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Muslim Democracy: The Return of Political Theory

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ABSTRACT

Muslims worldwide strongly desire democracy with Islamic overtones. Yet Muslim-majority countries suffer from severe democratic deficits. With the Arab Spring, not only has authoritarianism shown resilience in previous non-democracies, but countries with once-promising democratisation are at risk of becoming ‘electoral authoritarianisms’ or ‘majoritarian democracies.’

This failure of democratic experimentation necessitates a return to political theory to reconceptualise ‘Muslim democracy.’ During the last decade, Turkey had been depicted as the epitome of Muslim democracy, yet such interpretations have been recently challenged, leaving the Muslim democracy literature with substantial gaps. Today, the idea of Muslim democracy is in flux; lacking normative rigour and conceptual clarity, the term means everything and nothing. It will remain so until well-developed political theories systematically outline the indispensable institutional, social, political, and normative conditions for its realisation.

This project proposes a normatively viable framework that reconciles public Islamic claims with the normative and practical demands of democratic regimes. The thesis questions customary characterisations of Islam’s compatibility with democracy and offers a new methodology by systematically studying a cluster of theories that have never been examined together: debates concerning Muslim political thought, multiculturalism, secularism, the public sphere, and constitutionalism. This approach allows analysing Muslim democracy politically rather than theologically.

This work defines Muslim democracy as an alternative form of democracy that recognises the centrality of religion in Muslim societies. The argument first engages with an inclusive typology of Muslim political thought to discover essential variables for a democratic theory and analyse tensions hindering the development of democratic culture. It then examines multiculturalism probing its capacity to reconcile democracy with religion. It subsequently examines pro-democratic thinking within Muslim discourses termed “the compatibility-based arguments” to reveal their limitations. It finally synthesises these theoretical resources, proposing its Muslim democracy framework that encompasses religion-friendly and human rights-concordant interpretations of secularism, the public sphere, and constitutionalism.

MUSLIM DEMOCRACY: THE RETURN OF POLITICAL THEORY

Ravza Altuntas-Cakir

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LIST OF ABBREVIATIONS

AD: Associative Democracy

CA: Compatibility-based Arguments

IPs: Institutional Pluralists

JDP: Justice and Development Party

LPs: Liberal Pluralists

LPMs: Legal Pluralist Multiculturalists

MENA: Middle East and North Africa

MPs: Moral Pluralists

NCP: Non-Constitutional Pluralism

TA: Transformative Accommodation

UDA: Unsecular Democracy Arguments

INTRODUCTION

I. The Emergence of the ‘Muslim Democracy’ Idea

The expression “return of religion” refers to the heightened rethinking of the role of religion in contemporary political theory since the early 2000s, which has spawned new theorisations on democratic thought (Lambert, 2016: 17). As a prominent example, Shmuel Noah Eisenstadt’s “multiple modernities” thesis has opened up significant theoretical space for thinking about non-Western political forms of “democracies” (Paley, 2002: 473).¹ On this matter, notable political philosophers like Alfred Stepan have envisaged that “Islam can emulate or recreate, using some of their distinctive cultural resources, a form of democracy that would meet the minimal institutional conditions for democracy” (2000: 44). Charles Taylor has also suggested that democracy in Muslim countries will occur “in a more inventive and imaginative way” than the Western mould (2008: xvii).

These theoretical postulations for Muslim democracy are empirically supported. A 2008 Gallup poll, which undertook “the first ever data-based analysis of the points of view of more than 90% of the global Muslim community, spanning more than 35 nations,” measured what Muslims want in a political system. As puzzling and paradoxical as it may sound to many, “democracy” and “*sharī‘a*” ranked highest on the list (Gallup, 2008). Three important observations can be deduced from the general findings of this global survey. First, Muslim communities consider democracy, not theocracy, as the most legitimate and accountable practice of governance worldwide. Second, although most people were not able to clarify what *sharī‘a* meant in practice, it is important to understand that they refer to a holistic account of *sharī‘a*.² Third, Muslim people see no inherent contradiction between democracy and their religion. Thus, although Muslims’ support for democracy can be argued to be more political than

¹ The “multiple modernities” thesis asserts that institutional patterns that emerged in Europe are not universal but may have different paths of developments within various cultural and religious traditions based on their indigenous values (Eisenstadt, 2000: 3).

² *Sharī‘a* denotes “the much wider domain of rules” including *mu‘amalat* (social and moral rules guiding all interactions and exchanges among people) and *‘ibadat* (ritual acts governing the relationship between a human being and God) (Berger, 2013: 8). Thus, *sharī‘a* in the broadest sense presents a normative basis for Islamic ways of life or Muslim expressions of Islam.

normative in nature, their support for the norms of pluralism and human rights is observed to be promising even though still unconsolidated (Gallup, 2008).

Above all, the concurrent demands for democratic governance and a *sharī'a*-observant life raise questions about their coexistence: (i) Can a model respond to pro-democracy demands of “political freedom, accountability, anti-corruption and economic justice” as swept across the region during the “Arab Spring” while incorporating the essential role of religion for society’s different communities (Bâli, 2011: 29)? (ii) Can a significant normative commitment to democratic principles and complete recognition of universal human rights coexist with public Islamic claims? (iii) Can democracy for Muslims, or a Muslim democracy, be theoretically possible?

Such discussions on democracy are not new. Within Islamic discourses, the earliest written record of Islamic democracy can be found in the works of Muhammad ‘Abduh (1849–1905), who is recognised as the first Muslim scholar connecting constitutional democracy and Islam (Esposito, 2016). Although the political and philosophical debates on Islam and democracy date back to the early 20th century, the idea of a “Muslim democracy” as a political model is a more recent phenomenon. The contemporary scholarship on “Muslim democracy” originated in 1994 with Bernard Lewis’ publication of “Why Turkey is the Only Muslim Democracy,” which reinforced the Western fixation with Turkey as a model for other Muslim majority countries, presumably due to its secular establishment, experience of modernisation, economic growth, and its proximity to Europe. It was Vali Nasr, however, who coined the term “Muslim democracy” in his article “The Rise of ‘Muslim Democracy’” in 2005. In his piece, Nasr examined “the emergence and unfolding of Muslim democracy as a ‘fact on the ground’ over the last fifteen years” with particular reference to the Turkish political experience under the Justice and Development Party (JPD) as an embodiment of this particular form of democracy (2005: 11). For Nasr, Muslim democracy that “rests on a practical synthesis...in response to the opportunities and demands created by the ballot box” has viewed “political life with a pragmatic eye” (2005: 15, 13). Discarding political theory, Nasr maintained that “the answers [for democratisation] will not come from the realm of theory but from that of pragmatism” (2005: 25). Similarly, Hakan Yavuz (2009), one of the influential contributors to the development of the term “Muslim democracy,” has also cited Turkey as a primary example, examining the term through a

procedural lens with little theoretical conceptualisation as well. Thus, the conventional Muslim democracy thesis assumed that policy change and administrative reforms would precede value change, democratic internalisation, and religious reformation in society.

However, Anwar Ibrahim (2005; 2006) acknowledged the importance of a conceptual and moral understanding of the term, insisting that the “core values of democracy—specifically, a free and independent media, an independent judiciary, free and fair elections, and a healthy civil society”—are to be conceptualised within Muslim democracy discourses. Yet this task was not taken to a satisfactory completion that produced a systematic political theory on Muslim democracy. Apart from a few notable examples that contributed to the construction of a comprehensive theory (Soroush, 2006; An-Na‘im, 2006; Hashemi, 2009; Ghobadzadeh, 2014), the works on Muslim democracy have often been less normatively rigorous and more ad hoc, hybrid, and situational. This is naturally a by-product of Muslim democracy’s conceptual vagueness as almost all scholars have looked to the Turkish case as the concrete exemplifier of this idea and theorised the Turkish experience rather than theorising the concept of Muslim democracy itself.

In fact, giving Turkey such a prominent position in the studies of Muslim democracy is not random but follows wider discourses and trends in international relations. When the Middle East and North Africa (MENA) region has been in political turmoil, the Turkish model has emerged as “a beacon of democracy in the region” with international hopes for it to offer a blueprint for the Muslim world’s democratic transition (Aydın-Düzgit, 2016). Especially between 2003 and 2013, news media and academic circles as well as regional and global actors (Atasoy, 2011: 86-100; *CNN* 2009; *CNSNews*, 2011; al-Ghannushi, 2011; Harvey et al., 2011; Kalyvas, 2012: 189-98; Martin, 2017; Ramadan, 2011) have marketed the “Turkish model” to the Muslim world “under the brand of ‘Muslim democracy’” as an example of an interface between the West and Islam (Gürsel, 2011: 94). Turkey “with its Muslim majority, a pluralist society and a vibrant multi-party democracy, with its legacy of state-authoritarianism” is considered manifesting “real examples” of predominantly Muslim societies in the MENA region (Benhabib, 2011). The Turkish model is credited with unusual abilities to blend Islamic tradition with Western modernity, secular governance with a vibrant Muslim culture, democratic reforms with social unity and prosperity, an independent

foreign policy with strong international relations, and capitalism with the expanding of social services and infrastructure. JDP's promoting of civil rule, greater ethnic and minority rights, expanding religious freedoms, outlawing the death penalty, resolving the headscarf ban, and abolishing the state security courts raised the expectations for the consolidation of a genuine Muslim democracy (Cesari, 2014: 183).

However, despite this interest in the political experience of Turkey, a principled and conceptual understanding of what a Muslim democracy is has not been undertaken. Although specific Turkish case is thought to offer a blueprint for democratisation in the MENA region, the Turkish experience did not provide principle solutions for issues such as state–religion relations, minority rights, individual freedoms, separation of powers, human rights, and unconditional justice. Even the most ardent international advocates of the Turkish model started to express doubts about Turkey's democratisation experience to be an exemplar “both domestically and internationally in 2013” (Cesari, 2014: 185). Once a regional success story, the Turkish model after this point is suggested to bring about only “a semi-democracy,” failing to inclusively institutionalise the earlier democratic social and political policy changes (Somer, 2014: 1). As more national and international observers recognise that Turkish democratisation has “regressed over time” (Müftüler-Baç and Keyman, 2015: 3) and has “a long way to go to be a full democracy” (Özbudun, 2016), not only the West but also the Arab Middle East lost substantial confidence in the Turkish model and its potential to respond to the quest for democratic reforms (Sezgin, 2014).

For these reasons, this project argues that “Muslim democracy” is essentially a theoretically contested and immature term that was born as an extrapolation from the Turkish example with an apparent lack of systematic critical scrutiny. Until now, the literature and the current political environment have perceived Muslim democracy in an instrumentalist manner, rendering it simply as a technique of governance. This thesis, however, considers democracy as a principle that has implications in institutional structures as well as political life. According to political theorists of democracy like Robert A. Dahl, for a political system to be qualified as a democracy, it has to have “free, fair and frequent elections,” “freedom of expression,” “alternative information (free media),” “associational autonomy,” “inclusive citizenship, rule of law, and good governance and accountability (Dahl, 1998: 85; 2005: 188–189). Yet in addition to these

institutional structures, Dahl has also emphasised that “democracy would require extensive social indoctrination and habituation” and the development of civic “virtue in citizenry,” or what we could call normative dimensions (1956: 18, 133). In light of this multifaceted definition of democracy—which could be encapsulated as the best practice of governance “both as a normative ideal and as a fact” (Boix and Stokes, 2011: 554)—this project will develop a comprehensive and alternative understanding of Muslim democracy. Unlike Nasr’s thesis that has propagated a pragmatist roadmap for the democratic consolidation in the Muslim world, this project maintains that without a principled approach, democracy will always be obscured by strategic and functionalist motives as the analysis of the Turkish case below shows. Indeed, the Turkish model provides the opportunity to flesh out the alternative principled meanings and definitions of democracy that this dissertation is calling for. Accordingly, the next section is essential to laying the ground for the rationale for engaging with comprehensive conceptual and thematic analyses to contribute to the development of a normative understanding of Muslim democracy.

II. Rethinking the Once-Acclaimed Turkish Model: A Theoretical Inquiry

The year 2013 is often considered as the “downturn” and “breaking point” of Turkish democratic transition, unravelling it as a regional model mainly on the grounds of shrinking space for personal rights and freedoms (Müftüler-Baç and Keyman, 2015: 2). However, this project argues that even at the height of democratic reforms, holding up Turkey “as a model of co-existence of Islam with democracy and pluralism” was not so accurate (Zubaida, 2011). In fact, from its earlier roots, the Turkish model has fallen short of conscious normative engagement with democracy, Islam, and pluralism. This was not only due to the non-pluralistic, structural–institutional limitations of the country but also to the non-pluralistic, ideological dispositions prevailing in the political environment, whether through Kemalism, Islamism, or nationalism. This predicament was once believed to be surpassed during the early 2000s in favour of creating an epitome of Muslim democracy; yet regrettably, this movement toward democratisation was hampered by a reductionist view of democracy that lacked effective principled reformation. Accordingly, the Turkish model, has “generated only a semi-democracy” because the policy-based changes “were not institutionalised through explicit and formal compromises to produce a fully democratic centre,” which in turn impeded the internalisation of democracy at the societal level (Sommer, 2014: 1). As such, the Turkish

democratic transition was restricted to a policy attempt rather than a normatively pluralistic democratic model.

Thus, a holistic approach to understanding the current “regression of Turkish democracy” (Müftüler-Baç and Keyman, 2015: 4) and from that a more robust and accurate theory of Muslim democracy in general is pressing both for a sound political, philosophical, economic, and societal theory on the topic but also for effective and practical change. Such an approach involves an ambitious task of incorporating normative and strategic contexts, domestic and external forces, and regional and international dimensions of democratisation concerning how structures and actors have impacted the outcomes in democratic transition.³ As cited throughout the introduction, works undertaken in the fields of political science and international relations have attempted to explain the nexus of these dimensions. However, the Turkish model and its offspring, the ‘Muslim democracy’ thesis, have not captured enough attention from the aspect of political theory. With this absence in political theory, the current scholarship on Muslim democracy could not produce a genuinely comprehensive framework that

³ What went wrong for the Turkish model after a major wave of democratisation cannot be thought outside the “global recession of democracy” (Diamond, 2015: 151) and global “democratic decline” (Plattner, 2015: 5). The rising dissatisfaction of ordinary masses worldwide with the liberal order is marked by the rise of populism, anti-intellectualism, nationalism, xenophobia, and conservatism and constantly fuelled by terrorist threats, economic crises, and political demagogues (Öniş, 2017: 16). In addition to this global trend, the role of the European Union (EU) can be seen as another external factor impacting democratisation processes in Turkey. The EU membership procedures, which “exerted pressures for legal and institutional liberalisation” (Zubaida, 2011) and were once an “anchor for reform” (Cook, 2007), now weakened its “transformative capacity” (Öniş and Kutlay, 2017: 22). Due to “Turkey’s swelling population, its Muslim identity, [and] its proximity to trouble spots” (Boyes, 2017), the Turkish public reached an understanding that the best agreement they could get, even if they satisfied all the requirements, would be a “special partnership” (Öniş, 2014: 12). Besides, Turkey’s sensitive geopolitical environment, regional security dynamics, and internal and external terror threats coming from terrorist organisations (such as FETO, ISIS, and PKK) constitute factors beyond the control of domestic actors. Yet how the political actors dealt with these security-related issues have distinctly impacted the route of democratisation. Overall, although external factors have been important to consider, this thesis believes that they are particularly important in explaining the speed and nature of the reversal of the democratisation processes. However, with the lack of normative commitments and theoretical resolutions, the Turkish model was destined to face this democratic recession, but these factors may have accelerated its pace and worsened its lapse.

brings together normative, institutional, and societal processes of democratic consolidation.

Within the scope of the space given in this introduction and related to the idea of Muslim democracy, this section will present a brief and thematic explanation of the structural dynamics of the Turkish political environment and of the underlying normative issues and the causes behind the failures of the Turkish model. The specific problems faced by Turkey are relevant in understanding Muslim democracy in general. In this manner, this project acknowledges that a multilevel approach is required with regards to Muslim democracy: internal systematic factors alone cannot demonstrate the decline of “the Turkish model,” as there may be specific events, drives, and social, cultural, and economic conditions and norms, as well as international and regional elements surrounding the trajectory of the regression of democratisation. In other words, as will become evident through this analysis of the Turkish case, the most important factors that were hindering democracy in Turkey were *structural–systematic* deficits that were not reformed through a *principled, normative* approach but that were addressed through a pragmatist approach instead.

The most important structural problem of the Turkish political system is identified as the traditional state framework: the strong, hegemonic, and ideological state, which is tied to weak institutions and an undeveloped democratic ethos with a homogenising national narrative. The strong Turkish state became the hurdle hindering democratisation due to its undemocratic underlying normative background. When it comes to the strong state enterprise, it is often said that the “statist and authoritarian features of the country’s political traditions” were the legacy of Kemalism (Bâli, 2006). However, it is essential to acknowledge that the state in Turkish political culture has historically been given a sacrosanct and absolute place; it was defined by Nizām al Mulk, the celebrated minister of the Seljuks as the “brother” of religion (Nizām al Mulk, 2002: 60). Under the Muslim sultanates, this imperviousness was fed by the principle of *ṭā‘at ulī al-amr* (obedience to executive leadership of a state) creating a *biat‘a* (*biat*-allegiance) culture. Traditionally, the *biat*-dominated political culture has often surpassed other Islamic ideals of *shura* (consultation), *‘adāla* (justice), *ijma‘* (consensus), and *amāna* (fidelity/trust), in favour of legitimising and even sanctifying executive power, even when arbitrary or unjust, from criticism and opposition both in monarchical and nation-

state periods. Therefore, except with interval periods of pluralistic opening, the sacrosanct, paternalistic, and “periodically violent” state has been repetitively prevalent and has been tied to a state-regulated religion for its legitimacy (Houston, 2013: 332).⁴ State and religion have been “brothers” of different kinds and had relations under different rules; yet they have never been genuinely separated in Turkish political culture. Thus, the problematic relationship between the state and religion as well as the state and political participation has been a crucial underlying factor ahead of democratisation in Turkey.

When it comes to the modern era, the systematic tendencies of a strong state control closing off the political space to different social and political groups to engage in equal political contests have been persistent from “Kemalist Turkey” to the “new Turkey.” In “Kemalist Turkey,” the monolithic state power was configured through the hegemony of the secular military and economic and political elites, and it was legitimised through nationalism and republicanism. Yet the swift democratisation of the 2000s did not cause a change in the charter of the state: In “new Turkey,” the state still maintains the same paternalistic and homogenising powers even though this has been reconfigured by the rule of a “civilian majority” and legitimised through elections and national will (Öniş, 2015: 5). Yet in both cases, “the persistence of patrimonial patterns,” “patronage relations,” and “dominant party” politics have impeded the development of autonomous, meritocratic, and neutral public institutions (Sozen, 2013: 238; Müftüler-Baç and Keyman, 2015: 4). Overall, an ineffective system of checks and balances and highly politicised bureaucracy, legislature, and judiciary are considered by-products of the all-pervasive state framework. However, critics assume that the way they crept up today is a result of the JDP’s choice of “accommodation with authoritarian aspects” of the statist establishment rather than maintaining the principled agenda of democratic institutionalisation, which they initially advocated (Tezcür, 2010: 84).

In addition, the modern state has also been positioned as an ideological one in Turkey: one that has the task of a moralising power to shape not only political institutions, but also cultural, normative, and social patterns. In fact, “an authoritarian

⁴ In parallel, the Turkish state has spawned a political landscape susceptible to the rise of a strong national leader as the protector and guide of the nation and its future, immune from criticism and reinforcing the sacrosanctity of the state enterprise.

state tradition that seeks to impose an artificial homogeneity, even uniformity, on the society” has been the major hurdle to the process of democratic consolidation in Turkey (Özbudun, 2012: 70). The nation-state has always resorted to labelling people of dissent and opposition with terms like reactionism (*irtica*) and treason (*ihanet*), with the supposed intention of politically and morally correcting society (Akyol, 2016). Critics of the statist paradigm suggest that when the democratisation of Turkey was thought to generate an exemplary model, theorists and scholars “grossly underestimated the astonishing capacity of the Turkish state to categorically annihilate dissent” and crack down on critics by trampling civil and political rights (Akkoyunlu, 2017). Essentially, liberalisation throughout the last decade in Turkey was hastily celebrated as a regional democratic model, in which the question of whether a real paradigm shift in the mentality of the state, its institutional design, and its rights discourse has truly occurred was overlooked or superficially skimmed through at best. Even during the late 2000s which were considered the height of the Turkish democratisation process, Turkey was rated “partly free” by Freedom House due to the limits to freedoms of expression, religion, media and press, association and assembly, cultural and minority rights, gender equality, and personal liberties, all of which are related to a statist and authoritarian political structure (Freedom House, 2007; 2008; 2009; 2010). Regardless of these indications, the optimism for Turkish democratisation was high both domestically and internationally en route to its providing of a regional model due to the successfully cosmetic policy and rhetorical changes.

As another deeply entrenched political condition, the strong and sacrosanct state tradition was not initiated with the “Kemalist model of statist control” (Zubaida, 2011), but “Turkey’s repressive definition of secularism” and homogenous national identity are inherited from “the founding republican ideology of Kemalism” (Bâli, 2016b: 801). Along with that came a modern secular constitutional system “as characterised by military tutelage, repressive secularism, limited individual rights, [and] discrimination against minorities” (Bâli, 2016a). In fact, the prominent Turkish scholar Ergun Özbudun has said that “although [the] Turkish society is reasonably pluralistic, this is not sufficiently recognised by or reflected in the political structure of the country” because some features of “the ‘founding philosophy’ of the Turkish Republic” are “incompatible with the development of a true plurality societal system” (Özbudun, 2012: 61). Although Kemalist strategy may be seen as a result of modernisation efforts that were of high

standards during its day, one has to acknowledge that the Kemalist version of secularism was not about the principle of neutrality or an institutional separation of religion and state, but rather the state's intrusion to institutionally regulate and control religion (Barkey, 2012: 28). In fact, within the national Kemalist project, religion was too valuable a tool to leave to civil society, and its nationalisation was necessary for the legitimisation of state power and the attainment of social consensus to be able to govern the people (Yavuz, 2003: 212). On that account, the statist model of secularism created a regime where "a religiously conservative Anatolian constituency," who have always considered the state, even a secular one, as a sacrosanct entity, "had been largely marginalized through much of the republic's history" (Bâli, 2016a). This population has become the main, and at times unconditional, support basis of the JDP, and the socio-political interaction between this segment and the Kemalist ones has become unfertile and polarising.

Resolving the tension created by the role of religion within the state has been a historical prerequisite for genuine democratisation. However, except during certain interval periods in Turkey, the state has often undercut "opportunities for a public debate on the ethical underpinnings of the normative relationship between religion and government" and remained the authority defining this relationship (Hashemi, 2012: 21). In its early periods, the JDP had a strong claim to redefining statist secularism in favour of limited and tolerant governance. Those claims "now appear to be instruments for an intolerant brand" that continues the upholding of the primacy of the state in defining the normative relationship between religion and the state (Bâli, 2016a). Critics warn of its potential to generate a political system of "moralistic conformity" or "authoritarian moralism" in which absolute state power is captured on behalf of religious claims (Zubaida, 2011).

The above analysis does not mean that the democratisation process in Turkey was futile because it was unprincipled. Less emphasis on fixed ideological positions on the part of Islamic political forces in Turkey led to moderation through renouncing previously held revolutionary claims for state enactment of *sharī'a*. As a result, the JDP has successfully moved and integrated into the political centre. The new Turkish model has been associated with anti-Kemalist, anti-military, anti-elitist, pro-Western, civilian, welfarist, and post-Islamist ideologies, all of which may carry the necessary positions for

moderation. However, the extent to which the substance of these qualities was aligned with democratic and pluralist ethos has shaped the current outcome of democratisation. On this matter, it has been suggested that Turkish Islamists have tactfully adopted strategies of “political learning” to express and pursue their demands within democratic rhetoric and institutions by selectively using democratic discourse. That is why critics have warned at times when the Turkish model was internationally praised that a “moderation that integrates Islamists is not necessarily conducive to democratization” as democracy could be used as political capital on the domestic and international stage (Tezcür, 2010: 84). In fact, denouncing the *sharī‘a* state has not led to a democratic political system with limited state power, separation of powers, equal citizenship, and an independent judiciary. Denouncing the state enactment of *sharī‘a* has not also guaranteed civilian-authored constitution-making that results in the recognition of “basic civil, political, social, economic, and cultural rights of individual citizens, while also granting [those] rights [to] its minorities” (Candaş Bilgen, 2008).

Here, it is important to theoretically differentiate moderation, which involves procedural and behavioural attitudes to change, from democratisation, which requires normative endorsement and social determination. Until and unless attitudes take root in norms and values, they are prone to flip-flop as interests and circumstances demand (Tezcür, 2010: xi). This theoretical clarification helps us understand why Muslim democracy, even in its “most developed instance” (Nasr, 2005: 26), has so far offered the Muslim world only the promise of effective moderation and the partial and destabilising processes of democratic transition. Practically, in the Turkish model, we have observed a lack of engagement with democratisation from a normative point of view and a lack of transformation within ideas and ideologies.

In addition to structural reforms, a free social environment that is maintained by legal safeguards is essential for citizens to engage in national dialogue and for democratisation to take place (Connolly, 2005: 43). However, the modern Turkish political environment, as dictated by the strong statist structure, mostly failed in providing a safe, open, and critical public sphere. Statist control “thwarted social agency,” hampering the development of the common good, the shared values of civic society, and a pluralistic ethos (Houston, 2013: 333). In a country with deeply divided identities, the public sphere has remained a field of messy rivalry for power between

groups with fundamentally different interests (Volpi, 2004: 1074), in which both secularists and Islamists wanted to subjugate state power and command the state apparatus (Maḥçupyan, 1998: 174). The state's hegemonic and universalist claim over the domination of the public sphere, its institutional regulation of the official religion, its capacity to socially engineer the national identity, and its economic power seem to have an alluring or even a haunting effect on political actors. Even the JDP, who once had "anti-statist" discourses in their search for democratic reforms, have failed to change the content of the state towards a power-sharing, inclusivist, and pluralistic system in line with democratic ideals when they acquired opportunities to rectify the strong state framework (Sözen, 2013: 238). A prominent example of this is that the decade-long democratic constitution-making efforts have not, as once promised, upheld or met the standards of pluralism, diversity, human rights, and individual liberties. Critics claim that the recent change in the constitution has rather "institutionalize[d] a populist, one-man system that jeopardizes legislative and judicial independence and consolidates them in the office of the president," reaffirming the continuation of the hegemonic state tradition but in a different form and tone (Ekim and Kirişci, 2017). Thus, without a principled approach, the zeal for democracy can be followed by its relapse into new forms of political intolerance and repression in a manner that is unprecedented.

However, it is crucial to note that "a lack of tolerance for diversity is not an ailment that characterises only the current government, but is a deeply rooted ailment in Turkish society" (Müftüler-Baç and Keyman, 2015: 5). As mentioned earlier, Dahl (1976) highlighted the importance of a normative formation of democratic consensus. As underscored by prominent political theorists, the commitment to democratic values at the phase of democratic consolidation, the development of social engagement, and the internalisation of these values within that process guide, consolidate, and then maintain democratisation (Linz and Stepan, 1996: 17). The entrenched difficulty is that democracy could not be consolidated without the emergence of a pluralistic and vibrant civil society, and this civil society could not emerge under the homogenising and moralising tendencies of statist control (Park, 2014). Therefore, in the Turkish model, democratic consolidation could not be attained within institutional and social structures, where one has continually reinforced the other in vicious cycles for decades. Today, this vicious cycle is articulated by a rhetoric of "self-victimization" that the JDP draws from the previous oppression under the Kemalist regime and uses "as an excuse not only for

its unwillingness to deepen the democratization process but also for its authoritarian measures,” which in turn creates new narratives of victimisation by the state’s new power holders (Taşkın, 2013: 299).

Some critics blame the lack of success of Turkish democracy on the failures of Turkish Islamism given that Islamist moderation was a constitutive pillar of the Turkish model (Çakır, 2017). There is both accuracy and inaccuracy in this observation. First of all, “[the] authoritarian developments are, in themselves, unrelated to the Islamic roots of the AKP [JDP]” as “electoral authoritarian regimes, using electoral popularity as a mandate for executive control,” is a global phenomenon happening outside Muslim societies as well (Zubaida, 2011). However, interests and ideologies are deeply entrenched in politics, and Islamism is important in understanding how interests and realpolitik are justified and legitimised and how they have gained widespread support in the Turkish experience. With regards to democracy, Islamism’s general feature of *idare-i maslaha* (political expediency) has also manifested itself in its attempts “to justify a democracy in Islam on the grounds of *maslaha* [public interest]” (al-Fadl, 2003: 13); in other words, democracy was not based on norms but was instead pursuant to the logic of necessity or instrumentality. Turkish Islamism and its brainchild, the JDP, which has been the most open and moderate party of political Islam, did have a rhetorical and operational break from mainstream Islamist parties. Yet it is essential to note that this break was not necessarily an ontological or moral one. Turkish Islamism, and its intellectual proponents and ideologues, have not produced theories of philosophical engagement with Islam and democracy addressing moral issues of governance. Instead, they have instrumentally viewed democracy as a “medium” to “potentially reach a better condition” (Guida, 2010: 364). Turkish Islamists have made use of democratic institutions and employed democratic rhetoric when beneficial to them, despite the presumed philosophical discord with their doctrinal beliefs, rather than pressing for a reconfiguration of the normative relationship between Islam and democracy.

Overall, Turkish Islamism’s support for democracy has been “fragmented, provisional and driven by pragmatism more than a principled commitment to democratic norms and values” (Gürses, 2014: 464). In this account of the Turkish model, the moves towards democracy were an example of institutional rather than normative transformations. The mainstream Turkish Islamic political thought has

refrained from an engagement with philosophical issues. For Gürses, his interpretation of the “pragmatic” turn is not indebted to the American pragmatist tradition of Dewey, Barber, and Rorty. One can argue that the seemingly ad-hoc nature of the Turkish model stems from what can be described as an inability, rather than conscious scepticism, to apply the norms and values of grand narratives to political practice. The Turkish model has been focused on producing a realist and strategic discourse in order to promulgate “significant domestic legitimacy for the AKP around a discourse emphasizing Turkey’s increasing regional power” as a leader of the Sunni world (Taşkın, 2013: 300). In fact, the democratic process under the JDP “has not produced serious philosophical and theoretical debates among Muslim intellectuals”; thus, “[i]t can be claimed that this is a transformation that has not produced local Abdolkarim Sorouhs [political philosophers], but Kissingers [political strategists and foreign policy experts] in Turkey” (Taşkın, 2013: 300). In essence, this pragmatic turn pioneered by the JDP has effectively led to a single and official approach to Islamic political thought often through “the bureaucratisation of the intelligentsia,” harming its creativeness and reformative potential for political development (Emre, 2012). Thus, we cannot talk about a theoretical guideline or a normative approach that the Turkish model has produced and which could offer a more nuanced understanding of Muslim democracy. In fact it should be spelt out more coherently that unlike the terminological confusion found in the Muslim democracy literature, the actual Turkish experience has provided an on-going example of democratisation, not of democracy.

Largely, the years between 2003 and 2011 witnessed a cluster of the most significant democratic reforms in modern Turkish history such as greater ethnic, minority, and linguistic rights, religious freedoms, and economic development. However, these changes were not conducive to a paradigmatic shift to pluralism and full democracy. The Turkish model did not produce a new democratic contract between politics, the constitution, and society. Democratic changes of “reluctant reformism based on realist—pragmatic calculations” did not go beyond policy improvements (Taşkın, 2013: 304). They were not institutionalised to modify the character of the state and the anti-pluralistic contentions of the political structure and its relation to religion, law, and civil society. In fact, the structural deficiencies and systematic predicaments along with political actors’ unprincipled approaches to instituting reforms have not let genuine democratisation take root. Instead, the persistence of “statist and authoritarian features”

of the establishment has been regenerated with a different narrative and has aborted the democratisation process (Bâli, 2016a).

By and large, if there is one important lesson that other Muslim-majority countries can take from the Turkish experience for their democratisation efforts, it is the importance of normative inquiry and philosophical engagement to understand the conceptual issues and mechanisms that allow democratisation to take root. With *maslaha*-based pragmatist and populist approaches, deprived of the internalisation of the constitutive values of democracy (such as pluralism, human rights, gender equality, individual freedoms, or progressive change), moderation, civilian rule, and “a seemingly robust electoral system” coexisting with “censorship and the stifling of political dissent” seem to be the destiny of Muslim democracy (Bâli, 2011: 32). Only if we construct new intellectual discourses and well-developed theorisations on the reconciliation of democracy, Islam, and pluralism, we can talk about a Muslim democracy in a more productive sense: a theoretical roadmap and outline to contribute to democratic consolidation on structural, institutional, and social levels in the Muslim world.

III. Approaches: A Comparative Turn

The short analysis above has attempted to demonstrate why the Turkish democratic transition could not give a satisfactory, operative, and thorough model of Muslim democracy as has been conventionally thought. The ad hoc approaches to reforms were ill-equipped for the task of addressing the issues surrounding deeply entrenched systematic–structural problems that were manifested in the political, social, and institutional democratic crisis that the Turkish model has faced. As the Turkish case demonstrated, Muslim democracy is unlikely to come from “political imperatives” in neglect of “theoretical suppositions” as was once widely propounded (Nasr, 2005: 15). The structuralist/functionalist perspective that has presented a ‘democracy without democrats’ line of analysis and which received substantial academic appeal now in fact proved that normative commitments (and the creation of democratic citizens and entrenched democratic norms and habits) are as indispensable for democratic consolidation as structural adjustments. Thus, possible resolutions to this disappointing and unstimulating Muslim democracy are to come from studies that adopt a theoretical lens and a principled understanding in conceptualising issues surrounding a political theory on Muslim democracy.

This project argues that “Muslim democracy,” a hitherto underdeveloped term that has been so far an extrapolation from the Turkish case, requires better foundation and explanation. Therefore, in its attempt to contribute to the development of a political theory on Muslim democracy, this research has identified the need for a new terminology to provide analytical tools to study Muslim democracy, which a cross-cultural, philosophical study of Muslim and multiculturalist political thought is believed to provide. This research designates Muslim and multiculturalist discourses to be the most effective theoretical sources for this task. As such, it utilises the following themes from these two ways of studying Muslim democracy: governance and pluralism from Muslim perspectives, and pluralistic and inclusive democratic institutions from multiculturalist points of view.

Accordingly, this project believes in the importance of engaging in the domain of comparative political theory, or what is at times referred to as “cross-cultural” political philosophy, “as a subfield of political theory” (Dallmayr, 2004: 249). Unlike comparative politics that concentrates “on governmental structures and empirical political processes,” comparative political theory focuses “on ideas, perspectives, and theoretical frameworks as they have been formulated in the past, and continue to be articulated today” (Dallmayr, 2010: x). Comparative political theory has gained growing acceptance to embrace non-Western viewpoints, especially “religious doctrine and political thought,” in political theory (March, 2009: 552). The importance of including non-Western and religious thoughts to expand the normative enterprise within comparative theory is explained by Sudipta Kaviraj. Kaviraj has underlined that it is “impossible” to understand the modern political developments in the non-Western world without Western political theory, and yet it “is impossible entirely within the terms of that [Western] tradition” as well (Kaviraj, 2001: 287). In its engagement with comparative political theory, this research believes that producing a typology provides an effective strategy for qualitative analysis to develop a set of essential variables and unseen commonalities conducive to the systematic conceptualisation of a Muslim democracy framework.

This project seeks to expand comparative political theory to include Muslim political thought. The inclusion of Muslim political thought makes two contributions to the theorisation of Muslim democracy. First, it acknowledges that “the process of

democratization cannot be purposefully detached from...debates about the normative role of religion in government” (Hashemi, 2009: 12). Second, it recognises the importance of developing concepts and categories that are intelligible to Muslim people for normative democratisation to socially take root. For democratic consolidation to be successful, democratisation needs a moral commitment, and this commitment should come out of a moral convergence of liberal democracy and Muslim political conviction. As the Turkish case has demonstrated, the interest and functionalist convergence between democracy and Islam can only produce a semi-democracy. Thus, for Muslim democracy to be potentially more conducive towards democratic institutional and social transition in Muslim-majority societies, the inclusion of Muslim political thought is *sine qua non*.

It should be noted that in examining Muslim political thought, this work does not discuss Islam theologically, but turns Islamic resources into analytical tools of political theory by engaging with the political and legal arguments raised by prominent modern Muslim scholars. Therefore, this project investigates how contemporary Muslim scholarship has paralleled and differed in its approaches towards democracy by studying a trajectory of intellectual responses to governance and pluralism, which are presented by intellectuals’ conceptions of meta-ethics and/or political philosophy. One must note that while none of these schools of Muslim political thought are monolithic, some generalisations can be deduced in order to formulate a typology. It is also important to note that the nature of the texts examined for this typology (especially *hadīth* literature) and the classical scholarship are categorically different between Sunni and Shi’a branches of Islam, which resulted in a methodological choice to limit the scope of the typology of Muslim political thought to Sunni scholars to maintain a systematic and focused research analysis. However, when it came to conceptualise an original framework of Muslim democracy, I included Shi’a scholars as I came to an appreciation that some of the most philosophically developed works on Muslim democracy comes from scholars like Abdulkarim Soroush and Nader Hashemi, both of whom come from Shiite backgrounds. Although their works could not appear in the typologies of Muslim political thought in the first chapter, they nevertheless have made a great contribution in addressing the weaknesses of the pro-democracy camp in Muslim political thought as well as constructing a Muslim democracy framework. Finally, the selection and categorisation of thinkers examined in this thesis is based on the type of discourses on

which they base their arguments. For instance, the Muslim thinkers chosen for examination in the first chapter have undertaken a direct engagement with Islamic texts, sources, terminologies, and methodologies in their articulation and justification of politics. These references, however substantially modified with modern elements, are the explicit sources of authority for these Muslim thinkers. In this way, they differ from other Muslim thinkers cited elsewhere in the thesis, as the latter group are mostly political scientists or international relations scholars who do not make epistemologically distinct Islamic arguments. Thus, in this thesis I make a distinction between scholars whose background identifier may be 'Muslim' but are not directly engaging with 'Islamic' traditions and scholarship, and those Muslims who are – that is, those whose work explicitly draws on and self-consciously appeals to presumed markers of Islamic authority.

In addition, I tried to utilise my positionality as a Turkish, Muslim woman while simultaneously toiling to avoid the biases that might have arisen from that very same positionality through the conscious and sometimes practical choices in engaging with certain authors and discourses. Yet many difficulties still remain in this intellectual terrain. For instance, Muslim political thought is male dominated, and so I was not able to engage female scholars despite my attempts to do so. In addition, my efforts at including Turkish scholars, given that the Turkish case has been taken as the epitome of Muslim democracy, were not completely successful as the intellectual realm in Turkey that produces thinking on Muslim democracy in particular was unexpectedly unsystematic. While there is an abundance of Turkish scholarship on international relations, political economy, and strategist studies, there is an apparent lack of prominent normative enquiries on Muslim democracy per se as part of political theory. Partially because of this dearth of philosophical engagement with Islam and democracy and partially due to the lack of translation, the Turkish scholarship that I engaged with is not as internationally recognised as its counterparts. In contrast, when it comes to non-Turkish Muslim discourses, I was able to choose globally recognised Muslim scholars who study Islam and democracy such as Rashid al-Ghannushi, Khaled Abou el-Fadl, and Abdullahi Ahmad An-Na'im. When I was looking for scholars who delve into deeper terrains of diversity, I came across Mohammad Talbi who shares lesser global reputation than many of his peers; however, I assume his popularity will rise with the increased interest in Islamic pluralism.

In fact, there are different potential typologies when evaluating Islamic thought in relation to pluralism, and such typologies would possibly include feminist and Sufi trends, and these could, in turn, provide more sophisticated, richer accounts with regards to the issue. Yet in order to adhere to the original typology of Islamic political thought created in this work with regards to governance, the same schools of thought have been investigated throughout the discussions of the remaining chapters. In other words, feminist and Sufi perspectives on pluralism are not included because they do not present a coherent, full analysis of Islamic political thought on all the issues addressed in chapter one. Therefore, it has been decided that including their perspectives on the various aspects of pluralism only would not be conceptually necessary or relevant to the overall typology created in this work.

Another way through which my research seeks to expand comparative political theory on the subject of Muslim democracy is by engaging with multicultural political theory. This study is essential in showing the problems of and suggesting solutions to the political protection of moral diversity and freedoms. Multiculturalists have shown that (even) liberalism, despite its proclaimed commitment to the protection of diversity, has somehow inadequately done so. A study aiming to analyse the weaknesses of liberal democracy in principle stands to benefit by investigating the ways in which multiculturalism advances diversity. Among other strands of Western political thought, multiculturalism represents an enhancement and development of liberal democracy with more effective tools for accommodating pluralism, which makes it the “most plausible response to the fact of moral, religious, and cultural diversity” today (Kukathas, 1998: 690). In recent decades, multiculturalism has presented challenges to and led to revisions of democratic theory as it has offered new understandings of the relationship between religion and politics as well as pluralism and public structure. It was born as a constructive critique of Rawlsian liberalism’s limitations in recognising the political significance of culture and religion, and has probed the strength of standard liberal principles in modern pluralistic societies. Muslim thinkers like Saba Mahmood have asserted that when we talk about Islam and democracy, there is always “the hegemony of liberalism” (Mahmood, 2004: 76). It means that “Islam bears the burden of proving its compatibility with liberal ideas, and the line of question is almost never reversed” in looking at “the contradictions and problems” certain liberal political principles embody

(Mahmood, 2004: 74-75). This epistemological hierarchy implied in the binary relationship between Islam and liberalism is recognised and addressed in this project.

When it comes to the discussions of Muslim democracy, multiculturalism has challenged this hegemony and considered the flip side of the argument in asking how liberal democracy accommodates culture and religion, and particularly how it accommodates Muslims' private and public goods, rights, needs, and demands. By doing so, multiculturalists acknowledge that certain conceptual resources and normative paradigms available in liberal political theory are not nuanced enough to welcome a comprehensive religion such as Islam (Taylor, 1994: 62). To some extent, multiculturalism represents the most pluralist form of democratic governance and as such offers more useful tools to deal with religion than orthodox liberal theory. Multiculturalist thinkers have viewed religion as part of the solution in advocating for the inclusion of religion in political theory: a study of religion in political theory has shifted away from religion being a private matter to it being immensely central to understanding public demands, institutional design, and democratic consolidation, providing an insightful theoretical gateway to understanding how democracy can be rethought to better function in Muslim societies. Accordingly, multiculturalism that engages with more pluralistic and inclusive conceptualisations of democratic institutions is endorsed for its capacities to address issues that liberalism falls behind in resolving.

By articulating the key arguments of the prominent scholars in the field, certain themes have emerged to make the categorisation possible. When necessary, some generalisations were also made in order to formulate a typology. The thinkers were typified based on their responses to three main issues of multicultural accommodation: (i) the kind of legal-institutional mechanisms, (ii) the nature of institutional and normative change, and (iii) the role of religion in the public sphere. When it comes to multiculturalism, I have first examined leading philosophers such as Will Kymlicka, Charles Taylor, and James Tully. I have also examined scholars such as Ayelet Shachar, Veit Bader, and Gad Barzilai who are particularly valuable to this project as they have provided extremely relevant and elaborate tools in studying religion and democracy. With the original categorisations produced in this work, the multiculturalist literature has been helpful to understand and frame religion within political theory, allowing me to expand the normative enterprise of the study of religion in political theory.

After a detailed analysis on multiculturalism, it has been clear that democracy in the multiculturalist literature is taken for granted and did not go under a normative investigation or real structured analysis. In the face of an ever-increasing multicultural world, the question how to maintain a stable democracy is addressed within the context of established liberal democracies of the West. The processes and challenges that the developing democracies of the Muslim world are likely to face are not conceptualised by multiculturalists. Here, liberalism fills the gap by offering the necessary analytical tools for an underlying background for democratic governance. Correspondingly, the final chapter on the framework of Muslim democracy turns again to Western political theories of liberalism, republicanism and constitutionalism.

It has to be explained that although this work has provided a critique of liberalism and republicanism, it has been keen on utilising the theoretical depth and systematic maturity of Western political thought. Liberal democracy is not taken as an ultimate ethical good in the study of Muslim democracy; yet any student of democracy has to also understand the problems related to those alternatives to liberalism. Thus, even in its engagement with an effort to consider an alternative to liberal democracy, this project still recognises liberalism as an advanced source of political wisdom and institutions, which has been “more effective than other political systems in restraining political power, preventing blatant corruption, and compelling elected officials to work for the well-being of the people and heed their opinions” (Chan, 2014: 192). The third chapter on the ‘compatibility-based arguments’ have affirmed the necessity to include liberalism in order to address the limitations that current Muslim democracy articulations present. Accordingly, the fourth chapter has also synthesised philosophies of liberalism, republicanism, and constitutionalism in order to develop the shared notions and categories coming from the typologies developed in the earlier chapters. That is why I have employed two main methodological fields (multiculturalism and Muslim political thought) along with these subsidiary fields that are nevertheless still important to my project.

By and large, my dissertation develops an idea of Muslim democracy by engaging with the constellation of philosophical traditions of Islamic and Western origins and theoretical fields such as multiculturalism, liberalism, comparative political theory, and political philosophy. I have converted different theoretical genres into analytical tools

through a critical typology assessing the plurality of intellectual approaches to democracy. That has helped me to systematically derive the most essential variables to develop an understanding of Muslim democracy within the context of Muslim political thought and multiculturalism.

IV. Muslim Democracy versus Islamic Democracy: A Conceptual Clarification

This project broadly defines Muslim democracy as a constitutional democratic political regime that functions in predominantly Muslim societies, where religion is a significant marker of social, cultural, and political identity for large sections of the society. Religion is among the sources informing and providing justification for the social and political action of citizens, but it is surely more socially significant in the contemporary affairs of Muslim countries than in most other places in the world. However, similar to Turkey, in many of the Muslim countries, this distinct relationship between Islam and politics is not settled in a democratic fashion in which the accommodation of Muslims' faith-based ways of life goes hand in hand with the recognition of other religiously, culturally, or secularly motivated ways of life.

While taking religion very seriously, the theory of Muslim democracy as articulated in this work does not have an ontologically or epistemologically religious foundation: Muslim democracy does not depend on a foundationalist moral theory and accordingly it restrains from proposing the applicability of a religiously defined grand theory. It rather proposes theoretical tools to understand how democracy can function in Muslim majority contexts. Therefore, the idea of Muslim democracy envisages an alternative democratic model that seeks to reconcile substantive Muslim worldviews with a constitutional democratic system in a way that is more nuanced than liberal democratic models. Indeed, the concept of Muslim democracy is a normative quest for a democratic political system where religion can be voluntarily followed by Muslims, who are equally committed to religion and fundamental human rights and democratic norms for all sections of the society. Thus, a Muslim democracy framework seeks new forms of democracy and religiosity under the modern state by refashioning and reorienting the political organisation to adapt democratic ideals while affirming the importance of religion to the societal lives of Muslims.

In this way and largely in response to the anticipated conceptual perplexity and criticisms it generates, it should be clearly underscored that Muslim democracy is neither

“a religious, political system” nor is it “streaked by the culture and the vision of Islam and its worldview” (Candaş Bilgen, 2008). Muslim democracy as a term is consciously chosen to shy away from theologically or scripturally prescribed associations that *Islamic democracy* might suggest. This project believes that Islamic democracy is a mischaracterisation and a conceptually problematic concept, which carries perceptions such as the equating of Islam and democracy or the conflation of a theocratic democracy. Muslim democracy as articulated in this project is conscious that democracy by definition is “a condition of freedom from ideology” (Keane, 1993: 28). Democracy as an idea cherishes hybridity, transformation, controversy, and compromise and thus is not to be tainted by any absolutist or moralising comprehensive view. Henceforth, democracy is “freedom of religion as much as freedom from religion,” a political project that is pluralistic and inclusive enough to accommodate the different comprehensive views of citizens (Keane, 1993: 28).

Thus, Muslim democracy as conceptualised in this project is a non-theocratic political theory that represents a coexistence of democracy, Islam, and pluralism in a non-majoritarian manner. It takes the study of Muslim democracy from a theological level to a moral–political one. It offers a democratic alternative perspective to address the relationship between Islam and politics in predominantly Muslim contexts, different from totalitarian religious and authoritarian secularist ones. Muslim democracy recognises that modern Muslim societies are in fact “highly diverse” where “practising” Muslims live alongside non-Muslims, the non-practising or the non-religious (Eickelman and Salvatore, 2003: 107). Citizens with diverse affiliations and various models of belonging, whether majority or minority, and whether political, religious, cultural, or ideological, should enjoy equal citizenship under constitutional guarantees. Muslim democracy, while reorienting the understanding of some democratic institutions to adopt them in a Muslim-majority context, strictly safeguards the critical attributes of democracy.

It is important to note that there will be variations of democratic models. Yet, democracy is not a form of governance that can carry limitless differences: There are certain normative benchmarks of democracy (such as political secularism, universal human rights, separation of powers, the rule of law, judicial independence, established opposition) that any democratic governance has to carry and these principles cannot be

variant according to culture or religion (Dallmayr, 2011: 445). Muslim democracy is no exception.

Obviously, the internal and external dynamics, contexts, and histories of Muslim societies are different from one another and different from Western societies. Therefore, this project recognises that “there is no single mode for combining religion and democracy, nor is there a single model for defining the role of faith in the public sphere” (Benhabib, 2011). Therefore, this framework does not fashion a particular legal, institutional, and political system. Distinctive democratic pluralist models should emerge by each society’s self-conscious, dynamic, and active engagement with ethical, normative, societal, contextual, and practical aspects of political governance. However, a normative approach to a theory of Muslim democracy is essential to any meaningful discussion about practical application.

V. Prolegomenon to the Organisation of the Thesis

This project is divided into four main chapters.

The first two chapters have presented a critical assessment and systematic typologies on Muslim and multiculturalist political thoughts in order to form substantiated arguments for developing an idea of Muslim democracy in the final chapter. As mentioned earlier, this project views typologies as a research paradigm to discover similar themes, unseen conceptual connections, and normative conjunctions within the two doctrines, making it possible to develop the key aspects of a political theory on Muslim democracy.

The **first chapter** examines Muslim political thought concerning governance and pluralism to discern the relationship between Islam and democracy within modern debates. Muslim political thought is important to address issues and concepts that are vital to study Muslim democracy in terms of both potentialities and limitations. Based on their understandings of *sharī‘a*, law, citizenship, and statehood, contemporary Muslim intellectuals reviewed in this work are placed into four categories: (i) statist, (ii) revivalists, (iii) modernists, and (iv) progressives. Within the categorisation identified, statist refer to the doctrinaire Islamists who advocate for an ideological Islamic state. The statist thought is significant to understand the deeply entrenched Islamic ontological themes and concepts that block the development of democratic thinking. Revivalists in

this typology refer to moderate Islamist intellectuals who, in most cases, are actively involved in political activism and enjoy vast public support. In their effort to renovate the legal and political system in Muslim societies to address the realities of today's world, revivalists emphasise the need for exercising *idjtihād* (independent reasoning) yet in pursuant to the logic of necessity and pragmatism (Moussalli, 2001: 15). This methodology is also evident in their approach to democracy in which they employ democracy as a politically affirmed vehicle but not philosophically or morally internalised one (al-Fadl, 2003: 12). Modernists are the intellectual pioneers of Islamic democratic thinking who advocate for a critical, historical, and contextual exegesis and re-reading of Islamic moral precepts in an attempt to give birth to a “new Islam” in modern times (Nettler, 2000: 50). They perceive Islam and liberal democracy as complementary sources in forming a just and moral political order (Fadel, 2009a: 108). Finally, progressives refer to intellectuals who support secular liberal democracies in which the normative and practical separation of religion and state is carried out. For them, Islam does not provide a theory for the establishment of a political community or a state; it is rather focused on individual morality and societal interactions. Progressives provide the most theoretically developed and coherent response to the idea of Muslim democracy.

Based on a detailed typology in the first chapter, I have discerned that Muslim political thought has brought certain reconciliation between Islamic moral precepts and democratic institutions. For instance, the typology on Muslim political thought has shown certain intellectual engagements with the issues of political secularism, tolerance, equal citizenship, and human rights. However, these efforts were not sufficient enough to engender a well-developed political theory on Muslim democracy. In fact, through these categorisations, I have identified normative issues that hinder the democratisation processes in Muslim societies, such as divine sovereignty and divine morality. These arenas are de-constructed in the third chapter, which has paved the way to the construction of a democratic theory of Muslim democracy in a more systematic and elaborate manner.

The **second chapter** investigates multiculturalist political thought to explore more religiously inclusive and normatively accommodating notions of democracy. A similar method to that of the first chapter's in terms of forming typologies is also employed in this chapter in order to derive necessary tools and concepts to develop a Muslim

democracy framework. Based on their perspectives on secularism, the public sphere, and institutional designs, multiculturalists are placed into four categories: (i) liberal pluralists, (ii) moral pluralists, (iii) legal pluralists, and (iv) institutional pluralists. Liberal pluralists (LPs) bring out the dynamic and accommodative nature of liberal theory in view of Enlightenment ideals such as individual autonomy and liberty and offer a significant revision of contemporary liberalism as exemplified by Rawls and Dworkin. Within the context of cultural diversity, liberal pluralists have re-appropriated liberal values for enriching legal and political rights for cultural minorities. Moral pluralists (MPs) believe that mainstream liberalism is too abstracted from the realities of people with substantive normative views. Normative recognition is believed to be the prerequisite to incorporate people's diverse substantial needs, choices, and demands for them to fully actualise individual agency and self-respect. Therefore, MPs place a great deal of emphasis on the expansion of liberal political culture towards cultural and religious recognition. Legal pluralist multiculturalists (LPMs) forcefully bring religion into political theory in showing how religion manifests its moral importance in the jurisdictional realm of the citizens (Barzilai, 2004: 6). LPMs argue that people with distinct normative systems pertaining to their culture and religion should have the right to jurisdictional autonomy (Boyd, 2004: 56). Finally, institutional pluralists (IPs) hope for a strong transformation in political establishment that would serve as the catalyst for an institutional turn to address the collective demands of religious minorities. This entails going beyond the unitary nature of the state that strictly controls public life to a legal and administrative interconnectivity between the state and the groups. Unlike the LPMs, IPs also offer a tangible framework within which the recognition of collective jurisdictional identity and the nature of constitutional scrutiny on the protection of individual citizenship rights are democratically integrated.

Overall, multiculturalism has effectively helped to understand the strengths and limitations of liberal democracy in relation to religious and cultural claims and needs. It has provided more advanced and pluralistic conceptualisations of the link between religion and liberal democracy through the more informed and pluralistic reconfiguring of the state, secularism, law, and public sphere. Multiculturalist scholars have advocated for the inclusion of religion in political theory, moving away from religion being a private matter to it being immensely central to understanding public demands, institutional design, and democratic consolidation.

As the research evolves, I come to an understanding that in general Muslim political thought has agreed to certain institutional aspects of democracy, but it has left the idea of a Muslim democracy inadequate with serious theoretical weaknesses and generic flaws. To address this, the **third chapter** deconstructs the mainstream pro-democratic Muslim stances, which this work calls “the compatibility-based arguments” (the CA), in order to reveal and diagnose the intellectual and normative issues and barriers that hinder the development of Muslim democracy. The compatibility-based arguments have successfully refuted the claims of Islam being a mysterious “essence” that impedes democratisation, demonstrating instead how Islamic moral principles and democracy can be reconciled. However, showing that there is no structural incompatibility between Islam and democracy and that democracy can be instrumentally justified in Islamic terms is not enough to develop theoretical clarity and methodological coherence on Muslim democracy. In a piecemeal fashion, uncritical advocates of Muslim democracy have shied away from openly acknowledging and investigating the real tensions ahead of genuine democratic transitions, such as the separation of religion and state, pluralism, human rights, and individual freedoms, as part of a well-developed systematic political theory. In this chapter, by analysing the stalemate over the divine versus popular sovereignty, *shari‘a* versus social legislation, and *shura* versus public deliberation, I have revealed the CA’s logical inaccuracy, conceptual vagueness, instrumentalisation of values, and lack of systematic analysis. Essentially, this chapter addresses the issues within the eclectic compatibility-based theories in its attempt to confront the democratic deficit in the Muslim world as a priority.

To address this gap, the **fourth chapter** engages with a structured analysis of Muslim democratic theory to go beyond the compatibility-based hybrids and the ad-hoc theories examined thus far. This chapter investigates what makes democracy possible and explores these possibilities as inspired by a cross-fertilisation of Muslim and Western multiculturalist political thoughts. Reconstructing and demystifying some of the normative principles explicit in liberal democratic institutions while simultaneously blending them with qualifications coming from Muslim political and multiculturalist typologies leads to formulating new roles and functions for these institutions. In turn, morally converging Islamic and liberal democratic institutions in a way that strengthens both is an attractive philosophical alternative to orthodox liberal theory. In particular, the interaction of these discourses has enabled a rethinking of the theoretical relationship

between secularism, the public sphere, and the constitution. Thus, reinterpreting and re-appropriating elements from the typologies of these discourses have provided a path to reconfigure democracy in Muslim-majority societies by building, connecting, and further developing normatively appropriate and intelligible concepts and theoretical guidelines for envisaging democratic consolidation in Muslim-majority states.

Accordingly, in this chapter, I utilise shared, embedded, and consistent observations between Muslim and multiculturalist thoughts to think about the preconditions required to establish a fully-fledged democracy in Muslim-majority contexts. I have offered my own normative suggestions on developing a non-theological, political theory on Muslim democracy as part of my original contribution to the literature, through which I work towards the conceptual resolutions of the tensions and disagreements revolving around issues such as the state–religion relations, minority rights, personal freedoms, human rights, religious jurisdiction, and public morality.

In this sense, this project affirms that democracy can only function when it is allied with the institutionalisation of political and constitutional reforms on the level of governance, and democracy can only survive when it is supported by value change, normative transformation, and religious reforms in a direction that establishes the social internalisation of democratic ideals at the mass level. Accordingly, Muslim democracy is a discourse focused on the interlinked processes of institutions (pluralistic secularism), interactions (pluralistic public sphere), and rights (constitutional provisions). As part of the Muslim democracy framework, I have theoretically developed nuanced narratives of (i) pluralist secularism (a form of political secularism that denounces a moralising state and constrains the powers of the state for greater associational freedoms, recognising different accounts of public goods and needs and of ontologically driven duties and obligations); (ii) social public sphere (a sphere of civil society politics that facilitates the development of civic virtues, democratic toleration, and the mediation of conflicting interests in the creation of shared goods); and (iii) pluralising constitution (legally imposed minimal standards that both guarantee individual autonomy and citizenship rights as well as provide the scope for democratic processes for collective and organisational aspects of religious/cultural life).

Therefore, the last product of my reconstruction is an outline of a nuanced, comprehensive, and comprehensible new Muslim political philosophy on the institutional, societal, and legal underpinnings of democratic consolidation. This

framework does not engage in fashioning a particular political, institutional, or legal system under the idea of Muslim democracy. It rather maps out a set of political values and institutions within a theoretical framework that would permit a principled reconciliation and coexistence between democratic governance and publicness of Islamic comprehensive views. The Turkish model has demonstrated that democratisation cannot happen without having developed a principled approach to democracy that is drawn up in social processes, institutionalised at the state level, and protected by a constitution. Ultimately, the Muslim democracy framework articulated in this research offers a theoretical roadmap that can render democratic consolidation a genuine possibility in the Muslim world, providing an alternative to existing ineffective pragmatist, utilitarian, and unsystematic theories and models on Muslim democracy.

CHAPTER 1: ISLAMIC DISCOURSES ON GOVERNANCE AND PLURALISM: A TYPOLOGY OF MUSLIM POLITICAL THOUGHT

I. Introduction

The ideas and practices over the relationship between governance and religion constitute a deep political and legal crisis in the Muslim world. Governance in Islamic thought is approached by different and often contradictory ways. For some, governance is a matter of theology and the legal codification of *sharī'a* is a matter of faith. Others have interpreted the issue of governance through non-divine associations, relegating political authority to the realm of the humane. As such, deep ontological questions persist concerning whether a political system depends on the sovereignty of the people as a natural consequence of human vicegerency or depends on divine sovereignty as the manifestation of the *tawhīd* (oneness of God), of God; whether democracy is the best possible existing political system or is it a system of *shirk* (idolatry); whether *sharī'a* provides moral guidance or offers a legal code. The answers to these questions range across a wide spectrum of opinions. This chapter attempts to demonstrate the ideas regarding the relationship between Islam and political systems, as discussed by eminent Muslim thinkers of our time, in order to help theorise Muslim democracy.

In this chapter, based on their understandings of the Qur'an, *sharī'a*, and the classical scholarship in addressing modern statehood, Sunni Muslim scholars in contemporary times are placed in four categories or schools of thought, namely statist, revivalist, modernist, and progressive. But in order to do so, an introductory discussion of these four schools of thought will be given before an examination of individual scholars and their works, as this will help the reader to understand the ensuing arguments and their attitudes towards democratic governance.

Within the categorisations identified, statist refer to scholars who have an absolutist, literalist, and scripturalist position in understating the Qur'an and *hadith* and hold a single, monolithic, and uniform meaning of *sharī'a*. Due to their absolutist understanding of the necessity of a distinct form of an Islamic state reflecting divine sovereignty, they are labelled statist. Any other form of statehood or government that is not in accordance with their account of 'the Islamic state' is considered as *djāhili* (ignorant of divine guidance). For statist, *sharī'a* is an all-pervasive, fixed, legal code that provides almost no room for authenticity and legitimacy for multiple readings in culturally, historically, or contextually particular ways. *Sharī'a* is especially immutable for statist with regards to political theory and its realms of state and authority (Afsaruddin, 2008: 24-25). They conceptualise an Islamic state as archetypal of God's

sovereignty (*hakimiyyat Allah*) in the political and legislative sphere and perceive the Qur'an as "the functional equivalent of a Constitution" (al-Fadl, 2003: 11). Thus, they advocate for an Islamic state that systematically implements *sharī'a* and they view democracy, which reflects human sovereignty, as *shirk*. Progressives and modernists accuse them of interpreting the texts with regards to the concept of governance as being based on a selective use of the texts to fit their own political agendas.

Revivalists direct a challenge to the statist understanding of *sharī'a* as a single, unchanging, absolute law with detailed precepts and ready-made, divinely-inspired solutions to all circumstances. Although they are against the narrow, reductionist, and static interpretations and promote a flexible and continuous re-interpretation of *sharī'a*, they are still scripturalist in their approach to the texts. For them, the Qur'an, unlike statist, is not a book of the law, but a book of moral and legal principles that provides institutional structure to be derived and built upon. Nonetheless, they do accept the Qur'an and the *sunna* as the foundational basis of a legal and political institution. Their major difference with statist in this regard is that revivalists focus on establishing these institutions on the basis of more contemporary and contextualised interpretations of the texts. That re-approaching to the texts enables them to discover the modern premises of democracy in Islamic texts and justify democratic institutions "in Islam solely on the grounds of *maslaha* [public interest]" (al-Fadl, 2003: 13).

There are various similarities between revivalists and modernists. For instance, they both share the conviction that Islamic scripture and the exigencies of modern life are compatible sources. Overall, their accounts of *sharī'a* refer to a collection of guidelines that have contextually and historically different implementations. And they both aim to develop legal and political institutions of statehood that are compatible with both dynamic and tolerant Islamic law and democratic political institutions. Yet the extent of reform and the place of *idjtihād* in their views show significant variation in their commitments to democracy.

Although modernists, like the other schools of thought included in my typology, concede that the Qur'an is the direct and unchanged word of God and that *sharī'a* has a vital place in all spheres of life, they do not take the literal Qur'anic words as the divine truth, but rather focus on the ethical values behind these verses. To do this, they attempt to differentiate between the *maqāsid/ratio legis* (underlying rationale) and particular circumstances surrounding the revelation (Afsaruddin, 2008: 25). For modernists, *sharī'a*

is often not unambiguously dictated by God, but rather founded on “the interpretive act of the human agent for its production and execution” (el-Fadl, 2004: 30). As such, *sharī‘a*, for the modernists, “is a work in progress,” searching the divine ideals through methodical efforts that are never finalised or completed by human agents in their efforts to comprehend the divine system (el-Fadl, 2004: 34). In order to adopt and accommodate to modern life, modernists advocate for prioritising *maqāṣid* over the *nass* (the text itself). Practical implications of these ideas show themselves in the modernists’ attitude towards democracy. Modernists, unlike revivalists who see democracy as a means, endorse democracy “as an essential process to be established and applied” and to be philosophically upheld (al-Jabri, 2009: 169). Modernists neither have a reactive and rejectionist attitude towards Western political concepts nor do they offer an Islamic equivalent of Western ideas like revivalists. Rather, modernists present a moral viewpoint that strongly supports human rights, democracy, and pluralism in the Western sense of these terms, unlike revivalists who have either offered Islamisation of these philosophies or granted functionalist rather than normative support to them.

Finally, progressives here refer to intellectuals who support the separation of religion and state affairs and negate the existence of an Islamic theological theory of governance. For them, Islam conceptualises and promotes a moral community, not a political one, since it is a religion of morality, not a polity. Therefore, they claim that Islam does not legitimise, or should not dictate, any form of government because the institutions of the state belong to the prerogative of the people, based on reason and choices, not revelation. In general, progressives endorse a non-formal understanding of religion. This position mainly derives from their understanding of *sharī‘a* as a product of human interpretation and endeavour rather than the law of God. Progressives show a fierce opposition to the statist version of an Islamic state, maintaining that it is a romanticised postcolonial innovation rather than a practical or realistic one as it is bound to fail or be despotic and brutal (an-Na’im, 1999: 37). Actually, progressives are antithetical to statist, and unlike revivalists and modernists, they manifest an apparent philosophical shift away from the ideas of divine sovereignty and divine morality in politics. They propagate for a secular state with equal citizenship rights, where Islam should be practised in people’s lives through personal conviction.

Using the arguments of the intellectuals within the four schools of Islamic political thought, this chapter will engage with the issues of governance, democracy, and

pluralism from different Islamic perspectives. By evaluating theoretically stimulating philosophies, it will aim at exploring the most relevant Islamic approaches as a way of reconciling potentially conflicting concepts of statehood, sovereignty, law, diversity, and public religious presence. Before outlining the formative features of the typology of Islamic political thought, it should be noted at this point that one must distinguish between the ideas and the scholars in these groupings: the scholars' positions regarding the themes explored are analysed through their thoughts and intellectual works, leaving out their personal behaviour or political choices. The typology of Muslim political thought should also be evaluated within the socio-political development of the era that has had a considerable impact on the ideas of the chosen intellectuals.

II. Muslim Political Thought on Governance

It is more significant to ask how Muslim thinkers conceive of Islam and governance rather than asking the perennial question of what Islam says about a system of government and whether there is an ideal Islamic system of governance. By reframing the question, we can better understand how interpretations of Islam have shaped diverse understandings of a desired political system. In addition, by reframing the question, this project has attempted to grasp the conceptualisation of Muslim democracy as a form of modern Muslims' reclaimed right to develop home-grown political theories of government as an expression of social formation. In this process, the theories of Muslim democracy should be in the form of developed and systemised theoretical propositions coming from modern political arguments, not from classical or dogmatic conclusions, alongside with lived experiences and contemporary values and demands of Muslims (el-Fadl, 1994: 108). By centring on four different approaches to the Qur'an, *sharī'a*, law, authority, and state enterprise this section will reveal the diversity within Muslim scholarship in relation to democracy and how this can stimulate new ways of thinking about it.

1. Statists: Abū al-A'ālā Mawdūdī, Sayyid Qutb

Abū al-A'ālā Mawdūdī (1937–1979), who was one of the leading Islamic ideologues of the twentieth century, is a co-representative of the statist school of Islamic political theory as argued in this chapter. Mawdūdī re-interpreted and articulated the

political premises of *sharī'a* in modern terms. *Sharī'a*, as Mawdūdī defines it, “is a complete scheme of life and an all-embracing social order where nothing is superfluous and nothing lacking” (as cited in Adams, 2012: 113). In other words, *sharī'a* is a universal order, “an organic and integrated whole” that through a structural framework ordains a law for all dimensions of human conduct, political, economic, and social alike. Accordingly, Mawdūdī states that *sharī'a* not only provides clear political guidelines that address contemporary governance but also prescribes the creation of a state, in the modern sense of the term (Mawdūdī, 1978: 17-20).

For Mawdūdī, governance is a matter of faith and theology as he approaches the issue within the realm of deity and divinity. He writes that the cardinal principle of Islamic theology is the sovereignty and authority of God as a Lord (*Rabb*) over His creations. The principle of God being *Rabb* has complementary injunctions in every aspect of human life from worship to governance. Likewise, Sayyid Qutb, the other eminent thinker in statist typology, also maintains that the establishment of an Islamic state embodies the cardinal principle of Islam, namely *tawhīd* (the oneness of God, implying complementarity and unitarity). For this reason, Qutb argues that the Islamic state is “not a tool but a fundamental principle of creed. It signalled the community’s submission to God on the basis of the *sharī'a* and represented political and ideological obedience to God” (as cited in Moussalli, 2001: 14). In other words, the accomplishment of an Islamic state is the fulfilment of the divine will and the Muslim actualisation of divine obedience. For this reason, any state or institution that does not exemplify such obedience is considered *djāhili*, and for Qutb, the concept of *djāhili* is the central axis around which he constructed his Islamic political thought (Qutb, 2001: 120)

In essence, statist argue that the establishment of an Islamic system (that responds to legal, social, economic, and political spheres in its entirety) is the only way to enable the actualisation of an Islamic moral order, where God’s rule conditions all social actions and controls society. An Islamic moral order in today’s world would be impossible to realise without the agency of the state and the apparatus it dominates (Adams, 1983: 112-113). For Mawdūdī, there are several characteristics of an Islamic state that can be derived from the Qur’an and *sunna* (Mawdūdī, 1960b: 18; Voll and Esposito, 1994):

- a. In an Islamic state, absolute legal and political sovereignty belongs to Allah

- alone, and all others are merely His subjects in governance;
- b. God is the sole lawgiver. The believers cannot implement independent legislation, nor can they amend any decree which God has established in *sharī'a*;
 - c. Yet Muslims are still given a limited authority within this political structure that is set up to enforce *sharī'a* under God's suzerainty.

To clarify these three characteristics, it is crucial to understand how the statist perceive *sharī'a*. Qutb maintains that *sharī'a*, as it is, is enough to automatically and systematically create a written constitution through which divine law is carried out to regulate the order of an ideal modern Islamic state (Qutb, 1964: 8). It should be noted that Mawdūdī accepts that there may be some matters where a particular religious prescription does not exist; however, he does not identify these and apparently considers them to be trivial and unproblematic (Afsuriddin, 2011: 145). On the whole, statist thought offers little consideration of the historical context of legal practices and the application of specific rulings and treats Islamic law as a uniform, monolithic set of rules that is beyond the mandate of human reason and adjudication. Mawdūdī maintains that the Islamic state is part of “a broader integrated theology” that showed its essence from the very inception of Islam: Islam was both a political entity and a religion. As such, the statist's call for an Islamic state is based on their assertion that there exists a historically and theoretically distinct Islamic model of governance whose immediate application in the form of an Islamic state is obligatory upon Muslims (Adams, 1983: 113).

In general, Mawdūdī engages more with theological discussions of an Islamic state than with its practical aspects. Yet regardless of the limits in procedural matters, in terms of theoretical aspects “Mawdūdī's application of deductive reasoning in his interpretation of the *sharī'ah*, and especially in his theory of the Islamic state, represents a triumph of scripturalist doctrine, both because of its logical coherence and because of its appeal to a new generation of the Muslim intelligentsia” (Binder, 1998: 171). This makes him the most influential and coherent representative of the statist school, whose ideas inspired not only the development of Islamist philosophy, but also Islamic political economy and other contemporary Islamic approaches throughout the Muslim world coupled with his attempt to actualise such ideals in the form of the Islamic state of Pakistan, albeit in an unsuccessful manner.

Sayyid Qutb further expounded upon the nature of the Islamic state that Mawdūdī outlined, for which Qutb developed a political manifesto for its establishment.

Two Qur’anic terms, *ḥākimiyya* and *ṭāghūt*, to which Qutb gave a modern interpretation, are crucial in his manifesto. *Ḥākimiyya* (sovereignty)—*ḥākimiyya* Allah (divine sovereignty)—according to Qutb, means that divine sovereignty precludes human sovereignty in governance as humans are not sufficiently competent to legislate, but should obey divine legislation. Any non-divine authority is *ṭāghūt*, illegitimate, unjust, and against religion (Qutb, 2001: 123).⁵

One needs to understand Qutb’s anti-democratic stance not practically or politically, but more ontologically in nature. Within his overall view of the relationship between Allah and human beings, servitude is to God and safeguarding social justice and freedom in human beings from any ideological or economic servitude is paramount. Qutb elaborates his conceptualisations of *ḥākimiyya* and *ṭāghūt* through a persuasive and methodologically consistent combination of theological and political reasoning. He says that if we look at the Arabic meaning of the *shahāda* (the confession of faith), *lā ilāha illa Allāh* means more than the mere translation of “There is no God but Allah.” For Qutb, if we really understand the dimensions of the word *ilāh*, we come to understand that the *shahāda* actually means that “no *ḥākimiyya* except to Allah, and no *sharī‘a* (sacred law) except from Allah, and no political authority (*sultān*) to anyone over anyone” (as cited in Binder, 1988: 177). Consequently, a person saying *shahāda* guarantees individual dignity by ascribing political ruling and legislation only to God and saves themselves from all the *ṭāghūt* regimes that make men subject to the authority of another man. As a result, Qutb suggests that “only in the Islamic ‘way’ (*minhaj*) are all men liberated from subjection to others, in their subjection to God alone” (1988: 176). Thus, he believes that the only way for humans to live in a free and just political order is through their submission to God’s sovereignty in legal and political terms.

Furthermore, Qutb explains the principles of the Islamic authority as follows. He states that the role of the ruler in Islamic governance, who receives his power from the will of the governed, is restricted to the “supervision of the administration of the *sharī‘ah*” (Haddad, 1983: 92). Obedience of Muslims is provisional on the faithfulness of the governor to *sharī‘a*. Thus, if the ruler deviates from *sharī‘a*, the duty of obedience ceases. The theoretical background behind his position is often linked to the interpretation of the verse “*Wa man lam yaḥkum bimā anzala Allāhu fa-ulā‘ika hum al-*

⁵ *Tāghūt* refers to “Satan, sorcerer ... and to any power opposed to that of Islam” (BrillOnline, 2013).

kāfirūn” (“And for those who do not *judge* in accordance with what God has bestowed from on high are, indeed, unbelievers of the truth”) (Qur’an, 5: 44). Rather than ‘judge,’ he argues that the verse proclaims that whoever does not *govern* in accordance to what is revealed by God are *kāfirs* (unbelievers) (Ayubi et al., n.d.).

On the whole, Qutb describes a Muslim system of government as being unique and distinct from all other political regimes. Islamic governance cannot be expressed with any form of non-Islamic concepts, whether it be democracy or theocracy, regardless of “any resemblance between Islam and manmade regimes.” For Qutb, unlike manmade systems, the Islamic system is “divine, complete and comprehensive, shaping society rather than being shaped by it” (Shavit, 2010: 351). This position best reflects the essentialist statist approach to democracy. For statist, democracy is a Western product and Muslims cannot borrow their political models from the West because any regime that derives from non-Islamic ontologies are illegitimate. Regardless of its perceived worldly success, it cannot be the desired form of governance (Shavid, 2010: 359).

In general, Qutb’s arguments centre on the theological conceptualisations of Islamic and non-Islamic systems (*tāghūt*); however, unlike Mawdūdī, Qutb does not present a holistic conceptualisation of the Islamic form of governance, as he had not come to the phase to consider as to how to shape an Islamic state, which was the case for Mawdūdī. Qutb discusses *ḥākimiyya Allah*, but he does not sufficiently elaborate on what this conceptualisation entails in terms of political structure. He gives many generalised conceptualisations within his radically defined Islamic symbolic meaning by relating the theological terms to political notions, but very practical questions such as who will be the final authority defining and implementing *ḥākimiyya Allah* in law-making remains ambiguous.

In the writings of the statist—and in Qutb’s writings in particular—Islam is observed as more of a structural system, polity, or ideology rather than faith (Afsaruddin, 2008: 24). Statist also argue that religion and politics are inseparable and Islam was the state from its very inception. Their critics, on the other hand, demonstrate that the concept of the state is a modern term that was incorporated into the “the lexicon of the social sciences in the nineteenth century to understand the dramatic changes in early modern Europe from the seventeenth century onwards” (Ahmad, 2009: 147). Therefore, they insist that it is imprudent to claim that Islam had a completely mature

and distinct theory of state by the seventh century before the concept itself had been developed.

Irfan Ahmad writes that at the beginning of the twentieth century, the state as an institution in the non-Western world started to expand its role in society. The state had acquired an unprecedented degree of power that penetrated almost all realms of life. Ahmad claims that Islamism, through its response to these modern political formations, allowed the state to become central to Islamic discourse. Quoting Mawdūdī on this:

Now the state's arena has almost become as all-encompassing as that of religion. Now it also decides what you are to wear or what not to wear; whom you are to marry and at what age; what you are to teach your kids and what mode of life you are to choose;...what language and script you are to adopt. So, the state has not left even the most peripheral issues of life independent of its ultimate right to intervene (as cited in Ahmad, 2009: 154).

Ahmad argues that the encounter with the nation state led Mawdūdī to equate Islam with the state. Ahmad also claims that the reason why Mawdūdī vigorously advocated for an Islamic state was not a result of theological reasons like Qutb. Rather, it was at a time when the capacity and reach of the modern state were unprecedented, and the state and its ideology became the overriding factor in the politics of the sub-continent and Mawdūdī wanted to fill this vacuum with a distinct model of an Islamic state that he successfully formulated (Ahmad, 2006: 13). Although more theologically driven, by equating Islam with the modern ideology of a state, Qutb also aimed to pose counterarguments against prevalent non-Islamic ideologies and their systematic claims in the 1960s, especially against Marxism, socialism, capitalism, or Arab nationalism which reached the common Muslim masses (Haddad, 1995: 4).

In essence then, Mawdūdī and Qutb are not as contemporary as most of the other scholars examined in this work. Therefore, employing their positionality on governance and pluralism may raise concerns for the criteria of fairness on the categorisations in this typology. Yet there are two main reasons for selecting them as representatives of the statist school. First, the monolithic and dogmatic nature of the statist school necessitates constancy and uniformity in thinking, entailing that statist ideas have a very limited scope for change and progress with regard to time and context. Therefore, a time period of several decades would not make a serious complication in analysing this line of thinking. Second, the statist school did not produce other thinkers who are as influential

as Mawdūdī and Qutb to this date. Rather, the ideas of Mawdūdī and Qutb have influenced and are upheld today by different social movements and political organisations (e.g., Jamaat-i-Islami in South Asia, the Muslim Brotherhood in Egypt and elsewhere, Parti Islam se-Malaysia (PAS), and the Islamic Salvation Front (FIS) in Algeria) and political thinkers (e.g., Abdul Hadi Awang in Malaysia, ‘Abd al-Salam Yasin in Morocco, and ‘Ali Belhadj in Algeria). In addition, other thinkers have developed, questioned, and reconstructed the ideas of Mawdūdī and Qutb in a contemporary context, giving them a more practical, revisionist, and modernist aspect. Scholars like Yusuf al-Qaradawi, Ali Bulaç, and Rashid al-Ghannushi, on whom the next category will focus, are some of the many Islamists who have been influenced in such a manner. The next section will also outline their differences and on which grounds they have made a paradigm shift from statism to revivalism.

2. Revivalists: Yusuf al-Qaradawi, Ali Bulaç, Muhammad Imara, Hayrettin Karaman, Rashid al-Ghannushi

Revivalists share some common features that place them under the same school of thought. To start with, unlike statist, revivalists deny the existence of a particular structural format or a pure type of Islamic state and offer modern and pragmatist solutions to politics. However, revivalists, who advocate for revisionist understandings of *sharī‘a*, maintain that there are Islamic political principles and directives through which a form of political organisation should be built on (Afsaruddin, 2008: 25). Based on their positions on Islam and political discourses, revivalists are also categorised as Islamists. They represent a middle ground between statist and modernist, and most of the scholars who fall under this category, such as Yusuf al-Qaradawi, Ali Bulaç, Muhammad Imara, Rashid al-Ghannushi, and Hayrettin Karaman, are often referred to as moderate Islamists.

To start with, although revivalists do not claim that *sharī‘a* obliges Muslims to establish a certain version of Islamic statehood, they still support the idea that religion cannot be separated from politics and political authority. According to Muhammad Imara, there is a “distinction,” meaning that there is no “unity, congruence, or blending” between religious and political authority, but it is not a “separation or detachment” since, as the life of the prophet shows, Islam provides guidance for political matters (Binder, 1998: 148). Rashid al-Ghannushi of Tunisia also suggests that “Islam, since its

inception, has always combined religion with politics, religion and state” (2012). Yet al-Ghannushi further explains that this does not mean religion and the state are the same. Within his own words, throughout Muslim history, “states remained Islamic not in the sense that their laws and procedures were divinely revealed religion” but religion has provided “with a system of values and principles that would guide our thinking, behaviour, and the regulations of the state to which we aspire” within the context of the particular time and place (al-Ghannushi, 2012). Overall, revivalists advocate that religious axioms and scriptures promote the ultimate guidance to social and political problems and that Islam is the ultimate source of political legitimacy in the Muslim world.

Revivalists do not ascribe to a certain type of state but leave a form of Muslim political unity to human experience. This allows Muslims themselves to construct political establishments based on a contemporary reading of Islam. With regards to governance, he suggests that Islam neither defined the concept of a state nor offered a new concept of statehood. Rather, depending on circumstances, Islam approved certain existing political practices, or amended the already existing terms and practices under divine guidelines and gave them an Islamic quality, or in others criticised and annulled them (Karaman, 2002: 203). Islam, he concedes, only specified certain qualities as the supreme ideals of governance, such as *tawhīd* (Oneness of God), *shūrā* (consultation) *al-amr bi al-ma'rūf wa al-nahy 'an al-munkar* (advocating/commanding the right and forbidding the wrong), *ḥukm* (judgement), *jamā'a* (the group or the community), *'adāla* (justice or fairness), *qiyāda* (leadership), and *amāna* (fidelity or trust) that any political organisation should possess. In other words, foundational axioms of a political entity should be derived from the values promoted in the Qur'an. However, he insists that these fundamental values by themselves do not prescribe a concrete framework for a fixed programme for the form of an Islamic state (Karaman, 2003: 255).

Revivalists, who share the similar approaches to the issue of state as Karaman, have attempted to reformulate Islamic concepts in light of modern political ideals and practices, and unlike statist, they do not label all the systems coming from the West as evidently un-Islamic. In fact, they show willingness in accepting and adopting democracy through giving it an Islamic tone under the Qur'anic moral guidance. Revivalists reinterpret concepts such as *shūrā* and *ijma'* (consensus) and equate them

with democratic representation and parliamentary system (el-Din, n.d.). For instance, in contemporary circumstances, Imara insists that *shūrā* amounts to a system in which the people elect their leaders, supervise them, and dismiss them if they fail to accomplish their public duties. Thus, he convincingly argues that *shūrā* is indeed “Islam’s and Muslims’ democracy” in today’s world (Shavit, 2010: 353).

The “Islamic constitutionalism” framework that has been advocated by prominent scholars such as Yusuf al-Qaradawi is another example of a revivalist position in support of democratic ideas. According to Bruce K. Rutherford, the “Islamic constitutionalism” paradigm offers a coherent view of the theoretical framework of an Islamic political order that shares many characteristics with democracy. For instance, “Islamic constitutionalism” advocates for democratic institutions in politics such as political parties, free elections, public participation in governance, free legislation, and a parliament. Al-Qaradawi believes that these institutions presently best exemplify the principal goals of Islamic governance that are intended to augment justice and contest tyranny. Thus, he claims that the Muslim world must “take the best elements of democracy” and implement them under the guidance of the ethical framework of Islam to be sure they do not clash with Islamic norms (as cited in Rutherford, 2006: 709-719).

This conditional support for democracy is also evident in the words of Rashid al-Ghannushi. He remarks that “the highest objective of all divine messages is to establish justice and realize people’s interests, and this is done through the use of reason in light of the guidelines, objectives, values, and principles provided by religion” (2012). Islamic form of governance in al-Ghannushi’s mind is a kind of Islamic version of democratic governance, one which is inspired and guided by Islamic teachings rather than secular ontology. However, al-Ghannushi states that if the establishment of Muslim governance is not possible, in order to promote the values of development, pluralism, independent judiciary, freedom of expression, and freedom of religion, Muslims should “participate in the establishment of a secular democratic regime” to serve their best interests and wellbeing (Shavit, 2010: 356).

Karaman also concedes that at this time, it is democracy (as a functional mechanism) that can be endorsed by Muslim states as a system of governance. Karaman addresses the modern premises of human rights and democracy in Islamic texts and adopts Western political institutions in Islamic political thought. Yet he offers greater adherence to the procedural aspects of democracy rather than the normative aspects. In

order words, he is committed to the democratic process, although not to the universality of liberal democratic norms. Karaman points out that “the greatest problem with democracy is...sovereignty” (Karaman, 2014s). In Islam, the final authority and last resort belong to Allah while in a democracy they both belong to the public. The reference to the public is their culture and this culture may or may not be Islamic. Therefore, an Islamic way of democracy, or a democracy that is Islamically valid, should promote “an Islamically bounded authority, under Islamic reference, instead of the absolute sovereignty of people” (Karaman, 2014s).

It should be noted that Karaman’s support for democracy is not only procedural but also conditional like al-Qaradawi’s. He views democracy as a mechanism without its own ontology, which under the modern era seems to provide the best man-made political system (Karaman, 2014l). As he indicates, if the establishment of “a state whose main reference is Islam” is not possible, as a second-best solution, Muslims should participate in creating a new ideology of democracy, the democracy of Islam, which would reflect Muslims’ own “particular program of modernity” that is Islamically legitimate under the guidance of the revelation rather than copying the Western mould as the universal form (Karaman, 2014m). In other words, “[t]he issue of democracy is then a matter of *darura* (necessity)” that is “the best possible medium to improve society” and “to potentially reach a better condition” (Guida, 2010: 364).

Ali Bulaç also shares similar views about democracy with other revivalist thinkers. In terms of the desired government that is sought by Muslims, Bulaç writes that “a form of government Muslims can accept without a fait accompli or without finding themselves in a crisis of legitimacy can be summed up as one which conforms to God’s will and the will of the people” (Bulaç, 2012b). God’s will, Bulaç explains, is manifested in *shari‘a* that relates to all spheres of Muslims’ lives and he persists that “[f]or a Muslim, the desire to live according to the divine legal order never diminishes” (Bulaç, 1998: 177). Consequently, Bulaç asserts that Muslims should develop a new model of democratic government of an Islamic creed. This would be particular to Muslims, not a transplanted one imported from the West, that would thus not only be more morally adequate but also function better socially and politically in Muslim societies (Bulaç, 1998: 169). To elaborate, Bulaç says that there have been many man-made regimes in the world and democracy is seen as the most successful; yet it is possible that the future will bring us a better political regime replacing democracy. However, he remarks that

Islam takes its power from the revelation that will be relevant until the *kiyāma* (resurrection). Thus, if we analyse religion within a democratic framework, we treat democracy as a criterion for good and bad, right and wrong, and as a guide for life. This would mean accepting democracy as a philosophy of life as opposed to a political regime alone, which would involve intervention in the spheres of religion. Bulaç therefore warns that forcing Islam to be tested and to abide by democracy would intentionally or unintentionally make democracy an alternative form of religion (Bulaç, 2013).

As the positions of al-Qaradawi, al-Ghannushi, Karaman, and Bulaç show, in general, the revivalist support for democracy pursue a practice-oriented approach with different degrees of acceptance attached to it—from entirely mechanistic and functionalist understanding to pragmatically recognising it for today’s everydayness. Yet when it comes to democratic processes and Islamic principles, revivalists insist on their political compatibility, based on the belief that if the foundations of society have control over democratic institutions, they would automatically be compatible with Islamic morality. In fact, a general characteristic of Islamists is their conviction that the foundations of society and the popular will in predominantly Muslim societies support Islamic values.

Although revivalists do support democracy in the political sense as it creates a fair, representative, and free political environment that Islam also aims for, they raise some ontological and epistemological concerns regarding democracy vis-à-vis Islam. Moreover, revivalists also refuse blind imitation of the West and emphasise that public sovereignty and personal freedoms are to be restricted where they contradict Islam. On the whole, they show greater adherence to the procedural aspects of democracy but distance themselves from vital norms of these institutions with reference to religious guidance.

Therefore, we cannot talk about a complete embrace of democracy here, but rather a reductionist understanding of democracy. To better elucidate, “if democracy is a set of institutions that constrain the state, enforce law, and allow public participation in politics,” and provide an independent judiciary, an autonomous parliament, and an executive accountable to the citizenry, then what revivalist, Islamist scholars promote is a full democracy (Rutherford, 2006: 731). “However, if one views democracy as the adoption and promotion of a set of values” such as individual liberty, absolute popular sovereignty, and institutional separation of religion and the state, then we cannot equate

what revivalists advocate with full democracy in this context (Rutherford, 2006: 730). That is why the revivalist support of democracy was accused of demonstrating signs of duplicity and tactical doublespeak (Dagi, 2012). It should also be noted that one needs to approach the Islamist functionalism not as a mere expedient doublespeak for power accumulation, but as a product of ontological and intellectual crisis that modern Islamic political thought suffers from regarding Islamic moral and political reasoning, which requires a structuralist approach that could not be developed by the individuals mentioned.

Hitherto the allegations of instrumentalism about revivalists mark the fundamental difference between them and modernists, who morally support the principles and foundations of democracies in the Muslim world through their conviction that the application of democracy and the premises it brings are indeed universal and Islamic. The theoretical difference in their positions is based on their diverse approaches to the texts: revivalists are more scripturalist while modernists employ extensive reasoning in interpreting the texts and thus can reach unconventional conclusions that at times might be challenging to mainstream thought. Yet till we reach to the category of progressives, the ontological and epistemological problems of Muslim thought with regards to democracy will not be persuasively and methodologically resolved.

3. Modernists: Fazlur Rahman, Khaled Abou el-Fadl, Muhammad al-Jabri, Mohammad Fadel

Muslim modernists declare that Islamic modernism is actually a return to the essence of *true* Islam as originally understood by the prophet and his companions. As a prominent pioneer of Islamic modernist thought, Fazlur Rahman writes that fundamentalists, traditionalists, and modernists all want to “return to the original and pristine Islam and perform *idjtihād* on that basis” (1982: 142). Yet their difference, for Rahman, is that both traditionalists and fundamentalists “have been arrested at a certain point” in their journey to go back to the principles of Islam and they often have a rigid division between the concept of Islamic notions (that belong to Islamic tradition) and non-Islamic notions (that belong to the Western heritage). This is because they could not go beyond the “historical Islam” that consists of merely descriptive elements as time-bound customs and conventions that are pertinent only to the time and place in which revelation occurred. Yet Rahman claims that Muslim modernists have created certain

doctrines that are compatible with the Western concepts and the “normative Islam” (which consists of prescriptive or normative elements of revelation that are considered the sacred, permanent, and unchanging message of Islam) (Rahman, 1982: 141). Mohammad Fadel also asserts the need to separate “normative understandings of Islam from historical conceptions of Islamic orthodoxy” (Fadel, 2009a: 190). This enables contextualised, dynamic, and progressing interpretations of *sharī‘a*.

Moreover, Fazlur Rahman argues that the reforms and rulings that the Qur’an brought were up to the best “realistic” quality in relation to the conditions of that day (Rahman, 1980: 451). However, to take these rulings as universal and unchangeable is “erroneous” and “unfortunate” and impedes Muslim societies from necessary legal and political reformation (el-Fadl, 2005: 11-12). What is universal is “moral guidelines” that these rulings laid down, guidelines that should lead further reforms at different ages with different circumstances. *Sharī‘a*, as Rahman understands it, is the “assembly of Divine imperatives” that carry primarily “a moral character.” Thus, it is not “an actual formal code of particular and specific enactments but is conterminous with the ‘good’” (Rahman, 1979: 115). In fact, Rahman believes that the statist’s conviction of a given nature and absolute uniformity of interpretations of *sharī‘a* comes from a failure to comprehend the essence of the Qur’an, the primary and ultimate source from which *sharī‘a* is derived. The Qur’an, he writes:

is not a book of laws but is the Divine teaching and guidance for humanity. Such quasi-laws, as do occur in the Qur’an, are not meant to be literally applied in all times and climes; the principles on which these legal or quasi-legal pronouncements rest have to be given fresh embodiments in legislative terms (Rahman, 1967: 216).

On the whole, *sharī‘a* is a principle-based mechanism for Rahman rather than a universalist, one-size-fits-all rule.

Accordingly, Rahman argues that in order to make Islam applicable to modern life, Muslims must go beyond a literal or traditional interpretation of the Qur’an, to an understanding of the background or “occasions” of each verse in order to find the true spirit and objectives of the revelation. Muslims must also apply the principles derived from the revelations (rather than the exact practice or application) to their particular society. This involves using their critical and independent thinking to respond to the practical needs of the time and the context, which would, in turn, lead to their socio-

economic and political advancement (Sonn, n.d.).

While recognising *sharī'a* as “the comprehensive principle of the total way of life” that provides moral guidance for all human behaviour, Rahman is very critical of how *sharī'a* can be perfectly known to people or how people can reach and express the Divine will in its entirety as the statist assume (1979: 101). Similar to Rahman, Khaled Abou el-Fadl, another influential representative of the modernist school in this work, concedes that “*Shari'ah* as conceived by God is flawless, but as understood by human beings *Shari'ah* is imperfect and contingent” since divine perfection cannot be perfectly accessed by human effort (2004: 34). Even if there are particular values, principles, and positive commands that the divine law may explicitly express, there is still a “vast array of possible subjective” interpretive determinations and applications (el-Fadl, 2004: 30).⁶ Essentially, el-Fadl asserts that “the Shari'ah, for the most part, is not explicitly dictated by God” (2003: 64). Thus, there could be various legal responses that are equally liable from the Islamic point of view, and none of these can claim to solely represent the Divine.

El-Fadl goes on to challenge the notion of an Islamic state as the carrier of God's sovereignty and an embodiment of God's will. He explains that state law can never be equated with *sharī'a* since “the law relies on the subjective agency of the state for its articulation and enforcement.” Otherwise, even unintentional, the codification of *sharī'a* would imply a disclosure that “the failure of the law of the state is, in fact, the failure of God's law” rather than a failure of human understanding (el-Fadl, 2010: 140). To put it more precisely, code, el-Fadl maintains, even if inspired by *sharī'a*, is not *sharī'a* since “all laws articulated and applied in a state are thoroughly human and should be treated as such” (el-Fadl, 2004: 36).

⁶ In this regard, modernists argue that statist “conflate revealed broad moral and legal principles that constitutes the *sharī'a* (literally ‘the way’) with specific legal rulings extrapolated from the former through human reasoning which constitute *fiqh* (jurisprudence; literally ‘intelligence’ and ‘discernment’),” which in turn led them to have a stagnant notion of Islamic law (Afsuriddin, 2011: 144). In contrast, modernists argue that *sharī'a* is the Divine ideal that is immutable, immaculate, and flawless while *fiqh* is the human endeavour to understand and implement that ideal. Despite this, confusion still remains even within modernist thought regarding the line and interconnectedness between *sharī'a* and *fiqh*, and this is at the core of Islamic political thought (el-Fadl, 2004: 30).

Muhammad al-Jabri, a renowned Islamic modernist of the 20th century, also contributes to the discussions on the nature of *sharī‘a*. Al-Jabri concedes that “*al-shariah* is fixed and absolute, due to its divine origin” in the abstract (2009: 94). Yet he reveals that what we call *sharī‘a* today is not divine law. *Sharī‘a* today does not only subsume the Qur’an and the *sunna*, but comprises the conduct of the prophet’s companions and the *idjtihād* of *fuqaha* of the classical age. Theologically, he asserts the jurisprudential tests produced by the early Muslims and classical *madhahib* (schools of jurisprudence) are not like the Qur’an and *hadith* that depict universal value. In this juncture, al-Jabri is quick to remind us that our age is different with a different nature of problems and social, political, and economic conditions than the time the companions lived through and when the classical jurisprudential schools formed; hence, today Muslims need different discourses than the ones produced at the time of the early Muslims. Overall, al-Jabri argues that although the law and jurisprudence produced by the classical *mujtahidun* will continue to inspire Muslims as useful means to address the issues of our times, they are not timeless principles or part of faith (al-Jabri, 2009: 4).

Al-Jabri also maintains that the problem with Islamic law and jurisprudence today is not only their inattentiveness to the actual events today, but also their preoccupation with theological arguments rather than practical ones. Similarly, el-Fadl argues that in implementing Islamic law, contemporary Muslim jurists are overwhelmingly concerned with *sharī‘a*-compliant legal codes and not with moral intent. In other words, they are less concerned with the moral aspects of law, such as dignity and freedom of human beings, but more with brute legal punishments. El-Fadl emphasises that law within this account is not for the governed, but to cherish what they believe as the Divine will. He advocates that scholars should not focus on legalistic rules, but work towards a just system of limited government and the rule of law, where people’s welfare is served (el-Fadl, 2003: 25-29). El-Fadl also notes that “*awlawiyyat al-Islam*” (the priorities of Islam) that sets the moral obligation of a Muslim within legal and political realm is:

ought to be how one establishes justice, not how to establish an Islamic government, regardless of its ability to support justice (el-Fadl, 2002: 110).

Thus, modernists propose the necessity of “the rebuilding of a conceptual methodology in *al-shariah*, based on new premises and contemporary [legal] ‘intent’” in order to

overcome the dogma-centred understandings of religion that impede social and political developments (al-Jabri, 2009: 81).

Akin to al-Jabri, Rahman also challenges the dogmatism in Muslim political thought, pointing to the statist's "confusion over the concept of 'the Sovereignty of God'" in understanding Islamic law (Rahman, 1967: 208). The statist's account of *sharī'a* suggests that "the divine legislative will seeks to regulate all human interactions" as *sharī'a* is a "complete" moral and legal code which offers prescriptions for every eventuality (el-Fadl, 2004: 9). Statists contend that God's dominion (*ḥākimiyya* Allah) or sovereignty mean that God is the sole legislator in the state. El-Fadl believes that the issue of God being the sole legislator and legislation being a sphere of the divine, not of the human, is "a fatal fiction that is not defensible from the point of view of Islamic theology" (2003: 16). He maintains that maybe God only provides certain standards of moral conduct and "does not seek to regulate all human affairs," and rather grants human beings substantial latitude to regulate their own matters (el-Fadl, 2004: 9). For el-Fadl, Allah values human intuition and reason as well as human freedom and responsibility (as God's caliph/vicegerent), so His divine sovereignty over His creation as the Lord of the Universe does not intend to have a direct rule over mundane life, but rather provides principles so that people can rule with the guidance of His message. As el-Fadl summarises, "God's sovereignty provides no escape from the burdens of human agency" (2004: 9). Thus, a divine mandate for Muslims is to be applied when:

pursuing justice through social cooperation and mutual assistance...; establishing a non-autocratic, consultative method of governance; and institutionalizing mercy and compassion in social interactions (el-Fadl, 2004: 5).

In terms of the issue of governance and state, modernists assert that there does not exist only one form of Islamic government, but also that the concept of state is not dealt with in classical Islamic discourse. With regard to the first notion, they highlight that, in the Qur'an, the relationship between religion, governance, and legislation is not addressed. Neither does the Qur'an specify how to choose a leader nor does it mention a legal necessity for establishing Islamic governance. Thus, no one form of Islamic government exists in Islamic texts; there are only certain ideals and values prescribed by Islam but they do not necessitate an Islamic state for the believers to practise them (el-Fadl, 2004: 5). With regard to the second assumption, al-Jabri maintains that the

traditionally Islamic concept of governance is discussed within the Sunni theory of the caliphate. Yet the theory has not dealt with the state as an institution, but the person who will rule by *sharī'a* (al-Jabri, 2009: 35). Thus, al-Jabri argues that the statist's advocacy of an Islamic state is not only modern but also "foreign to Islamic thought, with roots and terminology found in the European civilizational model" (2009: 31).

In addition, in the statist account of an Islamic state, it is not people, but God, who is politically and legally sovereign. Within this understanding, democracy—where people, not God, legislate—is equated with *shirk* (Rahman, 1967: 208). The modernist school presents the opposing narrative to this statist view. Rahman, like his peers, emphasises that Muslims should follow the Islamic morals in agreement with justice and public welfare. Thus, "the Muslim State is an organization set up by the Muslim society in order to implement the will of the society and no more" where the Muslim people (who take their light from the revelation) themselves "are the Sovereign and the law maker" (Rahman, 1967: 209). According to the modernists, the goal of the state "is to find the best solution for the problem of the rule, by making or obliging the rulers to submit to the will of the ruled, through organisations and institutions freely elected by all mature members of the nation" (al-Jabri, 2009: 131).

Subsequently, el-Fadl maintains that Muslims should adopt a system of governance that "is most effective in helping them promote" these ethical imperatives and exemplifies a moral virtue (2004: 5). For him, this system is a democracy. He concedes that democratic constitutionalism provides "the greatest *potential* for promoting justice, and protecting human dignity, without making God responsible for human injustice or the infliction of degradation by human beings upon one another" (2000: 10). In a democracy, "no single person or group becomes the infallible representative of divinity"; thus, no one can abuse the power of pretending to speak for God (el-Fadl, 2003: 10; 62).

El-Fadl explicitly asserts that a democratic system is the form of government that best promotes the social and political values of Islam. To validate his statement, he argues that the tradition of Islamic political thought contains "both interpretive and practical possibilities that can be developed into a democratic system" (el-Fadl, 2004: 5). The moral values and an ethical good of democracy do not contradict any of the values promoted by Islam. On the contrary, el-Fadl believes that although democracy and Islam

might have “separate moral ontologies, they share a common normative basis for practical commitments for just and representative governance” (2004: 4). Through democracy, Muslims can produce fundamental rights and organisational law that honours and promotes Islamic moral principles. However, the rights and laws do not claim to reflect the perfection of divinity, but are rather asserted as a human attempt to understand and pursue divine guidance. Al-Jabri argues that in today’s world, there exists two political options for Muslim peoples to live under: either democracy or dictatorship. There is “no third alternative,” and there is only one option to actualise justice, human rights, accountable government, and the rule of law, and it is a democracy (al-Jabri, 2009: 156).

As part of Islamic modernist discourse, Mohammad Fadel also brings normative justification for a practising Muslim to endorse liberal constitutionalism. Fadel argues for the need to reconcile Muslims’ “normative commitments to Islam as a comprehensive theory of the good and [t]he[i]r political commitments to a liberal constitutional order” (2008: 9). While citing Muslims’ conviction that “ultimate goods could only be discovered via revelation,” Fadel also explains that this belief does not impede their rational capacity of “using reason to discover those rules of the profane world necessary for their secular well-being in the here-and-now” (2008: 56). He notes that it is up to contemporary Muslims to interpret Islamic ideals under the modern context and make use of the space the scriptures provide for human vicegerency in governing itself, one which best serves the public good. In fact, Fadel reveals that “many rules of Islamic law became justified on considerations other than the theological truth of the norm” and can come from human inquiries (Fadel, 2008: 66). Historically, the virtues of human rationality, public deliberation, and moral judgement in reaching political goods have always been applied in Islamic theology and jurisprudence as:

- (i) the revelation did not (nor could it) provide conclusive answers to all ethnical questions facing human beings, and (ii) the texts of revelation, even when relevant, were generally susceptible to more than one interpretation (Fadel, 2008: 65).

Besides, Fadel also notes that within the Islamic tradition, there are “very powerful normative reasons” for endorsing liberal democracy (2008: 68). He argues that liberal democracy is the most efficient existing system to provide political space for Muslims “to discover those truths necessary for [t]he[i]r salvation” (Fadel, 2008: 68).

Fadel explains that in Islam, salvation is based on personal conviction and only discovered through moral actions dictated by rational inquiry and individual judgement. Thus, a political space to guarantee rational and moral behaviour is essential for individual salvation (Fadel, 2008: 67). Liberal constitutionalism is politically committed to pluralism, freedom of thought, and active participation of the rational citizen. This political structure, Fadel concedes, provides the right environment for Muslims (as well as for members of other faiths) to achieve salvation through personal conviction (2008: 7). Consequently, Fadel demonstrates that the fate of Muslims and liberal democracies is cooperative: Muslims can still be committed to comprehensive views of Islam while endorsing a liberal democratic order, which provides the best constitutionally guaranteed protection of human rights and individual freedoms, including religious freedoms.

Overall, Mohammad Fadel established an argument “in favour of the Islamic tradition within the scheme of political liberalism Rawls provided” (Mangini, 2016: 252). Fadel proposes liberal democracy as the solution for the Islamic comprehensive doctrine to be integrated into the political sphere. He reveals that for an overlapping consensus of Islamic ethics and liberal democracy to be achieved, at least some degree of retreat from traditional *shari‘a* and traditional/conventional Islam is indispensable. However, a question emerges from Fadel’s observation: what does it mean to find an equilibrium of Islamic and liberal values if it is Islam alone that needs to go under a philosophical reformation? Multiculturalist thinkers such as Kymlicka, Bader, Taylor, and Mookherjee have questioned the actual success of the Rawlsian paradigm in accommodating religious demands. Fadel does not envisage revision of liberalism but rather praises its virtues in encompassing Islamic values. Multiculturalists, on the other hand, have looked to Rawls’ scheme of overlapping consensus to expand for Islamic public attributes and demands to be included as they believed that liberal democracy should go beyond the Rawlsian paradigm of political liberalism where no comprehensive theories are allowed to inform the public sphere. Thus, Fadel’s plea for Muslims to endorse Rawlsian liberalism as the best possible political regime to realise Islamic ethics needs more than requiring traditional *fikh* to be liberalised; it should also look for liberalism to be further democratised in the public sphere and institutional areas to meet Muslim demands. In other words, the expectation of change should apply to both liberalism and Muslim traditional norms.

Similar to the systematic criticism of philosophical secularism that is undertaken by multiculturalists, modernists also press for the revision of secularist paradigm. Islamic modernists do not only negate the separationist paradigm that divorces religion from the public sphere but also ask secularism to expand in accommodating religion and allocate more capacity to it to address public issues, such as legal matters. Deriving from the idea of religion being “politically relevant,” Fadel defends the “normative independence” of religion from the secular regime in determining the proper “boundaries of legitimate religious doctrine”:

What this implies, then is that in lieu of a separationist paradigm, the law should adopt a paradigm of principled reconciliation in which legal values and religious values are in a state of continual dialogue with the potential that each may inform and shape the other. Only through this process of constant dialogue can there emerge legal principles that all “reasonable doctrines” can accept for the “right reason” (Fadel, 2013b: 1260).

Although Fadel himself does not conceptualise the practical consequences of this “paradigm of principled reconciliation,” the institutionalist pluralist school that will be typified in the multiculturalism chapter engages in a more practical analysis of a reconciliatory framework.

Consequently, modernists are outspoken supporters of liberal democratic politics, constitutionalism, and limited government in the Western sense of these terms. They provide not only practical but also a philosophical support for liberal democracy. Modernists still strongly emphasise the role of religion in politics. Actually, they do not argue for the separation of religion from politics. In addition, unlike progressives, who put secularism and the secular state at the core of their theories, modernists express that secularism is laden with unhelpful connotations such as it being a colonial construct, hostile to religion, and an instrument of authoritarianism (Fadel, 2001: 94). Thus, they often argue to “remove the term ‘secularism’...and replace it with two words:

‘democracy’ and ‘rationality’...as ‘democracy’ means protecting the rights of individuals and groups, while ‘rationality’ means exercising politics according to reason and its logical and moral criteria [behind the *sharī‘a* rulings mentioned in the Qur’an and *sunna*], and not in accordance with whims, fanaticism and capricious moods (al-Jabri, 2009: 56).

Although modernist accounts of a Muslim state are argued to be compatible with

democratic governance, there are concerns with regards to the role of divine morality and sovereignty that need further theorisation. Modernists express their belief that God leaves the exercise of political authority to the people's prerogative. Yet they also assert that the normative order of Islam indicates certain collective organisation, legal injunctions, and public authority. In other words, the idea of divine normativity has implications for the organisation of communal life, law, and public morality. However, modernists do not articulate how the public role of religion can be reconciled with individual rights and freedoms of minority, dissent, or anti-Islamic citizens. The next category will typify the progressives, who make the most radical claim and support the normative separation of religion and state institutions/authority.

4. Progressives: Abdullahi An-Na'im, Asghar Ali Engineer, Mohammad Talbi

Progressive Muslim thinkers aim to reconcile Islam, secularism, and democracy while differentiating the theological and political in their theorisations. Asghar Ali Engineer was an Indian intellectual who was one of the thinkers presenting the secularist view in this school of thought. Engineer asserts that "there has never been any fixed or universally acceptable form of Islamic state" at any time in the history of the Muslim people, including the prophet's era (Engineer, 1985: 7). He adds that not only does the Qur'an not instruct any fixed form of statehood, but among the highest religious authorities, there has been no consensus on this matter. While saying that, Engineer also acknowledges that a form of a polity existed in the prophet's Madina. Yet he emphasises that it was a primitive polity that was highly influenced by Arab customs and local traditions and did not represent a new and purely Islamic or a religious form of statehood (Engineer, 1985: 38). He also believes that the structure of the institution of a caliphate that has evolved over time is based on the consensus of early and medieval Islamic '*ulamā*' and jurists who thought that religion could not be separated from politics. Thus, he believes the principle of *dīn wa-dawla* (religion and government; a domain of politics) was "a human construct" rather than inspired by "a divine revelation" (Engineer, 2006).

In essence, Engineer contends that the reason why there is no definitive Islamic concept of state is that "the Qur'an is concerned with morality rather than polity" (1985: 199). In other words, the values promoted in the Qur'an are indispensable to a Muslim society rather than to an Islamic state and without a political unity, the environment in

which Islamic ideals can be fulfilled is achievable. Therefore, concludes that the Qur'an only directs Muslims towards the establishment and maintenance of a just, egalitarian, and virtuous society, leaving the political matters to human agency (Engineer, 2006).

In this regard, Engineer concedes that religion is “a culturally mediated phenomenon,” which is seen in Middle Eastern cultures as shaping our understandings of *sharī‘a* and even Islam itself (2002: 32). Accordingly, he emphasises, it is the Muslim cultures that do not reflect the democratic, secular, and egalitarian ethos. Yet Islamic values and principles in their universal form are indeed embodying the modern political culture and uphold to a secular and democratic government (Engineer, 2002: 33). In brief, for Engineer, “we cannot say secularism is essentially un-Islamic or anti-Islamic in any fundamental way”; thus, Islam can legitimately exist in a secular framework, though Islamic cultures may not (2002: 30).⁷

Another influential secularist thinker is Mohammad Talbi of Tunisia. Like Engineer, for Talbi, the Qur'an is a book of moral guidelines and ethical principles, not a constitution;⁸ Islam is a religion, not a system or ideology. Therefore, he concedes, there exists neither a Qur'anic theory of a proper form of Islamic governance nor an Islamic political structure that “has institutional or moral authority upon Muslims” (Nettler, 2000: 53-54). Talbi emphasises that Allah has created human beings based on *fiṭra* (human intuition to understand and interpret) so that they can implement Islamic ethical principles in their lives and times (Nettler, n.d.). He criticises “allying scripture to all sorts of modern political causes” without historical reading of the Qur'an in isolation of contemporary realities (al-Dakkak, 2011: 84). Talbi criticises the blanket understanding of *sharī‘a* based on classical schools neglecting the imperatives of our time. And when we read the text in accordance with *makāṣid* understanding of the texts, Talbi argues, we do not only understand that one cannot truly practise faith if religion is imposed by the state eliminating freedom of choice, but we also come to the understanding that democracy is the best existing political model to cherish religious ideals in a modern setting (al-

⁷ Secularism here is used in a political sense, not in a philosophical sense, since political secularism creates social and political space for religious communities, but these communities need not support the philosophical notion of secularism (Engineer, 2006).

⁸ Talbi writes that “more detailed time bound injunctions [were] meant by God only for the particular situations of the revelation” and thus, their underlying ethical values are eternal and universal while the specific implementations are transitory and contextual (Nettler, 2000: 53).

Dakkak, 2011: 87).

In his article “Arabs and Democracy: A Record of Failure,” Talbi demonstrates his normative support for liberal democracy in the Arab world (2000: 59). He claims that “Islam’s universal human value...[is] in our historical epoch...most likely to be expressed in democracy” (Nettler, 2000: 55). Unlike revivalists, who accommodated democracy in Islamic thought by linking it to the concept of *shūrā*, Talbi believes neither that democracy needs to be legitimised to be adopted with reference to any Islamic tradition, nor that there is any logical connection between *shūrā* and democracy. He states that *shūrā* was a particular system in a particular time and place and that democracy is another one in its own time. Thus, democracy is a modern phenomenon—an achievement of our age and a system that best represents the voice of the people with the associated values of human rights and pluralism. Therefore, for Talbi, in today’s world, what a progressive and critical reading of Islamic ideals represents is democracy, not *shūrā* or any other political structure (Nettler, 2000: 55).

Talbi demonstrates a progressive and dynamic understating of Islamic values about governance and opposes the dogmatic, absolutist, and transcending approach to political systems. The new system(s), not confined to the pre-modern models, dogmatism, and classical scholarship, would then be the ones that would better exemplify universal Islamic ideals. Talbi criticises modernist thinkers such as Khaled Abou el-Fadl who argue for the compatibility of Islam and democracy. Talbi is against finding equivalence of religious and political concepts as well as equating religious and political institutions (al-Dakkak, 2011: 90-91). He writes that democracy is a new, modern concept that has neither existed in Islamic tradition nor Judeo-Christian Western history till recently (al-Dakkak, 2011: 93). To equate religious ideals, which provide universal values for a just and virtuous society, with political systems, such a democracy, is wrong. Islam neither dictates a political system nor can it be represented by one. Talbi strongly affirms that democracy is the best form of government at present. He also believes that today, until a better system emerges, Muslims should give full support and endorsement to liberal democracy (Nettler, 2000: 55). Yet he emphasises that one should leave the decision to choose the best political system for the collective decision of people, rather than equating and absolutising one political system with Islam and offsetting all other possibilities, even though the favoured system might be the best

among them, emphasising that the process of democratisation should also be democratic (Talbi, 2005: 79 as cited in al-Dakkak, 2011: 100).

Abdullahi Ahmed An-Na'im is one of the most influential representatives of contemporary progressive Muslim thought. Like other progressive theorists, An-Na'im also believes that the arguments of an Islamic state mainly come from social, economic, and historical contexts, rather than being purely theological. He suggests that the state in the history of the Muslim people was never Islamic in the sense that it has been used by many present-day scholars. For him, today's concept of an Islamic state is a post-colonial construct based on a Western mould of the state, and a means of social engineering by the elite to subdue the people in their attempts to gain legitimacy. Although the states that reigned over the Muslim world "did seek Islamic legitimacy," he insists, their claim was not being an Islamic state (An-Na'im, 2008: 7). In fact, he stresses that "an Islamic state is conceptually impossible [as a result of "fundamental jurisprudential and ideological confusion"] because, as a political institution, a state cannot be characterized as either Islamic or non-Islamic" (An-Na'im, 1999: 29, 40). Similarly, Engineer also argues that the statist claim of Islam calling for a distinct model of a state is a recent invention, which is indeed historically naive and theoretically misguided (1985: 7).

Therefore, An-Na'im claims that "the state is a political and not a religious institution" (2008: 1). However, the most important point here is the author's intention to maintain "a clear distinction between Islam and the state while regulating the connectedness of Islam and politics" (An-Na'im, 2008: 4). Although he supports the secular state framework, he also affirms that secularism should not be understood as an exclusion of religion, since for him the separation of religion from politics is unrealistic. That is so because politics and religion do not function in distinct spheres; one "continually informs and affects the other" (An-Na'im, 2005: 71). He elucidates his position on religion and politics as follows:

[I]t is grossly misleading to speak of complete separation or total union of any religion and the state. Any state, as well as its constituent organs and institutions, are conceived and operated by people whose religious or philosophical beliefs will necessarily be reflected in their thinking and behaviour (An-Na'im, 2000: 40).

What secularism entails for him is that the state should not favour one religious belief

over another, and should equally interact with and respond to the demands of all religions and belief systems (An-Na'im, 2000: 63). He suggests that this interactivity would allow "the implementation of Islamic principles in official policy and legislation" through a democratic process (An-Na'im, 2008: 4). In other words, An-Na'im does not intend to restrict religion to the private sphere. On the contrary, he advocates for the need for synergy and interdependence between religion and secularism promoting Islam's existence in the public life of the community of believers and politics (An-Na'im, 2002b: 8). Yet, he also emphatically repudiates the assertions of collective Islamic political or legal authority that enforces the law as its own coercive power (An-Na'im, 2008: 6).

An-Na'im engages with the detailed conceptualisations of *sharī'a* with regards to government. He understands *sharī'a* as a "historically conditioned interpretation of Islam" representing one among many alternatives, not "divinely predetermined" (An-Na'im, 2002b: 5; 1999: 33). Today what we call *sharī'a* "was, in fact, the product of a very slow, gradual and spontaneous process of interpretation of the Qur'an, and collection, verification and interpretation of Sunnah" during the first three centuries of Islamic history deriving from the interpretations and methodologies of classical *fuqaha* (An-Na'im, 1999: 33). Essentially, for An-Na'im, *sharī'a* is not Islam but is rather "effectively what Muslims make out of Islam"; therefore, there cannot be a body of individuals or an institution that has a monopoly on the authentic notion of *sharī'a* (An-Na'im, 2008: 10).

It is for this reason An-Na'im believes that:

sharī'a principles cannot be enacted or enforced as the positive law of any country without being subjected to selection among competing interpretations, which are all deemed to be legitimate by the traditional *sharī'a* doctrine" (2008: 10).⁹

He warns that a conceptualisation of an Islamic authority that enforces an absolutist interpretation of *sharī'a* and enacts it as the state law would deny and eventually destroy the diversity in Islamic discourses and among the different schools of thought, ultimately

⁹ Irfan Ahmad also asserts that it is a modern Islamist interpretation that perceives *sharī'a* to be the revealed law of God and hence immutable. He believes that *sharī'a* is indeed a product of human interpretations "of conflicting juridical rules, instructions, and ethics" that has been "shaped and contested" over time (Ahmad, 2009: 148).

leading to tyranny (An-Na'im, 2005: 74).

Although *sharī'a* cannot be a positive law or a set of rules, An-Na'im emphasises, Muslims still perceive *sharī'a* as the principles and the way to understand and practise religion. So *sharī'a* has an undeniable importance in a believer's life as "the source of a religiously sanctioned normative system" (An-Na'im, 1999: 29). Accordingly, An-Na'im concedes that the laicist idea of complete secularism, which undermines the moral and social status of religions, is impossible for Muslims who staunchly aim to live in agreement with "private sharia of family law and devotional rites" (An-Na'im, 1987: 318). As opposed to laicism, An-Na'im supports liberal secularism for Muslim societies. Liberal secularism, unlike laicism, does not claim to be normatively neutral, but rather recognises the plurality of moral and political values and voices in the public sphere. An-Na'im believes that liberal secularism, which upholds political and moral pluralism, can overcome the weaknesses of laicism in providing a sufficient space for ethical Islamic commitments to be actualised through personal conviction.

In essence, if statist is the thesis for an Islamic state, progressives are their antithesis. Progressives endorse a non-formal understanding of religion, challenging religious authorities as well as traditional scholarship in understanding *sharī'a*. For them, *sharī'a* is a product of individual interpretation of the divine and is located between God and His humans. By negating the relationship between Islam and a polity, progressives focus solely on Islam's demand for a society and its organisation. Accordingly, they morally support and advocate for the secular state for the good of this community.

To conclude this section on governance, different Islamic trends of thought conceptualise political authority and democracy depending on how they understand the relationship between God and humans, religion and worldly affairs in general. None of the schools debate the source of ultimate *ḥākimiyya*, since in Islamic thought it is conventionally accepted that *ḥākimiyya* belongs to God. The real debates focus on the political implications of this sovereignty: how, in worldly affairs, could a human authority practise this sovereignty? Thus, these discussions have revolved around the questions of whether there are divine claims to statehood and what are, if any, the Islamic political imperatives and legal injunctions of governance.

For statist, not only does an Islamic claim for a state exist, but this claim and its

immediate application is also a *sine qua non* for Muslims. They advocate for a blueprint for the formation of an Islamic state, which for them is the only possible way for Muslims to live a just and Islamic life. Statists perceive governance as a matter of theology—the Islamic state as the embodiment of *tawhid* and all others as the epitome of *shirk*—resorting to an absolutist approach. They advocate for a state where *shari'ah* is the official law.

According to revivalists, governance is still related to theology, but they approach the issue more pragmatically and adaptively. Unlike statists who deny Western concepts of governance in totality, revivalists often give a partial support to them. Although revivalists also engage in mainly Islamic articulations of governance, they emphasise the importance of context and era in understating Islamic political claims.

For modernists, *tawhid* and *shirk* are theological terms in faith, not related to politics and human governance. Modernists argue that the idea of an Islamic state is “foreign to Islamic thought, with roots and terminology found in the European civilizational model” and “Shari’ah law, as a codified State-sponsored set of commands, is a serious break with tradition and a radical departure from the classical epistemology of Islamic law” (al-Jabri, 2009: 31; el-Fadl, 2003: 63). Modernists are not only against the idea of an Islamic state that perfectly embodies Islamic principles through state power, but go beyond that and assert that any political system has the potential to become “Islamic” provided it does not conflict with the express command of revealed knowledge (Fadel, 2008: 68). Modernists do not engage in providing purist Islamic political solutions to contemporary conditions. They rather support the implementation of liberal democracy, which they believe best exemplifies Islam’s moral values and aspirations in Muslim-majority countries. On this issue, modernists believe that the reason why statists are rejectionist of democracy is that they are “far more anti-Western than they are pro-Islamic” (el-Fadl, 2003: 13).

Progressives share the belief with modernists that the modern concept of Islamic state is rationally, theologically, and historically incoherent. Yet unlike modernists, progressives raise an appeal for a secular state where not only the divine and the state are separated, but equally religion and public authority. Progressives have a quite individualistic and private account of religion that modernists do not entirely share. Modernists, though sympathetic to the separation of religion and the state, still insist on

the need for some sort of Islamic authority to carry out certain aspects of communal Islamic life (Fadel, 2009a: 198). As modernists ask for the increased interaction of religion and politics, they believe that progressives insulate religion from governance. Although modernists engage with a hermeneutic argument revealing imperfect human understating of the divine, they do believe that this imperfectability should not mean that Muslims cannot agree on certain norms and rules, which should be open to constant reform and progress, inspired by Islamic texts in carrying out their social lives.

Furthermore, modernists still utilise traditional scholarship in making a case for liberal democracy, which is unlike progressives who do not consult tradition as such. Modernists argue that the medieval Islamic discourse has adequate resources for arguing for a liberal democratic state today. Progressives, however, do not vest their political position in tradition or classical jurisprudence (Fadel, 2009a: 202).

At this stage, this chapter will continue with a section on pluralism where the ideas of the four schools of thought will be discussed, in the hope of gaining valuable theoretical concepts for the later theorisation of Muslim democracy as well as revealing the decisive block confronting the formation of democratic deepening in Muslim societies.

III. Muslim Political Thought on Pluralism

In modern Islamic thought, the debate over pluralism has centred on discussions of Islamic values concerning diversity, state tolerance and accommodation of political and religious differences, the status of religious minorities, and the status of women within an Islamic political framework. This chapter is interested in understating how the four modern schools of thought under consideration interpret Islamic principles on diversity and their attitudes towards pluralism, which would give useful insights to the study on a Muslim democracy framework. This section will focus on statist, revivalist, modernist, and progressive schools of modern Islamic political thought and their perspectives on religious and political pluralism. While discussing modern Islamic political thought, the issue of pluralism will be articulated with regards to not only followers of other religions but also to followers of different interpretations of Islam.

1. Statists

The issues regarding pluralism revolve around the idea of an Islamic state as often identified by certain medieval concepts of jurisprudence within the statist's thought. Statists often transplanted the classical scholarship with a modern tinge especially when it comes to recognising differences and tensions between values. A prominent example is that non-Muslims living under Islamic authority are considered under the category of *ahl al-dhimma* as defined by classical texts. According to Abū al-A'la Mawdūdī's account, the modern Islamic state is an ideological state that envisages two kinds of citizenship: the Muslims (who are philosophically committed to the principles of the state) and the *dhimmīs* (who do not believe in these principles but who "have affirmed to remain loyal and obedient to the Islamic state") (1960a: 265). The Islamic state guarantees the security and dignity of its non-Muslim citizens and does not intend to destroy, expel, disrespect, or indoctrinate minorities in any way (Mawdūdī, 1960a: 263). For Mawdūdī, in a modern Islamic framework, non-Muslims, as citizens, should enjoy the rights that Islam granted them: the right to live in their own way, "preservation of the self and dignity, equality before the law, and maintenance of equal civil law—with the exception of allowing them to eat pork and drink wine and trade in them," preaching their faith, and participating in public arenas (Moussalli, 2001: 149).

However, the notion of the Islamic state as an ideological state implies two main injunctions for the minorities. The first is that the state must be administered and run by Muslims. Additionally, high-ranking officials should not only be Muslim but committed Muslims who live in agreement with *sharī'a*. In other words, for Mawdūdī, only 'true' Muslims who endorse Islamic ideology can work effectively in achieving the ideal Islamic society (Adams, 1983: 122). Non-Muslim citizens who do not uphold the Islamic faith, however, cannot genuinely work for the implementation of Islamic principles in the society and would not sacrifice to defend Islamic directives when it is necessary (Mawdūdī, 1960a: 264). Accordingly, Mawdūdī insists, *dhimmīs* cannot be appointed to chief positions, as non-Muslims should not be given the authority to make general state policies that concern the entire population.

The second injunction of the Islamic state as an ideological enterprise is manifested in its account of citizenship. *Dhimmīs* have their traditional guarantees of protection, but this does not include full political expression, especially with issues concerning governance. For instance, Mawdūdī claims that non-Muslims should not

vote in general elections (Moussalli, 2001: 149). He backs his stance by referring to “absence of even a single instance” in the early Islamic practices:

where a *Zimmi* [*dhimmi*] may have been made a member of the Parliament, or the Governor of a province, or the Qadi, or the Director of any Government department, or the commander of the Army or a Minister of the Government or may have been ever allowed to participate in the elections of Caliphs (Mawdūdī, 1960a: 264).

Yet in terms of some other issues concerning minorities, Mawdūdī expresses a more tolerant view. Mawdūdī argues that minorities should be subject to the same taxation as Muslims so the secular state would not seem more favourable to them (Rahman, 1986: 20).

Sayyid Qutb’s opinions on pluralism and non-Islamic civil society show more rigidity than Mawdūdī’s in various aspects. First, Qutb writes that religious minorities are free to keep and practise their faith in their own ways. However, in order to achieve and maintain a religiously good society, non-Islamic or anti-Islamic aspects should be restricted to the private realm: any non-Muslim ideological groups and members of other faiths and irreligious groups should not be permitted to operate in the public sphere such as forming political parties (Moussalli, 2001: 113). This restriction is placed on these groups because Qutb believes that ideological and religious conflicts within a society hinder its security, peace, solidarity, and wellbeing (Moussalli, 1999: 99). By and large, Qutb excludes the possibility of a genuine multi-religious civil society or multi-party system in favour of Islamic welfare (Moussalli, 2001: 143). This ideological endowment manifests itself in Qutb’s ideas in responding to opposition coming from both non-Muslims and Muslims who hold *unauthentic* views. For instance, he suggests the death penalty both for non-Muslims who refuse to pay *djizya* (as an acknowledgement of the rule of the Islamic state) and for Muslims who “emulate the deviant ways of the People of the Book” (Haddad, 1995: 10).

In essence, a pluralist thought has been underdeveloped within the statist school. The relevance of their ideas when it came to the search for a pluralist democratic society, in which all groups of the state gain collective group recognition, is quite limited due to their ontological and theological understanding of an Islamic state. Yet it should be specified that the particularities of the times during which statist scholars have produced

their works influenced them to concentrate on proposing the ideological legitimisation for the establishment of an Islamic state. Furthermore, we sometimes observe an increase of a rejectionist and exclusionist discourse against democracy due to the scholars' personal circumstances, as for instance with Qutb who was imprisoned and experienced physical and mental torture (Moussalli, 1999: 97; 2001: 63).

2. Revivalists

Revivalists, such as Rashid al-Ghannushi, Hayrettin Karaman, Yusuf al-Qaradawi, and Ali Bulaç wrote extensively on the issue of pluralism. Their reinterpretation and critical reading of the Islamic values in the modern context enabled them to adopt a more tolerant and progressive approach to the subject.

Rashid al-Ghannushi expresses that pluralism is a Qur'anic ideal, quoting the verse arguing that "there is no compulsion in religion" as the foundation of the existence of religious, cultural, political, and ideological pluralism in Islam (Esposito, n.d.). Al-Ghannushi also modernises the traditional concepts on minorities by adhering to the ideals (*maqāṣid*) behind these doctrines in order to offer modern solutions. In fact, al-Ghannushi argues for equal citizenship rights and the equality of religious freedom and expression for every citizen regardless of religious affiliation (Yousif, 2000: 36). He emphasises that the right to political representation and citizenship are inherent to all men; they are not particular to Muslims. Therefore, al-Ghannushi asserts that since pluralism and freedom of belief are sanctioned by Islam, non-Muslims have the rights to vote, to run for elections, to representation in parliament and government, and to form political parties that represent their interests (Moussalli, 1999: 95). He also disagrees with the statist idea that for the wellbeing of the faith and society, non-Muslims should not take key posts. Al-Ghannushi concedes that appointment should be based on qualification, not faith alone. He suggests that an Islamic state does not mean a state where Muslims hold all the institutional positions; rather, it means a state that is run by Islamic principles. Therefore, non-Muslims can participate in any form of activity within the mandate and parameters of the law (Moussalli, 2001: 157). Thus, he recognises the merits of multiparty and parliamentary systems, which facilitate the operation of all groups who have religious, irreligious, or anti-religious political orientations. In such a system, al-Ghannushi maintains, social justice, equality, and human rights can be actualised (Haddad, 1995: 17). However, there is one aspect that al-Ghannushi still

resorts to the traditional view in, which is that in a Muslim country the head of the state should be Muslim (Saeed, 2007: 317).

Like al-Ghannushi, Yusuf al-Qaradawi also recognises that non-Muslims within an Islamic territory should enjoy all rights and share duties with their Muslim counterparts. Yet he specifies that the exception is that non-Muslims cannot hold a governmental position that has an Islamic religious nature, meaning positions that were traditionally occupied by the prophet or by the caliphs as a means of religious presentation (e.g., *imama*, or the presidency). Otherwise, non-Muslims can be appointed to chief posts such as ministries and work in any high-ranking position in bureaucracy, diplomacy, or in an army (Moussalli, 2001: 153).

In addition, al-Qaradawi argues that religious freedom is neither absolute nor without responsibility for both Muslims and non-Muslims. For minorities, he notes that they should respect the sanctity of Islam in the public sphere and be cautious that their actions should not spoil social harmony (Yousif, 2000: 37). On this issue, Karaman also writes that under an Islamic authority, the Muslims who annul Islamic rules in public are to be obstructed. Yet the state cannot go into the private sphere and reveal people's personal matters. Thus, an act that contradicts Islamic law is not under the legal responsibility or mandate of the state unless they are committed publicly, threatening social welfare (Karaman, 2014s). With regards to non-Muslims within Muslim realms, Karaman concedes that they are not obliged to abide by Islamic law like their Muslim peers in public, with one general exception: Karaman emphasises that universal *ugliness* (which he defines as acts that are universally prohibited by other religions, such as Judaism and Christianity) should be banned for Muslims and non-Muslims alike. He explains that unlike democracy that neither derives from divine ontology nor has claims to absolute truth, Islam puts certain ultimate normative boundaries on pluralism. Thus, under an Islamic system, non-Muslims live "quite freely," but it is not absolute and is restricted by certain universal *ugliness* (Karaman, 2014s). In general, revivalists argue that there are conditions to be satisfied for individuals, groups, associations, political parties, or forms of opposition to enjoy their freedoms in a Muslim-majority society: They should respect that the scope of pluralism is determined by the basics of Islam and that the freedoms should be practiced in a sensible way that does not endanger the interests and wellbeing of the community (Moussalli, 2001: 124-125).

In addition to religious and political pluralism, revivalist thinkers also articulated their opinions about internal pluralism (inner plurality among Muslims). Overall, al-Qaradawi talks in support of *ikhtilāf* (disagreement) in Islamic discourse and articulates that plurality of views within the Muslim community and scholarship should be welcomed (Zaman, 2005: 65). Karaman also applies an inclusivist approach to the Muslim-to-Muslim relationship. For instance, Karaman approaches the *madhhab* issue very liberally. For him, *madhahib* are natural consequences of human understanding of the revelation within different cultures, times, heritages, needs, and perspectives. There is nothing Islamically inappropriate in having differences and disagreements on religion in the form of *madhahib*. What is Islamically incorrect, he states, is making these differences and diversity into a matter of conflict, separation, and exclusion within the *umma* (2014o).

Within the discussion on internal pluralism, al-Ghannushi revisits the apostasy debate. He revives the traditional idea on apostasy based on re-interpreting the texts and history. His position supports the freedom of belief and disbelief for Muslims and negates the capital punishment that is traditionally given for Muslims who abandon or renounce Islam. Within al-Ghannushi's own words:

The judgement on apostasy is in the hereafter. Abu Bakr, the trustworthy, when he fought the apostates, he fought them because of their political rebellion against Islam. It was not because of their position on creed (as cited in Saeed, 2007: 316).

In essence, revivalists agree on Islam's historical success and current potential to create a pluralistic society. For instance, al-Qaradawi contends that Christianity, the only divine religion whose historical influence can be comparable to that of Islam, has been less tolerant towards internal disputes and divergences and towards its minorities. Accordingly, he advocates that both philosophically and historically, Islam as a religion gave birth to a tolerant and pluralistic environment whose achievements can only be understood in evaluating its contemporaries in given times and places (Moussalli, 2001: 154). Therefore, revivalists stress that if Islamic values and ideals are adhered to today, Islam can again pave the way for Muslims to develop new systems and institutions of accommodating diversity and difference, much better than any other religious belief or ideology.

This premise inspired many intellectuals in the Muslim world, among them Ali

Bulaç, who developed a pluralistic Islamic social and political theory by referring to the Madina Charter. The Charter of Madina (*Mithaq al-Madina*) was a contract between Muslims, Jews, and pagan Arabs under the leadership of Prophet Muhammad.¹⁰ It was a social agreement reached as a result of deliberations and negotiations of demands and interests of all segments of Madinan society (Bulaç, 1998: 174). The Madina Charter, which is believed by some to be the first written constitution in history, granted Muslims the right to rule the central governance in the city of Madina while ensuring the rights and self-governing capabilities of other groups. The charter specified the rights and obligations of the groups who participated in this new social and political community (Kösebalaban, n.d.a). The representatives of non-Muslim social groups and Muslims “agreed upon the basic principles constituting the foundations of a new ‘city-state’ as stated in the Charter and differences among them were left to the autonomous sphere” (Bulaç, 1998: 170, 174).

According to Bulaç, the charter aimed to create this new society based on the participation, involvement, respect, and choice of all of its parties as opposed to a domination of one group over the others. He asserts that in such a society, everyone is equal and can exist on legal foundations according to the principle of “you are what you are” (Bulaç, 2006: 190-193). Bulaç notes that Prophet Muhammad did not intend to establish an absolute rule in Madina, but rather pursued a multi-religious and multi-ethnic pluralist project based on religious and legal autonomy. These intentions, he maintains, manifested themselves in the charter, which laid down the pluralistic framework for the functioning of self-governing ethnic and religious groups under multi-religious legal sovereignty (Bulaç, 2006: 190-193).

To further explain the proposed pluralistic framework, Hayrettin Karaman explains this method of self-governance by arguing that non-Muslims (who were mainly Jews) had their own legal courts and own mechanisms to govern their lives. However, when Jews could not solve their issues by themselves, they often pleaded to a higher judicial authority for consultation, who was Prophet Muhammad. When consulted to settle a dispute, Prophet Muhammad asked each time which legal framework Jews would like him to decide on: the Torah, the Qur’an, universal ideals of justice, or Jewish customs. Thus, it becomes evident that the essence of legal pluralism that was embedded

¹⁰ The Madina Charter is also named as the Madina Constitution, the Madina Document, and the Madina Covenant.

in the charter was truly implemented in practice (Karaman, 2008).

Correspondingly, Bulaç has contended that in the framework shaped by the Madina Charter, Islam has been only binding on Muslims and that its law cannot be imposed on others. By referring to more than one law, the approach taken by the prophet in settling conflicts indeed demonstrated this notion. In Bulaç's words, the prophet acted as a referee/arbitrator, not as a judge for the Madinan non-Muslim populations. His position can be compared to that of a supreme court handling the unsolved affairs brought from other courts¹¹ can be seen as the foundation for this position (Bulaç, 2006: 190-193).

In contrast to statist who argue for the state and religion and for religious and political identity being the same thing, al-Ghannushi gives the historical example of the Charter of Madina where it considers Jews and Muslims being members of different religious nations, yet the combination of the two creates a shared political nation distinct from others. For al-Ghannushi, the articles in the charter manifest the difference between religious and political belonging (al-Ghannushi, 2012). Therefore, al-Ghannushi believes that the ideas articulated in the charter can be a source for new political projects of mutual coexistence and pluralism under the modern context.

Bulaç does what al-Ghannushi envisions. Inspired by its universal ideals, Bulaç proposes the Charter of Madina as a model for the development of a new system of legal pluralism in modern political systems. He suggests that the constitutive principles of the charter can be used in the modern theorising of a Muslim democracy. Bulaç elaborates on the principles of such a system as follows (Bulaç, 2012f):

1. People as individuals can choose their own religious, political, or philosophical direction without any pressure and involvement from their groups or the state authority;
2. Each should have the freedom to choose a legal system and accept its legal constraints;
3. All groups have the right to define their principles and values that govern their socioeconomic and civil relationships in life;
4. A group that has made its religious and legal decisions becomes an autonomous social unit in legal and cultural terms;
5. There is a need for a social contract in arranging the public and administrative dealings of these autonomous legal groups;

¹¹ "They ask you, Prophet, what is lawful for them. Say, 'All good things are lawful for you.'" (Maida: 4).

6. The groups are not ghettos that live isolated from one another. There should be a form of assemblies at municipal and state levels so that each community can interact freely with one another;
7. All social units, in order to render their civil services (religious, education, health, art, etc.), should pay a separate taxation to their groups, and for the government services (defence, infrastructure, transportation, etc.) they should pay another to the state; and
8. Controversies that may arise among people who live under the same legal groups can be brought to a higher authority and its independent ad hoc tribunals that are made up of the representative of all different groups.

The basis of cultural, religious, and legal autonomy that were defined by the principles of the charter, Bulaç emphasises, can lay the foundation for the creation of a free, pluralistic, just, and participating society in a multi-ethnic and multicultural democratic context (2006: 190-193).

To sum up, revivalists have developed a reformist approach, particularly in regard to political pluralism. Revivalists are more flexible on the issue of pluralism, expanding and reforming the traditional concepts. Yet they are selective in their use and support of modern terminology. In an attempt to offer the Islamic equivalent of a universal good, their accounts have differed from Western conceptions of individual freedoms and rights. For instance, they generally focus on justice and fairness rather than equality. They state that justice, as a prominent Qur'anic ideal, is the most important principle in organising and governing a society. However, revivalists maintain that the principle of equality could at times impede justice since treating people with different beliefs, needs, and demands as the same might constitute an injustice (*zulm*) (Karaman, 2014s). These issues raise concerns in terms of human rights and gender equality issues, which are the arenas that are not sufficiently examined by the revivalists. Modernists, on the other hand, unlike revivalists who provide distinct Islamic arguments, practically and philosophically endorse Western concepts of pluralism and democracy, as elaborated in the following section.

3. Modernists

Modernists, who often integrate the classical sources with modern concepts through *maqāṣid*-based reading, promote democratic Islamic thinking. For instance, Fazlur Rahman acknowledges and praises the success of traditional Islamic doctrines in governance, yet he strongly supports the creation of new and modern approaches in the contemporary world. On pluralism, he criticises upholding the medieval categories,

concepts, and laws on minorities as the divine truth in responding to modern needs. Rahman contends that the word *dhimmī* is mentioned neither in the Qur'an nor in *hadith*. And even as a historical Islamic concept, it was a dynamic one that has eventually expanded from *ahl al-kitab* to Zoroastrians. Thus, *dhimmī* is a concept developed in the context of the early expansion of the Muslim army and is not a universal category. Rahman also notes that the medieval law for apostasy that is still upheld by many is not a Qur'anic order since the Qur'an only says, "Those who repeatedly apostatised, there shall be God's curse" (Rahman, 1986: 16). Therefore, the law on apostasy was rather a decision made by Muslims with reference to their times when the "considerations of the solidarity of the community and the integrity of the state appear to have necessitated" this law in the early periods (referring to the war on *riḍḍah*) (Rahman, 1986: 17). Yet it neither means that present conditions necessitate such a law nor does it mean that the traditional law on apostasy should have any consequences for encountering religious controversies today.

Rahman continues that there are other terms that do occur in the Qur'an, such as *ḍjizya*, yet the application of these terms has shown a range of diversity even during the very early practices. For example, some non-Muslim tribes in Syria who considered paying *ḍjizya* as a mark of differentiation and humiliation were accepted to pay *zakah* like other Arab Muslim tribes. Therefore, paying *ḍjizya*, Rahman concludes, was neither a fixed practice nor necessarily implied a second-rate citizenship, and more importantly, its modern application is not religiously compulsory (1986: 20).

Broadly, Rahman believes that genuine and *maqāṣid*-based readings of religious norms would give birth to compelling concepts in creating a modern pluralist society. For centuries, Islam, which brought concepts to vouchsafe freedom of other faiths, for example allowing minorities the right to practise their religious rituals and retain their places of worship, is capable of giving this moral guidance today (1986: 22). Alike, Khaled Abou el-Fadl states that if the Muslim societies are not multiculturalist or pluralistic today, it is because of the Muslims' incompetence in interpreting and understanding the religious texts, not because Islam is not a pluralist religion. He argues that strict literalism, intolerance of difference, narrow readings of the text, and indoctrination led to the stagnation of Islamic thought, which left the interpretation of the Qur'an in a medieval/pre-modern discourse. This recession in fact degraded Islamic

religious morality by making the Islamic ethical framework quite unrelated to modern ethical requirements and irreconcilable with universal moral standards (el-Fadl, 2002: 106-107).¹² This irreconcilability with modern circumstances manifested itself in literalist approaches that fail to adhere to liberal pluralism and the notion of universal human values:

The meaning of the religious...depends, too, on the moral construction given to it by the reader....But by emptying the Qur'an both of its historical and moral context, the puritan trend ends up transforming the text into a long list of morally noncommittal legal commands (el-Fadl, 2002: 15).

El-Fadl emphasises that the Islamic civilization in history produced a "moral and humanistic tradition" with regards to internal disputes and inter-religious relations (2002: 22). The political, social, and intellectual history of Islam has witnessed the development of progressive doctrines on minority rights, legal pluralism, multicultural accommodation, and others. Thus, there is no reason that Muslims cannot re-apply a new interpretation of Islamic doctrine for the religious development of democratic politics and institutions as well as human rights in the contemporary world (el-Fadl, 2002: 23).

Human rights are an important matter that the modernists profoundly write on. They argue that not only justice but also equality is an Islamic value. Hence, there is nothing morally difficult about providing full support for the universal human rights paradigm (al-Jabri, 2009: 240). El-Fadl insists that one has to acknowledge that the human rights regime today is necessary to achieve the justice that Islam envisages. In his own words, "commitment for human rights is a commitment in favour of God's creation and, ultimately, a commitment in favour of God" (el-Fadl, 2003: 56). El-Fadl responds in depth to the arguments claiming that Islam and democratic human rights paradigm are not philosophically compatible because of the former's more collectivist as opposed to the latter's individualistic foundation. He explains that it is true that in the classical

¹² El-Fadl writes that today's understanding of the text cannot go beyond the medieval interpretations since the works of classical jurists are considered part of the divine truth. This static, monolithic, and sanctifying stance, however, challenges the approaches of the classical jurists: "Classical Islamic scholarship was dynamic, diverse, complex, and constantly evolving well beyond the tenth century" since "[t]raditionally, Islamic epistemology tolerated even celebrated divergent opinions and schools of thought" (el-Fadl, 2002: 106-107, 6). Yet, he persists, this tolerance of disagreement is a deserted norm today.

Islamic literature, the concept of individual human rights was not developed. But it does not mean Islam is oblivious to individual rights. It is not Islam, but Muslim scholars, who have conceptualised collectivist and duty-oriented rights. Like this, if Islamic concepts of rights are not individualist, this derives from a cultural point of view, not a theological one. In fact, el-Fadl maintains that in Islamic theology, God holds human beings individually liable in the hereafter and asks them to connect to Him and develop an individual understating of Him. Therefore, el-Fadl argues that if there is a resistance against human rights in the Muslim world, the reason for this is not Islam itself, but the reactionary, anti-Western sentiments of certain currents of thought that challenge them due to their perceived Judaeo-Christian foundation (2003: 55).

Al-Jabri also pursues the debate over human rights ontology, discussing whether it is secular or religious. Al-Jabri believes that the “mental tendency to generalize the oneness principle of God as a principle of human governance,” although “a generalization prohibited and prescribed by religion itself,” prefigures Muslims’ relationship to pluralism and the way they perceive human rights (al-Jabri, 2009: 131-132). As opposed to this cognitive tendency, he reveals that the universality and particularity of human rights arguments are not sufficiently adequate in comprehending human rights practical importance. He believes that universality and particularity are not two opposing notions, but in fact integral. Al-Jabri emphasises that there exists a certain universality in the theoretical basis of human rights in accounting for a universal account on human nature and needs within each particular culture, Western and Islamic alike. Human rights’ theoretical origin derives from human history and dignity surpassing the particularities of Western culture and hence can unite all cultures. He accentuates that freedom and equality, which are the basis of human rights, are not European or secular values but transcend cultures (al-Jabri, 2009: 177).

Expounding on the debates, Mohammad Fadel notes that a Rawlsian understanding of human rights is compatible with Islam. Rawls argues that human rights should be grounded in a rational and political consensus rather than philosophical and metaphysical conceptions of personhood. Fadel concedes that the Rawlsian paradigm provides efficient political structure, where human rights and Islamic values can be reconciled through public reason. Fadel explains that within Rawlsian liberalism, a concept of rights and certain normative values about social morality in organising the

public life should be achieved as a result of an overlapping consensus, not derived from a comprehensive view even if it is the view of the majority (2013b: 1257). Thus, Fadel states that the Rawlsian democratic structure that gives all citizens an impartial access to public life through democratic institutional mechanisms also enables Muslims to practise Islam in this pluralistic political arrangement. Similar to Fadel, al-Jabri also states that “[d]emocracy, with its emphasis on the freedom of thought and expression, and the plurality of parties, is the framework suitable to make” a pluralist framework, where the numerous sects, minorities, and ethnic groups within the same entity can coexist and share a public life as their rights and demands deriving from their philosophical views are recognised (al-Jabri, 2009: 132). By and large, modernists acknowledge that the democratic system provides effective mechanisms for Muslims to live by their comprehensive philosophical views, and also provides a political arrangement by which they can participate with other citizens creating a political consensus.

Essentially, modernists believe that there should be universally recognised rights for everyone regardless of their comprehensive philosophical views, asserting that what is good for humans and society is automatically Islamic. Modernists are not reactive or rejectionists like statist. Neither do they propose Islamic alternatives to the Western concepts like revivalists. Unlike these two schools that emphasise Islamic particularism, modernists do not hesitate to endorse liberal democracy and the conventional human rights paradigm (el-Fadl: 2003: 55).

Modernists also recognise the plurality of interpretations and understandings of Islam and do not believe that one of these can claim to be the sole exemplifier of *sharī‘a*. On the contrary, they maintain that minority ones might be closer to the truth than the prevailing ones and it is up to individual Muslims to choose their own understandings of religion. Yet modernists still emphasise the importance of recognising Islamic moral and legal norms especially with regards to personal/family/semi-public law more strongly than progressives.

4. Progressives

Muhammad Talbi writes extensively on religious pluralism and interreligious relations within the progressivist thought. Talbi defines religious liberty as a Qur'anic norm that entails the right to decide one's path freely and to follow its faith if one chooses to be a believer. Based on this definition of religious liberty, Talbi maintains, Islam is the most imbued with religious liberty, tolerance, human consciousness, voluntary acts, and pluralist ethos among all the revealed texts of the monotheistic religions (Talbi, n.d.). He believes that this Islamic ethos can be actualised again in establishing a pluralist democracy that cherishes modern universal human values. On the topic, Talbi remarks that the Charter of Madina lays down the essentials for structuring a pluralist society, which is also supported by revelation (Nettler, n.d.; Talbi, n.d.). Talbi, therefore, states that the Constitution of Madina presents the *maḳāṣid* of God for the organisation of society:

The goal of the Sahifah was to establish a single society with a diversity of religions and identities, on the basis of solidarity, justice, and equality (Talbi, 1992: 177, as cited in al-Dakkak, 2011: 128).

Likewise, Talbi states that we live in a religiously, culturally, and ideologically diverse world such that mere toleration is insufficient in tackling this diversity. What we need for achieving pluralism is a genuine dialogue, which goes beyond simple toleration. It entails a new era of cooperation and mutual respect. In other words, what dialogue comprises is beyond the right to express and practise one's faith freely, but the right to be different. So we can "live together with our consciously assumed difference" through finding a "plateau" where "mutual respect and full acknowledgement of difference are attained" (Talbi, 1995a: 62; Filali-Ansari, 2009: 2). Talbi maintains that religious acceptance and pluralism should not only be practical, but also normative. In this plateau, Talbi believes that the "common denominator of a universal ethics" should prevail (1995b: 83). He explains that no one religion may claim a monopoly on God or ethics. Within his own words:

God did not speak to one man to the exclusion of others. He did not grant one people a monopoly on His messages, and He did not limit *fitrah*...to one individual, rather than another (Talbi, 1998: 166, as cited in al-Dakkak, 2011: 117-118).

Overall, Talbi's ideas on theological diversity, where he recognises a "plurality of the paths of salvation, both in and outside the Islamic tradition," is quite remarkable within

Islamic thought (Talbi, 1995a: 63).

Asghar Ali Engineer categorises divine religion into three associated parts: a) “the revelatory aspect of religion,” which entails the divine principles and notions as evident in the divine texts and the sayings of Prophet Mohammad; b) “theology” developed by eminent theologians based on the religious texts; and c) “popular practices” and traditions as widely accepted among the followers (2003). Engineer employs these three categories in assessing religious pluralism in Islam. He believes that in the Qur’an, there is a divine vision of religious pluralism, justice, human dignity, tolerance, dialogue with others, respect, and compassion the implementation of which is obligatory for Muslims. However, Engineer claims because of the interpretations of theologians and popular religious customs, human interpretations of Islam overwhelm Islamic revelatory aspects and ideals at the procedural level (Esposito, n.d.).

Moreover, Engineer advocates that:

[t]hose who are committed to [the] true spirit of religion should cultivate tolerance and respect for different religions and see to it that religious differences are solved through dialogue rather than through confrontation” (as cited in Esposito, n.d.).

His support for dialogue, peaceful coexistence, and respect for difference derives from his recognition of the equal validity of all religions. He claims that the revelatory, divine aspects of Islam accept the validity of other religions, such as Christianity and Judaism, while it was the assertion of theologians that have declared non-Muslims as *kāfirs* (non-believers) or in times enemies of Islam. He articulates that such understandings are not based on the universal values of pluralism, equality, justice, and humanity of Islam that were revealed during the Meccan phase, but rather based on politically oriented contextual readings of the divine. Therefore, as Engineer illustrates, if there is a lack of religious pluralism, it is not because of Qur’anic orders, but rather because of the pronouncement of theologians based on social and political reasons, especially in times of conflict among the followers of different religions (2003). Consequently, Engineer envisions a pluralistic world that each religion or religious orientation gains recognition and respect in a harmonious and just society, which he believes is what Islam firmly aims to both achieve and maintain. For him, such a system can only be promoted and ensured by secularism that is the most desirable political framework of our times, which treats all religious, cultural, and ideological communities equally (Engineer, 2002: 30).

In theorising the actualisation of pluralism within modern societies, An-Na‘im

also believes that secular governance is a necessity to achieve this end. Secularism, he claims, encourages, safeguards, and ensures pluralism in the state (An-Na'im, 2005: 58). The key feature of the secular state, An-Na'im explains, is its minimalist normative content that is able to "safeguard pluralism and difference by creating a political culture where all groups and competing entities are treated equally" into one pluralistic political community (2002). As such, by preventing the rule of one religious group and imposition of its values on others, secularism, he concludes, ensures a pluralistic form of governance (An-Na'im, 2005: 63). Subsequently, An-Na'im believes that a secular state also offers the best way of affirming, nurturing, and regulating the role of Islam in the public sphere. A secular state would foster religious devotion born out of individual conviction and would also promote voluntary reflection and compliance of divine ideals of *sharī'a* in both the private and public spheres, not enforcement of one particular interpretation of people (An-Na'im, 2008: 3-4).¹³

An-Na'im further explains that when he refers to a secular state, he refers to liberal secularism, not laicism. In fact, An-Na'im is critical of Turkish and French laicism as violating the neutrality towards religion and infringing upon religious freedoms (2008: 203-204). He elaborates that liberal secularism, which provides a pluralist political and moral design, is different from laicism. Liberal secularism overcomes laicism's imposition of the state's comprehensive conception of the good—a conception of the good that is overtly hostile to religious ways of life, particularly non-Christian ones—upon citizenry by opening up democratic spaces for other comprehensive moral and political doctrines (1999: 39).

With regard to internal plurality and disagreements within Islamic discourse, An-Na'im targets the monolithic and obsolete conceptualisations of Islamic law, which for him is what prevents Islam from conforming to modern pluralistic values. For example, An-Na'im asserts that the traditional *sharī'a* concept of apostasy (*riddah*) was a product of a particular time that had definite social and economic realities, and "not the message Islam intended for humanity at large into the indefinite future" (2010). He writes that different methodologies led to different propositions depending on the period; thus, the

¹³ An-Na'im consciously uses the term "secular state," rather than "secularism," to overcome this negative sense of secularism among Muslims that is often thought of as the forceful "relegation" of religion into private sphere (An-Na'im, 2008: 9).

schemes reached today should consider the current realities of our age. Therefore, he believes that a progressive reading of the Qur'an prescribes "the value of protecting the possibility of dissent and difference" since there is "no value for any purpose in coerced religious belief or practice" (An-Na'im, 2010). Talbi is also critical of the death penalty for apostasy. He claims that this punishment is against the general normative framework of the Qur'an that actively supports religious liberty and free will in human behaviour (Talbi, n.d.).

Accordingly, An-Na'im insists that *sharī'a* is equipped to address the political realities and the particular social context of Muslims in the seventh century, where it was initially shaped and developed through the experience and perception of early Muslims. Thus, he claims that what we refer to as *sharī'a* today "is not the totality of the word of God" but it is rather "the understanding and interpretation of Islamic sources of the Qur'an and *sunna* by the early Muslims" (An-Na'im, 1987: 10). An-Na'im gives the example of how it is traditionally assumed that in *sharī'a*, there are three categories of people: Muslims, "people of the book," and non-Muslims who do not follow scriptures. The third type, unlike the second, does not enjoy a permanent legal status. This categorisation of people could be understandable and even high in standards "of the historical context in which they evolved" (An-Na'im, 2009: 838-839). However, he insists it is not acceptable today under the universal human standards we have achieved (An-Na'im, 1987: 12). He adds that "modern notions [of equality for women and non-Muslims and freedom of religion] were not, and could not have been, dominant when *sharī'a* principles were developed in the seventh and ninth centuries" (An-Na'im, 2009: 838-839). Yet he insists that one has to acknowledge that the world and the prevailing social and political norms have changed drastically throughout the centuries. Thus, An-Na'im warns that if Muslims would continue to take "historical" *sharī'a* as the word of God, the outcome will continue to be "repression and discrimination at home and aggression abroad" (1987: 335). An-Na'im, therefore, concludes that today, *sharī'a* should be derived from the modern interrogation of holy texts, not from the replication of history.

Reinforcing his point, An-Na'im asserts that to take *fuqaha's* understanding of the texts and to apply them to public issues would be disastrous for modern individuals. An-Na'im believes that diversity among different interpretations and understandings of

Islam is necessary for pluralistic Islamic theological and political thought in modern society (2005: 72).¹⁴ Therefore, An-Na'im suggests that *sharī'a* should be reinterpreted by contemporary Muslims and reformed in a way that modern Islamic law should eliminate all legal and political discrimination against Muslim and non-Muslim citizens. To do this, *sharī'a* should adequately accommodate, if not also contribute to, the universal standards of rights and values in order to adhere to universal norms and respond to modern life (An-Na'im, 1987: 18). In essence, An-Na'im specifies that new Islamic projects should be developed in response to new circumstances that would reconstitute modern *sharī'a* as it is interpreted in contemporary society. This shift in reforming *sharī'a*, he concludes, should include articulated protections for religious minorities, which would end the inconsistency of Muslim cultural norms and the status of non-Muslim minorities under *sharī'a* with universal human rights standards as follows (An-Na'im, 1987: 17):¹⁵

- (i) There should be reforms under *sharī'a* that would be both Islamic and “consistent with universal human rights standards”; and
- (ii) All citizens must enjoy full and equal rights of citizenship, irrespective of any affiliations.

A modernist critique of An-Na'im and progressives in general is that they regard normative underpinnings of liberalism such as constitutionalism and human rights as non-negotiable norms in the organisation of governance. Yet An-Na'im is suggested to assure that the norms of *sharī'a* are to be appropriated to the moral standards of liberal democracy. Modernists maintain that although An-Na'im argues for the reinterpretation of Islamic doctrines, he takes liberal doctrines for granted and ultimate. Modernists criticise An-Na'im for implying that Islam can only play its political role so long as it is negotiated with and unilaterally accepted by liberalism (Fadel, 2009b: 106-108).

In fact, due to An-Na'im's personal experience in Sudan, his fear of a certain ideology of Islam capturing the state may be paramount. Thus, it is very understandable

¹⁴ With regards to inner pluralism (internal disagreements within Islamic thought), An-Na'im explains that in the early periods of Islamic history, the diversity of opinions and intellectual differences among Muslim scholars were considered as a positive feature of the Islamic faith.

¹⁵ However, it should be noted that in the later writings of An-Na'im, his position evolved as he placed greater emphasis on the importance of reconciliation and interdependence between religious norms and human rights discourse (An-Na'im, 1995; An-Na'im, 2005).

why he approaches Islamic public claims very cautiously and accepts them only if appropriated with liberal democratic rights. However, it is essential to understand the multiculturalism literature's criticism of the liberal paradigm to expand to more pluralistically accommodate normative differences. In attempts to achieve a Muslim democracy idea, progressives would have been in a better position had they argued for both the liberal and religious paradigms to be reinterpreted and not leave the whole burden residing on religion.

In essence, while revivalists have given practical support, it was Muslim modernists who envisaged liberal democracy in Islamic philosophy, endowing it with a normative power over Muslims as a political authority in today's world. Yet this authority for modernists is lesser than a comprehensive philosophical authority, unlike what they assume it to be, because when it comes to the source of morality, the standards of justice, and the burden of justification, modernists underline the Islamic difference. Progressives, on the other hand, issue more human-centred approach to politics and draw a more Rawlsian line between the theological and political. In addition, they underplay the Islamic difference in understanding morality and accept the salvific character of other faiths. For progressives, Islam does not promote a certain political theory or theory of rights, but only a set of moral values that are consistent with universal good and human values. In effect, this position derives from their refusing of the universality of the Madinan revelations, which lead them to view Islam as a moral system rather than a legal one, leaving a tremendous space for human agency in understanding and interpreting the revelation.

Unlike progressives who focus on more individualistic and humanitarian aspects of Islam, modernists identify that Islam is concerned with governance, political organisation, and legality. Modernists also underline that *sharī'a* not only provides a set of normative principles but also involves "methodologies for the production of legal injunctions" for a societal life (el-Fadl, 2004: 30). On the other hand, progressives differ on the collective role of Islam as a form of legal or religious authority. This places them in opposition to following formal religious structures and authority as well as the classical Islamic scholarship and legal opinions.

IV. Conclusion on Muslim Political Thought

In attempting to reach a systematic understanding of democratic thinking within Muslim political thought, this chapter has assessed themes on governance and pluralism using the ideas and theories of a wide range of Muslim scholars, who are typified under four modern Islamic schools of thought. Except for the statist, the intellectuals examined in this chapter deliberated Islam's compatibility with democracy and often presented original ideas on the issues of secularism, law, pluralism, and public sphere. In the conclusion, certain propositions have been summoned under similar themes with the aim to evaluate the degree of relevance and potentials of these conceptualisations in developing a Muslim democracy framework.

When the issue of governance is scrutinised to open up new prospects in this chapter, the opinions have varied from governance being a matter of theology to a question of human interactions. What can be taken from this long theoretical analysis on Muslim political thought concerning democracy is that very few thinkers actually reject democracy "without any qualification or reservation" (Al-Effendi, 2006: 228). All the intellectuals analysed here were all influenced by the idea of democracy to some extent and theoretically engaged with it. Some cornerstones of debate on democracy were revealed including: the divine political sovereignty is a sensitive issue; *shūrā* is a fundamental political value of Islam; justice is the core governing principle, *sharī'a* matters not only individually but also in public issues; Western ideas on secularism are challenged yet often in favour of more authenticated formulations; and human rights are to be taken seriously.

However, not only Western concepts of secularism, sovereignty, and human rights were at issue, but the meaning and implications of *shūrā*, justice, and *sharī'a* have been disputable. In general, *shūrā* was referred to as the prominent Islamic political ideal reflecting the consultative or participatory role of governance. It is often perceived as a principle that sets itself against authoritarianism and promotes negotiation and dialogue in decision-making. Although the debate about whether *shūrā* can be equated to public deliberation or democracy persists among different schools of Muslim political thought, *shūrā* can be overall seen as a useful discourse for democracy with regards to the issues of social dialogue and agreement to define common rules of living for different groups.

Although this chapter has overtly focused on political aspects and did not much expand upon social justice aspects that intellectuals such as Sayyid Qutb and Rashid al-

Ghannushi extensively write on, the issue of how to establish justice is a central topic in Muslim political thought. Among the classified thinkers, statisticians take a dogmatic approach to the ideal of justice, asserting that it can only be concretised through governance that is directly connected to religion. Modernists and progressives argue that any political system that prolongs justice among people is automatically Islamically legitimate, regardless of the meta-narrative of the political establishment (Fadl, 2002: 110; al-Jabri, 2009: 156). Revivalists do not agree with the latter point raised by modernists and progressives and emphasise that the moral ontology of governance should be taken from Islamic resources in order to establish and sustain a genuine form of justice (al-Qaradawi, 2002). When it comes to verbally articulating the components of a just system, an independent judiciary, accountable governance, free elections, democratic institutions, civil society, state welfare, and civil rights have been named as the shared components. Yet the substance of their normative foundations do constitute the real debate, within which Muslim political philosophy suffers from inarticulate and methodologically underdeveloped political theorisations.

Primarily, the debate over sovereignty can be seen as directly related to the principle of justice and just governance. Statisticians view democracy as naturally unjust as it disregards God's sovereignty of being the only legislator and hence disregards divine justice (Qutb, 2001: 120). Revivalists, though to a lesser extent than statisticians, also find the issue of popular sovereignty problematic. They maintain that within a democratic system, the public, which may be deprived of Islamic moral reasoning, might go against the pillars of faith. When they support the democratic channels in the Muslim world, they have the conviction that the democratic outcome will be shaped by the Muslim-majority per their religious morals. Thus, revivalists demonstrate a moral incongruity with the idea of absolute popular sovereignty (Karaman, 2014s). Modernists and progressives, on the other hand, give normative support to popular sovereignty and defend the establishment of liberal democratic institutions within Muslim countries. Yet their arguments for a democratic system go beyond the orthodox liberal doctrine, a position that is similar to multiculturalism especially concerning their shared support for the expansion of the liberal democratic paradigm to accommodate the public role of religion.

The essentiality of public space for *sharī'a* in order for Muslims to express Islamic identity is another point on which all schools of Muslim political thought seem to agree. There are, however, several key debates occupying these schools concerning the conceptualisation of *sharī'a*. First, there are debates as to whether *sharī'a* is immutable and dictated by God or is a work in progress deriving from the human understanding of the divine. The scholars who favour the former belief, the statist, assert that *sharī'a* is an integrated body of law that can be codified as a constitution and be systematically implemented by the state. Revivalists support the idea of *sharī'a* being a source of the official law, yet unlike statist, their notion of *sharī'a* is more flexible by *maqāṣid* (objectives) and *maṣlahah* (common good). Revivalists also approach the issue more pragmatically than statist. They maintain that if Islamic law cannot be the official law for all, then it should be the law for the part of a population who would prefer to be ruled by it. On this matter, revivalists criticise liberal democracies in their shortcomings in responding to public religious demands, in particular with regards to legal aspects. For instance, Bulaç's proposing of the Madina Covenant as a guide to political order has strong parallels with the legal pluralist critique of liberal democracy that will be examined in the next chapter (2006: 190).

The scholars who favour the latter viewpoint of an enlightened *sharī'a* (modernists and progressives) also differ in their view of the extensiveness of the *sharī'a*. Modernists do accept that some positive rules can be deduced from *sharī'a* principles (Rahman, 1967: 206). Progressives, on the other hand, emphasise the moral aspect of *sharī'a* as providing individual guidance rather than public law. To further elaborate, progressives view *sharī'a* as a philosophical doctrine that influences social behaviour for a believer, not a law for public matters. Thus, they believe that secular judiciary and legislative bodies are sufficient to coordinate the role of Islam in both the private and public realms (An-Na'im, 2002a: 20).

In fact, with the exception of progressives, all schools seek some form of religious authority for all or some aspects of Islamic law. Even modernists acknowledge the collective aspect of *sharī'a* that may "need to be applied by authority" (al-Jabri, 2009: 19). Yet they believe that the secular state by definition does not deprive "Islam from the 'authoritative body', which must be entrusted with the execution of judgements" (al-Jabri, 2009: 33). It should be noted that what modernists advocate does not amount to a multiple legal system (legal pluralism), as some of the revivalists believe. Rather, what

the modernists are advocating can be thought of as an institution for Islamic affairs, an office for a *mufti* or a council of Islamic law to issue religious opinions on public matters that may or may not be formally binding depending on the situation and context. The issue of religious authority is also interlinked to the modernist argument for the compatibility between divine and popular sovereignty, which may have implications for the issue of public morality (al-Jabri, 2009: 18-19). This issue will be further analysed in the third chapter on the compatibility-based arguments (CA).

The arguments cornering the public role of *sharī'a* are directly linked to the notion of secularism. In fact, within the Muslim political thought, we observe a general caution towards the term secularism due to the negative connotations that the word carries in the Muslim world, such as authoritarianism and top-down modernisation. Thus, generally, Muslim thinkers in this chapter have preferred to employ the term secular state rather than secularism. This preference also reflects the intent to separate militant/aggressive secularism from democratic/passive secularism. Nevertheless, the statist school contests the concept of a secular state in its entirety. They critique the modern secular state as an all-pervasive intruder in people's lives. As a solution to the totalitarian nature of the nation state, they propose to equate or even replace the state with a religious state, so the capacity and the reach of the modern state could not subdue religion (Mawdūdī, 1960b: 18). Quite the reverse, in this model, religion could dictate governance and hence could embody divine justice. This idea of an Islamic state is totally antithetical to the idea of a secular state and the separation of powers. Revivalists, though ontologically contesting the secular state, pragmatically engage in Islamist politics as a part of the secular system. Yet they ask for fundamental changes in the secular establishment, which in its current shape is held to cause an unresolved clash between religious and secular forces (al-Ghannushi, 2011).

The modernists and progressives argue for different narratives and applications of secularism when it comes to Muslim contexts. They show hospitality to certain ideas exposed by secularism such as the separation of powers in impeding authoritarianism as well as impartiality for being a mediator between different religions and also among different interpretations of Islam. Modernists and progressives repudiate the laicism of total separation of religion and the political sphere while emphasising that the separation should address religion and central state authority, not a religion and the public sphere. They also appreciate the virtues of a secular state with liberal democratic foundations in

creating a pluralist environment for accommodating difference (An-Na'im, 2008: 203; Fadel, 2008: 8). Essentially, in both modernist and progressivist arguments, Islamic morality can or should be part of civic deliberation and public reason within a democratic secular state, yet progressives are acute to remind that Islamic normativity cannot be the authority or the foundation of a democratic establishment (An-Na'im, 2008: 3).

The concepts of human rights and citizenship rights have also been touched by many Muslim intellectuals. With regards to the human rights paradigm, statist scholars take a rejectionist approach because of the Western roots of human rights while revivalists emphasise their basic commonality (Mawdūdī, 1960a: 263). Revivalists have developed a discourse on human rights with an Islamic overtone, under which they situate religious rights. They have also addressed equal citizenship and minority rights and hence have shown valuable support for the human rights paradigm (Karaman, 2004: 13). The Islamic moral guidance that they have located human rights within has led them to establish some forms of constraining mechanisms. For instance, the concept of “*universal uglies*” proposed by Karaman (2014s) projects a regulatory public function in approaching rights and liberties. In modernist and progressivist thinking, the concept of equal citizenship is located within the framework of the Universal Human Rights paradigm. These schools maintain the moral universality of these concepts (al-Jabri, 2009: 156; el-Fadl, 2002: 23; An-Na'im, 1987: 17; Rahman, 1986: 20).

This chapter has utilised the depth and diversity of Islamic views on the relationship between religion, the state, and pluralism for the contemplations on Muslim democracy. Democratisation has often been thought to be impossible to take root in Muslim societies as Islam has been seen as a mysterious “essence” that would impede this process through its values, which are perceived to be antithetical to progressive notions such as equality, gender participation, human rights, and the separation of religion and state (Sadowski, 1993: 20). Yet a detailed typology in the chapter manifests that it is not Islam itself that predetermine the democratic outcome, but rather Muslims interpret and negotiate the consequences of the interaction between Islam and democracy. Thus, by categorising contemporary Muslim thinkers, this chapter has aimed to uncover the themes and concepts such as sovereignty, *shūrā*, public sphere, law, and secularism and their particular interpretations that may promote or impede democratic thinking.

The final chapter (Chapter 4) will take on further analysis, reinterpretation, and synthesis of certain variables and concepts deduced from this chapter in an attempt to conceptualise a theoretical framework on Muslim democracy. After a deep analysis of Muslim political thinking, this chapter comes to the understanding that if one wants to talk seriously about a theory on Muslim democracy, the stalemates over divine versus popular sovereignty, *sharīʿa* versus human legislation, *shūrā* versus public deliberation, and Islamic versus secular state dichotomies are to be theoretically undertaken. Further examination and articulation of these controversies is held to be *sine qua non* in thinking about a Muslim democracy framework in chapter four.

In the next chapter, it will become apparent that there are many questions and subjects raised by Muslim intellectuals—such as the expansion of the secular paradigm, the restructuring of the public sphere, the devolving of more powers to civil society, and finally just and participatory rule—that are also theoretically examined by various Western thinkers in their multiculturalist critique of secular and liberal establishments for attempts to expand a democratic paradigm.

CHAPTER 2: MULTICULTURALIST DISCOURSES ON RELIGION AND DEMOCRATIC GOVERNANCE

I. Introduction

Neither the culturally and religiously diverse character of societies nor the political and legal accommodation of diversity is a new phenomenon. The attempts at peaceful coexistence and toleration of diversity and various institutionalised forms of pluralism are as old as human civilisations. The socio-political term ‘multiculturalism’ as a distinct concept, however, is a modern idea that arose in the context of rapid cultural, social, and political change in Western democracies during the post-World War II era as a way to respond to the intensified demands of cultural and religious accommodation within the modern democratic nation-state structure, thus presenting a critique of the philosophies of coherent and monolithic nationalism. Deriving from Kant’s emphasis on the autonomy of the individual as a liberal value, multiculturalism came out of an insider’s critique and efforts to extend contemporary liberalism’s Rawlsian strand by equipping it with more culturally appropriate tools. It has now become a global doctrine, a prominent strand of thought in political theory that aims to expand liberal democratic paradigm to more pluralistic ends in dealing with more substantial and comprehensive public needs and demands (Castles, 2005).

There are certain characteristics that broadly define multiculturalist thought. Mostly, all multiculturalists believe in the importance of community in constituting and shaping the individual self; hence, they view the community as a primary source for the development and practice of autonomy, self-respect, and dignity. Accordingly, multiculturalist thinkers regard cultural or religious aspects of citizens’ identities as politically relevant and consider them a legitimate source of public demands. Yet they believe that the current public sphere in orthodox liberal democracies in the West is inapt for recognising and reflecting the cultural and religious requirements in an even-handed manner (Kymlicka and Norman, 2000: 4). Multiculturalist intellectuals engage in revising particular aspects of Rawlsian liberalism either to reform the existing political frameworks or to create new frameworks for institutionalising pluralism.

Most of the multiculturalists examined in this chapter come from a liberal background—they live, operate, and write within the context of liberal states. Therefore,

many of them view liberalism as the framework most suitable for reconciling the principles of democracy with cultural diversity. Other thinkers, however, do not privilege current liberal models as the most efficient reconciliatory frameworks, yet they still work within the liberal paradigm for more enhanced models. Several of these intellectuals suspiciously question contemporary liberal theory's ability to create a pluralist legal-political framework. Yet all who criticise liberalism assume that their models necessitate a democratic structure. Unlike the thinkers examined in the previous chapter on Muslim political thought, who have undertaken a deeper debate on the normative nature of governance, all the scholars in this chapter take democratic structures for granted as a starting point. Their differences reside in their theories on constitutional and institutional frameworks.

In essence, there are significant differences among multiculturalist thinkers and their quests to develop new frameworks of accommodation. These differences will be explored here. By articulating the key arguments of the prominent scholars in the field, this chapter offers a categorisation of multiculturalist discourses. The typology or categorisation of multiculturalist intellectuals that is proposed in this chapter is based on their responses to the following three issues: (a) What kind of legal-institutional mechanisms should be endorsed and what role should the state and minority groups have within this new framework? (b) To what extent should the mainstream political institutions like the legal institutions and constitutional arrangements, which are typically of a liberal nature, and the cultural practices of minority groups undergo change to effectively maintain this framework? (c) What is the role of religion in public policy and law and what are the strengths and limitations of the proposed frameworks in dealing with legal and political religious interests and claims? Based on their answers to these questions, multiculturalists are placed into four categories: liberal pluralists, moral pluralists, legal pluralists, and institutionalist pluralists.

To better grasp the arguments developed in this chapter, it is important to evaluate the substance of the three above-mentioned questions. The first question addresses the issues regarding the nature of the difference that needs to be accommodated with respect to the minority groups (ethnic, cultural, national, religious, and so on). It also addresses the particular role of the state and the groups in the process of establishing and operating the pluralistic public design. The second question addresses

an existing tendency within multiculturalist thought towards transformation and value change. Typically, the recommended conversion targets either the liberal establishments or minority cultures, or both. The expected degree of transformation of these two elements is one of the features that differentiate the positions of the thinkers under examination. The third question concerns the place of religion within multiculturalist discourse, especially as a normative basis for a new legal, institutional design. It asks whether religion can be used interchangeably with culture: do religious-based groups have similar or dissimilar needs and demands as the cultural groups, and is religion a fundamentally different concept that requires different theorisations and accommodation techniques? The thinkers that are investigated in this chapter answer these three questions based on a significant degree of originality that dictates the particularities of their theories.

Certain typological characteristics of the four different schools of multiculturalist thought could be discerned based on how multiculturalist thinkers engage with these three broad questions. As with the previous chapter, a brief introductory account is given of each of the four multiculturalist schools before delving into deeper engagements with them in the next sections.

Liberal pluralist thought was born as a constructive critique to Rawlsian liberalism's shortcomings in adequately addressing the culturally complex nature of modern societies. Liberal pluralists' (LPs') main critique of Rawlsian liberalism is its lack of consideration for cultural goods as normatively relevant to political theory. In response, LPs assume that liberal rights are to take deeper and more comprehensive account of goods, where cultural identity and membership are to be considered a primary good. Liberal pluralists still do privilege liberalism above other theories as the universal and best form of a normative order to propose the backbone of a political programme. Yet they argue that liberalism and liberal values are not static but are rather dynamic and progressive when it comes to dealing with cultural claims.

Liberal pluralists argue that unlike classical liberals of J.S. Mill's type, Rawlsian and Dworkian liberalism are based on a strong individualistic moral ontology that undermines the role of communities in the formation of liberal accounts of "equal rights of citizenship, regardless of the consequences for the existence of minority cultures" (Kymlicka, 1989: 152). However, following classical liberalism, liberal pluralists

maintain that dealing with individuals, who are part of, shaped by, and developed within cultural communities, does not only require dealing with individuals themselves but also organised communities of which the individuals are a part of.

Moral pluralists (MPs) have also challenged the individualistic liberal view that men are “self-sufficient” as individuals and can develop their full existence and potential independent from their social contexts (Taylor, 1985: 200). They proclaim that individuals develop self-understandings and self-respect as members of a community (Tully, 1995: 190). Thus, moral pluralists do not only address accommodation on political or redistributive grounds, as do their liberal pluralist peers, but also recognise the moral character of cultural and religious membership to safeguard the equal moral worth of individuals in liberal democracies. In essence, for moral pluralists, the politics of identity recognition is the core of democratic politics, which is not sufficiently upheld by conventional liberal viewpoints.

In this regard, MPs criticise their liberal pluralist counterparts for pursuing an agenda towards a liberal end that concentrates on the full development and exercise of individual autonomy and choices while undermining the equal worth of non-Western cultures. In their projects, MPs take democracy as the absolute reconciliatory framework, the best political system in creating a pluralist public sphere where individuals with diverse ontological accounts and normative systems are equally recognised by the state and its pluralist institutions. By and large, moral pluralist multiculturalists present a pluralist perspective on goods in establishing the rules and the rights for the larger political community.

Legal pluralists (LPMs) have interpreted multiculturalism as a provider of not only cultural autonomy but most importantly jurisdictional autonomy in organising collective lives of minority peoples. Particularly in the case of followers of organised faiths, they maintain that multicultural techniques should go beyond accommodation and involve recognition of their own systems of law.

LPMs advocate that, in reality, the law is not monolithic but is rather plural and not all “phenomena related to law” in actual societies “have their source in government” (Moore, 1986: 15). Yet they concede that Rawls’ theory of justice is based on standard rights, uniform treatment, secular rationality, and monistic law, which leaves no room

for the society's acknowledgement of "the legitimacy of another group's claim to select its own principles of justice" (Woodman, 2009: 154). Thus, legal pluralist multiculturalists assert that a legal monist ideology of law imposes dominant hegemonic norms on minority peoples.

Although legal pluralist arguments may sound very similar to moral pluralist ones on various grounds, the difference lies in that the latter supports a pluralist yet common institutional and jurisdictional system while the former defends the right of a partial "juridical secession" from the mainstream system of law in favour of alternative jurisdictional arrangements (Mégret, 2012: 4). In this regard, legal pluralists have emphasised the right of human beings "to be judged within the normative system pertaining to their culture" and hence raised the issue of pluralism "through the prism of legal arrangements" (Boyd, 2012: 56, 4). Accordingly, LPMs have also raised the idea that "the problem of legal pluralism is a human rights problem" because minorities demand recognition of their legal norms and practices as a current right (Mégret, 2012: 7).

In their attempts to practically tackle multicultural diversity, institutionalist pluralists (IPs) present a framework of institutionalised cooperation and regulated interaction of state and non-state authorities in legal and institutional domains. IPs assert that people with different versions of the good life would have diverse public needs that require different public services, which might not adequately and impartially be provided by the unitarian institutions of the state.

Accordingly, institutionalist pluralist intellectuals like Ayelet Shachar and Veit Bader propose sophisticated political and legal models that aim to adequately respond to the culturally and religiously pluralist reality of our times. They propose a legal structure where national government and religious groups share authority to resolve semi-public disputes (such as matters of marriage and divorce) among consenting adults monitored by the democratic regulatory criteria of the central government. In their models, institutionalist pluralists instil democratic checks and balances to ensure the democratic character of the polity in practice (Shachar, 2009: 133).

At this stage, the chapter will further discuss the ideas of individual thinkers under the four schools of multiculturalist thought typified in this work. The chapter will

subsequently conclude by considering the grounds upon which this typology on multiculturalist thought can provide relevant arguments and themes in the path to configuring alternative ways of thinking the relationship between religion and democratic organisation that would benefit Muslim democracy theorisations. Multiculturalist literature, which offers alternative understandings of the public sphere, the role of the state and organised faith, and the relationship between religion and law, is believed to provide essential and advanced theoretical tools to study the relationship between Islam and democracy. Thus, by typifying multiculturalist political theory, this chapter facilitates the aim of the final chapter to formulate an understanding of the interaction between the politics of Muslims needs and demands and that of liberal democratic institutions. By and large, articulating the depth and multiplicity of thoughts within Western political theory with regards to multiculturalism will substantially contribute to developing effective mechanisms for restructuring a political theory on Muslims democracy.

II. Liberal Pluralists (LPs): Will Kymlicka, Chandran Kukathas

Liberal pluralists suggest that liberal theorists have not yet adequately engaged with minority issues and accommodation of diversity as most of them could not genuinely understand the implications of liberal principles in relation to minority rights (Kymlicka, 1997: 84). Liberal pluralists take liberalism as the most extensive and objective paradigm and attempt to develop a coherent theory of cultural rights by re-interpreting liberal principles. They believe that the moral values that inform the leading political institutions (or what Rawls would call ‘the basic structure’ of society) have to be liberal. This sub-section will examine the multiculturalist arguments of Will Kymlicka and Chandran Kukathas as representatives of liberal pluralist thought.

1. Will Kymlicka

A leading theorist in the field of multiculturalism, Will Kymlicka has four principle arguments, namely his critique of orthodox liberalism, his positioning of multiculturalism as a liberal project, multiculturalism as part of a human rights discourse, and three models of multiculturalism.

a. Critique of Orthodox Liberalism

Will Kymlicka criticises present day liberals who perceive minority rights as incoherent with individual rights and liberal equality. He believes that post-war liberalism is guilty of rejecting “the legitimacy of special measures for cultural minorities” (1990: 209). If it adheres to its classical tradition of pre-war liberal thought or the ‘comprehensive liberalism,’ liberalism should be more attentive to cultural claims as per Kymlicka’s arguments:

Mill, Green, Hobhouse, and Dewey....recognized the importance of our cultural membership to the proper functioning of a well-ordered and just society (Kymlicka, 1989: 208).

The reason why Millian liberalism, which reflects the core values of Enlightenment liberalism for Kymlicka, is more accommodating of cultural claims than the Rawlsian strain is its account of autonomy. Kymlicka argues that the comprehensive liberalism of Mill undertook autonomy as a general value, a general human interest that applies to all human action in pursuing a conception of the good “in both public and private contexts” (1992: 44).

Generally, Kymlicka argues, for Rawlsian liberals, politics is shaped by autonomy based on individual liberty, and culture can neither have the normative power nor be a source for deliberation in politics (Kymlicka, 1992: 34). Kymlicka argues that the claim of cultural rights is not only compatible with, but also a precondition for, the liberal commitment to individual autonomy. Kymlicka maintains that by denying cultural rights for minority groups, Rawlsian liberalism remained underdeveloped in terms of accommodating diversity as it understood autonomy narrowly, discarding its cultural component, which was closely linked to the existence of a common membership as a primary good, a necessary means to pursue a good life (1997: 75). However, Kymlicka argues that “liberals should care about the viability of societal cultures because they contribute to” people’s sense of personal identity, individual autonomy, and capacity as well as act as an “anchor” for an individual’s inner sense of self-respect and self-identification (1995: 94).

b. The Liberal Nature of Multiculturalism

Kymlicka's argument is controversial for Rawlsian liberals because he believes that minority rights can be justified on liberal grounds and thus are perfectly compatible and consistent with liberalism. He maintains that if the liberal theory of multiculturalism is correctly interpreted and accurately implemented, liberal concerns over in-group oppression and violations of citizenship rights, gender equality, and individual liberty would be conciliated, and accommodating minority rights would be regarded as a liberal success. In this context, Kymlicka introduces the concepts of "external protection"—that is minority rights "that protect a culture from the policies of the wider society" in order to ease the minority groups' vulnerability to the economic and political power of the dominant population—and "internal restriction"—"that is, group rights that limit the individual liberties of people within a culture" (Mookherjee, 2012: 198). Kymlicka reaffirms that minority rights within the liberal multiculturalist framework do not allow any internal restrictions on behalf of the rules or customs of the groups. In the case of inter-group oppression towards vulnerable insiders, Kymlicka strongly favours individual rights over cultural rights and affirms that the state should practice its "right and responsibility" to intervene as a means of correcting discriminatory group acts (1995: 168). Thus, the liberal multicultural framework could also safeguard individual dissent within the minority groups by granting substantial civil rights to the members of minority cultures (Kymlicka, 1995: 157). Autonomy, which is the key value in Kymlicka's theory, provides a justification both for promoting group- differentiated rights and limiting them in favour individual interests (Kymlicka, 1989: 170).

c. Multiculturalism as a Descendant of Human Rights Discourse

Kymlicka states that liberal multiculturalism is a descendant of, not a departure from, liberal values and human rights ideals (2007: 107). He argues that the adaptation of multicultural reforms in the Western world after the 1970s is a continuation of the successful human rights revolution and the universal human rights discourse. The history of human rights culture is employed by Kymlicka in order to support his argument that the contemporary trend towards liberal multicultural reforms "is part of a larger process of social and political liberalisation," "a greater accommodation of ethno-cultural diversity," and the implementation of the ideals of civil rights liberalism at a local level (1989: 97; 2009:37). He presents the development of the human rights culture

at certain interrelated stages. The first phase of these movements was the decolonisation period (approximately 1948–1966). The second stage was racial desegregation (roughly 1955–1965). Each stage had a direct influence on the emergence of the other, eventually leading to a third stage. As “the decolonisation movement inspired the struggle for racial desegregation” (civil rights liberalism), the civil rights movement also inspired the struggle for subordinated ethno-cultural groups, giving birth to a third stage, namely multiculturalism (minority rights movement) (Kymlicka, 2001:77). In short, an emerging consensus on human rights and democratisation of societies in the West has enabled “multiple access points for safe political mobilization,” which has allowed non-dominant groups to become more demanding of multicultural reforms and group-differentiated rights (Kymlicka, 2007: 133).

d. Three Models of Multiculturalist Minority Rights: (Voluntary) Immigrants, National Minorities, and Indigenous Groups

Kymlicka identifies three models of multiculturalism that have been developed in the West, namely multicultural citizenship for immigrant groups, national minorities, and indigenous people.

The multicultural citizenship model for immigrants provides the polyethnic (accommodation) rights for political integration into the liberal order (1995: 140). Polyethnic rights encompass a scale of legal protection measures from state funding of certain cultural practices to positive discriminatory laws such as accommodating religious symbols or dietary requirements (1997: 73). Kymlicka summarises that “the aim of a liberal theory of minority rights is to define the fair terms of integration for immigrants, and to enable national minorities to maintain themselves as distinct societies” (1997: 77).

National minorities and indigenous peoples for Kymlicka have a different position than immigrant groups. While immigrant groups voluntarily become part of the society they live under, national and indigenous minorities were involuntary incorporated into the liberal order of the modern state. Prior to this forced inclusion, they had traditional self-governing cultural mechanisms and organised their communities around their traditions, institutions, and norms in that land way before the dominant institutions incorporated them into the larger society. To put it in another way,

they have had societal cultures, which consist of shared history and language, coherent institutions, and customs. As such, societal cultures “can provide a satisfactory context for the autonomy of their members”, and hence, Kymlicka believes that it is unfair to force them to be fully integrated into mainstream society (1997: 76). The multicultural citizenship model for national minorities grants special minority rights in the form of differentiated citizenship. The multicultural citizenship model for indigenous populations corresponds to special rights and treatment in addition to a degree of self-determination and self-government that entails delegating legal power. Kymlicka argues that they should be given autonomy to cultural infrastructures and social associations and exemption from the liberal order. He also insists that there can be no justification for liberalism to correct in-group practices, unless they opt for extreme cases like crimes against humanity (Kymlicka, 1995: 169).

However, within his three models of multiculturalist minority rights, Kymlicka does not categorise or discuss in any detail the case of religiously defined groups. To be fair, he does include a religious element within the definition of a societal culture, which he understands as “a culture which provides its members with meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres” (Kymlicka, 1995: 76). So, according to Kymlicka, it is culture that provides religious fundamentals. But some groups, especially members of organised faiths, would see religion as more central than culture to their communal character. In addition, people who have different cultures might share the same religion and view it as the most important part of their identities. In fact, in most of Europe, unlike Kymlicka’s native Canada, “the issue of religious minorities within multiculturalism is greater than culture” (Madood, 1993: 99). However, neither do religiously defined minority groups constitute a separate category in Kymlicka’s assessment nor are they entitled to special rights or treatment. However, one should consider that Kymlicka himself actually acknowledges that there needs to be a more systematic and holistic analysis of multiculturalism and accommodation of diversity, and his efforts constitute only initial steps in this area of political theory which is to be taken further. For instance, Ayelet Shachar, also a liberal multiculturalist whose ideas will be discussed later in this chapter, adds to the debate initiated by pioneers such as Kymlicka by providing a more sophisticated analysis of the issue of religious diversity.

2. Chandran Kukathas

Chandran Kukathas, an Australian political philosopher, is recognised for his contributions to the multiculturalist literature and liberal thought. However, building on liberal political theory, Kukathas presents a rather controversial argument for his theory of multiculturalism as toleration. He has two main arguments in addressing the issue of multiculturalism within liberal discourse. The first is that liberal theory is individualistic, against any claims of social collectivity or state control. The second is that liberal theory is egalitarian, against any framework of differentiated rights or treatment (Kukathas, 1992: 108).

a. The Individualistic Notion of Liberalism and the Politics of Non-Intervention

According to Kukathas, the liberal idea of toleration, which is the most fundamental value to liberal society, is also the basis for the justification of cultural, moral, or political pluralism (2003: 259). Kukathas believes that by ensuring the liberty of conscience, the right to difference and dissent, and moral diversity, what toleration assures is, in reality, freedom (Kukathas, 1998: 5). Freedom is a constitutive principle in the state–individual relations as represented by the idea of liberal neutrality. Liberal neutrality amounts to the liberal state’s indifference to regulate interactions among citizens with different cultural backgrounds and ideological preferences. Liberalism is only concerned with guaranteeing free formation and development of any kind of individual identity or group membership. Kukathas creates the term non–intervention, based on an interpretation of a liberal conception of the limited state. The state, as he conceptualises, is not an entity that should aim to achieve consensus or social and political unity. Instead, what a liberal state should actually do is to appreciate that today people live in a morally diverse world, and thus, it should not intervene on philosophical matters or impose normative ideals on society (Kukathas, 2001: 89). He states that the arguments and policies for liberalising and reshaping of cultures are “surely unacceptable.” Such acts clearly fail to “respect minority cultures” and “to take their cultures seriously” (1992: 122-124).

Kukathas takes his position of neutrality and non-involvement of the liberal state with regards to collective human activities very seriously. He argues that minority groups

as autonomous entities should enjoy “a certain amount of independence and integrity” (Kukathas, 1992: 127). Neither the regulations of the state nor the pressures of mainstream society should interfere in in-group activities, even to correct illiberal actions, with the exception of extreme harm (Kukathas, 2003: 186). This is because in their efforts to reform cultural groups, political powers will always pursue their own interests rather than the wellbeing of those communities (Kukathas, 2001: 95).

b. The Egalitarian Notion of Liberalism as Against Cultural Rights

According to liberal theory, Kukathas asserts, every individual member deserves equal rights and treatments from the state (1992: 114). Communities carry importance only in virtue of individual lives that constitute and value them rather than due to cultures or norms per se. Thus, liberalism neither “accord[s] any group a right to cultural substance or preservation” nor guarantees cultural survival as a right (Kukathas, 2001: 92; 1998: 694). In this view of multiculturalism, there are no cultural rights but the right to cultural practice; groups or traditions should exist within their own means.

Kukathas claims that liberalism is “the politics of indifference” with regards to claims to cultural recognition as liberalism views recognition as an intervention and disturbance to civil life and individual interests. Liberal public policy is individualistic and neutral, encouraging people’s freedoms and capacities to public action, and liberalism neither intervenes to restrict nor favours them (1998: 692-698). He warns that recognition would cause tensions not only among different groups but also within the same groupings. As a practical form of justification, he argues that there are different interest lobbies within minorities; the interests of the elite and the common masses are often not the same. Therefore, granting recognition would hardly lead to a practical success for individuals within groups (Kukathas, 1992: 114). The state should rather maintain a sufficient space for the practice of individual autonomy of group members who are free to be part of this community and share a societal life and who always have the right to exit from the community of their fellows (Kukathas, 2001: 95).

In essence, Kukathas has advocated that what liberalism implies in terms of addressing the challenge of diversity is in fact “doing nothing” (Kukathas, 1998: 687). Kukathas’ notion of liberalism is not a widely shared perspective and in his own words, “the theory advanced in this work is at odds with contemporary liberalism” (2003: 256).

Although his excessive focus on toleration-as-freedom as the basis of liberal political theory is criticised for ignoring the protection of individual rights and individual freedoms, Kukathas defends his position by saying that “[m]ulticulturalism is not an unqualified good” in a liberal society (2001: 97). For him, there are risks and dangers in living in a free society. Lenient state regulations, excessive tolerance, and personal freedoms could produce unintended or undesirable consequences. Kukathas, however, believes that this is the price of living freely in a liberal framework (Kukathas, 1998: 14).

Kukathas’ idea of the limited state, which opens far-reaching perspectives on the issue of religious freedoms and toleration as well as the handling of normative diversity, is very important to this project. Yet when it comes to democratic consolidation, this project believes in taking the issues of social unity and harmony more seriously than Kukathas, who writes within the context of established liberal democracies, does. For instance, unlike Kukathas, I argue that people need certain basic normative values to be united and to operate under the same public structure; that they need some sort of public control or regulation to sustain a shared public life. If the state cannot maintain its neutrality when being involved in human relations, we need regulatory mechanisms that could ensure that fundamental human rights are guaranteed. Ensuring personal and religious freedoms while upholding these concerns are vital to this project that will be given elaboration in the final chapter in addition to the articulations on the need for more pluralistic forms of public organisation.

3. Concluding Remarks

Liberal multiculturalist rationale for cultural accommodation is individualistic, as the thinkers appeal to the importance of national and ethnic culture only due to their impact on individual progress. Cultural rights in this sense are an expanded part of a liberal commitment to individual rights, not equivalent to collective or group rights. Within their theory of minority accommodation, liberal pluralists do not have the sufficient tools to address religion-based minorities, as they approach religion as part of culture. In their understanding, culture constitutes the maximum societal importance to an individual; hence, they undermine the fact that religions might need different, but equally important, theorisations in accommodationist thought.

In terms of their differences, Kukathas claims that individual citizens should be given rights to cultural freedoms as citizens, not as members of a particular community. For Kymlicka, on the contrary, communities constitute an organic part of an individual; hence, the realisation of individual rights is in reality intrinsically bound with minority rights. The second significant difference within this category relates to the ideas on the prospects for state intervention. Kymlicka, in his multicultural citizenship model, offers both positive and negative notions of state intervention: an intervention of the state in the form of granting differentiated rights to support minority demands and in the form of restricting minority practices to protect human rights. Kukathas, on the other hand, is against any form of state intervention, either in support of or to correct minority practices. He believes that the concept of intervening in freedoms and liberties is in direct contrast with the very essence of liberalism. What the liberal state should do is to tolerate and respect citizens' choices and accord them the freedom to live by these choices. Their final contrast relates to the issue of transformation. Kymlicka demonstrates a commitment to the liberal transformation of public institutions as well as the practices of minority groups. He hopes that multicultural accommodation policies will function as a catalyst for positive internal value change towards liberal norms. Kukathas challenges this position as he contends that the state should not expect or force cultural adjustment in line with liberal values, as people have the right to operate outside of the liberal framework.

Overall, liberal pluralists, especially Will Kymlicka, are the pioneers in providing normative relevance of cultural membership to the liberal theory and human rights paradigm. Their re-evaluation of liberalism, their bringing of the importance of the community and group to the individual's private and public life, and their liberal justification for cultural practice are the starting point of multiculturalist thought. By casting cultural membership as a primary good and a politically relevant base for public demands and policymaking, they have opened the way for others to develop multiculturalist methods for accommodation. Although liberal pluralists themselves do not adequately address the role of religion in public policy, their normative arguments for the political significance of communal identity inspire other frameworks of multiculturalism that give religion a more central place.

III. Moral Pluralists (MPs): Charles Taylor, James Tully, Monica Mookherjee

Rather than rethink the capacity of liberalism to accommodate cultural diversity as the previous category of thinkers have done, moral pluralist multiculturalists question the moral ability of liberalism to respond to multicultural concerns. They believe in the validity of non-liberal forms of political rationality and normativity. Ultimately, by casting a greater weight on normative recognition, moral pluralists seek deeper diversity than liberal pluralists. This sub-section will examine the multiculturalist arguments of Charles Taylor, James Tully, and Monica Mookherjee as representatives of the moral pluralist thought.

1. Charles Taylor

Charles Taylor is a prominent Quebecois Canadian political philosopher who has significantly contributed to the literature on multiculturalism. Taylor takes the politics of accommodation to a deeper normative level, which he calls the politics of recognition. Taylor suggests that the recognition of the unique dignity of individuals or groups and “their distinctness from everyone else” (1997: 38) satisfies a core and “vital human need”; it is a way of feeling people’s worth as human beings (1994: 25). Taylor believes that the politics of recognition is at the heart of multiculturalist politics because the normative recognition of individuals is organically intertwined with the recognition of the moral character of their communities (Taylor, 1992: 25). By providing a moral value system, communal and cultural identities affect people’s “understanding of who they are, of their fundamental defining characteristics as a human being” (Taylor, 1994: 25). Therefore, the wider community’s political recognition of the freedoms, choices, and the equal worth of individual group members necessitates the normative recognition of their communal cultures. As Taylor points out, morally ignoring minority cultures or excluding their right to be morally different in the public sphere, on the other hand, inflicts serious disadvantages on their self-esteem and substantially diminishes the quality of life and the probability of political participation for their individual constituencies (1997: 64-68).

According to Taylor, although liberal democracy is the most inclusive political theory that humans have thus far achieved, it has a certain inclination that “pushes towards exclusion” with regards to moral difference (1998: 143). As a matter of fact, he

suggests, in order to create a common political culture, cultural and religious aspects of citizens' identities were occasionally ignored or subordinated by liberal democracies. As a result, Taylor argues that a minority group that does not share the conventional public definition of the good is not included in the national decision-making mechanisms and is thus no longer a genuine part of the community of citizens (1997: 45). Taylor presents a substantial critique of certain aspects of liberalism to reach a more pluralist and inclusivist liberal democratic system.

a. Critique of Liberalism

Taylor is critical of Rawlsian liberalism due to its universalist Western conceptions of fairness, equality, non-discrimination, and freedom, which fail to materialise in real life when faced by the conditions of actual, often non-Western, societies. Thus, he asserts that conventional liberalism is neither culturally neutral nor can it be “a possible meeting ground for all cultures.” It is rather “the political expression of one range of [Western] cultures, and quite incompatible with other ranges” (Taylor, 1994: 62).

Subsequently, Taylor reveals the lack of applicability of conventional liberalism at practical levels and its exclusionary impulses within democratic politics. Accordingly, Taylor pleads “for a somewhat more complex and many-stranded version of liberalism,” a deeper pluralist version, in order to respond to the culturally diverse character of modern states, where revising secularism within Rawlsian liberalism constitutes the principal objective of presenting a more sophisticated liberal approach (1998: 154).

b. Critique of the Universalist Secularism Narrative

Taylor is a leading figure in reconfiguring secularism in contemporary societies, especially through religious pluralism. Taylor suggests that the formation of our conventional understandings on the secular and the religious is a product of the relationship between Christianity and Western Enlightenment. Within Taylor's critical thought, secularism is understood not independent of time, context, or place; it is not universal in a way that merely emanates from rational human reason (2007: 26-29). Thus, since secularism is not monolithic normatively, neither should it be functionally.

On this subject, Taylor challenges the secularisation theory for misinterpreting the role of both religion and secularism in the real world outside the West. He argues against the secularisation thesis that assumes modern democracies have to be secular in the Western sense of the term by excluding religion from the public, and which also assumes that Islam, unlike Christianity and Judaism, is secularisation resistant, making it incompatible with democracy and constituting a kind of Islamic exceptionalism. Taylor believes that there is a sense of “ethnocentricity” in this understanding of secularism that assumes one single, universal secularism deriving its meaning from the Western experience (2008: xi). He asserts that Muslim societies have never experienced the same secularisation process as the West due to their colonial and state-building history, particular characteristics of the Islamic religion, and the central place religion has within these societies. Secularism and democracy in Muslim countries, he underlines, would occur “in a more inventive and imaginative way” (2008: xvii).

Taylor also criticises the idea of universal secularism as the exclusive foundation of the rational, scientific, and irreligious modernity paradigm. He asserts that modernity does not have to be directly irreligious or antireligious; on the contrary, secularism within modernity “consists, among other things, of a move from a society where belief in God is unchallenged and indeed unproblematic to one in which it is understood to be one option among others, and frequently not the easiest to embrace” (2007: 3). In essence, Taylor suggests that the meaning of secularism in modernity relates to a different and often less institutional nature of religious life than in traditional societies, but religion still plays a great role in politics as opposed to the position of the secularisation thesis.

c. Liberal–Pluralist Secularism as the Basis of Multiculturalism

In their book *Secularism and Freedom of Conscience*, Charles Taylor and Jocelyn Maclure examine the possibilities of alternative understandings of secularism within democratic systems. They present a conceptual analysis of the constitutive and institutional principles of secularism in order to explain its meanings and ends. The authors concede that there are certain political virtues of secularism that constitute very fundamental components of democracies. Leaving the universalist philosophical notions of secularism aside, if it is conceptualised and implemented correctly, it presents, at its core, a system of governance that has the greatest ability to treat a diverse citizenry

equally and bring justice to people with different values (Maclure and Taylor, 2011: 19). Taylor and Maclure believe that distinguishing between types of secularism's principles is crucial to understanding essential elements and practical ends of secularism in its role in a democratic environment, especially concerning moral and religious diversity.

The authors state that secularism consists of four principles, namely equality of respect, freedom of conscience, state neutrality towards religion, and separation of church and state. However, they assert that not all these principles carry equal significance. Moral equality of persons and the protection of the liberty of conscience and religion are the two constitutive principles, which are the moral cores of secularism from which the ultimate aims are derived. State neutrality and separation of church and state, on the other hand, are the two "institutional" and operative modes that are meant for realising the constitutive principles (Maclure and Taylor, 2011: 20-9).

Taylor and Maclure turn to political secularism rather than a philosophical theory of secularism. They believe that a secular state should be politically not and ideologically secular, which in the broadest sense means that the state has an absolute distance from all religions; it is especially dissociated from the influence of one particular religion or religious institution. Taylor criticises secularism for its functioning as anti-religious, rather than non-religious, in which religious arguments that represent particularism—as opposed to secular, rational reason that is "universally agreed upon"—cannot be a component of public deliberation (Maclure and Taylor, 2011: 53). For Taylor, secularism should be a functional, not a moral, notion to protect the freedoms of people and to empirically provide "some kind of neutrality, or 'principle distance'" to ensure peaceful modes of coexistence among plural entities (Taylor, 2008: xi). Therefore, Taylor insists that "the neutrality of the state should be designed to foster, not hinder, its [religions'] expression" (Bouchard and Taylor, 2008: 46). According to Taylor's conceptualisation, the political model that embodies such an idea of secularism is defined as liberal-pluralist secularism. This model sees "secularism as a mode of governance" whose function is to unite diverse individuals in order to live together as equals in a democratic setting that respects and guarantees their moral equality and freedom of conscience (Maclure and Taylor, 2011: 41). In essence, the liberal-pluralist secularism, which aims to offer a framework to regulate moral and religious diversity, is a form of multiculturalism.

To sum up, by articulating the politics of recognition and liberal democratic secularism, Taylor contributes to modern philosophy's lack of "alternative models of how people can bond together in difference without abstracting from their differences" (1998: 153). Taylor thoughtfully incorporates religion into the liberal democratic theory in many ways. First, he shows religion's relevance to the way the public sphere functions and the necessity of including religious reason as part of public discourse within Western democracies. Taylor also advocates for different and contextualised modes of secularism for liberal democratic governance to function within various religious environments. He effectively opens new ways for thinking about liberal democracy with alternative versions of secular governance within Islamic contexts.

2. James Tully

James Tully is a Canadian political philosopher who has written extensively on constitutionalism, diversity, indigenous politics, and multiculturalism. In his book, *Strange Multiplicity: Constitutionalism in the Age of Diversity*, Tully launches a profound critique of modern Western constitutionalist thought and its "authoritative traditions" of liberalism, communitarianism, and nationalism for their failure in responding to cultural diversity (1995: 44). Tully maintains that contemporary Western constitutions have remained incapable of rendering justice to the legitimate demands of indigenous peoples, minorities, immigrants, and refugees who all seek various forms of public recognition (Tully, 2008a: 166).

According to Tully, modern Western constitutionalism is ethnocentric: both within its national borders towards minorities and within colonies when addressing colonised people, it has imposed European norms as a form of cultural and moral imperialism. Therefore, modern constitutionalism utterly failed in being "culturally neutral" as it favoured Western culture at the expense of the will of minorities or colonised people. Tully advocates that the universalist position behind liberal constitutionalism derives from the political rationality argument. The ideal of universal impartiality of reason within liberal constitutionalism has determined the bounds of inclusion to the public sphere and more precisely the constitutional debate. Tully claims that modern Western laws and institutions that embrace the abstract ideal of an impartial public reason have thus far exemplified injustices as they "denied or suppressed, rather than affirmed" minorities' "inclusion to the public reason" (Tully, 1995: 6, 5). The

“shared national identity” that was thought to be a “neutral liberal identity” in fact has imposed “alien” and exclusionary forms of cultural, moral, and philosophical uniformity on diverse peoples, manifesting its incapacity to create “a just form of constitution with the full mutual recognition of different cultures of its citizens” (Tully, 2008a: 166; 1995: 8).

After delivering his critique of modern constitutionalism’s ‘imperialistic,’ ‘assimilationist,’ and ‘uniformist’ elements, Tully engages in efforts to democratise Western constitutions through his theory of democratic constitutionalism. Tully refers to democratic constitutionalism as a “post-imperial philosophy and practice of constitutionalism” that preserves “legal, political and cultural plurality” of “criss-crossing and contested narratives” to ensure citizens’ ability to “participate freely and with equal dignity in the governing of their society and to live their private lives in accord with their own choice and responsibility” (Tully, 1995: 183, 189). Tully believes that the ideal of consent, which is a “self-imposed” mode of belonging to a political community acquired “by being ‘free citizens,’” is central to the democratic constitutional debate (2008a: 160). A constitution then becomes “an endless series of contracts and agreements,” which is a revisable, changeable, and open-ended inter-cultural consensus and dialogue “as opposed to a sacrosanct contract which ought to be amended solely in exceptional circumstances” (1995: 26). As Tully concedes, if people cannot be politically involved in civic deliberation with their own cultural identities, then political institutions would be unjust. Instead, the legal and political institutions should recognise and accommodate “the cultures of all the citizens in an agreeable manner” as demonstrated by a “culturally neutral” framework (Tully, 1995: 191).

It should also be noted that although a moral pluralist, in Tully’s theory, what matters most is not culture or cultural accommodation per se, but concepts such as free will, consent, social contract, and democratic decision-making. He suggests that by giving mutual recognition and respect to culture, its members can develop “the critical freedom to question in thought and challenge in practice one’s inherited cultural ways” and hence can practise and be involved in democratic decision-making (Tully, 1995: 202).

There are other points in Tully’s theory that are less clear. For instance, the process and the criteria to make or remake the social contract and sustain an ongoing

constitutional dialogue are not mentioned. Moreover, there exists certain hostility towards liberalism in Tully's work. Yet it may be more fruitful to directly refer to specific liberal theorists or a strand of thought instead of abandoning the liberal theory in its entirety (Milde, 1998: 120). Tully's alternative to liberal constitutionalism, post-imperial constitutionalism, is also not systemically developed as part of a well-developed political theory. Historically, it may be true that liberal constitutionalism had homogenising tendencies, but it was one of the most effective modern legal systems protecting individual rights and freedoms at the time and it is ambiguous how post-imperial democratic constitutional theory would be better than this liberal model with regards to minorities. Further, even if we assume that negotiations of people with diverse interests and normative systems would operate smoothly, it is not clearly and practically demonstrated how a new institutional design as a result of public debate and mediation would create and maintain a stable, democratic system, safeguarding normative democratic ideals. Especially considering the democratic record of majoritarian democracies and the current rise of jingoism and xenophobia in democratic states, the importance of incontestable constitutional guarantees of human rights seem more important than ever since WWII.

3. Monica Mookherjee

Monica Mookherjee is a political philosopher who famously writes on women's rights, multiculturalism, and their normative and practical interface in modern societies. Her conceptualisations of autonomy, affective citizenship, and state involvement in in-group organisations will be introduced briefly to lay down the ground to examine her theory on impartial justice in this section.

To begin with, Mookherjee asserts that although most multiculturalist intellectuals did acknowledge the pluralist understanding of the good, many have fallen short of recognising the pluralist understanding of values such as equality, autonomy, and freedom. Emphasising the fact that different systems assign different and multiple meanings and interpretations to certain values, Mookherjee counters the liberal assumption of one stable, universal account that expresses what these values entail on the ground (2005: 40). Thus, she argues, the fact of multiplicity of values would naturally give birth to their "different practical usages" (2010: 98-99). This outcome results

because in most cases people's capacities, freedoms, and needs are interpreted and practised in "culturally variable ways" (2009: 58).

Mookherjee specifically expands her value pluralism with regards to autonomy. She advocates that autonomy is not equated with "a single meaning" but is a plurality of culturally distinctive "skills that varies across cultures" (2008: 150). In other words, autonomy "can take significantly different cultural forms" as internalised distinctively by people of different worldviews rather than a single, universal, "reasonable" pattern as liberal theory assumes (2008: 149). In contrast to an orthodox liberal account, Mookherjee believes that a "more concrete account of autonomy" that would integrate people's multifaceted lives as individuals and members of cultural associations has to be conceptualised especially when it comes to reassessing individual rights (2005: 34).

In this regard, Mookherjee proposes an alternative model of recognition and rights, namely "affective citizenship," which "seek[s] to rethink the conditions under which...[the liberal goods of equal freedom and autonomy] can be comprehensively realised" (2005: 31-32). According to the affective citizenship framework, the importance of cultural and religious belongings is "based on equal respect and concern rather than uniformity and sameness" (Marshall, 2008: 651). Thus, only a religiously and culturally diverse and sensitive interpretation of rights can both empower people to speak for themselves through their religiously and culturally specific self-assertions and enable them to further accomplish their socioeconomic interests in their societies (Mookherjee, 2005: 33-34). An important aspect of Mookherjee's argument is her harmonisation of multiculturalism with gender equality and women's rights. She reconfigures women's rights as multicultural claims to realise gender equality in meaningful ways by satisfying women's own accounts of equality, justice, and autonomy (Mookherjee, 2009: 156).

Another important argument discussed by Mookherjee that this chapter will discuss is the issue of the state's legal involvement in an in-group organisation to protect "particular individuals' capacity" to democratic communication and negotiation "with others in a plural public sphere" (2001: 90). She states that the law can "justify legal intervention in cases of extreme intra-community harm" in order "to protect human capabilities" such as the capacity to autonomy (2008: 148, 149). Although making that argument, Mookherjee also emphasises that intervention is not a desirable method. Intervention—especially a state intervention that goes to the extent of fixing in-group

organisation, changing the cultural context, or restricting access to it—would harm people’s meaningful choices, skills, and life options, which would not serve their good. Thus, Mookherjee asserts that efforts should concentrate on empowering group members’ capacities within their groups in order to promote their negotiating agencies through non-legal methods within their social structures (2005: 44).

Mookherjee’s major contribution to this project is her conceptualisation of impartial justice, or ‘justice as provisionality’ as she calls it, which aims to treat citizens as equals relative to their real-world situations. She argues that the post-imperial state should issue impartial justice for legislative decisions while considering the cultural contexts of the respective parties. Mookherjee agrees with Tully in terms of modern theory’s failure to understand peoples’ diverse “reasons for action” in a constitutional state, yet she disagrees with Tully’s rejection of the ideal of impartiality in constitutional and political theory based on this inference (Mookherjee, 2007: 69). While acknowledging “deep moral disagreement” among citizens with regards to public issues, Mookherjee still highlights that there needs to be a state authority that would impartially mediate in disagreements between opposing parties, which is unlike Tully’s overemphasis on civic debate as the final authority (2001: 75). She concedes that it is the responsibility of the state to provide equal treatment to its citizenry while safeguarding their capacities and reasoning. Therefore, Mookherjee demonstrates that sometimes the post-imperial state has to make judgements in order to protect people’s autonomy and capacities as people’s “capacity for reason itself requires institutional nurturing, protection and provision” (2001b: 15-16).

Mookherjee explains that the impartial state justice is different from the universalist liberal form of impartiality that disregards the context and real-world cases. She clarifies that impartial justice is not impartial reason (2001: 79). In fact, impartial justice requires reposing the predetermined and rational language with “plural public reasoning”: “a more capacious, more generous account of ‘public reason’” (2001b: 21). Mookherjee states that public reason, which is in the constant process of making, can be plural in the sense that it is not based on one cultural, philosophical, or ideological reason or worldview but rather consists of citizens’ partial reasons as instantiated by the plurality of moral and philosophical views (Mookherjee, 2001: 69).

To sum up, Mookherjee argues for the ‘justice as provisionality’ principle, referring to the idea of the impartial judgement of the state in providing and ensuring justice with culturally and contextually sensitive language. Though strong in cultural accommodation, impartial state justice also guarantees basic human rights and the capacities of individuals within these groups by taking necessary legal and non-legal actions. In general, Mookherjee, who successfully integrates cultural demands within democratic governance while providing a clearer picture of the role of the state in her accommodationist model than many of her peers, offers very insightful concepts for thinking about this project’s pluralist framework.

4. Concluding Remarks

According to MPs, recognition is a universal human need that gives people the feeling of equal worth and self-respect, which is the foundation for the full actualisation of individual agency, and thus, it must be primarily addressed within democratic politics. As a consequence of their commitment to cultural recognition, MPs embrace the liberal pluralists’ criticism of the Rawlsian liberalism and its homogenous public sphere yet ask for a more substantial change of liberal theory. MPs claim that Western liberal political systems in their current form cannot endorse the politics of recognition. One of the main reasons for this inability is seen as the philosophical secularism that has gained predominance over political secularism. MPs articulate distinctive trajectories on secularism as a way of building more inclusive democratic systems. They emphasise that any democratic understanding of secularism must be approached within the philosophical neutrality of the state towards the various accounts of goods and values. Accordingly, MPs advocate for a notion of pluralist political secularism that, as opposed to privatising religion, facilitates the democratic recognition of it.

MPs also propose theories to revise the democratic political system as well as to redefine democratic constitutionalism. They especially refer to this new reconfiguration of democracy as “post-imperial” democratic theory, which conceptualises a heterogeneous public sphere as a product of public and intercultural dialogue, a common language of citizens, and negotiation within the diverse citizenry (Tully, 1995: 183; Mookherjee, 2001: 15). Due to their strong ideas on public debate, social contract, negotiation, and civic participation, MPs insist on common public institutions and a shared constitution and jurisdiction that are pluralistic, open to change, and genuinely

responsive to diversity, unlike legal pluralists who lean towards alternative institutional mechanisms. With regards to transformation, Tully highlights the importance of a democratic constitution that transforms the dominant culture through a dynamic form of public dialogue. Mookherjee, like Tully, believes that the state institutions should be more pluralistic and impartial so that they can meet the demands of people with different normative and moral backgrounds. Yet Mookherjee has a greater focus on the modernisation of minorities for them to become effective components of the contemporary world, which for her carries a practical value that is not equal to value liberalisation. Taylor's approach to transformation has two dimensions like Mookherjee's. He asks for the state to be more pluralistically democratic at the same time as he expects religious and cultural groups to be more adaptive to and compatible with democratic governance.

Moral pluralist thinkers in this category are not only looking for a deeper diversity than that embraced by Kymlicka and other liberal pluralists, but they also provide more sophisticated theoretical tools to address religious presence within politics. In fact, their arguments regarding the place of religion in a constitutional design are crucial not only for Western democracies, where Muslims are minorities, but also for Muslim contexts where they are the majority. The acknowledgement that different reasons may derive from different ontological and epistemological sources, as opposed to the universalist secular rationality argument, is very important in rethinking the institutional designs within the context of Muslim democracy. Essentially, the arguments of MPs envisage a different narrative of democracy and pluralist secularism that can reconcile the ontological and epistemological differences, making possible a democratic political system's compatibility with an Islamic normative system (Taylor, 2008: xvii).

Although the intellectuals in this category make an excellent case for the essentiality of recognition, negotiation, and intercultural dialogue for genuine democracy, they do not provide evidence of the process and criteria for making a new democratic institutional design and a constitution. Unlike institutionalist pluralists, they do not engage in showing the institutionalising of multiculturalism in procedural levels but rather pursue a mere theoretical argumentation, albeit a very sophisticated and nuanced one.

IV. Legal Pluralist Multiculturalists (LPMs): Gad Barzilai, Ido Shahar

The legal pluralist argument “starts from the principle that social life should be ordered as to enable collectivities to practice their own cultures” and to establish law based on their own societal legal systems (Woodman, 1996: 165). The legal pluralist multiculturalist category in this work asserts that organised cultures and religions provide a normative ordering, juridical theory, and jurisdictional order in particular. The thinkers classified in this category propose a multiculturalist theory where jurisdictional autonomy is the key component. They demand a substantial revision of the liberal establishment that amounts to the official law granting formal status to non-state legal authorities in mutually governing the realm of law.

LPMs request a notion of a thin state with a decentralised legal system, in which law is not only restricted to the state enterprise. LPMs argue that the modern nation-state “tried to centralize and uniformize” the legal system as a result of “an imperial heritage” (Yılmaz, 2005: 11). Law making in the nation state has become quite “autonomous from the social context” and insensitive to the moral diversity within society (Yılmaz, 2005: 344). Legal pluralism interprets the law as “a socio-cultural construct and not an Austinian [positivist] political one” (2005: 3). Law is not an abstract system of principles but is “rooted in society,” and people cannot observe it without reference to the context provided by their moral frameworks. Underlying the link between religion and legal–political systems, the former Archbishop of Canterbury Dr. Rowan Williams famously wrote:

If the law of the land takes no account of what might be for certain agents a proper rationale for behaviour...it fails in a significant way to communicate with someone involved in the legal process (Williams, 2008).

LPMs are value pluralists who emphasise different accounts of justice and equality for people with different moral narratives. They neither absolutise liberalism as the ideal political theory nor hold the idea of liberalism as universally providing the ideal, best order. Consequently, multiculturalism for them is not necessarily a liberal project. Instead, the main idea of multiculturalism is to facilitate a pluralist democratic legal–political framework for the functioning of diverse normative orderings.

This section examines the ideas of Gad Barzilai and Ido Shahar who put a particular emphasis on Islamic law within the legal pluralist discourse. They signify that Islam provides a formal code of values and that a significantly meaningful part of the social context is a focal point in understanding the jurisdictional needs and demands of Muslim minorities within Western democracies. In doing so, they conceive Islam, like Judaism, which have jurisdictional systems, as a religion with more legal and political dimensions and public claims, unlike the generally aesthetic/spiritual characteristics of Christianity. Thus, LPMs maintain that Islam, like Judaism, has a stronger case in making collective demands for legal pluralism.

1. Gad Barzilai

As part of the legal pluralism discourse, Gad Barzilai challenges the modern liberal understanding of the relationship between religion and politics as well as the liberal conception of law. This section will firstly examine Barzilai's critique of orthodox liberalism on account of its failure to take religion as a source of political claim, and secondly, his critique of liberal constitutionalism in favour of a legal pluralist judicial system.

But before examining Barzilai's critique of orthodox liberalism, it is essential to outline his inclusion of religion in political theory. Barzilai suggests that there exists a significant role for religion in democratic politics, yet this might not be adequately reflected in liberal discourse. Barzilai defines religions "as a set of epistemological guides to view the world, and as a system of cultural, communal practices" driven by faith through a superior divine force (2004: 3). For him, religions are:

unique in the sense that they have offered to their believers a structured and sacred text that has embedded detailed normative guidelines of alternative order in all spheres of life (Barzilai, 2004: 3).

Barzilai believes that modern liberalism is incapable of understanding the significance of the normative order shaped by religion to the individual believers' everyday life; thus, it cannot address the religiously-based political and legal demands. On the contrary, Barzilai states that Western constitutionalism and modern liberalism have pursued an unrealistic politics of privatising religion by separating it from the state, law, and politics. He argues that by doing so, liberalism has not only denied the

importance of communal needs but also the significant role of religion in individual lives as a source of “constituting, articulating, and generating identities” and empowerment (2004: 24). Thus, the reality that identities, goods, demands, and needs are deriving from religious sources is disregarded as a component of a democratic politics and modern legality (2004b).

On this subject, Barzilai believes that the exclusion of religion from the political debate has derived from certain premises that have shaped liberal constitutionalism. Firstly, religion is considered an “irrational” setting that cannot be included in modern secular law making. Secondly, it has been assumed that secularism can provide a genuine equality among religious minorities and offer a free choice of religion and ideology. Thirdly, the rights discourse has had an overtly individualistic outlook and did not legally and politically recognise “communities as collective entities” because they failed to acknowledge that “some portion of our personalities is embedded in these collectivities” (Barzilai, 2008: 302).

Barzilai contests these three premises on democratic grounds. First, he argues that democracies should not impose a certain account of universal goods or universal rationality. Instead, democracies should be “sensitive to the different expectations and needs of individuals and communities” and “stress the virtues of non-ruling communities and communal rights” (Barzilai, 2008: 6). This is also related to the liberal regime’s interpreting the religion and culture of the dominant group/s “as part of nationality” while those of minorities “as part of primordial[ity]” (2004: 18). Second, Barzilai claims that the secularisation of law based on a perception of an “imagined separation between state law and non-state legal orders” has been inadequate in addressing the role of religion in modern politics and legality (2008: 399). Third, Barzilai asserts that the exclusively individualistic set of rights within liberal theory neglected the normative and practical importance of the community. Liberal theory has not recognised that the communities need more formal prominence in the context of politics and that communal legal cultures need a more formal place, in the form of legal pluralism, in the context of law (2008: 1). Barzilai argues that based on some shared collective attributes, communities embody a collectivity that shares “a common perception of the collective good,” legal consciousness, and “distinct practices and organizations” (2003: 28). Thus, Barzilai has perceived that “communities are crucial pillars in the conjunction of law and

politics” and they should be recognised as legitimate components in politics and given autonomy to develop and restructure their communal lives (2003: 2).

While locating legal pluralism within democratic politics, Barzilai—in similarity to other legal pluralist thinkers like Frédéric Mégret, René Provost, and Collen Sheppard—talks about the relation between legal pluralism and human rights. These thinkers articulate a “human rights case for legal pluralism” in attempts to further democratise modern legal systems (Mégret, 2012: 3). Mégret suggests that minorities demand recognition of their legal norms and practices “as a right,” and therefore, today “the problem of legal pluralism is a human rights problem” from the human rights point of view of non-ruling populations, and democratic politics should recognise legal pluralism (2012: 7). In pluralist societies, there exists “multiple sources and authorities of law for religiously diverse people,” and thus, the state alone is not the sole law provider (Mégret, 2012: 13). Accordingly, it is suggested that legal pluralism has the potential to bring an innovative:

approach that translates abstract and broad human rights standards into the vernacular of everyday life, transplanting these norms into ordinary human relations where they can truly achieve their formative potential (Provost and Sheppard, 2013: 1).

Barzilai also addresses the issue of protecting human rights within legal pluralism. He proposes two principles to protect human rights of citizens that choose to be under a legal authority of their religious/cultural jurisdictions: “the right to exit” (leaving the group for state protection) and the “redemptive principle” (state’s intervention into an aspect of communal life to correct certain deeds in order to protect the vulnerable insiders) as long as “the internal normative order of the non-ruling community should not be dissolved” (2004: 14).

As should now be obvious, Barzilai believes that legal pluralism should not only aim to alter the structures of legality, but also the political regime itself. Accordingly, he concedes that the real focus should be on the development of “a theoretical concept of political power that takes legal decentralisation” seriously rather than mere legal reforms (Barzilai, 2008: 395).¹⁶ For Barzilai, this profound change within the realm of rights and

¹⁶ Like Barzilai, Mégret also argues that law has “an inherently collective and even institutional character” that requires more than negative liberties/freedoms for its collective practices. Therefore, the recognition of a minority cultures and religions necessitates “a new division of power within the state”: “an active

institutions exemplifies the shift from a universalist liberal democracy to “the broader framework of a multicultural democracy” (2008: 279).

Considering the articulated criticism of the liberal paradigm in protecting and accommodating non-ruling and religious collectivities, Barzilai believes that due to the secularist, individualistic, and universalist premises, today’s liberal structures are destined to fail in actualising democratic ideals. He concedes that liberalism should not be seen “as an absolute truth and the objective criterion for legal order” within the context of multiculturalism (2008: 56). Instead, “law should perceive liberalism with all its virtues and importance of democracy, as a relative tradition by itself” in search for more inclusive theories of justice to offer a multicultural environment (2004: 6). Here, it has to be noted that the critique of liberalism inflicting entrenched inequalities against non-ruling religious communities may be correct for a Rawlsian strand, but Barzilai does not take account of other liberal approaches that aim to accommodate communities like Kymlicka’s, Sen’s and Nussbaum’s. However, modern liberal constitutionalism is associated more with Rawlsian ideas, which may somewhat justify Barzilai’s critique.

To conclude the discussion on Barzilai, multiculturalism seeks, in the name of democracy, to shift the boundaries of secularism, ‘positivist jurisprudence’, and ‘legal centrism’ in favour of more plural and ‘decentralised’ concepts of law and power. This is very theoretically compelling. However, Barzilai does not develop substantive mechanisms to show how these ideas work in practice. This is, in fact, a general weakness within the legal pluralist school, which oversimplifies the possible problems that may come out of plural legal systems. Overall, in his political project, the essentiality of an overriding normative consensus for a political establishment is undermined. The question of how thin is enough to have a political system that can accommodate legal pluralism and regulate it and how social cohesion and the civic relationship among citizens can be maintained in legal plural systems are to be given more focus. Even more importantly is the question of how decentralisation of legal

institutional set-up designed to delineate the spheres of competence of minority law, arbitrate tensions, and so on” (2012: 25). This would mean a very “substantial legal decentralisation” (Mégret, 2012: 95). Depending on the structural characteristics and political culture of the respective country, recognition of legal pluralism can take a route in “allowing a separate form of jurisdiction” or constructing a legal system that accommodates a variety of normative orientations for arbitration (Mégret, 2012: 4).

authority can be reconciled with democratic politics for groups that endorse legal codes that have discriminatory provisions.

Barzilai's inclusion of religion and community to democratic theory is invaluable for this project as he defended the necessity of a new approach to dealing with religion for accomplishing justice for religious people. He maintains that organised religions, which provide the moral rationale for action, impact the collective practices and distinct societal needs of their followers. He criticises the legal monism that has changed the traditional law by making the state as the exclusive power in the realm of legality, annulling communities' traditional social structures of power. It should be noted that legal monism is not only characteristic of liberal states but of all states that have a dominant ideology, so Barzilai's critique is actually to the modern nation-state, positivist and unitarian law in general, and modern liberal theory in particular for creating the state's legal institutions based on unequal power relations and partnership between the dominant secular ideology and minority religious normative systems.

2. Ido Shahar

Ido Shahar emphasises the complexity and dynamism of the processual relationship between different sources of law and bodies of legal doctrine. He suggests that law does not only mean state law and that law does not need to be enforced by state institutions to have an operational force on people (Shahar, 2008: 434-435). In fact, the case of British Muslims, as previously referred to by prominent thinkers such as Rowan Williams can be given as a particular justification for Shahar's theory on legal pluralism. British Muslims have learned to "skilfully navigate" across country forms of law in arranging their lives. Family matters were the most significant sphere of life that Muslims thought that secular law could not apply to as it does not appreciate their moral judgements and needs. Thus, dynamic legal pluralism is born as a "direct result of the relationship between official law and society" and in this case, the interaction between Muslims and modern law primarily relating to matters of family law (Yılmaz, 2005: 5). Observing the ratio of family disputes among Muslim and Caucasian English populations as appeared in the English courts have showed that pertaining to matters of marriage and divorce, the cases brought by the Muslim citizens were considerably low compared to non-Muslims. This situation is suggested to occur because Muslims have cherished their own laws and customs especially about family issues while adhering to

the secular English law on various other issues (Yılmaz, 2008: 4). Legal pluralist scholars argue that British Muslims perceive and practise law as a combination of official, customary, and religious legal systems with regards to different social issues. This double functioning within different normative orderings and legal frameworks marks the plural legal reality of modern societies. Thus, legal pluralist theorists suggest that the transformation from monistic positivist law to legal pluralism would lead to a democratic shift in the agency of citizens from “law-abiding” to “law-inventing” citizens, where new and practical solutions could emerge in tackling the issues of the complexities of social life (Kleinmans and Macdonald, 1997: 2).

Accordingly, Shahar seeks an alternative conceptualisation of legality to uphold the existing legal pluralism of modern societies. He proposes a legal system where an individual is an “active individual agent” who has the ability to engage in “meaningful forum shopping” to choose over jurisdictions and appeal to the desired tribunal which s/he believes to offer solutions for their issues (2008: 436). In Shahar’s model, legal categories are not allocated by one’s ethnic, religious, or cultural belongings, but is more dynamic for litigants in accessing a pluralistic legal offer (2008: 124, 140). In this model, the state law is the overarching legal system that administers the law, regulates other non-state jurisdictions, and intervenes if a state-put criterion of accommodation is violated. Shahar maintains that if the state exists, no group can expect full autonomy in all fields but rather has a ‘semi-autonomous’ position. For instance, if non-state legal order “directly violates state law, state institutions are likely to intervene (provided the matter is brought to their attention) through regulators, courts or enforcement agencies and to invalidate such a code as illegal” (Shahar, 2008: 433). Shahar accentuates that legal pluralism does not mean absolute autonomy and state intervention does not mean legal centrism; in other words, the state’s involvement is not necessarily a restrictive, oppressive idea (2008: 434). State intervention can guarantee greater freedoms for individuals to choose among legal systems and effectiveness of the dual operation of different legal mechanisms.

3. Concluding Remarks

Legal pluralist multiculturalists are value pluralists as their peers in the previous category, who recognise the existence of different accounts of justice for people with different moral and legal narratives. The previous category of MPs have argued that

shared legal and political institutions can be responsive to cultural and religious ways of life and achieve a culturally and religiously sensitive form of equality. Yet unlike moral pluralists, by taking the value pluralist argument to the legal sphere, LPMs diverge from the common institutionalism idea and propose a multiculturalist theory where religion is more central to collective claims. Legal pluralists believe that religious accommodation requires different theorisations and accommodation techniques. They explain that intrinsically the state cannot practise impartial justice as well as respond to people with different normative systems; thus, some sort of autonomy for religiously diverse communities is necessary. Particularly with respect to religions like Islam and Judaism, which have their own legal frameworks, legal pluralism is advocated as the most effective accommodation method in responding to religion-based collective demands.

By and large, LPMs' advocacy of formalising religious legal systems to co-reside within a liberal framework in the form of legal pluralism is often viewed as a testimony to the limits of multiculturalism. Even though many multiculturalists would be sympathetic to the efforts of theorising a pluralist notion of legal theory, a considerable number of them would not have been convinced about the capability and efficiency of the proposed LPM theories in responding to the issues of democracy, human rights, peace, and order. The main reason for this is that although intellectuals who engage in legal pluralism within the multiculturalism discourse direct a far-reaching challenge to the essentialist and monistic notion of law in favour of a legally pluralist structure, they do not necessarily intend to theorise the nature and role of the state and the state law in analysing the co-existence and interaction between the minority groups and the political establishment. For instance, it is not clear in the theories of the LPMs whether groups will accept developing self-understanding in a democratic manner and become active parts of democratic politics or not. Even more ambiguous is what happens when they do not agree to be part of democratic public communication. How sustainable would a pluralist democratic system be if communities of citizens do not endorse the ideals of democracy and pluralism? What would the necessary precautions be to ensure democratic rights and freedoms, the sustaining of civic bonds, and the maintenance of social cohesion? In fact, issues regarding how democratisation would happen in the institutional, societal, and legal spheres simultaneously are very important to this project. Thus, there are certain limitations to be recognised in the LPM school when it comes to contribute to developing a normative approach to Muslim democracy.

Overall, LPMs' criticism of legal centralism props up vibrant thinking on the relationship between secular and religious legal systems. Yet legal pluralists do not provide—or to be precise, do not necessarily aim to provide—a political theory on multiculturalism. However, as we shall shortly see, another school of multiculturalist literature, institutionalist pluralist multiculturalism, proposes well-conceived frameworks that develop and augment LPM arguments and address social, political, and legal debates of normative recognition in a more comprehensive manner, which immensely contributes to the theoretical angle developed in this project.

V. Institutional Pluralist Multiculturalists (IPs): Ayelet Shachar, Veit Bader

Institutionalist pluralists argue that minority groups, or religious groups in which they are particularly interested in, should be given an institutional voice and a level of autonomy to decide and preserve their distinctive lifestyles. As such, IPs propose frameworks for the institutionalisation of religious minorities, for whom religion has the uttermost importance in people's normative worlds, as the central tenant in shaping communal lives. Accordingly, they aim to reform the public institutional structure in a direction that facilitates adequate public representation and satisfactory public services for minority religious communities. IPs provide effective theoretical tools to create practical frameworks, which recognise the complexity of the actual relationship between religion, culture, state, politics, and law, as alternatives to absolutist and universalist approaches. Overall, Ayelet Shachar and Veit Bader, who represent the institutionalist pluralist thought in this work, propose accomplished approaches to the issue of religious pluralism by integrating the democratic nature of governance and public religious presence.

1. Ayelet Shachar

Ayelet Shachar is a professor of political science whose primary research focuses on multiculturalism, women's rights, and citizenship. Shachar's key argument is that humans' modern identities are multifaceted with political and religious memberships inseparably linked. Law is the realm where this link especially shows itself with people being mutually affiliated with both the formal state and informal religious jurisdictional authorities. Yet she believes that the existing democratic legal-political frameworks do not adequately address this complexity and that these frameworks have not been

systematically articulated in academia. Many propositions of joint governance that have attempted to create a framework that facilitates the co-functioning of state and non-state legal norms have left certain gaps in their efforts because they have either predominantly prioritised one over the other or are bereft of effective democratic regulatory mechanisms. Filling this gap in the literature, Shachar re-approaches the theory of joint governance for more enhanced democratic formulations in today's multicultural society.

a. Joint Governance (JG)

In her approach to an improved democratic model of multiculturalism, Shachar takes a critical perspective towards philosophical secularism (often referred to as laicism) and its exclusivist treatment of religion in the context of politics and law (1998: 81). The absolutist secularist models, which rigidly separate formal and informal jurisdictional authorities, constitute the most severe constraint for the believers of organised religions, who belong to multiple communal authorities and are subjected to more than one set of laws (Shachar, 2001: 91).

In attempts to officially accommodate religious diversity, Shachar indicates the necessity to undertake “a significant revision of the secular” (2008: 606). She asserts that the form of secularism that sets clear boundaries between the spheres of “public/private, official/unofficial, secular/religious, positive law/traditional practice” is not sophisticated enough to respond to the multiple affiliations of modern citizens (2008: 578). As a corrective alternative to the secularist state model, Shachar advocates the joint governance (JG) approach. JG is a concept of shared authority that challenges “modern assumptions about the exclusivity of jurisdictional authority” (2008: 147).

JG, as a model of democratic accommodation, manifests that the cultural/religious and civic sources of authority that interrelatedly rule people's lives should constantly interact and cooperate more formally and institutionally. The rationale for the jointly governed legal arena derives from the understanding that religious sources of law also bring their own values, relevance, and richness in the resolution of legal disputes, which in turn is believed to contribute to the progress of society by making use of religion to work for the advantage of democracy (Shachar, 2001: 120). Thus, JG realigns the perceived oppositional dichotomy of citizenship and group membership, public and private justice, as well as individual and collective goods, providing an

alternative space that the individual constituencies of the groups can live in while practising their multiple loyalties in harmony, reinforcing the normative commitment to democracy (Shachar, 2001: 88; 2008: 575).

Shachar examines several existing models of JG while specifying their flaws. The first model on the ground is “federal-style accommodation” that grants legal authority to local governments. Shachar indicates that it is a territory-based approach that includes only indigenous and minority peoples that have been traditionally located under a land and have traditionally ruled themselves with their traditional legal mechanisms on this land. This interpretation is similar to Kymlicka’s model of accommodation, which Shachar finds limited, as it does not effectively deal with religious groups. The second model is “temporal accommodation.” In this model, state and cultural groups have their authorities at certain time periods and switch their focus when the allocated time is over. For instance, Amish children’s education is under the authority of the state until the eighth grade, after which the jurisdiction of the Amish community takes over. For Shachar, this is not much of an interaction-based framework as it lacks providing plural options for public services, as well as the agency to choose and negotiate, as she intends to propose. The third model is “consensual accommodation,” which involves the one-time choice of an individual in selecting a jurisdictional framework between the state and the groups. After the selection of jurisdiction, there is no easy way to change in the process, which for Shachar is not conducive to the protection of the democratic rights of individuals, as she advocates that individual autonomy should be protected and the right to change jurisdictional authorities should always be accessible. The final model that Shachar investigates is “contingent accommodation.” In this framework, the state allocates certain jurisdictional autonomy to groups under the exclusively state-put regulations and rules. Shachar believes that in this model, the moral character of the community is not adequately served as the state is given absolute authority in defining not only the terms of JG but also the nature of the jurisdictional regulations for the group (2001: 92-112).

After discussing several variants of the JG approach, Shachar articulates a particular mode of JG, which she calls “transformative accommodation” that tackles the shortcomings of the existing models. Transformative accommodation seeks to effectively reorganise the semi-public interaction between the state and “religiously and culturally

defined *nomoi* communities” under the guidance of democratic ideals (Shachar, 2001: 114).¹⁷

b. Transformative Accommodation (TA)

TA is an institutional design that proposes a “permanent and comprehensive mechanism” that does not only aim to create accommodation policies but also aims at a change in the character of the state and its political and legislative power structures regarding the relationship between the state and the group (2008: 149).

TA takes religious law not as a competitor or an opposing system to the secular establishment but as a “competing” normative system. It envisages “a model of regulated interaction” of the state law and group jurisdictions, an agreement-based voluntary accession mechanism to a legal authority for the administration of semi-public law (2009: 143). It should be emphasised that the realignment of religious and secular jurisdictions within Shachar’s theory is restricted to “semi-public dilemmas” (2008: 606). This involves power and authority sharing in governing the semi-public social areas such as family disputes and education.

Shachar explains how TA works in practice as follows. In the legal system that TA proposes, the state creates “predefined standard rules and procedures” of mutual checks and balances on the communal and the central authorities to protect both citizenship rights for all and the collective goods of the members of the religious groups (2008: 148). After the state puts the terms for the allocation of power among the state and group jurisdictions in relation to specific social and legal arenas, the religious authorities should explicitly make public their own rules, positions, and jurisdictions with regards to these specific arenas (Shachar, 2001: 128). Once this assignment is completed, the constituencies can register in a preferred jurisdiction “to which they are subject in different social arenas” (Shachar, 2001: 147). For instance, a person can register with the state jurisdiction in education and group jurisdiction in family law. In this regard, the state becomes the “original power-holder” in educational authority and the communal authority becomes the “original power-holder” in matrimonial issues (Shachar, 2001: 124).

¹⁷ According to Shachar, *nomoi* communities “share a comprehensive and distinguishable worldview that extends to creating a law for the community” (2001: 2).

With regards to a particular matter, if constituents do not feel that they have been offered a “meaningful remedy” by the original power-holder they can “switch’ their jurisdiction loyalty...to the rival-power holder” (Shachar, 2001: 123). This feature is called “reversal points,” which ensure an individual’s right to “clearly delineated” and “meaningful” choice options between the secular state and the group jurisdictions as well as their right to reject the first-choice system if his/her interests are not protected for the specific sub-matter (2001: 118; 2008: 147). By providing the right to choose and change jurisdictional authorities, TA intends to ensure that “vulnerable insiders” are no longer subordinated to either their patriarchal group traditions or monistic state jurisdiction (Shachar, 2001: 122).

By creating a jointly governed legal arena through legalising authority-sharing of official and unofficial legal systems, TA promotes a “non-exclusive” yet rewarding competition. With this competition, TA aims to transform both the state and the groups. TA sees the accommodation as an on-going interaction, negotiation, dialogue, and mutual learning developing between the state and groups that are in the process of transforming one another (Shachar, 2008: 146-147).

For Shachar, the state and religious groups are constantly racing “for the loyalty of their shared constituents,” and this provides the individuals themselves with potential influence over both state and groups (2001: 122). Group constituencies’ “credible threats of exit” provides “at-risk group members” with “an important bargaining chip” and a “realistic tool” to exercise “in-group leverage” for seeking internal reforms (Shachar, 2008: 143; 149). Most of the time, people still want to be part of their traditional structures despite discriminatory practices while demanding to negotiate their positions in the group to improve their lives. Shachar believes that “non-exclusive competition” of TA actually serves the common good by giving the state and in-group leadership incentives to provide better social and legal services and to be more accountable to the individual constituencies as well as constraining them (e.g., redefining internal restriction, unjust traditions, and hierarchical power dynamics) (Shachar, 2001: 107).

Shachar is aware of the hierarchies and inequalities within minority groups as well as the possible discrimination that the leadership and supplementary jurisdiction of the groups may exercise over vulnerable individuals if there are no effective regulatory mechanisms. Thus, she strongly emphasises that if for any reason in-group members

cannot practice their tools to exercise agency, it is the responsibility of the liberal state to intervene to ensure the realisation of the certain “state-defined” democratic standards for every citizen. The state should safeguard the availability of state law and state institutions to all citizens, and communal authorities cannot prevent individuals’ access to the state law if a person appeals to it (Shachar, 2009: 148).

Shachar acknowledges that due to some autonomous status gained by the groups, the opposite to democratic transformation could also possibly occur leading to hardening of attitudes of in-group leadership. Yet she believes that this would be the case in the short term. In the long run, due to the nature of this competition and the procedural safeguards of ‘entrance,’ ‘exit,’ and ‘re-entry’ options that are put forward by the state, both democratisation of in-group structures as well as normative democratic change are more likely (Shachar, 2001: 114).

It has to be noted that one possible weakness to this is believing that internal reform is guaranteed. Communal authorities may well want dissident or unhappy elements to leave rather than undertake domestic improvements and internal reforms. Thus, it is important that normative and religious reformation can be reached through social processes that individuals can partake in for the re-interpretation of their traditional philosophies that would bring subtler channels for internal change, which Shachar does not really dwell on.

According to Shachar, TA can create a more enhanced version of liberal democratic governance that would provide a meaningful legal and institutional choice to people as well as empower citizens to question and change the governing structures (2001: 118). In addition, Shachar clearly states that the democratic standards are the reconciliatory framework for the coexistence of the liberal state and other non-liberal jurisdictions, where the protection of human rights of the vulnerable group insiders is the priority.

c. Religion and the Secular State: The TA Approach in Practice

Another important feature of TA is its context-sensitive application of its principles within a democratic realm of operation. TA affords individuals the opportunity to redefine their relation to communal and civic authorities within the framework of the already existing democratic model of a country (Shachar, 2009: 133-

134). Shachar indicates that TA “creates a legal system of mutual checks and balances which vary according to the prevailing legal models already in place” (2001: 147). In other words, the already existing relationships between the state and the group dictate the development of different joint governance schemes in various contexts. The particular institutional model regarding how much power will be allocated to the internal affairs of the minority groups, or the boundaries between the state and the group, will show differentiation in relation to the already existing model in the respective countries. For instance, in countries with a secular absolutist model, “this variant of joint governance requires the state to relinquish some of its legal powers and delegate them to *nomoi* groups operating within its borders” (Shachar, 2001: 147). Yet countries where institutional pluralism is already evident, the model will contain more autonomy for groups.

While indicating that within each country, TA will have considerable differences and distinctiveness in practice, Shachar presents an overall application of her approach within the context of family law. Shachar reveals that religious people in secular states, especially Muslims and Jews, marry both in secular and religious ceremonies. Although civil marriage makes the union legal, religious ceremony makes it legitimate in the eyes of the people concerned (Shachar, 2009: 137). The same applies to the case of divorce, yet there more complications emerge. For some Muslim and Jewish women, if they do not get divorced according to their faith and only get a civil divorce, they still consider themselves married but now with no legal rights. This fact makes “women prey to abuse by recalcitrant husbands who are well aware of the adverse effect this situation has on their wives, as they fall between the cracks of the civil and religious jurisdictions” (Shachar, 2009: 134). These women can neither get re-married nor get rid of the adverse impact of their previous marriages and abuses of their former husbands.

Shachar employs the Supreme Court of Canada’s 2007 decision in *Bruker v. Marcovitz* to prove her point. In this case of a Jewish couple, though having had a civil divorce, the husband refused to divorce his wife on religious grounds. This constituted an obstacle for the wife to re-marry, and she applied to the court for her former husband to divorce her religiously. The Supreme Court made it clear that it “was not in a position to order specific performance (‘forcing’ the husband to implement a civil promise with a religious dimension)”; instead, “the judgment imposed monetary damages on the

husband for the breach of the contractual promise in ways that harmed the wife personally and affected the public interest generally” (Shachar, 2009: 137). For Shachar, the verdict in *Bruker v. Marcovitz* shows that the court recognised both the religious and secular dimensions of a divorce and their own scope of influence. Therefore, the possible legal reformation should be undertaken to formalise the state’s recognition of the legitimacy that religious codes confer on civil marriages and civil divorce, and women should not be left to the mercy of their husbands to deal with family law issues (2009: 140).

Shachar argues that the TA framework would ameliorate the situation for those in traditionally vulnerable groups such as women by bringing informal, cultural discriminatory patterns into the formal lights (2008: 579). If such an interaction of the secular and religious jurisdictions could not be achieved, Shachar warns, people would unofficially live under isolated, underground, and unregulated communities. In such situations, members’ rights and freedoms would be violated by unheard of decisions and the authorities of the state cannot be adequately involved unless parties decide to be outspoken. However, if group authorities are legally recognised as the TA suggests, in-group jurisdictions would become subject to state scrutiny and “legal recourse,” and hence, democratic standards would be at least checkable (Shachar, 2009: 144).

In conclusion, Shachar asserts that a new model of governance would be a product of a constructive dialogue between individuals who want to reconcile their multiple affiliations that might have jurisdictional claims over a person. It would be impossible to decide on one claim over the other because both claims might carry certain extents of legitimacy for the individual bearer. The idea of regulated, interactive, and cooperating legal and institutional mechanisms “appealing to, and integrating, the operations of two value systems” rather than separating their realm of execution is central to Shachar’s model (2001: 130). In brief, Ayelet Shachar presents a path-breaking argument for liberal thought. It is a deeper, more nuanced and sophisticated analysis of the issue of diversity than many of her liberal peers put forward. Shachar reconciles the aspirations of the multicultural and liberal commitments within a political community in a way that opens new horizons of thinking and action in multiculturalist thought.

2. Veit Bader

Veit Bader has a distinct place in multicultural studies with his works on institutionalised pluralism to tackle religious diversity. Bader believes that religion is a very crucial part of social reality that gives its followers the maximum meaning of belonging while morally motivating their actions. Based on this assertion, he argues that public institutions that take no account of religion can only be “unfair,” “counterproductive,” and “morally arbitrary” in their services to religious citizens (Bader, 2003a: 4). Nevertheless, he argues that the political inclusion of religion, unlike culture, is neglected by multiculturalism studies.

To respond to this gap in the literature, Bader proposes a multicultural theory where religion is the foundation of its modelling. In his theory, Bader seeks for an “institutionalist turn” for a genuine reorganisation of the public sphere by allocating administrative associations to minority religions (2003b: 134). However, he concedes that the mainstream liberal theory that is highly influenced by the secularist ideology is far from providing the effective tools and concepts to enable such a turn.

a. Critique of Secularism in Liberal Theory

Bader believes that the most central problem that prevents the liberal paradigm from creating genuine pluralist public frameworks that are inclusive to religious minorities is the influence of secularist interpretations. Bader discusses a number of liberal political principles, such as neutrality and public reason, and shows how secularist ideology negatively impacts the interpretations of these principles. After deconstructing the secularist impact, Bader argues for its replacement with democracy (associative democracy) as the normative basis of liberal political structure.

The impact of secularist ideology shows itself in liberal accounts of the neutrality argument, one that has produced a political model based on a separation of religion from the public sphere. Bader argues that the secularist argument in favour of complete disassociation of political, legal, administrative, and constitutional realms from religions is a “radical utopia” (2001: 2). What this formal restriction entails in reality, as Bader concedes, is the elimination of people who embrace religious identities from public deliberation and their loss of equal representation in the national public discourse (2007: 49).

Another major criticism of Bader's relates to the idea of public reason. Bader says that contemporary liberalism, which is predominantly influenced by the Rawlsian paradigm, conceptualises public reason as a product of secular morality and consensus of reasonable citizens that adhere to secular ontology. Therefore, Rawlsian liberalism assumes that there are homogenous views on public reason that reflect a common public good shared by the community of reasonable citizens and their shared account of political justice. Although public reason exemplifies a thin concept of the good in the Rawlsian paradigm, rather than a thick one, it still endorses the secularist notions of rationality, universality, and neutrality, where the place for religious argument is unwelcome (Bader, 1999: 610). Bader declares liberalism wrong in its discarding of religious reasons and arguments from political or constitutional debates and hence from public deliberation mechanisms. Bader suggests that such purportedly universal, yet in fact particularistic, accounts of liberal public reason in reality block and inhibit the realisation of a genuine democratic public structure. Consequently, Bader advocates for "an explicitly wide...inclusively broadened and pluralized perspective" on public reason that would take into account or allow space for diverse moral, ideological, and cultural viewpoints (2003b: 266). Bader maintains that this transformation in public reason would facilitate mutual understanding and democratic decision-making, giving birth to an institutional reorganisation redressing structural inequalities and ensuring justice to religious minorities under a genuine democratic framework (2003a: 131-134).

For a pluralist democracy, Bader argues for the replacement of "normative secularism by priority for moral minimalism and liberal democracy" (2009b: 1). The idea of "priority for moral minimalism and liberal democracy" is very crucial in Bader's thinking and it entails:

the recognition that no contested truth-claim of any kind, whether religious, philosophical, or scientific, is entitled to overrule democratic political deliberation and decision making (Bader, 1999: 602).

This means that the liberal democratic state should be neutral towards all competing conceptions of the good, unlike philosophical secularism that excludes non-secular normative reasoning from the public sphere. Essentially, Bader advocates that conceptual resources available in liberal theory, which are mostly influenced by normative secularism, "are still not differentiated enough" to sufficiently explain and

normatively assess the relationship between religion and politics or “to design institutional alternatives” that would satisfy and therefore give adequate consideration to religious accommodation (Bader, 2003c: 15). Consequently, in order to create a political structure that accommodates particularity and multiplicity of cultures, religions, or ideologies in public institutions, Bader engages with a restatement of liberal democracy on the basis of the idea of priority for moral minimalism bereft of the secularist outlook. Bader asserts that non-constitutional pluralism is the concept that best explains his reinterpretation of liberal democracy.

b. Non-Constitutional Pluralism (NCP)

NCP is Bader’s preferred model for democratic institutional pluralism (2003c: 271). It is a model of associative democracy (AD). Bader conceptualises NCP within the context of associational democracy theory and the political superstructure it creates. AD proposes a morally thin state framework that restricts “government to its core tasks” (2007: 189). The state is conceptualised as decentralised, “multi-level governance” that deploys a great deal of its administrative and economic power to “self-governing” civil society. In the democratic superstructure that the AD provides, associations, which are based on the “voluntary intermingling” of people, are the foundations of administrative and institutional pluralism. Thus, AD provides opportunities for citizens to “build their own social worlds” where they enjoy “greater control of their affairs...in welfare” (Hirst, 1997: 13, 25).

NCP concedes that it is crucial for minorities to have the right to institutional representation through associations in organising and funding non-governmental welfare services. According to NCP, the direct or indirect consequences of state policies cannot be completely neutral. Casting the religious arena aside, in many other areas such as health, education, and finance, it is impossible for the state to maintain its impartiality in deeply pluralist or polarised societies. Therefore, Bader argues that associational autonomy enables citizens to fund and provide public services that are necessary for empowering minorities, offsetting the partialities they face and guaranteeing an even-handed state approach in the public sphere (2001: 2). Consequently, the mandate of NCP is explained by Bader as opening:

opportunities for organised religions to provide a broad range of services like education, health care and care for elderly, and it

enables a wide variety of divergent service providers to participate in public, democratic standard setting and critically scrutinising service provision (Bader, 2003c: 287).

Like Shachar's model, in NCP Bader also conceptualises a formalised interaction and dual legal authority-sharing mechanism supervised by the constitutional state in order to free religious people from the perennially forced choice "between their right and their culture" (Bader, 2009a: 67). Like Shachar's TA, NPC also acknowledges minority jurisdictional authority in private and personal legal matters and leaves legislation in the hands of the democratic constitutional state (Hirst, 1997: 18). NCP provides "no competence or jurisdiction [to religious groups] in matters of criminal law or law affecting the legal status" (2009a: 51). Though morally and administratively minimal, AD is still strong in the arena of legally guaranteeing fundamental human rights of individuals and ensuring normative democratic benchmarks (Hirst and Bader, 2001: 190). Therefore, it guarantees a minimal baseline of moral and legal protection that particularly focuses on the need to "protect and guarantee the fundamental interest of vulnerable minorities, particularly children" (Bader, 2009a: 64).

Further, similar to Shachar, Bader also believes that formalised practices of religious jurisdiction are preferable than informal methods of dispute resolution in terms of not only religious freedoms but also human rights. He argues that religious practices when informal are highly invisible to state scrutiny. The state can have almost no oversight or checks on what is happening inside *nomoi* groups, and cannot prevent human rights abuses to the potentially at-risk group members such as women and children at the hands of unqualified communal religious or cultural authorities (Bader, 2009a: 50-51). Yet the NCP provides a regulatory system to protect the rights of individual members as supplemented with the availability of real and meaningful exit options to endure its actualisation (2003b: 154).

Bader is also aware of the issues regarding national fraternity and unity. He reveals that NCP, which allows religious minorities a considerable yet not separatist autonomy, accommodates religious pluralism within a civic framework (2003b: 286). NCP aims to produce a stronger sense of civic and national identity overcoming the feelings of otherness and isolation, where minorities are recognised as equal participants in the public sphere and given a public voice within the perimeters of the democratically regulated framework (Bader, 2003a: 17). By this, the pluralist institutional framework of

the NCP differs from mechanisms of high institutional separation and unrestricted legal autonomy that ultimately weaken the shared political membership and fraternity, which in return may cause the compartmentalisation of society.

By and large, Bader argues that for NCP to offer ‘open’, ‘flexible’, and ‘context-specific’ solutions at different levels of governance, it should not constitutionalise religious recognition (2003b: 285). He calls this the religious ‘non-establishment’ principle. Bader claims that constitutionalised recognition would mean “prescribing definitive specified institutions” that in return creates a “‘rigid’ and ‘inflexible’” system (2003b: 285). He specifies that legalised recognition of groups, or legal pluralism, can give uncontrollable power to group leadership, eventually creating authoritarian leadership structures infringing the rights of individual group members. Thus, by not granting constitutional status, NCP procedurally aims to protect individual freedoms and prospects for progress.

At this stage, to elucidate how NCP operates under AD in practice, normative principles of ‘associationalist system’ are examined and applied to the issue of education (1994: 176). Educational autonomy is a major component of Bader’s NCP. Under NCP, “if governmental schools cannot or do not live up to the requirements of legitimate or reasonable pluralism or cultural diversity of all sorts in the context and practice of teaching,” then “freedoms of education include the free establishment and running of religious schools and forbid enforcing a monopoly for governmental schools” (2007: 278, 279). In NCP’s educational framework, where there are plural schooling choices, individuals can choose their associational administration to receive their education services by ‘free,’ ‘voluntary,’ and ‘informed’ consent. In the case of pupils, their guardians register them in the schools that they think best serves their expectations and interests. Due to the voluntary membership in the associations and the right to switch associations to the one that provides more satisfactory services, public regulation involves “appropriate but minimal content regulation” and minimal democratic standards of public scrutiny (Hirst, 1997: 18). For example, faith-based associations are free to hire their core personnel like teachers and doctors in schools and hospitals respectively, but not to control non-core personnel such as students and patients. Religious freedom outweighs the principle of non-discrimination in the former while in the latter the principle of non-discrimination takes precedence (Bader, 2007a: 143).

NCP also involves direct or indirect public financing of religious schools in which educational associations should “obtain public funds [tax money] proportionate to membership for public purposes” (Hirst, 1997: 18). The funding, however, should be conditional: Bader explains that civil society associations “are subject to public inspection and standard-setting” and “must meet conditions of registration to receive public funds, among these would be compliance with public standards, acceptance of [annual] exit rights and recipient choice” (Hirst, 1997: 150; Hirst and Bader, 2001: 118). Since educational institutions compete for citizens’ membership for public funds, they also make their own set of rules to ensure integrity and accountability to satisfy their members, which for Bader will most likely lead to an eventual internal reform and democratisation (Bader, 2001: 61). Overall, Bader argues that educational autonomy provides religious freedoms and is a good, effective alternative to the unitary educational system in terms of its success. Bader indicates that there is cross-national data in the real world pertaining to the superiority of religious schools, where students excel better not only academically but also concerning values “outside the traditional public school” (2007: 271-272).

In Bader’s NCP, the development of internal democratisation is taken for granted. The critics of multiculturalism often argue that the process might lead to an opposite direction, engendering compartmentalisation of the society and social cohesion as well as the radicalisation of the youth. However, Bader proposes the tolls of public regulation and right to exit to address these concerns. Yet religious reformation and value change to internalise democratisation are essential to genuinely address these concerns. In other words, internal democratisation may be facilitated through the expansion of religious freedoms; yet it cannot be maintained without the processes of internal religious transformation.

To summarise, Bader criticises the liberal paradigms dealing with organised religions and emphasises that religion and morality are politically and legally relevant and thus should be given public space. He recognises the need for some form of group rights, whose scope is compatible with the human rights paradigm as an embodiment of freedom of conscience, democratic representation, and holistic autonomy (2001: 10). As such, Bader’s advocating of group rights is very similar to other models of multiculturalism with particular emphasis given to religious groups. He advocates for a

thick and morally pluralist diversity with a morally minimalist democratic regulatory mechanism to accommodate organised religions in a pluralist public sphere, representing a more advanced and sophisticated idea of political pluralism than liberalism.

3. Concluding Remarks

Institutionalist pluralists develop models of accommodation for nomoi communities and they expressly argue that within many contexts, it is religion, not culture, which has fundamental societal importance and provides crucial social context for its followers. Thus, deriving from the same founding multicultural principles, IPs propose a multiculturalist theory where religion is more central to collective claims. These thinkers also suggest that the followers of organised religions on account of religions' claims on the mechanisms of jurisprudence would predictably have distinct societal needs. Therefore, the concept of religious diversity requires different theorisations and accommodation techniques, where locating the concepts of law and legalism within multiculturalist accommodation is necessary.

Both Shachar and Bader have similar views on the definitive features of institutional pluralism, but as they go on to more theoretical debates on secularism and liberalism, they demonstrate numerous significant differences. Bader has a more critical tone towards liberalism and strongly challenges secularism. In his mind, secularism is a realm of its own that is clearly differentiated from the democratic paradigm. Although Shachar is a liberal and Bader is a liberal sceptic and more of a moral pluralist, the reason they are placed in institutionalist pluralist thought is that their model for a new institutional framework is more important to this project than their position towards liberal theory.

IPs propose a mechanism of legal and administrative interconnectivity, which provides plural options within the public realm for citizens of diverse normative systems. For instance, in resolving lawsuit cases, litigants are offered a choice of dispute resolution mechanisms between state and communal jurisdictions, and in dealing with the service sector, citizens are offered a choice of public utilities between communal and state organisations.

A crucial component of IPs' thought is their profound emphasis on democratic morality in their models. They aim to take the necessary measures to implement

democratic standards to protect ‘the minority within the minority’. Shachar argues that in accommodationist models, the duty to balance the rights and cultural membership should not be left to the citizens themselves (Shachar, 2008: 575). In this regard, IPs assert that it is the duty of the state to provide an institutional design that assures this balance. The state should also be in charge of political–legal accommodation by expanding the public sphere for religions within a checked sphere of influence while leaving public law in the hands of the state alone.

Meanwhile, institutionalist pluralist multiculturalists hope for a strong transformation in a political culture that would serve as the catalyst for an institutional turn as well as the democratisation of minorities. IPs believe that accommodation is not static but transformative and interactive, constantly redrawing the relationship between the state and the groups as well as the relationship within each entity. With regards to the state, this entails going beyond the unitary nature of the state that strictly controls public life to a power-sharing state that minimally regulates the public sphere. With regards to minority groups, it is hoped that through the experience of the interaction of different legal approaches and institutional paradigms, religious minorities gradually internalise modernity and democratic values out of volition. This is because under the institutionalist models where citizens’ comprehensive moral views are institutionally recognised, citizens are likely to develop normative commitments to a democratic system that recognised their rights. This normative commitment could lead to the moral internalisation of pluralistic terms for public organisation. As such, through the process of integration and cooperation between different legal systems, the TA and NCP promote transformation within the state system and traditional structures alike towards democratic value change and moral convergence. Bringing minority systems under a form of constitutional control, where minority systems are legalised, is also believed to make it easier to regulate in-group interactions. Consequently, this would protect the rights of the vulnerable insiders and empower them to demand the right to develop their status within their groups.

To conclude, IPs do exceptional work in reconciling the key themes of the other three schools and making them into a model. IPs take from liberal pluralists a theoretical justification for multicultural accommodation and enrich this with the normatively deeper pluralist perspectives of the moral pluralists while embracing the legal pluralists’

support for jurisdictional autonomy. Merging the crucial bits of the three other multiculturalist schools, IPs have generated ample models for the institutionalisation of diversity. As a major weakness, however, the issues regarding the resolution of conflicts between the state and groups as well as within the groups are not addressed with sufficient real case examples. For instance, the state as the last arbitrator and the final authority on in-group issues might not work as well in practice. The state has its own interests, and it would be naive to assume that it would be impartial. In this regard, rather than giving that power to the state alone, an idea of a third eye—a semi-state organisation including governmental authorities, civil society actors, religious authorities, academics, experts, and specialists forming a higher arbitrator mechanism in saying the final words within the in-group, intra-group, and state–group conflicts—would be an option to consider.

VI. Conclusion on Multiculturalist Political Thought

Multiculturalism is a current of thought in political theory that conceptualises inclusive and accommodative ways to respond to diversity within the context of culturally and religiously diverse Western societies. In its early stages, culture has been the main focus of the literature, which has been accepted to provide the most essential basis for social context, group identity, and community relations in an individual's life. Multiculturalist literature started with critiques of liberalism for its neglect of culture. Yet multiculturalism has never been an antithesis of liberalism in its endeavour to accommodate diversity. It was rather a theory that proposed the advancement of liberal pluralism, often with a strong hint of key liberal values of autonomy, toleration, equality of opportunity, and freedom for association (Kymlicka, 1992: 44; Kukathas, 1992: 127; Mookherjee, 2009: 150). Therefore, the balance sought between individual and cultural rights have led multiculturalist thinkers to engage in redefining the relationship between nation-state and cultural minorities through the adoption of political, institutional, including legal, changes.

After 9/11, however, religion was once again brought back into the heart of political theory as a result of which multiculturalists became more engaged with the religious aspects of diversity. The parameters of public rights of religious individuals and groups within a secular state have become a much-debated topic in the West. With regards to Muslim minorities, multiculturalist intellectuals like Ayelet Shachar have

argued that the non-recognition of Islamic norms has practical consequences on practising Muslims, locating them in a dilemma of being a part of a religious community, as Muslims, and a part of a political community, as citizens (2001: 122). Accordingly, models are proposed to successfully resolve the ongoing disputes between secular statehood and demands arising from religious lifestyles. Through a critical evaluation of intellectual traditions, this project utilises the distinct thoughts and philosophies of the different schools of socio-political and legal thought within the Western multiculturalist literature in an attempt to articulate more informed and pluralistic conceptualisations of secularism, law, state, and public sphere.

To start with, the multiculturalist literature that was born in Western liberal democracies takes the democratic framework for granted. All thinkers that are examined in this chapter proclaim that for culturally or religiously derived rights to be justifiable, political and legal requirements of a robust democracy have to be firmly in place. While strongly affirming the necessity of a strong democratic constitutional order, the majority of the thinkers in these categories emphasise that democratic governance does not or should not require a strict separation of the secular and the religious. This has led them to call for new forms of secularism through which collective rights could be introduced to democratic structures alongside the already established individual rights.

A unifying point within multiculturalist political theory is their opposition to “philosophical secularism” (Laborde, 2002: 167) as it is often referred to as republican secularism, and at times defined as “aggressive secularism” (Kuru, 2013) or “militant secularism” (Soroush, 2007; Fuller, 2004; Ahmad, 2006). This notion of secularism envisages a separationist political model, limiting religion and culture to private, rather than public, life. It creates boundaries of progressive versus traditional, and religious versus secular, where politics is all about the positive and secular. In contrast, multiculturalist thinkers advocate “liberal-pluralist secularism” (Maclure and Taylor, 2011), or at times, what is referred to as “moderate secularism” (Modood, 2010) and “passive secularism” (Kuru, 2013), which recognises the worth of culture and religion to people’s collective lives and supports their political inclusion of comprehensive moral views into the public realm.

Liberal pluralists, such as Will Kymlicka, show a very good theoretical understanding of the interdependence of the public and private by manifesting how

culture penetrates private and public life (1995: 94). They show that there does not exist a clear distinction between private and public identities as one's pursuit of the conception of goods encompasses both. As opposed to Rawlsian liberal arguments for privatising comprehensive philosophical views, liberal multiculturalists advocate cultural rights for minorities that go beyond the standard liberal protection, though the normative arguments they make to validate that this expansion is liberal in nature.¹⁸ Moral pluralists take the issue of the expansion of the secular paradigm even further. While sharing the ground for the support of functional rather than philosophical/ideological secularism, they also assert that universal secularism does not have to be the only meta-narrative of a democratic system. Political philosophers like Charles Taylor even recognise the Islamic foundations for a democratic political system that would be a result of a different contextualised narrative of secularity (2008: xvii).

Multiculturalist thinkers have all engaged in searching for more inclusive and democratic notions of the law as well. Moral pluralists have thought that the state could provide justice and impartially through a pluralising concept of a constitution, which is open to change and can find a democratic balance of different demands and principles via civic deliberation (Tully, 1995: 26). Meanwhile, legal pluralists and institutionalist pluralists have raised a deeper challenge towards legal monism and unitarian law. They assert that the state can neither provide equal distance to all philosophical worldviews nor respond to the jurisdictional needs of different organised religions. Both legal and institutionalist positions present a multiculturalist challenge to 'the legal modernity paradigm' and its universalist tendencies, yet provide different pluralistic solutions. IPs support a pluralist yet common public system in which national government and religious groups share authority to resolve semi-public disputes (such as in matters of marriage and divorce) among consenting adults monitored by the democratic regulatory criteria of the central government (Shachar, 2008: 575). Yet legal pluralists defend the right of restricted juridical secession from the mainstream system of law in favour of

¹⁸ Rawls' theory in its later version permits religious articulation of ideas of the shared good so long as they can be translated into rational language and argumentation. However, the pressure to translate could also be costly and could hinder people with different onto-ethics. In the final chapter, this project will address the public inclusion of comprehensive moral doctrines in a more focused framework within which a certain level of translation can happen in a more inclusivist manner under the analytical category of the social public sphere.

collective rights and societal alternative jurisdictional measures for minorities (Mégret, 2012: 4).

Furthermore, within the multiculturalist literature, not only a new agenda on law was born, but also alternative conceptions of the state emerged. Multiculturalists' pursuit of a change in the relationship between the central authority and minority groups ineluctably involved a change in the character of the modern state framework. Thus, multiculturalist intellectuals have directed a challenge towards universalist citizenship, homogenising state institutions, and uniformist law so as to limit the powers of the nation state and expand the political sphere for civil society. On this subject, liberal pluralists have focused more on redistributive changes done by the state while moral pluralists have argued for a deeper change for normative recognition of difference that is also shared by legal and institutionalist pluralists (Kymlicka and Norman, 2000: 4; Taylor, 1994: 38).

In moral, legal, and to some extent institutionalist pluralist thought, we see an idea of state that does not promote a certain kind of common culture, ideology, comprehensive view, or human good. These thinkers defy a philosophical theory of the state and the existence of a dominant ideology or religion within a state structure. The state is rather expected to be separated from philosophical matters. Accordingly, a functional, rather than philosophical or substantive, definition of secularism is endorsed by multiculturalist theorists. In fact, a pluralist idea of secularism is borne out as a result of more minimalist theorisations of the state (Tully, 2008a: 166; Mookherjee, 2001: 69; Shachar, 2001: 91). Their critique of universal, ideological secularism gave birth to alternative liberal and open configurations like Taylor's liberal secularism, which have substantially inspired the conceptualisations of the Muslim democracy framework in the final chapter of this dissertation (Maclure and Taylor, 2011: 19).

All schools examined here offer clear commitment to the democratic process. They see the state as the regular authority of a pluralistic public sphere, yet they offer different mechanisms for state control and varying public powers to minorities. It is maintained that to ensure pluralism, a certain extent of state regulations is unavoidable. Moral and institutionalist pluralists declare that it is not up to the state to impose a moral agenda on change. Intellectuals like Monica Mookherjee have emphasised that the state should facilitate a democratic environment so that the challenges to undemocratic

practices and the demand for change would come from within the groups. The state's role is to pre-emptively persuade the non-democratic minorities to involve themselves in democratic governance through good example, exchange of ideas, and democratic communication (Mookherjee, 2005: 44). In addition, institutionalist pluralists like Shachar and Bader argue that the state remains in control of institutionalist pluralist accommodation, yet it should be through the establishment of minimalist standards of moral constraints. However, they accentuate that if there happens to be human rights abuses within group arrangements, then it is the responsibility of the state to protect the individual's rights and interests and provide all necessary facilities to exit from a group organisation (Shachar, 2008: 433; Shachar, 2009: 148; Bader, 2001: 10).

Correspondingly, all the thinkers analysed in this chapter articulate the need for a reformed public sphere recognising and reflecting the cultural and religious needs in an even-handed manner. They have imagined a more participatory, civic, and heterogeneous public sphere, where more freedoms and recognition for minorities are actualised. Such notions of a public sphere are only made possible through their pluralistic accounts of secularism. On this subject, moral pluralists argue that public norms and institutions should be dynamic and open to change as a result of the social context, not an imposed one (Tully, 1995: 26). Legal and institutionalist pluralists advocate that in deeply morally diverse societies, diverse jurisdictional and public needs of different religious followers are beyond the reach of the state and require civil society organisations to be given public authority. As a rationale, institutionalist pluralists emphasise that the virtues of a plural design are beyond the public recognition of religious difference. In fact, by facilitating religious groups' interaction with the central government and putting groups under the regulatory mechanisms of the state, a pluralist institutional mechanism would prevent anti-democratic enclaves of certain groups ruling individuals. In short, they assume that by granting regulated public autonomy in administrative arenas, an institutionally pluralist public design would redefine the relationship between the state and the minorities in favour of a more democratic and pluralistic framework (Shachar, 2008: 154-155; Bader, 2001: 2).

Multiculturalist thinkers do not leave the discussion of a pluralistic public there. In addition to articulations on the spheres of autonomous governance, they also undertake the issue of shared governance. They discuss the degree to which normative

consensus is necessary in a political organisation to unify people with diverse comprehensive philosophical views as citizens. Multiculturalist thinkers strongly claim that multiculturalist accommodation does not mean ghettoisation; thus, citizens should agree on the shared good in order to live alongside each other. Thus, moral and institutionalist pluralists specifically write on the essentiality of establishing public reason. For instance, Bader states that “minimally required...[normative] commitment in the polity” is a must for institutional pluralism to work (2003: 144). Yet Mookherjee is the thinker who elaborates on this issue more extensively than her peers. She emphasises the importance of constructing “the common language of reasonableness” constituting a pluralist public reasoning (2001). In Mookherjee’s thinking, pluralist public reasoning would set the shared rules of living as a result of a cooperation of diverse moral and philosophical views. Tully also adds that consensus-making has the utmost significance as he defines civic debate as the final authority (2012: 124). Taylor also suggests that achieving an overlapping consensus as a result of common public values, public debate, ‘peaceful coexistence’, and public negotiations is what constitutes the basis of a pluralist democratic system (1996: 20). Essentially, multiculturalists offer vibrant ways to rethink about public sphere and its democratic restructuring.

In brief, Muslim and multiculturalist thought have signposted the debates regarding the relationship between Islam, law, public sphere, and institutional design. Multiculturalist and Islamic scholars have scrutinised similar topics and underlined common notions through different but interlinked questions. For instance, Muslim scholars have examined whether Islam is compatible with secularism, democracy, and liberalism while multiculturalists have reversed the questions to address whether democracy, liberalism, and secularism can welcome and accommodate Muslims’ public roles and demands. Multiculturalism has engaged with reconfigurations of liberalism, democracy, and secularism and how these could accommodate Muslim public lifestyles. Within their theories, some thinkers like Taylor believed that Islam could provide a moral foundation for a democratic design, which relates to the arguments of Fadel and al-Jabri of the Islamic modernist school.

Both Muslim and multiculturalist political thinkers have shown a shared notion of scepticism towards the overarching powers of the ideologically secular state and its relation to religion. Both Muslim and multiculturalist scholars have advocated for the

reorganisation of the political sphere to reflect and respect religious identity. The choice between context-sensitive, common political—legal institutions and separate, autonomous ones that co-function with the state institutions has dominated the overall debates. Multiculturalist thinkers like Shachar and Barzilai have discussed whether Islamic legal norms should or may have some form of legitimacy in the modern state (Shachar, 2009: 133). Thinkers like Bader have examined the options for administrative, jurisdictional, and institutional autonomy related to the arguments of Bulaç (Bulaç, 2006: 190; Bader, 2003b: 134). However, multiculturalist thinkers have gone beyond their Islamic peers in practical modelling and have mapped out the degrees of formalisation of religious law and institutions as well as the modalities of state regulation and control. In essence, through these alternative conceptualisations of the link between religion and political systems, the reconceptualising and reconfiguring of the state, secularism, public sphere, and constitution has become possible for developing an understanding of Muslim democracy in the final chapter.

Unlike the multiculturalism literature that has dealt with the principles and norms of democracy in working towards more pluralistic democratic models, a general emphasis on functional and structural aspects of democracy is seen in Muslim political thought. For instance, with the prime exception of progressives, the debates among Muslim political thinkers have not covered the contentious arenas of the principles of democracy or they have engaged with them in a reductionist and eclectic manner. Muslim political philosophy manifested a deep struggle to deal with issues regarding popular vs. divine sovereignty and hence were only able to create *de facto* theories to overcome the conflicts. The issues of the socio-political status of non-Muslim citizens, the application of Islamic law, and rights and liberties (especially when they clash with an idea of Islamic morality) have been beyond a meaningful resolution. When it comes to theories on pluralism with regards to political modelling, there is much that the multiculturalism literature can offer to enhance the arguments raised by various Muslim thinkers. Thus, it is sometimes suggested by Muslim thinkers themselves that multiculturalism can provide “a more appropriate discourse than the more traditional notions of religious pluralism and tolerance for understanding Muslim civic claims-making” within democratic settings (Madood and Ahmad, 2007: 196). Principally, to elaborate the relationship between Islam and democratic politics from two theoretical angles have provided new perspectives for the redefining of the relationship between the

state, religion, minorities, and politics and hence offered sufficient theoretical tools in mapping out the idea of Muslim democracy.

Essentially, the purpose of this thesis is to investigate the nature and characteristics of Muslim democracy as a result of a normative conjunction and integration of Muslim and multiculturalist political thoughts. To do this, the next chapter will deconstruct the Muslim democratic thought's compatibility-based arguments in order to see the weaknesses and ambiguities. This critical deconstruction will contribute to the reconstruction of a well-developed and systematic thinking on Muslim democracy, which will be the scope of the fourth chapter. The fourth chapter brings together the themes that emerged from the literatures in the first and second chapters and it reinterprets, contextualises, and enriches them with liberal and republican theories in order to construct a more comprehensive understanding of Muslim democracy.

CHAPTER 3: THE COMPATIBILITY-BASED ARGUMENTS: DECONSTRUCTING MUSLIM DISCOURSES ON DEMOCRACY

I. Introduction

The previous chapters have studied Muslim political thought and multiculturalist political thought. The former was examined to understand the modern Muslim normative explorations concerning general governance and pluralism. The latter was investigated to understand a pluralist critique of liberalism in the context of more inclusive and normatively accommodating notions of democracy. Building on the presented debates and typologies in these chapters, the next (fourth) chapter will explore the possibilities for their synergy with the aim of developing a conceptual understanding of Muslim democracy. Yet before moving onto this theoretical enquiry, this chapter will engage in a thematic, in-depth study of certain concepts that frame the course and substance of democratic thinking within Muslim political thought. In light of the discussions on multiculturalism, one can discern how Muslim political thought, in contrast to Western political thought, principally lacks a systematic theoretical toolkit and a coherent political theory on *democratic* governance. Thus, deconstructing the wobbly usage of certain political terminology in Muslim political thought and their conflating with jurisprudence and theology seemed essential for the task of constructing a political theory on Muslim democracy in the next chapter. In addition to its contribution to the original framework of the thesis, this chapter also presents a novel and original analysis by introducing the analytical category of “the compatibility-based arguments,” which will help in discerning the problems within mainstream Muslim discourses on democracy, providing a substantive critique of these discourses and contributing to a paradigm shift from the hitherto largely *theological* to a more *political* study of democracy within Muslim settings.

In recent decades, as explored in chapter one, a great proportion of Muslim thinkers have engaged in democratic thought, perceiving democracy as the most adequate governing system we have today that provides the right channels for a just, accountable, and representative political order. The legitimacy of this position has emerged from two trends, both of which aimed to show the compatibility of Islam and democracy. The first trend (revivalism) derived from functionalist purposes to achieve a

more just political system through ballots, often with the aim of gaining political power against the bastions of authoritarian regimes and military rule. The second current of the legitimisation of democracy (Islamic modernism) came from reinterpreting the moral imperatives of Islam such as *ḥākimiyya*, *sharīʿa*, and *shūrā* to provide philosophical support for democracy. In essence, revivalism underlined the functional compatibility between Islamic politics and democratic development while Islamic modernism suggested that the Islamic canon and tradition can enjoin democracy morally and philosophically as a form of governance. Within Muslim scholarship, these two strands of pro-democratic stances are often oriented around what this work calls “the compatibility-based arguments” (CA), which have broadly revolved around Islam’s theoretical, scriptural, political, or institutional compatibility with democratic processes.

The compatibility-based arguments skilfully assert that there is no structural incompatibility between Islam and democracy. However, the thesis that Islamic exegesis and liberal democracy are compatible has not been developed into a systematic, coherent, well-developed political theorisation that goes beyond this assertion of compatibility into more substantive engagements. As a matter of fact, the CA thinkers do not provide sufficient basis for the genuine construction and development of political values as a dialogical interaction and moral convergence of Islam and democracy. As a result of my in-depth analysis of Muslim political thought and my examination of liberalism, democracy, and rights discourses within multiculturalism, I reached the conviction that what is hampering the efforts of democratic consolidation in Muslim-majority contexts are not necessarily anti-democratic camps but rather hybrid, ad-hoc, and unsystematic democratic thinking that occupy mainstream Muslim political thinking. Under the category of analysis that “the compatibility-based arguments” presents, this chapter will deconstruct the theoretically inconsistent, yet mainstream, accounts of Muslim democracy.

II. The Compatibility-based Arguments

Over the last decade or so, attempts to produce a vision of “democracy for Islam” have dominated Muslim intellectual discourses whilst democracy has become accepted by the Muslim mainstream publics as “the only morally defensible political order” (Bahlu, 2004: 99). Anti-democratic lines of Muslim thought, which are generally grouped under the statist school in this work, has been losing traction in the process.

This reactionary and rejectionist way of thinking has been abandoned even by most of the Islamist groups as democracy has become popularly associated with just and representative political governance, embodying the only legitimate alternative to authoritarianism. As Bokhari and Senzai argue, only a tiny minority among Islamists, as represented by groups such as al-Qaeda, denounce democracy. Mainstream Islamists, referred to as revivalists in this work, have discarded hard-core ideologies in favour of a democratic political structure that responds to the demands of their respective Muslim populations (Bokhari and Senzai, 2013: 44). The revivalists' support for democracy is itself based on the idea of the functional compatibility of Islam and democracy. Although on a philosophical level, they still highlight the philosophical disaccord between Islam and democracy, revivalists have accepted and participated in the democratic political channels. Unlike revivalists, Islamic modernists, like el-Fadl and al-Jabri, have championed a genuine endorsement of democracy. They have pursued the conviction that Islam and democracy are philosophically compatible. Modernists concede that democracy does not only "establish a basis for pursuing justice" but it also fulfils "a fundamental responsibility assigned by God to each of us" on a philosophical level (el-Fadl, 2003). Accordingly, Islamic modernists have advanced Islamically informed accounts of democracy, reconciling liberal democracy and Islamic principles.

Deriving from a detailed typology on Muslim political thought, this research reaches the conclusion that regardless of justifying democracy instrumentally (revivalists) or morally (modernists), the pro-democratic stances are often, with very few exceptions, oriented around arguments focusing on "Islam" being democracy-concordant. Pro-democratic Muslim thinkers have engaged in efforts either to demonstrate the compatibility of "Islam" and democracy in a reconciliatory manner, often pragmatically underrating and neglecting their possible disaccord, or to envisage their ultimate concurrence without due justification. The first category of the CA thinkers, revivalists, does not manifest a serious normative engagement with democracy but employs a selective, reductionist conceptualisation of democracy that shows superficial knowledge of political theory. The second category of compatibility-based arguments thinkers, modernists, explores principles and ideas within Islamic political and legal traditions that show genuine signs of compatibility with ideas of liberal democracy. In their justification of democracy against concerns over Islamic authenticity, modernists reinterpret Islamic legal and moral imperatives on a rationalistic foundation, and thus discern a moral

recognition and legal justification of democracy beyond the pragmatism of *maslaha* (public interest), entailing that Islamic principles do not preclude the possibility of democracy as both are now seen as fully compatible. Yet this judgment of compatibility often becomes the ending of the theorisation, shying away from discussing the implications of such compatibility on complex socio-political and normative issues that modern societies face.

This chapter will systematically and comprehensively explore the compatibility-based arguments in order to highlight their generic flaws and the main challenges confronting Muslim democratic thinking. It will address the articulations on the compatibility of Islamic political, moral, and legal premises with that of democracy, which have particularly raised issues in terms of (i) the nature of sovereignty (divine sovereignty versus popular sovereignty), (ii) the nature of *shūrā* (the consensus of the *ulama* versus public deliberation), and (iii) the nature of *sharī'a* (divine law versus human legislation). Accordingly, in this section, the ideas of Mawdūdī and Qutb as representatives of the anti-democratic Muslim camp and of al-Ghannushi, Bulaç, Rahman, and el-Fadl as prominent thinkers within the compatibility-based arguments will be discussed. Non-democratic Muslim scholars are brought into the discussion to examine how effectively the compatibility-based arguments have confronted non-democratic thinking and whether or not this confrontation can be considered as part of a systematic democratic theory. Yet a third camp, that of progressives like An-Na'im and Talbi, is brought into the discussion to recognise the theoretical weaknesses of the democracy claim under the CA. Progressives present more methodologically consistent arguments in terms of political theory and are believed to have made the philosophical transformation from the compatibility-based arguments to the Muslim democracy paradigm, showing a pertinent awareness of the potentially undemocratic leanings of the compatibility-based arguments.¹⁹ Essentially, the below analysis of a thematic deconstruction of the CA is vital to lay the ground for reconstructing a political theory of Muslim democracy in the next chapter.

¹⁹ Thus, not all Muslim thinkers examined in the first chapter are classified here under the compatibility-based arguments.

1. Sovereignty

Islamic political discourse revolves around theological ideas, where God's sovereignty holds a vital place. The theme of sovereignty in Muslim political thought encompasses competing ideas about the source of law and authority as well as its nature and scope. It is widely shared within Muslim life that the highest form of sovereignty belongs to God. What is disputable is the legal and political implications of this dictum. This sub-section will provide an analysis of the ideas of three schools of Muslim political thought on sovereignty and the impact of this on their positioning within Muslim democratic thinking.

To start with, the statist school of Muslim political thought undertakes sovereignty primarily as a tenet of faith rather than a political concept. As Qutb concedes, believing in God's sovereignty amounts to believing in the Islamic faith, His power, His *sharī'a*, and His creation (Qutb, 2001: 120). Divine sovereignty in the statist ontology is the foundation of political legitimacy and the ultimate source of political authority. In the statist school, the idea of divine sovereignty manifests itself most in the sphere of law, where God has exclusive legislative sovereignty as the supreme legislator (Qutb, 2001: 123). Statists believe that there exists a primordial covenant with God, in which people accepted that "lordship and authority in human life on earth belong to God" (Qutb, 2001: 107). Thus, they maintain that Muslims have to renounce sovereignty in favour of "what God has prescribed," which "is not contingent on the whims of fallible human beings" (Qutb, 1964: 8). Mawdūdī, although a prominent statist, is a transitional figure to the revivalist school on this matter. For instance, like revivalists, Mawdūdī also argues that "mankind is not the ruling authority himself but is the deputy of the original sovereignty" (1978: 20). Unlike revivalists, however, Mawdūdī does not engage in the compatibility-based arguments in explicating the relationship between the idea of divine sovereignty and democracy.

Revivalists also share the idea of a pre-human life covenant made with God, where mankind accepted His authority on earth. From a more human agency point of view, they emphasise that this promise made people the vicegerents of God with certain powers and authority. Revivalist thinking is oriented around an attempt to "reconcile visions of divine and popular sovereignty precisely through the doctrine of the universal covenant of vicegerency (*istikhlaf*)," maintaining that both God and the people are

sovereign within their own realms (March, 2015: 19). As such, al-Ghannushi explains that “political authority originates entirely with the people, which holds authority on loan from God” where executive power is practised by popular will and legislative authority is shared by the divine (sacred texts) and popular sovereignty (*shūrā*) (March, 2015: 19). Yet revivalists argue that divine guidance and constraints on the exercise of popular will are not anti-democratic as Muslims “voluntarily and freely” accept God’s authority as well as “a self-limitation” that vicegerency has put on their actions (March, 2015: 19).

In revivalist thought, God bestows His original sovereignty on the people and makes the *umma* his deputy under moral guidance. Revivalists like Karaman argue that “the greatest problem with democracy is about sovereignty” (Karaman, 2014s). Bulaç also says that for any Muslim who takes religion seriously, Islam is accepted as the upper point of moral authority. Thus, as Bulaç notes, political sovereignty belongs to the ruled, or the people, yet “moral” (*degerler*) sovereignty is linked to the “decree [and] belongs to Allah” as certain dictums of the Qur’an imply that moral legitimacy comes from God and its political application is left to the people (Gundem, 1998: 189-190). That is distinct from other democratic models, which “will happily bring together God’s desire and the will of the people” (Bulaç, 2012b). In essence, unlike statist, revivalists do not take the issue of sovereignty as a mere matter of theology but approach it more functionally. They aim to reconcile the idea of transcendental and popular sovereignty as being harmonious or at least being procedurally compatible in pushing towards their political justification of democratic system.

Modernists also adhere to the concept of a higher form of divine sovereignty yet provide even greater agency to popular authority. Unlike revivalists, modernists do not directly link God’s sovereignty to legislative authority. As Fazlur Rahman concedes, divine sovereignty sets the standards of justice, not the law itself. Nevertheless, he admits that moral light and legitimacy does come from God, where the moral character of the state enterprise is vested in Islam (Rahman, 1967: 213). Rahman is aware that democracy is “a tricky business” as the democratic outcome, which is bestowed on the will of the people, is unclear and difficult to predict. Therefore, he also underlines the importance of the incontestable moral background of a democratic political system to come from Islamic morality (1987: 206). In other words, according to Rahman, in order

to offset the volatility of democracy and to maintain the ideal of justice in Muslim democracies, the moral background has to be of an Islamic nature.

El-Fadl, like Rahman, maintains that “God is the authority that delegated to human beings the task of achieving justice on earth by fulfilling the virtues that approximate divinity” (el-Fadl, 2004: 33). El-Fadl notes that “divine authority and human authority are needed” reciprocally as “pure reason standing alone” cannot create or define “what is good and moral” (el-Fadl, 2004: 114). In his words:

A case for democracy within Islam must accept the idea of God’s sovereignty: it cannot substitute popular sovereignty for divine sovereignty but must instead show how popular sovereignty expresses God’s authority, properly understood. Similarly, it cannot reject the idea that God’s law is given prior to human action but must show how democratic lawmaking respects that priority (el-Fadl, 2004: 30).

Mostly, el-Fadl suggests that in a Muslim democracy, political power is delegated to the people by God “for the creation of a just society,” where “this delegation serves as a moral check on the power of those who exercise it, as they must acknowledge its divine source” (Kalanges, 2014: 279). Thus, divine morality as derived from the idea of God’s sovereignty provides the incontestable moral background and moral checks and balances on the executive. However, el-Fadl is careful to remind that God’s sovereignty cannot be represented and enforced by an authority as no human authority can be “the perfect executors of the divine will without inserting their own human judgements and inclinations in the process” (el-Fadl, 2004: 9). God’s sovereignty in el-Fadl’s theory is more of a supreme moral guidance than a set of rules of law (2003: 42).

Yet in their challenge to the anti-democratic statist thinking to prove the compatibility of democracy with Islam, modernists show certain theoretical flaws in using the concept of sovereignty. For instance, one can observe the confusing usage of sovereignty in Rahman’s arguments even though he himself directed that claim against statist for misunderstanding the concept of divine sovereignty. Rahman explains that the term ‘sovereignty’ as a political term “is of a relatively recent coinage and denotes that definite and defined factor (or factors) in society to which rightfully belongs *coercive force* to obtain obedience to its will” (Rahman, 1967: 208-209). He asserts that divine sovereignty is not coercive; thus, God is not sovereign in a political and legal sense although He bears the moral authority in these realms. However, in contrast to the

modernist perception of statist, statist in fact do not disbelieve that the coercive political force belongs to humans. As Qutb expresses the statist idea, God's sovereignty is not about who practises coercive power but whose authority legitimises this power. In his own words:

Many people, including Muslim scholars, tend to confuse the exercises of power and the source of power. Even the aggregate of humanity does not have the right to sovereignty, which God alone possesses. People only [have the right to] implement what God has laid down with His authority (Qutb, 2001: 40).

Thus, Qutb accepts that coercive legal and political power to exercise authority belongs to the people but that God is the only source of sovereignty.

The account of sovereignty within the modernist thought that defines it as the entity that possesses and exercises coercive political power is, in fact, a mischaracterisation. In political theory, sovereignty is outlined as a matter of authority that involves "the right to command and correlatively the right to be obeyed" (Wolff, 1990: 20). In other words, sovereignty refers to the moral origins of political power: what informs, and whose name and right give legitimacy to, political power. Therefore, "sovereignty is not only a matter of who decides when the law is suspended in the name of law, but also of who decides on the boundary between ethics and politics" (March, 2015: 23). Here, the anti-democratic camp shows a more methodically coherent understating of the term and presents a coherent anti-thesis to it while the CA camp fails to address this in a way that nurtures systematic democratic development.

Along these lines, sovereignty debates revolving around competing conceptions of the origins of law and ethics, which are fashioned by an understanding of the relationship between the divine and the human, have shaped the most important underlying obstacles facing Muslim democracy. These conceptions involve the source of law and ethics as well as the relationship between the legal and the ethical. When it comes to the source of law and justice, statist claim that "the right to create values, to legislate rules of collective behaviour and to choose a way of life rests with what God has prescribed" (Qutb, 1964: 8). Legal sovereignty comes from God, as within statist thinking there exists a pre-given meaning of justice that is defined by God and that is not shaped by context (Mawdūdī, 1978: 17). In other words, human authority is limited within divinely set boundaries. Revivalists share the principle of God's legal sovereignty;

however, on a practical level, they do interpret this in the form of an Islamic democracy. They argue that in Muslim societies, where the majority endorses the idea of God's law, the democratic outcome will be consistent with Islamic principles. Thus, democracy would eventually function as a way to Islamise the legal and the political as a result of a political course. So in the Muslim world, revivalists expect democracy to always function in the service of Islam and in alignment with divine morality.

In contrast to statist and revivalists who believe that divine law defines justice, modernists argue that the law and the text it is derived from can be adapted under the universal principle of justice in accordance with a particular context: "the spirit of the Qur'anic legislation exhibits an obvious direction towards the progressive embodiment of the fundamental human values of freedom and responsibility in fresh legislation" (Rahman, 1966: 39). El-Fadl demonstrates that the relationship between God, revelation, and human agency (vicegerency) is not as forthright, unproblematic, and mechanical (in which people act as agents that implement God's unequivocal commands) as statist assume. Overall, Muslim modernists prioritise human intellect and experience in understanding divine law, and they believe that no human being can claim infallibility with their interpretations being automatically more authoritative than others.

Although modernists may give the functions of law and rights to the human sphere upholding a collective definition of justice, they insist that the source of morality is divine. Rahman writes that "no morality is possible without the regulative idea of God" (Rahman, 1984: 14). Accordingly, Rahman asserts that *ijtihad* cannot be fully separated from legalisation in which "a systematic attempt must be made to elaborate an ethics by the Qur'an" (Rahman, 1966: 256). Yet, the modernists' inclusion of divine morality in the sphere of law is not absolute, for as El-Fadl explains:

I do not believe that pure reason standing alone creates or defines what is good and moral or that the law of God should be subordinated to human autonomy. I wholeheartedly agree...that justice, as philosophically formulated, informs, but does not ground, the interpretation and application of the revealed law. Most of all...divine authority and human authority are needed in a system that achieves justice through the revealed law while avoiding the distortions of oligarchies, whether clerical or secular (el-Fadl, 2004: 114).

In fact, when it comes to the link between political legitimacy and the source of morality, the philosophical correspondence between the statist, revivalists, and modernists show more similarities than initially assumed. The statist believe that the idea of divine sovereignty is antithetical to the notion of popular rule and democracy. In contrast, both revivalists and modernists conceptualise democracy under the concept of a “dual authority” of divine and popular authority, albeit in different ways and understandings. Modernists, who make more theoretically acute articulations than revivalists, suggest that “despite appearances to the contrary, popular sovereignty and divine sovereignty are not mutually exclusive” (Bahlul, 2003: 57). Modernists maintain that popular sovereignty can reside within the idea of divine sovereignty within a democracy by revealing that the concept of sovereignty implies a “multiplicity of authority, multiplicity of will, and different rules and judgements” as opposed to the monolithic and straightforward understanding of sovereignty as assumed by the statist (Khatab, 2006: 28). Mainly, modernists make the argument that morality and politics are connected in an enlightened democratic way, where pluralism within the house of Islam is recognised and non-Islamic diversity are accommodated, and Islam is not left to the hands of the state.

Nevertheless, modernists do not systematically explore how “a dual authority” that implies popular power emanates from popular will and gets its legitimacy and moral light from a transcendental “supra-democratic source” (Tezcür, 2007: 482). In fact, the idea of divine sovereignty has implications that may lead to certain difficulties in a democracy that are not addressed by modernists. For instance, although modernists endorse political and moral pluralism, their relating of the legal, political, and religious spheres may lead to ambiguities: Modernists have to consider that the idea of divine sovereignty ultimately contains an inherent ethical monism, where moral certainty is likely to be transformed into a potent political force. Thus, even though this may not be the intention of modernists, public reason and the public good are profoundly defined within the parameters of Islam within modernist thought. As such, modernists do not show satisfactory awareness on the issue that Islamic morality, as upheld by the majority, is likely to present a barrier to the development and functioning of democratic institutions and more importantly to have implications on groups that do not conform to the mainstream ideas of a good life. Therefore, the modernist defence for the compatibility of divine and popular sovereignty is beyond sound resolution. In

modernists' writings, it is unclear how the tension between the norms of the majority and the rights of the minorities would be resolved in the public sphere. By and large, modernists do not name what are, if any, the non-negotiable implications of the idea of God's moral sovereignty in a Muslim democracy but rather pursue the compatibility-based arguments assuming there is no significant tension between the acceptance of the divine nature of morality and the implementation of democratic political arrangements. Thus, the literature on the compatibility-based arguments, even in its most developed instance, has not developed institutions that foster and support political pluralism and the rights to difference and dissent within Muslim-majority contexts. Even with its defending of internal Islamic pluralism and minority rights, the CA still underappreciates the potential for a dominant religious discourse to engender and sustain oppressive political power.

Therefore, although modernists do represent the most democratically developed version of the CA, they do not go beyond the CA in showing how the idea of Muslim democracy would work with regards to the tension-creating issues between the majority and minority and what are the institutional and legal features of Muslim democracy that would ensure democratic checks and balances. Even the pioneer advocate of democracy in Islamic discourses, el-Fadl, who asserts human competency in policy as a way to reclaim the right of Muslims to create democratic models, still somehow operates within jurisprudential democratic theory, restricting his move to a Muslim democracy paradigm (el-Fadl, 2003: 276–277).

In fact, the CA as presented by prominent Sunni thinkers has been challenged by a reformist Shi'a thinking. Intellectuals like Abdulkarim Soroush achieve a philosophical transition to the idea of Muslim democracy that the CA thinkers fail short of. Soroush argues that "the discussion surrounding governance should revolve around the principles of justice and human rights, not theological [or religious] justification necessary to popular sovereignty or democracy" (Soroush et al., 2000: 131–133). As inspired by Soroush's definition of democracy as "a method of governance aiming to 'reduce management error' based on the principle of 'popular sovereignty'" and achieved through civic reasoning (Soroush, 2010 as cited in Ghobadzadeh, 2014: 60), Naser Ghobadzadeh engages with a political theory on Muslim democracy. He claims that until and unless the philosophical disaccord between secularism and popular sovereignty

is resolved in Muslim political thought, democratic consolidation will be wishful thinking. Like Soroush, Ghobadzadeh also aims to develop a “non-jurisprudential” and non-theological idea of Muslim democracy. Ghobadzadeh states that the divine sovereignty idea implies an ideological purity meaning that the idea of “eternal, sacred, and error-free knowledge” of the divine as accessible to human representatives has led to a totalitarian understanding of the state (Ghobadzadeh, 2014: 60). Thus, for Ghobadzadeh, the principle of popular sovereignty in political governance “removes holiness and divinity from politics”, giving the right, “conducive environment” for the consolidation of Muslim democracy, where Muslims who can interpret and adhere to divine messages out of individual volition and conviction can observe religion (Ghobadzadeh, 2014: 66). Ghobadzadeh and Soroush, like the progressive thinkers, go beyond a compatibility-based *Islamic democracy* idea—where legitimacy to democracy comes from religion and adheres to religious morality—to a *Muslim democracy* idea—where governance is a non-religious and non-ideological sphere that is sufficiently pluralistic to accommodate comprehensive Muslim doctrines as well as non-Muslim ones. As will be shortly seen, thinkers like An-Na‘im and Soroush have greatly contributed to the theorisations in the next chapter on the conceptual analysis of Muslim democracy. Now, this chapter will continue examining the CA and its other conceptual weakness that is impeding democratic deepening.

2. *Shūrā*

The Qur’anic verse “consult with them in matters” is where the concept of *shūrā* emerges. Although *shūrā* has been a key Islamic term in understanding public authority and decision-making, the nature, function, and scope of it have been traditionally disputed: whether the Qur’an orders, on the prophet’s behalf, Muslims to consult with other Muslims only or all members of the society; whether it is the elite (*ulama* and *khassa*) or the lay (*‘amma*) that constitutes the people of consultation (*al-h al- shūrā*); and whether “the result of the consultative process was binding (*shūrā mulzima*) [compulsory] or non-binding (*ghayr mulzima*) [advisory]” to the ruler (March, 2015: 17). The leading modern debate regarding *shūrā* revolves around whether *shūrā* is equivalent to or different from democracy, and/or whether it could be indicative of emerging democracy in the Muslim world. Modern interpretations of *shūrā* bring it to political discussions in relation to the issues of consultation, participation, consent, and public deliberation. Yet the usage of *shūrā* as a religious–political ideal within the CA falls short of the normative

requirements of a democratic system due to *shūrā* being defined within the perimeters of a moral Islamic view, restricting and delimiting democratic public deliberation, meaningful civic contestation, and interest representation. This section will briefly touch upon the traditional discussions in order to explore the modern debates on the relationship between *shūrā* and democracy.

Concerning the normative relationship between Islam and democracy, *shūrā* is another central concept manifesting variant understandings of the issues of consent, popular will, and decision-making. The variation of ideas in the Muslim political thought will be revisited briefly within the context of the CA. The statist school, as the representatives of the anti-democratic Islamic line in this work, argue that *shūrā* has to be within the boundaries of *sharī'a* as popular will has to function within the borders of the divine. Qutb, as previously discussed, claims that the source of political authority and legitimacy comes from the divine, not from the Muslim community, elections, institutions, or *shūrā*. In saying this, he did not specify the form or mechanisms that *shūrā* should take. Instead, in a reductionist manner, Qutb referred to the time of the prophet as the ideal application of *shūrā* but left the concrete form to the Muslim people, who are thought to be inspired by the prophet's example and thus can be assumed to unproblematically agree on the modern political applications of his teachings. In fact, Qutb's understanding of *shūrā* is not only ambiguous but also utopian. Within the statist school, Mawdūdī specifies that the *umma* inherited the vicegerency of God with a limited political power to implement *sharī'a*. Within his ideas, we can talk about a limited popular will. What can be seen as more democratic leaning in Mawdūdī's theory is that *shūrā* is to be exercised by the entire *umma*, not the *ulama* or elite. In his own words:

The theocracy built up by Islam is not ruled by any particular religious class but by the whole community of Muslims including the rank and file....If I were permitted to coin a new term, I would describe this system of government as a "theo-democracy," that is to say a divine democratic government because under it the Muslims have been given a limited popular sovereignty under the suzerainty of God (Mawdūdī, 1999: 230).

Mawdūdī does not totally reject democracy like Qutb, yet his idea of a totalitarian Islamic state does not fit the principles of democracy as there exists clear inequality between Muslim and non-Muslim citizens, as well as strict limitations on public debate, freedom of speech, and dissent based on traditional *sharī'a*.

Challenging such statist ideas, modernists argue that *shūrā* does not only address the issue of consultation but also refers to the idea of consent, which modernists view as a source of legitimacy for political authority. Rahman underlines the importance of *shūrā* as a form of collective deliberation and consent, saying that creating a just political order is a collective moral duty placed upon the community as a whole and which is to be actualised through *shūrā* (2009: 28). Rahman's conceptualisation of *shūrā* shows a democratic nature where open channels and criticism are incorporated. To this end, Rahman endorses *shūrā* in a very inclusive and wider scope that includes the entire Muslim community and not merely the *ulama* or *khassa*. Against elitism, Rahman concedes that the consensus of a selected few cannot replace the community; hence, it cannot define the political outcome (Rahman, 1984: 3; 1967: 206; 1987: 216). Rahman explains that the community will issue the ideas in the public sphere through "the various media of mass-communication and when a general public opinion, i.e., *ijma'*, has crystallised, this will be embodied in the form of law by the representatives of the people" (Rahman, 1967: 206). He argues that in the process, the *fuqaha* (religious legal scholars) should function as experts who issue guidance in the making of propositions rather than legislation. However, even though Rahman argues that *shūrā* could have been transformed into "an effective and permanent organization" that would be an "instrument of participatory and accountable government" (1965: 94; 1987: 210), he concedes that historically, the *ulama* have used *shūrā* as an instrument of influence in assuring peoples' obedience to the rule (1994:94). Thus, the democratic potential of *shūrā* was never actualised and was often sacrificed for the *maslaha*. Yet he maintains that the very ideal of *shūrā* where "the public participate with responsibility in the affairs of the state, the state must be [positioned as] some form of democracy" (Rahman, 1966: 240). Thus, *shūrā* as an Islamic ideal is a model to be developed into a kind of Muslim democracy in Rahman's articulation. Here, one has to recognise that regardless of *shūrā*'s historically inequitable functioning and its unsystematic theoretical potential in terms of its development into democracy, in Rahman's ideas we observe the fixation of a religious lexicon in politics instead of developing a modern political terminology. This, in fact, marks the greatest barrier for the modernists in developing a coherent methodological approach to Muslim democracy.

When it comes to the theme of *shūrā*'s binding capacity, for statist, *shūrā* is not compulsory but functions as "an expertocracy headed by the Just Ruler" who is

considered as the final authority to decide whether to take this advisory opinion or not (Kramer, 1993: 7). For revivalists, *shūrā* is binding as the Islamic system they advocate features majority rule and free elections. Unlike statist, within the revivalist conceptualisation of *shūrā*, there exists a place for non-Muslim social and political forces. Revivalists politically agree to the protection of minorities, equal fundamental citizenship rights for Muslims and non-Muslims, as well as the coexistence of secular and religious parties. Yet apart from political correctness, they do not show a moral and philosophical consent to moral pluralism. In fact, with their articulation of *shūrā*, one can observe that the revivalists are convinced that democracy, which is run by a majority Muslim population, will eventually create institutions that are shaped by Islamic teaching. As we have seen in the ideas of Karaman and al-Ghannushi, Islam's role is asserted "to provide the system with moral values" where *shūrā* constitutes a strategic place in its expression and realisation (Wright, 1996: 73). Therefore, contrary to their claims for reconciliation of theology and politics, it is hard to see a modern interpretation of *shūrā* as the equivalent of public deliberation within the revivalist thought.

Modernists like Rahman and el-Fadl also significantly engage with *shūrā* within their political theorisations, which they perceive as a compulsory and binding principle and institution. Modernists emphasise the necessity "to accept the principle of a majority decision and to see it as a formal process and an institution" (Kramer, 1993: 7). What they have in mind as an institution is a Legislative Assembly, which is elected through fair elections, where free speech is guaranteed and reflects peoples' wills and needs. Rahman suggests that *shūrā* can take the form of a national legislature whereby the head of the executive participates in decision making and is bound by the final decisions of the parliament (Rahman, 1967: 213). Thus, the Legislative Assembly functions more like a parliament but represents a form of democratic consultation representing conflicting opinions and interests.

In essence, modernists are correct to argue that consultation is an important democratic channel as an idea. There is also an accuracy in their claim that *shūrā* can be rearticulated for its potential for representation, accountability, and consultation for democratic governance. However, *shūrā* as a religious-political ideal cannot sufficiently propose a theory for democratic public deliberation. Democratic deliberation as an ideal ensures that everyone is given the right and sufficient platform to be able to defend their

rights and interests regardless of political and moral conviction. On the other hand, the issue of individual freedoms and rights are not efficiently included in the conceptualisations of *shūrā*, and neither are ways in which viewpoints that may diverge from the idea of divine morality as upheld by the majority could be part of political discourse.

Consequently, it has to be pointed out that there exist limitations within revivalist, and to some extent in modernist, schools that confine their democratic thinking. They cannot completely envisage “consultation and participation as a genuinely political process involving interest representation, competition and contestation” (Kramer, 1993: 7). Although to different extents, their conceptualisation of *shūrā* “reflects the continued prevalence of a moral rather than a political discourse....provided they remain within the confines of the faith and common decency” (Kramer, 1993: 7). This perfectly applies in particular to the revivalist school, as we have seen in Karaman’s idea of “universal uglies,” which he defines as universal moral wrongs that cannot be tolerated in the public sphere. In the revivalist thought, there is high disapproval of allowing unrestricted freedom of speech and association for dissident worldviews. Modernists are quite more tolerant than revivalists in their approach to sceptics, atheists, and heretics. For instance, within the house of Islam, modernists move away from universalist and absolutist understandings and do not want to restrict the sphere to define the “framework of Islam” (Kramer, 1993: 7-8). However, modernists seem to overlook the fact that pluralism and democracy are prone to remain in jeopardy if the complete separation of the religious/theological and governance in the state realm is not in place. When power, interest, ideology, and morality come into play in a political system where the state is influenced by the comprehensive moral views of the majority, and rights and freedoms are not philosophically internalised by the people, the efforts of democratisation can unprecedentedly turn into new forms of political intolerance and repression. On this matter, it is essential to see the risks that the CA-based democratic transitions are carrying.

Distinguishing themselves from the anti-democratic statist camp, Muslim revivalist and modernist thinkers, whom this work qualifies as the CA thinkers, have put forth ideas on *shūrā* that have been indicative of democratic leaning, but which, however, were not developed into a comprehensive political theory on Muslim

democracy. Not only have the CA thinkers resorted to jurisprudential and moralistic terminology in politics, but also the relationship they construct between *shūrā* and democracy could not clearly explain the role of morality and religion in governance in a Muslim-majority society with regards to civil and individual rights and freedoms. Even the modernists who present the more sophisticated and substantiated face of the CA were unable to reconstruct *shūrā* as an institution facilitating free, democratic, and meaningful civic deliberation and public contestation as an equivalent of public deliberation.

On this matter, progressives, who are qualified to make the paradigm shift from the CA to Muslim democracy, intend to overcome the dilemma modernists face with regard to governance and divine sovereignty. Progressives aim to separate governance and morality, which reflects its impact on their approach to *shūrā*. They claim that there is no need to legitimise political good with traditional or religious terminology. For instance, Mohammad Talbi is against finding equivalence of religious and political concepts as well as equating religious and political institutions, and thus, he criticises modernist thinkers such as el-Fadl, who argue for the compatibility of Islam and democracy (2011: 90-91). Talbi believes that democracy does not need to be affiliated or legitimised by its compatibility with religious lexicon such as *shūrā*. Democracy and *shūrā* are particular systems in their own particular times and contexts: democracy is a modern phenomenon—an achievement of our age and a system that best represents the voice of the people with the associated values of human rights and pluralism. Thus, democracy is the best political system due to its merits and does not need to be seen as a modern model of *shūrā*: in today's world, what a progressive and critical reading of Islamic ideals represents is democracy, not *shūrā* or any other political structure (Nettler, 2000: 55).²⁰ He emphasises that one should leave the decision to choose the best political

²⁰ In addition to progressives' philosophical endorsement of democracy, they also assert that Islam, as widely held beliefs, is not compatible with the Human Rights paradigm and that this incompatibility produces a gridlock within the idea of a Muslim democracy. The ontological difference between the compatibility-based arguments (as represented by revivalists and modernists) and the progressive argument is that the former provides Islamic doctrinal justification to democracy and human rights, while the progressive argument provides a more humanitarian and universal approach, where they consider democracy and human rights as universal goods in the contemporary world, overcoming cultural and religious barriers.

system for the collective decision of the people, rather than equating and absolutising one political system with Islam and offsetting all other possibilities. According to Talbi, the process of democratisation should also be left to the individual's agency and not dictated by theology or jurisprudence. Progressives indicate that the effort of legitimising a political good by linking it to theological justifications is to be abandoned for the development of a non-theological, non-jurisprudential political theory on Muslim democracy (Talbi, 2011: 100). At the same time, progressives like An-Na'im also underline the importance of critical aspirations for the reinterpretation of Islamic ideals to develop intelligible normative commitments to democracy on the individual level. Progressives acknowledge that individual efforts towards religious reformation are necessary for human progress and pluralistic political solutions. These ideas will be utilised in the development of the original political outline of this project in the next chapter. For now, the following section will continue to scrutinise the CA's undertaking of the law within the context of Muslim democracy in order to deconstruct the line of thinking hampering genuine democratisation for the purpose of reconstructing the Muslim democracy idea.

3. Law

The articulations of contemporary Muslim thinkers on Islamic law and its role in modern governance have been enunciated in the first chapter. The issues have revolved around whether *sharī'a* is a system of moral reasoning or a system of positive law, and the different positioning on these issues led to variant views of democracy. This section will quickly revisit the particular relationship between democracy and Islamic law within the context of moral authority and pluralism as understood by the four-cell typology developed in this project with the aim of elaborating on the CA's approach in this regard. To review, statist perceive *sharī'a* as equivalent to a constitution, an alternative to the secular positivist account of law, which has to be enforced by the state. Revivalists acknowledge *sharī'a* as a source of the constitution, pointing out that religion informs the legal, political, and social at the same time. Modernists define *sharī'a* as an ethical system that contours public and private morality, which is "coterminous with the 'good'," yet does not dictate "an actual formal code of particular and specific enactments" (Rahman, 1979: 115). Unlike statist who equate religion with governance, modernists "situate religion around an ethical axis," which "means paying special attention to Islam's overarching ethical goal and message to humanity above and beyond

any specific ruling(s) on any particular issue” (Rahman, 1979: 256). It is important to understand that within modernist thinking, the burden of proof to politics still comes from the Islamic moral framework, yet the interpretations and executions of moral ideals are dynamic, relative, and contextual.

It is progressives who pursue a clear distinction between the religious and governmental/state, while still preserving an underlying interaction between the religious and the public/political. On this matter, An-Na‘im asserts that law, and even private law, “should not be founded on sharia” as “like all aspects of the legal system of each country, family law is an articulation of the political will of the state, and not on the will of God” (An-Na‘im, 2002a: 20). However, he maintains, the state should ensure all rights and freedoms for Muslims who voluntarily want to follow Islamic legal dictums, without allocating religious public authority to enforce them.

The relationship between Islamic law and democracy can be best articulated within the context of the nature and scope of religious legislation in relation to political ones. On this subject, statist do not differentiate between state law and religious law and leave the entire sphere of legality to the state. Revivalists also pursue an idea linking religious law and state authority. Modernists, however, draw a line between them even though they do not fully separate *ijtihad* from legalisation, emphasising the importance of “a systematic attempt” to benefit from the Qur’anic ethics in law-making (Rahman, 1966: 256). In this attempt, modernists agree that it should be non-state actors who have public authority in Islamic law, yet they disagree on the actual holders of this duty. Rahman demands *ijtihad* to be practised by individuals as opposed to the *ulama*’s monopoly on jurisdiction and legislation. On the other hand, although el-Fadl separates the state (a political entity that pursues political resolutions and is not prescribed by the divine) and divine law (as the core moral framework for Muslim private and public lives), he still allocates the sphere of Islamic law and the moral role of *ijtihad* to the hands of the *ulama*, who are “authoritatively” religiously trained in law (2003: 36). El-Fadl maintains that with the rise of Islamism, technocrats, who are primarily self-taught and have a superficial knowledge of Islamic law, have positioned themselves as religious authorities. He believes that breaking the traditional structures by replacing the

authoritative voice of the *ulama* with the lay would cause deterioration of the Islamic intellectual tradition, which would bring the threat of radicalisation (el-Fadl, 2003: 47).²¹

On this matter, it is essential to understand that in the modernist position, comprehensive theories are allowed to inform the public sphere through religious authorities. In order to expose the problem in the CA argument, we can recall Muqtedar Khan's criticism of el-Fadl on his account of the role *ulama* play in law-making. Khan argues that "as long as the commanding authority of jurists remains in place and the jurists retain a monopoly on interpretation (Ijtihad), there can be no Islamic democracy" (Khan, 2004: 64). Besides, Hakan Yavuz also warns about the dangers of the public powers of religious authorities in democracies. His thoughts are worth quoting at length:

The intervention of religious authority in the public decision-making process restricts national sovereignty, and therefore hinders democracy in two ways. The first restriction imposed by religion on popular sovereignty may be that decision-making regarding certain public issues is monopolized by religion; in this manner, those issues are moved away from the realm of public deliberation and turned into "non-issues" or "forbidden issues." The second type of restriction may be that, though there may not be any particular issues monopolized by religion, it is still required that the decisions of the lay institutions (parliaments, courts, and others) conform to the letter and spirit of religious principles (Yavuz, 2007: 487).

Progressives seem to recognise the flaws in the compatibility-based arguments and address deeper commitments to democratisation, though their thoughts are often not shared by the Muslim mainstream. An-Na'im argues that a universal quality to democratic governance is the provision of a distinction between political and comprehensive/religious spheres, where the foundation of the political is allocated to

²¹ Rahman, as a modernist, disagrees with el-Fadl's position on the role of the *ulama*. He claims that "the Qur'an is not such a mysterious or complicated work that one needs technically trained people to interpret its imperatives" (Rahman, 1979: 261). Thus, he suggests that the role of the *ulama* should be restricted to educational means in helping people to better understand religion, but an ordinary Muslim should relate to a personal understanding of divine imperatives. In fact, Rahman and el-Fadl's core difference rests on their variant approaches to tradition. El-Fadl, having traditional Islamic training, is a defender of a systematic and structured school of Islamic thought with a robust methodology. Yet Rahman is a modernist within Abduh's salafiyya terms, a school of thought that does not restrict Islamic law to the authoritative opinions espoused by the *madhahib*; thus, Rahman appeals greatly to human intellect in understanding the divine directives.

humans. An-Na'im also argues that within democracies, the state is the realm of political power, reason, and compromises and has no moral authority. The state is a sphere for all citizens, which should not be shaped or dominated by any comprehensive doctrine, but should be an outcome of public deliberation and universal, eternal commitments to justice, dignity, and human rights. An-Na'im affirms that ontological references to politics can only come through citizens' negotiation, not because comprehensive views should have a right or legitimacy in the making of the political (An-Na'im, 2008: 14). An-Na'im's political theorisation is in fact similar to that of Rawls' liberal democracy, which has noticeably impacted the development of An-Na'im's ideas. However, like many multiculturalists, An-Na'im also looks to the liberal paradigm to expand to accommodate the role of *sharī'a* in the public sphere, even more systematically than modernists.

Essentially, there are some difficulties within the CA that cannot be entirely bypassed. The CA reveals important challenges but it unfortunately does not present sufficient answers to them. The first challenge concerns public religious authority and the application of *sharī'a*. Modernists argue that *sharī'a* within the classical period was created and applied by non-state actors, which was mainly the realm of the *ulama* and *qadis* and was never codified in that time; it was thought to "be a doctrine and a method rather than a code" (Schantz, 1960: 108). Accordingly, they argue that *sharī'a* should not be in the sphere of the state, but should be left to non-state actors, either *ulama*, such as the case for *ifta* (fatwa-giving) institutions, or the elected people, or the Muslim community as a whole (Alam, 2007: 1262). However, the mechanisms by which the essence of the *sharī'a* to the Muslim-majority can be ensured publicly (via public authority) while simultaneously protecting the rights and interests of minorities are not adequately addressed by modernists. In fact, the public role of *sharī'a*, which is a crucial point in the conceptualisations of Muslim democracy, has been more aptly dealt with by multiculturalist thinkers like Bader and Shachar.²² The next chapter will engage with the

²² Multiculturalists tackle the public role of *sharī'a* and group rights and representation within Western democracies where Muslims are a minority. Their models are formatted for liberal democracies like Canada and the UK, where individual rights and freedoms are robustly secured. Further theoretical efforts are required to assess how the public role of *sharī'a* would function in a Muslim-majority context, where more conservative and traditional interpretations of *sharī'a* prevail.

public functions of *sharī'a* going beyond the ambiguities and ideological obscurities that the CA currently presents.

To draw a conclusion to this part of the law, statisticians adhere to the idea of divine justice. Modernists focus on the importance of human agency, consent, and deliberation. Revivalists take a middle way while progressives separate the religious and political authority. A common point in the modernist school is that they do not provide a clear distinction between political–legal and religious–legal activity, as they believe *sharī'a* is a fundamental and inseparable part of Muslims' legal, political, and religious lives. Thus, in their propositions, secular and religious, legal and political authorities are still connected and conflated. The fact that the political and divine is intermingled raises the question of the utility of the compatibility-based arguments about political and moral pluralism and the rights and liberties of non-Muslims and dissenting Muslims.

III. Conclusion

This chapter has been concerned with deconstructing three Islamic concepts that have been central to the discussions on Muslim democracy: sovereignty, *shūrā*, and law. Statisticians have represented anti-democratic thinking while progressives have defended democracy beyond the compatibility-based arguments, providing more intellectual rigour on issues such as pluralism, secularism, human rights, and religious freedoms. It is revivalists and modernists who have articulated the compatibility-based arguments using different means. In their attempts to show the political compatibility of democracy and Islam, revivalists often display a superficial knowledge in political theory and an eclectic, ill-defined usage of democratic and Islamic political ideals. They seem unaware or tend to trivialise the doctrinal challenges to the idea of Muslim democracy; thus, their justification of democracy lacks theoretical precision and remains mostly tactical. Modernists, on the other hand, take the revivalists' political commitment to democracy to a normative level providing "Islamic doctrinal justification and reconciliation" with democracy (el-Fadl, 2004: 112). In their moral justification of democracy, modernists, like Rahman and el-Fadl, demonstrate that "democracy and Islam share certain fundamental moral tenets, and that Muslims may, therefore, assimilate democratic norms without abandoning their religious beliefs" (Fadel, 2006: 81). By drawing parallels between Islamic and democratic principles, they offer a cross-cultural understanding of Islamic democracy by articulating Islam's moral capacity to cultivate democracy and

human rights. However, this attempt is not necessarily a conceptually coherent one: the argument regarding Islam's moral capacity is not only undertaken as a source to develop individual commitments for democracy and human rights, but also as a theological justification for a democratic system.

To recapitulate, the compatibility-based arguments have maintained that divine sovereignty can be a part of a new democratic thinking, where a dual authority of God's sovereignty and popular sovereignty defines a distinct feature of Muslim democracy. In this co-functioning of divine and popular sovereignty, the political sphere belongs to the human's purview and consent is the basis of political authority while the source of morality and justice comes from God. In this model, it is the people who decide in the name of law, but it is the Divine sources that have the authority to delineate on the relationship between ethics and politics. The CA does not elaborate on how dual authority of divine and popular sovereignty, particular to Muslim democracy, can be reconciled with the idea of political participation, minority rights, separation of powers, and the constitution. It also does not critically address the possible conflicts that may emerge from the assertion of divine sovereignty that privileges a particular moral community and its significant implications on the power balance between different communities and their capacity to impact political decision-making. Accordingly, the CA leaves important theoretical questions unanswered, especially about pluralism, civil and human rights, and minority situations.

A fundamental matter on this case is the idea of including divine authority to the sphere of politics. The dual sovereignty idea has important implications for issues such as public debate, political participation, and policy- and law-making in a Muslim democracy, which are downplayed by the CA. Democracy has some intrinsic universal attributes: it is a political system in which authority is vested in the people and political power is answerable to people. A dual sovereignty idea cannot fit this definition. A scriptural authority cannot substantially let citizens participate in meaningful public deliberations or in the reconciliation and compromise of conflicting comprehensive moral claims. When an authority or institution represents religion, there is an inordinate risk that democracy will be undermined under the influence of religious dominance which could be inclined to foster the criminalisation of political and moral differences for the sake of enforcing uniform moral standards and legislation (Yavuz, 2007: 487).

Modernists are against such a totalitarian notion of a religious state; however, their theorisation still makes room for its potential development, albeit unintentionally.

Largely, the CA seems to manifest hybrid theories on sovereignty in an attempt to reconcile Islam and democracy, but Qutb's and An-Na'im's criticisms of eclecticism provide a pertinent caveat. It is vital to recognise that the "logical coherence" within the statist theories of Mawdūdī and Qutb cannot be met in the theories of the CA thinkers, who were unable to provide a strong anti-thesis to the anti-democratic Islamic philosophy, especially when it comes to the idea of sovereignty (Binder, 1998: 171). In other words, the divine sovereignty idea instigates a concept of an Islamic state in the statist school as "the agent for creating and maintaining morality, both individually and collectively" (Moussalli, 2001: 63). In responding to this, the CA cannot provide a systematic, coherent, and well-developed democratic thinking by theoretically justifying a non-theocratic and non-jurisdictional political theory. This chapter has revealed the areas of elusiveness and internal incongruity and is thus a step towards the political theory of Muslim democracy developed in the next chapter.

Actually, it should be acknowledged that the dilemmas of the CA are not dissimilar to those in democratic theory: The arguments regarding divine sovereignty resemble foundationalist arguments about democracy within liberalism. The constitutional underpinning of who is sovereign (the people vs. the People) in the liberal theory is as abstract as the CA's defining of the course of authority in Islamic doctrines. In liberal democracy, this tension still resides between anti-foundationalist/pluralist and foundationalist moral theories. So to develop a normative theory on Muslim democracy, resolving ontological issues on sovereignty may not be utterly necessary or even possible. However, to develop a political theory on Muslim democracy, the idea of sovereignty should be taken from jurisdictional to political grounds and its nature cannot be unravelled abstractly but needs, rather, to be analysed within the context of the principles of democracy.

In the CA, democracy is justified by religious motives, as instituting good human governance in light of divine light and as the ultimate source of justice and rights, and these motives indirectly set the obligations and limits of political action. However, democracy "fears and resists the absolutism of the pure, the Grand ideology" that may block "public spaces for citizens to challenge and to reject" sacrosanct axioms (Keane,

1993: 29). Consequently, democracy is a condition of “freedom from ideology” and moralising comprehensive views and the CA seems to depreciate the underlying aspects of this condition (Keane, 1993: 28). In a democratic system, an ontological authority neither defines or dictates executive and legislative authority, nor legitimises them. It is essential for the conceptualisations on Muslim democracy to differentiate the moral source of political governance from ontological–ethical sources of individual political action. Democracy is a non-religious political system that is pluralistic enough to let Muslims think, act, deliberate, reflect, and uphold Islamic comprehensive views in their lives. At least in the ways that progressives and multiculturalists articulate it, democracy does not necessarily require morality to be separated from political action, but the divine is separated from the state and political authority. In other words, religious morality can only play a role in the public debate through peoples’ agency (that would mean impacting public policy through individual participation). Unlike progressives, the CA does not theorise on these relevant issues within a principled political approach.

Consequently, the idea of Muslim democracy, as conceptualised by the CA, is destined to face issues of sustainability due to the delicate nature of the relationship between a predominance of Islamic morality and democratic politics. This unsustainability is likely to render undemocratic and anti-pluralistic tendencies in the democratisation processes. As Güneş Murat Tezcür warns, within Muslim contexts, majority rule can easily “decay into the tyranny of the majority” unless measures are effectively taken to protect the individual and minority rights “against the abuses of stronger members and majorities” upholding to a certain comprehensive moral doctrine (2007: 496). Tezcür maintains that the “advocates of Islamic democracy have yet to specify how it will secure the rights of groups that are particularly vulnerable to the whims of a religious majority”; in general, theories of Islamic democracy as represented by the CA “offer little novelty in institutional and constitutional design” (Tezcür, 2007: 496). The next chapter will conceptualise a novel framework in which institutional and constitutional designs will be articulated in response to the ambiguities, gaps, and fallacies created by the CA.

By and large, Muslim discourses on democracy have demonstrated that Islam is not univocal and provides a great room for reconstruction. When it comes to democracy, Islam’s multi-vocality provides doctrines that are supportive of or adverse to democratic

ideals. Thus, popular academic discussions of whether Islam is compatible with democracy “exaggerate the benefits to be gained by establishing the compatibility of Islam” with democracy (March, 2011: 4). One has to acknowledge the merits engendered by the debates on the compatibility of Islam and democracy in achieving certain reconciliation of Muslim thinking with democracy. However, because these benefits were overstated, the debates have often ended with the conclusion that Islam and democracy were compatible. As a result, these endeavours on the CA have not led to an effective moral discourse or well-developed political theory on Muslim democracy.

To conclude, this chapter has examined the shortcomings of the CA in presenting a coherent principled discourse on Muslim democracy in terms of its glossing over significant tensions between political and theological terminology. The CA has created an understanding of democracy which includes a divinely inspired political sovereignty, a transcendently guided public morality, morally confined public deliberation, and a lack of normative commitment to the principles of pluralism. A further limitation of the compatibility-based arguments is their confining to the realm of jurisprudence: it cannot produce a non-theological idea of democracy. The CA carries “signs of *ambiguities* and *ambivalences* inherent to [an Islamic] political theology that proclaims both monism and pluralism, both divine and popular sovereignty” (March, 2013: 2). Accordingly, the compatibility-based arguments shy away from confronting real-world issues and broader conceptual aspects, such as secularism, constitutional safeguards, institutional structures (and checks and balances), public sphere, individual rights and freedoms, and dissent (Bahlul, 2003: 43). The issues revolving around moral and political pluralism such as blasphemy, ethnic and cultural rights, gender equality, freedom of expression and press, and sexuality are especially beyond a meaningful resolution in these ongoing compatibility-based, pro-democratic arguments. All these topics constitute the barriers against an idea of full Muslim democracy that the following chapter aims to help reduce.

Overall, the compatibility-based arguments have in fact lacked in “offering an innovative and coherent understanding of what...[democracy] means, a vision of politics in which political and religious elements coexist peacefully” and has not transformed into a political theory on Muslim democracy (Bahlul, 2004: 99). Even the democratic ideas advancing within the modernist school have not given birth to a systemic Muslim democratic theory due to incomplete conceptualisation. In other words, “getting the

theory right is not enough to produce workable institutions” for the modernists (Kalanges, 2014: 285). In addressing this gap, the next chapter will provide essential concepts to analyse how we can think of Muslim democracy more systematically, going beyond the compatibility-based arguments and interrogating the possibility of a normative synthesis of Islamic and Western points of views that would undergird a more nuanced theoretical framework of Muslim democracy.

CHAPTER 4: CONCEPTUALISING MUSLIM DEMOCRACY: PLURALIST SECULARISM, THE SOCIAL PUBLIC SPHERE, AND PLURALISING CONSTITUTION

I. Introduction

When Nietzsche wrote his famous declaration “God is dead,” he hoped that divine morality and guidance would be replaced with a secular system that maintained social stability and order in Europe. In the Muslim world, secular morality was not demanded as such, as religion has always been a primary source of moral reference on social and political matters. This highlights the fact that in contexts or places that have different religious, philosophical, and social dimensions from Western societies, modern political developments are likely to take varied paths. Thus, in these circumstances, democracy as a political system can also be expected to take different forms (Beller, 2014: 20). Accordingly, the debate about the possibility of different models of democracy in relation to different normative and religious traditions has been discussed not only by Muslims but also by contemporary Confucians and Jewish scholars (Chan, 2014: 22).

As such, both multiculturalist and Muslim thinkers have shown that democracy should not necessarily carry all the meanings, institutions, and designs attached to the term by Western liberalism and/or republicanism. The multiculturalist *école* has probed new ways of thinking about democracies through the possibilities of more enlightened and inclusive roles and functioning of secularism, public sphere, and law in relation to substantial cultural and religious claims. Thus, multiculturalists have considered the prospect of different democratic models.

Similarly, in Muslim political thought, revivalists, and to some extent modernists, who have recognised the virtues of democracy have not been in favour of replicating Western styles. These scholars thought that in societies where the vast majority of citizens receive their moral guidance from the Islamic tradition, the unique political history and culture of these contexts would engender distinctive democratic systems (Ibrahim, 2006: 12). It was believed that exploring Muslims’ “own immense ontological resources” would provide sufficient moral and political resources for building a Muslim democracy (Yenigün, 2013: 396). In their search for an ontological theory of Muslim democracy, revivalists and modernists addressed the issue of how the moral framework

of Islam should facilitate a democratic system incorporating Islamic ethical objectives and democratic institutions.

In particular, on the recognition that democracy provides the most effective governance mechanism, the search for “new models of democratic polities” emanating from indigenous Islamic foundations has occupied the works of Muslim revivalists and modernists (al-Effendi, 2006: 229). However, as a result of a detailed typology on Muslim political thought, it is observed that most of the Islamic works on democracy have been founded on the compatibility-based arguments in their articulations of democratisation. These arguments have often lacked theorisation of democratic benchmarks, thus carrying the potential of reinforcing autocratic structures by evading:

- (i) the difficulty of curbing the political power engendered by the predominance of comprehensive moral discourse(s), where divine morality and political authority are intermingled;
- (ii) the incompatibility of Islamic norms, as upheld by the popular perspectives, with fundamental democratic values, with particular respect to tolerance and civility in the public sphere; and
- (iii) the inefficacy of legal and institutional safeguards of the democracies as currently practiced in Muslim-majority states to protect individual freedoms and human rights.

The contenders of the compatibility-based arguments (CA) did not adequately address these limitations in Muslim-majority contexts where neither institutional nor normative democratic change is consolidated.

In fact, within Muslim political thought, there has been a general lack of systematic discussions of conceptual issues such as secularism, pluralism, public sphere, freedom of expression, and individual rights. In general, these explorations were restricted to compatibility-based arguments, failing to present a well-developed political theory on Muslim democracy. Therefore, this chapter addresses this gap in understanding the need to go beyond the CA to a political theory on Muslim democracy that more aptly considers the fundamental issues in modern politics with the aim to explain how Muslim democracy can be rendered a genuine possibility.

When it comes to the normative inquiry into Muslim democracy, it is important to balance the aspiration for a type of democracy that accommodates Muslims’ faith-based ways of a good life with the maintenance of pluralistic democratic norms and

institutions. Yet it is also essential to recognise that although there may be possible variations for democratic regimes, “such differentiation cannot be limitless if regimes are to qualify as ‘democratic’” regardless of the context, culture, and demographics it works within (Dallmayr, 2011: 445). We cannot meaningfully talk about democratic consolidation within Muslim societies, when Muslim societies are struggling to achieve the essential democratic qualifications of an inclusivist democracy through compromising, tolerant, pluralist, and egalitarian norms.

Consequently, in order to combat the limitations of the CA and overcome the “massive and structural democratic deficit...the Muslim world from one end to the other suffers from” (Dabashi, 2016), this chapter unmask the persistent barriers ahead of the development of Muslim democracy. As indicated earlier, the CA have exhibited that there is no structural incompatibility between Islam and democracy. The multiculturalist literature has also articulated that if certain variables are firmly intact, democratisation can be plausible even within deeply religious communities. The most important question is to address the variables necessary to open the door for a theoretical approach in studying functioning Muslim democracy. This chapter will discuss the core benchmarks of a democratic political system and how they could be understood in the context of Muslim substantive moral views. Accordingly, this chapter will investigate a democratic framework that allows for the coexistence of human rights, democratic tolerance, political secularity, and public religiosity within predominantly Muslim contexts, making it more effective in reconciling the political viewpoints of the Islamic comprehensive worldview with the bulwarks of democracy. With the developed analytical tools, this research aims to contribute to the literature on democratic transitions in the Muslim world in a more effective manner than the existing democratic theories and argumentations.

This chapter maps out the three most essential arenas for the development of a theoretical understanding of Muslim democracy: (i) secularism, (ii) the public sphere, and (iii) constitutional conditions. For the purpose of offering viable foundations for Muslim democracy, resources from Muslim and multiculturalist political thought are utilised. Both Muslim and multiculturalist thinkers have discussed the possibility of dissociating liberal democratic institutions from thick philosophical backgrounds for these institutions to adapt to Muslim-majority contexts. They have also highlighted the

importance of value change and development of civic virtues to reinforce the democratic institutions. Accordingly, this chapter will engage with the debates around ideas such as the support for the pluralist expansion of the secular paradigm, the restructuring of the public sphere devolving more powers to civil society, the institutionalisation of pluralism, the legal protection of diversity, and the internalisation of democratic tolerance and human rights accompanied by religious reformation. These debates, which have serious implications on the key normative commitments of Muslim democracy, need to be resolved in some fashion. By offering specific rejoinders to these debates, this chapter attempts to reconcile the tensions around issues such as popular sovereignty, minority rights, civil liberties, religious jurisdiction, secularism, and public morality, in order to overcome the obstacles to achieving Muslim democracy. Within each subsection, two primary, and arguably conflicting, lines of argument on (i) secularism, (ii) the public sphere, and (iii) constitution will be presented. Then, at the end of each section, the original contribution of this thesis to these debates will be made in the form of an alternative conceptualisation of pluralist secularism, the social public sphere, and pluralising constitutionalism.

II. Secularism

The modern need to define the relation between state and religion has generated certain types of secularism. Republican secularism has been the most prominent model of secularism experienced—often coercively imposed—in Muslim societies. It has claimed “a monopoly over the meaning of secularism by rejecting the possibility of its diverse interpretations” (Kuru, 2008: 8). According to republican secularism, in order to maintain neutrality and equality among citizens, religion has to be dismissed from the public sphere and limited to the private realm (Maclure and Taylor, 2011: 14). With its moralising attitude, republican secularism has functioned beyond a political system on the relation between religion and politics; it has almost become a secular equivalent of religion as a “moral and social philosophy, a complex set of ideas and commitments” that “has too many dogmatic aspects” (Laborde, 2008: 8; Kuru, 2008: 8).

During recent decades, a universal republican definition of secularism has been criticised for its inability to guarantee religious freedoms and minority rights in Western societies as well as to account for the differences in non-Western societies, where the role of religions varies (Maclure and Taylor, 2011: 13). Revising the meaning and objectives

of secularism for the development of contemporary democratic societies, especially in the case of morally diverse communities, has occupied the works of political theorists like Taylor, An-Na'im, and Shachar, all examined in the previous chapters. In these debates, some Muslim scholars such as al-Qaradawi, al-Ghannushi, and Bulaç express their conviction that democratisation can happen without secularism in Muslim societies. They argue that a political establishment founded on Islamic principles can ensure justice and pluralism better than secularism. Others, like An-Na'im and Nader Hashemi, insist that democracy demands a form of secularism. At this point, they too join multiculturalists in their calls for moving away from old-fashioned assertive secularism. These thinkers re-evaluate secularism in order to develop a notion that is more tolerant of religion in the public sphere, a concept that neither rejects nor privatises religion.

In Muslim-majority countries, a larger number of people hold the conviction that religion is the basis of legitimacy of governance and the main source of law and social structure. At the same time, a considerable number of people who endorse secular ontology want a separation of religion and state power as well as the isolation of the religious denomination from public affairs (Hashemi, 2012: 21). In addition, even among the segments of society that take their moral guidance from the divine, there is a deep dispute about the exact relation between religious morality and politics. Essentially, as Abdelwahab El-Affendi rightly observes, "the tension between democracy and secularism...remains the dominant feature of Muslim politics to this day," inhibiting democratic consolidation (2004: 172).

The process of democratisation depends on the resolution of the normative relationship between religion and politics. The unresolved issues within the CA, including the basis of sovereignty, a community-based scope of morality in the public sphere, and the lack of normative commitment to the principles of democracy, impede a successful democratisation. To address these issues, this section examines secularism by engaging with the question of whether democracy without secularism is possible and can aptly uphold political pluralism or whether secularism is an indispensable element of a robust Muslim democracy. This section will examine the two sides of this argument with regards to the link between secularism, religion, and democracy, namely unsecular Muslim democracy and secular Muslim democracy. Then it will suggest its own

conceptualisation of a pluralist secular model, pluralist secularism, and articulate its potential to render democracy a genuine possibility in Muslim contexts. Once pluralist secularism is established as the normative category that would best serve a functional Muslim democracy, I will develop this category in more detail by exploring four constitutive features of pluralist secularism.

1. Unsecular Muslim Democracy

The idea that secularism is a philosophical belief particular to the Western tradition that cannot be reconciled with Islamic religion is widely shared within Muslim circles. As Hashemi observes, “[a]t the moment, reliable polling suggests most Arabs oppose the idea that democracy requires a Western-style form of secularism and large majorities support the idea that Sharia law should be ‘a’ source (albeit not ‘the’ source) of legislation” (Hashemi, 2012: 21). This demonstrates that “[t]he cultural and political expectations about religion and politics” are not in favour of secularism, at least not an orthodox one, in Muslim countries (Cesari, 2014: 118).

A primary reason for Muslim opposition to secularism relates to the issue of sovereignty. Secularisation in the Muslim world has sharply changed the basis of sovereignty. In the context of religious monarchies, sovereignty was a top-down imposition from the ‘divine’ while in the context of secular republics it was the people. Yet the nation being the new holder of sovereignty did not necessarily guarantee that the popular rule was democratic governance. In fact, secularisation has been an elitist process and often worked for the benefit of a small segment of the ‘Westernised’ elite. Thus, as Hakan Yavuz observes, the outcome of secularisation was initially authoritarian republics, rather than liberal democracies, where the populace, which was distanced from public decision-making, could not exercise popular sovereignty. In fact, to the common Muslim masses, secularisation was somehow distressing because new secular legal, political, and civic institutions were perceived as alien and “heretical from Islam’s point of view” as well as oppressive, controlling, and exclusionary towards religious lifestyles (Yavuz, 2007: 482). Therefore, secularism did not function as a neutral power in regulating political life but as an ideological force defining and administering religion.

Pace the secularisation thesis, secularisation did not lead to the decline of religion as a political and social force in Muslim societies. On the contrary, religion was institutionalised in the domains of education, health, and social services by religious

communities benefiting from the opportunity spaces allowed by the secular authorities (Bekaroglu, 2016). Moreover, an adaptation of the Western secular institutions in the public sphere stimulated a different kind of relationship between Islam and politics in which Islam was redefined as a political ideology in direct opposition to secularism (Cesari, 2014: 7). Mainly, by virtue of the authoritarian secularisation experience, secularism, from its very inception in the Muslim world, was not perceived as a possible mode for a relationship between religion and governance but rather an antithesis, rival, or even a substitute for religion itself (Yavuz, 2007: 482).

Republican secularism in the Muslim world has endorsed a strict separation of religion from the public sphere yet has still controlled the power to define a national religion for the citizens to follow in the private realm. However, this strict separation has not worked as we have seen from the vast majority of Muslim thinkers discussed in chapter one who insist that a full separation of Islam from politics is not possible. A supporter of the Islamic view of democracy without secularism, Yusuf al-Qaradawi (2002) of the revivalist school asserts that Islam cannot accept the division between the divine and everyday life, and secularism that demands it is a “downright apostasy.” Rashid al-Ghannushi, who is not a harsh critic of secularism, still proposes the idea of a “civil state” (*al-dawla al-madaniya*), a prominent example for a non-secular democracy. Al-Ghannushi (2011) argues that secularism is not required in order to either establish a democratic regime or achieve equal citizenship, minority and women’s rights, and separation of powers. In fact, these values are the core tenets of political secularism, which al-Ghannushi maintains can be realised under a Muslim democracy absent secularism. Similarly, Ali Bulaç also argues that Western democracies aimed to accommodate diversity through secularism, where putatively no religion should become a predominant force in politics. He believes that in Western contexts, where religion is no longer a moral authority, such an arrangement can work to ensure pluralism. Yet in societies where religion has strong moral influence in the social and political spheres, secularism does not necessarily facilitate diversity (Bulaç, 2012f). According to Bulaç, the secular authorities have either asked religious people not to bring religion into the public domain or pressured them to endorse the ideals of modernity set forth by the state to be considered part of public life. Bulaç believes the concepts of rights and practising freedom of religion in the secular paradigm are dictated by the state, where we cannot talk about liberty in the truest sense. He believes that Islam offers an alternative way of

accommodation and pluralism through institutional and legal pluralism to non-Muslim minorities for them to pursue their own way of living, a way that is more efficient than secularism (Bulaç, 2013).

Essentially, revivalist thinkers have argued that Muslim democracy can be a successful democratic regime divorced from secularism, one of the “ideological” “value-elements” “historically associated with it in the West” (Bahlul, 2004: 112). Accordingly, many like-minded thinkers:

propose a mode of democracy without or beyond secularism. Freed from secularists, democracy becomes available as a means for Muslim societies to order their political life (Bahlul, 2004: 106).

Non-secular, Muslim democracy-based arguments maintain that none of democracy’s core principles such as popular sovereignty, majority rule, political equality, and representative government necessitate secularism.

This line of argument also finds support from Western thinkers of Muslim studies. Notably, Jocelyn Cesari makes a point of arguing for the possibility of a non-secular form of democracy for Muslim societies, which has raised the question of how important secularity is for the functioning of democracy. She affirms that accepting democracy does not mean the automatic acceptance of secularism and all civic liberties. She argues that “all democracies differ in the ways institutional, social, and individual levels of secularization interact” (Cesari, 2014: 269). Unsecular democracies “arise in which there are free and fair elections” and the rule of law, where individual freedom may be limited or selectively implemented “on religious grounds” (Cesari, 2014: 204). This form of democracy exercises reasonable pluralism, where not all liberties, especially the ones “that are seen as a threat to the national community,” are guaranteed, but the most fundamental ones are given a constitutional guarantee (Cesari, 2014: 204). In other words, whereas economic and most political and civil rights—such as the right to political opposition and organisation, the right to express political opinions, and (selective) freedom of the press—would be recognised, “the rights granted to the person, from sexual freedom [homosexuality/contraception/abortion/indecency] to the right to exit or criticize Islam [conversion/blasphemy]” would not. The limitations highlighted here, Cesari insists, “concern the third level of secularity (that of the individual), but do not necessarily affect the institutional or social level of secularity” (2014: 241).

There are Western thinkers who also argue that secularism has lost its claim of “neutrality” and “is no longer a viable political solution” in our pluralist times, thus

supporting the idea of unsecular democracy (van der Zweerde, 2014: xx). For instance, Veit Bader of the institutionalist pluralist school presents a proposition for democracy that upholds the idea of active cooperation between the state and all religions beyond secularism. He suggests that “we are better able to economize our moral disagreements or to resolve the substantive constitutional, legal, jurisprudential and institutional issues and controversies” by “drop[ping] secularism as a ‘fuzzy’, chameleonic, highly misleading or ‘cacophonous’ concept” from democracy (Bader, 2010: 1, 9). Bader believes that the secular strategy of neutrality, which might be suitable in a hypothetical world, in reality manifests the state’s partiality through universalising “the particular” in the service of “the resourceful and powerful” (1999: 600-608). Bader’s opposition to the secularism doctrine comes from his conviction that no philosophy or ideology should supersede democratic governance, which is to reflect widely shared political principles by the population. He emphasises that secularism by nature cannot provide a political superstructure that is based on common political values, an even-handed product of democratic political deliberation of the citizens, where citizens with secular and religious philosophical outlooks would be equally represented (Bader, 2009b: 1; 1999: 602). Thus, he argues that the differentiation between state and religion(s) can still be maintained while disassociating the secularist ideology, as all the necessary political principles secularism can potentially offer are already sustained by democratic theory (Bader, 2007a: 47).

It is argued that some restrictions on personal freedoms for the wellbeing of the community in some areas do not threaten a democratic system if the state ensures its neutrality towards every citizen. Yet there are concerns that arise with regards to the democratic nature of an unsecular democracy: can a Muslim democracy framework really be institutionally impartial, ensuring “equality of all religions in public spaces and political neutrality of the state vis-à-vis all religions,” while at the social level prioritising a dominant religious culture in the political organisation (Cesari, 2014: 264)? Thus, the unsecular democracy idea has a lot in common with the CA, which poorly appreciates to what extent the prevalence of the idea of public morality that is shaped by the morality of the majority undermines democratic processes. However, in a Muslim democracy, certain limits of freedoms may vary from those imposed in a Western democracy, but as I will argue in section IV, 3, a, this by no means implies that the personal freedoms and human rights can be left to the will of the majority and its account of morality. My

intention here is to raise some concerns about the possibility of democracy without secularism for the Muslim-majority context where democracy is not strong institutionally—regarding the separation of powers, the rule of law, and independent and impartial judiciary—and normatively—concerning commitments to fundamental human rights and the ethos of pluralism.

2. Secular Muslim Democracy

This section turns to the question of whether it is secularism or the process of secularisation that Muslim societies underwent that has given the concept its ill-repute. I argue that the universalist efforts to define “the shape of secularism throughout the world” based on a separationist republican model proved inapt (Jakobsen and Pellegrini, 2008: 2). The conventional idea of separating religion from the public sphere may have been possible because of the spiritual “Protestant understanding of religion with belief and faith at the conceptual center” (Jakobsen and Pellegrini, 2008: 8). In fact, the dichotomy between the religious and the secular was created in post-Reformation Europe. In this context, the secular was perceived as more rational and liberating, while religion, as a hostile and divisive force within the public sphere. The problem has been that Islam and Muslims were forced to conform to “the generic model” of Christianity in relation to secularism as a process of modernisation (Jakobsen and Pellegrini, 2008: 8).

Taylor and An-Na‘im assert that in countries like Turkey, secularisation as a form of authoritarian laicism “came about at the cost of a bitter struggle against a dominant religion” (Maclure and Taylor, 2011: 14) by “strictly limiting — as well as controlling — the role of religion and religious institutions” (An-Na‘im, 2008: 182). Bader also reveals that Muslim societies never publicly debated the role of religion and politics and never developed their models of secularism. Secularism has been a top-down project and was undertaken by authoritarian regimes, where the secular state solely defined, controlled, and imposed the normative relationship between religion and government (Bader, 2007a: 111). As a result of the discriminatory legacy of the secularisation process in the Muslim world, the term carries a lot of negative connotations, inspires mistrust, and “is a conversation stopper” (Hashemi, 2009: x).

Essentially, the defenders of secular Muslim democracy such as An-Na‘im and Hashemi argue that the secularisation process in the Muslim world has pushed democracy in the wrong direction. They are critical of the practice of secularism in the

Muslim world. As such, the orthodox liberal idea that religion should be practised in the private sphere and need not exert an impact on the public sphere is challenged simultaneously by Islamic and multicultural critiques of secularism. Muslim and multiculturalist political thinkers have underlined the inseparability of comprehensive moral doctrines and politics, in particular with regards to Islam, and have put pressure on the liberal paradigm to expand to accommodate this. However, for the reasons summed up at the end of the previous section, secularism cannot be fully dispensed with. Two sets of thinkers have offered viable alternatives.

First, Muslim thinkers have engaged in reconceptualising secularism in a way that would be harmonious to Muslims' social, cultural, and political dynamics. Even the scholars in the progressive category of Muslim political thought, such as An-Na'im, emphasise that secularism in the Muslim world must be more resourceful in dealing with *shari'a*-driven public religious claims of individual Muslims. An-Na'im promotes an "Islamic argument for a secular state" in order "to reconcile Muslim commitment to Islamic law with the achievement of the benefits of secularism within a religious framework" (2008: vii). He underlines "the dangerous illusion that Islam can or should be kept out of the public life of the community of believers" while accentuating the imperative need to disentangle Islam from the coercive power of state institutions. An-Na'im argues that from an Islamic point of view, the legitimacy of the state does not come from the claim to enforce 'divine law' or morality, but from protecting religious freedoms and human rights by preserving religious participation in a democracy, including recognition of the public role of *shari'a* for Muslims. Secularism, for An-Na'im, is a unifying factor ensuring political pluralism within diverse religious communities, unlike alternative configurations like the religious state according to which religions have competing universal normative claims that strive to shape political rules that regulate common life (2005: 63).

Second, multiculturalists have demonstrated that Rawls' political liberalism fails to give due recognition to the importance of religious beliefs. Multiculturalism has advanced the idea that the liberal ambition to keep religion outside public institutions is misguided. Although multiculturalist thinkers like Veit Bader and Gad Barzilai are critical of the conventional idea of secularism, multiculturalists overall emphatically declare that "of all available alternatives, secularism remains our best bet to help us deal with ever deepening religious diversity and the problems endemic to it" (Bhargava, 2014:

39). One strong message that emerged from multiculturalist thought is that secularism must be re-evaluated in attempts to foster democratic consolidation within Muslim contexts, where the roles of culture and religion intertwined in political reasoning and public life. Thus, they have pleaded for a more complex notion of secularism, one that accommodates religious demands in the public sphere (Taylor, 1998: 154). Within this context, it is argued that new non-Christian and Islamic configurations of secularism can overcome the religion–secularism binary existing within the dominant discourse of secularism (Black, 2014: 13).

Accordingly, Taylor and Maclure (2011), in their book *Secularism and Freedom of Conscience*, rearticulate secularism as part of pluralistic liberal democratic theory within the religiously diverse character of modern states. Taylor endorses a functional, rather than a philosophical or substantive, interpretation of secularism, distinguishing secularism from normative contents to give it a more inclusive role in its relation to organised religions and religious freedoms. Taylor’s liberal pluralist secularism is based on a separation of the divine and governance at the state level, not the elimination of religion or its suppression under state control (Taylor, 2008: xi). He suggests that secularism, if correctly understood, is essential to any liberal democracy in which citizens adhere to variant comprehensive philosophical views (Bouchard and Taylor, 2008: 46; Taylor, 1998: 154).

The secular Muslim democracy idea states that “reconciling Islamic political thought with secularism is a critical precondition for the construction of a liberal-democratic theory for Muslim societies” (Hashemi, 2009: 22). In this regard, intellectuals like Taylor and An-Na’im have opened up new ways of thinking about democracy with alternative narratives of secular governance within Muslim contexts. They have pushed democracy in the right direction and have aptly demonstrated that there are different models of secularism that democracy can accommodate, which is more flexibility than is often assumed. They have argued that neither secularism nor religion has been static, unchanging, and ahistorical; in fact, they have been evolving relative to changing conditions; hence, the creation of new forms of secular democracy is achievable. In contrast to the secularisation thesis that assumes that moving away from religion will necessarily lead “eventually to governance by reasoned debate and ultimately to democracy and peace,” the secular Muslim democracy idea as articulated in this section has shown that democracies can uphold different designs of secularism for democratic

development (Jakobsen and Pellegrini, 2008: 4). Thus, the critique of ideological republican secularism has engendered alternative configurations, showing how the problems republican secularism create for individuals and groups with non-secular ideological dispositions can be overcome. The next sub-section will show how a more enlightened form of secularism can be conceptualised as part of the Muslim democracy idea and how this secularism, which I call 'pluralist secularism,' can advance the Muslim democracy idea and contribute to its materialisation.

3. Pluralist Secularism within the Muslim Democracy Framework

As the analysis of the CA has revealed, a severe obstacle to developing a Muslim democratic theory is a poor understanding of how the state with weak institutional endowment and strong religious population can manage difference and diversity. The non-secular democracy idea has also remained ineffective in addressing these issues. The gaps the CA have and the questions non-secular democracy leaves unanswered are addressed by the secular Muslim democracy perspective, as developed here, according to which democracy compels a form of political secularism in some sense that separates religion and governance while establishing the mechanisms to ensure pluralism, equality, and religious freedoms. In fact, secular Muslim democracy arguments have expressly shown that Islam and political secularism are not dichotomous and the institutional separation of religion and state is possible through different embodiments of secular democratic configurations such as the "liberal-pluralist secularism" of Taylor (Maclure and Taylor, 2011: 19) and the "liberal secularism" of An-Na'im (2008: 203), as opposed to an anti-pluralist universal republican mode. The pluralist secularism idea is born as a result of multiculturalism's criticism of republican secularism as ideological, in which multiculturalists share Muslim thinkers' criticism that "secularism has morphed into a religion of its own" (Ibrahim, 2006: 8), becoming a sacred moral ideology (Connolly, 2005: 43). In turn, pluralist secularism strengthens the modernist and progressive Muslim intellectuals' critique of an ideological Islamic state, demonstrating a possibility for an alternative inclusive and religiously-friendly secularism.

A pluralist secularist state is not socially secular, as it neither takes a stance with respect to a good life nor engages in the moral process of shaping individual identities based on its philosophical ideology. Pluralist secularism as conceptualised in this project affirms that no transcendental sense should dictate the public discourse, be it in the form

of secularism or a religious doctrine. This section will show how a vision of pluralist secularism, which presents a deeper understanding of the complex role Islam plays in Muslim politics, can also address the issues emanating from the CA. It will elaborate on how moving on from old-fashioned/traditional secularism to a more nuanced home-grown version of political secularism can offer new ways to think about the public role of religion and the state impartiality. Thus, it can help in resolving the issues of religious accommodation as well as individual rights within Muslim societies. This sub-section will sketch four main features of pluralist secularism, namely: a minimalist state, the public recognition of religion, the differentiation of the analytical categories of state and social public spheres, and finally collective rights.

a. A Morally Thin and Minimalist State

The first feature of pluralist secularism is that it underpins a morally thin and minimalist state framework.²³ In a democratic system, establishing the proper limits of the state authority in setting and regulating the rules of conduct is an important question to be asked to resolve the state's relation to social and religious affairs. The morally minimalist state idea has a particular approach to this issue through which it aims to facilitate moral pluralism and a deeper diversity. The notion of a minimalist state is inferred from and developed in light of the previously examined theories of Bader, Kukathas, An-Na'im, Fadel, and Taylor.

A morally minimalist state can be broadly defined as the institutional realm of compromise and consensus that is impartial in understanding citizens' reasons and normative systems to act and that refrains from refashioning society in line with a particular version of the good. The morally minimalist state is not a philosophical institution establishing, controlling, or imposing a "contested truth-claim of any kind, whether religious, philosophical, or scientific" (Bader, 1999: 602). The morally minimalist state is grounded in thin moral foundations bereft of ontological or substantive moral foundations. Yet, it is important to apprehend that even a morally minimalist state enterprise is unlikely to be value-free for the purposes of functionality. Accordingly, the state enterprise and its minimally shared normative background as

²³ The minimally moral state is part of a broad literature on "minimal state" as discussed by the classical liberal and libertarian thinkers. In both these schools of thought, a state is given a "restricted mandate" to protect individual rights of life, liberty, property, and contract to uphold its main goal of letting individuals flourish (Scalet and Schmidtz, 2002: 27).

articulated here is inspired by liberalism to a certain extent, especially when it comes to the guaranteed protection of human rights and freedoms. Yet this is not a concession to the idea of moral minimalism, but is rather seen as a necessary foundation for the democratic performing of a state in relation to the rights and freedoms of its people. As such, pluralist secularism makes a political ontological justification of liberal values and institutions that is not comprehensive in nature. This is a major difference between pluralist secularism and orthodox secularism: unlike orthodox secularism that executes a comprehensive ideological doctrine, pluralist secularism with its morally minimalist background can accommodate the plurality of moral and political claims in the public sphere.

On this matter, Kukathas allocates the state the administrative function of enabling the successful coexistence of morally diverse people, where a liberal state should appreciate that the state should not intervene in philosophical matters or impose normative ideals on society in the morally diverse world of today (Kukathas, 2001: 89). Kukathas' argument for "a minimalist state" reflects the liberal distrust of state authority, which is thought to have the predisposition to infringe on the freedoms of the citizens in the name of a dominant ideology, public morality, or national interests. Thus, the minimalist state idea is thought to sustain the rights of individuals over the power of the state (Kukathas, 1998: 692-693). In the moral minimalism framework, the state is more of a "night watchman," with areas of responsibility involving the police, army, justice system, armed forces, infrastructure, communication services, and the stable economy (Rand, 1963: 111).

Kukathas' notion of the state in fact resembles revivalists' reference to the Charter of Madina. Bulaç has noted that the charter laid down a pluralist project based on multi-religious legal sovereignty of self-governing groups. Bulaç writes that the charter allocated the field of education, legislation, and health to the legal and administrative autonomy of religious groups while the defence, infrastructure, and judiciary of the community was left to the central authority led by the prophet (polity, city-state) (2006: 190-193). For al-Ghannushi (2012), the articles in the charter manifest the difference between religious and political belonging, in which religious freedoms were given paramount importance. Quite astonishing as a pluralist organisation for the standards of its day, the Madina model followed a configuration where the realm of the political was

heavily influenced by Islamic morality, carrying parallels with the CA and the unsecular democracy arguments (UDA).

The exponents of the CA and the UDA have suggested that in a democracy, what constitutes the cores of public morality may change from a social context to another, depending on the dominant comprehensive view(s). Unsecular democracy theorists have also suggested that the parameters of public representation of private acts may vary. Accordingly, they maintain that the ideas of the preservation of family values and the moral upbringing of the next generations have been central concerns to the Islamic tradition, whose conceptualisation would be different from those in the West regarding the issues of indecency, sexuality, and reproductive rights (Cesari, 2014: 241). Thus, the limits of freedoms may differ as certain restrictions to personal matters may be put in line with the public morality. Both the CA and the unsecular democracy exponents underline that political institutions are influenced by the demands, inputs, and concerns of citizens as the will of the majority will undoubtedly impact the political outcome. This approach has certain value. Yet the idea of putting the moral standards of the majority as the public rules of conduct and morality is also deeply problematic from a democratic point of view because of the reasons explained below.

In a predominantly Muslim context, a majority of the people may hypothetically agree on rules of a religiously inspired code of conduct through participatory and contestatory processes. Yet it is important to acknowledge that any democratic state should not yield to the morality of the majority in a majoritarian manner. The secular state has to be at an equal distance from all religious, ethnic, cultural, or identity groups. It is crucial to note that democracies do not only guarantee political rights for voting and participation but also protect 'the rights of the most unpopular' against the intrusions of the ruling and dominant groups. In principle, the values, norms, and beliefs of the minorities in democratic regimes are as important as the values and ideals of the majority and an automatic privileging of majority norms is democratically unacceptable. Pluralist secularism affirms that in order for democratic consolidation to take place, political culture should expand towards an acceptance and acknowledgement of difference and recognise the equal value of minority ways of life, rather than requiring minorities to conform to the standards of the majority (Tully, 1995: 183; Mookherjee, 2001: 15).

In addition, the idea of operating the moral standards of the mainstream as the public morality can be objected to not only from the standpoint of democracy but also from an Islamic standpoint. Modernists and progressives have discussed that in Islam, sins are a matter of a deed between the Creator and the individual, where God provides the chance for repentance. This principle implies that religious moral life is not supposed to be controlled by the law, but can only be established in and adhered to by consciousness and free will. The doctrinal justification of personal responsibility of morality before God is utilised by advancing democracy as the most just political system “because it expresses the special worth of human beings—the status of vicegerency [of God]” (el-Fadl, 2001: 36). Modernists and progressives have also conceded that there is nothing in Islamic ontology sanctifying the state as there is no mention of the state in the divine texts nor did the prophet call his community a state. They have argued that the statist, who push for the idea of a comprehensive Islamic state that has a philosophical outlook and agent enforcing a religiously defined good life, are advocating a modern ideological construct rather than a religious tenet of faith (Ibrahim, 2006: 11). Moreover, Muslim thinkers such as Bulaç, An-Na‘im, Talbi, and el-Fadl have all engaged with similar lines of argumentation in defending a minimalist state. Bulaç has argued that the state “is not legitimised on divine or metaphysical groups. It is merely a functional instrument established in order to perform common and indivisible services” (Denli, 2006: 91). In his words, “the state [should have]...much less intervention capacity – with minimum shared institutions and procedures – and is based on a thinner yet truly neutral normative ground” (Denli, 2006: 98). El-Fadl has also advocated democracy as “an appropriate system for Islam” due to its deprivation of the state “of any pretence of divinity by locating ultimate authority in the hands of the people” rather than the religious and political elite (2001: 36). Democracy is a political system where Muslims can fulfil their individual moral duty for the ultimate personal journey towards the ethical self and ethical society and in which they have access to reason, agency, and individual freedoms to choose whether to follow the divine guidance or not.

Eickelman and Salvatore agree that that the state’s enforcement of morality is problematic not only from a normative but also sociological point of view (2003: 107). Modern Muslim societies are more diverse, complex, and morally heterogeneous than often assumed. Not only does there exist a fundamental “gap between secular and religious catalogues of virtues,” but also competing religious orientations different than

that of dominant understandings of Islam are highly evident (Mangini, 2016: 257). Thus, the hypothesis of the collective basis for the thick moral consensus within a political order appears unrealistic in Muslim societies. It is very unlikely that any political regime, not just Muslim democracy, will reliably resolve the moral questions of the entire citizenry. Involved in human relations, no political system can respond to all human good. Nevertheless, democracy, among all of its alternatives, offers the best possibility of maintaining open channels to discuss these differences in policy making. It also upholds mechanisms to safeguard everyone's right to be involved with these mechanisms with their own ontological dispositions as equals.

In a Muslim democracy framework, the state, based on pluralist secularism, is no longer the holder of spiritual authority. In order to ensure impartiality to all philosophical positions and leave the choice of the good and bad to individuals, a morally minimalist state does not take a moral stance on public matters. Therefore, a morally minimalist state neither endorses an absolute account of universal goods or universal rationality nor "impose[s] moralistic controls on family, sexuality and personal conduct" (Zubaida, 2011). Instead, it is "sensitive to the different expectations and needs of individuals and communities" (Zubaida, 2008: 6). The state is conceptualised in this work as the sphere of political consensus that endorses the ideal of "priority for moral minimalism" and a thin idea of common good defying a philosophical theory of the state (Bader, 1999: 602).

In the Muslim democracy idea, the objective of overcoming normative differences in politics is refrained from in favour of the establishment of a political space that respects and recognises metanarratives where none would be seen as immoral or unreasonable (Stuvland, 2012: 713). On this matter, the key feature is a politically secular state with its minimalist normative content that is able to "safeguard pluralism and difference by creating a political culture where all groups and competing entities are treated equally" (An-Na'im, 2002b: 8). With its morally minimal substance, secularism can be able to guarantee the state's impartial stance towards all comprehensive views, create sufficient space for genuinely pluralistic politics, and ensure pluralism by preventing the rule of one religious/ideological group and the imposition of its values on others (An-Na'im, 2005: 63).

However morally minimalist a state would be, it has to have certain coercive forces to guarantee democratic benchmarks grounded in as thin moral foundations as possible to maintain effective levels of neutrality. In this model, there is no one comprehensive ideology in charge, but there exists a plurality of ideological and normative systems enjoying a level of public freedom in an interactive plural framework, at the hands of individuals or as members of communities. As such, moral minimalism here also involves the designation of minimal democratic and legal standards to the central authority to ensure moral and political equality among citizens. These minimal democratic standards include “right to life, liberty, bodily integrity, protection against violence, rights to basic subsistence, basic education, basic health-care; minimal due process rights; minimal respect; collective and individual toleration [the right to privacy and freedom of conscience]” (Shachar, 2000: 53), “regardless of nationality, sex, national or ethnic origin, race, religion, language, or other status” (DePoy and Gilson, 2010: 206). Essentially, normative thinness is premised on a minimalist understanding of human rights. This issue will be further developed in the third section of the constitutional provisions. Now the chapter turns to the second feature of pluralist secularism with a view to contribute to a resolution of the relationship between religion and politics within predominantly Muslim polities.

b. Religion as Part of Politics, Not the State

The CA and the UDA that advance the idea that shaping public life in agreement with Islamic morals carries a high potential of generating a majoritarian democracy, do contradict with the idea of a morally minimalist state. The morally thin state has a pluralist and inclusive approach to moral sources of social norms rather than prioritising or imposing the morality of the majority. Meanwhile, pluralist secularism also discloses that religion cannot be privatised, dissociated from its collective dimension in politics (Barzilai, 2008: 302). Multiculturalist political theorists like Gad Barzilai bring religion into political theory by conveying its high relevance in the daily life of the believers. He has defended the necessity of integrating religious ways of life into the public sphere through “cultural and institutional tolerance” (Barzilai, 2004: 6). In fact, the question of whether religion can become part of a public sphere that allows and facilitates moral debate of different perspectives has produced varied responses. Pluralist secularism identifies that the strict separation of public–private, which excludes religion from the sphere of the public and political, is neither realistic nor democratic. Accordingly, the

second main feature of pluralist secularism will now involve the recognition of the public character of religion.

In the public sphere, Rawls expected that rational citizens—which he defined as people who are not directed in their thinking by traditional or religious influences—would deliberate issues and exchange ideas in reaching an overlapping consensus. The Rawlsian model upholds a rigid separation between the private and the public spheres, where political debate is restricted to the public domain and religious arguments are to be confined to the realm of the private (Shachar, 1998b: 85). Not only Rawls' argument but in general the very term “public” is ambiguous concerning its relation to the state and civil society. On the one hand, public could refer directly to the domain of government (e.g., public schools refer to a government school in the American terminology), but on the other, it could refer to non-governmental institutions (e.g., public schools in the UK refer to schools run by private ownership).

Multiculturalist thinkers like Kymlicka have shown that the real world does not follow a clear division or rigid boundaries between the private and public spheres of human life. Kymlicka has demonstrated a very good understanding of the interdependence of the public and private by manifesting how culture simultaneously penetrates private and public life. His liberal reading of autonomy—“the view that we have a fundamental interest in our moral power of forming and revising a plan of life”—not only revolves around individualism but also encompasses societal aspects of human nature (Kymlicka, 1992: 140). Thus, he has maintained that making cultural associations and infrastructures publicly available for individuals is necessary for the attainment of individual autonomy, which strict neutrality fails to recognise (Kymlicka, 1989: 197). Shachar has developed Kymlicka's liberal multiculturalism by expanding the multiculturalist reasoning to religion. Shachar has asserted that restricting religion to the private sphere, in fact, excludes religion-based arguments and collective demands from the political realm and does a disservice to the needs of religious people and communities (1998: 81). Bader has also argued that liberal and republican theories believe that neutrality, unification, and stability can be accomplished by removing the allegedly divisive force of religion from the context of politics. However, he maintained, a *strict* or *formal* secular neutrality generally displays structural biases against people who

do not accede to the dominant ideology and particularly discriminates against religious lifestyles (Bader, 2007a: 49).²⁴

Both multiculturalists, such as Taylor, Shachar, and Bader, and Muslim political theorists, such as al-Ghannushi, el-Fadl, and An-Na'im, have argued that the separatist paradigm that assumes religion is irrelevant to law and politics does not work in Muslim contexts. Fadel has argued that for the majority of Muslims, the secular neutrality of the state or the secularity of state institutions does not constitute a legitimacy problem as long as the state recognises "a Muslim's right to live according to an Islamic vision of the good life" (Fadel, 2007: 4). El-Fadl has contended that for democratisation to succeed in Muslim-majority contexts, Islamic moral "justification and reconciliation" with democracy is a *sine qua non* (el-Fadl, 2004: 112). Then, for this to happen, political organisations should be "limited to the basic political institutions of society" and it does not expect Muslim citizens to displace Islamic theory of the good with a secularist philosophy to participate in public life (Fadel, 2008: 8).

Utilising the shared connections on the criticism of orthodox secularism between Muslim and multiculturalist political thoughts, pluralist secularism offers an account of state secularity that can accommodate Islamic visions of a good life. Pluralist secularism envisages that the idea of neutrality and impartiality would mean emancipating the state from religion and equally "emancipating religion" from the state for religion's own sake (Stepan, 2000: 35, Ghobadzadeh, 2014: 8). Here, as thinkers like Bader and An-Na'im have repeatedly underlined, religion and morality are relevant within the sphere of politics but not related to state power (Bader, 2001: 10). Similarly, Aaron Stuvland elaborates that religion as a source of "thick moralities" can still be "a part of normatively 'thin politics'"; religious arguments can be brought for public deliberation by the people who receive their moral guidance from the divine (2012: 711). In other words, religion becomes part of public debate and organisation by virtue of individual followers. However, religious authorities cannot own an organised and hegemonic power to frame (based on religious moral precedent) the way individuals construct a public idea or practice; hence, the ways through which they can dominate political

²⁴ Multiculturalist arguments are more relevant than ever if we interpret the modern public sphere as more sophisticated with electronic technologies transforming the nature of the "public," "blur[ring] the dividing line between private and public behaviours" (Meyrowitz, 1986: 93).

outcomes have to be restricted.²⁵ Moreover, as Stuvland has identified, thick moralities “must communicate a thin normativity for the continued, internal coherence of liberal democratic politics” (2012: 711). This idea will be further developed in the next section on the public sphere under the theme of democratic toleration.

In this framework, the replacement of republican secularism with the “priority for moral minimalism and liberal democracy” allows a level of neutrality to the state realm while accommodating the thick morality of religions within the public sphere (Bader, 2009b: 1). An-Na‘im advances the idea that under a morally minimalist state, there is no institutional link between Islam and state institutions “despite the connectedness of Islam” and the public sphere. Therefore, under pluralist secularism, religion—as a personal or a communal issue—can play a social and political role in democracies. An-Na‘im suggests that:

it is critically important to keep the state as neutral as humanly possible, which requires constant vigilance by the generality of citizens acting through a wide variety of political, legal, and other strategies and mechanisms (2000: 3).

In support of An-Na‘im’s point, it has been elaborated elsewhere that when the attitude of the secularist ideology was normatively thick, Islam re-emerged as a political ideology that has been in the position of the defensive and reactive political struggle “on the periphery” (Yavuz, 2007: 484). When the state has not provided channels for effective political participation or restricted public services for Islamic visions of a good life, this has provoked certain behaviours such as “driving Islamists underground,” stiffening their political ideology, or “helping to radicalize them,” all of which could have been substantially lessened with more pluralistic applications of secularism (Kurzman and Naqvi, 2010: 35). For this reason, pluralist secularism with a thin normativity of the state allowing for the idea of “different and competing thicknesses to flourish side by side, in the interest of each” has a better potential for democratic consolidation in the contexts where religion is an important marker of social identity (Gregg, 2003: 6).

²⁵ It is essential to recognise that the nature of religious authority has transformed as a consequence of the changes in reality now. Religious orthodoxy or religious norms can neither be genuinely controlled nor democratically represented by an authority “at a time of global communication and expedited circulation of ideas” (Cesari, 2014: 115).

To counter possible criticisms that may arise, it must be reaffirmed that public accommodation of religion is not de-secularisation. Pluralist secularism is secularisation in a more enlightened and more pluralistic way, one that aims to genuinely secularise the state as well as democratise the public sphere. In a Muslim democracy framework, the moral minimalism of the state implies that no religious doctrine or organisation has constitutional or institutional privilege, be it a majority or minority of one. Pluralist secularism ensures impartiality to all philosophical positions and leaves the choice of the good and bad to the individual, as state's relation to all religions is conducted by nondenominational and impartial enterprises. For instance, pluralist secularism eliminates the privileged public status of majority religions that exist even in Western democracies in the form of state subsidisation of the majority of religious schools, "religious ceremonies at the state level," or "exemptions granted to certain religious groups" (Bekaroglu, 2016). In addition, pluralist secularism proposes to separate religious marriages from civil unions: the state no longer attempts to "define the parameters of marriage or to specify mandatory rules other than those necessary to preserve the minimum values of a liberal state" (Crane, 2005: 1250).

To summarise, in a Muslim democracy framework, the state institutions that form the shared basis of living are not legitimised through religion. This does not mean the secular state institutions would prevent or contradict with the demands for lives according to the moral message of Islam. Rather, secularism here guarantees the public role of religion while safeguarding the autonomy and liberty of individuals to pursue a morally desired lifestyle for the religious or non-religious alike. Now, the next subsection will evaluate how the separation of the state and politics would be demonstrated under the Muslim democracy framework, underpinning the arguments for the role that religion can play in the political life.

c. The Differentiation between the State Public Sphere and the Social Public Sphere

A constructivist direction for conceptualising state–civil society relations asserts that "states are not the sort of abstract, formal objects which readily lend themselves to clear-cut, unambiguous definition" (Jessop, 1990: 340). Ido Shahar of the legal pluralist school has contributed to the constructivist trend, arguing that "the boundaries between the state and the society are blurred, constantly reshaped by actors, and by no means

well-defined” (Shahar, 2008: 420). Theorists like Shahar have maintained that state–society relations are socially constructed, procedural, and open to change. This synopsis does not aim to examine the contested implications of the concept of state but by unfolding these debates, it aims to contribute to constructing a more inclusive idea of secularism. Here, it is believed that this “valuable new [constructivist] direction for theorizing the state and state-society relations” can potentially inspire new understandings on state–civil society relations, going beyond the universalist secularism that strictly controls public life (Shahar, 2008: 432). Within this context, the boundaries between the state and the public sphere are important to look at in political theory, which is often a neglected arena. To address this gap, the third constitutive foundation of pluralist secularism is its nuanced understanding of the differentiation of the state public sphere and the social public sphere. The idea of social public sphere will be further theorised in the next section on the public sphere in more depth, but it will be introduced here under secularism as the analytically differentiated categories of the state public sphere and the social public sphere is an important feature to understand the conceptualisation of pluralist secularism in this section.

In the republican and liberal models, the state and the public sphere come together and both are seen as belonging to the realm of the political. In these models, decoupling the state and the public sphere from religion is thought to be the way to maintain neutrality (Habermas, 1989: 3). Often identities, goods, demands, and needs deriving from religious sources are overlooked as a component of democratic politics (Barzilai, 2004: 13). Although prominent, these models were not the only ones capturing state–religion relations. Multiculturalists like Shachar have asserted that the form of secularism which sets clear boundaries between the spheres of “public/private, official/unofficial, secular/religious, positive law/traditional practice” is not sophisticated enough to respond to the multiple affiliations of modern citizens (2008: 578). As secular Muslim democracy theorists have aptly demonstrated, secularism can have multiple institutional alternatives in liberal democracies to better reflect the complexity of the empirical relationship between the comprehensive moral doctrines, like Islam, and the political organisation.

Pluralist secularism also aims to propose an alternative notion to capture this empirical relationship, especially in a direction serving towards democratic consolidation

within Muslim-majority contexts. Pluralist secularism argues for functionally differentiated public spheres where individuals as part of active and free civil society are able to “freely associate with others outside the control of the state” (Sajoo, 2002: 215). As John Keane, Aryn B. Sajoo, and others have argued, democracy does not only need the institutional separation of the state from the religious and other comprehensive moral views but it also “requires the institutional division between a certain form of state and civil society” (Keane, 1993: 28). They have emphasised “the need to separate the institutions of the state, religion and society, as a shared modern democratic and ethical imperative” (Sajoo, 2004: 226). On this matter, An-Na‘im makes a far-reaching argument advocating the necessity of establishing “the distinction between the state and politics” for the ultimate success of democratisation processes in Muslim societies. He argues that “the organs and institutions of the state”—or the “more settled and deliberate operational side of self-governance”—and politics—or the more “dynamic process of making choices” for “organized political and social actors” holding “competing visions of the public good”—are to be differentiated from one another (An-Na‘im, 2000: 3-5). An-Na‘im persists that even in morally minimalist states, there is still the possibility of influencing political actors through political, ideological viewpoints. Thus, “complete independence is not possible because of the political nature of the state.” Therefore, he highlights, it is necessary to form “a degree of separation of the state from politics” so that the state can show equal respect and undifferentiated treatment to all groups, and even at time of excesses of executive authority, the political mechanisms to resort to state institutions to retrieve the governmental errors can be open. Accordingly, this degree of division becomes vital to guarantee the state’s impartiality to “mediate and adjudicate among the competing visions and policy proposals” (An-Na‘im, 2000: 3). An-Na‘im strongly believes that the failure to observe this distinction “tends to severely undermine the peace, stability and healthy development of the whole society” (2000: 4).

As has been articulated elsewhere in this work, the distinction between the spheres of politics, in the sense between the government and the public sphere, is particularly essential when it comes to Muslim politics where Islam has a strong societal, organisational, political claim. Individual Muslims often view the materialisation of these claims mandatory to pursue their definition of a good life. The very arguments in support of an ideological Islamic state and in contradiction of secularism are in fact a by-product of the popular conviction of the inseparability of religion and politics. Thus, in

order to produce an antidote for anti-democratic thinking and its unfortunate wide appeal, the debate will now focus on identifying a strong civil society with institutions capable of exerting impact that are different from but nonetheless maintained by the morally minimalist state.

Pluralist secularism aims to foster the neutrality within the state realm by separating religion and state power, so that the autonomous rights of civil society to religious practice can be recognised and political processes that can satisfy substantive moral needs, demands, and interests can be housed. To achieve this, pluralist secularism differentiates between the state public sphere and a civil society public sphere, the latter of which is termed 'social public sphere' in this work. The morally minimalist state idea as conceptualised by this work accepts that people with different accounts of the 'good' require different public services. To fulfil these needs, outside the classic functions of the state, some degree of public institution formation should be left to civil society forces.

Referring to "an extensive interpretation of associational freedoms," the social public sphere suggests that "[m]any of the positive effects that states can bring about can also be obtained...through voluntary mechanisms" (Bader, 2007a: 53; Vallentyne and van der Vossen, 2014). Social public sphere here implies alternative public power of the civil society organisations recognised as "governing powers" that can regulate, organise, and administer religious affairs, as categorically separate from the public power of the state (Hirst, 1994: 13). As such, "democratically negotiated freedom of religion from state interference" would "allow religious groups freedom not only to worship privately but to organize groups in civil society and political society" (Stepan, 2000: 42). This amounts to a democratic decentralisation of state power, allocating a degree of formalised influence to organised religions as well as to other identity groups facilitated through administrative and political autonomy of voluntary minority associations (Bader, 2003b: 132). Essentially, dynamic and multi-layered understandings of the relationship between state, civil society, and public sphere enables the social public sphere to provide resources and opportunities for the formalisation of the public functions of civil society (Hirst and Bader, 2001: 6-7).

Here, the public "focus of [religions] is no longer the state but, rather, civil society" (Casanova, 1994: 63). In this understanding, Islam has "an autonomous life in the hands of social actors" and not in the hands of hierarchical and formal religious

authorities (Yavuz, 2007: 489). By doing so, “public policy can benefit from the moral guidance of religion, and pluralistic societies can enjoy peace and stability by regulating the relationship between religion and the state through secularism” (An-Na‘im, 2002b: 8). The idea of religion providing a moral support for democratisation will be further discussed in the next section on the public sphere under the part on social Islam. For now, the arguments covered so far may raise concerns on the issue of normativity being dominated by the organised groups. Yet these concerns will be addressed under the sections on the social public sphere as well as the pluralising constitutional provisions, which will demonstrate the articulation of the democratic coexistence between voluntary associational freedoms and inalienable human rights.

By and large, the social public sphere is argued to have a better capacity to house moral diversity and pluralism and thus has the potential to work towards the democratic consolidation for certain reasons. First, it welcomes comprehensive moralities as legitimate forces, allowing public space for the diversity of lifestyles, whether professed by majority or minority groups, to be practised out of volition. Then, by ensuring the separation of religion and governance, it also aims to maintain the state public sphere as morally minimalist and impartial towards all citizens. Therefore, the social public sphere can be seen as a remedy for the CA’s undermining of the importance of a political sphere, which is pluralistic to accommodate dominant and non-dominant outlooks and their legitimate public rights, beyond the domination of the state or the dominant moral discourses. The issue of collective rights for civil society organisations will now be discussed in order to further articulate the materialisation of the social public sphere.

d. Collective Rights

The debates on the social public sphere bring us to the fourth characteristic of pluralist secularism: the acceptance of collective rights. To help readers follow the overall normative inquiry in this chapter, it should be noted that the idea of collective rights that is introduced under pluralist secularism is further developed under the debates on institutional pluralism and jurisdictional pluralism. Moreover, it should be noted that the principles of pluralist secularism may take different practical forms in pursuing recognition of cultural and religious differences with different packages of collective rights in relation to particular contexts. This section will not be articulating a specific and

detailed blueprint but will rather theorise the notion of collective rights within the context of the political theory on Muslim democracy.

Mainly due to their ideological secularist outlook, both orthodox liberalism and republicanism have created an individualistic liberal set of rights and have ruled out the community as “a locus of normativity” (Provost and Sheppard, 2013: 2). Thinkers such as Kymlicka, Kukathas, Mookherjee, and Taylor have maintained that the liberal ideal of personal autonomy, individual freedom of association, and toleration are rooted within a collective good and cultural membership, where attainment of the former is conditional on the accessibility and maintenance of the latter. It has been argued that the rights discourse within orthodox liberalism demonstrated an inability to understand the significance of the normative order shaped by culture and religion to the individuals’ everyday life; thus, it could not respond to the culturally- and religiously-emanating political demands (Barzilai, 2004: 24). Multiculturalists and Muslim thinkers have argued that the individualist set of rights have been insufficient to bring justice “neither in matters...of ‘race’ and ‘ethnicity’ nor in matters of religion” to a heterogenous citizenry that has diverse accounts of norms, goods, and needs (Bader, 2001: 12).

In order to ensure the moral autonomy of individuals as well as to protect their capacities, pluralist secularism should be “sensitive to the different expectations and needs of individuals and communities” (Barzilai, 2008: 6). Rather than surpassing or ignoring the different and complex social realities and moral disagreements, the rights discourse should accommodate them. Especially in the case of organised religions like Islam, which have societal dimensions, their followers raise stronger public demands for education, health, or social services, accommodation of which are beyond the reach of the state and its difference-blind institutions (Shachar, 2009: 133). Building on the principles of freedom of conscience, democratic representation, and holistic autonomy, as well as the call for minority cultures and religious lifestyles to be freed from both the forces of the state and the wider society, this project recognises the need for some form of collective rights (Bader, 2001: 10).²⁶

²⁶ Although initially multiculturalism’s main focus has been on culture and ethnicity, it later expanded to include religion. Today the idea of multicultural recognition further includes other minority people such as “women, LGBT people, and people with disabilities” (Song, 2014). Accordingly, the concept of collective minority rights is advocated for different kinds of minorities within different models. Due to its main

Collective rights are a feature of pluralist secularism that aims to accommodate the specific demands of Muslim societies, thus going beyond both the Rawlsian liberal paradigm and the compatibility-based arguments. Pluralist secularism endorses the multiculturalist principle that rights and freedoms can only be realised both individually and collectively. It aims to realign the perceived oppositional dichotomy of citizenship and group membership, public and private justice, as well as individual and collective rights (Shachar, 2008: 575). Accordingly, in the Muslim democracy framework, religious, cultural, and ethnic communities may be given collective rights in the context of the political and jurisdictional realm (such as in private law, education, and health) as long as their organisation is compatible with the equality and freedom of conscience and does not violate the moral equality among individuals. The nature and scope of collective rights are defined as a result of public consultation and deliberation processes, where citizens' equal moral worth, dignity, and capacities to follow their conceptions of a good life are under the constitutional protections independent of contexts and groups (Shachar, 2000: 67). While granting collective rights to groups, the Muslim democracy framework also enforces "the minimalist but sturdy standards of basic rights, the moral constraints of toleration and accommodation" (Bader, 2007a: 291).

It should be noticeably emphasised that collective rights within the multiculturalist literature are often undertaken as a matter of minority rights. Within Muslim democracy, this project also grants some form of collective rights for Muslim religious groups—even if they may be part of the majority population. Allocating collective rights in order to meet Islamic comprehensive claims is necessary to guarantee the endurance of a democratic system. As has also been argued in section IV, 3, b, if these societal demands and needs are not given their public dues, there will always be opposition that will aim to capture the state apparatus as they perceive it as the only way to attain the space for their moral worldviews to be materialised. Thus, to prevent the creations of unconsolidated, majoritarian democracies where the majority religious codes mandate the public policy, it is essential to give collective rights to groups with

focus, this project has particularly focused on the ones relating to religion. However, Muslim democracy framework recognises that all identity groups and minorities regardless of religion, ethnicity, or culture should qualify for collective rights under democratic systems. This issue will be further addressed in the coming section on constitutional provisions.

substantive moral and political claims. In other words, collective rights are important for an inclusive and pluralistic democracy. At the same time, they are essential for democratic consolidation in contexts where organised religion is an essential ground for societal life.

Resolutely, an institutional separation between the divine—as symbolised by religious authorities—and the state apparatus is necessary for the operation of democracy. However, in societies where religion is a strong political force, the task to prevent the domination of any particular branch of a religious denomination bears some urgency. Pluralist secularism as conceptualised here aims to mediate the relationship between Islam and democracy by theoretically reconciling the potentially conflicting concepts of secular statehood and public religious presence. It seeks to respond to religion-based collective demands while safeguarding the institutional and constitutional separation of religion, moral diversity, and domestic and civil liberties, such as the liberty of conscience and the right to difference and dissent. Pluralist secularism here functions to ensure the separation of religion and governance. Not only minority groups but also majority Islamic religious groups are given collective rights in this framework that can help to remove religious claims from the state realm. Thus, collective rights and institutional and jurisdictional pluralism, as will be articulated shortly, are essential for more inclusive religious and associational freedoms and for preventing a top-down Islamisation of the state.

4. Concluding Remarks

This section has developed a critique of republican secularism for its failure to offer a viable foundation of Muslim democracy. It has suggested a different form of secularism—a pluralist secularism—as one capable of accommodating religion more resourcefully. The idea of a morally minimalist state is a formative feature of pluralist secularism. It is based on devolution of moral and spiritual authorities from the state to the institutions and practices of the social public sphere. The state is not endowed with moralising powers and capacities; it is the realm of political compromises not invested in ideology or religiosity. Pluralist secularism does not impose an ideological stance or comprehensive normative position but respects, accommodates, and guarantees differences between the accounts of a good life.

As opposed to the republican secularism that wants religion privatised and banned from public space, pluralist secularism recognises the normative and practical importance of individual as well as collective religious needs as a legitimate source for political rights. Correspondingly, pluralist secularism has discussed that measures of public accommodation for collective religious practice are not antithetical to state neutrality, but as a prerequisite to peaceful coexistence. Secularism within the context of Muslim democracy serves as the impartial mediator and adjudicator among competing political, cultural, and religious forces while giving these forces collective rights to a defined and regulated realm of authority to express their comprehensive views publicly. Yet there is an overall normativity to the state enterprise on the basis of universal human rights standards in order to safeguard democratic governance.

In fact, pluralist secularism involves a change in the character of the unitarian nation state: a change in the legislative, executive, and judicial power sharing structures from the existing monistic structural power relations towards pluralist ones. The configurations of the differentiation between politics and the state have enabled us to think about different ways in which secularism and inclusive religious freedoms can go hand in hand. Hitherto, by bringing religion from the state to civil society actors, Muslim democracy also provides a sufficient environment to protect the liberty of conscience and autonomy, the right to difference and dissent, toleration, freedom of association, and moral diversity, which differentiates it from the CA-based conceptualisations. Like this, the debate on power devolving from the state to authentic civil society organisations is not only conducive to the institutionalisation of pluralism, but also prevents the potential to eventuate a sacrosanct and fascist state legitimised through Islam. Overall, pluralist secularism is believed to offer a delicate balance between universal human rights and public religious demands under the Muslim democracy framework.

III. The Public Sphere

The significant role of the public sphere in a successful implementation of a democratic regime is beyond dispute. A functional democracy depends on the existence of a critical political space, which “constantly generates alternatives” to state power and contests and restrains the monopoly of the state in deciding the shared good (Stephen, 2000: 39). In other words, the developments of a public sphere independent from the

state have been necessary to cultivate democracy (Habermas, 1964: 52-53; Eickelman and Salvatore, 2003: 99).

The emergence of the modern public sphere has been related to the rise of the idea of independent rational thought. The Enlightenment idea that humans can use their own reason and free will in the pursuit of knowledge and morality, which are not preordained by a divine rule, has been crucial to the development of the idea of the public sphere. Unlike the Western world, in the Muslim world the authority of the divine revelation has not been deeply questioned and destabilised and thus the emergence of a public sphere that has evolved in Western democracies is thought to be next to impossible in predominantly Muslim contexts. When it comes to Muslim societies, the lack of open, free, and critical public environment facilitating deliberation is stated to be a fundamental barrier to democratisation. Ernest Gellner (1992; 1997) like many other orientalist has viewed Islam as an all-pervasive comprehensive doctrine that lacks a political culture of compromise and institutions between state and individual, and considered this as the primary cause impeding the way to democratisation.

However, anti-essentialist arguments raised by thinkers such as Esposito (1992) and Kramer (1993) identified that democratic hindrance is not a product of an incompatibility between democratic political culture and Islam. If many Muslim societies have never followed a life under a democratic public sphere, it is mainly “allied to structural factors” within their respective political systems rather than religious belief systems (Volpi, 2004: 1062). A strong, all-pervasive, and authoritarian state has undercut the establishment of a democratically tolerating political environment. The ruling elite has often subjugated public opinion and dictated the common good. Even in societies like Turkey, Jordan, and Morocco, which have experienced a relatively free public sphere, not all groups have been allowed equal access to public debate and not everyone’s legal rights have been equally protected. In most cases, the partial democratic change has been “as part of an attempt to channel political participation into a discrete, state-delineated political space” rather than a free public sphere cultivating democratic communication and deliberating established political norms (Wiktorowicz, 1999: 606).

Consequently, for understanding the conditions in which Muslim democracy could be rendered a genuine possibility, the rethinking of the public sphere is *sine qua non*. Multiculturalist and Muslim thinkers have agreed that the existing republican and

liberal theories of the public sphere were not normatively and operationally sufficient for Muslim-majority contexts. Scholars like Taylor, Bader, and An-Na'im have provided the impetus for the development of alternative conceptions of the public sphere, enabling an expansion of the artificial boundaries between the private and the public in favour of new divisions for state authority and political–institutional organisation.

There have been two prominent models of the public sphere that have come out of the discussions on Muslim and multiculturalist political thought: (i) shared public institutions, where the state institutions are reformed to be sufficiently pluralistic, dynamic, and accommodating of difference, and (ii) plural public institutions, where degrees of institutional and/or legal pluralism are legalised. The debate over the autonomous public institutions or common yet context-sensitive state institutions have dominated both Islamic and multiculturalist arguments. The suggestion for a shared public sphere, as developed by Mookherjee, Taylor, and Tully, implies a democratic inclusion of diverse ethical and communal values. The public vision of the common good is based on a form of reconciliation of these diverse ethical and communal values, which results in shared and inclusive state institutions. In this section, I refer to this approach as 'the shared public sphere and state institutions idea.' On the other hand, the suggestion of plural public institutions, as developed by Bader, Barzilai, Bulaç, and Shachar, works on the assumption that the public sphere is most likely to be dominated by the moral doctrine of the majority, where pluralism can be best facilitated through giving autonomy to groups with different normative systems. In this section, I will refer to this theory as 'the plural public institution idea.'

This chapter will re-evaluate the public sphere within the framework of Muslim democracy benefiting from these existing models. To do this, these two visions of the public sphere will be briefly presented in order to highlight their strengths and weaknesses. Based on this analysis, I will build a new concept of the 'social public sphere,' already discussed in section II, 3, c, but which I will discuss in more detail here. Thus, this section will develop a conceptualisation of a social public sphere, as distinct from a state public sphere, which aims to recognise the communal role of religion more effectively than the liberal and republic models while upholding individual rights and safeguarding the prospect of political and ideological dissent as successfully as the liberal models. With further theoretical consideration and enrichment of the two existing

categories, the final sub-section will develop four concepts under the category of a social public sphere—transformativeness, social Islam, democratic tolerance, and institutional pluralism—in order to understand the ways, forms, and means in which Muslim democracy can work through the public sphere.

1. Shared Public Sphere and State Institutions Framework

The shared public sphere and state institutions idea advocates for a common and a normatively inclusive public sphere where state institutions result from public deliberation and consensus and are sufficient for the accommodation of cultural and religious diversity. Unlike institutional pluralism, the shared public sphere framework has more confidence in the pluralistic and accommodating virtues of state institutions guiding public life. Tully and Mookherjee, who have been categorised as the moral pluralists in the multiculturalism chapter, are discussed here as key exponents of the shared public sphere model. They have two fundamental arguments demonstrating the distinct features of the shared public sphere notion: overlapping consensus and political stability.

First is the importance of a discursive consensus, which is the belief that citizens should have access to engage and broadly agree on the common good (Mookherjee, 2005: 42). A consensus is achieved through a political process, where there is public dialogue between people who may have diverse, comprehensive philosophies but are still equal contributors. No authority—legal, religious, or governmental—has a monopoly in the construction of shared normativity. Scholars who are in favour of shared institutions also argue for the expansion of the liberal paradigm to ensure the “accessibility” of cultural and religious reasons for developing a necessary “overlapping consensus” in a democratic society (Sachedina, 2009: 177). The lack of cultural and religious recognition amounts to the undermining of individual and collective autonomy, unfair treatment, and unequal representation. Thus, the shared public sphere idea envisages state institutions as a product of plural reasoning established by democratic communication, intercultural dialogue, and common language of citizens as an ongoing endeavour as opposed to one dominating ideology. Mookherjee (2001) emphasises the importance of constructing “the common language of reasonableness” for the construction and functioning of such a public sphere. In Mookherjee’s understanding, public reason is plural, “provisional,” and “incomplete”: public reason is in a constant process of

(re)making by the people through a cooperative plurality of moral and philosophical views (2001: 69; 2005: 40). Mookherjee argues that “*plural* public reasoning” is “a more capacious, more generous account of ‘public reason’” that allows minorities to argue in their “traditional languages” in public deliberation (2001: 92). She cares that a public sphere as a shared political space harbours a diverse range of moral and political perspectives, where no perspective is persecuted or criminalised. Whose ideas would be more influential on the state institutions is decided through the active and critical participation of civil society forces “both within and outside the essentially unstable and contested boundaries of the political sphere” (Mookherjee, 2001: 92, 93). The shared public sphere idea is based on democratic politics and democratic deliberation in which everything but basic human rights are decided through democratic processes (Tully, 2008a: 160).

The second crucial argument of the shared public sphere idea is the essentiality of common institutions for an enduring basis of social unity and democratic regime. Common institutions that reflect a civic spirit and the ethos of a democratic society that could prevent excessive social and economic inequalities and ensure minimal standards for everyone are believed to be essential for the democratic system to prevail. The shared public sphere idea suggests that the previous model of institutional pluralism would lead to an unintended possibility of creating divided public spheres by intensifying the differentiation of religious identities, jeopardising social unity and cohesion, and damaging “any conception of a common good binding on all citizens” (Blond and Pabst, 2008: 166). In addition, Mookherjee underlines the transformative power within the shared public sphere. She believes that dialogue and participation within the political sphere would lead not only to a transformation of the (liberal) state structures to more inclusive ends but would also lead to the democratisation of the groups with an anti-pluralistic ethos (Tully, 1995: 191; Mookherjee, 2005: 44).

The idea of a shared public sphere affirms that pluralising yet common state institutions for everyone is both democratically desirable and practically viable to accommodate collective demands of organised religions and cultures. Yet not all multiculturalists believe that it is the most effective and resourceful way of accommodation. The advocates of the plural public institutions idea question the ability of a shared public sphere to incorporate citizens’ diverse cultural needs and choices in a

structurally inclusive form that would rebalance the socially established forms of unequal power relations and redress the structural exclusion of normative difference in the politics of the everyday. These limits of the shared framework will become clearer in the next section that presents the resolutions that the plural public institution framework puts forward in terms of the relationship between religion and public life.

2. Plural Public Institution Framework

In Western contexts, the plural public institutions idea has emerged as a critique of the rigid differentiation of the private and the public, restricting the comprehensive views from the sphere of the public. Liberalism and republicanism are thought to flounder when trying to account the essential role of comprehensive doctrines in providing moral motivation for action, shaping collective lives, and inspiring consensus (Barzilai, 2004: 24). In Muslim contexts, the critics press the idea that laic states, which were never liberal, have left Muslim populations in an awkward and uncomfortable situation by dividing the life of an individual into two parts. Under laic states, religion is split from its societal foundations and the public is left to state secular powers alone (Bulaç, 2012f; 1994: 5).

The critics of republican secularism such as Bader and Shachar who become the exponents of the plural public sphere idea argue that republican secularism is based on a shared state ideology dominating the public sphere; thus, it has a narrow scope to accommodate other comprehensive views and is destined to discriminate against organised religions and minority belief systems. They emphasise that it is unlikely for people with diverse normative systems to agree on common terms of living in every aspect as envisaged by thick state morality, even if it is of a liberal nature. They maintain that comprehensive views have their own concept of virtue and justice, which have significant implications for how social life and legal institutions are to be structured. Accordingly, the plural public institutions idea recognises communities with distinct views of the good as rightfully constituting the public sphere with certain political and institutional mandates (Kukathas, 2001: 92).

As has been previously elaborated, Muslim thinkers such as Bulaç bring the historical case of the Madina model. Although the central authority of the polity's final resort was of an Islamic nature in this model, Islamic private law was only enforced on Muslims in their own public framework while non-Muslims were allowed to have their

own public structures in educational, legal, religious, and economic affairs. The Madina Charter promoted a conception of a polity that is “beyond an apparatus controlling every aspect of life” as the singular sovereign (1998: 178). For Bulaç, taking away certain executive and judiciary powers from the centralised state and giving them to civil society is believed to have the potential to free the individuals and groups “to define their own identities” and choose their institutional services and legal systems (2006: 190). This represents an Islamic diversity of a different type, where pluralism does not mean acknowledging the equal value of other moral views in engaging debates towards agreeing on the common good. It rather allows institutional autonomy for groups with different normativities.

In a plural public sphere framework, the state and the state institutions are dominated by a doctrine, whether it is Islam in Bulaç’s theory or liberalism in Shachar’s. Liberal sceptics such as Bader and Barzilai also defend the plural public sphere model by insisting that the state alone cannot unilaterally and impartially allocate the right place for public religious demands; thus, a departure from centralised structures in favour of delegating power to religious groups is necessary (Bader, 2001: 2; Barzilai, 2008: 399). In these models, the state provides its key functions of judiciary as well as infrastructure and defence; yet culturally and religiously defined communities are granted public autonomy and cultural rights “in religious life, juridical system, education, trade, culture, art, science and in daily affairs” (Bulaç, 1992: 109; 1993: 41). Within plural public designs, the wider society respects in-group dealings according to the respective cultural and jurisdictional norms, yet with some generally agreed-upon regulatory arrangements by the state and other forms of umpires.

Multiculturalist thinkers have gone beyond their Islamic peers in proposing different models through which the plural public sphere framework could be institutionalised to accommodate religious and cultural diversity. The viewpoints of Shachar and Bader in particular exemplify more systematic articulations of institutional pluralism, presenting enhanced versions of accommodating diversity in coherent and well-functioning democratic systems. Institutional pluralist thought resides within “the idea of permitting a degree of regulated interaction between religious and secular sources of law, so long as the baseline of citizenship guaranteed rights remains firmly in place” (Shachar, 2009: 133). Shachar’s (2001) ‘joint governance’ and Bader’s (2003) ‘non-

constitutional pluralism' propose theorisations on enlightened or even post-modern public and legal institutions, accommodating the connection between morality and law while leaving democratic safeguards intact. They differentiate between public law and semi-public/private jurisdiction and formalise the latter only in the form of civil dispute resolutions rather than permitting a parallel legal system to the state (Shachar, 2008: 575).

In addition, these multiculturalists who suggest that some administrative or jurisprudential autonomy is to be given to religious groups firmly underline the essentiality of democratic superstructures with minimal but robust regulatory mechanisms to ensure that collective rights are exercised in a way that does not violate the human rights of individual members. The state is the guarantor of the protection of fundamental constitutional rights and freedoms even if it means intervention in in-group organisations. As the chapter on multiculturalism has discussed in detail, the connectedness and cooperation of the state and public institutions are necessary not only to provide wider and effective religious freedoms but also to prevent any infringement of basic human rights of group members. This feature highlights that multiculturalist models support plural public *institutions* for the better inclusion of minority groups but do not support multiple public *spheres* as advocated by models like the *millet* system (Bader, 2007a: 147).

Although institutional pluralists have provided their rationale for plural public institutions and their regularity mechanisms, their models are articulated under the established Western democracies. Thus, the application of institutional pluralism within the context of Muslim societies where democracy is unconsolidated or volatile requires different conceptualisations that the plural public institutions framework did not thoroughly provide. In fact, both the shared public sphere and the plural public institution frameworks are somehow inadequate in offering comprehensive resolutions for consolidating a well-functioning public sphere in a Muslim democracy. This is because the former lacks mechanisms through which pluralism can be institutionalised to accommodate diverse expressions of comprehensive normative views while the latter is short of certain normative and political qualifications that would allow it to effectively operate in Muslim contexts. The next section will extract the relevant notions from the frameworks of the shared public sphere (such as intercultural dialogue, overlapping

consensus, and plural reasoning) and plural public institution (such as associative freedoms and institutional pluralism) in a complementary fashion in order to develop a new nuanced concept of a social public sphere with the view to provide the foundations of a functional Muslim democracy.

3. The Possibility for a Social Public Sphere in Muslim Societies

Both plural and shared public sphere ideas make valuable contributions to thinking about an effective public sphere within the context of Muslim democracy. They single out the limitations of the existing liberal and republican models. For instance, the examination of these theories reaffirmed the need to reconsider the nature and the utility of the public–private divide, reinforcing the efforts for a theoretical clarification in differentiating between civil society politics and the state.

Yet to better tackle the theoretical and practical inadequacies of ideological secularism and its rigid public–private distinction within Muslim-majority contexts, this section turns to the more pertinent category of “social public sphere” and its processes. Inspired by the arguments of Hannah Arendt, Charles Taylor, and Abdullahi Ahmed An-Na‘im, the social public sphere idea exposes “the illegitimacy of drawing sharp ontological distinctions between ‘the political’ and ‘the social’” (Cook et al., 2016: 6). Thus, the social public sphere is defined as a distinct form of a political public sphere where the political establishment, voluntary organisations, and individuals interact in organising social life. The social public sphere is capacious and resourceful enough to adapt to the public roles of different normative perspectives, and accordingly the public needs and interests of people with different conceptions of a good life, based on principles of tolerance, reconciliation, and respect. In this model, the state, as the basic political structure of society, shares political space with civil society and empowers it.

Essentially, the social public sphere can provide an effective alternative to resolve the Islamic–secularist clash impeding democratisation efforts in Muslim contexts by equally including both religious and state forces into political processes. It seeks to overcome the complex dilemma Muslim societies have been exposed to in which:

either religion strives to colonize and subjugate worldly politics, thereby erecting itself into a public power, or else politics colonizes religious faith by expanding itself into a totalizing, quasi-religious panacea or ideology (Dallmayr, 2011: 439).

The section on pluralist secularism has conceptualised the essential structural features of Muslim democracy. Yet systematic aspects are not enough to develop and maintain a well-functioning democratic system. As a central theme of this thesis, democratic consolidation requires not only structural but also social level change: normative support and goodwill or elsewhere-called “loyalty” to the political structure (Hirschkind, 2008: 66). In this context, democratic consolidation can be reached through the interconnected processes of religious reformation, normative social change, and institutional development. Therefore, in order to develop a more comprehensive vision of a social public sphere in Muslim societies, this section turns to a closer examination of four categories: transformativeness, social Islam, democratic toleration, and institutional pluralism.

a. Transformativeness

The idea of transformativeness that moves beyond a binary relationship between Islam and democracy and instead calls for their dialogical interaction and moral convergence is the first conceptual category that is relevant for the formation of the social public sphere. The idea of transformativeness, which is a notion emanating from liberal democratic theory, is articulated by thinkers such as Kymlicka, Shachar, and Mookherjee as well as by el-Fadl and An-Na‘im. Transformativeness expects democratic societies to reduce and eventually overcome the conflict and animosities engendered by ethnic, religious, cultural, or primordial identities, within both majority and minority groups. This idea is defined elsewhere as the “liberal expectancy” by Nancy Rosenblum, which assumes that life under democratic governance will induce citizens with traditional identities to internalise liberal democratic norms leading the citizens to reach an agreement on the common good and civic ethos (1998: 51). Liberal thinkers such as Kymlicka and Shachar rest their multiculturalism theories on this idea of liberal expectancy. In particular, Shachar’s theory on transformative accommodation demonstrates a Janus-faced commitment to liberal transformation: the transformation of both the policies of public institutions and the practices of groups with undemocratic propensities. This dual transformation happens through the processes of “on-going dialogue” and “constant interaction” between the agency and the structure to increase the pressure to negotiate a desired change (Shachar, 2008: 146-147). In other words, it is hoped that multicultural accommodation will accomplish an environment of normative

reformation for democratic consolidation by further pluralising the political establishment as well as functioning as a catalyst for undemocratic groups in the direction of critical and democratic internal change. The idea of transformativeness can also be linked to the inclusion–moderation hypothesis, which argues that when Islamists are included in political processes and as they interact more with democratic institutions and become part of democratic deliberation, they will eventually experience a normative change in their understanding of religion and politics towards democratic internalisation (Gürses, 2014: 646).

The notion of transformativeness is essential to understand how to achieve normative and institutional change in reaching the shared normativity within the public sphere that will be further explained in this chapter under different analytical categories. It is important to note that transformativeness here does not imply an interest or functionalist convergence. It is rather about conceptual synergy, interconnectedness, and moral convergence to indicate that “the internal transformation of each paradigm or discourse...tends toward transformation in favor of the other two” (An-Na‘im, 2005: 56). The principled structural reformation that the state should undergo has been addressed in the previous section on pluralist secularism, where a substantial change in the institutional aspects of politics was articulated. This section will focus more on normative change on the social level. When it comes to the societal level, the Muslim democracy framework does hope for a reformation of groups with non-pluralistic sentiments, yet highlights that the change should be agreed and not imposed by a moral agenda of the state or “the wider communities’ standards” (Mookherjee, 2009: 159). Internal change within communities is expected to come as a product of an encounter they make with democratic structures and diverse social systems. In this process, the public sphere facilitates social encounters, democratic communication, and pluralistic environment, leading citizens and groups “to think in part in terms of the interests of others,” understand one another, and develop democratic toleration (Christiano, 2015). Morally developed interpretations and internal normative change within Muslim societies in favour of democracy can only evolve from well-informed public debates of parties in a free and critical political space. As interconnected and relevant components of the social public sphere notion, the subsequent sub-sections will first articulate the notion of normative change at a religious level under the category of social Islam and then will identify normative change at a societal level under the category of democratic

toleration. Finally, an additional layer of institutional change in building up to the debates introduced in the category of collective rights will be discussed under the institutional pluralism debate.

b. Social Islam

This section will rework the role of religion in the social public sphere of democracies, by articulating the necessary grounds for the development of social Islam as a category of analysis. Social Islam refers to the contemporary processes of civic engagements in Muslim societies that are likely to lead to religious normative reformation favourable to democratisation. Through these processes, religious convictions and practices can be reconstructed so that a normative common ground and an overlapping political consensus that comprises all citizens regardless of their religious orientations can develop in Muslim societies. In other words, social Islam defines the process of value change in which citizens with Islamic comprehensive views endorse certain ideals of a shared democratic life (namely, tolerance, negotiation, pluralism, and dialogue), changing the relationship between Islam and democracy in a principled and moral manner.

When it comes to the relationship between Islam and democracy, the CA has provided a counter-essentialist argument manifesting that the democratic deficit in Muslim countries cannot be attributed to Islam. However, the very fact that the essentialist argument was wrong and there exists compatibility between moral precepts of Islam and democracy did not entail that the CA systematically extended a comprehensive solution to Muslim democracy. In fact, one can find principles in Islam supporting democracy and human rights and at the same time find premises that are totally antithetical to them. The diversity of the Islamic tradition leaves considerable room for reconstruction. Thus, Islam being supportive or antagonistic to democracy really depends on “the moral construction given to it” by an individual Muslim (el-Fald, 2002). Based on this acknowledgement, within Muslim democracy discussions, this project has reworded the question of whether Islam is compatible with democratic values to ask whether Muslim interpretations of the Islamic tradition are compatible with the principles of democracy or not.

If we look at the generic understandings of Islam today, we see a notion of Islam that has become quite “unrelated to modern ethical requirements” and “irreconcilable with universal moral standards” (el-Fadl, 2002: 106-107). Islam as widely understood and practised today adheres to “a long list of morally noncommittal legal commands,” depriving its moral capacity to develop democratic thinking (el-Fadl, 2002: 15). This phenomenon has been entangled with two main reconstructions of Islam in the contemporary era. First, as Ziauddin Sardar describes, Islam turned into a national cultural creed, where the state defined the role and nature of religion and controlled and used it for its own interest in politics (2002: 17). As Nadir Hashemi has revealed, in these contexts, the normative relationship between religion and politics is defined by the state. Religious populations were not given the chance to bargain and reconcile themselves with secularism (Hashemi, 2009: 2). For instance, in countries like Turkey and Tunisia, secularisation was not a “consequence of religious formation,” marking “a reversal of the European experience” (Hashemi, 2009: 70). Second, in places where Islam has been forcefully banished from the state to the private realm, it has emerged as an ideology that has been positioned as political opposition aiming to recapture the platform of the state. As such, Islamic resurgence and religious politicisation in the Muslim world often took the path of Islamism or political Islam (Cesari, 2014: xv). Overall, both cases have been intertwined; in other words, the politicisation of religion has been undemocratic mostly due to the authoritarian nature of most states and the resistance to forced modernisation programmes. In addition, the correlation between them in reinforcing one another is striking (Hashemi, 2009: 147). Essentially, the current politicisations of Islam have led to undesirable outcomes. Islam has been used as a tool for political mobilisation and power consolidation. Thus, Islam’s moral capacity to cultivate intellectual roots of democracy has faded.

Prominent political theorists like Hannah Arendt have long pointed out the importance of “a healthy respect for democratic values” and civic virtues as well as “the democratic habits of mind that can only be sustained in civil society, in initiatives (publications, civic associations, social movements, forms of disobedience) undertaken at the grassroots” as essential conditions for democracy (Isaac, 1994: 160, 162). On the matter of how to cultivate democratic values in Muslim societies, Soroush reveals that:

democratic regimes cannot be sustained without ethical and/or religious commitments, including respect for ‘the rights of others,

justice, sympathy, and mutual trust'. In this regard, democracy owes a 'great debt' to genuine religious faith, and the latter can be seen as 'the best guarantor of democracy' (as cited in Dallmayr, 2011: 445).

It is essential to concede that Islam, as conventionally understood and practised by Muslims, makes strong claims on their political beliefs and actions. It is often Islam, not secular ethics, that provides a stronger incentive in instilling the ethical foundation and virtues that can promote democratic processes. Modernist and progressive Muslim thinkers have argued that for democracy to succeed in Muslim countries, it has "to become a systematic normative goal of large numbers of Muslims" (el-Fadl, 2004: 128). They have also emphasised that this can only happen if Islam works for the advantage of democracy in justifying democracy as a political and moral good. Essentially, the reinterpretation of Islamic ideas nurturing respect for democratic rights and freedoms is indispensable for the evolution of well-functioning democracy in the contexts where Islam is a principal marker of social, cultural, or political claims.

After outlining the rationale for religious reformation for the consolidation of democracy, this section will now examine how Muslim understandings of Islam can reconcile themselves with the normative foundations of democracy, such as democratic toleration, political secularism, and human rights. It will attempt to demonstrate how we can think about the "ways of both upholding the truth claims of their [Muslims] religion and adopting the political values required to recognize the legitimacy of constitutional democracy" (March, 2011: 12). Accordingly, this section will turn to the idea of social Islam as a desirable alternative to political Islam and official/state Islam in responding to the normative transformation of religious understanding for democratic consolidation within Muslim-majority contexts.

Social Islam is a term coined by Armando Salvatore and Dale F. Eickelman, providing a democratic alternative to the religious politicisation of Islam and thus is essential in understanding Islam's relation to the development of the social public sphere and democratic transition. In their notion of social Islam, Salvatore and Eickelman observe the emergence of modernised, civil, and pluralist forms of practising Islam, which they believe will lead to the emergence of a democratic public sphere, a sphere relatively independent from the dictates of the religious and political authorities. Social Islam, which illustrates new ways of the affirmation of religious lifestyles under

democratic systems, is a very important category for understanding the kind of social and religious settings needed for Muslim democracy to develop (Salvatore and Eickelman, 2004a: x-xiii).

Salvatore and Eickelman insist that democracy will be invigorated through religious reformation organically emerging and developing in the context of social life. They refer to social organisations such as salons, coffee shops, literary circles, and media platforms, which are already on the ground, as factors that work in favour of an “increasingly open discussion of issues related to democracy, gender and the common good” (Eickelman and Piscatori, 1996: x; Salvatore and Eickelman, 2004a: xi). In addition, they contend that the spread of access to knowledge due to the rise of a print culture, new technologies, and social media have had massive implications for the development of people’s own interpretations of Islam as a form of “social normativity,” which in return leads to new forms of political engagement (Eickelman and Salvatore, 2003: 102). For instance, the Internet has created a social space where individuals can become equal citizens, carve out a level of independence from the religious and political authorities, and communicate with one another in a free manner capable of developing shared democratic values (Lynch, 2011). Essentially, social organisation goes beyond an elite establishment to more diverse forums for social communication with diverse kinds of communities involved. These social platforms emerging in the Muslim world like the café culture and media forums give people voice and diverse discursive means through which vibrant social sphere can be materialised. According to Salvatore, a transformation of traditional forms of sociality into what is called social Islam is believed to contribute to active and free participation of the citizens “arguing, acting, and deliberating in common through a rational pursuit of collective interest” to develop a shared normativity of engagement (2012: 437). Accordingly, social Islam in a way expresses the normative formation necessary for democratisation in which the agency to achieve the shared good is reclaimed by individuals who are “sovereign in their choices of conscience...to define their own life while respecting others’ right to do the same” (Maclure and Taylor, 2011: 11). In fact, all these modern changes are redefined in social spaces, nurturing the development of individual and civic reasoning that has had a serious impact on the relationship between the religious and the political.

With the opening of public debate to larger numbers of people, social Islam represents the changing conditions of both religious authorities—from the formal bonds of the state and clergy to the individuals and civil society—and *shari‘a*—from “a jurist’s notion” to “a popular trope...[of] practices needed to live a good life as a Muslim” (Eickelman and Salvatore, 2003: 102). Religion and morality are also elements of politics in the idea of social Islam but mostly in virtue of social organisations and individuals who bring their moral perspectives to public deliberation to engage in consensus building as human agents. This process makes it possible to bring “Islamic principles in official policy and legislation through general political deliberation, but not as imperative religious doctrine” (An-Na‘im, 2009: 145). Religious arguments are elaborated on and contested in the public sphere as are the views of the citizens, but not because they are represented as a moral authority or clerical establishment. Thus, the social Islam phenomenon also exemplifies the politicisation of Islam in a democratic direction, where Islam can become a part of enlightened, well-informed, and honest public debate of individual citizens. Islam being part of democratic politics is also a by-product of the reinterpretation of religious ideas in alignment with the normative aspects of democracy through the processes explained under social Islam.

Hashemi explains the relationship between democratisation and religious reformation in a nutshell:

Democratization does not require a privatization of religion, but it does require a reinterpretation of religious ideas that are conducive to liberal democracy (2009: 12).

Thus, social Islam envisages an ongoing process of mass level religious reformation, which involves bringing moral commitments to the individual’s understanding of Islam towards a “reconciliation with political secularism and universal human rights, thus lending critical support to democratisation” (Hashemi, 2009: 169). In efforts to show democracy as an ethically attractive political system, An-Na‘im asks his fellow Muslims to recognise democracy’s virtues of being a good, just, and accountable governance that facilitates active and free participation of citizens in public debate, provides channels to rectify and correct political mistakes, and safeguards human dignity and intellect. With these virtues, he persists, democracy is not only the best political system we have today, but also the most resourceful one in facilitating an inclusive moral environment that permits the development of a genuine moral life compatible with the Islamic

comprehensive vision. An ultimate test of morality, An-Na'im explains, can only be conducted under a free environment where a moral agent can exercise his/her self-reliant intellect to follow the divine guidance. The environment democracy provides can cultivate the special role of vicegerency in seeking a religiously inspired ethical life on the basis of personal reason and conviction (An-Na'im, 2008: 3-4). This line of argumentation is important because it justifies democracy as a moral good by engaging with a kind of religious thinking in instilling normative commitments to the principles of democracy.

Principally, Muslims' normative commitment to democracy can develop through the processes of social Islam, which promises agents of renewal in a direction to "empower competing voices within the Muslim community, undermine conceptions of religious absolutism, and foster a mutual accommodation between religious commitment and...[democratic] values" (Emon, 2006: 331). It represents the spaces that allow conditions for democratic toleration, cultivating intercultural dialogue and common language of citizens "firmly founded upon the diverse communities" sharing "in cross-religious moral concern" with human rights, the shared good, justice, and the rule of law (Sachedina, 2009: 176). Accordingly, social Islam stands for the process of reinterpreting Islam to make it congenial to pluralism, openness, and democratic tolerance, so that in return social Islam can be able to provide the "philosophical conditions for pluralist democracy" to develop in Muslim societies (Hirschkind, 2008: 66).

At this point, the Janus-faced transformativeness idea plays an important role in explaining how a "religion can legitimately play a role" in politics (el-Fadl, 2005: 202). First, as argued by el-Fadl (2005), Bader (2003), and Shachar (2001), as the democratic reformation of political and institutional structures in recognising the public role of religion takes place in Muslim societies, more people are expected to reconcile "normative commitments to Islam as a comprehensive theory of the good and [their] political commitments to a liberal constitutional order" (Fadel, 2008: 9). Second, as argued by thinkers like el-Fadl and Fadel, for religion to have a political role, it must become more closely aligned with human rights, pluralism, and toleration (el-Fadl, 2005: 202). This involves the recognition that "reasonable non-Islamic [as well as dissenting Islamic] ways of life are nevertheless worthy of respect and constitutional protection, independent of the instrumental value of pluralism" (Fadel, 2008: 43).

Here it is also important to remember that recognising the worth of and respect for another comprehensive view does not mean endorsing it uncritically. Although an indispensable condition of successful democratic consolidation requires a good proportion of citizens to recognise pluralism, Social Islam does not imply that orthodox Muslims have a presumptive moral obligation to reconciliation of their philosophical truth claims. What it indicates is that Muslims, like all other groups within the political system, have a moral duty to develop democratic toleration despite their ontological distinctions and differing interests. For instance:

This is not to say that...[Muslims] should be expected to...endorse gay marriage...[or] can be supposed to approve heterodox traditions of Islam....But Islamists can be expected to justify within their own values the legitimacy of these other groups' political and civil liberties as equal to their own, for pluralistic democracy to take root (Somer, 2011: 538).

Democratic toleration necessitates that Muslims, like other citizens, are expected to recognise the right of individuals with diverse normative systems to observe freedoms as well as “the legitimacy of the numerous and often contradictory options that resulted from the exercises of moral judgement” in public debate (Fadel, 2008: 49). Democratic toleration, which will be conceptualised in more depth shortly, aides to

By and large, religious beliefs can play a positive role in the process of developing democracy. For democratic consolidation to take place in Muslim-majority countries, value change and religious reformation is necessary to allow the formation of the moral foundation of democracy. Social Islam as an emerging trend signifies the occurrence of the social public sphere independent of the state apparatus and religious authorities, and is thus believed to have significant potential to contribute to the philosophical conditions necessary for a Muslim democracy to take root.

Another medium for the social public sphere, democratic toleration will now be investigated in the next sub-section to demonstrate the notion of normative change in the making of the shared good and overlapping consensus as the basis of the public sphere.

c. The Establishment of Democratic Toleration

Democratic toleration is the third component of the social public sphere idea. It is the normative foundation of the social public sphere that enables the facilitation of different moral systems, protecting diverse views, and serving diverse interests. Democratic toleration is the shared normative commitment of citizens towards each

other that reflects democratic consensus on respect, civility, and human rights despite their differing views and conflicting interests. In this project, the idea of democratic toleration is brought together in the multiculturalism literature through the arguments of scholars such as Taylor and Kukathas and enriched with the ideas of Muslim intellectuals like Talbi and An-Na'im.

Kukathas defines toleration as people's freedom to pursue one's "various ends, individually or cooperatively" (1992: 108). According to Kukathas' 'multiculturalism as toleration' theory, the liberal idea of toleration is the moral foundation of democracy and the basis for the justification of cultural, moral, or political pluralism (2003: 259). Likewise, Talbi, a prominent advocate of pluralism in Muslim political thought, advocates for normative religious acceptance and pluralism. Talbi states that human beings can "live together with our consciously assumed difference" through finding a "plateau" where "mutual respect and full acknowledgement of difference are attained" (Talbi, 1995a: 62; Filali-Ansari, 2009: 2). In this plateau, Talbi believes that some form of a "common denominator of a universal ethics" on the basis of toleration should be the foundation of collective life (Talbi, 1995b: 83).

In the social public sphere idea, the common values for a shared life surround the idea of democratic toleration, which upholds a thin understanding of human rights. The idea of a thin notion of human rights will be further explained in the next section on the constitutional provisions. Here, how democratic toleration works under the public sphere will be elaborated. Democratic toleration expects citizens to develop civility, recognising each other's identities and difference and respecting each other's rights to public presence.²⁷ Democratic toleration can only emerge in a society where individuals with competing and different positions are consciously and responsibly engaged in a dialogue and compromise to establish an overlapping consensus on "common public values" and "the common good of all on a moral basis" (MacLure and Taylor, 2011: 12, 15). This amounts to accepting the peaceful coexistence with rival doctrines and developing a firm allegiance to the political ideals of the democratic civic culture (Mahcupyan, 2008: 110-112).

The social public sphere is "the site where contests take place over the definition of the 'common good'" (Eickelman and Salvatore, 2002: 94). Within the social public

²⁷ According to Edward Shils, "[C]ivility is compatible with other attachments to class, religion, and profession, but it regulates them out of respect for the common good" (1997: 47).

sphere theory, the common good does not have to be thick to succeed. In fact, thin agreement “to develop an ethics of lived experience and practice” is more effective for developing a political consensus independent from a certain doctrine of transcendent(al) morality (Connolly, 2005: 116). In this context, democratic toleration and pluralism resulting from a firm statement of democratic participation shapes the shared normative foundation of the public sphere. In democratic toleration, the idea of divine morality as a source of personal salvation cannot dictate the outcome of political negotiation. Believers and atheists, the secular and the religious, and people of different ethnicities, cultural identities, and sexualities should all come together and engage to agree on the shared good (Connolly, 2005: 43). These actors should reach an agreement overcoming the endemic tension of “inter- and intra- religious domination” or ideological hegemony created within the public sphere (Bader, 2009a). Essentially, the social public sphere should harbour a range of moral and political perspectives in public deliberation, even though the majority may perceive some of these perspectives as “morally wrong” (Bader, 2003b: 114). Which perspective wins over the other in the process of achieving the shared good is decided through the broad deliberation within the various social forums of the civil society. Yet no perspective is more authoritative than others, and no perspective should be persecuted or criminalised. Very relevant to Muslim societies, the process of achieving the shared good “should be open and accessible to all citizens...without exposing themselves to charges of disbelief, apostasy or blasphemy” (An-Na‘im, 2009: 149).

At this point, it is important to acknowledge that for the overlapping consensus to have normative weight in individual adherents of diverse philosophical and religious sects, it needs to be “morally persuasive within their own system of moral, philosophical or religious commitments” (Fadel, 2008: 8; 2007: 4). Thus, the “accessibility” of religious and ethical logics/reasons and the reformative mechanisms mentioned under social Islam are essential for both the development and maintenance of the common good (Sachedina, 2009: 177). Unlike republican secularism or Rawlsian liberalism, the Muslim democracy idea as articulated in this project proposes a religiously friendly and normatively inclusive account of overlapping consensus and the common good. Consequently, the social public sphere idea is inclusive of religious expressions in public deliberation on the belief which has been famously advocated by the moral pluralists that each citizen should be involved in this ongoing democratic communication with their

secular, religious, or traditional comprehensive worldviews to create a political consensus as the currency of social life. On this subject, Mookherjee argues that a democratic state is obliged to protect the “capacity for reason” for all citizens guaranteeing their involvement in constructing the idea of the common good rather than imposing its own account (Mookherjee, 2001: 79). The social public sphere notion rests on the conviction that citizens who might have “separate moral ontologies,” conflicting doctrines of the good, or certain metaphysical orientations can still “share a common normative basis” under a democratic system (el-Fadl, 2004: 4). As Taylor has famously written, “citizens arrive at an ‘overlapping consensus’ about the basic political principles, despite the differing conceptions they embrace regarding what a successful life is” (MacLure and Taylor, 2011: 17).

Overall, the advocacy of a social public sphere is based on the belief that the consolidation of democracy requires a substantial normative support basis for democracy. The social public sphere promotes mass moral transformation of bringing individual moral judgements to a closer alignment with democratic toleration associated with civility and mutual respect as the basis of social life in Muslim societies. Democratic toleration can facilitate an inclusive and religiously-friendly public structure, increasing the probability of Muslim democratic consolidation.

The three conceptual mechanisms of social public sphere can engender a political environment that paves the way for the fourth, advanced feature of democratic politics: the institutionalisation of normative difference. At this stage, the Muslim democracy framework further seeks a structural turn in recognising moral difference by diversifying pluralistic jurisdictional and institutional arrangements.

d. Institutional Pluralism

The theorisations on pluralist secularism in the previous section have enabled us to consider some kind of differentiation between the state and the public sphere, ultimately opening up ways to think of institutional pluralism within democratic politics. This distinction is essential to pave the way to a workable resolution on the issue of the role of religion in the public sphere. The need to differentiate state public sphere and social public sphere has derived from the rationale that even a morally minimalist state cannot be innocent of bias when dealing with real-world situations (Shachar, 2008: 575; Bader, 2003a: 4). Scholars like Shachar and Mégret have suggested that it is a delusion to

think that the state can solely deliver satisfactory services for people with diverse needs deriving from substantially different worldviews (Mégret, 2012: 13; Shachar, 2001: 88). Accordingly, this sub-section will engage in providing a pluralistic alternative to the existing institutional structures with the aim of contributing to the resolution of the role of religion and politics. This synopsis will demonstrate how collective rights would work institutionally by diversifying public services and expanding the actors in public policy.

Unlike multiculturalism's institutionalist pluralism that has been limited to minority accommodation and rights, the institutional pluralism idea conceptualised in this work represents an expansion of religious freedoms for the accommodation of diverse—minority and majority alike—needs and interests.²⁸ The pluralist secularism theory has provided a critical contribution to the creation of social public sphere as the terrain of diversity where collaboration of the state and voluntary public associations can deliver more extensive and complete services. The social public sphere opens up administrative and economic opportunities for the public functions of religion at the hands of “democratically controlled voluntary associations” (Hirst, 1997: 13). Under institutional pluralism, citizens with diverse comprehensive philosophical doctrines have a “greater control of their affairs” in organising and funding public services and the welfare sector. Civil society actors, such as faith-based or cultural associations, can also be the “service providers” in various arenas of public life such as education, health care, seniors' care, social work, and finance (Hirst, 1997: 13). Hence, the institutional pluralism of the social public sphere makes available diverse political platforms and broader social forums through which groups with distinct and divergent goods and interests have public presence and play public roles.

Such diversity also shapes the forms in which institutional pluralism is implemented in reality, for there is no single path to institutional pluralism and it is up to the processes undertaken in the social public sphere to determine the resulting collaboration between state and civil society. To take the real-life example of education, we can observe different models of institutional pluralism articulated in the literature. These include Bader's model of separate faith schools and Shachar's model of “power-

²⁸ Institutional pluralism is an institutional component of the social public sphere, which is inspired by but distinct from the institutionalist pluralist school of multiculturalism. Unlike the institutionalist pluralist school that talks and operates within Western liberal establishments, however, institutional pluralism is conceptualised within the democratic consolidation of Muslim-majority contexts.

dividing and sharing arrangements” (2008: 154). As a form of pluralist institutional arrangement, Bader has argued for separate faith-based schools, where religious groups are given institutional autonomy in education to have their own schools. Shachar, on the other hand, advocates for state schools providing a common education but giving religious groups the right to control religious instruction and curriculum, like in Germany and Austria. When it comes to associational services, therefore, the Muslim democracy framework is aware of the importance of context specificity depending on the specific political experimentalism of a particular society and the already existing institutional designs in these societies (Shachar, 2009: 134). Even under predominantly Muslim contexts, the nature and characteristics of institutional pluralism can take various shapes and forms. Within institutional pluralism, how much power will be given to civil society actors and community-based organisations is not only a theoretical question but is one that is negotiated on a day-to-day basis. Issues like whether religious classes should be held within or outside civic schools, what the appropriate age for pupils to attend religious classes is, and how curricula should be organised and classes administered would be resolved differently. In some Muslim-majority contexts, separate faith schools might be the case, while in others a power-sharing education structure may be a better fit. Yet in order to resolve the state’s relation to social and religious affairs, some form of institutional pluralism seems necessary for the consolidation of Muslim democracy.

However, although the idea of empowering civil society against the state is vital for democratisation, it is also important to be prepared against the potential risk of empowering communities against individuals. Indeed, the social public sphere framework does not necessarily define civil society as *ipso facto* benign or tolerant. In other words, civil society and its prevailing normativity should not be viewed as inexorably more pluralist than the institutional establishment of the state, and this necessitates the protection of the rights and freedoms of individuals. Thus, institutional pluralism clearly requires higher regulatory mechanisms to ensure universal human rights standards. It has emerged from the discussion of enlightened secularism that the state has a morally minimal role but is a reliable guarantor of human rights: while allowing a broad range of “governance of social affairs,” the morally minimalist state is to set democratic standards by critically scrutinising service provision to safeguard citizens’ basic rights and liberties (Hirst, 1994: 25). However, the concept of state

intervention can also be restrictive if the state is seen as the only authority and the sole guarantor of rights and freedoms. Although morally minimalist, we must recognise that the state, or the people who are in positions of power, has its own interests, and it would be reductionist to assume that the state could always be impartial in supervising civil society associations. Accordingly, there are benefits to having national institutions supporting the state, institutions that are independent from the executive, legislative, and jurisdictional powers and which will thus facilitate the task of safeguarding individual rights and freedoms. In this regard, the idea of a fourth eye, or the institution of ombudsman to be formed by an amalgamation of governmental authorities, civil society actors, academics, and specialists, which mediates between state institutions and civil society organisations, might offer an alternative solution. The task of an ombudsman is to protect rights and freedoms from pressures coming from within groups themselves, from other groups, as well as against state authority, if necessary. The ombudsman exercises an advisory role to state institutions by issuing reports, which are presented to the authorities as well as to the public, which in turn increasingly enhances the accountability of the executive (Yazıcı, 2011: 148-152). Religious scholars can also be ombudsmen, where the institution of *nasiha* (“morally corrective criticism”) in this case can function as a form of “reasoned criticism” (“the public use of reason”). In this context, religious scholars can issue expert suggestions, which are different from the authoritative opinion of the *ulama* class (Asad, 1993: 210).

In essence then, the framework of institutional pluralism advocated in this work aims to give voice and agency to both civil society and individuals alongside the state. It provides civil society with greater space to perform some of the functions of the state while simultaneously ensuring voluntariness and the freedom of citizens to choose among governmental and societal organisations through democratic mechanisms and constitutional safeguards. The social public sphere thus primarily aims to empower alternative communities and give them certain public credentials by institutionalising pluralism for several important reasons. First, it is believed that individuals should have a right to collective goods and the ability to fully pursue what they define as a good life. By promoting religious freedoms, institutional pluralism in fact enhances the autonomy and capacities of individuals with diverse normative systems. In addition, institutional pluralism can guarantee that all groups will have their own autonomous spheres, entailing that no particular school or fraternity of Islam would control or suppress less

prominent opinions. Second, if groups and ideologies are excluded from political influence, they are likely to hijack democracy; they could either become reactionary by feeding extremism or revolutionary by infiltrating the state apparatus to impose their ideology and capture state power to reclaim authority. Third, it is important to distinguish between official recognition and actual presence: if religious or cultural ways of life are unrecognised, this does not mean that they are nonexistent. On this acknowledgement, as opposed to neglecting already existing practices, institutional pluralism would put minority group interactions under scrutiny and regulate the communal religious practices that remain unnoticed when unofficial, which in turn would facilitate the meaningful protection of the rights of the vulnerable members in these groups. Consequently, this framework that compels interaction between the state and these groups has the potential for a more inclusive governing of a diverse citizenry and a more interactive mode of peaceful coexistence between the state and comprehensive moral doctrines as well as among groups with diverse normative systems, thus rendering democratic consolidation a greater possibility to become established.

But most importantly, institutionalising pluralism is essential because it facilitates normative democratic changes. As mentioned earlier, the social public sphere views the communicative and discursive processes of democratisation as crucial as institutional change, and it is in light of this that civil society becomes an important venue for democratisation when it is empowered within a context of strong universal human rights implementation. Only mass-level normative change in civil society can provide pluralistic political solutions and democratic progress. Accordingly, the social public sphere empowers a form of civil society that can work for everyone with its provision of equal share of rights and capacity in engaging public exchanges in order to foster a bottom-up democratic reconstruction. The democratic culture of equal participation, civic dialogue, and deliberation that the social public sphere creates would thus have greater potential to improve social interactions and resolve normative disputes residing in public life. In a setting of robust institutional and legal protections, the interactivity, frequency, and familiarity of diverse ideas, practices, and norms—even those which might be unorthodox or condemned—could eventually develop toleration and gain acceptance if their proponents are given the space to symbiotically interact and communicate with their opponents on equal grounds. Thus, the visibility and legality of political and moral differences are very important and they indirectly lead to the

development of a tolerant civil society (and the construction of civility and democratic toleration). Therefore, by opening up the public sphere and delegating certain public powers to civil society, institutional pluralism facilitates democratic consolidation on both structural and normative grounds.

In this sense, the social public sphere framework endorses the idea that “better institutional design” with inclusive and safe public platforms that protect individual liberties and facilitate the functional roles of civil society will prop up “liberal democratic practices” and values (Volpi, 2004: 1074). Accordingly, institutional pluralism reorients the idea of institutional pluralism of multiculturalism, which was asserted within Western democracies, to adopt it in a Muslim-majority context with the help of theoretically relevant concepts. By and large, the social public sphere has offered conceptual resources to organise institutional pluralism, provided there is sufficient shared normative commitments to democratic toleration and human rights. This pluralism has a Janus-faced nature: On the one hand, it aims to accommodate more traditional/*sharī‘a*-minded Muslims’ demands in ensuring them legal and institutional pluralist rights. On the other hand, it necessitates moral endorsement of pluralism by these Muslims in issues concerning human rights, freedom of speech, individual liberties, and other lifestyles. In other words, institutional pluralism involves more rights and autonomy for religious people, yet a democracy, in general, requires the moral endorsement to the ethos of pluralism by all.

4. Concluding Remarks

To address the question of what kind of public sphere could render the greatest potential for democratic consolidation in Muslim societies, this section has first examined the two main notions on the public sphere derived from the typologies on Muslim and multiculturalist political thought. The categories of the plural and shared public institutions have helped to highlight the weaknesses and the strengths in the liberal and republican public sphere models and outline the already existing trends in revising these models. The very idea of Muslim democracy has asserted the need to reorient the democratic ideals in Islamic contexts and to formulate new terms to consolidate normative and practical commitments to democracy in these settings. This method has also been applied to developing an understating of the public sphere in this

section. Thus, the plural and shared public institution models are undertaken in parallel, complementary fashion to envisage a conceptualisation of a social public sphere.

The ways in which Muslim democracy should be consolidated and can work through the social public sphere is discussed in four conceptual components. The first feature of pluralist public sphere is transformativeness that defines a profound ideological transformation and value change towards democratisation both structurally and socially. Here, the relationship between liberal democracy and Islam does not imply an epistemological bias, solely asking Islam to be compatible with liberal democratic institutions, but democratic institutions to be inclusive of religious needs and demands. Accordingly, transformativeness has captured the change in the character of the state towards more accommodating ends. It has implied finding institutions that give impartial access to public life, accommodating Islamic ways of life and its associational claims. A free and critical political space provided by pluralist secularism fosters the forces of transformativeness towards collective internalisation of pluralism and democratic tolerance. This value change reinforces the societal basis of Muslim democracy and is the best guarantor of it. The following components of social public sphere are clauses that further demonstrate the idea of transformativeness.

The second concept of social public sphere is social Islam that displays the processes in which Islam can be a part of a democratic public sphere through people's self-conscious and active understanding of Islamic guidance. It demonstrates the virtue of the grassroots development of democratic values that can offer viable potential to the development of a social public sphere in Muslim societies, where religion is a paramount factor in creating social, cultural, and ideological identities. Social Islam leads to developing non-jurisdictional ideas of governance, where theological justification to governance by the religious authorities is significantly less relevant. It represents a transformation from the divine sovereignty concept to popular sovereignty. Accordingly, social Islam shows how religion can progressively contribute to the civic development of the shared good, promoting democratic toleration.

As consistently emphasised in this research, democracy is not only about institutional practices, regulations, or rules; it is also about processes and norms. Democratic toleration is the third component of the social public sphere idea that reflects the shared normative commitment to democratic consensus on respect, pluralism, and

human rights, representing the normative formation of democratic consensus. Social Islam has demonstrated how individuals' engagement with religion in a free and analytical manner is essential so that in return religion can become a part of consolidating overlapping consensus on democratic toleration. Symbiotically, democratic tolerance also maintains the religious arguments to be part of public contests over the definition of the shared good and religious people to have the public accessibility to pursue their vision of a good life.

The fourth component is institutional pluralism, which envisages civil society functioning in the sense of a public sphere, shaping an alternative sphere that limits state power in the direction towards reinforcing the morally minimalist state. This fourth component develops after the earlier three features of the social public sphere are established socially and institutionally. It envisages a public sphere where civil society organisations share institutional powers alongside the state in delivering public services, which has the potential to serve the democratic consolidation in societies where the issue of moral diversity and the relationship between secularism and Islam require enlightened undertakings.

Although crucial for the consolidation of a functional democracy, a functioning social public sphere alone may not inexorably lead to and more importantly cannot solely maintain democracy. It is important to be reminded that the institutional face of democracy in the greater MENA region is "frequently accompanied by political repression and manipulation [to constrain opposition and dissent] which sabotage the underlying principles of democracy" (Wiktorowicz, 1999: 606). Thus, the constitutional level, which protects human rights and individual freedoms, guarantees the separation of powers and the rule of law, and it is the final arena to be addressed in developing an understanding of Muslim democracy, which can counterbalance the volatilities democracies face. Accordingly, the concept of constitutional provisions will now be conceptualised and repositioned within the context of Muslim democracy.

IV. Constitutional Provisions

Free and fair elections are believed to be a transformative condition in which political participation can substantially contribute to democratisation. In the MENA region, we have witnessed political and civic reforms that have engendered "electoralisation" (Sadiki, 1996: 401). Yet elections have often served to reinforce

liberalised authoritarianism, superficially creating “façade-” (Wiktorowicz, 1999: 606) or “pseudo-” democracy (Volpi, 2004: 1061). As a result, the emerging democracies of the region have remained with unconsolidated transitions. One of the main reasons for this is the fixation on electoral processes, often neglecting liberal institutions that ensure individual rights, constitutional liberties, and the rule of law. However, it is essential to recognise that:

[w]ithout such institutions, electoral democracies can turn into illiberal machines that sanctify the ballot box and majority rule without paying much attention to freedoms. Democracies can degenerate into populist systems in which the sovereignty of the nation and the will of the people are glorified, at the expense of individual rights (Taşpınar, 2014: 59).

In fact, on a global scale, we have observed right-wing populist politicians coming to power through electoral processes. The apprehension of a strong executive’s dismantling of checks and balances, undermining opposition, restricting freedom of speech, and eroding democratic institutions has been deeply distressing even in functioning democracies. In addition, the rise of jingoism, xenophobia, and anti-intellectualism in the face of political and economic crises and security threats has been troubling tests for the democratic sufficiency of electoral accountability.

The escalating concerns worldwide over electoral accountability have prompted some academics to come up with alternative institutions. For instance, Alexander Guerrero advocated for the role of lotteries in the selection of congressional representatives, as lottery-selection would lead to a more diverse and inclusive executive, earnest civic services, and significantly less nepotism and corruption. Political representatives who are chosen only for one term would not dive into temporary political calculations, would be less connected to lobbies and donors, and would be easier to monitor. Thus, in such systems, consolidation of power and political interests would not threaten democratic institutions as much as in electoral systems (Guerrero, 2014: 156-162).

While there may be other institutional alternatives, the primary trend in political theory to deal with the volatility of representative electoral democracy has surrounded the concept of the constitution. The constitution is believed to be the institution to establish a set of rules that limits the government’s ability to monopolise power, protects

citizens' rights and freedoms, sets mechanisms to ensure these rights, shapes the state in relation to the people, outlines the codes of the civil society, and reflects the common good (Selcuk, 2010: 337). The constitution is held to be an indispensable core of democratic politics to "put democracy into effect" and sustain its wellbeing (Holmes, 1995: 6). To think about constitutional provisions within the context of Muslim democracy, two leading schools of thought will be first consulted, namely political constitutionalism and legal constitutionalism. To give a brief introduction, exponents of political constitutionalism believe that every citizen has a right to participate in the constitutional debate, where constitutionalism is viewed as a process of consensus building (Tully, 1995: 26). They also maintain that there should be no limit to constitutional debate and only a constitution that is a product of contestatory and participatory democratic politics can be the central institution and the guarantor of a democratic system (Bellamy, 2007: 260). On the other hand, advocates of legal constitutionalism argue that democracy needs a degree of constitutional protection, putting limits on political authority and constraining popular rule to protect unassailable rights. In democracies, they maintain, not everything in the constitution is open to democratic politics or can be changed by electoral processes; a certain moral background as incontestable moral norms is necessary (Tezcür, 2007: 450).

Benefiting from both of the argumentations, at the end of this section, the underlying notions of the constitutional mechanisms of the Muslim democracy idea, pluralising constitutionalism, will be articulated. The pluralising constitutionalism idea will map out how Muslim democracy works through the identified issues of human rights, the rule of law, the democratic limits of government power, and jurisdictional pluralism.

1. Political Constitutionalism

Ergun Özbudun, a renowned Turkish professor of law, summarises political constitutionalism in a nutshell. He maintains that constitutions, as the guarantor of democracies, cannot be autonomous from society and insensitive to the demands of the people. He believes that it is not right to bind the future generations with the provisions made by their predecessors. Each generation should have the right to remake the constitution based on the changing social and normative conditions and different needs and demands that arise in the relevant societies. Thus, he asserts, the idea of

(permanently) unassailable provisions and constitutional protection is meaningless in democratic politics (Özbudun, 2013).

James Tully's theory on democratic constitutionalism, which emerged from a critique of Western constitutionalism's alleged failure to accommodate normative difference, is a prominent example of political constitutionalism. Tully declares that a constitution serves as "both the foundation of democracy and, at the same time, subject to democratic discussion and change in practice" where "popular sovereignty is conceived as an intercultural dialogue" (Tully, 1995: 132, 190). Mostly, Tully's ideas on a constitution derive from a social contract tradition, suggesting that political norms and institutions should be the result of free and democratic public discussions, negotiations, and agreement so that people can respect the institutions and in return, institutions can maintain democratic governance (1995: 191). Tully says that democracy is more than electoral institutions and constitutional protections; democracy is a system of governance where the constitution is the final authority encompassing "all moral and religious reasoning" (Tully, 1995: 114). In democratic constitutionalism, the people can thoroughly enjoy their democratic sovereignty and freedom to participate in constitutional change, which Tully calls as the triumph of "sovereignty of people" over "sovereignty of the existing constitution" (1995: 130).

In contrast to Tully who criticises both liberalism and republicanism in proposing a democratic constitutional state, Phillip Pettit and Richard Bellamy argue that unlike liberalism, republicanism is capable of providing a democratic solution to constitutionalism. Bellamy concedes that although our understanding of democracy is highly intertwined with free and fair elections, democracy is most primarily defined "by the fact that the people exercise control over government" by performing accessible influence to "contest the policies proposed by government and to work at getting them changed" (2007: 207). Pettit also acknowledges that democracy has to promote popular will and majority rule through electoral as well as contestatory politics and "it has to put in place the institutions that such control requires" (2012: 23). In this regard, democracy is defined by the continuous involvement of the citizens in law making, which they call political constitutionalism. In this idea, a constitution is a political and public good "depending upon and making possible mutually beneficial cooperation" (Bellamy, 2007: 66). Political constitutionalism assumes that "the democratic arrangements found in the

world's established working democracies" are more reliable and effective in safeguarding individual rights, regulating the democratic debate, and maintaining the rule of law than the intrusions of "the counter-majoritarian" constitutional protection (Bellamy, 2007: 260, 262).

Pettit and Bellamy's theories on political constitutionalism rest on the idea of freedom as non-domination. Freedom as a non-domination principle suggests that impartial democratic institutions that reflect "common, recognizable interests," political agreement, contestatory political processes, and democratic channels are sufficient enough for the actual protection of rights (Pettit, 2000: 139). In Bellamy's own words, "[D]emocracy is more important than constitutionalism, rights or the rule of law...because democracy embodies and upholds these values" (Bellamy, 2007: 260). As such, the theorists of political constitutionalism perceive legal constitutionalism as constraining political processes, democratic self-rule, and "popular accountability" with an act of domination and "arbitrary rule" by the elite (e.g., judicial review) (Bellamy, 2007: 280).

In a recent article, Sheri Berman argues that democratic consolidation requires the simultaneous protection and upholding of both democratic procedures and liberal values. She accepts that democracy without the legal protections liberalism provides can easily "slide into populism or majoritarianism" (Berman, 2017). Even though she appreciates the concerns of those who believe in "limit[ing] democracy to save liberalism," she critiques "the increasingly common argument that liberalism can best be protected by constricting democracy" (Berman, 2017). Berman maintains that "unchecked liberalism" would create "pernicious" problems. First of all, she suggests, "[e]lites are no less self-interested than anyone else." Second, if ordinary people view institutions, elites, and experts as inaccessible and unresponsive beyond the scope of their influence, "the more likely they are to want to eliminate them." She argues, "unchecked liberalism" is likely to give birth to technocracy, a political condition that is no less democratically detrimental than populism. Thus, Berman insists on the need:

to address the problems in democracy and liberty together — by looking, for example, to revitalize civic engagement and ensure that elites and institutions are responsive to as broad a cross-section of the population as possible, rather than to a narrow sector (Berman, 2017).

Like Berman, Bellamy and Petit also defend advancing electoral systems, executive scrutiny, competitive party politics, participatory channels, and democratic law-making to maintain democracy.

One has to bear in mind that Bellamy and Pettit write in democracies where human rights and the rule of law are not at stake; therefore, they put a greater emphasis on the quality of the democratic institutions than on protection of liberal values. However, if one looks through a more cynical lens, even in established democracies, expecting the political processes to always uphold the rule of law and human rights is also not totally realistic. The current rise of jingoism, xenophobia, and anti-intellectualism in the robust democracies of Europe and North America raises questions about the effectiveness of executive accountability, the electoral process, and majority rule by themselves to sustain democratic governance. In fact, thinkers of political constitutionalism fall short in addressing how the idea of non-domination approaches the issue of volatility of democracy or minority rights abuses.

A problem with the CA was diagnosed as the undermining of the potential of dominant moral discourses to exert oppressive political power. This has impeded democratic consolidation from taking place. Political constitutionalism, which provides important insights for the democratisation of the constitution, cannot sufficiently address the existing majoritarian tendencies within the context of Muslim democracy. The next sub-section will evaluate the effectiveness of legal constitutionalism in addressing the issues coming from the CA argument.

2. Legal Constitutionalism

Legal constitutionalism has centred on ideas about fundamental constitutional values and rights, which are not entirely open to public negotiation or debate. It maintains that even in societies where commitment to a comprehensive set of democratic rights is believed to be endorsed by a significant number of citizens and becomes the current of organisational life, certain rights cannot be left unprotected from the will of the people. As such, legal constitutionalism is argued to be “pessimistic about human nature and seeks to limit government access to power,” unlike political constitutionalism that “is based on an optimistic view of the rationality and the benevolence of the masses” (El-Affendi, 2009: 231). *Democracy for Realists: Why Elections*

Do Not Produce Responsive Government by Chiropter H. Achen and Larry M. Bartels provide a theory that can be used to challenge the presumed virtue of rationality of political constitutionalism. Achen and Bartels demonstrate that even in Western democracies, voters who may be categorised as politically intelligent and well-informed do not in fact vote based on an act of political decision-making and evaluation of the facts. Based on a wide empirical study, the authors argue that voters often choose parties owing to cultural, social, or communal group identities. Therefore, they concede that the idea of rationality ruling the political spectrum of rational citizens or “omnicompetent, sovereign citizen” as advocated by John Rawls and Robert Dahl is in fact a myth (Achen and Bartels, 2016: 7). Overall, Achen and Bartels believe that although democracy is the most superior form of governance today, the limits of electoral institutions create grounds for exploitation by powerful political actors (2006: 139). This empirical study underlines the importance of legal constitutionalism to protect democracy against the volatile elections and the majoritarianism they could create.

In fact, democratic politics by nature carries certain unpredictability and instability especially in extraordinary times. Stephan Holmes underlines that volatility is a general feature facing democratic systems, as there may be no protection from extreme solutions. Holmes demonstrates how easily (majoritarian) democracies can turn into an oppressive system towards minorities, dissent, and opposition if there are no effective constitutional mechanisms to protect human rights: “demagogues with paramilitary support who christen themselves ‘the representatives of the people’” can always gain and manipulate popular support, especially in times of economic and security crises (Holmes, 1995: 9). Holmes also underlines the “fragility of reason” (1995: 267), society’s “inherent tendency to lapse into ‘group think’” (1995:171), and its “debilitating passion” that “will not conform to the dictates of reason and justice without constraint” (1995: 267, 171, 273, 274). To counterbalance this volatility, constitutional democracies resort to non-negotiable constitutional norms representing non-voluntaristic forms of the rule of law, which are not based on popular will. Holmes assures that liberal constitutions, which conserve the wisdom of many generations, can “help solve a whole range of political problems: tyranny, corruption, anarchy, immobilism, unaccountability, instability....the discretion of power-yielders....social chaos and private oppression” (1995: 6).

However, Holmes argues, legal constitutionalism is not antithetical to a democratic public sphere and democratic political procedures as political constitutionalism suggests. On the contrary, these procedures are unthinkable without legal constitutionalism: “Consent is meaningless without institutional guarantees of unpunished dissent. Popular sovereignty is unavailing without legally entrenched rules to organize and protect public debate” (Holmes, 1995: 171). Legal constitutionalism declares that constitutional mechanisms are to be strong for everyone and as functional as they can be to preserve basic human rights, even though they may be at odds with certain norms and expectations of the majority. As a mechanism to protect constitutional rights, Tezcür argues for the necessity of judicial review as “a necessary supplement to democracy and [to] protect individual” and minority rights (2007: 479). He believes that judicial review is superior to democratic politics when we confront a trade-off between majoritarianism and human rights.

As previously diagnosed, it is the constitutional level that is the most relevant to address the concerns arising from the compatibility-based arguments. In this matter, legal constitutionalism may be more conservative and less open to change and more elitist and less participatory. Yet it is also more stable and robust in wakes of crises and less prone to human rights and minority abuses, especially in developing democracies where democratic normativity and institutions are unconsolidated. However, although it seems like the remedy for populism, the elitist inclinations within legal constitutionalism, such as judicial review, may engender technocratic and universalising tendencies that require more attention.

Now within the context of Muslim democracy, this project aims to conceptualise an understanding of the constitution and legal framework. The forming of a pluralising constitution idea will undertake this task, benefiting from both the categories interrogated with further considerations on how to re-appropriate their relevant elements to Muslim contexts.

3. Pluralising Constitutionalism

This section has so far presented conflicting theories and now it proceeds with their synthesis in formulating an idea of a constitution within the context of Muslim democracy. The current rise of far-right, nationalist populism once again reminds us that

in the absence of constitutionally guaranteed rights, mob rule and authoritarianism is not aloof from social realities. To prevent this, democracy entitles the constitution to protect individual rights against the interference of political leaders and public opinion. Meanwhile, in democracies, constitutions are expected to reflect the common good and shared national values as a result of the free and conscious consent of the people (Selcuk, 2010: 336).

Therefore, while reaching a fine balance between human rights and popular will is important, so is the co-functioning of inalienable legal instruments (as argued by legal constitutionalism) and dynamic public processes (as argued by political constitutionalism): it is crucial that people engage to agree on the rules of their common lives while the constitution protects the rights of everyone and guarantees that the shared rules do not disadvantage or discriminate against certain individuals. In addition to these two dimensions, pluralising constitutionalism takes on multiculturalists' critique of Western constitutionalism for upholding a universalist, difference-blind account of rights. Multiculturalists like Barzilai have argued that Western constitutionalism has not only denied the importance of communal needs and thus limited difference to the private sphere, but it has also denied the significant role of culture and religion in individuals' lives as a source of "constituting, articulating, and generating identities" and empowerment (Barzilai, 2004: 24). In morally pluralist societies, multiculturalists have pursued recognition of cultural and religious difference by granting broader legal rights emphasising the virtues of political constitutionalism.

The sub-section on pluralising constitutionalism will aim to harmonise the themes coming from both legal constitutionalism and political constitutionalism, such as safeguarding individual rights and freedoms, promoting democratic law-making, and recognising the demands for difference under a democratic framework. Benefiting from the relevant variables deduced from the preceding chapters, this sub-section will address issues coming from Muslim and multiculturalist political thoughts by conceptualising three variables regarding constitutions within the context of Muslim democracy, namely incontestable legal norms, democratic law-making, and jurisdictional pluralism.

a. Incontestable Norms of the Constitution: The Absolute Protection of Minimal Human Rights

It is crucial to dwell on two considerations before articulating the argument for the incontestable norms of a constitution within the Muslim democracy framework. First, “many – not all! – Muslims” are *sharī‘a*-minded and predominantly Muslim societies are more diverse than often assumed (Berger, 2006: 335). A good proportion of citizens living within the Muslim democracy framework will be non-Muslims, non-practising Muslims, as well as nonconformist Muslims. Second, part of the Islamic moral tradition, as represented by modernist and progressive Muslim thinkers such as el-Fadl and al-Jabri, may be committed to the idea of human rights, but in the real world people will not be necessarily guided by reformist considerations. To a significant degree, substantial moral opinion in Muslim societies does not necessarily espouse values such as gender equality, freedom of expression, and moral pluralism, and instead favours traditional, paternalistic, and stricter moral understandings. It is crucial to see that in deeply religious and ideologically polarised societies like contemporary Muslim ones, for the conceivable future, the normative endorsement of democratic ideals would be quite challenging. Thus, constitutional provisions have to guarantee this. Tezcür aptly summarises the issue:

in Muslim majority countries, authoritative interpretations of Islam are not necessarily in liberal hands, the fear of the “tyranny of the majority” seems to be very relevant. In the absence of constitutional and institutional limits on the legislature, Islamic democracy is most likely to decay into majority tyranny (2007: 496).

This observation has spawned one of the most significant questions this research aims to address: Within the morally diverse context of Muslim democracy, how can individual freedoms and minority rights be protected from a possible intrusion of the comprehensive morality of the majority?

In addressing this question, the previous section on the social public sphere explained that the reformative processes of social Islam would facilitate the progression of democratic political culture and political tolerance. It has also underlined that these processes are to be dynamic and include all segments of the society, promoting democratic consolidation. The social public sphere framework has recognised that for religious reformation to take place there needs to be credible mechanisms of effective and

open channels accessible to everyone, where the state guarantees individuals' capacities and autonomies for value formation. Contributing to this argumentation, this sub-section argues that the issue of human and minority rights cannot be solely left to the outcome of public deliberation or the whims of the majority. Institutions are to be strong for everyone and to be as functional as they can be to implement mechanisms safeguarding justice and equality. The constitution is the most fundamental institution in democracies to protect liberty and consciousness from discrimination on moral grounds.

Constitutional democracies have a normative structure consisting of non-contested conservative principles that regulate the democratic debate and maintain the rule of law. With regards to the Muslim democracy idea, the question revolves around the substance of the incontestable moral background of a constitution for it to be able to maintain a democratic culture of equal participation and respect. The discussions on secularism and the public sphere have affirmed that the underlying moral background of the state enterprise should be premised on an idea of a thin morality. This sub-section argues that the minimal moral background of the Muslim democracy idea should also be based on thin morality as universally agreed to uphold inalienable human rights for everyone.

Michael Ignatieff's theory of minimal human rights gives a theoretical frame and provides substance to the theorisations on constitutional protection of human rights (HR). Thin morality is premised on HR as understood in a minimalist fashion. Ignatieff has argued that there should be a universal, culturally transcendent political definition of human rights concerning negative liberties (referring to the notion of removing obstacles). In this idea, human rights are undertaken by a thin theory of good provided by Ignatieff's explanation that "there are many differing visions of a good human life, that the West's is only one of them," and that the organisation of rights discourses should take this into consideration (Ignatieff, 2003: 80). Ignatieff's negative freedoms idea requires state guarantee of basic human rights even against the prevailing philosophical and religious views or cultural constructs. This account of human rights is more concerned with "assumptions about the worst we can do, instead of hopeful expectations of the best" in forming the inalienable legal rights (Ignatieff, 2003: 80). The minimalist human rights approach suggests that negative freedoms are normatively international and have to be incontestably constitutionally guaranteed while positive

liberties (protecting certain ways of lives) should come democratically out of democratic deliberation.

Moral pluralists like Mookherjee and Taylor have aptly shown that there are no universal strands of reason, morality, or the good as they all differ from one society to another. They have also argued that people do not have to share the same notions on what is good to agree with some universal protection of human rights as the normative basic standard of any democracy. Along this line of thought, Taylor sees “a process of mutual learning,” leading to a “fusion of horizons” through which “the moral universe of the other becomes less strange” in creating the basic normative structure of democratic life (1999: 20). This, according to Taylor, amounts to a shared human rights paradigm. He has engaged with an inquiry on the possibility of “a [meaningful] world consensus on human rights” (1999: 45). Despite the deep disagreements diverse comprehensive worldviews have, Taylor believes, there can be universally agreed upon constitutional protection of human rights. He seeks a thin theory of minimal human rights that are philosophically justified and legally enforceable worldwide. If the list of human rights is kept short, it is believed to be able to be safeguarded universally (Taylor, 1999: 18- 20). Here, the idea of universal human rights as the normative basis of democracy does not rest on a metaphysical ontological basis, but rather presents a cross-cultural agreement on incontestable moral norms on human dignity. These non-negotiable principles would include rights such as “freedom from torture, punishment for murder, the right to an education, efficient public schooling and the reduction of the gap between rich and poor” (Connolly, 2005: 43).

This notion of human rights has also found substantial support from modernist and progressive Muslim scholars. Muslim thinkers have challenged the presumption of human rights being antithetical to Islam due to its perceived Judaeo-Christian foundation (el-Fadl, 2003: 55). Al-Jabri has argued that there exists a notion of universality in the theoretical basis of human rights; this provides a universal account of human nature transcending cultures (2009: 177). El-Fadl has insisted that, based on a moral and principled reading of the Islamic texts within the context of today’s world, one will come to acknowledge that “a commitment for human rights is a commitment in favour of God’s creation and, ultimately, a commitment in favour of God” (2003: 56). Accordingly, An-Na‘im has called for the reformation of the *sharī‘a* in alignment with

human rights as universal standards of justice (1987: 17). Therefore, the idea of universal human rights as the non-contested principles of the constitution has gained support from Muslim scholars and, through the processes defined under social Islam, is conducive to gaining popular support as well.

Overall, Taylor's and Ignatieff's ideas bring a perspective on universally inalienable human rights that are also considered as the incontestable moral background and non-voluntaristic constitutional provisions of the Muslim democracy framework. Human rights in the Muslim democracy framework have a legal function as the normative basis of democracy and it is believed that to have a short list of inalienable human rights increases its potential as a legal instrument. However, the pluralist constitution framework is also keen on the idea of democratic law-making for successful democratic consolidation, which will now be undertaken.

b. Democratic Law-making

The pluralising constitution idea maintains that it is important to inherit the virtue of rights protection from legal constitutionalism without taking its elitist inclination. Political constitutionalism brings important insights about how to improve democratic law-making. At this point, the dangers of "unchecked liberalism" sliding into "oligarchy or technocracy" that has been signposted by Berman is important to be revisited (Berman, 2017). Along the lines with Berman, Tully has demonstrated that the historical application of Western constitutionalism provides proofs for this assumption: Western constitutionalism embodied the "imperial yoke, galling the necks of the culturally diverse citizenry" in the name of creating "one national narrative" by "excluding or assimilating all others" (Tully, 1995: 5; 7). Thus, being aware of the danger of "unchecked liberalism," the Muslim democracy framework affirms that it is not the elite, or elitist mechanisms like judicial review, but the universal moral standards of human dignity that prevails in the idea of pluralising constitutionalism.

On this matter, within the pluralising constitution idea, universally agreed upon minimal human rights are not considered antithetical to the idea of democratic law-making. Quite the opposite, it is assumed that "when human rights are modest standards they leave most legal and policy matters open to democratic decision-making at the national and local levels" (Nickel, 2017). In national designs, minimal human rights

provide general democratic principles while opening up an ample space to accommodate cultural and institutional variation in different contexts. In other words, universally agreed upon minimal human rights standards permit “the different spiritual families” to have “a voice in the determination of the rules by which they will live” to create their own model of a framework for the relationship of the religious and the secular. This would be relative to their social context and their time respectively as situations “require different kinds of concrete realisation of agreed general [universal] principles” (Taylor, 2008: xii-xvii).

It is important to acknowledge that “the consolidation of democratic institutions” can only be permitted by “popularly recognized constitutions” uniting political fractions (Fadel, 2013a: 647). For a constitution to gain broad recognition, it has to reflect the reaching of common good and national constitutional values as a result of the effective public deliberation. In democratic politics, everyone and every view is expected to engage “in the public dialogues and negotiations”—based on principles of tolerance, reconciliation, and respect—on issues that concern their lives (Tully, 2008a: 160). Here, political constitutionalism is a crucial aspect of this democratic governance. On the other side, one has to accept that a constitution does not have the miraculous power to solve the problems emerging from the natural process of social life. Yet it should have the approach to reflect democratic inclusiveness and equality for all and to improve the resolution of problems through pluralistic ethos and inclusionary means (Yazıcı, 2011: 267). The social public sphere provides democratic mechanisms necessary for the participatory processes of this democratic law-making as maintained by constitutional safeguards. In fact, the term “pluralising” is consciously chosen to refer to the dynamic and progressive character of the constitution in view of providing solutions to address the necessities of the social, political, and economic realms.

In brief, a pluralising constitution idea has proposed that legal constraints in safeguarding non-contestable constitutional rights have to be in place, regardless of the views of the majority. A minimal morality that has been manifested in instruments of democratic toleration, negative freedoms (or basic human rights), which make the shared normativity of the democratic system, are also legally imposed. Other than that, constitutional issues should not be left to the elite but should be open to public deliberation as a democratic process (Rahman, 1994: 94). Essentially, all democracies do

not necessarily share identical constitutional provisions. But in all of them, no way of life is persecuted, political opposition is well established, every citizen enjoys an equal share of rights and freedoms, and democratic channels are open as dynamic processes. Therefore, the constitutional guarantees in turn can maintain democratic law-making and accommodate different jurisdictional arrangements. The next sub-section will undertake the conceptualisation of jurisdictional specialities within the context of the Muslim democracy framework.

c. Jurisdictional Pluralism for Groups in Private Law

The majority of Muslim thinkers examined in this work indicated that “[f]or a Muslim, the desire to live according to the divine law [*sharī‘a*] never diminishes” (Bulaç, 1998: 177). In fact, reliable data collected by a Pew Research Centre survey in 39 countries measuring Muslim’s support of *sharī‘a* law showed that a majority in 26 of these countries favoured *sharī‘a* to be the main source of legislation and believed it should be implemented for Muslim people as official public law. When asked about the specific instituting of private *sharī‘a* in the domestic civil sphere, the support was considerably higher in all those countries (Lugo et al., 2013). Even in Western states, studies show that a substantial number of Muslims bring family and financial disputes to *sharī‘a* arbitration, even when they operate in an informal manner (Turner, 2011: 320).

In order to address this sophisticated nature of religiously motivated everyday life, multiculturalist theorists like Shachar and Bader have maintained that the followers of organised faiths who have distinct societal needs require different multicultural techniques of accommodation. Especially for religions like Islam and Judaism, which have their own jurisdictional codes, they argue that multicultural accommodation would require inclusive legal methods. Like this, the former Archbishop of Canterbury, Professor Robin Williams of Cambridge, has specified the liberal, secular state’s limitations in solely defining a universal account of citizenship and authorising the whole structure of law. Alternatively, Williams suggested that democracies should recognise that people do have multiple affiliations and various modes of belonging, whether political, religious, or cultural. This would require a formal inclusion of a circulation of different normative and legal systems when dealing with the actual life of the citizenry. For Muslims, Williams expresses, God is the ultimate source of justice, and *sharī‘a* sets certain moral obligations and limits to human action to live an ethical life

and gain God's blessing. Thus, inhibiting Muslims' connection with *sharī'a* would delimit their autonomy for a good life. Accordingly, Williams has argued that it is important for a democratic state to give space to Muslims in their social life to abide by their comprehensive religious views (Williams, 2008). Williams refers to Shachar and others in deliberating that jurisdictional accommodation of religious law is not only a democratic right that should be given to minority groups, but a stipulation for Muslim populations to embrace Western states (Kalanges, 2014: 280; el-Fadl, 2001: 150).

Accordingly, Western and Muslim intellectuals have engaged with the issue of whether Islamic legal norms should have some form of legitimacy in the modern state. Institutional and legal pluralists as well as revivalists have suggested that in morally diverse societies, equality can only be acquired through pluralist institutional designs with a specific emphasis on jurisdictional matters. Jurisdictional pluralism has been discussed at length in the chapter on multiculturalism, which addresses religion-based collective demands under a well-developed institutional structure. Jurisdictional pluralism can be broadly defined as a regulated, interactive, and cooperative arrangement among different jurisdictional mechanisms (Shachar, 2008: 147). It is based on "shared responsibility and obligations," which are grounded in an interaction between "an uneasy amalgam of secular and religious traditions" (Shachar, 2009: 138). Under the coordinated functioning of state and religious jurisdictions, as previously explained, religious jurisdictions would have a permitted autonomous place for arbitration. Within the notion of jurisdictional pluralism for groups in private law, the process of this coordination between the religious and secular authorities should be organised through clear criteria and boundaries. For instance, which matters are subject to which jurisdictions, which arenas are concurrently shared by civil and religious jurisdictions, and what would be the conditions to swift jurisdictions consensually are issues that jurisdictional pluralism theorists like Shachar have underscored in the second chapter on multiculturalism.

Under jurisdictional pluralism within the context of Muslim democracy, *sharī'a* is brought into play not at the constitutional level but in jurisdictional terms involving semi-public/private law. The private jurisdictional freedoms discussed by theorists like Shachar and Bader "are mostly outside the scope of legislation in Western countries" and do not threaten the democratic political establishment (Berger, 2013: 11). These

freedoms involve broader legal rights for people with organised onto-ethical normative systems and do not include separate legal systems. For instance, Bader argues that jurisdictional pluralism should not be constitutionalised “prescribing definitive specified institutions” that in turn can create a “rigid” and “inflexible” system giving uncontrollable power to group leadership. Constitutionalised jurisdictional pluralism is feared to foster authoritarian leadership of religious or customary authorities infringing the rights of individual group members (Bader, 2003c: 285). Shachar and Bader have accordingly emphasised that their models differ from legal pluralist models, which have provided an alternative form of justice to constitutional law as previously discussed in the second chapter. Rather, their models offer a more comprehensive notion of dispute resolution mechanism that accommodates various normative commitments.

Here, jurisdictional pluralism indicates recognising third-party arbitration of *sharī‘a* institutions in the settlement of private law issues alongside the state courts, where litigants would be given the ability to engage in choice over jurisdictions. As a matter of fact:

these institutions, known as *sharī‘a* boards, courts, councils or tribunals, may be integrated into the formal judiciary system (as is the case in Greece)...or may operate between formal and informal domains by means of arbitration (as in the United Kingdom and, until 2007, in Ontario, Canada) (Berger, 2013: 14).

Individuals are given the channels to appeal to the desired arbitral institution, which s/he believes to have the best judgment or to best serve his/her interests. Litigants are not being limited to a certain tribunal based on their ethnic, religious, or cultural belongings (Shachar, 2008: 124). In terms of family law matters, “[the] couple voluntarily delegates jurisdiction over their marriage to a chosen religious institution,” “which would apply religious law” so long as it conforms to “minimal norms of [a] liberal democratic society” (Crane, 2005: 1253). In these frameworks, the state’s role in [religious] marriage would be limited “to enforcing contracts between private parties,” impartially mediating between opposing parties, and safeguarding human rights and individual autonomy (Crane, 2005: 1252).

On this matter, Shachar clearly signifies the democratic checks and balances and state supervision in jurisdictional pluralist arrangements. She explains that family law issues have two functions: demarcation and distribution. The religious authority may

prevail over demarcating aspects, which regulates marital status, but state law supersedes religious law in issues regarding distributive aspects. She specifies that the balance is to protect the distinct characteristics and values of the family for a given religion while ensuring the implementation of the universal value of equality (e.g., distribution of assets and duties in a reasonable way within the context of the cases) (Shachar, 2009: 119-121, 130). Mohammad Fadel, on the other hand, claims that some Muslims would still prefer to follow traditional rules of Islamic law, though it may be discriminatory, departing from the equality principle. But he believes that such departures can still be accommodated as long as there is no involvement of a coercive power impacting individual decision-making. For example, in the case of Islamic inheritance law, if women are willing to take half of their male relatives' share, given the legal right to take the equal amount, Fadel suggests that it should be treated as a matter of personal choice. In liberalism, he asserts, an individual's voluntary and rational opting out from the equality principle and consciously resetting his/her choices heading to non-egalitarian outcomes is evaluated under personal autonomy and does "not raise a political concern," as long as they are not coerced by an authority (Fadel, 2007: 3).

Here, it is important to reemphasise that the multiculturalism literature undertakes jurisdictional pluralism within the context of established Western democracies as part of the minority rights discourse. The recognition of religious arbitration as part of democratic politics takes place where Muslim minorities do not have sufficient political and economic power or historical or modern claims (except some radical jihadists) to challenge state power or replace/reshape the governing apparatus. Besides, in the West, "applying and enforcing shari'a is mostly a matter of voluntary willingness to submit to these rules," which fits with the ideals of democratic associationalism and social public sphere (Berger, 2013: 14). Multiculturalist theorists have demonstrated that in well-ordered constitutional democracies, strong democratic mechanisms and norms can afford the necessary conditions for jurisdictional pluralism to be maintained. In these societies, (restricted) jurisdictional autonomy can be managed to work within an enduring social unity, inclusive communication, and a strong commitment to human rights.

However, it should be noted that to implement jurisdictional pluralism where democratic institutions are not yet consolidated raises some other fundamental issues in

mediating the accommodation of jurisdictional pluralism and protection of individual liberties. Even more importantly, in Muslim-majority societies where *sharī'a* is not only about a way of social life, but has a lot to do with political or ideological claims to restructure the public design and the state, this mediation is more perplexing. On this matter, two issues are to be tackled on formalising certain aspects of *sharī'a* arbitration within the context of Muslim democracy. First, the challenge resides in how jurisdictional arrangements can be crafted in way that does not favour one particular interpretation (the one upheld by the dominant religious group) and undermine or suppress other views in both theory and practice (Emon, 2008: 259). Second, besides the mechanisms providing a choice to citizens between religious and secular jurisdictions, measures to safeguard the autonomy and rights of vulnerable members against the peer pressure generated within conservative communities to follow religious law should be taken. In fact, balancing religious rights with fundamental human rights is a challenging task, which is even trickier when it comes to the Muslim democracy idea. The rest of this section will continue with addressing these concerns with greater theoretical rigour.

A detailed analysis of Muslim political thought has demonstrated unequivocally that *sharī'a* has an undeniable importance in many believers' lives as "the source of a religiously sanctioned normative system" (An-Na'im: 1999: 29). All the Muslim thinkers examined in this work have acknowledged the importance of recognising Islamic norms especially with regards to personal/family law. Most named the necessity for different configurations of democracy with different public institutional frameworks recognising the public role of *sharī'a*. Yet based on a deep investigation of the ideas of these intellectuals, this project has reached two conclusions that make instituting *sharī'a* as a formal code of law inadvisable. First, *sharī'a* "means different things to different people [at different times and contexts], even amongst practising Muslims" (An-Na'im: 1987: 334). As modernists and progressives like An-Na'im and el-Fadl have aptly explained, enforcement of uniform moral standards and legislation in the name of divine standards will often be based on one school of jurisprudence or a state's own interpretation of *sharī'a*. Nonetheless, al-Jabri elaborates that *sharī'a* is the absolute and divine truth but it will always be understood contingently and applied relatively by imperfect humans, which for him is the natural course. Al-Jabri perceives the world as a test to understand and put the ideals in practice. Thus, he insists that God does not expect humans to fully actualise and implement *sharī'a*: a full application of *sharī'a* is utopian (2009: 94).

Second, An-Na'im argues that religious conviction can only be meaningful when there is a free choice between freedom of belief and freedom of disbelief as well as freedom of interpretation and practice. Constitutionalisation of *sharī'a* would mean compelling religious observation, which in turn would terminate human autonomy and the conscious and rational ability to understand the divine and reflect it spiritually and materially (An-Na'im, 2008: 3-4). Therefore, constitutionalisation of *sharī'a* or the state's endorsement of *sharī'a* is believed to be "a recipe for inviting dissent, inevitable disaster, and a clear attempt at suppressing diversity and plurality" (Sardar, 2013). Accordingly, it is almost impossible for Muslims to agree on legalising Islamic principles within different spheres of law, as there has been no single and fully accepted version of Islamic law. Rather, enforcing the *sharī'a*, as a moral discourse, at the hands of the state creates totalitarianism.

Like the institutionalist pluralist strand of multiculturalist thought, Muslim democracy as conceptualised in this project also opposes the constitutional incorporation of *sharī'a*. *Sharī'a* cannot provide constitutional law, both public and private, and those who advocate for otherwise are "in an irredeemable state of denial" (Hallaq, 2004: 22). As An-Na'im states, public *sharī'a* is "both morally indefensible and practically impossible to maintain today" (1987: 318). He explains that law "should not be founded on sharia" as "like all aspects of the legal system of each country, family law is an articulation of the political will of the state, and not on the will of God" (An-Na'im, 2002a: 20).²⁹ Although *sharī'a* cannot be a positive law or a set of rules, An-Na'im emphasises, for Muslims *sharī'a* is perceived to be the principles and the way to understand and practise religion. Thus, unlike public *sharī'a*, "[p]rivate sharia of family law and devotional rites" will continue to be sustained by Muslim people, which needs to be seen as a personal right and freedom under democracies (An-Na'im, 1987: 318).

As highlighted by the multiculturalism literature, there will always be Muslim communities who are keen to pursue their social lives according to what they consider as *sharī'a* even if it is unauthorised or underground. A traditional version of *sharī'a*, which "permits (indeed, in many cases, mandates) discrimination by religion and gender" is

²⁹ Although modern Islamist ideologues proposed the enactment of *sharī'a*, the leading classical Muslim jurists in fact "protested against their own school being adopted as the state canon of their time" (Ibrahim, 2006: 11).

likely to have more appeal within orthodox communities (Fadel, 2007: 4). The individuals within these communities can choose to exercise their autonomy by self-consciously opting for a life that may confine their given civil rights and freedoms for higher devotions. However, the argument that the *sharī'a* practices are already taking place outside of the regulations of the state and, thus, that formalisation of jurisdictional pluralism would be more effective to protect vulnerable insiders such as women, is incomplete. The state's responsibility is not to legalise the de facto, but to support democratising the de facto. Therefore, the nature and content of jurisdictional pluralism is very crucial: First of all, jurisdictional pluralism should promote transformativeness, which helps contemporary reinterpretations of Islam to eliminate legal and political discrimination against other Muslims, especially women, and non-Muslim citizens. Certain aspects of traditional *sharī'a* has to be revised under the processes explained in social Islam for Muslims to engage with *sharī'a*'s moral capacity to develop a broad consensus on universal human rights. When talking about religious reformation, it is essential to understand that discriminatory rules of traditional *sharī'a* do come from a historical and gradual production of certain interpretations of the Qur'an, hadith as well as "extra- textual universalist Islamic ethos" within the conjecture of a time of conquest expansion and identity formation (Emon, 2008: 272). Traditional *sharī'a* today negates the fact that *sharī'a* constitutes diverse understandings on social normativity. Instead, it is inclined to function as an absolutist, penalising, and corrective force hostile to human reason and dignity.

One possible method in this religious reformation is suggested by An-Na'im through the theory of abrogation, which addresses how convictions about *sharī'a* can be geared to uphold basic human dignity so that Muslims can meaningfully engage in developing just, representative, inclusive, and pluralistic governance. The theory of abrogation, which An-Na'im suggests implementing, prioritises the Meccan verses of the Qur'an as the eternal ideals while viewing Madinan ones as context specific and time-bound implications of these ideals (1987: 334).³⁰ As opposed to strict dogmatism and

³⁰ Progressive scholars advocate for the theory of abrogation, which was famously proposed by the late Sudanese intellectual Muhammad Taha, the teacher and mentor of Abdullahi Ahmad An-Na'im. The theory of abrogation argues that the Meccan period of revelation exhibits the principles of faith and the normative system of justice, freedom, and equality as universal Islamic principles for all ages and contexts (An-Na'im, 1987: 334). Yet the Madinan phase emphasising "law, order, and obedience" evinces their

literalism, this theory differentiates between the ideals and the means and it asserts that with such a method one can find human rights and equal rights of men and women. Similar to An-Na'im, al-Jabri also suggests that the "soul" of the Qur'an is justice and "one should re-interpret all *sharī'a*-rules in terms of justice" based on the context, time, and conditions to actualise justice (Berger, 2016: 342). Under the idea of the hierarchy of Qur'anic principles, where justice is considered the most essential one, *sharī'a* is suggested to function as "a useful source of inspiration for the promotion of human rights and the rule of law" (Otto, 2011: 76). An-Na'im defines this process as the reformation "under shariah that would be both Islamic and consistent with universal human rights standards" (1987: 17). This mass level reformation of doctrinally based non-democratic religious thought and practice could be achieved through the processes explained in social Islam. Social Islam can indicate the process of fostering *sharī'a*'s moral capacity for justice and pluralism to facilitate a civic language in line with universal human rights as the normative common ground with diverse others.

Developing human rights-concordant accounts of *sharī'a* does not mean Muslims have a presumptive moral obligation to endorse or cherish what they may ontologically view as heterodoxy. It rather means the interpretations of *sharī'a* to support democratic toleration as the normative basis of the political community by recognising everyone's right to live a good life within the framework of a constitutional order based on human rights. This entails commitments to equal citizenship, individual liberties, human dignity, civility, respect, and a right to a self-directed life. In other words, developing human rights-consistent *sharī'a* is not forcing Islamic comprehensive views to reconcile their truth-claims with other worldviews. Rather, it is endorsing a moral duty to uphold shared democratic normativity, civic virtues, and the ethos of pluralism within the political community. In fact, until civic toleration is consolidated, the notion of Islam

applications in the particular seventh century Arabian socio-cultural context and cannot be taken as universal (Zayd, 2006: 87). Progressives believe that the *sharī'a* we have today is actually a later codification of the Madinan period, which historically concealed the importance of the eternal message of the Mecca phase. That position causes them to oppose codified *sharī'a* in favour of viewing *sharī'a* as only normative principles and morals envisioning personal piety and good manners. This trend of Islamic thought rejects the idea of the Qur'an and *sunna* prescribing any form of political system, offering solutions to political matters, or presenting a set of positive legal rules.

being morally compatible with democracy has no real-world value, which is an important appreciation that the CA has downplayed.

Moreover, democratic consolidation requires placing greater emphasis on “learning” procedures within civil society (Held, 2007: 233). Thus, the Muslim democracy idea has underlined that there should not be a body of clerics or an institution that has a monopoly on a binding account of *sharī‘a*. Codification of *sharī‘a* would be inconsistent with its divine nature and can make it prone to abuse by those who are given legal authorities. The dissenting views can easily be dubbed apostasy and criminalised under the hierarchical religious systems if *sharī‘a* was legislated. It is fundamental that the interpretation and social functions of private *sharī‘a*, as a source of comprehensive normative authority, is left to the civil society forces so that it cannot be fashioned or enforced by a coercive power of formal legal authorities, religious or state (An-Na‘im, 2008: 6-10). Essentially, until and unless *sharī‘a* is no longer monopolised by formal authorities and moved to the realm of public deliberation and the mechanisms under social public sphere, “pluralism and democracy remain in jeopardy” in the Muslim world (Kramer, 1993: 7-8).

As demonstrated in the previous section, the social public sphere idea welcomes religion’s existence in the public life of the community of believers and politics, where religious convictions at the hands of individual moral agents are hoped to take a more reformed route. The social public sphere permits Muslims to live what they morally and rationally choose as a good life. In this model, socially, *sharī‘a* belongs to civil society associations that people voluntarily become part of. Thus, it is important to note that pluralist secularism, social public sphere, and pluralising constitution are the three formative structural components of the Muslim democracy idea, systematically and normatively reinforce and maintain one another in consolidating a full-fledged democracy. It has been argued throughout this chapter that a broad consensus on human rights and democratic toleration should be the normative background of the democratic system, which requires a mass level religious reformation. However, normative social change cannot be acquired without normative change in the political structural system. Shachar calls this “a renovating and reinvigorating of both secular and religious traditions” (2009: 139).

In terms of institutional reforms, for jurisdictional pluralism to take root, both multiculturalist and Muslim thinkers have pinpointed the all-pervasive role of the state preventing democratisation. In order for private *sharīʿa* “to have its proper positive and enlightening role in the lives of Muslims and Islamic societies,” An-Naʿim insisted that the institutional separation of Islam and the state is indispensable (2008: 4). However, due to the absolutist and moralising capacity of the state, most Muslim societies never had an opportunity to debate what is *sharīʿa* in a free and critical space and develop informed and reasonable judgments. Here, pluralist secularism and its account of a morally minimalist state are critical to understand the substance of the mechanisms under which the institutionalisation of moral pluralism can be facilitated. The non-philosophical idea of a secular state based on minimal human rights can provide a sufficient environment for jurisdictional pluralism to materialise and can also function as an overarching authority in its control. In Muslim democracy, the judicial authority of *sharīʿa* is taken away from the *ulama* and state apparatus to the civil society of the lay Muslims. Meanwhile, due to the deliberative and contestatory mechanisms provided in the social public sphere and safeguarded by the constitution, the Muslim democracy framework promotes “an effective, non-coercive encouragement of more egalitarian and reformist changes from within the [Islamic] tradition itself” (Shachar, 2016: 327). One of the most salient aspects of Muslim democracy is the reformative power within the social public sphere in undermining traditionally undemocratic orthodoxies. With the opening up of the public sphere for meaningful debate, more progressive understandings of Islam and the normative willingness of Muslims to share the public domain with non-Islamic forces as equally recognised elements is hoped to develop. A qualified recognition of public religious freedoms by a pluralist secular state is believed to foster proactive rethinking of classical *sharīʿa* through social mechanisms (Saeed, 2013: 252). Consequently, a consensus for a principled reconciliation of Islamic comprehensive views and democracy can be geared to meet a broad consensus on universal human rights.

Largely, the jurisdictional pluralism idea acknowledges that *sharīʿa* is a collective demand for Muslim populations. Democracies have to take this demand seriously with a view to provide effective rights and freedoms for individuals who voluntarily want to follow *sharīʿa*-inspired accounts of a good life. As opposed to the understandings of *sharīʿa* as “a source of codification” or “a driving source of morality in the public

domain,” the Muslim democracy framework has defined *sharī‘a* as “a source of normativity in the private domain” (Berger, 2014: 223). Outlining *sharī‘a* as “a code of conduct for the every day life of the Muslim” in this work had a clear implication for the question of what field of human interaction and through which measures should *sharī‘a* govern for Muslims to live what they consider a good life (Berger, 2006: 2).

In the Muslim democracy framework, jurisdictional pluralism is conceptualised as arbitration, which is related to the idea of limited executive government and extended associational freedoms of the civil society as demonstrated in the previous sections. In arbitration, individuals opt for and agree on terms of private dispute resolution while the state puts the provisions and the terms of jurisdictional pluralism. It is important to note that jurisdictional pluralism within the Muslim democracy framework is not limited to *sharī‘a*, but includes all normative systems (cultural or religious) with jurisdictional aspects. Majority and minority religions and cultures can form their own civil society associations and apply for formalising their arbitration procedures. Civil society organisations act as an impartial third party in which religious experts and scholars can work as arbitrators on the issues of private law. Parties choose their arbitrator(s) whom they think will best serve their interests or whom they believe will best understand and reflect their positions. Although arbitration is voluntary, it is binding if the two parties agree. In circumstances where parties feel disadvantaged or discriminated, the option for appeal to state courts is always open and a court may vacate a decision of arbitration. Arbitration is only subject to state intervention if fundamental human rights and freedoms need to be safeguarded.

Jurisdictional pluralism here is conceptualised as a form of private conflict resolution in order to accommodate the rights claims of *sharī‘a*-minded Muslims as well as minority religions and cultures with distinct jurisdictional identities. Arbitration is not an alternative court or legislation. Bringing private *sharī‘a* into play through arbitration, rather than legal pluralist arrangements, is believed to be the most effective method to accommodate *sharī‘a* as “a code of conduct for the every day life of the Muslim” (Berger, 2014: 223). The voluntary basis of arbitration permits *sharī‘a* to be adhered to by individual volition and conviction and prevents its imposition by a coercive force. In addition, this model can potentially prevent certain Islamic moral doctrines to exert moralising force upon other Islamic and non-Islamic norms and practices. Essentially,

under the general thinking on Muslim democracy, this project only considered broader legal rights to arbitration rather than blueprint specific schemes, as Shachar informs that institutional proposals can be proposed only about already existing contexts of each society (2009: 133-134).³¹

Overall, jurisdictional pluralism includes both a degree of judicial independence and firm democratic restrictions on civil society organisations. This framework promotes identity group interests, but also provides realistic and practical guarantees of basic human rights and democratic standards (Bader: 1996: 606). Accordingly, jurisdictional protection of human rights, an independent judiciary, and a shared commitment to diversity should be the normative basis of jurisdictional pluralism. As such, it can placate concerns derived from the CA. In essence, when political and legal requirements of a robust constitutional democracy are firmly in place, protection of the rights of religious and cultural minorities is possible with the accommodation of institutional and jurisdictional pluralism.

4. Concluding Remarks

As the CA has revealed, achieving the balance between the principles of majority rule and protection of human rights is the greatest task facing Muslim societies. The question then becomes how could one form a pluralistic democratic system in Muslim societies, where (i) different interpretations and schools of Islam reside with un-Islamic and non-Islamic ways of life; (ii) Islamic comprehensive moral views as the dominant normativity have political and public claims; and (iii) electoralisation has happened yet institutions are not robust enough to maintain democratic benchmarks.

In fact, if one thinks about the pliability and fragility of the electoral democracies, it becomes clear that “no matter how free and fair the elections and no matter how large the government’s majority, democracy must also have a constitution that itself is democratic in that it respects fundamental liberties and offers considerable protections

³¹ In Muslim-majority countries like Turkey, Indonesia, Kazakhstan, and Lebanon, *shari‘a* is not constitutionalised while in societies like Pakistan, Iran, and the Maldives, *shari‘a* is a primary source of the constitution. The issue of jurisdictional pluralism would take an entirely different route in these two clusters of countries as well as in each specific country based on the already existing institutional designs (Ahmed and Gouda, 2014: 51).

for minority rights” as well as maintains equality of rights, treatment before law, mechanisms to check the executive, and separation of powers (Stephen, 2000: 39). The Muslim democracy framework has benefited from the two main schools of thought regarding the relationship between the constitution and democracy: Legal constitutionalism and political constitutionalism. Legal constitutionalism has underlined the importance of legal protections and limited some aspects of constitutional debate to the free participation of citizens in order to protect inalienable rights for all. The political constitutionalism idea has suggested that democratic instruments outperform constitutional provisions in providing mechanisms for building consensus in reaching a shared good.

Drawing from both theories on constitutionalism, this section has argued that it is at the constitutional level that the potential problem of dominant moral discourses exerting oppressive political power has to be addressed, through a commitment to a comprehensive set of democratic principles. A pluralising constitution as conceptualised by this work has three founding principles, namely legally enforced inalienable human rights, democratic law-making, and jurisdictional pluralism. The pluralising constitution idea affirms that there will always be social, cultural, and political particularities to any constitution; however, there is to be some non-negotiable, non-contested norms for domestic protection of human rights in constitutional democracies. When civic relationships, democratic toleration, and public negotiations slip or break down to reconcile conflicts, “human rights are important [legal] instruments for the vulnerable to protect themselves against exploitation and harm from powerful actors, particularly the state” (Chan, 2014: 197). Within the context of the Muslim democracy framework, the pluralising constitution is conceptualised with a view to keep the wisdom of the past to prevent the worst and balance this with the needs and demands of today to aspire the best. Universal human rights as the incontestable moral background of a constitution both provides safeguards against unlimited state power and arbitrary majority rule as raised by constitutional pluralism, as well as respecting the democratic law-making and moral and jurisdictional pluralism as emphasised by democratic constitutionalism and multiculturalism.

V. Conclusion on the Conceptualisation of Muslim Democracy

There have been several attempts to develop some understanding of Muslim democracy, but these somehow fell short of offering normatively rigorous and conceptually systematic political theories. This thesis attempts to fill this gap by providing a comprehensive framework for Muslim democracy through a cross-cultural theoretical approach. In particular, this chapter has explored the question of how we can conceptualise Muslim democracy so that it can accommodate public Islamic claims more effectively than the liberal and republican models while still upholding the recognition of normative and practical principles of democracy as successfully as these models do. It has tried to identify the most important factors and areas that need to be examined and re-conceptualised from within the field of democratic theory in general and the political experiences of states with Muslim majorities in particular. In this manner, Muslim democracy as theorised in this project has brought an alternative perspective on the compatibility debate by offering a systematic and principled understanding of the key parameters of Muslim democracy without shying away from openly acknowledging the real tensions ahead of genuine democratic transitions. Thus, this project starts with the recognition that Islam and democracy are compatible, not end with it.

Accordingly, the idea of Muslim democracy in this project has addressed the tensions revolving around issues such as minority rights, personal freedoms, human rights, and religious morality to support developing normative commitments to democracy. It has explored tensions and disagreements that constitute the stumbling blocks towards democratic consolidation and adjudicated on the debates towards normative solutions acceptable to all sides. Diverse viewpoints were brought into productive contact to create a new framework that would theoretically balance a set of democratic principles and Islamic practices. It has scrutinised in a systematic fashion the three key areas that are crucial for the successful implementation of a Muslim democracy: secularism, the public sphere, and the constitution. For each of these areas, I have assessed the two most important models or theories that already exist and then proposed an alternative model that selectively integrates their respective strengths in a more nuanced, complementary manner. As a result, this chapter has reconstructed the liberal democratic institutions of secularism, public sphere, and constitutionalism by

redefining their roles and functions in a way that further pluralises these institutions and strengthens them to resourcefully accommodate expressions of religion within predominantly Muslim contexts. In this manner, Muslim democracy, as conceptualised in this work, is a discourse focused on a conceptual resolution that engages institutions (pluralist secularism), interactions (social public sphere), and rights (constitutional provisions).

To begin with, pluralist secularism addresses the precise institutional development that democratic transition needs. The new concept of pluralist secularism offers a theoretical account of the institutional underpinning of democratic consolidation within Muslim democracy. It advances a new form of secularism that is applicable to Muslim societies by allowing the relationship between religion and state “to succeed in arriving at a satisfactory and amicable settlement with democracy” (Bahlul, 2004: 103). Pluralist secularism aims to guarantee the state’s impartiality towards all normative systems through the state’s moral minimalism, or the separation of particular comprehensive moral and ideological systems from the state while still recognising the political roles and implications of citizens’ different accounts of ontological morality and definitions of a good life. In other words, this is about dissociating of religious authority, absolutist truths, and divine morality from government while letting the religious reference be part of politics.

The idea of a morally minimalist state thus provides the conceptual tools to distinguish between civil society politics and the government, that is, between the social public sphere and the state public sphere. The social public sphere is identified as a distinct form of a political public sphere allocated for civil society politics. It is unique relative to other democratic public space structures due to its capacity to adapt to the role of religion in civil society. It also reflects the morally minimalist state in acknowledging its limits to deal with the communal experience of all societies. In the Muslim democracy idea, religious claims arising from the value of freedom of conscience rather than religious authority are considered as legitimate sources for public policy-making. Thus, in the social public sphere, Muslims are given public accessibility and autonomy to follow Islam as a comprehensive moral view guiding an ethical life. Yet no comprehensive moral doctrine can exert social or political influence on people who do not voluntarily comply with it. This idea of balancing the rights to normative differences

and personal freedoms has in turn led to the designation of collective rights that bring about the sharing of some administrative duties between secular state institutions and non-state organisations. As a form of multicultural accommodation, these collective rights also include granting institutional and jurisdictional functions to religion and culture, enabling a structural reformation of the liberal political institutions towards more inclusive ends.

Pluralist secularism focuses on the systematic and systemic changes that should happen for democratic consolidation to occur. Yet democratic development also needs normative change and bottom-up construction that should engender a shared moral consent to democracy. This unfolds in the second area discussed in this chapter, or the public sphere, with its transformation of forms, values, and interactions towards the principles of democracy. Here, the conceptualisation of social Islam demonstrates the processes of religious reformation through which Muslim communities understand their relationship with other citizens in the context of modern pluralistic society. Social Islam is an enterprise of mass level reformation of doctrinally based non-democratic religious thought and practice towards civility, negotiation, compromise, toleration, and pluralism. It also demonstrates the circumstances under which political religious participation can be democratic. The concept of democratic toleration further explains the nature of the value change establishing the normative foundation of the social public sphere. Democratic toleration affirms that although in constitutional democracies people might have different and even conflicting doctrines of philosophical truth and moral theories, they can still agree on the shared good and form an overlapping consensus within the political realm (Fadel, 2013b: 1267).

In Muslims societies, due to a totalising potential of religion and its relation to political systems, the public is believed to prioritise deep normative commitments to religious comprehensive moral doctrines, and thus the implementation of a secular government, public sphere, and constitutionalism as has evolved in Western democracies is thought to be next to impossible (Gellner, 1992; 1997). However, the section on the social public sphere demonstrates that even people who subscribe to ontologically different ethics and moral attitudes can develop democratic toleration and an understanding of the shared good. The social public sphere is the terrain where people can meaningfully engage with both deeply held religious beliefs and democratic values,

allowing for a political organisation where Muslims who are committed to follow *sharī'a* can be equally committed to the ethos of pluralism and the principles of democracy. Overall, the section on the social public sphere has explained the processes by which consensus on a moral internalisation of democracy and moral commitment to the democratic political community is developed as the necessary conditions for democratisation to succeed.

Democracy can flourish in an environment where governmental structures and collective moral understandings evolve into a more pluralist and inclusive direction. But democratic consolidation goes beyond institutions and interactions; neither secularism nor the public sphere can succeed without constitutional safeguards of rights, including human rights, individual rights, and minority rights. In a democracy, a constitution ensures the possibility of open access to opportunities for independent value formation, free public debate, and diverse public choices and mechanisms to safeguard everyone's right to have these opportunities. The third section has accordingly addressed the conceptualisation of a pluralising constitution. The idea of a pluralising constitution has acknowledged that there are no thick standards of the good and the reasonable, which may differ from one society and individual to another. Yet societies can agree on thin, universal normative benchmarks of rights and their universal protection. Therefore, regardless of the consensus of the majority, there need to be non-voluntaristic constitutional guarantees for unconditional justice and human rights for everyone irrespective of religious, ethnic, cultural, political, or ideological identities or socio-economic status, gender, sexual orientation, or physical abilities. In addition, as opposed to the elitism within legal pluralism, a pluralising constitution defends the democratic functions of law-making, where platforms for well-informed debates are available for all sections of the society. However, under morally diverse societies, a constitution can still be unable to reliably address the moral and political needs of the entire citizenry. Therefore, a democratic constitution can also share jurisdictional power with other authorities as a form of arbitration. Here, private *sharī'a*, a comprehensive moral view, can have a jurisdictional role to guide its followers for an ethical life with voluntary compliance. In this context, recognising the importance of *sharī'a* to Muslim people does not mean the state is to recognise a particular understanding of religious normativity or engage in promoting it whether morally or institutionally. The functions of *sharī'a* are limited to certain aspects of private law as bounded with the principles of human rights

and democratic toleration. In fact, the option for *sharīʿa* arbitration can greatly contribute in fortifying the idea of democratic toleration, diminishing the demands for the enactment of *sharīʿa* in the form of an Islamic state.

With the construction of pluralist secularism, the social public sphere, and the pluralising constitution, this chapter has demonstrated the necessary institutions, interactions, and rights Muslim democracy has to take on if it is to become a full-fledged democratic political system. Democratic consolidation, as articulated in this chapter, is a multi-faceted and inter-linked process as all these mediums complement and mutually reinforce one another. This project has affirmed that democracy can only function when it is allied with the institutionalisation of political reforms on the level of governance, and it can only survive when it is supported by social internalisation of democratic values at the mass level. Therefore, the idea of transformativeness is the manifestation of moral convergence of norms resulting in value and eventually institutional change and the emergence of conceptual synergy in mutually reinforcing democratic consolidation. It reflects the idea that religion, society, and the state can change over time, and that their positioning in relation to each other is dynamic. The idea of transformativeness has also avoided the epistemological hierarchy implied in the binary relationship between Islam and democracy. It has challenged this hierarchy and considered the flip side of the argument in asking how liberal democracy accommodates culture and religion, and particularly how it accommodates Muslims' private and public goods, rights, needs, and demands.

Briefly, the idea of principled change has three facets: institutional, religious, and social. The development and formation of institutions like political secularism should emerge bottom-up, from organic connection to civil society as a product of value change and religious reformation. Once appropriate institutions are in place, they open up political space and expand democratic channels so that citizens can actively engage with sufficient mechanisms for civic participation and policy-making. This Janus-faced, mutual transformation, in turn, accelerates public negotiation over the roles and functions of religion in politics in a way conducive to both deeper institutional transformation towards the institutionalisation of pluralism and normative transformation towards the shared good. This process includes the indigenisation of democratic toleration, civility, and moral equality as the normative consensus of the political community. In other words, pluralist secularism provides a space for the

formation of social Islam and democratic toleration; meanwhile, it is social Islam and democratic toleration that corroborate a social foundation and environment for pluralist secularism to be consolidated. Essentially, the development of moral consent for democracy guarantees the institutional development and deepening of democracy and the constitutional safeguards guarantee the upkeep and success of democratic channels to include everyone. Together they all constitute a converging cycle of transformation.

This project has developed a new theoretical framework that offers new sets of political values, attitudes, and institutions, which aim to lay a viable foundation of a Muslim democracy within a theoretical framework. This is intended not only for theoretical reconciliation, but also for normative synthesis in order to create a new terminology and categories of analysis. By examining and redefining broad categories of secularism, public sphere, and constitutional provisions, this chapter has developed what are in essence conceptual synergies—those of pluralist secularism; the social, plural public sphere; and pluralising constitutionalism. Accordingly, an alternative coexistence of Islamic substantial demands and democratic politics hortative to the developing of Muslim democracy has been envisaged.

Overall, the articulated modalities of pluralist secularism, social public sphere, and pluralising constitutionalism have presented a more elaborate, coherent, and well-developed terminology with the aim of contributing to the development of a Muslim democracy theory. A principled approach to democracy developed in this framework is drawn up in social processes, institutionalised at the state level, and protected by a constitution. In this model, the institutional changes are supported with normative change, and constitutional safeguards protect the free social conditions for these transformations to take place. Comprehensively and systematically, they offer analytical angles to outline the dilemmas ahead of democratisation in Muslim-majority contexts, in the hope of putting together a more nuanced narrative of the potential for the coexistence of public religiosity and the principles of democracy.

CONCLUSION

I. The Theoretical Framework of Muslim Democracy within the Context of Muslim and Multiculturalist Political Thought

The recent surge of the idea of “Muslim democracy” has largely come out of an attempt to understand and recommend the case of democracy in Turkey. The trend of endorsing the Turkish experience as the ideal model of Muslim democracy has enjoyed broad political and intellectual recognition in the first decade of the 21st Century, especially during and immediately after the Arab Spring, when Turkey was foregrounded as a success to be followed by the other countries in the MENA region.

Not long after the Arab Spring, however, we have confronted the reality that not only did authoritarian Arab republics show resilience against democratisation, but even more subversively the once-acclaimed model of Muslim democracy is now considered as being at risk of turning into a regime categorised as “liberalised authoritarianism,” “electoral authoritarianism,” “majoritarian democracy,” or “unconsolidated democracy” (Cesari, 2104: xv; Pishchikova and Young, 2016: 44). In fact, the very Turkish model itself has cast doubt over the pragmatist and instrumentalist nature of Muslim democracy, proving that the realisation of democratisation will not come from a “practical synthesis” of electoralisation, moderation, and opportunism (Nasr, 2005: 15, 13). If there is one crucial lesson the Turkish model offers to the Muslim world, it is that democratisation has to take on the principles of democracy itself; hence, it has to come from “the realm of theory” not that “of pragmatism” (Nasr, 2005: 25).

The very idea of Muslim democracy has been so far approached in an under-theorised manner, as the Turkish case reveals. The idea of Muslim democracy is in flux; with the lack of normative rigour and conceptual clarity, the term means everything and nothing. The contemporary literature lacks systematic and well-developed theories that offer resolutions to the intrinsic social, political, normative, and institutional issues ahead of democratic consolidation in Muslim societies.

As an attempt to contribute to the literature on Muslim democracy, this project has mainly asked how we can conceptualise a political framework that could reconcile public Islamic claims with the normative and practical demands of fully-fledged democratic regimes. To address this research question, I have developed a viable outline

for Muslim democracy in political theory that can simultaneously retain the principles of democracy—free elections, political secularism, human rights, rule of law, separation of powers, and civil liberties—while effectively dealing with the comprehensive moral doctrines of Muslims and the public needs and demands arising from these doctrines.

This project has primarily turned to Muslim and multicultural political thought in its proposing of a Muslim democracy theory. New developments and previously unanalysed connections and observations on secularism, the public sphere, and the constitution were revealed as a result of these comparative analyses through which this research has produced its own theoretical and analytical toolkit. The interaction between these two genres of literature has offered essential terminology and categories of analysis that help in (re)fashioning a theoretical framework on Muslim democracy with the vision of rendering democracy a better and more conceivable possibility in the Muslim world.

While producing original typologies of Muslim political thought and multiculturalism, I was also able to craft an analytical category of the “compatibility-based arguments” (CA), which helped to further reveal the shared theoretical oversimplifications, incoherence, and reductionism in Muslim political thought in relation to democracy in particular. Through a theoretical lens, the CA has shown that tailoring democracy to fit an Islamic image has limitations. My critique of the CA has highlighted the necessity for a paradigm shift from a jurisprudential/theological theory on Muslim democracy to a political one that offers principled perspectives on the resolution between democratic governance and Islamic comprehensive political views.

In this sense, in creating a more fine-grained theory of democracy, I brought together in a more systemic fashion various types of political philosophies into productive contact to develop an alternative to orthodox liberal theories and the compatibility-based Islamic democracy theories that is more relevant and applicable to Muslim-majority contexts. This comparative political theory approach has enabled the project to employ recent developments in Muslim and multiculturalist political thoughts, as well as some aspects of liberalism and constitutionalism, in order to develop a set of political values, institutions, and normative commitments within a theoretical framework. These efforts have produced together nuanced narratives and more elaborate concepts such as pluralist secularism, the social public sphere, and pluralist

constitutionalism with the view to construct a viable, persuasive, and internally consistent theoretical roadmap.

These three conceptualisations—pluralist secularism, the social public sphere, and pluralist constitutionalism—have brought elements from different genres together that contribute to the development of a political theory of Muslim democracy. First, pluralist secularism has been positioned against the moralising, homogenising, and paternalistic tendencies of both philosophical secularism, which transgresses religious freedoms, and Islamism, which contravenes personal liberties. Second, the social public sphere has formulated new dimensions of the religious sphere in modern democracies, connecting private and public life while safeguarding and underpinning democratic principles of toleration, pluralism, and diversity. Third, pluralist constitutionalism permits space for diverse accounts of moral goods. It aims to improve collective dimensions of human life within the legal context of effectively enforced human rights and negative freedoms, and thus simultaneously to protect individual agency and capacity as well as collective membership. Accordingly, these three theoretical components comprehensively deal with the relationship between religion and democratic governance in a manner that recognises individual believers' right to public life while upholding the indispensable principles of democratic politics. As such, with its methodologically well-developed and systematic political theorisation, this research has departed from existing functionalist, ad hoc Islamic approaches as well as liberal democratic universalism, presenting a theoretical framework that is better suited for democratic consolidation in Muslim-majority contexts.

II. A Convergence Thesis and Its Critics

This dissertation has engaged in outlining an original framework that accommodates the interplay of Muslims' self-expressions of Islam (and the demands that emerge out of this) with democratic political values and institutions. While doing so, this project did not take liberal or Islamic doctrines as fixed points of reference: This thesis did not seek to confer on democracy an Islamic essence or roots, unlike the CA. Instead, the proposed framework takes Islam as part of the solution in transitioning to democracy in order to overcome the perils created by ideological secularism and rejectionist Islamism by engaging with Muslim needs and claims rather than Islamic theology. Nor has this dissertation taken liberalism as an ultimate ethical good in the study of Muslim

democracy, but rather engaged in a constructive and corrective critique of liberalism to accommodate Muslim contexts. As such, this project has worked towards enabling a dialogical interaction, moral synergy, and theoretical convergence of liberal democratic institutions and ethical and political attitudes of Muslim citizens towards democracy in a way that enriches both to render democracy a genuine possibility in Muslim societies.

I have developed an alternative to Nasr's approach. While Nasr envisages a Muslim democracy where institutional restructuring precedes value change, this project focused on a symbiotic relationship between structural and social change, reinforcing and strengthening one another. The processes have been interlinked and allowed their complexities. In my work, institutional and political developments, social interactions, and normative reformations for democratisation have gone hand in hand in construing this Muslim democracy framework.

Recognising that religious norms and convictions influence the formation and development of political and legal institutions in Muslim-majority contexts, this research has affirmed that democratic processes are to take root in philosophical and cognitive levels to form some degree of normative consensus reflecting the principles of democracy. Democratisation only occurs with the creation of democrats who are morally convinced and committed to the processes of democratisation at their various levels. To achieve this normative transformation in the creation of Muslim democrats, Islam's moral capacity to cultivate the internalisation of tolerance, civility, and civic concord has to be taken very seriously. Islam as a religion with multitudes of interpretations leaves considerable room for reconstruction. My framework was able to reconstruct certain moral and political concepts to expressively and normatively justify democracy for Muslims beyond instrumentalism and pragmatism.

My engagement with Islam within the context of political theory and the surrounding ideas developed in this work, especially my endorsement of certain liberal norms and institutions, may meet some resistance on behalf of some Muslims who expect an ontologically distinct theory of Muslim democracy. It is essential for Muslims to develop ontological commitments to normative democratisation. However, developing normative democratisation for Muslims does not necessarily mean that democracy has to be distinctly Islamic. In other words, an ontologically distinct Islamic theory is neither necessary for democratic consolidation in Muslim societies nor is it

really conceivable. Thus, as mentioned in the introduction, this is a theory on Muslim, rather than Islamic, democracy. As we have seen, the idea of a distinct Islamic theory on democracy is theoretically ambiguous, inconsistent, and unsystematic within the multifaceted and numerous Muslim discourses. But more essentially, the romanticism and reductionism within the ideas offered in the CA are likely to exacerbate some of the problems experienced in current Muslim-majority states, like the failure to protect the rights of some minorities as well as the rights of political dissidents.

The place of liberalism in this argument is critical. I believe that for any alternative theorisations on democracy, it is essential to recognise liberalism as an advanced source of political wisdom and of established and successful institutions. The focus of my analysis has, therefore, been to refashion and reconstruct liberal institutions to better fit democracy in Muslim-majority contexts. Accordingly, this framework has not formulated fully new institutions, but rather reformed and enriched liberal ones. Key liberal concepts and values such as the limited state, liberal constitutionalism, political secularism, toleration, and human rights are readjusted and re-appropriated in order to accommodate religious visions of a good life in Muslim-majority states. Essentially, although I have provided a critique of liberal democracy in my thesis, the framework articulated in this work has ended up carrying substantial degrees of similarities to liberal democratic theory rather than being a genuinely distinct Muslim democratic theory that challenges outright liberal democracy.

The nature of this engagement with liberalism and the refashioning of liberal values and institutions may additionally bring two lines of critique from certain circles of Muslim democracy proponents as well as from liberal thinkers. First, in Muslim democracy studies, liberal democracy is criticised for not providing an appropriate theoretical background for Muslim-majority contexts. Other democratic theories such as radical democracy (as theorised by philosophers like Chantal Mouffe and Ernesto Laclau (2001)) are suggested to provide more appropriate formulations for Muslim democracy studies. The radical democracy approach is thought to have a better potential to successfully accommodate the adherents of comprehensive moral doctrines due to its emphasis on egalitarianism, inclusiveness, political renewal, anti-hegemonic power relations, and identity and civil society politics (Little and Lloyd, 2009: 3). In contrast to liberalism's public philosophy of "epistemic abstinence" (Raz, 1990: 3), radical

democracy asserts that in reality liberalism has not necessarily made the shift from 'comprehensive' and 'ontological' to a 'political' justification of liberal ideals (Yenigün, 2013: 104). Yet when it comes to democratic consolidation in Muslim-majority settings, radical democracy may prove practically unfeasible: Unlike liberalism, ideas like radical democracy have not been able to generate robust institutions that have been tested on the ground and their focus on difference rather than reconciliation is not likely to offer the foundations for the stable institutions needed in Muslim-majority countries that face deep civil conflicts. The Muslim democracy framework proposed throughout this work, in contrast, does a better job as it constructs a theory that responds to the realities of both democratisation and Muslim socio-political engagements on the ground, and thus, it effectively addresses the multiple levels, institutions, actors, norms, and interactions that comprehensively constitute Muslim political life and thought.

In addition, the conceptualisation of Muslim democracy in this project may provoke some liberals who may approach the enhanced public roles and functions of religion with suspicion. The idea of democracy where religion has a more institutional and political power, even at the hands of civil society forces, may cause scepticism or resentment from certain liberal circles. They may think that religion operating beyond the private sphere can present a danger to the liberal democratic order fuelling conflict and animosities against the civic accord. Yet the prospect of an Islamist 'backlash' needs also to be borne in mind. It is possible, even perhaps probable, that orthodox liberal solutions will increase Islamist struggles for power and will not help democratic consolidation in contexts where the role of religion is substantially different from the context in which orthodox liberalism has created successful democratic regimes. Thus, due to the many-sided intricacies and complexities of democratisation, the convergence thesis has provided theoretical tools to reconcile liberal democratic norms and institutions with substantial Muslim demands in a way that enriches the potential for pluralism in both.

When it comes to the lines of thought that are likely to question or dispute the position this project has taken, this thesis reaffirms the conviction that democracy is and always will be a work in progress. The practice of democracy has evolved, and even democratic practices found in the established working democracies have changed over time. In this spirit, the modifications to the processes of democratic life suggested in this thesis are offered as a way of improving their responsiveness to different social and

cultural contexts, and the overall intent of this thesis has thus been to fill a gap in the literature of both democratisation and Muslim societies. It has done so by clarifying principles and theorisation that must be applied to any understanding of Muslim democratic development. Consequently, by endorsing a multi-level, dialogical, and converging approach, this research has a strong potential for offering theoretical and principled tools and methodologies for studying the complex processes of democratisation in the Muslim world.

SELECTED GLOSSARY OF FOREIGN TERMS

Al-amr bi al-ma'rūf wa al-nahy 'an al-munkar: Commanding the rights and forbidding the wrongs.

'Adāla: Justice, fairness.

Ahl al-dhimma / dhimmīs: Non-Muslims under the protection of Islam.

Amāna: Fidelity, trust.

Bay'a: Allegiance.

Darura: Necessity.

Djāhili: Pre-Islamic, ignorant, barbarous.

Fiqh: Jurisprudence; literally deep comprehension.

Fuqaha: Religious legal scholars.

Hadith: Prophetic traditions, sayings of the prophet.

Hākimiyya: Sovereignty.

Hukm: Judgement.

Idare-i maslaha: Political expediency.

Idjtihād: Independent religious reasoning or juridical reasoning.

Ijma': Consensus.

Ikhtilāf: Disagreement.

Jamā'a: The group, the community.

Kāfirs: Unbelievers.

Madhahib: Schools of jurisprudence.

Maḳāṣid: Underlying rationale, general goals.

Maslaha: Public interest.

Nass: Text (of the Qur'an).

Shahāda: The confession of faith.

Sharī'a: God's path; God's moral code.

Shirk: Idolatry, the opposite of *tawhīd*.

Shūrā: Deliberative consultation, collective deliberation.

Sunna: Tradition, exemplary conduct (of the prophet).

Tā'at ulī al-amr: Obedience to executive leadership of a state.

Tāghūt: False idol or tyrannical ruler.

Tawhīd: Oneness of God, God's absolute unity.

Ulama: The class of scholars.

Ulī al-amr: Executive leadership of a state.

Zulm: Injustice.

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