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RELIGION AND STATE ARE TWIN BROTHERS: CLASSICAL MUSLIM POLITICAL THEORY

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Abstract: The current reluctance for democratic transition in Muslim societies is mostly attributed to Islamic political theories that do not allow a separation between religion and politics. Extremist views often reject democracy because it is perceived to be ‘anti-religion’. This paper examines the thread of classical Islamic political theory that considers religion and state to be inseparable ‘twin brothers’. Exploring the origins of this thread in Sassanid and tenth-century Islamic thought, analysis of the doctrine reveals that Muslim political thought more generally has traditionally been more pragmatic on political issues (*siyasa*), with Muslim jurists continuously marking boundaries between religion and culture in their *fatawa*, particularly concerning *bid'ah* (innovation) and *tashabbuh bi'l kuffar* (imitation of the infidels). Indeed, all definitions of religion that make it inseparable from the state are seen to be a modern phenomenon, in which religion is defined in terms of the ideology of political power, with secularism perceived as its rival. Analysing diverse interpretations of the doctrine from the Abbasid period to the twenty-first century, the paper finds that, like twin brothers, religion and politics are separate in Islam albeit united in their origin. This perspective becomes more meaningful in modern times if we recognise the role of social consensus (*ijma'*), besides the political and the religious spheres.

Keywords: classical Islamic political theory, democracy, *din*, extremism, *ijma'*, Juwayni, *mulk*, secularism, Nizamul Mulk Tusi, rule of law.

This paper explores the reasons for reluctant democratic transition in current Muslim societies against the backdrop of tensions between secularists, Islamists and extremists. Secularists consider an Islamic state impossible because Islam, they argue, is essentially undemocratic. Islamists accept democracy but reject secularism because they believe that secularism expels religion from the public sphere. The extremists, who reject democracy and constitutionalism as Western ideas, construct a vision of an Islamic state that is empty of any democratic content and which they seek to establish using violence and terror.

In trying to understand these multiple narratives, it is striking that the current comparative literatures and methodologies used to study them are wanting as they essentialise certain norms and practices as Islamic, religious or secular and ignore pragmatism in Muslim political thought and practice. Ernest Gellner (1996), for instance, characterises Islam as “secularism resistant.”¹ Most others regard Islamic law and legal theory as fixed, with varying Muslim practices being “un-Islamic.”

Alfred Stepan (2012), however, disagrees with Gellner as he finds “multiple secularisms” in the West and notices democratic transitions in progress in some post-Arab Spring Muslim societies. He observes that religious leaders have been prepared to grant authority to elected representatives and that state authorities have facilitated the democratic participation of religious groups in civil and political domains. He refers to this phenomenon as “twin tolerations”—that is, “the minimal boundaries of freedom of action that must somehow be crafted for political institutions vis-a-vis religious authorities, and for religious individuals and groups vis-a-vis political institutions.”²

In this paper, I will confine myself to examining the classical Islamic doctrine that perceives religion and politics as twin brothers. This doctrine argues that religion and politics are united but separate from each other. The doctrine reveals that Muslim political thought has been truly pragmatic on political issues. I propose to examine how this pragmatism has led Muslim jurists to mark the boundaries of religion and politics so that they relate to each other like brothers, united but separate. I explore this process in Islamic jurisprudence with reference to *bid'ah* (heresy), *tashabbuh bi'l kuffar* (imitation of the infidels), *siyasah* (governance) and secularism, four concepts defining boundaries of religion and politics.

The paper is divided into four sections. The first overviews the development of the doctrine of twin brothers, defining the relationship between the religious and the political dimensions of authority. The second focuses on the religious domain, analysing how Muslim jurists marked the boundaries of religion with regards to the concepts of *bid'ah* and *tashabbuh*. It is significant to observe that these boundaries continued to be adjusted in view of political and social transformations. The third section discusses the classical doctrine of *siyasah* and recent debates about secularism to see how these boundaries were adjusted in periods of crises. The fourth section suggests that a narrow focus on religious and political dimensions in studies of Islamic political thought have overlooked an important aspect: the role of society. We may say that, captivated by the two brothers, the Political and the Religious, studies on Muslim politics have disregarded the Social, or the mother. The fourth section, therefore, discusses the role of *ijma'* (consensus) as the social factor. I summarise al-Juwayni's (d.

1085) views on *ijma'*, which stress the participation of the masses (civil society) in religion and politics. While in previous centuries *ijma'* played the role of resolving conflicts, more recently it has also paved the way for democratising politics.

Twin Brothers: The Religious and the Political

Debates in Muslim society over the relationship between religion and politics began quite early. Demarcation between the roles of the political and the religious had been part of the political and religious language of the Kharijites, who claimed absolute authority in both political and religious matters but were opposed by Caliph Ali. The Kharijites argued that sovereignty (*hukm*) belonged to God alone, while Caliph Ali clarified that it was wrong to confuse human with divine sovereignty. In the eleventh century, al-Ghazali's teacher, al-Juwayni, held that the necessity of establishing the state was not a religious matter; it was a social need. He argued that the obligation of appointing an *Imam* (ruler) was not derived from the Qur'an and hadith; it was established by the consensus (*ijma'*) of the Muslim community. Obligation to obey the ruler was, however, a religious duty.

On the other hand, the Umayyad caliphs claimed absolute authority. Contrary to the practice of earlier caliphs, Umayyad and Abbasid caliphs were no longer elected by the people, with the Abbasid caliphs claiming a divine right to rule. The Abbasids tried to claim authority in the domains of theology and law and used courts to punish heretics and to unify laws. The jurists insisted on distinguishing between the authority to govern and the authority to interpret law. In the beginning they were reluctant to serve in the position of judges but gradually came to recognise the authority of the ruler to enforce law and began to serve as judges.

The secretary of Caliph Mansur (r. 754-775), Ibn Muqaffa' (d. 759), was alarmed by the religious schism in the caliphate. Freedom of juristic opinion had given rise to divergent *fatawa* and conflicting court judgments. He advised the Caliph to use his prerogative to unify the laws. The Caliph therefore approached Imam Malik (d. 795) in Medina, requesting that the latter's compilation of laws, *al-Muwatta'*, become the law of the caliphate. Imam Malik refused, however, arguing that this would deprive the jurists of the freedom of interpretation.

The doctrine "religion and kingship are twin brothers" (*al-din wa'l-mulk tau'aman*) emerged in the tenth century after a huge crisis of authority between the Caliph and the Sultan (detailed below), when the army chiefs claimed more authority than the caliph. Assuming the title of Sultan, they reduced the caliph to merely a figurehead who fulfilled religious necessity.

This doctrine of twin brothers was the hallmark of a short period called the “Abbasid Revival” (920-932), when the caliphs reclaimed their political authority. Over this short period, this doctrine is mentioned as a basic principle of politics in books on theology, political theory, history, ethics, *tafsir* and hadith. Qudamah b. Ja‘far (d. 948), secretary to the Abbasi caliphs during the Abbasid Revival, was apparently the first to adopt this concept as political doctrine. He attributed it to the Persian Emperor Ardashir I (r. 224-241), founder of the Sassanid Empire, who derived his authority from the Zoroastrian religion. Qudamah explained that the two authorities were combined in the Caliph because no kingdom survived without religion and law and no religion functioned without a kingdom and control.³ This doctrine therefore marked the revival of the Abbasid claim to political as well as religious authority.

This short-lived revival ended in the eleventh century, when army leaders again claimed religious and political authority. Some Muslim jurists legitimised this form of rule and the authority of the Sultan as *istila’* (rule by force) in view of public interest. The chaos that led to justifying ‘rule by force’ in the eleventh century will be discussed in the third section. Here it is sufficient to point out that several factors had weakened the Abbasid caliphate over this period, including the ongoing rivalry between the Fatimid Caliphate in Cairo and the Abbasids in Baghdad, the activities of the Batiniyya (Assassins) in Baghdad and other cities, the conflicts between the Sunni Seljuq Sultans and Shi’a Buyid Sultans (who captured Baghdad intermittently), and the clashes between various other Muslim sects. The situation called for powerful governance and justified the rise of the Seljuq Sultans as defenders of the Sunni caliphate.

The book of Nizamul Mulk Tusi (d. 1092), *Siyasat Nama* (famously known for the doctrine of “Twin Brothers”), offered a different interpretation of the doctrine. While Qudamah b. Ja‘far combined the two authorities in the Caliph, Tusi invokes them for the Sultan. Tusi, who served as *wazir* to the Seljuq Sultans Alp Arslan (r. 1063–1072) and Malik Shah I (r. 1072–1092), who in turn reigned contemporary to the caliphs al-Qa‘im bi Amrillah (r. 1031-1075) and al-Muqtadi bi Amrillah (r. 1075-1094), adapted the doctrine of twin brothers to a changed political context. His book provided insights into the art of political management in this chaotic period. Tusi explained that the term ‘twin brothers’ (*taw’aman*) defined the relationship between religion and politics as the law of nature and biological fact. The word meant that the two had the same source, and hence were inseparable, indistinguishable, interdependent, and possessing of the same position. It implied that the Sultan’s position assimilated both authorities. In his view, the situation demanded consolidation of authority.⁴

Nizamul Mulk Tusi took three steps to consolidate this theory and combine political and religious authority in the Sultan. First, he wrote *Siyasat Namah*,

advising the Seljuq Sultan Alp Arslan to acquire religious knowledge sufficient enough to distinguish between heresy and authentic religion in order to protect himself and his kingdom from the enemy propaganda of the rival Fatimid state. Second, he established a chain of colleges called Madaris Nizamiyya, designed to train religious scholars, muftis, *qadis* and other state officials in religious discourse. According to Makdisi (1981), the Madaris concentrated on teaching law to trainee judges and other state officials, in contrast to private religious institutions, which focused on religious sciences, especially theology.⁵ Nizamiyya Madaris nevertheless did invite renowned theologians like al-Juwayni and al-Ghazali for special lectures on theology. Third, Tusi assigned al-Ghazali (d. 1111) to write a book on the heresies of the Batiniyya (*Fada'ih al-Batiniyyah*). This book offered a whole new theology to counter the Batiniyya and mentioned the doctrine of "twin brothers." Al-Ghazali is arguably the first to justify it by citing the following Hadith: Ibn Abbas reported that Prophet Muhammad (pbuh) said, "Islam and Sultan are twin brothers."⁶ This hadith, with minor variations, appears during the twelfth century in hadith collections and commentaries on the Qur'an. Al-Saghani considered it a fabrication.

Tusi's interpretation of the doctrine of twin brothers, combining both authorities in the Sultan, did not survive after the Seljuqs; Tusi was assassinated, al-Ghazali had to go into hiding and Alp Arslan was killed in mysterious circumstances. Debate on the political and the religious as twin brothers continued, however, but with a stress on the interdependence and balance between religion and politics.

The Religious

Islam recognises diversity of and in religions. Recognition of diversity requires defining boundaries of religion and the 'religious other' in several different ways. The two doctrines, *bid'ah* (heretical innovation) and *tashabbuh bi'l kuffar* (imitation of the infidel), illustrate this; both define what is religion and what is not. Legal reasons in *fatawa* illustrate how these boundaries have provided cultural freedom within civil society. This distinction has also been meant to delimit the religious authority that only the Prophet had.

These boundaries have become blurred in modern times, when the establishment of the state has been perceived as a religious necessity and the boundaries of religion to have expanded to assimilate politics. Thus, some modern religious leaders have expanded the political domain of the state to include the religious sphere. Mawlana Mawdudi (d. 1979), for example, considered the term *din* (religion) to be almost synonymous with the concept of state. Although he argued that the concept of *din* was too unique and too comprehensive to be correctly translated into any language, he believed that the modern word "state"

came closest to it, although without including the whole semantic field to which the word *din* refers.⁷

Al-Bid'ah

The doctrine of *bid'ah* is based on the saying of the Prophet, "Every new thing is *bid'ah*, innovation, and every *bid'ah* ends in hell."⁸ It is an important doctrine because it distinguishes the valid from the invalid in religious belief and practice. Abu Ishaq al-Shatibi (d. 1388) underscored the significance of four constituent elements that make a new idea or a practice *bid'ah*: (1) intending and believing that the innovation is a part of religion, (2) claiming the status of religious obligation for the innovation, (3) exaggerated emphasis on its religious nature, and (4) considering its practice as a way of seeking God's pleasure. He concludes that the concept of *bid'ah* applies only to religious obligations (*'ibadat*) not other matters (*mu'amalat*).⁹ For example, living in modern houses in place of huts is not *bid'ah* because this practice is not associated with belief and religion. He further clarified that most *bid'ah* was introduced as *'ibadat*, giving an example that would sound far-fetched in his period: "Suppose a person who travels to perform the obligation of *Hajj* flying in the air or walking on the water would not be counted as innovator in religion or heretic. The purpose was to reach Mecca to perform the obligation of *Hajj* and he achieved that purpose in its fullest sense."¹⁰

Defining *bid'ah* has been a juristic endeavour, to limit the meaning of the religious and to distinguish it from the non-religious.

Al-Tashabbuh bi'l Kuffar

The prohibition against imitating the infidel, *tashabbuh bi'l kuffar*, stresses the distinction between what is valid and invalid in religion from the perspective of the religious 'other'. It is derived from the hadith: "Whoever imitates (*tashabbaha*) a people he belongs to them."¹¹ The varying versions of this statement reported in hadith collections suggest that the doctrine was developed to define boundaries between how the religious was objectified. Firstly, the doctrine does not define Muslim identity only by prohibiting similarity with the religious other per se, but by differentiating religious symbols from cultural and political markers of identity; socialising with non-Muslims as such is not regarded as *tashabbuh*. I will illustrate this with examples from the medieval and modern periods, demonstrating that the generalisation of this prohibition, the diversification of its interpretation and the widening of its implications occurred in changing cultural, political and religious contexts.

Al-Ghazali explained this prohibition with reference to the historical context in Medina. He argued that even though Muslims were open and eager to sharing

religious commonalities with the Jews, the Jews did not welcome this gesture as they were unhappy with the rising political power of the Muslims. As a result, the hadith required Muslims to distance themselves from Jews as the religious 'other' from the political point of view. Ibn Taymiyya (d. 1328) later took this political consideration as the basic element of Muslim identity and expanded the religious meaning of *tashabbuh* to include the social and cultural, arguing that imitation bred affection for sinful non-Muslim practices.

The situation became more complex in nineteenth-century colonial India, where Muslims were a minority living under foreign Christian rulers. Yet, Muslim jurists distinguished religious from political considerations; Shah Abd al-Aziz (d. 1823) ruled that imitating anything—custom, practice, food, and dress—considered by non-Muslims to be religious was forbidden for Muslims. Adopting these practices with the sole intent to 'imitate' in a strictly religious manner was prohibited. However, if Muslims adopted them for other purposes, such as usefulness or convenience, and not with the intention of imitating religion, it was not forbidden. For example, wearing warm non-Muslim dress in winter is not a religious practice and, therefore, not forbidden. Likewise, Mawlana Rashid Ahmad Gangohi (d. 1905) ruled that Muslims could not wear a cross as such is a symbol of Christianity, but hats, coats and pantaloons are not religious symbols and so not forbidden—and certainly Muslims in England also wore those items.¹²

Most muftis in the nineteenth century declared speaking and learning English as *tashabbuh* and forbade it. Mufti Abd al-Hayy, however, clarified that learning English was not prohibited; *tashabbuh* referred to special customs and habits, which were peculiar to the non-Muslims. While this might include certain food, drink, and dress, it did not include language. In another example, Mufti Abd al-Hayy disallowed wooden sandals used by Hindu Yogis while Mufti Rashid Ahmad Gangohi (d. 1905) maintained that they no longer symbolised Yogis and were therefore allowed for Muslims. *sohi N.d. 627, Masud 2013b, 169*).¹³

These contradictory *fatawa* were based on differing political perceptions of Muslim identity. Religious boundaries were continuously re-drawn to respond to changing political contexts. I detail in the next section how religion was finally re-imagined in the form of a state ideology and, consequently, how religion was expanded to include politics, with the political becoming Islamised to the extent that secularism became defined as denial of religion.

The Political

Siyasah and Shari'ah, as the political and the religious, were often contrasted in Islamic jurisprudence and political thought as mutually exclusive. *Siyasah*, as the domain of the ruler, was open and dynamic, while Shari'ah was considered

fixed and immutable. Secularism is often described as *siyasah* without Shari'ah. This section overviews debates surrounding the two doctrines of *siyasah* and secularism as they relate to the political.

The Doctrine of *Siyasah*

The debate about the boundaries between *siyasah* and Shari'ah in Islamic law began in the ninth century when the Abbasids introduced new courts (*mazalim*, appeals) in which rulers used their discretion in the public interest. As a consequence, Ibn Nujaym (d. 1563) defined *siyasah* as "action taken by a ruler in view of public interest in a certain matter even though the ruler found no textual evidence to support his action."¹⁴ The debate surrounding *siyasah* emerged intermittently as and when the system faced a crisis.

I note here five major shifts in the meaning of *siyasah* in the history of Islamic legal and political theory.¹⁵

1. Eighth to Ninth Century: *Siyasah* as 'Ruler Discretion' (*ta'zir*)

The first political crisis came when the Abbasid Caliph Mansur tried to use his discretion to unify laws and establish caliphal authority to legislate and adjudicate Islamic law. Imam al-Shafi'i (d. 820), who insisted on deducting laws only from the texts of the Qur'an and Sunnah, criticising the Hanafi principle of juristic preference (*istihsan*), rejected this notion of 'ruler discretion'. He allowed it only if it accorded with the texts of the Qur'an and Sunnah.¹⁶

Other jurists who developed *siyasah* as ruler discretion did so to define boundaries between the rights of God and the rights of humans. Those crimes whose punishments were fixed by Shari'ah were categorised as rights of God and designated as *hudud*, meaning boundaries not to be crossed. Remaining crimes were considered the rights of humans and designated *ta'zirat* and left to the discretion of the ruler.

2. Eleventh to Twelfth Century: *Siyasah* as Public Interest

The second political crisis came when the newly emerging position of the Sultan claimed political authority over the Caliph during the twelfth century. As mentioned above, this is when the 'twin brother' theory became official doctrine, to justify the legitimacy of the Sultan in the presence of the Caliph as Imam. Historically, the Abbasid Caliphate had been under constant threat from neighbouring states. The Caliphs had depended on mercenaries for defence; the military amirs who headed those mercenaries claimed the position of Sultan, keeping the position of caliph for legal justification. They would appoint and depose Caliphs at will.

Al-Ghazali rationalised the office of Sultan via *siyasah*, distinguishing the political aspects of this concept from its religious functions; religious *siyasah* is linked to the Prophetic *siyasah* that subjects Muslims to religious discipline, while political *siyasah* is the executive authority of ruling like a king. Al-Ghazali defined the latter as “Social organization and cooperation for economic resources and their management.”¹⁷

3. Thirteenth to Fourteenth Century: *Siyasah* as Discipline

The third political crisis came with the Mongols, who put an end to the Abbasid Caliphate in Baghdad. The Mamluks then shifted the caliphate from Baghdad to Cairo, where it existed in a state of constant war. As a result, the re-organised caliphate gave more executive authority to Sultans, with the position of caliph being merely a legal formality. As the crises surrounding the rule of law over this period related more specifically to war, including rules of exception and harsh punishments, *siyasah* came to mean the political authority needed to establish discipline and order.

Under these circumstances, al-Qarafi (d. 1285) developed a hierarchical theory of *siyasah* defining boundaries between the authorities of Imam, *qadi* and mufti. Muftis, as a religious authority, were responsible to God, while *qadis* reported to the Imam. The Imam had the final authority. Ibn Taymiyya combined both religious and political authorities in *al-Siyasah al-Shar‘iyyah*. He disagreed with the separation of religious and political authorities. He gave both powers to the ruler under Shari’ah because the state was necessitated by religion as a means of enforcing Shari’ah.

4. Fifteenth to Seventeenth Century: *Siyasah* as Balance

The fourth political challenge came with the rise of Mughal India, Safavid Iran and the Ottoman Empire during the sixteenth and seventeenth centuries. Over this period, *siyasah* was defined as balance of power. The jurists were officials of the state who participated in the systemisation of the Islamic legal order, producing code-like compilations (including *Multaqa al-Abhur* under the Ottomans and *Fatawa Alamgiri* under the Mughals), while rulers introduced their own laws (*Qanun* in the Ottoman Empire and *Farman* and *A’in* in Mughal India) in addition to Shari’ah, sometimes even contrary to *fiqh*.

Taqi al-Din al-Maqrizi (d. 1441), who argued that *siyasah* was constructed on the same pattern as the Mongol *yasa*, defined it to mean “Seeking the welfare of the people by leading them to the way of success in this and the other world.” According to him, *siyasah* was of two types: Prophetic and coercive. The first was ruled by Shari’ah. Shah Waliullah

(d. 1762) of Mughal India also defined *siyasah* as balance of powers. Assimilating the various philosophical and juristic doctrines of *siyasah*, he stressed the need for the deconstruction of old systems (*fakk kulli nizam*) and the construct of new ones on the *siyasah* of balance and public interest.

5. Eighteenth to Twenty-first Century: *Siyasah* as Political Legitimacy

It is quite interesting that the doctrine of *siyasah* was also invoked by the colonial rulers of India. Warren Hastings, the eighteenth-century British Governor of India, assumed the title Nawwab Governor General Hastings in order to claim the prerogatives of a Muslim ruler to reform Islamic criminal laws. He justified these reforms on the grounds of the doctrine of *siyasah*.

Literature on *siyasah* grew abundantly over the nineteenth and twentieth centuries, when the term *siyasah* came to mean public law in contrast to Shari'ah, which meant personal law. Rifa'a al-Tahtawi (d. 1873), 'Abd al-Wahhab Khallaf, and Ahmad Fathi al-Bahnasi identified *siyasah* as secular law, management of public affairs, securing public welfare and removal of harm, universal principles, and punishments other than *hudud*. International laws and peace treaties also belonged to *siyasah* according to this new conception.

Next, I discuss how the term secularism has been interpreted in modern Muslim political thought as a boundary marker between religious and non-religious concepts of the polity.

Secularism

Some modern Muslim thinkers relate the issue of secularism to sovereignty, believing that secularism challenges divine sovereignty. According to the Irish political scientist, Kathleen Cavanaugh, however, it is possible to speak about sovereignty apart from secularism. In that regard, it is useful to distinguish between different forms of sovereignty—that vested in the state, that vested in a figure who possesses authority (the sovereign), and that vested in a supreme, independent governmental source of power or authority as possessed (or claimed) by a state or community.¹⁸ The debate about sovereignty in modern Muslim political thought really refers to the rise of the modern nation state during the nineteenth and twentieth centuries in a specific geographic region, the so-called 'West'.

Niyazi Berkes, a sociologist from Turkey, views secularism as a problem of modernisation; it does not originate with either religion or the state. Pre-modern Christian societies, where the social and political were not organised

along religious lines, could easily separate the political from the religious. Unlike their Christian equivalents, however, Muslim societies treated the religious and the political as interdependent and have since become divided between traditional conservatives, modernists and religious reformists. While traditional conservatives are strictly religious but accommodative, modernists are irreligious and open to secularism. It is the religious reformists who have called for the revival of religion, contesting modernity and the modern.¹⁹

In the modern context, secularism has become the subject of heated debate amongst Muslims, notably after the abolition of the caliphate in 1924. In the modern context, secularism has been approached from at least three different perspectives: sociological, epistemological and ideological.

In Southeast Asia, religious, cultural and ethnic diversity turned secularism into an epistemological issue. Naquib al-Attas called for the 'Islamisation of knowledge' as religion and culture came to be considered sources of knowledge for the definition of Muslim identity. To al-Attas, "The term 'secular' has a dual connotation of both time and location; now and this world."²⁰ Distinguishing secularisation from secularism, he explained that "secularization in the West is understood as a social process that liberates man first from religion, and then from metaphysical control over his reason and his language. He defines Secularism, like religion, as an ideology that projects a closed world-view and absolute set of values in line with an ultimate historical purpose having a final significance for men."²¹

In Egypt, the debate about secularism began after the abolition of the caliphate in 1924. 'Ali 'Abd al-Raziq (d. 1966) argued that Muslims were not obliged to establish or restore the caliphate, a position that was rejected by al-Azhar. The Muslim Brotherhood, founded in 1928, later rejected any separation between religion and politics and argued that it was a Muslim's religious duty to establish an Islamic state. Yusuf al-Qaradawi, affiliated with the Muslim Brotherhood, defined secularism as a Western, anti-religious and atheistic ideology. He called those Muslims who supported secularism apostates.

In Tunisia, Rashid Ghannushi, the leader of al-Nahda, an Islamist political party, has recently revisited secularism. He argues that secularism is not an ideology or a theory. Nor is it monolithic, as there are a multitude of secularisms. Western secularism, for example, is only a procedural solution: "secularism is not an atheistic philosophy but merely a set of procedural arrangements designed to safeguard the freedom of belief and thought."²² While Islam combined religion and politics from its inception with the social contract (*mithaq*) of Medina, which combined people of different religions and beliefs into one political community, for Ghannushi a "state is Islamic insofar as it assures that its actions are in accordance with Islam's values without being subjected to the tutelage of any

religious institution for there is no such thing in Islam. Rather, there is a people and a nation who make decision through their institutions.”²³ Within Islam the approach is to distinguish rather than separate. Secularism does not mean the expulsion of religion from politics as this would be dangerous; it would reduce the state to a Mafia gang, without moral restraint. Rather, social harmony needs balance: “To achieve this balance, we need to go back to the issue of distinguishing between religion and politics and adjust the parameters and constant in religion and that which is variable.”²⁴

In South Asia, secularism was seen from three different perspectives: traditional, historical and ideological. Qari Tayyib’s book *The Natural State* illustrates the traditional view. In this view, nature symbolises the ‘divine kingdom’, which is the best example of a balanced system. The government on earth is the caliph (deputy) of God, a system of government based on the pattern of the divine natural state. But while in other, similar systems humans assume divine authority, in the Islamic caliphate God alone is the legislator. While other systems therefore turn into tyrannical dictatorships, the principle of consultation in Islam prevents absolutism and anarchy. Only the religious scholars can decide between equivocal issues because they are equipped to engage in the required legislative process and are well versed in the philosophy of law. The opinion of the ordinary people has no value, even if they have total consensus about a certain matter.²⁵

Muhammad Iqbal (d. 1938) approached secularism historically. He explained that the separation of religion and politics was a functional division in the management of the body politique: “The Islamic idea of the division of the religious and political functions of the State must not be confounded with the European idea of the separation of Church and State. The former is only a division of functions... the latter is based on the metaphysical dualism of spirit and matter.”

Mawlana Mawdudi viewed secularism as an ideology of *la diniyyat* (denial and absence of religion). He therefore considered it to be opposed to Islam, which is based on the two principles of sovereignty of God and enforcement of Shari’ah. Mawdudi called the Islamic state a theo-democracy because the “Islamic State is not *la dini jamhuriyyat* (secular democracy); sovereignty does not belong to the people.”²⁶ (Mawdudi 1964, 23). In Islam people are not free to make their own laws. As already noted, although Mawlana Mawdudi considered the term *din* too unique and comprehensive to be translated into any language, he wrote, “The modern word ‘state’ has reached somewhat closer to it (*din*), but it is not yet broad enough to include the whole semantic field to which the word *Din*, Religion refers.”²⁷

The Social

In these debates, Imam al-Haramayn Abu'l Ma'ali al-Juwayni's (d. 1085) *Ghiyath al-umam fi iltiyath al-Zulam* (Helping communities in the world wrapped in darkness) is immensely relevant. This text aimed to help the masses against the increased oppression of rulers and officials. In it, al-Juwayni clarified that, after the death of the Prophet, religious authority was restricted to the Qur'an and Sunnah, with all matters being decided by the consensus of the community. Al-Juwayni disagreed with those who held that the establishment of the state was a religious obligation, created by a religious text. He discussed in detail how such claims were unfounded. He clarified that this necessity was created by the community and legitimised by *ijma'* (consensus). It was therefore a social construction and, once a leader, an Imam, an Amir, a ruler was elected and appointed, then religious duty only obliged his subjects to obey him. Supporting his response theologically, al-Juwayni firstly argued that establishing a state to impose order and punish people on behalf of God necessitated that God continue to send prophets. That, however, was not maintainable, as prophecy was completed with the Prophet. Historically, also, there were periods when no prophet was sent for a long time. Secondly, al-Juwayni denied that it was God's obligation to save the people; even the Prophet was not sent as a saviour; his duty was only to deliver the divine message. The Prophet organised society, established a community and guided them to run their affairs. He did not force people to follow him or punished those who did not. He guided only those who agreed to follow him. God says clearly that the Prophet was not a dictator. God does not change the conditions of the people unless they change themselves. Finally, al-Juwayni noted that, while the prophets were chosen by God, Imams are chosen by the community, making wider society the source of legitimacy for *Imamah*.²⁸

But while the role of the Imam is central as leader of the community, with the *Imamah* as an institution being comprehensive (including protection of territory, the care of subjects, establishing the call to Islam, and saving the oppressed from the oppressors),²⁹ the Imam's legal authority relates to only two types of laws: (1) public laws relating to the Imam and those of his governors who have the authority to rule by the law, and (2) laws for the community. In other words, an Imam's legal authority relates to public laws and administration. The jurists, as members of the Muslim community, are situated between the ruler and the masses. They participate in formulating and completing the laws.³⁰ As pillars of knowledge and piety, they must therefore be qualified to exercise *ijtihad* (legal interpretation).

According to al-Juwayni, the source of political as well as religious authority is the Muslim community, with *ijma'* being the process via which that authority

is exercised. It is also clear that *ijma'* is the consensus of the people, not only the agreement of the jurists. Thus, al-Juwayni does not give absolute authority to the Imam or to the jurists. He argues that most juristic opinions, concepts and legal institutions evolve out of conflict among the jurists. It is by *ijma'*, consensus of the community, that the negative and positive impacts of these conflicts are resolved. The best example of the process of consensus is '*urf*' or '*adah*' (custom). The continuity of custom depends on its familiarity and acceptance by the people because it is part of their habit and practice; customs continue because they are developed through the process of consensus, over time, among the people. Despite differences of opinions, expectations and desires, people unite around these customs. This is a natural social process because humans cannot survive alone.³¹ Such consensus is also required in matters relating to political systems.

Conclusion

To conclude, the reason for the Muslim world's reluctant democratic transition needs to be explored in the context of perceptions of state in modern Muslim political thought. Medieval Muslim thought was pragmatic, with the establishment of a state not being regarded as a religious necessity. Rather, rule of law, being a principle of governance, and obedience to the ruler were religious obligations. The above brief analysis of the doctrines of twin brothers and *siyasa* suggests that Muslim political theory has responded to major political crises with redefinitions of political and religious authority from the perspective of justice, public interest and rule of law. The doctrine of twin brothers stressed the separation, as well as interdependence, of the political and the religious in Islamic political thought; although society must be run in accordance with religious norms, no individual or institution could claim the religious authority that the Prophet Muhammad had. Rather, differences of opinion in religious and political matters must be decided by the consensus of the Muslim society. Some modern Muslim political thinkers, however, tend to expand the boundaries of religion to define it as an ideology of power, perceiving religion as public action and affecting democratic transition as a result.

Recommendations

The paper ends with the following recommendations:

1. Current analyses, Muslim and Western, do not take the history of Muslim political pragmatism into consideration. Some modern Muslim political thinkers have been so fascinated with the idea of the state that they have not hesitated to equate religion with it, to collapse the boundaries between

religion and politics. Muslim societies must avoid this trap, however. In recent history, it has led to the rejection of democracy and the promotion of totalitarian ideology.

2. *Ijma'*, which played the important role of building social consensus in classical Islamic legal theory, has been ignored. Today the concept of sovereignty floats ambiguously between the political and the religious, between the sovereignty of state and the sovereignty of God, as represented by the religious scholars as non-state actors. This state of ambiguity has blurred common agreement about the rule of law, as well as the concept of law, and must be overcome.
3. Muslim polities must distinguish between the objectives of politics and other foundational ideas, such as basic governance, basic rights, rule of law, authority of the state, administration of justice, and equality before the law. The latter are universal and common to all human societies and accepted by all religions. Cultural, ethical and religious values should be employed to realise and support these foundational ideas.
4. Legal and social change cannot be effectively introduced by enforcement of law. The concept of *ijma'*, as consensus of public opinion, must be institutionalised in universities and research institutes through discursive methods, including debates, public awareness and critical analytical studies.

Notes

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3. Ibn Qudamah, *Al-Kharaj wa Sina'at al-Kitaba* (Baghdad: Dar al-Kutub al-'Ilmiyya, 1981), 436.
4. See Nizam al-Mulk Tusi, *Durar al-Suluk fi Siyasat al-Muluk* (Riyadh: Dar al-Watan, n.d.), 76-97 and Nizam al-Mulk Tusi, *Siyasat namah aw Siyar al-Muluk* (Qatar: Dar al-Thaqafah, n.d.), 87-121.
5. George Makdisi, *The Rise of Colleges: Institutions of Learning in Islam and the West* (New York: Columbia University Press, 1981), 352.
6. Abu Hamid al-Ghazali, *Fada'ih al-Batiniyya* (Kuwait: Dar al-Kutub al-Thaqafiyya, n.d.), 205.
7. Sayyid Abul-A'la Mawdudi, *Quran ki char bunyadi istilahan* (Lahore: Islamic Publications, 2000), 132.

8. Al-Nasa'i cited in Abu Ishaq al-Shatibi, *al-I'tisam* (Cairo: Dar Umar, n.d.), 68.
9. Muhammad Khalid Masud, 'Abu Ishaq al-Shatibi (d. 790/1388),' in *Islamic Legal Thought: A Compendium of Muslim Jurists*, ed. Oussama Arabi, David S. Powers and Susan A. Spector (Leiden: Brill, 2013), 373-4.
10. Al-Shatibi, *al-I'tisam*, 253.
11. Detailed discussion in Masud, 'Abu Ishaq al-Shatibi,' 156-76.
12. Rashid Ahmad Gangohi, *Fatawa Rashidiya* (Lahore: Maktaba Rahmaniya, n.d.), 215; Masud, 'Abu Ishaq al-Shatibi,' 169.
13. Gangohi, *Fatawa Rashidiya* (Lahore: Maktaba Rahmaniya, n.d.), 215; Masud, 'Abu Ishaq al-Shatibi,' 169.
14. See *al-Bahr al-Ra'iq*, (Cairo: Dar al-Kutub al-'Arabiyya al-Kubra, n.d.).
15. Muhammad Khalid Masud, 'The Doctrine of Siyasah Islamic Law,' *Recht van de Islam* 1, no. 8 (2012): 1-29.
16. *Al-Umm*, vol. 1 (Cairo: Dar al-Misriyya, n.d.), 7.
17. *Ihya' Ulum al-Din*, vol. 1 (Cairo: Maktaba Mashhad al-Husayn, 1971), 10-1.
18. Personal communication with Kathleen Cavanaugh.
19. Niyazi Berkes, *Development of Secularism in Turkey* (London: Routledge, 1998), 244-70.
20. Syed Muhammad Naquib al-Attas, *Islam and Secularism* (Kuala Lumpur: ISTAC, 1993), 16.
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24. Ibid.
25. Qari Muhammad Tayyib, *Fitri Hukumat* (Lahore: Idara Islamiyyat, 1963), 219-20.
26. Sayyid Abul-A'la Mawdudi, *Islam ka Nazriyya i Siyasi* (Lahore: Islamic Publications, 1964), 23.
27. Mawdudi, *Quran ki char bunyadi istilahen*, 132.
28. Imam al-Haramayn Juwayni, *Ghiyath al-umam fi Iltyath al-Zulam*, vol. 1 (Cairo: Maktaba Imam al-Haramayn, n.d.), 21-6.
29. Ibid., 22.
30. Ibid., 15.
31. Ibid., 50.

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