

FROM POLITICAL ISLAM TO CIVIL RELIGION: THE POSSIBILITIES OF A PLURALISTIC CONSTITUTION AND ITS IMPACT ON HUMAN RIGHTS IN POST- REVOLUTIONARY IRAN

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Abstract: The two categories of political religion and civil (also civic) religion, and the ways a nation can nurture the latter, have been the concern of a number of philosophers since long time ago. Relevant to this is the ideals of democracy, the separation of religion and politics and the necessity of having a secular legal covenant, which represents the political philosophy of a modern republic. Theorists of civil religion, particularly Jean-Jacques Rousseau, were concerned with the role of established religions, in modern political systems and that is why they put forward different, and at times even contrasting, theories about the compatibility of Christianity as well as the objectives of modern politics, at the center of which is the ideal of citizenship. The present paper will focus on the post-revolutionary constitution as well as the legal status of republicanism to investigate the possibilities, if any, of finding a solution to the long-lasting problematic of Islam and democracy in Iran. My hypothesis is that the current constitution is incapable of allowing for democracy, and due to its monistic nature, hinders reconciliation between Islam and democracy. Iran needs a better legal covenant, one in which the legacy of republicanism, as well as religious pluralism, is respected and endorsed.

Keywords: Iran; India; Indonesia; civil religion; political Islam; constitution; pluralism; dual sovereignty; democracy.

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Introduction

The relationship between Islam and democracy has never been easy and straightforward and in fact depends on a broad spectrum of factors, including the structure of the society, cultural considerations, political culture, and economic situation, *inter alia*. When one lays aside the two extremes of the incompatibility of Islam and democracy and their identification, one finds several options that support the possibility of their coexistence. The first extreme is held by Islamists (I use this term quite broadly) who believe that Islam cannot be compatible with democracy because, roughly speaking, democracy is a Western product and therefore is strange to Islam and its values. Without digging into the falsehood of this thesis, which itself is composed of several wrong and unexamined hypotheses, what one can safely say is that neither Islam nor democracy can be (or should be) pinned to a certain geographical area, as both are universal phenomena. Furthermore, history proves that believing that Islam and democracy are incompatible opens the door to extremism and religious intolerance.

On the other hand, there is the standpoint of those who argue that modern political terms, including civil society, democracy, parliament and alike, are identical to Islamic terms including *madīnat al-nabī* (lit. the city of the Prophet), *shawrā*, and majlis. Adherents of this viewpoint can be found across Islamic societies. Countries such as Iran that is still struggling with their Islamic heritage on the one hand, and the new political questions which have been arisen after their exposure to modernity on the other, are good examples in this regard. The socio-political agenda of the Iranian reformists, including the former Iranian president Sayyid Muhammad Khatami, was to seek an Islamic equivalence for any modern political term and for the compatibility of Islam and the modern theory of republicanism.¹

However, as history proves, terms such as liberty, freedom of speech, justice, parliament, and alike, which are the products of modern political philosophy, are loaded with certain connotations and meanings, which are totally at odds with the old-fashioned *madīnat al-nabī* as civil society, or *shawrā* as parliament. The problem of the

¹ Cyrus Masroori, "The Conceptual Obstacles to Political Reform in Iran," *The Review of Politics* 69, no. 2 (2007): 171-191. DOI: 10.1017/S0034670507000502; Jahangir Amuzegar, "Khatami and the Iranian Economy at Mid-Term," *Middle East Journal* 53, no. 4 (1999): 534-552. <http://www.jstor.org/stable/4329389>.

relationship between Islam and modernity in general and Islam and democracy in particular is more complicated than any of these two simplistic extremes and in fact includes a wide variety of options that depend on the abovementioned factors.

Given this, what makes Iran an interesting case study is its religious and ethnic diversity, though in the absence of any moral and political covenant (such as Pancasila in Indonesia, Indian constitution, or civil religion in America, which were able to safeguard the multiculturalism of their respective countries), Iran's classic cultural multiplicity has been seriously damaged by the legal and political dominance of Islamism after the revolution of 1979.² As a result of the Islamic victory, political Islam won the upper hand and finally became perpetuated in the new constitution. Without falling into the perils of extreme legalism, I put special emphasis on the constitution because it always acts as a platform for decision-makers in the highest level of any political establishment.

Even a quick look at the Iranian constitution shows how the Iranian experience is far from offering a satisfying covenant that is able to meet all the concerns of good governance in a modern society. In a good, effective government, neither religion nor democracy is sacrificed for another. In the following, the present paper will discuss the constitution of 1990 as both the legal representation of the Islamism of the revolution of 1979 and its codification into multiple articles, particularly the article 110, which is about *Wali al-Faqih* (lit. the Guardian of the Jurist) and his authority. As a messy and loosely articulated text that encapsulate and eventually perpetuate the hegemony of the Islamic discourse, the constitution of 1990 officially closes the door to any reformation.

² See Riaz Hassan, "Iran's Islamic Revolutionaries: Before and after the Revolution," *Third World Quarterly* 6, no. 3 (1984): 675-686. <http://www.jstor.org/stable/3992069>; Eva Patricia Rakel, "Iranian Foreign Policy since the Iranian Islamic Revolution: 1979-2006", *Perspectives on Global Development and Technology* 6, no. 1-3 (2007): 159-187. DOI: <https://doi.org/10.1163/156914907X207711>; Sabah Mofidi, "The Political Function of Religion in Kurdish and Perso-Iranian Nationalist Confrontations after the 1979 Revolution", *International Journal on Minority and Group Rights* (2022). DOI: <https://doi.org/10.1163/15718115-bja10080>; H. E. Chehabi and Asghar Schirazi, "The Islamic Republic of Iran", *Journal of Persianate Studies* 5, no. 2 (2012): 175-204. DOI: <https://doi.org/10.1163/18747167-12341243>.

Pertinent to this is the forgotten idea of the public law (*ḥuqūq-i ‘āmmah*), which in addition to its constant violation by the Islamic government since after the revolution of 1979, motivated the writers of the Charter of the Rights of Citizenship (*Manshūr-i Ḥuqūq-i Shahrwandi*) to think of a complementary, albeit divergent, text that compensates the weaknesses of the constitution. The present paper will discuss how and if this endeavor has been successful. However, a quick look at both documents, as well as the cultural policies of the regime in the past four decades, are indicative of the fact that Iran’s pendulum-like swing between Islamism and republicanism resulted in the problematic of dual sovereignty at all levels of the Iranian public life.

Suppose we define civil religion as “a public profession of faith that aims to inculcate political values and that prescribes dogma, rites, and rituals for citizens of a particular country”.³ In that case, we will admit that civil religion is more about the religious configuration of a society and its people than about a certain political system and its official ideology. However, alongside the strengths and benefits of civil religion, its weaknesses and disadvantages have been discussed as well, as theorists were worried that civil religion can be loosely defined, superstitious and even suppressive. For this purpose, the author delves into the theories of civil religion (starting from Jean-Jacques Rousseau’s *The Social Contract* (1762) onwards) to see how they have defined civil religion as opposed to political religion or any official ideology of a political system. It also discusses the components of civil religion in a certain society’s culture or public religion. Relevant to this is the study of the number of ‘successful’ cases of civil religion, including in America, India, and Indonesia, which can give the reader a new perspective (and hope) about the possibility of having a civil religion in Iran.

The Constitution of 1990

The first post-revolutionary constitution was written in 1980, however, ten years later, it underwent substantial changes, and as a result, the office of the *Wilāyat al-Faqīh* (lit. the Guardianship of the Jurist) gained more power and advancement in two interrelated ways. *First*, the adjective ‘absolute’ was added to ‘guardianship’. *Second*, the

³ Lucas Swaine, “Civil Religion”, *Encyclopedia Britannica*, 11 May. 2016, <https://www.britannica.com/topic/civil-religion>. Accessed 15 June 2021.

prerequisite of *marja'iyat* was removed from the list of leadership candidate conditions, all in order to facilitate the ascension of the power of Ali Khamenei. Therefore, his power became more centralized. A quick look at the organizations under his command gives one a view of his limitless power. As the representative of Islamism, the institute of the Guardianship of the Jurist is partly the result of the historical developments in the structure and configuration of the hierocracy in the post-Safavid era and the inseparability of Twelver *Shi'ism* from Iranian nationalism.⁴ Pertinent to this is the socio-economic changes in pre-revolutionary Iran, which made a firm friendship between the hierocracy on one hand and modern and traditional middle class on the other.⁵

⁴ Ann K.S. Lambton, *Qajar Persia* (eleven studies) (Austin: University of Texas Press Lambton, 1987); Şener Aktürk, "Nationalism and Religion in Comparative Perspective: A New Typology of National-Religious Configurations", *Nationalities Papers* 50, no. 2 (2021): 1-14. DOI: 10.1017/nps.2021.17.

⁵ Scholars such as Ahmad Kazemi Moussavi, Saïd Amir Arjomand, Muhsin Kadivar and Ervand Abrahamian, inter alia, have discussed the topic in detail. For more information, see: Ahmad Kazemi Moussavi, "The Institutionalization of *Marja'i Taqlid* in the Nineteenth Century Shiite Community", *The Muslim World* LXXXIII, no. 3-4 (1994): 279-299; Ahmad Kazemi Moussavi, "A New Interpretation of the Theory of *Vilayat-i Faqih*, *Middle Eastern Studies* 28, no.1 (1992): 101-107; Ahmad Kazemi Moussavi, "The Establishment of the Position of *Marja'iyat-i Taqlid* in the Twelver-Shi'i Community", *Iranian Studies* XVIII, no. 1 (1985): 35-51; Ahmad Kazemi Moussavi, *Religious Authority in Shiite Islam: From the Office of Mufti to the Institution of Marja* (International Institute of Islamic Thought and Civilization: Kuala Lumpur, 1996); Saïd Amir Arjomand, *The Shadow of God and the Hidden Imam: Religion, Political Order, and Societal Change in Shiite Iran from the Beginning to 1890* (Chicago and London: The University of Chicago Press, 1984); Saïd Amir Arjomand, *The Turban for the Crown: The Islamic Revolution in Iran* (Oxford: Oxford University Press, 1988); Saïd Amir Arjomand, "Shi'ism in History: The Pahlavi Era", in Seyyed Hossein Nasr, Hamid Dabashi, and Seyyed Vali Reza Nasr (eds), *Expectation of the Millennium* (New York: State University of New York Press, 1989), 229-240; Saïd Amir Arjomand, "Authority in Shiism and Constitutional Developments in the Islamic Republic of Iran", in Rainer Brunner and Werner Ende (eds.), *The Twelver Shia in Modern Times: Religious Culture and Political History* (Leiden: Brill, 2001), 301-333; Saïd Amir Arjomand, "Political Ethic and Public Law in the Early Qajar Period", in Robert Gleave (ed.) *Religion and Society in Qajar Iran* (London and New York: Routledge Curzon, 2005), 21-40; Saïd Amir Arjomand, *Sociology of Shi'ite Islam* (Collected Essays) (Leiden and Boston: Brill, 2016); Muhsin Kadivar, "Wilayat al-Faqih and Democracy", in Asma Afsaruddin (ed.), *Authority: Medieval Issues and Modern Concerns* (New York: Palgrave Macmillan, 2011); Ervand Abrahamian, *Iran between Two Revolutions* (Princeton: Princeton University Press, 1982).

Carl Schmitt (1888-1985), the renowned German political theologian, explains how “all the significant concepts of the modern theory of the state are secularized theological concepts, not only because of their historical developments, but also due to their systematic structure”.⁶ For Schmitt, the juridical terms such as ‘exception’ and ‘the omnipotent lawgiver’ are the secularized version of theological concepts of ‘miracle’ and ‘the omnipotent God’, respectively.⁷ Schmitt, whose theory is inspired by historical changes in Christianity as well as the triumph of modern, constitutional state in the West, explains how miracle was eliminated when Christianity underwent the Occam’s razor of secularization. Therefore, from the perspective of political theology, “submission to the faith” is the *raison d’être*, and as Heinrich Meier puts it well, “obedience, submission, revelation, and authority” are the “unchanging certainties” of the cause of any form of political theology.⁸

Through the lens of Schmitt’s conceptual tool, the *Shi’a* clerical authority, which traditionally perceived itself as the Imam’s general vicegerent and the sharia’s adherent, experienced important changes before the revolution of 1979. However, the office of the Guardianship of the Jurist, as is showcased in article 110, possesses intellectual genealogies that can be traced back to mysticism and Islamic philosophy as well.⁹ Pertinent to this is the role and ability of the hierocracy in the mass mobilization of the revolution of 1979.

However, the constitution suffers from other deficiencies, all of which are the result of the strengthening of the position of Islamism¹⁰ as the official ideology of the post-revolutionary establishment. Islamism is the spirit of the constitution and is manifested in different articles. Relevant to this is the total absence of modern political terms

⁶ Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, translated into English by George D. Schwab, Vol. 1 (Chicago: MIT Press and University of Chicago Press, 1985), 36.

⁷ Ibid.

⁸ Heinrich Meier, *Was ist Politische Theologie?* (München, Deutschland: Carl Friedrich von Siemens Foundation, 2006), 206.

⁹ I have discussed its genealogy in chapters three, four and five of my book entitled: *The Conceptualization of Guardianship in Iranian Intellectual History (1800-1989): Reading Ibn ‘Arabi’s Theory of Wilāya in the Shi’a World* (London: Palgrave Macmillan, 2019).

¹⁰ Or what Saïd Amir Arjomand calls “clerical authority”. Saïd Amir Arjomand, *Authority and Political Culture in Shiism* (New York: State University of New York, 1988), 371-382.

such as citizen and citizenship and their replacement with apolitical words such as *insān* (man/human being) and *millat* (both as nation and religious denominations). Pertinent to this is article eleven that lays particular emphasis on ummah as the main political unit, “which acts as a guideline for all political and economic policies in a post-revolutionary” society.¹¹ Referring to verse ninety-two of *Sūrat al-Anbiyā* (the Prophets), stating that “Truly this community of yours is one community, and I am your Lord. So, worship Me”,¹² the article commands the Islamic state to design and execute the general makeup of its policies based on “coalition and unity among Islamic sects (*milal*, plural for *millat*, i.e., religious group), and to actualize the political, economic, and cultural unity of the Islamic world”.¹³ The same theme (i.e., the prevalence of the ummah and its priority on all other types of political units) is a recurring motif in the constitution.

The question arises: has this constitution been written for the residents of a nation-state who live in a territory with a clear and defined geopolitical border, or has it been invented to secure and guarantee the interests of a vague political entity called ummah? And what is the main interest of the ummah in the first place? Another consideration, and in fact one of the pivotal elements of the ummah, is the classification of people as either believers or non-believers. It goes without stating that such a criterion is too outdated to be regarded as a basis for any political identification and results in religious intolerance, if not to say injustice, toward other minorities such as Christians, Jews, and Zoroastrians. In addition, Bahais are totally removed from the constitution.

Furthermore, article eight, which indicates the religious principle of “enjoining good and forbidding bad”, is infiltrated into the constitution and has converted into law. It not only makes the private life of people vulnerable to the intervention of others, but also it endows the Islamic regime a special permission, now backed by the constitution, to arbitrate in every corner of their life. Relevant to this is the term *millat* (nation) in article fifty-six, stating that it is this collective entity that executes the God-given right of self-control and dominion, which, as mentioned above, resonates Carl Schmitt’s idea

¹¹ The Constitution of the Islamic Republic of Iran, n.d., 7.

¹² Seyyed Hossein Nasr and Others (eds.), *The Study Quran: A New Translation and Commentary* (New York: HarperCollins Publishers, 2015), 1472.

¹³ *Ibid.*

of the secularization of theological words in modern politics. God is the first sovereign, His sovereignty is visible, and in fact run through the actions and decisions of *millat*, which now has organized itself in the parliament, or majlis. Ayatollah Khomeini had emotional attachment to the majlis, and his famous statement that “majlis stand at the top of all affairs”, is indicative of this fact. Furthermore, the legal status of *insān* is articulated in the same article stating that “God is the absolute sovereign ..., and it is Him who has made *insān* sovereign on his destiny. Hence, no one can deprive man from his divine right or put it at the service of other individuals’ or groups’ interests”¹⁴.

Another significant aspect of this constitution is article two, which enlists the fundamental principles of the post-revolutionary political system, including belief in one God and His sovereignty, the role of revelation in codifying laws, resurrection and its constructive role in Man’s perfection and his journey to God, divine justice in creation and legislation, imamate, and the role of continuous leadership¹⁵ in the victory of the Islamic revolution, and Man’s dignity.¹⁶ My concern here is the reductionist outlook of the writers of the constitution and the way these principles (and particularly human dignity), is tied to hierocracy (i.e., “the comprehensive jurists”),¹⁷ who, by deploying dynamic jurisprudence, uses Islamic sacred sources to extract religious rulings and issue fatwa (Ibid.). Assigning hierocracy as guardians of human dignity is absurd, and results in legalization of *Shi’is* jurist dominance in all aspect of life, as well as in the perpetuation of their supremacy on other social strata. This majority’s adherence “to the official sectarian creed of Twelver Shiism”¹⁸ has, so far, undeniably damaged the legal and political rights of people (i.e., the rights of citizens before law), and cannot be repaired easily.¹⁹

¹⁴ Ibid., 13.

¹⁵ Continuous leadership or the role of hierocracy.

¹⁶ Ibid., 5. 17:70: “We have indeed honored the Children of Adam”. See Nasr and Others (eds.), *The Study Quran*, 1265.

¹⁷ Ibid.

¹⁸ Aktürk, “Nationalism and Religion in Comparative Perspective”, 8.

¹⁹ For people such as Amir Arjomand, with an affirmative outlook, the revolution is but the culmination of the preceding upheavals; “the antidespotic constitutional movement and the anticolonialist movement centred on the nationalization of the oil industry”, which is now crystalized in numerous articles of the constitution. Arjomand, *Authority and Political Culture*, 372.

The Charter of the Rights of Citizenship

Five years ago, during Hassan Rouhani's presidency, the Charter of the Rights of Citizenship was drafted in one-hundred and twenty articles and twenty-two chapters. The Charter starts with the abovementioned *āyah* about Man's dignity. In spite of the established Islamic outlook of man's dignity being identical to his rights, as I argued elsewhere (2019),²⁰ these are different and cannot be equated. However, what makes the Charter a divergent text from the Constitution of 1990 is the basic knowledge of legal terminology and political jargon held by the writers of the Charter. This is why certain terms and ideas are deliberately used to clarify the most neglected aspect of the Constitution, the rights of citizens.

Furthermore, influenced by the impact of the Green Movement and its dominant discourse, which was to regain public law (*ḥuqūq-i 'ammah*), in the Charter people are recognized as the source of law, an outlook which is backed by a hadith from the first Imam stating that "God considers the rights of people a basis for its own rights".²¹ It is also obvious that for the writers, the Charter stands in the direct line of a tradition, which began the Constitutional Revolution of 1907 and bore fruit in the revolution of 1979. Without digging into details, the question arises if the Charter can be regarded as a progressive text, created to make up for the deficiencies of the constitution of 1990. Or is it an independent document (albeit without any executive force behind it), that encapsulates the public anxiety about the forgotten legal and political status of Iranian 'citizens', which as we saw was sidelined by other urgent priorities of the revolutionaries, such as nation and ummah. And if there is any reference to the religious liberties as the pillars of modern democracy?

One observes how the most demoted words of the constitution, i.e., the duality of citizen(ship) and civil rights, are well crystalized in the Charter, and how in a radical departure from the old-fashioned text of 1990, the Charter attempts to embrace the expectations of the new generation who see the constitution as a failed endeavor to bear the visions and aspirations of the majority of the society. Another interesting aspect of the Charter is that, without

²⁰ Leila Chamankhah, "Human Rights and Muslims", in Ronald Lukens-Bull and Mark Woodward (eds.), *The Handbook of Contemporary Islam and Muslim Lives* (Springer: 2019).

²¹ The Charter of the Rights of Citizenship, 1395 *Shamsi*/2016, 4.

mentioning any specific religion or denomination, the Charter counts all Iranians as equal citizens who enjoy a set of rights, including but not limited to, equality before law and the ability to benefit from just legal procedures, inter-cultural communications, the right to freely choose employment, and the non-discriminatory right of access to the internet (*passim*). The Charter is a product of its time and is backed by four decades of the peaceful struggle of civil and political activists who fought for gender and religious equality of all citizens; an achievement which is now relatively endorsed and recognized in the Charter. In addition, the dismissive of any religious denomination is in fact a positive sign, a step forward to going beyond the binary of 'believer and unbeliever' as one of the constructive elements of the ummah, which, as we observed, was one of the key words of the current constitution.

From Political Islam to Civil Religion

Considering the dominance of Islamism on all aspects of life in Iran, including the legal regime, one can safely say that Islamism is the main deadlock to any constitutional and political reform in contemporary Iran. However, although the possibility of some shapes of legal reform (albeit very minor) as well as referendum is anticipated in the constitution, since the chance of any modification is slim, one cannot expect any initiative, from inside or outside of constitution, to be able to pillory the limitless power of the office of the Guardianship of the Jurist. Pertinent to this is the "conditional" freedom of the recognized religious minorities (Zoroastrians, Jews, and Christians), which is indicated in articles twelve to twenty-six. By "conditional", I mean any constraints to the full enjoyment of their right and freedom. These constraints are either "Islamic principles/foundations" or "public laws".²²

Given this, the current constitution, and following it all other post-revolutionary structures, were not only unable to promote the crude and long-lasting cultural and religious diversity of the Iranian society to a higher level, i.e., to a modern institutionalized pluralism based on a civic covenant (or the constitution), but also hugely

²² The Constitution of the Islamic Republic of Iran, 7-9.

damaged it.²³ This paper argues that moving from Islamism to a civil religion can be a solution to the agonizing religious intolerance and its constitutional basis in Iran. In the following, I will discuss theories of civil religion in different cultural and legal milieu, from diversified legal traditions in countries such as America, Japan, Indonesia, and India, in an effort to paint a hopeful picture of a vernacular civil religion (or none at all) as a resolution to political Islam.

Theories of Civil Religion from Jean-Jacques Rousseau to Robert N. Bellah

The Genevan philosopher and writer, Jean-Jacques Rousseau (1712-1778) coined the term ‘civil religion’ in the Book IV, Chapters 5-9 of the *Social Contract*, but as Bellah ascertains, analysis of civil religion in sociology is indebted to his intellectual heir, Emil Durkheim. These two had a totally different outlook toward civil religion: for the former it was a “sensible thing for leaders to create and encourage; for Durkheim it is an emergent property of social life itself”.²⁴ Another point of divergence is that the followers of Rousseau often have a bias against civil religion, while followers of Durkheim, start with a “bias *in favor* of civil religion on the grounds it is inevitable in any case and may—in its finest form at least—be the transcendental expression of the profoundest values of a people”.²⁵

Recent scholars such as Robert N. Bellah²⁶, Philip E. Hammond²⁷, Peter Gardella²⁸ and Benjamin T. Lynerd²⁹ used the term civil religion as a conceptual tool to describe the legal and cultural

²³ There exist a number of differences between diversity and pluralism, and as it is argued here (<https://pluralism.org/from-diversity-to-pluralism>) pluralism is a higher and more sophisticated level than diversity.

²⁴ Robert N. Bellah and Philip E. Hammond, *Varieties of Civil Religion* (San Francisco: Harper & Row, 1980), 138.

²⁵ *Ibid.*

²⁶ As a sociologist of religion and a scholar who influenced the public understanding of religion in 20th century, Bellah’s large slice of academic endeavor was dedicated to the conception of civil religion in America, and its comparisons with Japan and other countries such as Mexico and Italy. His works and contributions are available here: <http://www.robertbellah.com/>, last accessed 1/27/2022.

²⁷ Bellah and Hammond, *Varieties of Civil Religion*.

²⁸ Peter Gardella, *American Civil Religion: What Americans Hold Sacred* (Oxford: Oxford University Press, 2014).

²⁹ Benjamin T. Lynerd, *Republican Theology: The Civil Religion of American Evangelicals* (Oxford: Oxford University Press, 2014).

pluralism of America. Bellah's famous paper, entitled "Civil Religion in America" (published 1967), was an attempt to both clarify and redefine a perspective, "emerging out of the 1950s, that viewed Americanism as real or operative religious faith of the American people".³⁰ In American context, civil religion has other names, such as public theology, public philosophy, civil theology, as well as American polity, and is based on a number of fundamental ideas including the separation, yet harmony of the church and the state, which itself results in the existence of a "transcendental ideology"³¹, that stands above the duality of 'the religious' and 'the political'.

Bellah's definition of civil religion influenced by Rousseau's articulation in which "a rather articulated set of religious beliefs and practices had grown up in the American polity that was independent from though not necessarily hostile to the various church religions that flourish in America".³² In such a venue, religious denominations compete with each other, but state always distance from this, neither takes side nor tries to settle the conflict. As will be discussed in the following, we will observe how the lack of a bipartisan government in Iran, alongside other factors, should be regarded as one of the elements of the formation of political religion. Surprisingly, the Pahlavi era (1954-1979) displays some signs of the competition between religious groups and movements on one hand and a relative state neutrality, albeit very fragile, on the other. I call it a "surprise", because as explained above, civil religion is a religion of modern republics and has nothing to do with monarchies, although one can imagine if the Shah had survived his opponents, the history would have seen the emergence of the first indigenous Iranian civil religion.

Suffice to say that the first article of the supplement of the pre-revolutionary constitution, ratified on 7 October 1907 by Mohammad Ali Shah Qajar (d. 1925), had explicitly indicated Twelver *Shi'ism* as Iran's official *madhhab* (lit. denomination), as well as that of the Shah, but the establishment was secular, and in the existence of vivid religious diversity (alongside other factors, of course), one could hope for a balance between religious groups on one hand, and state/church on the other. In addition, one can find the official slogan of the

³⁰ Robert E. Stauffer, "Bellah's Civil Religion", *Journal for the Scientific Study of Religion* 14, no. 4 (1975): 390-395.

³¹ Bellah and Hammond, *Varieties of Civil Religion*, 52.

³² *Ibid.*, 89-90.

monarchy, i.e., the trio of God, King, and the Homeland, a substitute for the transcendental ideology of civil religions. However, with the steady and gradual rise of the Islamists this balance was broken forever.

In transcendental ideology, God is a central theme, around which the super structural role of religion in modern republics revolve.³³ Although the classic state/church duality is traceable in a few pre-modern empires, one should beware of not branding it a civil religion, because civil religion is the religion of the new republics. Pertinent to this is the four values of “personal freedom (often called liberty), political democracy, world peace, and cultural (including religious, racial, ethnic and gender) tolerance”,³⁴ the components of which make up the whole story of civil religion in America. American civil religion, however, is comprised of a journey of struggle and triumph, and events such as domestic, regional, and international wars added to the essentiality of the four values in American culture. Gardella writes:

“The United States has acquired its empire under a theory of self-defense and of consent by client nations, in the new imperial context, the values of personal freedom and political democracy have continued, though of course with some alterations, while the values of world peace and cultural tolerance have grown much more important”.³⁵

One can add to Gardella’s list of American virtues other themes, such as equality, as well as egalitarian individualism, which stands as a pillar of the foundation of American republic,³⁶ although as Bellah shows, in some cases, such as in Japan, civil religion could successfully match the traditional hierarchy of the Japanese culture as well.³⁷ However, in both cases, civil is religious and vice versa, and this is how the destiny of the republic, and the faith of civil religion are interrelated.³⁸ In addition to the abovementioned virtues, there are vices, such as corruption, that interfere with the true workings of a republic.³⁹ In terms of the legal reflections of civil religion, Philip

³³ Ibid., 11-15.

³⁴ Gardella, *American Civil Religion*, 3.

³⁵ Ibid., 346.

³⁶ Bellah and Hammond, *Varieties of Civil Religion*, 38.

³⁷ Ibid., 28.

³⁸ Ibid., 37-38.

³⁹ Ibid., 19.

Hammond ascertains that within a society which marries a more religious pluralism with greater societal complexities, a more universal and inclusive legal system is created,⁴⁰ an observation indicative of the precedence of religious pluralism to the legal regime. To conclude, the measures of legal development and societal complexity are contemporary, as civil religion stands against any archaic claim as well as political religions.⁴¹

One can find civil religion in countries other than America and Japan as well, and in this regard Indonesia and India are good examples. Both are modern republics; both had a colonial past like America, and both have produced a reconciliation between their religious diversity and politics. They were also able to promote the classic religious diversity to pluralism, which is one of the principles of a multicultural democracy, and both guarantee religious freedom as well as the separation of religion and state. In India, the religious nationalism of the ruling Bharatiya Janata Party (or BJP), backed by the current prime minister, Narendra Modi, is believed to be a threat to Indian's religious pluralism.⁴² Indonesia's Pancasila, which is the political philosophy of the modern republic of Indonesia and consists of five principles of belief in the Almighty God, just and civilized humanity, the unity of Indonesia, democracy guided by the inner wisdom in the unanimity arising out of deliberations among representatives, and social justice for all of the people of Indonesia (2013)⁴³, should be regarded as a transcendental ideology of the Indonesian civil religion.

Indian constitution displays similar themes: separation of religion and politics, the presence of numerous religious denominations and their freedom to manage their own affairs, lack of any discrimination based on language or religion, and different kinds

⁴⁰ Ibid., 123-126.

⁴¹ Ibid., xiv.

⁴² The issue is discussed in the following analysis: The Editors, "The Ruling BJP Is Undermining India's Commitment to Religious Pluralism", in <https://www.worldpoliticsreview.com/trend-lines/24577/> last accessed 1/29/2021; Sumit Ganguly, "India's Religious Minorities Are Under Attack", in <https://foreignpolicy.com/2021/12/30/> last accessed 1/29/2021; and Milan Vaishnav, "Religious Nationalism and India's Future", in <https://carnegieendowment.org/2019/04/04/> last accessed 1/29/2021.

⁴³ The Editors of Encyclopaedia Britannica, "Pancasila", *Encyclopedia Britannica*, 18 Oct. 2013, <https://www.britannica.com/topic/Pancasila>. Accessed 27 January 2021.

of rights including right to equality, right to freedom of religion, and right to stand against exploitation of government or state discrimination. Furthermore, the guiding values of the Indian Constitution may be summarized as comprising equality, freedom, secularism, socialism, and internationalism, which can act as the transcendental ideology.⁴⁴

Is the Perspective of a Civil Religion Possible for Iran?

Considering what was discussed above, the following will examine if Iran can move forward from the dark abyss of Islamism and its legal regime which, as mentioned earlier, has violated her classic cultural diversity. We showed how the post-revolutionary constitution was not only unable to upgrade this diversity to pluralism as one of the principles of democracy, but also damaged it as well. Relevant to this is the complete absence of Bahais in this legal text, and even worse, since 1979 onward, cultural policies have been invented to eliminate them from all aspects of social, economic, and political life. The so-called “recognized” religious minorities were also denied equal right to their peer Muslims, and that is why they are not able to occupy administrative positions. Even Sunnis are discriminated against legally and politically. Given this, in the following, the author investigates whether a legal regime that supports and capsulates the idea of civil religion is possible and if so, how the general sketch of a vernacular Iranian civil religion would be, and whether or not the Charter of the Rights could be a better starting point.

It will be naïve if one expects Islamism is an easy target to defeat. It will be just as foolish if we fall into the trap of the extreme legalism, which tends to argue that by amending the constitution or holding a referendum to bypass cumbersome articles of the constitution, Islamism will be beaten overnight and the road to democracy and civil religion would be paved. Things are even much more difficult if one understands that the venue of the conflict is a country with a long and well-established history of dictatorship. The demise of Islamism is intertwined with several factors in realpolitik, and the legal configuration which would come afterward would only

⁴⁴ Puja Mondal, “Philosophy of the Indian Constitution” in <https://www.yourarticlelibrary.com/essay/philosophy-of-the-indian-constitution/32062>. Accessed 29 January 2021.

consist of the output of the victory of the forces that have made democracy their main goal. From this perspective, the new constitution containing the political philosophy of civil religion would be the tip of the iceberg.

Given this, since the current constitution is but a disappointment, the author will take the Charter of the Rights as a steppingstone in her investigation into such a possibility and belief that the emphasis of the writers of the Charter on the concepts of right, citizen/citizenship, and the combination of these two is a promising point. In this regard, some themes, including equality of all citizens, equality of all religious minorities before the law, and different kinds of rights for citizens are significant. However, the Charter contains lacunas, such as the sensitive question of the neutrality of the state in religious competition as well as its relationship with Islamists, and that is why one needs to be cautious of any exaggeration of the Charter and its mission. On the other hand, considering the shaky status of republicanism in both the current constitution and the balance of power within political actors, one should be cautious of overburdening the state with the difficult duty of impartiality in religious affairs.

The next question is the future of political *Shī'ism* in Iran, followed by its destiny in the region. If in theory, civil is religious and vice versa, which religion is able to create modern citizens who are at the same time believers too? Here rests the whole idea of civil religion.⁴⁵ Needless to remind that the current citizenship, as encapsulated and ratified by the current constitution, seems to be rather a conditioned citizenship and does not include all Iranian residents. It's very exclusive, as neither the constitution nor positive law protects Bahais, political and civil activists and dissidents, sexual minorities, and atheists. Obviously, Islamism, if not to say Islam, has neither been able to create modern citizens nor even make believers citizens in the first place. Any indigenous secular Iranian civil religion must be shaped around a number of factors, including a modern and civic covenant, which respects the equal right of all Iranian citizens, devoid of their religion, language, and political orientation. The ideal

⁴⁵ Obviously, this has been one of the main concerns of “the great republican theorists—Machiavelli, Rousseau, even Tocqueville—have wondered whether Christianity can ever create good citizens”. Bellah and Hammond, *Varieties of Civil Religion*, 4.

of equal citizenship is at the heart of this covenant, with Persian and a long and animate history as the background. This is huge part depends on the balance and the composition of political forces, and that is why any question of civil religion is a political question par excellence, and that is why any other legal document, including a constitution that embeds the philosophy of civil religion, is only a manifestation of its political reality.

Concluding Remarks

We observed how universal and inclusive constitutions which contain civil religion mirror a pluralistic and sophisticated society, and since the classic diversity of Iranian society is still struggling to be elevated to the higher level of modern pluralism, one should not be surprised as to why the current constitution is far from representing religious minorities. Hence, and considering the tight grip of the Islamists over all aspects of public life in Iran, there does not seem to be any perspective of change in the status quo. Islamism is a formidable enemy to any civil and peaceful life in Iran, and different kinds of tensions between nation and state testify to the unreformability of the existing apparatus. However, the Charter of the Rights of Citizens, which should be analyzed in its historical context, can be the bearer of change if other factors allow it. It ‘can’ provide a grounding for the new constitution, which contains ideas such as civil religion, the neutrality of the state in religious affairs, and, in the most idealistic situation, separation of church and state.

Since Twelver *Shi‘ism* through the theory of *wilāyat al-faqīh* has in fact sacralized Iranian politics, the question we asked was if there is any hope to revert the classic division of labor between religion and politics when religious minorities had a more peaceful civil life. The formation of any new legal perspective that contains the elements of civil religion guarantees the rights of cultural⁴⁶ minorities and is a solution to the problematic of Islam and democracy, depends heavily on the balance of political forces on the one hand and their commitment to a peaceful transition to a democratic republic on the other. The next is the emergence of a sophisticated social order that matches the diversified cultural milieu. Unfortunately, with the sturdy grip of the Islamists and their ally, military forces, on all aspects of life, as well as the gradual but continuous transformation of the

⁴⁶ I use “cultural” quite broadly.

Iranian society into a mass society, as an inseparable component of any modern totalitarianism, the vision of the rise of any civil religion is blurred, if not to say dark.

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