1 Introduction

Several events that took place at the turn of the twenty-first century signalled ‘the return of religion’ to the political and social spotlight with serious consequences for religious institutions, practitioners, and for secular political systems. Ignoring the debates concerning whether or not this ‘return of religion’ is a myth, or if modern societies are indeed turning more religious, the paradigm of state-church separation (Barzilai 2007, xi) is currently facing grave challenges with the increased visibility of religion within the public sphere in comparison with previous decades. This trend unsettles established norms regulating the public sphere in modern democratic states, which are almost always founded on secular paradigms. Accordingly, religions that have been strongly represented in Europe and Western states for centuries – albeit shaped by sweeping waves of secularisation and emancipation throughout Europe (i.e., Christian churches) – have developed a modus-vivendi over decades to cope and live peacefully within secularly dominated contexts (Roy 2005, 39–41). The concept of secularism has been uprooted. On the one hand, the idea of secularism has expanded, transforming into an ideology that concerns both secular and religious affairs in many global contexts so that it became a global prescription for regulating ties – or lack thereof – between religion and the state. This transformation has led to harsh debates that are still taking place between religious and secular actors. The Islamic world is one of the main regions where this debate is reaching its apex.

Moreover, there have been extremely high rates of migration of religious and cultural groups from the Islamic world to Western states over the past decades. These flows unearth challenges to secular and religious concepts domestically as well as to existing paradigms that maintain the coexistence of secular and religious doctrines. Current debates concerning Sharia and secular law, the Islamic headscarf, male circumcision, interfaith marriage, and religious education illustrate this challenging issue. Secularism is mainly found in legal concepts related to the regulation of public space and the role and place of religion and religious symbols within that space. Thus, any debate concerning religious law concentrates mainly on the question of how and to what extent secular civil legal concepts can accommodate excessive religious symbols in public space and state institutions. This discussion is currently focussed on Islam, due to the visibility of Islamic religious symbols in public, to the relatively recent introduction of Islam into Western societies and thus to the ambiguity of several aspects of Islamic doctrine both to Muslims and non-Muslims. This has led to many misunderstandings and false assumptions. Tension arises from secular legal concepts that assign the ‘righteous’ role and place of religion in the
public sphere, allocating it exclusively to the private sphere (Casanova 1994, 35). Therefore, the appearance of Islamic religious symbols in Western public space is doubly difficult: These symbols were previously unknown to the West, and religion is not expected to be confronted in public. Debates concerning religious norms and values in the Muslim world present several similarities with debates taking place in Western contexts. Since the mid-nineteenth century there has been continuous dialogue between secular and religious actors regarding the interpretation of religious law and its interaction with secular legal concepts. This dialogue has not yet reached its conclusion, and the interchange between these parties has been deteriorating (Asad 2003, 205).

This chapter¹ deals with the interchange between religious and civil legal norms. I shall take up the elements of Islam, Muslim individuals, and Islamic legal concepts in my case study. It seems that the corresponding debate that is currently dominating Western discourse, as well as discussion in many Muslim states, will continue far into the future. It offers a touchstone for a broader discussion on the interchange of religion and secular concepts. I will argue that the reconciliation of God’s law and secular law cannot be approached through a comparative methodology. I shall further submit that the secular paradigm of tolerance of religious law can be seen as an interim solution but cannot be used as a permanent one for modern societies as it does not encompass all aspects of the interchange between religious law and secular law. Therefore, other methodological and legal approaches are needed. In other words, dominating secular concepts that regulate the public sphere need to be expanded in order to encompass other (and even opposing) concepts. Moreover, there is a need to rethink the position of religion and religious law in our understanding of modern secular societies. In terms of Islamic legal concepts and Muslims, I would like to argue that the debate on God’s law and civil law both in Western societies as well as in societies with a Muslim majority has been shaped by several misunderstandings and assumptions both among non-Muslims and Muslims, and which are not limited to mainstream thinking. This state of the art requires an epistemological clarification of terminologies associated with Islamic law, religious law and God’s law, and the history of Islamic law. Likewise, clarification of the current debate on religious law in the Islamic world is helpful as well. Therefore, reconciling religious and secular law – which is frequently presented as being a conflict between God’s law and civil law – cannot be approached exclusively through western paradigms. Other models of secularism exemplified in India or Indonesia, as well as other models of religion and state interchange, refute the habitual assumption that secularism is an exclusively Western achievement. These models also offer proof that secularism can and should be manifested in a variety of forms (An Na’im 2008, 140. 223). The debate regarding religious and civil norms has focused

¹ I am very grateful to the Luxembourg School of Religion & Society for the support I received to prepare this article during my period as visiting professor.
in the last decades on finding solutions for existing conflicts. It can transform into a fruitful debate if other paradigms and contexts are considered and mistrust between actors reduced; the Euro-American model may be opened and enriched by other concepts so that it may be applied globally.

2 God’s Law and Civil Law or Religious versus Secular Norms

To understand the link between God’s law and civil law, one should bear in mind that a comparison of both concepts does not help. Such an undertaking requires an understanding of both concepts separately, without limiting them or changing their character. The scientific approach of comparative legal studies, which has become a prominent discipline in Western academia, rests on a comparison of different legal concepts from different states and backgrounds, such as American and French law or Jewish and Islamic legal concepts. Such a comparison cannot be considered an ideal choice according to academic standards because these two concepts (religious and secular) cannot be put on equal footing. Secular law has dominated modern democratic societies for decades; it is being continuously developed and has become the prototype for political and social concepts worldwide (Salaymeh 2015, 153). Religious law, in stark comparison, has been marginalized and allocated in many cases to the private sphere, resulting in its stagnation. Thus, religious law cannot be in use without modernisation. In addition to the dominance of secular law in modern democratic societies, the self-perception of secular and religious people regarding their respective legal concepts makes any discussion very difficult: Religious conservative groups still believe the absolute superiority of religious norms and imbue them with sanctity. They make the argument that it is God’s law and is thus neither comparable with man-made law nor able to be changed. Secular institutions and actors, on the contrary, demonstrate pride in secular legal concepts and do not see any benefit of bringing religion back to the sphere of public debate. Furthermore, they understand religious law as a rigid conception that is unable to cope with change and development (Zubaida 2005, 338).

The accumulation of concepts and definitions for religious and secular concepts such as ‘religious’, ‘secular’, and ‘civil’ accompanied the development of modern legal studies in the last decades, and has contributed in many cases and regions to a confusing situation (Casanova 2011; van der Ven 2014, 278). Thus, religious law, God’s law, secular, civil, positive, common, and private law are now used interchangeably – not only in current discourse – but also within academic spheres. The concepts of God’s law and religious law are therefore often employed in a confusing way. To clarify this, let us assume that God’s law and religious law are not the same; God and God’s law are two distinct entities and should be distinguished. God’s law is currently understood as religious law and religious scriptures as the exclusive sour-
ces of religious law. Therefore, God’s law automatically refers to a sacred legal concept. Accordingly, if religious law is understood as sacred and unchangeable, this closes the door to any interpretation or debate. Therefore, dialogue shifts from debating the contents of religious law and secular law to a superficial discussion about the potential for religious law to be interpreted or changed. This last point instils fear in both religious and secular groups. Religious groups largely believe that the opening of religious legal concepts for discussion would allow secularists to attack these concepts and introduce changes. Secularists, in turn, fear that any attempt to develop or discuss religious law would allow classical legal concepts to return to the centre of public interest. The ongoing debate on Sharia law and civil law illustrates this situation both in Western States and the Islamic World. This debate is always rife with misunderstandings: On one hand Muslim conservative groups strongly believe that Sharia is God’s law and therefore sacred, and cannot be modified (Zubaida 2005, 440). On the other hand, their secular counterparts see Sharia as a closed, unchangeable concept, thus arguing to keep it outside of the debate because it is considered to be inviolable (Duderija 2011, 63). Both understandings are in error, however: God’s law, as it is manifested in Sharia law, is not necessarily religious and it is largely not considered to be sacred. Sharia, which is wrongly considered as God’s law, consists mainly of two parts: The first consists of Quranic norms which comprise a small number of verses – between 200 and 500 verses out of more than 6000 verses. These verses are not comprehensible without a linguistic and religious explanation and consist mainly of general guidance that needs to be accommodated to the modern life of Muslims (Rohe 2014, 10–21). This has led to the proliferation of Islamic legal concepts in different regions. The second part consists of legal literature, which comprises interpretations of general norms by legal experts according to various contexts (Zubaida 2005, 440). This latter part is the most important component of Islamic law and needs to be interpreted in order to accommodate lived reality (Rohe 2014, 97–209). Thus, God’s law is not as sacred as people may believe, but this should not be a reason to mistreat it, or to mistreat religious people. One should distinguish between God as a meta-legal concept and God’s law or Sharia law as a concept developed by human beings over centuries. Rafael Domingo argues for an appropriate distinction between God and religion to reintroduce God into secular society. He calls on secular legal systems to understand God as a meta-legal concept and hypothesises that this will contribute to the reconciliation of religion with secular systems. It would thus be the first step to the integration of religion into a secular legal system (Domingo 2016, 8).

The discussion on God and God’s law applies to other monotheistic religions. There are many parallels and similarities between Islamic, Jewish, and Christian legal understandings in this regard (Salaymeh 2015, 160). The first consequence of this argument is to recognize a similarity between God’s law, that is to say religious law, and civil or secular law as legal concepts. These two latter concepts (secular and religious legal conceptions) have been mostly elaborated and developed by human beings, so that the law of Islam, as it is used by Muslims, is created by legal experts.
The law of the church, as is used by Christians, is created by human beings. This clarification contributes to the de-specialisation of religious law without depriving it of its sacred character (Casanova 1994, 211–234). The sacred aspect of religious law is not manifested in the mummification of God’s words, but rather in the moral dimension of engaging with these norms and taking them as guidelines. This general dimension of religion is currently reflected in the main goals of the religion (maqāṣid) in the debate on Islamic law. These maqāṣid tackle Sharia from its general ethical perspective and not from its legal perspective (Kamali 1999, 193). This perspective can open this concept to new interpretations and positive change – unfortunately, this trend is still nascent and is not very popular among Muslims. The legal systems of most of the Islamic states are Western-oriented and not dominated by religious law. Even considering family law in Islamic states as being rooted in religious concepts or as being strongly influenced by the law of Islam, is incorrect. Family law in most of the Islamic states underwent several reforms and codifications so that it looks different to classical concepts and is strongly influenced by Western secular conceptions.

Be that as it may, let us envisage the dispute regarding public space, which constitutes the main subject of debate between religious and civil legal concepts. The apex of this debate is the concept of human rights and its principles. Human rights are based in the International Declaration of Human Rights of 1948 and have been the basis of several regional and bilateral legal conventions. A human rights framework is the leading reference for legal concepts of democratic societies and provides guidelines for other international legal concepts (An Naʾim 2008, 83–85). Encased within human rights concepts is the principle of religious freedom – a critical point for navigating the relationship between civil and religious law. This principle is consistently used as an argument whenever the principle of neutrality of the public space is discussed. The principle of neutrality is the basis for the main element of secular law that is employed in this debate. Freedom of religion generally means the right to display both religious faith and religious symbols. The principle of equality demands the equal treatment of all religions and of believers and non-believers. In discussions of pluralistic societies, the principle of neutrality is employed to reconcile this. In modern societies, neutrality is understood as the neutrality of the state, which means that the state does not interfere in any religion. Yet, it also has a responsibility to limit absolute religious freedom to prioritise the neutrality of the public sphere. The principle of religious freedom encompasses the right to both active and passive belief i.e., to believe or not to believe and to demonstrate this in public. Furthermore, religious freedom guarantees the presentation of one’s own faith in an active way, such as wearing religious clothing, building religious structures, celebrating holidays, as well as implementing religious education and carrying out circumcision and animal slaughter as part of religious ceremonies. All these rights may be limited or in some way restricted by other principles of human rights such as human dignity and physical integrity (Rohe 2007, 79).
The Islamic headscarf, animal slaughter, religious and secular law, and religious education at public schools are all under intense scrutiny in Western societies. While this debate mainly focuses on contradictory understandings of religious freedom in Western democratic societies, the debate in Muslim states mainly revolves around principles of gender equality as well as the equality between people from different religious backgrounds. The principle of equality involves issues of inheritance and family law, such as marriage and divorce. In contrast to civil law where religious actors are still arguing for the adoption of several Sharia norms and see them as still valid; trade law as well as several aspects of the economy and scientific areas are mostly secular and ‘Westernised’ to a wide extent not only in states where religious law has been reformed such as Tunisia, but also in those Muslim states where Sharia law is still active and represents the main reference of legal norms, such as Saudi Arabia. Noteworthy in this regard is that both secularists and moderate religious people in Muslim states argue for changing the law to accommodate and promote equality between men and women. Conservatives, on the contrary, argue for conserving classical concepts and see their preservation as a sign of identity. The debate between these two groups has reached its apex in the last years, when new legal concepts – such as in Tunisia and Morocco etc. – suggested the equality between men and women in view of inheritance and responsibility and have been passed to parliament to be signed.

3 Islamic Legal Concept as a Touchstone for the Relation between Religious and Civil Legal Concepts

The ongoing debate concerning public space in Western societies is mainly focused on the interchange between Muslims and the Islamic legal concepts with secular law. I will therefore focus the following discussion on the main issues of the debate on Sharia and public space. In Western Europe, the debate on Sharia and civil law is shaped by the permanent existence of Muslim minorities in Europe over the last decades. Their presence has engendered more visibility of Muslim religious symbols and rituals such as prayer-houses, headscarves, etc. Regardless of whether those symbols are legally recognized by European states, they do exist and are challenging even in those states where the relationship between religious communities and the nation state is harmonious. The pinnacle of the debate is the resilience of the principle of religious freedom when it is applied to new religious groups. To distil the arguments used in this debate at least in one aspect, both concepts of law are inspired by their respective understanding of human rights. This often results in greater confusion, in that every group, including the state, attempts their own distinctive interpretation of human rights as opposed to a common one. On the one hand, religious freedom is meant to guarantee the free exercise of religious rituals. On the other
hand, secular legal concepts are designed to regulate this freedom such that every religious group has the same rights and space. In fact, the ideology of the state in this regard is based on the principle of neutrality. Neutrality is achieved by regulating public space and limiting any religious or cultural imagery that would disturb that neutrality. An alternative concept that manages the public sphere and allows the existence of all religious symbols does not yet exist. Therefore, neutrality of public space can be understood as the limitation of religious freedom. This modality is not always effective and constructive, especially for those religious groups that did not experience such limitation before.

As mentioned, the discussion on religious freedom described above has its roots in human rights. Human rights defend freedom of religion without limitation, so that any religious group and individual can practice his or her religion based on this principle. The issues of the Islamic headscarf, male circumcision, religious education, minarets for mosques, as well as religious marriage are all being debated in this framework. The arguments of those who call for a limitation of these rituals are related to the principle of neutrality of the public space, which is a secular virtue. Nevertheless, neutrality has different meanings and cannot be limited to a restrictive interpretation. There exist at least three different models of secularism and its reconciliation with religious freedom regarding the relationship between church and state in Western democratic societies: the British-American model, the French, and the German model (Asad 2003, 6). All these models have adopted different solutions to the question of Muslim religious symbols and their visibility in public space. The appearance of the headscarf in the public sphere has been seen as a threat to the principle of secularity in France and has led to a ban of the hijab in the public sphere and public administration. On the contrary, the wearing of religious symbols is accepted and not questioned in Britain and the USA. In Germany, the issue is still up for debate and all suggested solutions are still under consideration (Rohe 2016, 279).² It is quite interesting that both religious groups and the secular state base their arguments on human rights. Muslims who wear a headscarf or circumcise their male children understand these rituals and symbols as a religious obligation and they justify their decisions with religious arguments from the religious scriptures as well as other legal concepts. By performing these rituals, they follow a strict religious obligation. More precisely, for religious people who want to fulfil their religious duties, but suffer from a number of restrictions in this regard, the question becomes clear: Which shall I obey, God’s law or man-made law? The answer to this question is well-known: “Then Peter and the other apostles answered and said, we ought to obey God rather than men” (Acts 5:29). This question and the answer are both over-simplified. Many religious obligations have different interpretations within

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² The Yearbook of Muslims in Europe is currently one of the leading references for this subject. It appears almost yearly and contains the state of the art on the situation of Muslim minorities in Europe.
the religious legal tradition so that one can distinguish between different categories of obligation. Yet secular legal systems have promised every citizen a margin of freedom such that everyone can live peacefully and have sufficient religious liberty to practice their religion. Moreover, the lives of religious minorities who have always benefitted from religious freedom as a guarantee and understood it as a non-limited right to freedom are disrupted whenever they are limited in the extent or manner in which they may exercise this right. This question reflects conflicting understandings of religious freedom: While religious minorities consider religious freedom as guaranteed and unlimited, local authorities refer to human rights and local civil law to argue against this religious understanding of freedom. This can lead to clashes on both sides of the debate. The situation has become more problematic within the last years because of the issues of child marriage, polygamy and domestic violence which are both related to religious Islamic law. All acts are justified in religious scriptures of Islam and conservative religious groups see them as a part of the religious dogmas, while Muslim mainstream society does not understand them as such, and many Muslim intellectuals see the need to change them to meet the international norms of life in the modern world. Thus, the debate shifted from dealing with separated cases on a regional and local level to a general question that affects the stability of entire societies. Because the rules of the game are still written by secular legal systems, religious groups are currently given three solutions to cope with secular systems. The final report of the research project ReligioWest (2016) summarises the situation for religious groups in three options; it argues that religious communities are confronted with a choice between three options: 1) to withdraw into private sphere for individuals, or to the ‘ghetto’ for communities (Amish, Lubavitch), 2) to acknowledge the divorce and to claim, for mainstream churches, ‘clear exemptions’ and ‘consciousness objection’, 3) to reformulate religious norms in a way that is acceptable by the secular rationality, in a word, to ‘reform’ religion (a constant call addressed to Islam, but also to the Catholic Church). (Roy 2016, 6)

These options are still on the table for Muslim communities as well. The debate among Muslim communities regarding this issue is still lacking consistent answers. The fundamentalist approach does not recognize the modern state but is practiced by a small minority of Muslims (Rohe 2016, 280). Rather, it seems that most of the Muslims living in western societies is interested in finding a balance between religion and civil law in term of establishing a modus-vivendi that takes into consideration the specific character of the Islamic faith. While Muslim communities and official institutions do not provide answers to the question of how state-religion interchange should be and how Muslims should behave regarding this issue, some Muslim intellectuals try to advance some solutions. Abdullahi An-Na’im proposes ideas to establish a symbiosis with the concept of secularity and secular states. He emphasizes that Muslims should distinguish between secular state and secular society; that a secular state is a guarantee for everyone so that secularism does not present any threat to the Muslim faith (An Na’im 2008, 1).
In addition to the practical issues related to the current questions of secular and religious law, there is a theoretical one: How Muslims see the law of Islam and how they understand it. This question is relevant for both Western states where Muslim minorities live and in the Islamic world. The available data on this subject are somewhat confusing. The available quantitative data about Muslims, which were mostly gathered by European and American research institutions, insist on the fact that Islam is resistant to secularism and that most Muslims are religious or consider themselves as religious (Pew Research Center 2013, 2–5). This research presents this religiosity as a sign of the preference of religious law over secular law among Muslims. Sami Zubaida summarises these assumptions as follows:

This assumption needs more clarification and specification, particularly because of the strong lack of religious information and knowledge among Muslims and non-Muslims about Islamic law, so that Sharia in many cases, appears to be tantamount to the Quran and the literal interpretation of the scripture. This perspective is gaining more ground through modern media (Powell 2016, 124). When we debate this issue from the perspective of the Muslims, we should always mention the existence of different positions and groups. Adis Duderija has presented two main groups and conceptions which are diametrically opposed to each other on the issue of religious law: The new salafi (traditionalist) one, which argues for conserving the traditional understanding of religious law and claims that this is the best way to preserve Muslim faith, while the progressive liberal interpreter argues for the adoption of Western legal concepts instead of insisting on the validity of the classical one (Duderija 2011, 63). A third group can be added; namely, specialists who try to strike a balance. This group could be identified as reformers i.e., Muslim specialists in Islamic law who argue for a reform of classical Islamic legal concepts to meet international standards while trying to find a balance between religious faith and modern legal concepts. However, this last group is very small, still understudied and has no weight in the debate.

The legal concepts of the majority of the Muslim modern states have been inspired by western legal conceptions (Otto 2010, 14). Further, secularism has been often seen as a sign of modernisation in that region, yet secularisation was not – in contrast to the European case – reached through the ban of religion, but through cooperation between secular and religious authorities. Thus, it may be said that the local debate on religious law and secular law manifests other dimensions than those...
Moreover, the majority of Muslim states are employing Western concepts of secular law, which is mostly the result either of the importation of Western legal concepts such as the Turkish case after 1924 or a sort of reformed Sharia-law as the case in Egypt and many other states. Additionally, the thesis of the contradiction between reality and theory in Islamic law which dominated the reception of Islamic law in Western academia for long time has been disproved by recent scholars such as Hallaq and Johansen (Johansen 1999, 189–191; Hallaq 2009, 1419). Accordingly, Sharia is now defined in its whole theoretical and practical conception. The debate on legal concepts and the linkage between secular and religious norms in Muslim states has focused on a small area of a larger terrain of legal discourse. While branches of law related to purely secular sectors such as trade and natural sciences are exclusively dominated by secular norms, the area of private law and civil law do encompass some issues in relation to religion and religious law. Historically speaking, this debate began after the process of secularisation had already started. Secularisation commenced in the nineteenth century in the Islamic world and accompanied the establishment of the nation state; it has likewise led to the establishment of secular oriented constitutions and legal systems (Asad 2003, 208).

### 4 Beyond the Myth of Religious versus Secular Law

Within the debate on religious and secular legal norms, we can ascertain the existence of a state of stagnation both in Europe and the Islamic world. This is not only due to the mistrust and misunderstandings between secular states and religious groups, but also to the fact that these subjects are still being debated within classical models and paradigms, where new approaches and methodological statements are expected. This leads to the question: Is secularism the last word in this debate? Does the concept of secularism appear to be as dogmatically unchangeable as religious scriptures? Is religious law not changeable? And in the event of its malleability, in which dimension is this possible?

The evidence that secularism and secular systems have become the leading concepts for managing life in modern societies is so clear that even several Muslim thinkers and theologians consider secularism as the best concept for Muslims because it guarantees the separation between state and religion. Abdullahi An-Na‘im calls on Muslims both in the West and the Islamic world to adopt and acknowledge secularity because it guarantees religious freedom (An Na‘im 2008, 1–4). He distinguishes between secular states and secular societies, incites Muslims to adopt secularism and sees it as very helpful to Muslims in modern contexts (An Na‘im 2008, 1–44). Other leading Western thinkers have suggested some solutions for managing

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3 Asad focusses on the transformation that occurred in Egypt.
the relation between religion and secular states. Charles Taylor has proposed a campaign of reasonable accommodation, meaning that the secular individual should accept religious signs and practice that do not mean anything for them “while religious communities should not try to impose their norms on secular society [...] both sides must make concessions” (Roy 2016, 8). Taylor’s recommendation for the region of Quebec explains how this principle should work (Bouchard and Taylor 2008, 51). In another issue Taylor suggests symbiosis as a moral, political, and social ideology for the future (Taylor 2006, 117–142). The solution proposed by Habermas for fruitful living together in modern societies consists of the fact that

the secular character of the state is a necessary though not a sufficient condition for guaranteeing equal religious freedom for everybody. It is not enough to rely on the condescending benevolence of a secularized authority that comes to tolerate minorities hitherto discriminated against. The parties themselves must reach agreement on the always contested delimitations between a positive liberty to practice a religion of one’s own and the negative liberty to remain spared from the religious practices of the others. (Habermas 2006, 4)

He states further:

Fair arrangements can only be found if the parties involved learn to take the perspectives of the others. The procedure that fits this purpose best is the deliberative mode of democratic will formation. In the secular state, government has to be placed on a non-religious footing anyway. The liberal constitution must flesh out the loss of legitimation caused by a secularization that deprives the state of deriving its authority from God. From the practice of constitution-making, there emerge those basic rights that free and equal citizens must accord one another if they wish to regulate their co-existence reasonably on their own and by means of positive law. (Habermas 2006, 4–5)

The three solutions presented above to religious groups which were differently adopted by secular legal systems seem to be insufficient and the debate is currently stagnating. This stagnation contributed in Western societies to the strengthening of many extremist parties on both sides and secular states are still looking for solutions. In the Islamic world, the debate consists obviously of a reinterpretation of those ideas and arguments about the relation between Sharia and secular law which were presented decades before. As a way to get out of the vicious cycle of religious vs. secular the authors of the EU-report Rethinking the place of religion in European secularized societies: the need for more open societies (2016), argue for adopting a multi-level approach that reconsiders the liberal understanding of religious freedom and reconciles religion with human rights and modern societies. This consists of 1) defending freedom of religion as a specific freedom; 2) maintaining the separation of Church and State, because “The separation protects the State from the Church, but it also prevents secular states from interfering with theology.” 3) understanding religion as an autonomous sphere, 4) looking at human rights as truly universal, rather than European (Roy 2016, 9–10). Regarding the concept of God’s law, Raphael Domingo argues that the secular legal system should protect the right to religion and
not only a right to freedom of religion (Domingo 2016, 113–114). He also insists on the need to have different approaches to the interchange between state and religion, so that we have a better understanding of the situation, instead of having a closed and exclusive secular Western system (Domingo 2016, 2). Domingo argues further for the replacement of the principle of neutrality – as a principle of behaviour within a secular system – by pluralism. Accordingly, God’s law would then be a legal system within a multiplicity of systems.

As mentioned before, both secular and religious actors need to confront the fact that God’s law does not exist as a sacred unchangeable law. As far as Islam and European Muslims are concerned, the debate is currently dominated by the permanent discussion on the relation of Muslim religious organisations and communities to secular states and secular legal conceptions. This discussion also touches on the relation of these Muslim organisations to Muslim states, the so-called homeland, such as Turkey or Morocco. In this regard one can say that the relation of Muslim European communities to the states where they live is still impacted by scepticism. This character shadows almost all aspects of the debate and cooperation between both parties. As a case in point, the question related to Islamic education at state schools has been declining for decades, due to the lack of trust between both sides (Khalfaoui 2019, 71–81). This is due not only to the mistrust of Western states vis-à-vis certain Muslim religious organisations and groups; it is also due to the lack of structures and channels of communication between both Muslim organisation and stakeholders. As far as Muslim communities are concerned, one can say that scepticism vis-à-vis rulers and politicians is rooted in the Muslim social history and still shadows their relation to politics even today. This is due to the repressive ideology adopted by several Muslim dynasties and states vis-à-vis their populations and religious organisations. The problematic behaviour of several Muslim modern national states with religion since the downfall of the Ottoman Empire 1022 is a case in point (Khalfaoui 2017, 89–101). Within a short time, religion and religious organisation have been marginalized and lost their value both in politics and religious affairs. This was a shock for them, and it still has an impact on their relation to politics. On the other hand, the relation of Muslim communities to Western states is shaped by what we can call a politic of take and give. On the one hand, European states still think of relations to minorities within the framework of how many rights can be given to these minorities. This often leads to the fact that minorities strive to get as many rights as possible. This strategy of both parties is not constructive and counterproductive; it strengthens particularism and completion between minorities and harms pluralism and plurality. On the other hand, negotiation with every minority separately has proven inefficient for stakeholders worldwide, because it weakens the central state. Therefore, I would like to argue that it would be far more helpful for Muslims living in Western democratic societies to avoid particularism. Particularism leads to marginalisation and loss of any common sense with other groups. Muslims must stop exclusively defending the Muslim faith and Muslim cause; they should understand the Muslim faith as being an intrinsic part of the entire system.
of values and norms that exists in society (Khalfaoui 2018, 281). Strengthening one strong right for all groups would contribute to a better debate on religion and secularism; this will offer more rights both for religious and non-religious people. Though problematic in several ways, secularism has proven to be one of the most efficient models and frameworks for regulating the relation between religious and secular groups as well between individuals, regardless of their religious background. Secularism could be improved by political participation and debate to fit to the recommendations of a modern democratic and pluralistic society.

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