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### III. RELIGION AND STATE

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## Features of the Governing System in Islam

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In the Name of Allah, the Compassionate, the Merciful

### **Introduction: Pre-Islamic Society**

Before we talk about the system of governing in Islam, we should first tackle briefly the conditions in which the people of the Arab Peninsula were living at the time when Islam appeared. This will enable us to understand the deep transformations that occurred in the life of Arabs at that time. Those who lived outside the Arab Peninsula were marginalized and did not know security or stability unless allied with another power; robbery, raids, ignorance and oppression practiced against the weak by the strong controlled life at this time.

Islam came to transform the marginalized Arab, who had no civilized characteristics, into a human being with real initiative. Islam did not only win sovereignty inside the Peninsula, but its influence surpassed it and spread to the whole world.

To discuss 'the Governing System in Islam', it is essential to quickly look at a number of important issues to see the real conditions that existed in Arab society before Islam. By looking at the similarities, differences and matching features, the picture becomes clearer.

Pre-Islamic society in the Arab Peninsula was distinguished by the following features:

#### 1) *Ignorance*:

Sociologists and historians differ in their definitions of the word 'ignorance' in this context. It could mean the opposite of knowledge or it could mean intolerance. Scholars who argue for intolerance refer to a verse written by the poet Amru Ibn Kulthum that reads:

“No one should treat us with ignorance; otherwise, we will be more ignorant than him.”(1)

(If he is not tolerant of us, we will be much more intolerant.)

They also refer to Muslim’s Sahih in which A’isheh, God be pleased with her, describes an action of Sa’ad bin ‘Ubada. She says:

“The head of Al-Khazraj tribe, Sa’ad bin ‘Ubada, who was a virtuous man, stood up with rage as ignorance controlled him.”(2)

Thafer Al-Qasemi mentions many more arguments for this interpretation in his book *Chapters in Language and Literature*, pp. 12-16.(3)

## 2) *Previous Civilizations:*

The Arab Peninsula was a theater for many different civilizations before the appearance of Islam. These civilizations have yet to be studied, and very little is known about them. Sculptured stones that date back to 1,200 years before Christ, peace be upon him, prove that there had been civilizations there which have since disappeared. We do have proof of monarchies on the edge of the Arab Peninsula. To the north, Al-Ghasasena monarchy was established. It had a semi autonomous system under the protection of the Byzantines. A number of historians called its monarchs, who are from the Jifna tribe, the ‘lament’ monarchs(4). Under the protection of the Persians, Al-Hira monarchy lived in Iraq. The establishment of the protected monarchy of Al-Ghasasena by the Romans is one of the few clues to life in this civilization. Such monarchies prove that there had been a few basic systems that set the rules for society despite the existence of an ignorant governing system.

Most probably, these monarchies acquired from each other a governing system within the wider context of systems that already existed there. In general, such systems linked the social life with the political one. The following discussion (mentioned in *Tarikh Al-Tabari*) between Khalid Ibn Al-Walid and a man called Amru Ibn Abdul Masih describes the situation in Al-Hira at that time.

Khalid: How old are you?

Amru: One hundred years.

Khalid: What is the most astonishing thing that you have ever seen?

Amru: I have seen villages allocated along the way between Damascus and Al-Hira. A woman travels from Al-Hira taking with her only one flat loaf of bread.

(At first, Khalid thought that Amru was feeble-minded, but as he talked to him, he discovered that he was a cunning man) (5)

Khalid: A man can be killed in a strange land; a man can destroy a place he knows; and kinsfolk are more knowledgeable of these situations.

### 3) *The Character of Al-Hijaz:*

Al-Hijaz is distinguished by the fact that the honorable Al-Ka'aba was established in its most famous city of Mecca. Before Islam, the Arabs used to travel to it - to honor and glorify it - through performing the Hajj. They used to visit the place (Ka'aba) where Ibrahim and his son Isma'el, peace be upon both of them, built its base.

“Thus Ibrahim along with Isma'el laid the foundations for the House: our Lord, accept this from us... .”(6)

It can be inferred that the people who visited Mecca for pilgrimage must have created a system to govern their behavior in this holy place. Having special traditions - of which Islam accepted some and rejected others - is an indication of having the features of a civilization and political system. The spread of markets in this period shows that there had been a system of government whilst giving us an idea about some of the Arab social habits. Agreements on the rules for custody of the Ka'aba, and the offices of the gatekeeper, water supplier and building in Mecca support this argument.

Ibn Sa'ad in his book, *Al-Tabaqat*, said:

“The Koreishites chose Hashim Ibn Abd Manaf Ibn Qass, who is a rich man, to be in charge of the office of water supplier and the saddle clothing. When Hajj came, Hisham used to stand in front of the Koreish and say: ‘Oh kin, fellows of Koreish, you are the neighbors of God, and the people of his house. In this season, the visitors of God come to you to glorify the sanctity of his house. They are God’s visitors; and the visitor has the right to be well hosted. God encouraged you to do so and honored you with this responsibility.’”

The existence also of the town council (*Dar Al-Nadwa*), alliances and the strengthening of the customary tribal laws are proof that there was a governing system for the people’s internal and external relations.

When Islam came, it gave the Arabs the responsibility to spread the new religion - which includes a doctrine, a worship and a system of life - to the farthest nations. The cohesion that exists between the three pillars - doctrine, worship and system of life - was the most important

factor in enhancing the new society's stability and strength in encountering difficulties. This cohesion also supported continuity of government and laid the basic foundation for justice, security and stability in people's lives. The new system was founded by the Prophet Mohammed, God bless him and grant him salvation, before he migrated to Medina; this proves wrong those who claim that he addressed the rules for governing and the meaning of statehood only after he moved to Medina.

### **The Islamic Governing System's Foundations**

Any governing system has to have foundations and pillars that it depends upon in building its state and establishing its system. The governing system in Islam is set up on a solid foundation where there is only room for movement within the space the Wise Legislator (God) has specified. The most distinguishing feature of the Islamic governing system is that the source of legislation is God, the Supreme Lord. This means that God is the source for all authorities' legislation, and the foundation of general laws with which no man has the right to interfere. The *Mujtahid* (diligent) can make a judgment based on the interpretation of the four *usal* only within specified boundaries. This is perhaps the secret behind the continuity of this legislation and its strength as it does not follow people's inclinations or the mood or the times.

The most important foundations for governing in Islam are:

#### **a) *Freedom of Religious Belief***

The system of freedom in Islamic society is precise and balanced. It protects man's freedom of thought, belief and behavior on condition that this freedom does not violate the freedom of others. Possibly, Islam was the first system to confirm the concept of freedom in society. Islam mandated the freedom of the individual, freedom of religious belief and social and political freedoms 1,200 years before human laws (dictated by the desires of their legislators) did. In the Holy Koran, the Supreme God says:

"There should be no compulsion in religion."(7)

According to Ibn Katheer's interpretation, it means:

“Don’t force anyone to enter the religion of Islam.”

Another Qur’anic verse says:

“So will you force mankind to become believers?”(8)

These verses illustrate the respect for religious freedom in Islamic society.

Other stories from the Sunna and the biographies of the Prophet Mohammed, may God bless him and grant him salvation, also prove the protection of religious freedom. One such story is that of Rayhana: In his biography of the Prophet, Ibn Hisham said:

“The Prophet, may God bless him and grant him salvation, chose a female prisoner for himself called Rayhana Bent Amru Ibn Khunafa, who was a woman from the Qurayda tribe. The Prophet, may God bless him and grant him salvation, proposed to marry her and asked her to wear the veil (hijab). Rayhana refused and asked the Prophet to let her alone, and he did. When she was captured, she rejected Islam and refused to deny Judaism. As a result, the Prophet, may God bless him and grant him salvation, isolated her. Later, as he was with his friends, he heard the sound of footsteps coming from behind. He said: “Tha’alabah came to announce that Rayhana entered Islam.” Tha’alabah came to God’s prophet and said: “Rayhanah entered Islam.” The prophet was happy for her.” (9)

Islam came while surrounded by monotheistic religions. Their believers were described as ‘People of the Book’. Despite the fact that Islam came for all people, it protected the principle of freedom of other religious beliefs. The story about the Christians of Najran illustrates this. Ibn Hisham said in his biography of the Prophet that:

“The heads of Najran wearing silken wraps came to the Prophet, may God bless him and grant him salvation, while he was inside the mosque as he prayed the middle prayer. When their prayer time came, they stood up in the Prophet’s mosque to pray. The Prophet said: ‘Leave them while they pray to the east’.”

This is the utmost possible respect for the freedom of religious belief.

#### b) *Political Freedom*

Islam guards freedom of political thought in the Islamic society. Special attention was given to ensuring that this freedom was not curtailed; since, if such a thing were to happen, intellectuals would be prevented from freely contributing their ideas.

The story of 'Umar and the day of Al-Hudaybiya proves this. On that day, the Prophet, may God bless him and grant him salvation, sent 'Uthman to Abu Sufian and the masters of Mecca to tell them that the Prophet did not come to launch a war, but to visit the Ka'aba, praising its holiness. After negotiations, the Koreish sent a man called Suhayl Ibn Amru to negotiate with the Prophet and told him:

“Make a settlement with Mohammed by which he will not enter Mecca this year. In the name of God, we will not allow the Arabs to say that Mohammed entered Mecca by force.”

Some of the settlement's conditions agreed upon were as follows: if anyone from the Koreish came to Mohammed without permission from his patron, he must send him back to the Koreish. Whoever came to the Koreish from Mohammed's group, the Koreish would not send back. As the agreement was finalized, except for the signature, 'Umar Ibn Al-Khatab came to Abu Bakr and said to him:

Isn't he the messenger of God?

Abu Bakr: Yes.

'Umar: Aren't we Muslims?

Abu Bakr: Yes

'Umar: Aren't they infidels?

Abu Bakr: Yes

'Umar: Why then do we accept this inferior position to our religion?

Abu Bakr: Oh Umar, you have to abide by what the Prophet says. I certify that he is the messenger of God, may God bless him and grant him salvation.

'Umar: I certify that he is the messenger of God.

As 'Umar was not convinced by Abu Bakr, he went to the Prophet to discuss the matter with him. He mentioned to him what he discussed with Abu Bakr. The Prophet, may God bless him and grant him salvation replied:

“I am the servant of God and his messenger. I will not violate His orders and He will not abandon me.”

Later, 'Umar used to say:

“I still give alms, fast, pray and emancipate slaves as expiation for what I did on that day.”

This is not the only incident in which political freedom in Islamic society was guaranteed. Such freedom was also guaranteed during the periods of the Orthodox caliphs, the Ummayyad and the 'Abassysds. This freedom became a course of action in people's lives despite some aberrations that cannot be considered part of basic Islamic governing system.

c) *Al-Shura* (Consultations)

For things to be right and stable in any society, it is important to have agreement on the foundations that people accept and refer to when they disagree - foundations that make people feel that they are in safe hands whether in their day-to-day matters or on crucial issues. To do so, Islam legislated the great principle of *Al-Shura* as a basis for organizing people's lives. *Al-Shura* is a great principle that is essential to any organized group. I do not think that any system or basic law in the world does not include *Al-Shura* or denies it, even when ways of application differ. (10)

*Al-Shura* means examining closely different ideas and viewpoints concerning an issue and testing them by intellectuals so as to choose the best one. (11) This facilitates the best results. The Holy Koran confirmed the principle of *Al-Shura* as a basic concept to stabilize justice and to activate people's minds. The Holy Koran tells the Prophet, may God bless him and grant him salvation: "and consult with them on the matter" (12) and "whose business is conducted through mutual consultation among themselves." (13)

The Prophet himself, God bless him and grant him salvation, practiced the process of *Al-Shura* and applied it practically. He asked the advice of his friends concerning fighting on the Day of Badr. He said to them: "Oh people share with me your points of view..." and he repeated it more than once. His friend, Al-Habab Ben Al-Munther, advised him to change the location of their camp. The Prophet, may God bless him and grant him salvation, saw that there was wisdom in his suggestion and accepted it.

He used *Al-Shura* also in the days of Uhd and Al-Khandaq. (14) His friends, God be pleased with them, did the same. When the Prophet, peace be upon him, died, his friends gathered in *Bani Sae'eda* shelter to see who will take command after the Prophet, may God bless him and

grant him salvation. Using *Al-Shura*, they reached the decision to give Abu Bakr, God be pleased with, the command.

Many ‘Ulama and jurisprudence have sayings that emphasize the importance of *Al-Shura* such as:

“Making a wrong decision as a result of using *Al-Shura* is more righteous than making a right decision out of individualism and suppression.” (15)

In his book, ‘*Kalileh Wa Dimna*’, Ibn Al-Muqafa’ said,

“It is essential for a king to have an honest advisor with whom he can share his secrets and who can help him with his viewpoint.”

A poet said in this context,

“If a matter cannot be decided on without *Al-Shura*, ask for a clever viewpoint or discreet advice.”

‘Umar also said,

“There is no virtue in something that was decided upon without using *Al-Shura*.”

In Islam, *Al-Shura* is not a superficial performance. It is an obligatory duty of any ruler. By referring to the verse “and consult with them on the matter,” Al-Fakhr Al-Razi said that it is an obligatory duty to apply *Al-Shura*.(16)

There is no space in this article to explain *Al-Shura* fully and go into its more beautiful features.

#### d) *Justice and Equality*

Islam came while people in the ignorance period had been part of different classes with confusing relationships. There had been the classes of the masters and the classes of the slaves where the slaves were forced to serve the masters without compensation. Islam brought the concepts of justice and equality regarding rights and duties. It also clarified that the principle of piety is the foundation for judging people. The Supreme says:

“Mankind, heed your Lord Who has created you from a single soul, and created its mate from it, and propagated so many men and women from them both.”(17)

Allah also says:

“O mankind, We have created you from a male and female, and set you up as nations and tribes so you may recognize and cooperate with one another. The noblest among you with God is that one of you who best performs his duty.”(18)

At the end of a speech (*Khutba*) made by the Prophet, may God bless him and grant him salvation, he says:

“Oh people, your God is one, there is no favor to an Arab over a foreigner, to a foreigner over an Arab, to a black over a red, to a red over a black except in piety. The most favored is the most pious.”(19)

Only after the concept of social justice based on piety was established did the social balance in the Arab Peninsula become stabilized. Islam confirms that people are equal like the teeth of a comb and that the measure for judging people is the degree of commitment to God's rules.

Justice was not only practiced between Muslims but also included all members of the society inside the Islamic state; Muslims and non-Muslims. Examples to prove it are many, one of which is the incident where the caliph 'Umar Ibn Al-Khatib asked a Coptic boy to beat the son of Amru Ben Al-a's, the distinguished ruler of Egypt, because he hit him in a horse race for riding ahead of him.

Establishing a just system is a duty that the Holy Koran confirms. Allah says:

“God orders you to give back the depositions in trust to their owners and if you judge between people, judge with justice.”(20)

One of the greatest fruits of justice and equality between people is stability and with stability, the feeling of security and peacefulness.(21) In addition, justice and equality promote society's prosperity. The Prophet, may God bless him and grant him salvation, says:

“This nation stays in good condition only if when it says the truth; when it judges, it passes just verdicts; and when it pleads for mercy, it acts with compassion.”(22)

## Conclusion

These are some of the features of the governing system in Islam. The conflict between the Islamic viewpoint and the ruling regimes in the Arab and Islamic World is due to two major reasons: First, ignorance on the part of the regimes of the governing system in Islam and the nature of Islam; second, the rulers' fear of losing some of the privileges that they have wrongfully grabbed.

The absence of security and safety in today's societies - and the absence of trust between the ruler and the ruled - are due to the fact that oppressive and suppressive regimes are prevailing in the states. The world of today is in severe need of reassessing the governing systems that exist: the world's economic system should be reassessed and corrected so as to eliminate the phenomenon of poverty; and the world's social and political systems also should be reassessed and corrected.

People need to take a moment to reassess what is going on in the states of the world in terms of the violation of moral values and noble concepts. While they use the slogans of civility and progress, they must not forget the laudable ideas of religious values. Yes, we are in severe need of correcting the minds, the spirits and the hearts of people everywhere.

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### Endnotes:

1. Diwan Amru Ibn Kulthum
2. Acted with ignorance as he became angry and lost his temper.
3. Sahih Muslim, section 4, p. 2134
4. Al-Qasemi, Dafer, *Al-Nitham Al-Hukm fi Al-Sharia wa Al-Tarikh Al-Islami*, section,1, p.9.
5. Farrahu: examined him, Al'ad: cunning person
6. Sura Al-Baqara, verse no. 127
7. Sura Al-Baqara, verse no. 256
8. Sura Yunis, verse no. 99
9. Sura Ibn Hisham, third section, p. 256
10. Al-Qasemi, Dafer, *Al-Nitham Al-Hukm fi Al-Sharia wa Al-Qanun Al-Islami*, first section, p. 64
11. Abu Fares, M., *Al-Nitham Al-Siyassi fi Al-Islam*, p. 79
12. Suar Al-'imran, verse no. 158

13. Sura Al-Shura, verse no. 38
14. Abu Fares, M., op.cit., p. 83
15. Abu Fares, M., op.cit., p. 82
16. Fakhr Razi's interpretation, second section, p. 67
17. Sura Al-Nisa, verse no. 1
18. Sura Al-Hujurat, verse no. 13
19. From Al-Baheeqi's Sunan
20. Sura Al-Nisa, verse no. 58
21. Abu Fares, M., op.cit.
22. Al-Razi mentioned in his interpretation 10/141



# The Relationship Between Church and State: A Christian Point of View

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Discussing the Church and State in Christianity is a difficult matter in that it raises many interrelated issues. In this brief paper I will attempt to look at the Christian stance on the question of the Church and State in a general way, as well as the historical relationship in practice. Finally, I will concentrate on the Palestinian point of view with regard to this subject.

## **The Church's Position on the State**

### *The Bible:*

Reading the Bible, we find several verses on the relationship between political and spiritual life. Among these are verses we read from the Gospel of Mark and the Gospel of John and the holy letter from Paul to the King of Rome:

One) "Render to Caesar the things that are Caesar's, and to God the things that are God's" (Mark 12:17);

Two) "When Jesus therefore perceived that they would come and take him by force, to make him a king, he departed again into a mountain himself alone" (John 6:15);

Three) "Jesus answered, 'My kingdom is not of this world: if my kingdom were of this world, then would my servants fight, that I should not be delivered to the Jews: but now is my kingdom not from hence.'" (John 18:36);

It is impossible to understand the verse from the Gospel of Mark unless we interpret it within its proper context. This verse appears at the end of the initiation of the Jewish leaders when they sent some Pharisees and Herodians to catch Jesus saying something or taking a stand that contradicted Jewish teaching.

“And they send unto him certain of the Pharisees and of the Herodians, to catch him in his words. And when they were come, they say unto him, ‘Master, we know that thou art true, and carest for no man; for thou regardest not the person of men, but teachest the way of God in truth: Is it lawful to give tribute to Caesar or not? Shall we give, or shall we not give?’ But he, knowing their hypocrisy, said unto them, ‘Why tempt ye me? Bring me a penny, that I may see it.’ And they brought it. And he saith unto them, ‘Whose is this image and superscription?’ And they said unto him, ‘Caesar’s.’ And Jesus answering said unto them, ‘Render to Caesar the things that are Caesar’s, and unto God the things that are God’s.’ And they marveled at him.”(Mark 12:13-17)

### *Analysis of the Story:*

Who were the Pharisees and the Herodians? The Pharisees were a group of Jews who were extremely zealous in keeping the law of Moses and the practices of the ancients in matters of ritual purity, observing the Sabbath, the Ten Commandments, etc. They were opposed to pagan Roman rule. As for the Herodians, they were among the followers of Herod and supported his rule, which was granted to him by the Romans. This meant that this group was waiting for Jesus to say something against the government of Caesar so they could report it to Caesar.

Therefore, when the rabbis and wise men of the Jews sent the Pharisees - who were conservative in keeping the Law of Moses on the one hand, and the Herodians, who leaned in favor of the Romans on the other hand - they actually wanted to trap Jesus into making a political statement or taking a political stance with regard to the question posed to him. We should also clarify here that at that time the faithful Jews considered the rule of the Romans to be an attack against them because it was not the rule of God, and its laws were not the laws of God written in their holy books. It was understood that anyone who was against the rule of God was against the rule of faith and that those who leaned toward the pagan imperialist Romans were against faith in God. But we understand from the response of Jesus - "render unto Caesar the things that are Caesar's and unto God the things that are God's" - that faith in God is not faith in a particular political system or in a particular state, because God and faith are above politics and the specifics of particular periods in time. Meanwhile the believer, in his role of citizen, must bear his political responsibilities without bringing God into the matter. With his response, Jesus overcame the long-standing theocratic

mentality that characterized that period, announcing a new system when he spoke to Pilate, saying:

"My kingdom is not of this world: if my kingdom were of this world, then would my servants fight,... but now is my kingdom not from hence."

In this world, citizens must deal with Caesar according to the principles of a temporal authority, while they must deal with God according to the principles of dogma and faith. Jesus clarified this position to his followers who witnessed his wonders and miracles, who heard his teachings, and who fervently wanted Jesus to be their worldly king to free them from the Roman Niro. And the Gospel of John tells us that when Jesus learned this was the will of the people he departed and went to the mountains alone. (John 6:15)

### **Relations between Church and State in the History of the Church**

In the first three centuries the Church was separate and far from the State and politics, because Jesus' vision was the kingdom of God and the Beatitudes - "blessed are the poor, the merciful, the meek..." - and spiritual considerations are contradictory to the considerations of the State. This was an important reason why the Roman State's position towards the followers of Christ was "they have no right to exist" and must be caught and eliminated wherever they are. Indeed, the Christians at that time suffered severe forms of torture and were even put to death for their Christian faith. Hence, these first three centuries of the Church's history are called the centuries of faith and martyrdom. The Church's position on the Roman authorities was tied to two principles: first, "All authority is from God" and must be obeyed; second, "God is more worthy of obedience than men," which means that it is not the place of the State to interfere in the affairs of the Church and in the freedom of Christians in embracing and expressing their faith.

However, after the Roman Empire's conversion, Christianity's situation changed dramatically. The Empire put all its means at the disposal of the Church in its effort to spread the Christian faith. In regards to the relation of Church and State, we can say that the Church set out on an errant path as the Church and the State became one. The Roman emperor kept for himself authority over religious matters, and the interests of the emperor and of Christianity thus became one. Consequently,

when there was religious dissent, the emperor was blamed for it because every religious dispute reflected on the unity of the empire. This is evidenced throughout history in various emperors' calling for the convening of ecumenical religious conventions and intervening in the designation of the Bishop. Examples abound: Constantine, the king who headed the ecumenical convention in Niquia in the year 325; King Theodosius's calling for the holding of the ecumenical convention in Afsas in the year 431; Marqianus agreeing to the holding of the Khalqidunia convention in the year 451, etc. In contrast to this, we see some Bishops who wanted to preserve the independence of the Church and its non-integration into public life. An example of this is the metropolitan of Milano Saint Ambrosius and Pope Jilasius who wrote in one of his letters to the Emperor Ithnasius the following:

“Your Highness the Emperor,

The world is ruled by two principles: the authority of the holy clergy and the authority of kings. The mission of the Bishops is becoming more difficult because they must stand before God's judgment on behalf of themselves and the kings. As your grace knows, although your position puts you above all people, it is your religious duty to bow your head in front of those responsible for matters of God as long as you are expecting them to offer you a means of salvation. In order to receive heaven's secrets and to deal with them properly, as you also know, one must obey the dictates of Christianity not to lead or assume temporal authority. And thus in this matter you are subject to their judgment and must not try to make them to submit to your will. Indeed the religious leaders, according to the laws of the land, recognize that the empire has been given to you from on high and they obey your decisions as final. Thus you must obey those who are dedicated to the service of the heavenly secrets.”

It is worth mentioning that the integration between Church and State was carried out first under the authority of the State: this was the first model of integration between the two. As for the second, it occurred when the Church was controlling the State. We see this in the Western Roman Empire, where the Church found itself filling the vacuum of authority after the dissolution and division of the Roman Empire between East and West. Pope Bonifasius VIII expressed this position in his edict 'One United Church' of 18 November 1302, in which he wrote that the Christian world - State and Church - formed one body with the Pope as its head.

Yet despite these efforts at integration, conflicts continued between the Church and the State. The most famous of these was that between the German Emperor Frederick Barbarosa and his resistance against Pope Iskander III. The other important conflict was between King Henry IV and Pope Gregorius VII.

During this period when the Church and the State were one unit, a number of religious wars took place and it is in this period that the Inquisition returned. This tension and conflict remained in Europe until nations and national entities began to form at the expense of the Holy Empire. Some Popes held onto the dream of a Holy Empire until the period of the rise in interest in human sciences and the beginning of the reform movement within the Church itself. However, the Church remained tied to the State in one form or another until the beginning of this century. In the Latrun Agreements between the Vatican and the government of Italy in 1929 the Church finally lost all its temporal authority but retained its spiritual freedom.

In the present day, there are still a number of Christian states that consider Christianity the official state religion. However, the distinction between clergy and secular officials has become clear, and there is a clear definition of the fields of work in which they operate.

### **The Church's Position Today**

The Church today sees the State as an independent entity with jurisdiction over temporal matters and as having sovereignty over its own laws and objectives that are not tied to the spiritual realm: the State as an institution is not subject to the Church.

The Church is a spiritual institution with its own independent existence. Its role is to take care of the spiritual realm, which includes not only the relation between people and God, but also relations between human beings. The Church carries a spiritual message, which is subject to the sacrament of redemption that Jesus carried.

Consequently, there are differences between the Church and the State in the means they employ. For example, the Church does not use the kind of measures that a state uses in security matters, and thus the State does not have to accept the same repression that the Church does. The Church has one great message: love everyone, even your enemy.

States have a specific political system, whereas the Church is not tied to any system and can coexist with any system, regardless of its political ideology. Thus, the Church is also not tied to any political party. Christianity is a faith and not a political or party ideology: it is for every person and all peoples. Meanwhile, politics is limited to a specific idea and a specific group. It is my view that there are no Christian political programs, although there are political programs that the Church may reject because they go against the fundamental moral faith and principles, or that the Church may accept because they are compatible with general Christian principles. On this subject, the Vatican II says, "The Church rejects political forms that stand as a barrier in the face of civil or religious freedom as is the case in some regions." The faithful are like all other citizens in that they can oppose or support any political program in accordance with their fulfilling their national duties. Their political activity may be affected by their moral, religious convictions, and their deepest internal convictions, but their political choices remain tied to national factors and are not of a religious or sectarian nature.

It is clear that despite the independence of both the State and the Church in their fields of activity, there remains between them some points where they overlap, joint fields of work, and a continuing dialogue. Several factors account for this: first, the Christian citizen is one person who is tied to two institutions; second, the duty of the State is the complete general interest which includes all aspects of human beings in their material and spiritual pursuits; third, the temporal realm, even if it is independent, remains subject to moral measures, as do all human activities.

In a speech on 11 January 1973 to members of the diplomatic corps to the Vatican, His Holiness Pope Paul VI summarized the Church's position on the State:

"The Church is far from political activity as such, but it is present at each meeting between people and in every discussion on justice. The Church works in the service of the people and in fostering conscience and cooperation, according to its own way, including cultural and social growth and progress. We have no other way but that which Christ outlined: 'Render unto Caesar what is Caesar's and to God what is God's.'"

So the distinction between the spiritual and the temporal systems is clear in this period. It is not the responsibility of the followers of the Christian faith to point out a political course or specific worldly paths the citizen must follow.

Yet there is a deep connection between the two systems. Therefore, we cooperate in working towards the general interest of every country and of all of humanity, and we are not neutral observers, for the Bible forbids us from remaining silent when people are exposed to material or spiritual danger, or when the law itself is in danger.

### **Religion and the Believer**

We must distinguish between religion and the believer. Religion is from God and God is above both the issues of man and the stands he takes in religion's name. Often religion is exploited and given a false political interpretation because the believer wants to serve his own interests, which differ from the teaching and interests of God. Many mix the two matters. And for this reason we say that the believer is not allowed to carry religion to false conclusions. In our time we have seen many acts of extremism and violence happening in the name of religion and with religious slogans, knowing that the monotheistic religions are innocent of any call for killing and violence and oppression and that they all call for tolerance, love, justice, and peace. If we look at history, we see many wars and acts of evil that were undertaken with religious slogans and in the name of God even though they had nothing to do with religion or God. In our time, the Church must strengthen peace between peoples through adherence, faith and devotion to the Bible and through implementing its message in the world, because it is the Church's calling to encourage and establish in the human community justice, good and beauty.

The Church demands the separation of itself from the State and it demands that the believer respect authority that faithfully serves its citizens. The Church encourages intellectual and religious pluralism in all societies in the hope that democracy will be realized, which will make all citizens equal before the law. When we turn our attention to duties and services that will provide security, stability, and social justice for all, if the State serves and helps the Church and the believers, and its policies do not contradict the principles and morals of the believers, then it is no problem if the official state religion is that of the believers.

But if the state religion is the religion of the majority of the citizens, our question is: What about the minority and its rights? What about equality between citizens? I say this because in cases like these, there will no doubt be constraints and limits imposed by the majority and the State on the minority, who will become deprived of its rights. Thus the minority will be oppressed and equality among the citizens will be prevented.

The political community and the Church are independent, neither of the two is tied to the other in any field. Besides that they both serve, in their different roles, the individual and societal needs of the people. And they shall do this service for the good of all with maximum efficacy and in a constant effort to cooperate positively according to the circumstances of the time and place.

This does not mean that the Church is not interested in the nation and the citizens and it does not mean that the Church stands watching what is happening without interest, especially if there is political or social oppression. I say this because the voice of the Church that calls for right, justice, equality, and respect for all must be a lofty prophetic voice and must be heard. And it must do everything possible for the dignity of human beings, who were created in God's image. The Second Vatican tells us:

"In order to assure a truly humanitarian political life, it is essential to foster the growth of the concept of justice in the conscience of man and to foster the growth of the notion of goodness and sacrifice on the path of the general interest... there also must be great importance placed on national and political education to enable all citizens to play their role in social and political life."

This means that the Christian must participate seriously in public life. The Christian must not marginalize himself or withdraw into his shell, for doing so is the devil's work and not of the teaching of God, who called for opening up, communicating, and giving. It is thus incumbent on the Christian to undertake all possible efforts to realize social justice and the dignity of the human family.

Finally, I repeat what the Patriarch Sabbah said on this matter:

"The issue of the relationship between Church and State is multifaceted and deals with the nature of man himself, his relationship with

God, and his relationship to the community. In summary, it is the issue of the freedom of the individual *vis-à-vis* society, whether it be the Church or state. The scale of judgment on this subject is the degree of respect for the God-granted freedom of man: Does the State take it back without proper justification? Or does it respect it? The State should protect its security without dragging the Church or God into the matter. The matter is not in its essence a matter of religion and state, but rather of the human being, who is the subject of the Church and state together, and it is for him there is a state and it is for him that there is religion."

### **The Palestinian Church**

As a Palestinian Christian, I demand that the presence and role of the Palestinian Church in political and social life be greater than what it is today and that its voice be heard louder and more clearly. The prophetic voice of the Palestinian Church should be heard by the Christian, the Muslim, and the Jew, and may the Palestinian and Israeli politicians and the whole world hear it. The prophetic voice demands justice, right, the refusal of oppression and the refusal of degradation of the dignity of man. The prophetic voice should speak out in criticizing both itself and the society to which it belongs with the goal of building social justice, and the dignity, freedom, and independence of the citizen. The Church must speak about what is right and demand it for its Palestinian sons in order to contribute to just and peaceful solutions in a land of peace, the land of the heavenly prophets. This is because justice and peace are the essence of the calling of Christianity and the Church. This does not mean that we deny or forget all that the local churches have done in giving and serving and dedicating themselves to their sons, but we demand more of it because we know that it is capable of more and of communicating Palestinian suffering to churches and peoples all over the world. The Church which bears witness to right and justice must remain the voice of right that sends out succor to the political voices demanding right, justice, peace, and equality for all citizens.



# State and Religion in Jordan

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## **Introduction**

Probably, one of the most important questions that was posed to newly emerging Arab states was that of religion. These states faced an identity crisis over the question of a religious versus a secular orientation. What modes should be chosen to achieve *Al-Nahda* and depart from *Al-Takhalf*? The centrality of the question of religion mainly has to do with whether the political institution (the state) views it as simply a cultural heritage or whether it is a collective reference point.

Therefore, the religious question had a central place in the political and institutional set up of the states that emerged after the colonial era (between the two world wars). There were clear differences even among those who gave religion an important role in politics. After decades of ideological employment of religion, or resistance to it, religion became an integral part of the social and political landscape; it became part of the state building process as a strategy to gain legitimacy and achieve unity within the society. The recent spread of Islamic movements across the Arab and Islamic Worlds, which culminated in the Iranian revolution, has brought back the centrality of religion to politics as it vies for power in society<sup>(1)</sup>. The Jordanian State, like other states, finds itself obligated to deal with religion as a political force as it tries to build a modern society and attempts to democratize the country's political institutions. The issue of religion and state, however, is not a simple one and it will be examined through the following dimensions: the role of religion in the state formation of Jordan, the relationship between the State and religion at the constitutional level, the relationship between the State and religious political movements, and the relationship between the State, religion, and society.

### **1. State, Religion, and Legitimacy**

A careful analysis of the history of the Jordanian State reveals that it used, and continues to use, religion to its benefit. Since the establishment of the monarchy of Trans-Jordan in 1921, religion was one major source of legitimacy for the State, the other being Arab nationalism. The State derives its religious legitimacy by declaring Islam as the official religion of the State and by tracing the origin of the Royal family back to the Hashemite family of the Prophet. This latter linkage not only gives the State political legitimacy to rule, but also, maybe more importantly, it gives the State legitimacy to represent Islam more than any other group or party in the country.

However, in practice, the emphasis of these Islamic credentials is mainly used to ward off attack rather than using Islam as source of policy<sup>(2)</sup>. Therefore, the State continuously gives an Islamic character and justification to policies even though they might be of foreign origin and necessary for practical considerations. This is done, of course, to make policies acceptable to the people. In Jordan this is clear in the highly religious symbolism displayed at critical junctures of the State's formation and existence, as well as in everyday life. This has led to the transformation of religion into the official ideology of the State.

This is also clear through the subordination and nationalization of religious institutions. This was done through the financial dependence of religious institutions on the State, and through the control of the administration and organization of the religious institutions through the Ministry of Religious Affairs (*Al-Awqaf*). This process helped to integrate religious teaching and practices at the national level, which was important to the State and societal formation at the same time.

The result of the subordination of religion to the State is obvious and mainly serves to provide political support to the State and further legitimize its policies and practices without any major challenge. Furthermore, the alliance between official Islam and the State has been used as a major weapon in the competition with the Islamic movements and groups in the country, by presenting a distinct and specific interpretation of Islam.

Religious symbolism is used by the State at all levels. In its attempt to build the Jordanian modern State and to offset the influence of competing groups in the country, the State resorted to the following:

- 1) Encouraging a traditional, deeply historic, and metaphysical mode of thought which makes it possible for the State to make religion an integral part of the State's political ideology. This is evident in the use of Islamic rhetoric in the political discourse of the State.
- 2) The transformation of religion into formal institutions that are controlled by the State, which further meshed religion into the State structure. Therefore, a religious interpretation is presented that is in tune with the understanding and views of the state.
- 3) The use of religion and religious groups as major weapons in the fight against all the secular political trends in the country throughout the history of political formation of the state - such as leftist and nationalist groups.
- 4) The use of religion and religious values as the basis of obedience on the part of the people to the State.

## **2. State, Religion, and the Constitution**

Jordan is formally a constitutional monarchy with three separate authorities: the Government, the Legislative, and the Judiciary with the King as the head of the three branches of the State. The Jordanian Constitution can be termed a semi-liberal constitution since all Jordanian citizens are equal before the law. The Constitution can be called semi-religious as well, as it is only partially based on religious doctrine. It states that Islam is the official religion of Jordan, but it does not stipulate that the Islamic Sharia be the source of legislation.

Furthermore, the Constitution guarantees and protects freedom of religious practices for other religions in the country. However, it cannot and should not be inferred from this, that there is a separation between the State and religion or that religion does not influence the legal system or the actual practical life of the people. On the contrary, religion is present in almost every aspect of life for the State and its citizens.

Article 99 of the Constitution divides the courts into three types: civil/regular courts, religious courts, and special courts<sup>(3)</sup>.

The first type of courts deals with civil and penal issues with the exception of issues and cases that are deferred to religious courts. The religious courts are divided into two types: the Sharia (Islamic) courts and

the non-Islamic courts. The religious courts have jurisdiction over personal status issues such as marriage, divorce, inheritance, custody, etc.

It can be argued that it is in this domain that religion plays the greatest role in people's lives because religious courts (Islamic and other religions) derive their laws directly from religious doctrine in the strictest manner. There is no alternative for people to choose another type of legislation for these matters if they wish, as is the case in some countries.

Additionally, in 1990 and as part of the return to democracy in the country, a National Charter (*Al-Mithaq Al-Watani*) was drafted and accepted by all the national charter political groups in the country. The National Charter does not have the status of the Constitution, but it represents a compromise of sorts on the part of all groups in the country. Although, legally non-binding the charter reflects a consensus of all groups on the morals and values of the land. Article Four states that "Islam is the official religion of the State and Islamic Sharia is the major (main) source of Legislation." This represents a retreat from the Constitution regarding the role of religion and it indicates the strength and the influence of the Islamic movement at the time. However, the National Charter does not have the force of law and it is not binding for the State<sup>(4)</sup>.

### **3. The State and Religious Institutions/Movements**

#### *The Official Level*

At the official level, all Islamic religious activities and religious affairs are coordinated and controlled by the State through the Ministry of Religious Affairs, which has control over the Islamic Waqf and responsibility for religious teaching and the appointment of imams for the mosques. There are no separate independent religious institutions in the country. The State has control over the religious institutions, which have virtually become an appendage to the State.

#### *The State and the Islamic Movement*

The discussion of Islamic movements will be restricted to the Muslim Brotherhood (MB), and its political offshoot the Islamic Action Front (IAF), because they represent the largest political and most influential Islamic group in the country.

The MB - which was established in Jordan in 1945 - can be considered to be competing both religiously and politically with the State. The IAF, meanwhile, aims at establishing an Islamic state and the application of the Islamic Sharia.

It must be clear from the outset, that the MB/IAF had historically enjoyed relatively good relations with the State. They had never posed a real threat to the State - on the contrary, their position had been consistently to incorporate their religious ideology and doctrine into state institutions, rather than trying to present themselves as an alternative political system to the Jordanian State. The position of the majority of members has historically been to participate in the legislative and executive branches of the Government. In this period of cooperation they always insisted on taking the Ministry of Education portfolio where they were able to incorporate their members into the Ministry, thus having a great influence on the educational system<sup>(5)</sup>.

However, more recently a decision was made to not participate in the government. This is still a source of contention within the movement.

The manner in which the State dealt with the MB/IAF in the past can be characterized as the policy of the carrot and the stick (with more carrots than sticks). Historically, the MB had enjoyed almost complete freedom to work overtly while all other political groups were banned from overt political activity. As a matter of fact, there was an unannounced, *de facto* alliance between the Jordanian State and the MB. The axis of this alliance was as follows: the MB helped the State by working actively against communist and nationalist groups at the ideological level; in return, the State allowed the movement to work at the social, financial, and political levels and gave the MB the opportunity to spread its ideas through state institutions (i.e., the educational system).

Therefore, the MB never posed a threat to the State but tried to use its relationship and alliance with the State and the state's Islamic character to influence the overall culture of the society. This is evident from the MB's insistence on and preference for the Ministry of Education every time they participated in or were negotiating entrance into the executive branch of the Government. But this should not imply that all is well in the relationship between the State and the MB. The State was always suspicious of and monitoring the activities of the MB. After all,

it is a political group and had links with external groups, the activities of which cannot be totally controlled (i.e., the MB's link with the Egyptian Muslim Brotherhood). Also, the MB has been publicly critical of the West and the warm relations the Jordanian State enjoys with the West. These minor differences never spoiled the working relationship between the State and the MB, nor did they ever reach the point of total confrontation over these issues.

However, the MB succeeded in mobilizing more people and increased its followers through widespread patronage and religious teachings. When they participated in the 1989 parliamentary elections they were able to secure 33 out of 80 seats, thus forming the largest political and organized group in the parliament. The MB wanted to enjoy its political power and began to appear as a threat by pushing its more radical views into the political arena. In the legislative body they tried to enact certain laws that were more true to their political and religious agenda (i.e., sex separation in schools). The State realized that a new chapter in its relationship with the MB had been opened. The initial strategy of the State was to observe and monitor their activities while avoiding conflicts. The attempt was made to incorporate them into the political structure and process. Later, however, the Government became more reluctant and arrested several members of the MB.

The political marriage between the State and the MB has, without a doubt, strengthened the State - not only against other political groups in the country but also against the MB itself. Because of MB practices in the parliament, and their inability to fulfill their promises, they lost credibility and much of their popular support. They came to be viewed as part of the establishment. The peak of the MB's strength was at the time when Jordan was facing serious economic problems during and after the Gulf War.

Later on, when political parties were legalized, the MB (which is not registered as a political party) formed its own political party - The Islamic Action Front. More recently, and after the signing of the peace treaty with Israel, the influence of the MB/IAF has been in relative and gradual decline. After the 1993 parliamentary elections, the number of IAF seats was reduced to 16 and it can be argued that it is no longer the party representing the establishment of an Islamic state in Jordan, but has been reduced to a political party that plays the democratic game like any other party. This caused a rift within the movement

whereby new and younger party leaders took a hard-line position toward many issues, particularly the peace process.

#### 4. The State, Religion, and Society

The high place of religion within the State's structure and in society stems from two main sources; the first being the identification of the State with the Islamic religion and second, the influence of the MB through its participation in government (especially by controlling the Ministry of Education for a long time), and by it acting as a pressure group when it was not participating in the government. Some illustrations of the high place of religion in the State apparatus and society are as follows:

- 1) During the Holy month of Ramadan work time is reduced significantly in all institutions, restaurants are closed, eating, drinking, and smoking are not allowed and violators are subject to punishment by arrest.
- 2) Calls for prayers are aired on television and radio stations at all times and all programs (with the exception of the news) are interrupted for that purpose.
- 3) In all public institutions there are places for prayer for men and women in spite of the fact that mosques might be nearby. Individuals are allowed to take time off work for praying.
- 4) In high school religious texts, the reference to other religions (i.e., Christianity) treats them as *mushrikeen*, that a holy war should be waged against them. There is no reference to current Christians. No change has taken place in the way Christians are viewed since the time of the first Islamic Republic.
- 5) Religious symbolism is displayed in all State activities and on all religious occasions.
- 6) The influence of religion is very strong in personal status laws governing marriage, divorce, etc., and religious freedom. This is apparent in the following:
  - 6.1 Muslims are prohibited from changing their religion and violators are subject to punishment.
  - 6.2 Muslim women cannot marry a non-Muslim but Muslim men can. In any case, members of other religions must convert to Islam when marrying a Muslim. There are no civil marriages, only religious ones.

6.3 Regarding inheritance, women obtain a lesser share than men. A non-Muslim cannot inherit from a Muslim in case of marriage.

6.4 Women cannot transfer citizenship to non-Jordanian husbands.

7) Other religious minorities are guaranteed religious freedoms and practices. They also have representation in various levels of state apparatus through formal and informal quotas. However, many argue that in the long run this only affirms their minority status. Additionally, there are many positions that are not within the reach of members of religious minorities - not by formal regulations, but by informal customs and practices.

These practices have created a very strong religious consciousness in Jordanian society; religion governs the value and belief system.

### Conclusion

In Jordan, religion is an integral part of the state political ideology. Although the State does not interfere directly in religious practices, it adopted several policies that gave religious character and political legitimacy to the State's role.

Second, the State played and continues to play a very important modernizing role regarding religion. This role is played through a modern and moderate interpretation and use of religion, and religious tolerance in general. In fact, the State is able to play this role because of its religious credentials. This role might prove to be a very significant one in the future evolution of the role of religion in society and its relationship to the State. Consequently, the Jordanian State can be characterized as semi-secular, semi-liberal, or semi-religious depending on which half of the glass one looks at.

Thirdly, it can be argued that the State was never a dovecote of Islamic discourse, nor was it ever active for a particular Islamic doctrine, except when religion became a direct threat to the State's authority. In this case, it was imperative for the State to protect itself from what was perceived as a threat from a Islamic movement. But the defensive strategy was transformed into an aggressive policy by presenting a different vision and interpretation of Islam - a convincing alternative to the one that seemed to threaten the State.

But the State also needed an Islamic/religious policy even when it was not threatened by the Islamists. In this instance, it used a pragmatic approach to secure a balance between the different groups. So, the State's position depended on the source of the threat - if it was secular, then it resorted to religion, and if the threat was from the religious groups, it used the other camp. Therefore, it can be said that the State does not have a clear or principled policy towards religion. As such, religion itself does not have a clear or principled position towards the State.

Finally, the question must be raised about the future relationship between the State and religion. Can the formula that worked in the past work in the future? Does religion pose a dilemma to the State in its attempt to further modernize itself and society through the re-introduction of democracy and emphasize the values of equality and human rights? There are no easy and clear cut answers. Yet, these questions are posed because they need to be addressed as major issues for the future. One thing needs to be said here: the previous form of the relationship can not continue to work as it has. Neither the State nor religion can continue to be hostages of each other, and of course society is a hostage of both. For the State to evolve into a full democracy it has to rely less on religion as the basis of its legitimacy. It must be able to possess legitimacy in and of itself. Also, freeing religion from politics will allow religion to grow and flourish and in fact be stronger in society. However, this dilemma is not restricted to Jordan but is facing many Arab and Islamic countries. But without separating the sphere of the state and the sphere of religion - continuing the linkage between state and religion as it has been in the past - further progress for the State, society, and religion itself will be impeded.

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# Religion and State in Israel\*

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## Nation and Religion

In Israel the problem of 'Religion and State' (in Western countries called 'Church and State') is in fact a problem of 'Religion, Nation and State' because for the Jewish majority, Jewish religion and Jewish nationhood are hardly separable. The Jews are a one-religion nation and Jewish religion is a one-nation religion. Even most non-religious Jews often regard religion as a vital component of their national identity. They will not recognize those who converted to another religion as members of the Jewish nation and they will accept newcomers to the Jewish nation only if they have converted to Judaism in a religious ceremony. The Israeli Declaration of Independence, though written by socialist and 'secular' Jews, nevertheless talks about the Jewish "religious and national identity," about the Bible and the prayers of the Jewish People and about "*Zur Yisrael*" (the Rock of Israel) - a traditional synonym for God. In the State of Israel many national symbols are of religious origin. For example, the white and blue colors of the flag are the colors of the *talit* (prayer shawl) and the state symbol is the *menorah* of the Tabernacle (a seven branched candelabrum), which was a prominent feature in the Jewish Temple.

Almost all the official holidays are Jewish-religious although some of them (e.g., Passover and Hanukka) have been 'nationalized' as secular holidays commemorating national liberation by exodus (Passover) or rebellion (Hanukka). Jewish-religious marriage and burial rites and the traditional Bar-Mitzvah (a ceremony marking a boy's maturity) are also accepted by most secular Jews. We may indeed say that almost all Jews adhere to a 'civic religion', a national tradition partly based on religious symbols and ceremonies, which - at least for the non-religious Jews - have lost much of their religious meaning.

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\*This article deals mainly with Jewish religion in Israel defined by law as Jewish State.

Because nation and religion are deeply interwoven, a separation of state and religion in a Jewish nation-state is difficult to imagine. Jewish religion also fulfills a unifying role in the Jewish nation because it is

common to Western (Ashkenasi) and Eastern (Sephardi) Jews and because the Jewish religion assured the survival of the Jewish people in the Diaspora.

### **Divisions: State and Religion**

Although religion plays an integrative role among Jews inside and outside Israel there is a deep divide between various population groups, according to their religiosity and their attitude to the question of state and religion. There are five major such groups - the Secularists, the Liberals, the Traditionalists, the National Religious and the Ultra-Orthodox. All of them see themselves as part and parcel of the Jewish People, but their *Weltanschauung* on state and religion is worlds apart.

The Secularists are those who are really secular (a good part of the Liberals and even Traditionalists calls itself secular without really being secular), which means they are wholly non-observant and non-believing. Though the Secularists, who comprise 10-15% of the Jewish population, accept Israel's civic religion, they actually support a wholly secular state based on a strict separation of religion and state.

The Liberals are different. They may be moderately Orthodox, Conservative or Reform. They also support a separation of religion and state, however; they do so not for atheistic reasons like the Secularists, but for the liberal reason that religion has to be 'privatized'. Some Liberals may support a 'European solution' (e.g., German or Belgian) to the religion-state issue, which means state support for all religions on a non-discriminatory basis but without infringing on the rights of any non-believer to enjoy all citizen's rights without being forced to accept any religious law, institution, ceremony or sanction. The Liberals are no more than 10%-15%, so that the Secular-Liberal Camp comprises all in all not more than about a quarter of the population.

The largest group - about 40%-50% of the Jewish population - are the Traditionalists, who reject the idea of a secular state and strongly oppose a separation of religion and state. They support the '*status-quo*' - no civil marriage, no legal recognition of Conservative and Reform Judaism, no import of non-kosher meat. The Traditionalists are divided among themselves on issues like public transportation on the Sabbath or civil marriage for those prohibited to marry according to Jewish law.

The National (or Zionist) Religious population comprises about 20% of the Jewish population. The National Religious want a Jewish State in the religious sense. They see in the creation of the State of Israel God's design and the 'beginning of salvation.' To them Israel is not yet a Jewish Religious State but as salvation comes 'step by step', so the character of the state will gradually become more and more Jewish-religious. In the long run the National Religious see Israel as a state governed by Religious Law (the *Halacha*). They support religious legislation of the Knesset while accepting the necessity of obeying non-religious laws, as long as the latter don't collide with the *Halacha* (many people in the National-Religious Camp regard withdrawal from Judea and Samaria as a case where the *Halacha* collides with the State's policies, laws and regulations!). Currently the bulk of the National Religious Camp supports, for religious reasons, the 'Whole Land of Israel' concept.

The National Religious are fierce Zionists and share with the non-religious Zionists all the major tenets of Zionism - the nationhood of the Jews, the need for statehood, the vision of the 'ingathering of the exiles' and the critique of exile (*Galut*). As Zionists, the National Religious have always been willing to cooperate by formal coalitions or informal arrangements with the non-religious Zionists. As Orthodox Jews they do from time to time cooperate with the Ultra-Orthodox non-Zionists.

The Ultra-Orthodox (*haredim*) are the most extreme religious group. They include about 5%-10% of the population but they often have the power to tilt the political power either to the 'left' or to the 'right'. They are opposed to Zionism, which they see as a 'betrayal of God's kingdom'. For them the State of Israel is not a 'Jewish State' but a state of heretics devoid of any religious sanctity. The *haredim*, who are particularly strong in Jerusalem, do not celebrate the 'Zionist' Day of Independence and disregard the symbols of the State, such as the flag and the anthem. The Ultra-Orthodox do not serve in the army and insist on having an independent (non-state) school system. They even refuse to have - as the National Religious do - prayers for the well-being of the State and its leaders.

The mainstream *haredim* nevertheless vote in elections, sit in the Knesset and participate in coalition governments. They pragmatically accept the very same state that they ideologically reject. They do so for utilitarian reasons: the need for funds for their schools and religious

institutions and their need to have political power in order to prevent the State from drafting their men for military service.

A smaller group of fundamentalist *haredim* (e.g., the *Neturey Karta* of Jerusalem) rejects any pragmatic contacts with the State. They boycott all state institutions - elections, laws, central and local government and the courts (including the rabbinical courts!). They will not accept any financial aid from the state for their schools and institutions. For them the Day of Independence is a day of mourning because to them the creation of Israel was an act of heresy.

### Religion, State and Democracy

In the past few centuries democracy and religion have been on a collision course in many countries. In the liberal West, democracy has won and it is now accepted that for democracy to exist there has to be freedom *of* religion and freedom *from* religion. Freedom of religion means freedom of worship and freedom to do what religion demands and allows (as long as it does not conflict with basic human rights). Freedom from religion is the freedom not to be religious and observant and the freedom to enjoy all citizen's rights without being forced to accept religious institutions, ceremonies, declarations or commitments.

With regard to freedom of religion, Israel continues the liberal tradition of the Ottoman Empire and the British Mandate. All religious faiths, denominations and groups enjoy freedom of worship. One issue that was contested legally is polygamy but the High Court of Justice decided that, according to its version of freedom of religion (to do what religion demands), the prohibition of polygamy does not interfere with freedom of religion although it collides with the other version of religious freedom (to do what religion allows) both in Judaism and Islam.

The democratic credentials of Israel are less convincing with regard to freedom from religion. The law on marriage and divorce compels all Jews in Israel - citizens and non-citizens - to have marriage performed in a religious ceremony. A similar legal situation exists with regard to all other religious communities. This limits the freedom of conscience of non-believers. Freedom of marriage is thus limited because marriage across the religious divide is legally impossible. It is also limited for those who are prohibited by the *Halacha* to marry each other (e.g., a 'Cohen' of priestly origin and a divorcee). For some people who have no

religion according to Religious Law (e.g., those born to a Jewish father and a Muslim mother are according to Judaism and Islam neither Jews nor Muslims), even the right to marriage is affected.

The legal monopoly of Orthodox Judaism and the legal non-recognition of Conservative and Reform Judaism is a serious deviation from the democratic principle of Equality before the Law. Conservative and Reform Jews do not enjoy legal equality. Their rabbis cannot perform legally recognized marriages or divorce, they have no legitimate rabbinical courts and they cannot serve on the existing Orthodox Rabbinical Courts, the Army Rabbinate or the local Religious Councils. Conservative and Reform communities also do not receive any financial aid from the State to build synagogues, to pay their rabbis, or to provide religious services.

Women do not enjoy equality before the Religious Law, which is the State law in matters of marriage and divorce. Women cannot sit as judges (*Dayanim*) in Rabbinical Courts and the all-men courts discriminate against them in procedure (women cannot testify in rabbinical courts) and substance (Religious Law makes it easier for men to divorce and remarry). Women are hardly represented in the Religious Councils (which are in charge of providing local religious services) and in the assemblies that elect the Chief Rabbinate and the local rabbis (it goes without saying that there are also no women rabbis).

Other religious laws that are enacted by the Knesset and are problematic from a democratic point of view are laws that prohibit the raising of pigs [for their meat and all other purposes] and the sale of bread on Passover or the law that prohibits 'tempting' people to convert by proposing marriage.

### ***The Status Quo***

The *status quo* is a set of arrangements and compromises on state and religion that have been in force since the foundation of the State. A letter written in 1947 by the Jewish leadership in pre-state Palestine to the Ultra-Orthodox Agudat Yisrael (AY) Party is widely regarded as the beginning of the *Status Quo*. In this letter Ben Gurion and his colleagues promised that in an independent Israel, the Sabbath would be respected as the day of rest, that all state institutions (e.g., the army) would have kosher food, that matters of marriage and divorce would be

left to the jurisdiction of the Rabbinat and that the Orthodox (National Religious) and the Ultra-Orthodox would be allowed to have their own autonomous school system. The '*status quo* Letter' was written in 1947 in order to enlist Ultra-Orthodox support in the diplomatic struggle for the foundation of the State. Since then many components have been added to it, e.g., the exemption of religious girls and Ultra-Orthodox Yeshiva students from army service and the prohibition of public transportation on the Sabbath.

The motivation for the *status quo* arrangement was to prevent a *Kulturkampf* between Orthodox and non-Orthodox Jews and thus to assure internal peace and stability. The assumption, proven right so far, has been that the bulk of the Jewish population will accept the *status quo* as the only possible live and let-live compromise between the different camps on state and religion.

An important ingredient of the *status quo* are techniques for conflict-resolution. One technique is 'localization' - making a dispute a matter for local municipal compromise instead of state-wide decision. Matters like public transportation or the opening of cinemas on the Sabbath indeed vary from town to town and the difference reflects the configuration of the population and the political strength of the religious and non-religious parties in each town. By transferring the locus of decision-making to the municipality, a head-on collision is avoided. In essence 'localization' means dissecting a large conflict into many smaller ones, a technique which is both moderating and stabilizing.

Another *status quo* technique for conflict management in disputes is 'legalization', which means transforming political conflicts on state and religion into purely legal conflicts. In this case the arena for conflict resolution is transferred from the Government and the Knesset to the courts. Courts have indeed managed to settle disputes that have erupted on issues such as television on the Sabbath, the right of women to sit on Religious Councils and the legality of conversions performed by Reform rabbis. The 'legalization' technique is effective in defusing potentially explosive conflicts although in some cases, however, the judicial verdict itself has become a matter of dispute resulting in pressure to change the law (e.g., 'Who is a Jew' and the importation of non-Kosher meat).

The cooperation of Orthodox (National Religious and *haredim*) and non-Orthodox (Secularist, Liberal and Traditionalist) elites is another

widely used technique to avoid an all out collision on religion and state issues. Elite cooperation means that the Orthodox minority shares in almost all local and national coalitions. It further means that the non-Orthodox majority respects Orthodox spheres of autonomy in education and religious affairs. There is a tacit understanding that on some of the most sensitive issues (such as civil marriage and legislation on the Sabbath) the Orthodox will always enjoy a 'minority veto'.

Although the *status quo* literally means 'the situation as it was before', in reality the *status quo* is not static. The most important rules (e.g., the laws on marriage and divorce) are stable, but other arrangements have 'moved' either in the Orthodox direction (e.g., on the 'Who is a Jew' issue, El-Al flights on Shabbat and autopsies) or in the opposite, more liberal, direction (e.g., female representation on Religious Councils and cinemas on the Sabbath).

### **Religious State Institutions**

The institutional set-up of the state-religion relationship is based on the Recognized Communities Model. Religious communities recognized by the State enjoy institutional autonomy and have jurisdiction in matters like marriage and divorce. The institutions of the major recognized communities (e.g., the Jewish, Muslim and Druze religious courts), are state institutions, financed by the state and manned by religious dignitaries who are officials of the state. The recognized communities are the following: Jews, Muslims, Druze, Bahai and nine different Christian denominations.

The major Jewish religious institutions are the following:

- 1) *The Chief Rabbinate* composed of 16 Rabbis and headed by two Chief Rabbis. The Chief Rabbinate functions both as the Supreme Rabbinical Council, which gives directives to the local Rabbis, and as the Highest Rabbinical Court, which functions as a Court of Appeals of the Regional Rabbinical Courts. Until the 1980s the Chief Rabbinate was completely controlled by the National Religious Party (NRP) but the influence of the major Ultra-Orthodox parties - the Sephardi Torah Guides (SHAS) and AY - greatly increased in the early 1950s.
- 2) *The Local Rabbinate* headed by Local Rabbis. The Local Rabbinate were also under NRP control until the 1980s although the dominant parties (Labor since the 1950s and Likud since the 1970s) have a lot of influence in the election of the Local Rabbinate.

ate. Since the 1980s the three Ultra-Orthodox parties - SHAS, AY and Degel Hatorah (DH) - have gained influence in the local rabbinates.

- 3) *The Rabbinical Courts* whose judges (*Dayanim*) are appointed by the State President. They rule according to Religious Law, but are subordinate to the High Court of Justice, which decides on the limits of their jurisdiction.
- 4) *The Religious Councils* are in charge of providing religious services in every town and region (dietary food, registration of marriages, religious slaughter, burial sites, synagogues, etc.). The Religious Councils are politically important on the local scene because they provide jobs and control a sizable budget. The members of the Religious Councils are partially appointed by the municipality (45%) and partially by the Ministry of Religious Affairs (45%) and the local rabbinate (10%). Six parties usually compete for seats in the Religious Councils - the NRP, SHAS, AY, DH, Labor and Likud Parties.
- 5) *The Ministry of Religious Affairs* is in charge of providing funds and services to all recognized communities. The Ministry also plays a major role in the appointment of the Religious Councils and in the election of the Chief and Local Rabbinate. The Ministry is an important locus of power and patronage. For many years (1948-1992) the Ministry was in the hands of the NRP. Since 1992 it has been manned by ministers from SHAS (1993/94) and Labor (1995/96).
- 6) *The Religious School System* in which more than 30% of Israel's school-children study is of great importance. It is divided into the National Religious State School System (about 20% of all school children) and the Ultra-Orthodox Independent School System (about 10% of all school children). Both systems are wholly state-financed and both have almost complete autonomy in matters of curriculum and staff. The National Religious School System is the more 'modern' one, in the sense that in addition to the religious Jewish subjects it also teaches 'secular' history, literature and science. The Ultra-Orthodox Schools are deeply traditional and do not prepare their students for a modern career, neither in the social sciences and humanities nor in science and technology.

## Contested Issues

### 1. 'Who is a Jew?'

The 'Who is a Jew' issue may sound strange to non-Israelis but it is a hotly contested issue in Israeli politics and has already brought down governments. It was the major reason for the formation of the National Unity Government in the 1980s. The 'Who is a Jew' issue concerns the disagreement about the definition of a Jew in the Population Registration Law and the Law of Return. The Orthodox definition says that a "Jew is born to a Jewish mother and belongs to no other faith or was converted according to the *Halacha* (Orthodox Religious Law)." The Secular-Liberal definition puts less emphasis on biological descent ("born to a Jewish mother") and more on the wish to be Jewish, the consciousness of being Jewish and a Jewish way of life. According to the Secular-Liberal approach, it makes no difference whether the mother or the father is Jewish, as long as the child is raised as a Jew. Secular Jews do not insist on a religious conversion to Judaism and both Secular and Liberal Jews accept a conversation based on Conservative or Reform (and not Orthodox) Religious Law. The Orthodox argue that a 'soft' definition of a Jew will result in a flood of non-Jewish immigrants (according to the Orthodox definition) and will destroy the 'unity of the Jewish people' by creating two peoples ('real' Jews and 'so-called' Jews) who cannot intermarry. The Secular-Liberal approach is based on the assumption that the Orthodox view is even more harmful to the survival and unity of the Jewish People because it rejects many Jews and alienates the Reform and Conservative Jews who make up 80% of American Jewry.

The current Israeli law, which was enacted in the early 1970s is closer to the Orthodox position (it says that a Jew is someone "born to a Jewish mother and does not belong to another faith or was converted"), but in the crucial question of conversion the law does not say that only an Orthodox conversion is legal. The current battle is over the attempt by the Ultra-Orthodox and a good part of the Traditionalists to add to the law the specification that any conversion has to be 'according to the *Halacha*.' This Ultra-Orthodox demand is fiercely rejected by Conservative and Reform Jews and their Secular and Liberal allies in Israel.

## *2. Marriage and Divorce*

The Orthodox Camp defends the *Status Quo* while the Secular-Liberal Camp demands the introduction of civil marriage for those who need it (couples who are prohibited from marrying according to Religious Law

and couples who marry across the religious divide) or want it (couples who are non-believing or opposed to the Orthodox Establishment).

### *3. The Sabbath Issue*

Disagreements concern public transportation (buses, trains, airlines); the closure of streets in religious or 'mixed' neighborhoods; the opening of cinemas, theaters, museums, restaurants, swimming pools, soccer stadiums and gas stations; radio and television; business activities and the operation of vital activities (electricity, water, telephone, etc.).

### *4. The Status of Conservative and Reform Jews*

The contest over the status of Conservative and Reform Jews covers a wide area of conflict - their non-recognition by the state, the prohibition on Conservative and Reform rabbis performing legally valid marriage ceremonies, their exclusion from the Rabbinical Courts and the Religious Councils, and discrimination against them in matters of funding by the state.

### *5. Army Service*

The Ultra-Orthodox Yeshiva (colleges of higher religious studies) students don't serve in the army. Formally they get a deferment from year to year for educational reasons. The real reason for the refusal of the Ultra-Orthodox men to serve in the army is their alienation from the 'heretical' state and the fear of their religious leaders that in the army they may be tempted to 'break out' from their closed Ultra-Orthodox world. Most people in Israel from the National Religious to the Secular resent that the Ultra-Orthodox do not share the burden and risks of defense, but all Israeli governments have had to give in to the political demands of the Ultra-Orthodox and fear that enforcement of the draft will be met by violent resistance.

Religious girls (both Orthodox and Ultra-Orthodox) do not serve in the army either. The contested issue is not the military service *per se* but the National Service as a civilian alternative. The Secular-Liberal Camp would like to see all religious girls serve in the National Service (e.g., in civilian schools, hospitals and old-age homes), but the Ultra-Orthodox reject any type of service for girls, whether military or civilian. The National Religious support a voluntary National Service and many of their girls do indeed serve in this alternative service.

### *6. Kashrut (Dietary Food)*

Crises erupt periodically over the growth and sale of pork, the importation of non-Kosher meat and *Kashrut* in restaurants and hotels.

### *7. Autopsies*

A battle was waged for decades by the Ultra-Orthodox to limit autopsies to a bare minimum. The Medical Association, supported by the Secular-Liberal Camp, sees in this limitation a danger to the high quality of the medical profession in Israel.

### *8. Abortion*

As in other countries the abortion issue is hotly contested by Orthodox pro-lifers and Secular-Liberal pro-choice supporters (with the Traditionalists divided on this issue).

### *9. Burial Sites*

Up to now burial sites have been monopolized by the Orthodox burial companies. Seculars and Liberals demand alternative sites for non-believers, 'non-Jews' (according to Orthodox Law) and 'mixed' couples. These demands are also supported by the Reform and Conservative communities.

### *10. Archaeological Digs*

The Ultra-Orthodox wage a fierce battle against archeological digs in what are regarded as ancient burial sites. The archeologists insist that almost all archeological sites contain burial sites. They claim that Ultra-Orthodox demands seriously limit archaeology and freedom of research.

### *11. 'Jewish Democratic State'*

Recent basic laws have defined Israel as a 'Jewish Democratic State' but it is very much contested what that means in case of conflict. Does it mean that democracy has priority over 'Jewishness' or that 'Jewishness' has priority over democracy?

## Appendix 1

<u>Party</u>	<u>Position on State and Religion</u>
Neturey Karta	Extreme Haredi
Agudat Yisrael	Mainstream Haredi
Degel Hatorah	Mainstream Haredi
SHAS	Moderate Haredi
National-Religious Party	National-Religious
Likud	Traditional
Labor	Traditional-Liberal
Zomet	Liberal
Shinui	Liberal
MAPAM / Meretz	Secular
Citizens Rights Movement	Secular
Communists	Secular

## Appendix 2

### Religious Attitudes towards the State

Position	Extreme Haredi (Neturey Karta)	Main-stream Haredi (AY)	Moderate Haredi (SHAS)	National-Religious (NRP)	National-Religious Kibbutz Movement ('Hakibutz Hadati')
Attitude towards Zionism	—	-	-	+	+
Pragmatic Acceptance of the State	—	+	+	+	+
The State as "Beginning of Salvation"	—	-	-	+	+
Participation in Coalition	—	+	+	+	+
Participation in Government	—	partially	+	+	+
Voting for Knesset	—	+	+	+	+
Integration in Religious State School System	—	-	-	+	+
State Funding for Schools	—	+	+	+	+
For Army Service	—	+	+	+	+
For Army Service of Yeshiva Students	—	-	-	In principle yes, but against compulsory draft	+
Acceptance of funds from the National Insurance	—	+	+	+	+

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