints against a chief: 'excessive drinking, going after other men's wives … neglecting the advice of elders' that the chief was dependent upon for his office. And the elders were also dependent upon the common people for theirs.

Among the Swazi and Bechuana too, Sithole claims, a chief could be tried by his own council if he broke the law. And among the Yoruba, declaring war was such a grave responsibility that a king was expected, under the laws of his country, to die before his defeated army returned home – and if he did not, the people saw to it this law was executed … .

Real authority comes from the people

Good government, therefore, was popular government. A headman who had more persons in his village was regarded with envy by other headmen. And a chief with more villages under his jurisdiction than other enjoyed greater social and political prestige. Almost all the tribal institutions Sithole examines owe their real authority to the people and not to the office-holders.

Also, Sithole asserts, European powers had preserved the shell of kingship and chieftainship but emptied them of their real content.

Will of the people versus will of a foreign power

Thus such African kings and chiefs no longer represented the will of the people, but the will of a foreign power. Accordingly, Sithole wants not just to honour a pre-European native democracy, but also to make a claim for a real democracy all the peoples of Africa once enjoyed.

[14] Apter, D. E. 1957: *The Gold Coast in Transition*. Princeton University Press, Princeton. P. 108; Sithole (1959) p. 93.

BKGRNDR 1-3

TEN LESSONS IN DEMOCRACY - SOMSOG.ORG

LESSON 1: **Introduction to government: ways of looking at self-government, parliamentary democracy and Somalia's first experience of it.**	This lesson or backgrounder: • **reviews** the knowledge, language and attitudes useful to understand how governments work, can work • **uses** historical and global examples to outline their features • **focuses** on the features of system used by 125/196 nations.
LESSON 2: **The development of parliaments: the story of the breakthrough ideas that helped build up the forms and processes of today's parliaments.**	This lesson or backgrounder: • **explores** the historical power struggle to achieve truly representative parliaments • **charts** the breakthrough events that have enabled all citizens worldwide to contribute to better, fairer societies.
LESSON 3: **Development of democracy and human rights: timelines sketching the ideas and events that translated ideals of equality into actual rights.**	These timelines: • **record** the major events and breakthrough thinking that have contributed to 'self-correcting' government: democracies • **show** progress is no straight line, builds on developing ideas • **show** turning ideals into reality takes struggle and sacrifice.
LESSON 4: **Development of Somalia: a timeline of events from ancient history focuses on the post-1960 era of promise, collapse and gradual recovery.**	These timelines: • **signpost** the events and personalities of Somalia's independence, democracy, collapse and recovery • **outline** the sequences of political actions involved • **reveal** complications and problems caused by competing ideas and geo-political struggles.
LESSON 5: **How parliaments work: An outline of how the national debating chamber and law-making institutions work, plus the roles of those there.**	This lesson or backgrounder: • **outlines** how parliament works as a law-making and scrutinising institution for a nation • **lists** those who have a role to play in parliaments • **reviews** some of the basic rules, standing orders and other aspects of the 'eternal vigilance' needed to govern.
LESSON 6: **Social contracts: how contracts, formal and informal, encourage citizens' participation and can keep governments accountable.**	This lesson or backgrounder: • **outlines** how social contracts work, and can change • **uses** information from parliaments and governance in Africa and worldwide to examine what makes contracts valid • **examines** social contracts' role as a force for stability in Muslim-majority countries according to key texts, scholars.
LESSON 7: **From tribal democracy to parliamentary democracies: what is gained and lost. Clan consensus compared to party politics.**	This lesson or backgrounder: • **examines** the roles that political parties play in democracies • **relates** party organisation and policy making to traditional models of decision-making • **discusses** ways in which tribal, federal and national decision-making – and identities – can co-exist
LESSON 8: **Elections and voter participation: an outline of how elections work, what makes them valid, and what they are designed to test.**	This lesson or backgrounder: • **outlines** various election systems and their methods • **reviews** key features of election campaigns, voter participation, turnout and the mandate their results deliver • **discusses** methods of election financing , media coverage, conflicts of interest, and use of referenda for single issues.
LESSON 9: **The role of the news media or 'fourth estate' in modern democracies. New media, financial models, and case studies.**	This lesson or backgrounder: • **outlines** the crucial role an informative and questioning news media plays in an internet era • **discusses** how media can be censored, can self-censor, be discredited and/or reduced to propaganda machines
LESSON 10: **Rights and responsibilities of those in power and those participating in democracies: ethics, incentives, sanctions and levels of public trust.**	This lesson or backgrounder: • **outlines** the ethical codes and practices parliaments use to ensure public trust and widespread citizen participation • **sketches** the role of financial rewards, sanctions, and public scrutiny in combatting a culture of corruption

BKGRNDR 1-4

LONGING FOR FREEDOMS IS UNIVERSAL

Though some countries have contributed more than others, "the longing for freedom and human dignity is not English or American or 'Western' …"

"Centuries ago, when kings, emperors, and warlords reigned over much of the world, it was the English who first spelled out the rights and liberties of man in the Magna Carta. It was here, in this very hall, where the rule of law first developed, courts were established, disputes were settled, and citizens came to petition their leaders.

Over time, the people of this nation ... would ultimately forge an English Bill of Rights, and invest the power to govern in an elected parliament that's gathered here today. What began on this island would inspire millions throughout the continent of Europe and across the world.... As Winston Churchill said, the "… Magna Carta, the Bill of Rights, Habeas Corpus, trial by jury, and English common law find their most famous expression in the American Declaration of Independence."

[W]e have learned better than most that the longing for freedom and human dignity is not English or American or Western –- it is universal, and it beats in every heart."

— *May 25, 2011.* Part of US President Barack Obama's speech to both Houses of Parliament in London's Westminster Hall (during a state visit to the UK). In this he refers to the role of the English parliament in developing democracy, rights and liberties.

Shariah's role

The way forward: Shariah as a basis for the rule of law

Good social contracts have four major uses

Social contracts that offer a fair deal to communities are ones which are widely accepted – and therefore usually require the least oversight. Historically, these are ones which have majority 'stakeholder input,' where 'the people are sovereign'. To summarise: social contracts have four major uses:

- They legitimise governments – that is, they give governments authority to act on behalf of all sectors of society
- They constrain government – that is, they put limits on the authority and actions of governments and military so they don't abuse power. Especially executive power.
- They secure rights for citizens – that is, they ensure freedoms and services citizens can possess or enjoy simply because they belong to a country or region
- They secure protection for citizens – from, for example, other citizens, invaders, exploitative business interests or intrusive militaries

Constitutions reflect social contracts

One of the key roles of laws and constitutions is to define the limits of power. And constitutions which limit power and enshrine distinctions between unity (which ensures order and progress) and uniformity (which prohibits creative dissent) can be, and were, written in stone. However, as social contracts that reflect the relationship between the state and citizens, they can also be amended to reflect new conditions.

Debate about social contracts in modern countries is not therefore evidence of division. The rule of law is not written in stone or in that sense divine, although a high degree of agreement is usually required for change to take place. This is to reflect both the need for change and to ensure it.

Challenging the terms of contracts helps keep them relevant

And not all division is negative. In the golden age of Islam, between the 8th and 12th centuries, *ijtihad* (active intelligence and independent thinking) meant that 135 schools of interpretation flourished in Arab Spain. And there were up to 75 libraries per city. This process was only stopped, history tells us, when fanatics from Morocco crossed to Spain in the 12th century.[15]

Collapsed or 'failed' states, however, are unique. For Somalia, the state under Siyad Barre was not a protector but ended up being an extraordinary predator. Studies have found that in British Somaliland, the state has protected urban dwellers from violence better than other

[15] Feldman, N. 2008 *The Fall and Rise of The Islamic State,* Princeton University Press, Princeton.

forms of political organisation. They also found that for pastoralists in the savannahs of the Horn of Africa, neither colonial nor modern states have been able to be protect them.

When a predator state collapses, the most powerful fill the vacuum

Following the Barre state collapse, neither the state nor clan elders could stop the shift from protection based on sub-clan communities to patron-client ones. In the major urban areas, warlords in conflict zones resulted in an impoverished general population. And a wealthy elite. The removal of state controls did create a class of businessman with great wealth able to pay for access to trading ports. And to buy and offer protection.

In these situations there have been calls for social contracts based on a rule of law that applies equally to everyone: urban or pastoralist, wealthy or impoverished, great or small. Hopes for Shariah law centre on the belief that it can be the equivalent of a 'rule of law' that everyone is bound to and reflects the core values of society.

Sharia as protection against power abuse

Islamist political parties which promise Shariah law are generally well supported in Muslim countries, as results and exit polls reveal. Their reasons for wanting Shariah include:

- it will guide rulers in the way of wisdom and virtue
- it will herald a new golden age of Islam where rights are respected which can come only from religion
- it is an alternative and antidote for what is regarded as a permissive or secular West that does not have these values
- it will bring a respect for contracts and a basis for unity not found in secular societies
- it will function as some kind rule of law and therefore check excessive executive power, weak if not absent especially in Arabic countries.

However, the history of Shariah shows that for it to function as a rule of law it needs the existence of effective institutions interpreting a well codified set of laws and reinforced by regular practice.

A rule of law relies on civic institutions

This regular practice, history shows, needs to be backed by a recognition that citizens and residents have more to gain by remaining faithful to state rules than by disobeying or ignoring them. Acceptance of fair and equally applied law in civic institutions is a good test of this.

As has been often pointed out, *Shariah* functions more as a value system than a fully developed rule of law. And in countries where *Shariah* has been implemented, it is as the legal, primarily penal code (*hudud*), with severe punishments for adultery, theft and blasphemy. These gravely disadvantage the women, the poor and the religiously deviant or non-practising.

The scholars' role in the rule of law

The traditional Islamic constitution rested on a balance of powers between a ruler subject to law and a class of scholars who interpreted and administered that law. Yet the governments in most contemporary majority-Muslim states have lost these features.

Rulers often govern as if they were above the law, not subject to it, and the scholars who once wielded so much influence are much reduced in status. If they have judicial posts at all, it is usually as judges in the family-law courts.[16]

Shariah as a limitation on executive power

In 1928 and 1935, long before the coming of Islamism and Islamic political ideologies, arguments were made in Iran before the writing of their civil codes for making Shariah a limitation on government. And as a source of law. And in 1948 in Egypt, Shariah was used in this way in the writing of their civil code. This role for Shariah was accepted and subsequently Egypt's code served as the model for most other Arab countries of the Middle East.

The rule of law as *qanun,* rather than *Shariah*

The 150-year struggle by Muslims in the Middle East for the rule of law have not used the word 'Shariah' for it, however. Reformers recognised important distinctions in language should reflect distinctions in thought. Instead of Shariah the word in slogans and mottos was 'the rule of law (*qānun*),' 'limited government (*mashrutiyya[t]*)' and 'government limited by law (*qānun*)'. In the nineteenth and early twentieth century the key term for reformers was not *Shariah* or divine law but *qanun. Qanun*, public law or state law, is essentially the same as the Greek word 'canon,' used for church law in the West or as a word for an established or agreed-on list of classics.

Shariah as God's will – according to the scholars

For Shariah to function as the equivalent of the rule of law today it needs to establish itself as a check on the power of executive. And this is the role of an independent judiciary. The scholars had this role during an age when Shariah was associated with the rule of law. The ruler certainly had to obey God's law mediated through the Shariah, but it was God's will as the scholars interpreted it. As 'agents of stability and predictability,' therefore, the scholars controlled and administered the law according to well-settled rules.

The scholars as a check on governments' excess

By this control the scholars could, and did, limit the ability of the executive to take the property of private citizens. This was crucial in societies where the transition from one ruler to the next could be disorderly and even violent. This, in turn, pressured the executive to rely on lawful taxation to raise revenues – which itself forced rulers to be responsive to their subjects' concerns.

[16] http://www.nytimes.com/2008/03/16/magazine/16Shariah-t.html?_r=0

When Shariah, as interpreted, was a check on excess

The scholars and their law were thus essential to the tremendous success that Islamic society enjoyed from its inception into the 19th century. "Without Shariah, there would have been no Haroun al-Rashid in Baghdad, no golden age of Muslim Spain, no reign of Suleiman the Magnificent in Istanbul."[17]

But a comprehensive legal code derived from, or dictated by Shariah, has never existed in Islamic history. And the application of the law in practice allowed a lot of leeway. This explains why modern advocates of Shariah as the source of law are not recommending the adoption of it as such.

Separation of religion and state in Muslim-majority countries

Both Indonesia and Turkey are countries which prefer a separation of the religious and political spheres. They do not see 'secular' as anti-religion but the common ground upon which all ideas can meet. Between 1999 and 2002, as a result of representations by Muslim organisations representing more than 30 million members, the Indonesian constitution was amended to uphold the separation of religion and state.

In Turkey where the military is staunchly secular and there is a tradition of state-centred secularism post WWI, Islamists are focusing more on establishing a rule of law to counter excesses of executive power. Shariah has been left to be an influence on personal and political morality. Even Egypt's Muslim Brotherhood has abandoned its pre-ideological position and is pushing for *Qanun* with the Shariah as a source of reference.

Judges as agents of the law and not agents of the state

Constitutional lawyer Professor Feldman concludes in his book *The Fall and Rise of the Islamic State*[18] that the future for societies where there is a 'demand for law-based government embodied in Koranic law' lies in the ability of parties to put pressure on executives. If this leads to a transformation of the judiciary, he maintains, a fairer, more inclusive society must result as judges '… come to think of themselves as agents of the law rather than agents of the state.'

When contracts fail – dishonour and lack of trust begins vicious circles

What makes leaders in executive positions unresponsive? Why do citizens begin to disengage from the state? Historically, if social contracts fail to deliver security or services, citizens soon disengage from them in some way or other. The vicious circle then begins: lack of participation weakens the state, the state then becomes less responsive. Citizens begin to give only what is directly punishable, executives to hear only what they want to hear. And citizen feedback, through fear or uncaring, is little different. How, then, can political institutions be developed that foster feedback and response?

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[17] http://www.nytimes.com/2008/03/16/magazine/16Shariah-t.html?_r=0

[18] Feldman, N. 2008 *The Fall and Rise of The Islamic State,* Princeton University Press, Princeton.

Strong leadership – reliance on personal morality versus strong institutions?

Sometimes flawed attitudes or a flawed leadership model is as much at fault as lack of real consultation processes. A study of previous leadership traditions, *The Islamic Middle East* [19]describes how an 'ethic of masculine self-assertion dominated always by plotting against the victor to recapture lost honour' can be destructive of the trust essential for two-way contracts. It points to the not so obvious result of a 'reliance on personal morality to provide order instead of developing political institutions.'

Where does political strength actually reside?

Using historical comparisons from throughout the region, the author says a reliance on leaders' personal morality alone for good governance results is a kind of mental paralysis. What leaves reform-minded citizens unable to think practically about civic life, the study finds, is the circular reasoning: 'no Islamic state without virtuous Muslims, no virtuous Muslims without an Islamic state'. The resulting reform paralysis is usually then exploited by 'ambitious groups united by self-interest … led by opportunistic power-seekers.'

Why is there often a lack of moral condemnation of leaders' tyranny?

This paralysis is based on the perception that the realms of citizenship and the state are mutually exclusive. When this thinking is also driven by a 'masculine' ethic of competitive individualism the study concludes, it results in the neglect of any moral condemnation of tyranny. Then, because claims to sacred authority "are always bound to be rendered questionable by the usual outcomes of secular power, the inevitable political failures led to an even greater disillusionment with government." The study looks at examples in regional language, at centuries-old proverbs and actual leadership examples. It finds that "reliance on personal morality to provide order is never as effective as the slower process of developing civic institutions."

Civic institutions can remain powerful when individuals are weak

When such institutions are developed, the study found, it can soon be demonstrated to citizens that "the state is indeed their servant and not the instrument of any ruler or rulers." The study concludes by highlighting the advantage of strong institutions over strong rulers. When reliable measurement and delivery mechanisms are in place, the state can function with integrity in its own sphere "despite the ever-present imperfections of fallible humans."

[19] Lindholm, C. 1999, 2002: *The Islamic Middle East, Tradition and Change* Blackwell Publishing, Oxford.

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IPU REPORT ON WORLDWIDE PARLIAMENTS

Inter-Parliamentary Union
For democracy. For everyone.

***'Parliament is the heart of a well-functioning democracy.'* - IPU**

Parliament: no single model is best but good practice can be shared

Parliament in a democracy is the name given to the place where a nation debates and decides how best to run itself, rule itself and use its resources. But as the Inter Parliamentary Union (IPU), a facilitator of parliamentary good practice since 1889, reminds its readers 'there is no single model of democracy.'

However, according to IPU, there is value in providing a framework outlining a clear sense of direction and a set of criteria. Its website includes results of a good-practice survey sent out each year to parliaments worldwide to show not only that parliaments are diverse and constantly evolving but also that they need to respond to different circumstances and challenges. That is, if parliaments are to be at the heart of a responsive government.

Parliaments have developed to meet changing needs

The way the debating chamber is organised and the actual practices of Parliaments, have been adapted over many hundreds of years to meet the needs of various and changing societies.

Although parliaments are at the heart of democracy, IPU points out that whenever members of any group decide what sort of policies and rules will govern them – and insist on being treated as equals in doing so – they are practising democracy. (*Demos* means 'people' in Greek, and *kratein* means 'rule').

Parliament's workings should be open, trustworthy and understandable to all

To ensure good decision-making parliaments decide on formalities and procedures to help them run smoothly. The IPU emphasises the physical places used by Parliaments should be accessible for public scrutiny – and that their workings should be open to all. This inspires trust and recognises the importance of honesty.

And the traditional ways of acting, deciding and carrying out decisions – which are part of the procedures or 'institutions' of Parliament – should be expressed in language understandable by all citizens.

Good parliaments institute inclusive practices – and guarantee rights

Good institutions or ways of organising government include:

- a guaranteed framework of rights for all citizens (most often in a constitution)
- ways to represent large numbers of citizens
- ways to make those in power accountable;
- ways to inform and include citizens, especially by the use of the news media and through the formation of political parties.

The 120-year old Inter-Parliamentary Union says **civil society** or an active citizen body is one of most important parts of parliaments' complex set of institutions and practices. These have evolved over time and will continue to do so.

Parliaments are more than buildings – and have many roles

Parliaments, then, are not just the buildings or offices where the debating and deciding of important issues takes place. Parliaments are also a set of practices and institutions that mediate between the will of the people and decisions made for their common good.

And as the IPU points out, Parliaments have other roles or dimensions which include:

- promoting civil society
- upholding the rights of a free press
- making themselves accessible and accountable
- protecting the rights of the judges and court system (the judiciary) which acts as one of the checks on their own power.

The IPU reminds us these roles or dimensions are what makes parliament the central institution of democracy. They offer examples of good practice submitted regularly to it from parliaments worldwide.

Good parliaments can be judged by these features – and activities

The IPU sums up the characteristics of truly democratic parliaments in five words.

Such parliaments will be: representative, transparent, accessible, accountable and effective.

And to be effective, the IPU says, good democracies should include: Citizen rights, institutions of representative government, citizen rights, institutions of accountable government, an active civil society, active political parties, active communicating media.

Setting standards and guidelines, Strengthening representative institutions, Promoting inclusive parliaments, Promoting and defending human rights, Partnership between men and women, Promoting knowledge of parliaments, International Day of Democracy, Global Parliamentary Report, Guide on parliament and democracy, Key documents, Sustainable development, Cooperation with the UN, Peace and security,

What is the UPU? http://www.ipu.org/dem-e/guide.htm