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Plurality of Legal Systems and Democracy

Javid Gadirov*

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Abstract

The key problem addressed in the paper is that of the legal pluralism, more specifically the pluralism of legal systems within one state that pursues the accommodation of religious freedom claims. In its controversial Refah decisions the Strasbourg Court held that the prohibition of the Turkish Welfare Party was "necessary in a democratic society" because its plan to set up a plurality of legal systems was not "compatible with fundamental democratic principles".[1] This paper tries to inquire into the notion of legal pluralism, tries to test normative assumptions made by the Court in its regard and argues that a "no plurality" approach would be overly simplistic and that a liberal approach would require different degrees of pluralization (some of which already exist to accommodate differences and diversity within a society) to be extended to religion, without however endangering constitutional democracy.

It is necessary to point out at least two major theoretical contexts in which this problem should be considered. One is undoubtedly the issue of 'militant' democracy: once we assume that constitutional democracy and legal pluralism are incompatible, we give a (part of) definition of democracy, which entitles us to reject any changes proposed to it while retaining the claim to be democratic. If we know what is democracy in a substantive sense, which values it is designed to protect (e.g. secularism or fundamental rights) we can legitimately reject any changes to that vision as a measure protective of such values.[2]

Another context that is relevant is the issue of universality and cultural relativism. It

* Assistant Professor, Faculty of Public and International Relations, ADA University, Baku, Republic of Azerbaijan. Email: jgadirov@ada.edu.az

1. Case Of Refah Partisi (The Welfare Party) And Others v. Turkey, *(Applications nos. 41340/98, 41342/98, 41343/98 and 41344/98)* Judgment, 31 July 2001 [hereinafter *Refah (1)*] paras 70-71; *See also* Case of Refah Partisi (the Welfare Party) and Others v. Turkey *(Applications nos. 41340/98, 41342/98, 41343/98 and 41344/98)*, judgment, 13 February 2003, [hereinafter *Refah(2)*] paras 98 and 119.
2. See: *infra*, text accompanying notes 35-39.

first appears when we attempt to define democracy as a substantive notion, which necessarily assumes a value judgement. It also becomes relevant if we mind that the rationale of legal pluralism is the necessity to recognize, respect and tolerate different views and visions of 'happiness'. In its pure form the idea of relativism and legal pluralism is represented in the classical version of state-centered international law system, where states posses equal and unlimited internal sovereignty.[1] However even within the State any kind and instance of legal pluralism is about the respect and tolerance of the different normative values and views. Only straightforward consensus on all the rules and values as universal can justify total rejection of legal pluralism.

The paper will start by an attempt to clarify the understandings of legal pluralism in social sciences and law. The second part will try to construe a liberal argument in favor of advancing legal pluralism to a certain degree, basing on the individual right to freedom of religion and conscience. Instead of relying on the 'collective rights' argument, it rather believes that individual rights provide a sufficient basis for this claim, as far as religious life and consciousness are deemed an important part of individual personality and self-determination. The third part tries to balance the claims of legal pluralism by considering arguments against such a model of society.

Keywords: Plurality; Democracy; Legal Systems; Human Rights.

1. See: *infra*, note 8, text for the note 25 and page 14.

1. Introduction

The key problem addressed in the paper is that of the legal pluralism, more specifically the pluralism of legal systems within one state that pursues the accommodation of religious freedom claims. In its controversial *Refah* decisions the Strasbourg Court held that the prohibition of the Turkish Welfare Party was "necessary in a democratic society" because its plan to set up a plurality of legal systems was not "compatible with fundamental democratic principles".[1] This paper tries to inquire into the notion of legal pluralism, tries to test normative assumptions made by the Court in its regard and argues that a "no plurality" approach would be overly simplistic and that a liberal approach would require different degrees of pluralization (some of which already exist to accommodate differences and diversity within a society) to be extended to religion, without however endangering constitutional democracy.

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2. Meaning of Legal Plurality

There has been a lot of socio-legal and anthropological research on the issue of legal plurality. Thus Griffiths defines legal pluralism as a "state of affairs, for any social field, in which behavior pursuant to more than one legal order occurs". He defines a legal system as pluralist in what he calls 'juristic' sense if "the sovereign commands different bodies of law for different groups of the population varying by ethnicity, religion, nationality, or geography, and when the parallel legal regimes are all dependent on the state legal system." (Griffiths, 1986: 5-8) Popisil claims that "every functioning subgroup in a society has its own legal system which is necessarily different in some respects from those of the other subgroups". He however construes the notion of legal system very broadly to include non-legal normative orders such as families, communities, work groups and other non-legal forms.[1]

Legal science views the issue in connection with the phenomenon of non-state legal orders. This approach sees the society as entailing several sovereigns and several legal orders not necessarily assuming the existence of a StateFor example [2]. Cover argues that law, legal institutions together with 'narratives' that make them meaningful constitute a *nomos*: "normative universe", the world or 'right' and 'wrong' that we create and live in. Furthermore, the 'nomos' does not assume the existence of a state. On the contrary, Cover argues that "the creation of legal meaning --'jurisgenesis'-- takes place always through an essentially cultural medium". Consider his thesis that:

Just as it is our distrust for and recognition of the state as reality that leads us to be constitutionalists with regard to the state, so it ought to be our recognition

1. See: Pospisil, 1971: 107.
2. See e.g. Gierke, 1934; Gierke, 1900.

of and distrust for the reality of the power of social movements that leads us to examine the nomian worlds they create. And just as constitutionalism is part of what may legitimize the state, so constitutionalism may legitimize, within a different framework, communities and movements. Legal meaning is a challenging enrichment of social life, a potential restraint on arbitrary power and violence. We ought to stop circumscribing the nomos; we ought to invite new worlds.[1]

An instance of such pluralism is the position of Native Americans in the United States.[2] Justice Johnson described their claim as following:

> "they are or may be deemed a state, though not a sovereign state, at least while they occupy a country within our limits. Their condition is something like that of the Israelites, when inhabiting the deserts. Though without land that they can call theirs in the sense of property, their right of personal self government has never been taken from them; and such a form of government may exist though the land occupied be in fact that of another" (The Cherokee Nation vs. The State of Georgia, 30 U.S. 1 (Mem), 5 Pet. 1, 8 L.Ed. 25)

Dane applies this reasoning to *inter alia* religious movements. He speaks of a religious community as of a different non-state legal order, a "group that speaks its own law, that thinks of itself as juridically autonomous, as something other than a creature of the law of the state". He speaks of them in terms of 'sovereignty-talk' as having their own "juridical dignity". (Dane, 1991: 963-5 [hereinafter Dane, The Maps of Sovereignty]) In yet another wok he compares the reference to the religious categories to "recognizing a foreign-created legal status in conventional choice of law". (Dane, in Robbers (ed), 2001: 135 [hereinafter Dane, The Varieties])

This is to say that the question is far from being new and that the existence of normative orders having the same 'juridical dignity' as states and overlapping in subject matter with the state normative order has been acknowledged. Thus the meaning of legal plurality from State's perspective would be the recognition and respect at any degree of the reality of any non-state legal orders. This is quite

1. See: Robert, 1982: 11-12, 68.
2. For their status see Macklem, 1993: 1314-1315, arguing that the prior occupancy and prior sovereignty claims are a better justification for Indian governments than cultural relativism. It should however be pointed that in fact sovereignty and relativism are two sides of the same coin (see Henkin, infra). Relativism is the main rationale for sovereignty and any universal rules inevitably limit both the sovereignty and relativism. In the world of straightforward consensus on all values sovereignty is redundant).

a broad construction that would consider any slight exemption from the state legal 'nomos' for the reason of deferring to any non-state normative order, be it a religious community or a family, as an instance of some degree of pluralization.

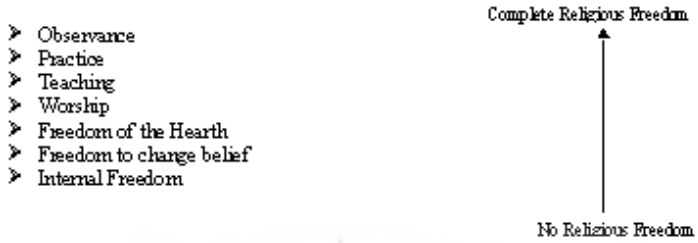
A religion based exemption from general laws is one such instance, a much more pluralized is a legal system that would defers questions of private status to religious authorities. Legal plurality can take many forms and extend to different degrees, the question is what form and degree of pluralization is compatible with modern liberal democracy and whether there are liberal arguments in favor of institutional recognition of the religious normative orders.

3. Freedom of Religion Perspective

This part of the paper develops a liberal argument usually brought in favor of reconciling the legal pluralism with democracy to a certain extent. This argument is based on the individual right to the freedom of religion that includes such components as the right to free exercise[1], the principle of 'non-establishment' of state religion[2] and the internal autonomy in church affairs.[3] Freedom of religion is one of the most acknowledged human rights, it is arguably universal[4], and derives from the principle of inviolability of human dignity and conscience.[5] Furthermore, it is "one of the foundations of a "democratic society" and the "pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it"[6]

1. For the Right to Free Exercise see generally Durham, 1996: 1-44 [hereinafter Durham, Perspectives on Religious Liberty]. For US see McConnell, 1989: 103; Harvard Law Review 1409; W. Cole Durham, Jr., State RFRAS And The Scope Of Free Exercise Protection, 32 U.C. Davis Law Review 665; Michael J. Perry, Freedom Of Religion In The United States: Fin De Siecle Sketches, 75 Indiana Law Journal 295. This has also been acknowledged in Strasbourg jurisprudence in Larissis and others v Greece (App. No. 00023372/94; 00026377/94; 00026378/94); and Kokkinakis v Greece (App. No. 00014307/88).
2. See: Durham, 1996dSee also Jefferson's theory of "wall of separation" (from Reynolds v. U.S. 98 U.S. 145); For the current approach see the Freethought Society, of Greater Philadelphia v. Chester County 334 F.3D 247 for the "Endorsement test" that is arguably becoming the standard (See case comment at 117 Harvard Law Review 1260). For the French laïcité principle see Haarscher, 2002**:** 269. For the German approach see the German School Prayer Case and the German Class Crucifix Case in Kommers, 1997: 461-483.
3. See: Dane, 1976: 426. In ECHR case-law see the Case of Metropolitan Church of Bessarabia and others v. Moldova (App. No. 00045701/99), Case of Hasan and Chaush v. Bulgaria (App. No. 00030985/96) Case of Serif v. Greece (App. No. 00038178/97); But see Case of Cha'are Shalom ve Tsedek v. France (App. No. 00027417/95).
4. See: e.g. Arcot Krishnaswami: Study of Discrimination in the Matter of Religious Rights and Practices, U.N. Doc. E/CN.4/Sub.2/200/Rev.1, U.N. Sales No. 60. XIV.2.
5. See: Wood, 1998: 479, See also Kierkegaard, 1967; See also The Preamble of the Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948).
6. See: Case of Metropolitan Church of Bessarabia and others v. Moldova, App. No. 00045701/99: 114.

This paper supports the view that the constitutional approach to the freedom of religion as well as its three mentioned elements may be viewed coherently through the framework of legal pluralism. As to the right to free exercise, Professor Durham provides a model describing it as a continuum from merely internal freedom of religion up to the recognition of the right to observe one's religious rites[1]:



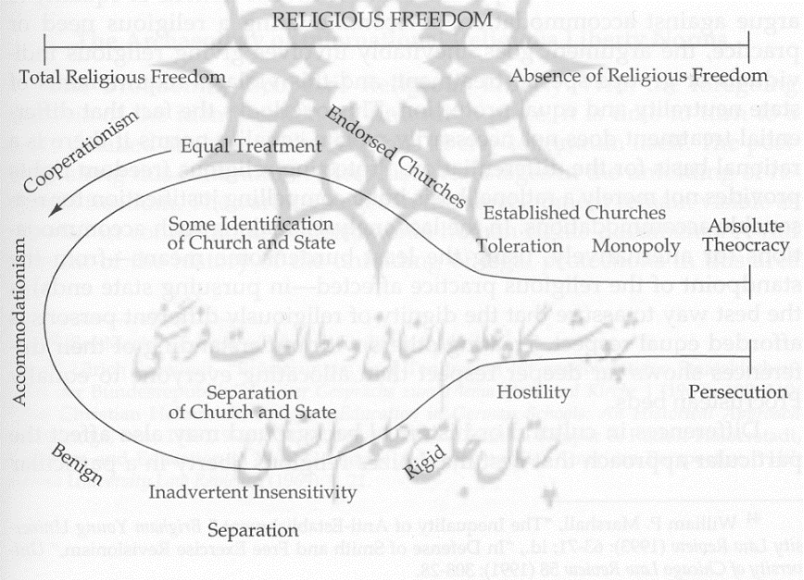
The pluralist implications of the free exercise are obvious. Whenever a state grants an exemption from its laws on the religious grounds it respects the adherence of an individual to another normative order and the necessity of the latter for the human personality. It defers to the individual's own vision of his conscience. Viewed from this perspective the free exercise 'continuum' does not end with the mere observance. Suppose that a religion directly prescribes that some matters of personal status or education should be governed in accordance with religion. Or even more radically, compels to live in a religious societal order and obey the laws prescribed in the religion. This is not to say that freedom of religion is an absolute right that should 'trump' other rights and others' rights. The point is that once this approach to the free exercise is taken, its scope significantly broadens and any restriction to it must not be arbitrary, but justified as necessary and proportionate.

Further issue closely related to the free exercise claims is that of definition of religion. The question of whether there should be an objective or subjective (deferential) definition is regarded as a matter of religious freedom. Thus it has been suggested in the literature that the "Limited Deference Model" of the definition is the most adequate approach in a liberal state. This theory defines religion by deference to the religious group's self-understanding as religious, and there should be a presumption in favor of the religious group unless substantial doubts arise in the society about the legitimacy of the presumptive claimThis approach is also plausible with pluralist views that would reject.[2] any "objective" definition as single-minded and intolerant.

1. See: Durham, 1996: 36.
2. See: Durham and Sewell, 2003: 487.

Another part of the Freedom of Religion is the principle of Non-Establishment of State religion. When approached from the framework of recognition of equal 'juridical dignity' of non-state normative orders, Non-Establishment appears as an important demonstration of tolerance in pluralist societies. It is moreover a logical continuation, another side of the freedom of religion coin. One set of beliefs within the society cannot be preferred to another by the Liberal State. One's right to live in the society that conforms to his normative order cannot be preferred to another's.

Several understandings of Non-Establishment exist in the literature. Thus Sapir distinguishes "non-coercion, neutrality, strict, and non-institutionalization". (Sapir, 1999: 579) Haarscher points that there can be the "good" secularization, such as laïcité, which delegates secular matters to the state and matters of faith to the religious bodies, and what he calls "bad" secularization, which is basically a communist (Marxist) style atheism.[1] Professor Durham goes further to describe the interrelationship of the (none) establishment and religious freedom according to his General Model:



He opposes this model to the view that the complete Non-Establishment, the Jeffersonian 'wall of separation' corresponds to the total religious freedom.[2]

1. See: Haarscher, 2002**:** 269.
2. See: Durham, 2003.

This is a step to the recognition that complete secularism might conflict with religion-based exemptions from general laws based on the free exercise right. Suppose that a State prohibits wearing religious clothes, such as Hijab or Yarmulke, in schools. It does so referring to the neutrality of state in the matters of religion, say laïcité.[1] However, at the same time from the religious perspective the State interferes with the freedom of observance of one's religion, which might prescribe wearing such clothes. How come that the two elements of the religious freedom contradict each other?

The main misunderstanding seems to be that the determination of what is secular and what is religious, basically a part of the definition of religion, which itself is a matter of religious freedom, as pointed above, is delegated to the state. Instead of recognizing the 'dignity' of religious orders and their commands by deferring at least part of this decision to the religious body, the State imposes the view of its own normative order, a secular one, which is intolerant from the liberal perspective.

Such an explanation assumes that the secularism cannot be meaningfully separated from atheism. It is in a way a projection of a certain set of beliefs, part of some normative order that should be deemed equal in its "rightness" and dignity to any other religious one. In other words, could it be that a completely secular state is in fact an Establishment of some normative order? Isn't it plausible that secularism in its most radical version prefers the non-religion to religion and atheists to believers?

But if secularism is to be viewed as an establishment of non-religion, then how can a liberal state minimize and limit its imposition of any metaphysical notions? The establishment continuum can be envisaged as a dichotomy of pure models. On the one extreme one could imagine a legal system that allows the existence of parallel legal (normative) orders in their own dimensions that relate to each other like different legal systems[2] with the peremptory norms (of public law) called to arrange the coexistence of these systems and of course the right to "opt out", that is to change the religion or choose for submission to the secular regime. Furthermore, one could argue that the state-centered paradigm of international system and Law is envisaged to accommodate "visions of happiness" of normative systems that differ to the extent that their

1. See e.g. the French Loi relative à l'application du principe de laïcité dans les écoles, collèges et lycées publics, http://www.ump.assemblee-nationale.fr/article.php3?id_article=2282.
2. See: Dane, 1976.

coexistence within one society is impossible.[1]

Contrary to this, on the other end of dichotomy, is the model of legal system that allows no (legal) plurality at all, even excludes any religion-based exemptions from the regular laws that can be regarded as an element of plurality of legal systems. Instead such model sticks to the societal and legal order of some 'established' agenda, be it non-religious or based on Islam or Judaism.

Finally another area relevant to the notions of freedom of religion is the church autonomy law. This element most explicitly reflects the necessity to admit the coexistence of different normative orders within one society and the necessity to defer to the decisions of the 'other' nomos for the reasons of neutrality. The church autonomy issue poses the question of the ability of religious organizations to self regulate, organize themselves and deal with their internal matters, the question of how state courts should treat the decisions of religious bodies, such as concerning internal disputes or church property.[2]

Again, it appears that a completely secular, non-pluralist states would exclude such accommodation of religious claims, because deferring to and the recognition of the norms of a religious normative order contradicts the rationales of secularism. Thus the principled "no religion" understanding of the Non-Establishment is inconsistent with the church autonomy, whereas the legal pluralism understanding of it would require such autonomy. Thus Dane argues that "taking religious categories seriously is, at least in formal terms, an act of respect, akin to recognizing a foreign-created legal status in conventional choice of law". (Dane, 1976)

However the pure model suggested above, the coexistence of legally recognized normative orders, with the peremptory norms of public law, even with the right to change religion ('opt out') is not without problems either and lies at the other end of the dichotomized spectrum. Globally the spectrum might consist of, but might not be limited to, the following benchmarks:

1. Thus Henkin points that the ideology of the modern International Law is that the sovereignty is granted to nations so that they could pursue their own vision of 'state happiness' and the prohibition of use of forcemas well as the principle of non-interference are to secure the toleration of such visions. See: Henkin, 1995: 104-106.
2. See: Henkin, 1995: 14.

Complete legal pluralism

- Parallel coexistence of legal orders (as in International Law)
- Plurality within a State where a society is divided into parallel systems that relate to each other like different legal systems, with a possibility of choice in more liberal versions.[1]
- Pluralization that allows the matters of private status (such as marriage) to be governed by religious laws and the right to religious education.[2]
- 'Retail' exemptions to accommodate 'free exercise'/church autonomy
- 'Establishment' of state metaphysical agenda

No legal pluralism

4. Legal Pluralism: Arguments Contra

This part of the paper will evaluate the main arguments usually put forward against the plurality of legal systems based on religion, in particular those used by the Strasbourg Court to reject plurality as inconsistent with democratic principles, as well as the strong normative assumptions they rely upon.

The first argument that was invoked against the idea of plurality of legal systems was that it would "do away with the State's role as the guarantor of individual rights and freedoms".[3] In this regard it should be mentioned that the model imputed to *Refah* suggested that there is a complete plurality in "all fields of public and private law"e (Refah (2), 2003: para 119) However it is possible to envision a system where a state can allow plurality and still maintain its role as guarantor of constitutional rights. The Strasbourg decision thus can be read more narrowly as rejecting only a system that pluralizes all spheres of law (including constitutional) effectively creating new unrestricted sovereigns within a state. Such a vision would indeed be problematic, however

1. An example could be the so-called 'Medina Project' to which the Refah's proposal (that a "citizen must be able to choose for himself which legal system is most appropriate for him, within a framework of general principles" Refah (2), 2001: para 28; or see: the statement of the vision that a "society would have to be divided into several religious movements; each individual would have to choose the movement to which he wished to belong and would thus be subjected to the rights and obligations prescribed by the religion of his community", Refah (1), para 69) was attributed, see: Christian Moe, Refah Revisited: Strasbourg Construction of Islam, draft paper for the Conference on Refah at the Central European University, 12-15 June 2003. It was almost fulfilled by the Ottoman millet system where each religious community was organized according to its own laws and headed by a religious leader who was responsible for social and administrative functions (See Millet Article in Encyclopaedia Britannica Online).
2. A system similar to this exists in the modern Israel (see: Jackson, 1999: 1146-1157). Several (besides Jewish 13) religious communities have their own court system, the most important ones are Rabbinical, Muslim and Druze Courts. On their interaction with state political system, See: Edelman, 1994.
3. For a more detailed discussion of the issue of the state as guarantor of human rights, See: Moe, Refah Revisited.

there is constitutional experience that suggests the possibility of compatibility of the State's role as guarantor and still significant legal plurality. Again an analogy could be made with the guarantees given to the Native Americans against violations of their constitutional rights by their tribal authorities in the United States under the Indian Civil Rights Act.[1] Another instance comes from the Indian Supreme Court decision overruling Muslim family law and granting alimony to the woman.[2]

A more challenging seems to be the question of the mutual recognition of religious and state normative orders. Indeed, what happens if a religious movement denies the state or constitutional democracy? Once the State would be required to recognize and respect the religious normative order, how come that the similar requirement should be imposed on the 'other' latter? Hence Dane asks: "Why should non-state legal orders recognize the state? Why should religious communities, whose first loyalty is to a transcendent reality, accord any legitimacy to secular governments? Why should Indian nations, who have been the victims of genocidal warfare, treat the state with anything more than passive resistance?" He argues that there is "an interplay between self-affirmation and recognition by the self of others" because "[i]n making contact, we define ourselves and transcend ourselves". He furthermore notes that remarkably "most non-state legal orders do recognize the state" citing the Jewish doctrine "the law of the kingdom is the law". (Dane, 1996: 998-1006)

As to the State perspective, the issue of the militant democracy would be which extent of pluralization of legal system is impermissible as constituting a potential threat to the existence of democracy. It appears that the answer largely depends on how we define democracy: it is the scope of the definition of democracy that allows to assert of whether some substantive or procedural patterns are compatible with it and to what extent. Whereas the number of such definitions probably corresponds to the number of scholars, it has been suggested that procedural and substantive definitions are distinguishable.[3]

According to the procedural definitions, democracy is merely a system of procedural rules and institutions. Thus Schumpeter defines it as an "institutional arrangement for arriving at political decisions in which individuals acquire the power

1. See: 25 U.S.C. §§ 1301-03; However it should be noted that only the alleged violation of the right to habeas corpus can be pleaded in the federal courts against tribal authorities, see Santa Clara Pueblo v. Martinez, 436 U.S. 49, 59 (1978).
2. See: Shah Bano decision, http://homepages.uc.edu/thro/shahbano/allshahbano.htm.
3. See: Fox and Nolte, 1995: 14.

to decide by means of a competitive struggle for the people's vote". (Schumpeter, 1947: 269, cited from Fox, Nolte, 1995: 54) This vision describes the Democracy as a Procedure, as an end in itself and has no argument against any substantive changes in the values of the regime unless the changes proposed alter the procedural arrangement. This understanding will be completely comfortable with the religion based legal pluralism as long as such a decision is taken in accordance with the democratic procedure and does not purport to abandon the latter: procedure cannot provide substantive checks.[1]

Substantive definitions however would argue that Democracy is more than a mere procedural arrangement, rather it includes some substantive notions, it is a mean to create and advance a vision of society based on some substantive values. These values could be 'principles of justice'[2], "unalterable core" of constitutional principles[3] or fundamental human rights. The question here turns into one of the 'tolerance of the intolerant'" A point could be made here that the definition of who can be considered the latter 'intolerant' in the substantive sense would itself be intolerant and assume the universality of the values determining the meaning of "intolerance". However instead this paper would defer to the universality debate and would limit itself to mention that once the universality of human rights is assumed, the point made before as to the compatibility of the notion of the state as a guarantor of human rights and most of the models of legal pluralism is relevant. Accordingly the models that deny this role of the state would have been rejected.

Another argument that was advanced against pluralism by Strasbourg Court was that such a system "would undeniably infringe the principle of non-discrimination between individuals as regards their enjoyment of public freedoms, which is one of the fundamental principles of democracy". That there will be distinctions in the regulation of the areas that are subject to pluralization is beyond question. Two points are however relevant. First is that, again, as the pluralization should not necessarily cover "all fields of public and private law", the discrimination will not unavoidably affect fundamental rights. And the second is that there

1. see: Dyzenhaus, 2004: 5-6 (examines how the procedural arrangements of the Australian Constitution can be used by common law judges to enforce substantive human rights).
2. See: Rawls, 1971, arguing by relying on the procedural notion of justice of "do not do to the other what you would not wish to yourself", which is the basis of his "veil of ignorance" construct, and invoking some rational choice calculations that two substantive principles of justice would have been chosen by people.
3. See: Carl Schmitt, Legalität und Legitimät reprinted in Carl Schmitt, Verfassungsrechtliche Aufsätze 263 (1958) (cited from Fox, Nolte supra, fn. 76); See Article 79(3) of the German Basic Law (Grundgesetz) arguably influenced by his vision, http://www.iuscomp.org/gla/statutes/GG.htm.

could be a right to choose and change one's religion or exempt oneself from the religious jurisdiction.

And finally there is an issue of public order. In this regard one should distinguish two concepts, one of the French *ordre public*, and the other is the narrower "public order", only the latter one being a legitimate ground for the restriction of freedom of religion under the ECHR article 9.[1] There should not be much of dispute about it, as it if far from obvious that the legal pluralism *per se* will necessarily and immediately cause riots and violence.

5. Conclusion

It has been suggested that the notion of legal pluralism provides a more coherent view of the religious freedom and offers a more plausible explanation of non-establishment than laïcité. Furthermore, the religious freedom taken together with non-discrimination between atheists and believers, is a liberal argument in favor of the advancement of legal pluralism as a part and parcel of the fundamental right of freedom of religion and conscience, which is an important element of human personality and dignity and a necessary part of democratic pluralism.

Whereas the issue appears to be very broad and compels a more comprehensive research before any guidelines could be put forward, basing on the brief discussion above one could argue that the sweeping rejection of any kind of legal pluralism is over-simplistic and that certain degrees of pluralization can be compatible with a liberal democracy. For instance some modification of the model that allows religious education and religious jurisdiction in the matters of private status, with the mutual recognition of the state order and with the possibility to resort to state courts with the right for the review of the relevant decisions that allegedly violate constitutional rights could be considered as such.

1. See: Convention for the Protection of Human Rights and Fundamental Freedoms, article 9(2), http://conventions.coe.int/treaty/en/Treaties/Html/005.htm.

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