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ISLAMIC LAW AND INTERNATIONAL LAW Conference

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***Sharia* in Modern Democratic Nation States**

Dr Hossein Esmaeili
Flinders Law School
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Introduction

- Citizenship and nationality in modern international law
- Sharia and citizenship
 - The concept of *Ummah* (community of Muslims)
 - The doctrine of *dhimmah* (protection of non-Muslims)
- Islam, citizenship and *Sharia*



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Modern Nation State

- *Respublica Christiana*
- Mid 17th Century
- 19th Century
- The League of Nations (1919)
- United Nations (1945)
- In more recent times



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Nationality and Citizenship

- Nationality is a legal bond having as its basis a social fact of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties. It may be said to constitute the juridical expression of the fact that the individual upon whom it is conferred, either directly by the law or as the result of an act of the authorities, is in fact more closely connected with the population of the State conferring nationality than with that of any other State.

ICJ, *Nottenbohm*



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Sharia and Citizenship

- Nature of *Sharia*
 - *Law and religion*
 - *Divine origin of law*
 - *Covering all conducts*
- *Ummah and citizenship*
 - *The concept of ummah*
 - *Territorial division of the world*
 - *Dhimmah*
 - *Other concepts*



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Muslim minorities and citizenship

- Terminology
- Secular Muslims
- Sharia oriented Muslims
 - Normal approach
 - Uninformed approach



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Uninformed Approach

- Traditional concepts
- Example
 - These are) the ones who wait and watch about you: if ye do gain a victory from Allah, they sat: “Were we not with you”? – but if he unbelievers gain a success, they say (to them): “Did we not gain an advantage over you, and did we not guard you from the believers?” but Allah will judge betwixt you on the Day of Judgment. And never will Allah grant to the unbelievers a way (to triumphs) [authority] over the believers’



The Quran 4: 140



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Normal Approach

- Rational
- Moderate
- Practical
- Harmonisation



Conclusions

- Terms and concepts are important
- No unified concept
- Islamic concepts can be reconciled with modern concepts and principles



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