Place of Religious Groups in the Democratic States

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Abstract

The purpose of this paper is to study the permission of the religious political parties in democratic governments. The research method is descriptive-analytical. Elements of democracy will be listed descriptively. A dialectical approach will be applied to the response arguments of pro-religious parties, and the components of democracy will be compared with the internal relations of such parties by comparative study. Although defenders of religious political parties mainly rely on political reasons, the findings show that legal reasoning is debatable to their arguments. The elements of democracy include public participation and control, equality, freedom, decision-making based on a numerical majority, pluralism, observing public interest, separation of powers, and the rule of law. These are incompatible with the nature of internal relationships in religious political parties. In addition to legal reasoning, the constitutional documents of some religious parties also support the hypothesis. The way of respecting the freedom of association as a principle established simultaneously by the international human rights law, and democracy, is the prohibition of religious groups as a political party without exception but instead recognition of their activity in the form of non-political civil institutions.

Keywords: Equality; Public Participation; Freedom; Pluralism; Deficit of Democracy.

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1. Preamble

Validity or rejection of the activities of religious parties is a conflict between freedom of association and the right to political participation, in the other words, a conflict between human rights and democracy. Democracy and human rights have a complex relationship. In the post-colonial era, the right to self-determination (Article 1 of the Covenants) has been interpreted as the right to live under domination of a democratic state and the right to public participation (Article 25 of the Covenant on Civil and Political Rights) cannot be realized except through democratic mechanisms concurrently. As a result, democracy is an example of human rights; beyond that, the necessary condition of human rights is the existence of a democratic environment. In this view, every restriction in favor of preserving democracy, including banning the activities of some parties, conforms to human rights standards This approach has been highlighted by the European Convention on Human Rights and Fundamental Freedoms. Human rights are the redline of the democratic government in applying the majority vote, and it has changed the definition of democracy from the rule of the majority to the will of the majority by guaranteeing the rights of the minority; As a result, any action to restrict minority groups is considered a violation of human rights.

The main goal of the research is to investigate the compatibility of religious parties with democracy. Sub-goals include first a critical examination of the views of those who agree with religious parties and second providing legal arguments to reject the activities of religious parties. The research hypothesizes that the arguments in favor of religious parties are rejectable from a legal point of view and since religious parties are not democratic in their nature, transforming democracy results leading to human rights violations; According to this, the democratic system has no choice but to ban their activities to protect itself.

The research method is descriptive-analytical. In this way, democracy and religious party operationally define to clarify the components of democracy and the meaning of religious party; Then, in a dialectic manner, the arguments of the supporters of religious parties are examined as a precedent for the research; Finally, the components of democracy compare with the internal relations of religious parties. The documents of the active religious parties, as well as the related legal rules of the countries, will be checked to prove the hypothesis.

2. Operational Definition of Keywords

To enter into the discussion requires specifying the components of democracy and explaining the meaning of a religious party.

2.1. Democracy

Democracy, as a generic and comprehensive model of government, is firstly a set of principles (such as freedom and equality), and secondly, institutions (such as parties and the press) realize those principles; Consequently, the institutions have a secondary and non-original aspect compared to its principles; Although there is no consensus on none of them. Throughout history, two types of democracy were experimented with by humans: The early direct democracy, based on participation, appropriate to the small number of societies, and the democracy of the new era, which relies on representation.[1] In the last few decades, has been tried by some activists combining the two models of democracy to upgrade to participatory democracy so that the decisions contain the minority's view.

David Beetham, a contemporary social theorist in the field of democracy and human rights, believes that democracy is a government based on public monitoring and political equality as principles.[2]

The institutional mechanisms of principles above include free/fair election, party competition, separation of powers, and accountability of executive institutions to the parliament.[3] The multiplicity of elected positions, the superiority of elected officials over appointed, and the lack of the official and unofficial restrictions of individuals and parties to participate in elections are indicators of free and fair elections. One of the indicators of accountability is accepting the participation and consultation of people by the government. Freedoms refer to freedom of expression and associations and guarantee through fair trials. Another requirement for public monitoring and political equality is the existence of a well-found civil society that acts as a way to monitor the government and citizens communicate with each other through its institutions and shape their demands.[4]

Equality is the common feature of the principles of democracy and its principal distinguishing feature from other governance models. One of the

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1. Andrew Vincent, *Theories of the State* (Hoboken: Wiley-Blackwell, 1991), 111.
2. David Beetham, *Democracy and Human Rights* (Cambridge: Polity, 1999), 6.
3. David Beetham, "Linking Democracy and Human Rights," *Peace Review: A Journal of Social Justice* 9, no. 3 (1997): 353, https://doi.org/10.1080/10402659708426076.
4. Beetham, *Democracy and Human Rights*, 156-158

essentials of equality is value relativism, that is, the absence of a criterion for determining the hierarchy between social/human values. Value neutrality of democracy and consequently democratic governments is interpretable as value pluralism. If the phrase John Stuart Mill adds to this principle: "If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind"[5] any attempt to dominate one value point of view over others is anti-democratic and preventable.

Other principles of democracy are:

- Numerical majority: the simplest definition of democracy is the ruling of the majority overall; In the sense that controversial issues are resolved based on the will of the majority; But in a situation where the right to vote and political participation extend to minorities.
- Observance of public interest: democratic government based on public votes and opinions. The purpose is to find a solution to identify the public interest in establishing and during the governing. It explains why securing the benefit of all through the courts is essential during developing democracy.[6]
- Pluralism and value pluralism: the democratic government recognizes diversity—including political, cultural, ethnic, racial, religious, and sexual. It does not take steps to turn it into uniformity; Moreover, it reflects this diversity. The duty of the government is not to impose a specific philosophy or ideology on the people; In this way, the periodic circulation of power, the equality of the possibility, an opportunity for competition, and political participation are preserved for various groups and parties by government. The continuous monitoring of citizens, especially minorities, on the performance of representatives requires the manifestation of pluralism in institutions such as pressure groups and various stakeholder organizations; In this way, the system of checks and balances flows outside the government and makes the periodic and meaningful circulation of powers possible.[7] As a result, government decisions (including laws, policies, and procedures) come from collective wisdom instead of the one-sided opinion of the majority, and minority groups find a trace of their views in the decisions. All this interprets as observing solidarity as a human rights principle in the framework of a

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5. John Stuart Mill, *On Liberty* (New York: Dover Publications, 2002), 15.

6. Andrea Durbach, Isabelle Reinecke, and Louise Dargan, "Enabling Democracy: The Role of Public Interest Litigation in Sustaining and Preserving the Separation of Powers," *Australian Journal of Human Rights* 26, no. 2 (2020): 204, https://doi.org/0.1080/1323238X.2021.1875594.

7. Karen Bullock, *Citizens, Community and Crime Control* (London: Palgrave Macmillan, 2014), 32.

democratic society. Pluralism is the link between democracy and secularism.[8]

- Freedom: Observance of all human rights and freedoms, especially freedom of speech and assembly, and thought through institutions such as the presses, parties, elections, and referendums, is one of the components of democracy.[9]

- Separation of powers: According to Kelsen, separation of powers is one of the characteristics of a real democracy.[10] He believes that in republican systems, where the public will is manifested on the one hand in the parliament with several members and in the light of the interactions of parties, on the other hand in the personal status of the president, the separation of powers is an efficient tool to control the possible arbitrariness of the president and transform democracy into monocracy.[11]

- Rule of law: Democracy means that the people rule; Since in today, in populous societies, direct governing by the people is impossible; many have no desire to participate directly; so a representative system exercises political power in which the people have an established role. This political ideal realizes in the assumption that the government adheres to its contract with the people.[12] This bilateral contract is codified and determined in the form of law. Therefore, the rule of law is one of the principles of democracy.

Summarizing the above discussions, it concludes that the elements of democracy include public participation and monitoring, equality, freedom, basing decisions on the numerical majority, pluralism, observance of public interest, separation of powers, and the rule of law.

2.2. Religious Political Party

The party is an organization with a manifesto and a constitution, is established by natural persons who believe in certain political ideals and goals; its goals, programs, and behavior related to the principles of the administration of the country and the policy of the ruling political system, in addition, are directed to power. The party organizes within the framework of a political system; its members legally strive to gain political power in competition with other

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8. Robert J. Joustra "The Coordinates of Covenantal Pluralism: Mapping Pluralist Theory in the 21st Century," *The Review of Faith and International Affairs* 18, no. 4 (Winter 2020): 23, https://doi.org/10.1080/15570274.2020.1834994.
9. G.A.I Nwogu, "Democracy: Its Meaning and Dissenting Opinions of the Political Class in Nigeria: A Philosophical Approach," *Journal of Education and Practice* 6, no. 4 (2015):132.
10. Hans Kelsen, *The Essence and Value of Democracy*, trans. Brian Graf (Plymouth: Rowman and Littlefield publishers, 2013), 88.
11. Kelsen, *The Essence and Value of Democracy*, 89-91.
12. Stuart Weir and David Beetham, *Political Power and Democratic Control in Britain* (London: Routledge, 2005), 7.

parties. Article 2/1 of the Act on Political Parties of Germany presents two criteria that make a difference between the party and similar groups, such as political coalitions: continuous meaningful activity and long-term efforts to develop the political thought of the society, are considerable as the inherent characteristics of a party. Therefore, even if the parties have not obtained a sufficient majority through the elections for direct participation in governance, they have a purposeful influence on public opinion as actors in the public and political arena.

Religious parties are groups of political activists; Whose policies significantly are based on the interpretation of a particular religion.[13] As an organization, they compete for elected positions in political elections and inspire their goals from the beliefs of a specific religion.[14] In other words, religion is its conscience, as well as a tool to attract voters.[15] Naturally, religious parties are the political organization of the followers of a single religion, and others neither have the way to it in terms of the organization nor have the desire to join it in terms of individuals.

Parties are twin to modern democracies; They are not a direct subject of ancient religions; Therefore, religious researchers have adopted two approaches towards it: some look for traces of the party in the history of religions and examine the compatibility or lack of compatibility between party-centredness and religiosity, or they recognize it as a new phenomenon and question its legitimacy. They measure with ancient religious principles. An example of the first approach is Muhammad Hussain Naini, an Islamologist, and Muhammad Husayn Tabatabai, a Qur'an scholar, is an example of the latter.

Each group defines itself positively by explaining what is inside and negatively by crossing itself from the outside world. First, a religious party bases its entity on the principles of a specific religion; and then represents the followers of that religion in political competitions. Therefore, its main aim is to reject others.[16] However, as long as it is in the minority position, its goal is

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13. Luca Ozzano and Francesco Cavatorta, "Introduction: religiously oriented parties and democratization," *Democratization* 20, no. 5 (2013): 799, https://doi.org/10.1080/13510347.2013.801252.

14. Miriam Fendius Elman and Carolyn Warner, "Democracy, Security, and Religious Political Parties: A Framework for Analysis," *Asian Security* 4, no. 1 (2008): 6. https://doi.org/10.1080/14799850701783106.

15. Elman and Warner, "Democracy, Security, and Religious Political Parties," 8.

16. Kanchan Chandra, "Ethnic Parties and Democratic Stability," *Perspectives on Politics* 3, no. 2 (2005): 236, https://doi.org/10.1017/S1537592705050188.

to seek equality. If it obtains a majority, it will pursue the private group interests instead public.

3. Background of the Research: The Dialectic of Supporters and Opponents of Religious Parties

Religious parties have strong proponents; They consider the restriction of religious parties as an approach parallel to radical secularism, then one of the deficits of democracy.[17] In contrast, the freedom of religious parties has serious opponents. One of the legal reasons for banning the parties' activities is to create hatred and religious intolerance, as noted by Article 3 of The Law on Political Parties of the Republic of Macedonia. Article 1 of the French Constitution describes the country's republic as secular and democratic; Article four obliges the parties to cooperate in the implementation of the principles of Article one; In addition, it has obliged them to guarantee the expression of diverse ideas through the constitution. In this way, secularism became one of the principles of the French republic; As a result, the France constitution implicitly prohibited the activity of religious parties.

Nancy Rosenblum, a professor of ethics in politics and government, defends religious parties by referring to the history of democracy in Western Europe from the perspective of the positive effect of the politicization of religion in the development of democracy. In Western Europe, the entry of religious groups into the fields of political competition changed religious leaders from opposing parliamentary democracy to proponents.[18] The opposing opinion argues that if democracy allows the activity of religious parties, especially the radicals, those parties that have both gained democratic legitimacy and religious legitimacy; Then have no motivation to moderate their goals and positions.[19]

Another argument presents from a utilitarian perspective; emphasizes the possibility of intra-religious reform as a prerequisite for winning political competitions. This view focuses on the necessity of legitimating women's political participation to overcome political rivals in majoritarian democracy

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17. Ergun Özbudun, "Party Prohibition Cases: Different Approaches by the Turkish Constitutional Court and the European Court of Human Rights," *Democratization* 17, no. 1 (2010): 125, https://doi.org/10.1080/13510340903453807.

18. Nancy L. Rosenblum, "Banning Parties: Religious and Ethnic Partisanship in Multicultural Democracies," *Law and Ethics of Human Rights* 1, no. 1 (2007): 73. https://doi.org/10.2202/1938-2545.1002.

19. Elman and Warner, "Democracy, Security, and Religious Political Parties," 3.

mechanisms.[20] This transformation has also been named the democratization of religion;[21] In return, through the institutionalization of democracy in the society, it is expected to lead to more democratic governance; Finally, make democracy pluralistic in a meaningful way.[22] This interaction works as long as the religious party does not gain power; it is still in the minority position, but optimism about the pluralism continuation after winning and being in the majority position is simplistic. For example, we can point to the radicalization of the viewpoints of the Muslim Brotherhood after the victory in Egypt.

Stathis Kalyvas, the theorist of the state, believes in distinguishing between two types of religious parties: those that intend to impose religious institutions on democracy; Those who abandon their intra-religious goals and accept the rules of democracy. The first group must be banned, but the second group can be trusted by the legal system as long as they have not acted against the principles of democracy.[23] Such separation is incompatible with equality as one of the principles of law; Because it is too difficult to recognize the motivation of legal persons and predict its possible future changes, if possible.

Exercising the freedom of association as the presumption is another mechanism. At the same time, the law shall proclaim the restrictions and prohibit the activity of any party that violates it, such as the approach of the German constitution.[24] Its article 21 emphasizes the function of parties in forming the political will of citizens. It has decreed that parties that, due to their aims or the behaviour of their adherents, seek to disrupt the democratic order, freedom, or the existence of the Federal Republic of Germany would be declared unconstitutional or deprived of some privileges by the Federal Constitutional Court. It is not clarified by what criteria the above three significances highlighted by the constitution prioritize them over other values, such as equality or non-violence.

Sultan Tepe, an expert in political science, suggests another guide for adapting religious parties to democracy: distinguishing between moderate and

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20. Rosenblum, "Banning Parties," 73.
21. Stathis N. Kalyvas, "Commitment Problems in Emerging Democracies the Case of Religious Parties," *Comparative Politics* 32, no. 4 (2000): 393, https://doi.org/10.2307/422385.
22. Nancy L. Rosenblum, "Religious Parties, Religious Political Identity, and The Cold Shoulder of Liberal Democratic Thought," *Ethical Theory and Moral Practice* 6, no. 1 (2003): 23, https://doi.org/10.1023/A:1023246418937.
23. Kalyvas, "Commitment Problems in Emerging Democracies," 379.
24. Gur Bligh, "Defending Democracy: a New Understanding of the Party- Banning Phenomenon" *Vanderbilt Journal of Transnational Law* 46 (2013): 1338-1342.

radical religious parties and banning the latter.[25] Despite the legal aspect, it is problematic to implement because external restrictions alone cannot oblige the party to stay within the framework of democracy because being radical or not just can be recognized by internal religious criteria. Moreover, the experience of Turkey and Israel confirms this claim. In addition, moderation in religion is considered unhallowed by the point of view of the radicals and others. So, its dominance over the decision-making is contrary to the equal rights of stakeholders.

The most notable argument in favor of religious parties is the conformity of their activities with the principle of freedom of association as a human right. As a response, restricting organizations in itself does not conflict with international human rights. For example, according to Article 22 of the Covenant of Civil and Political Rights, restrictions on the freedoms of others in organizations, such as national security, public order, health, and public morality, are agreed upon. In particular, the notion of this article to the accepted limitations of a democratic society is significant for the current discussion. Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms stipulates similar to the Covenant provision. In addition, Article 20 of the Covenant prohibits the creation of religious hatred as an example of freedom of expression.

The European Court of Human Rights has also confirmed this approach and has accepted the restriction of religious and ethnic parties for reasons that are interpretable as antithetical to real democracy.[26] For example, in the case of Refah partisi[27] (the Welfare Party) and Others v. Turkey, the Court implicitly accepted the opinion of the Turkish Constitutional Court that the spread of Sharia law by parties is the antithesis of democracy and voted in favor of Turkey.[28] It is interesting that despite the availability of the grounds, the Court unanimously found it unnecessary to review the possibility of deciding

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25. Sultan Tepe, "Moderation of Religious Parties: Electoral Constraints, Ideological Commitments, and the Democratic Capacities of Religious Parties in Israel and Turkey," *Political Research Quarterly* 65, no. 3 (2012): 467, https://doi.org/10.1177/1065912911434473.

26. Angela K. Bourne, "Democratization and the Illegalization of Political Parties in Europe," *Democratization* 19, no. 6 (2012): 1079, https://doi.org/10.1080/13510347.2011.626118.

27. The Refah, an Islamist party, was founded in 1983. In 1998, the Constitutional Court of Turkey banned its activities due to violating of the separation of religion from the government. The Party filed a complaint against the state to the European Court of Human Rights. In 2003, the Court judged in favor of Turkey and the decision of the Constitutional Court.

28. *Case of Refah Partisi and others v. Turkey*, App. Nos. 41340/98, 41342/98, 41343/98, [2003] ECHR 71.

according to Article 17 of the European Convention on Human Rights.[29] This article stipulates that the interpretation of any convention contents (including political participation) against others (including the freedom of parties) is prohibited.

4. Findings of the Research: Adaptation of the Components of Democracy to the Religious Party

Political parties are the players in the democracy game. A player can play if he knows game rules and adheres to them. The norm of the chess game is the l-shape movement of knights; Playing with someone who believes in the z-shape is no longer chess. The result of applying this rule to parties requires adherence to the principles of democracy within the party.

4.1. Public Participation in the Religious Party

In addition to being a crucial element of the definition of democracy, public participation also preserves public monitoring through the continuous renewal of the origins of democratic governance. Public participation means everyone is involved in legislation, policy-making, and public decision-making.[30] Two controversial issues in the understanding of democracy are the scope of participation and the definition of the *public*;[31] they are reflected in the conditions of electors/candidates and the discretions of elected/appointed institutions.

In religious parties, not everyone can join the party, and the condition of membership, explicitly or implicitly, is to be faithful to a specific religion in private life. For example, being a Christian is a requirement for membership in the Christian Democratic Party of Australia.[32] A defender may say every party provides conditions for membership, including paying membership fees and presenting in the meetings.[33] All these attributes are binding and looking to the future. It means to talk about accepting and adapting to party guidelines. So, anyone can become a party member after accepting the conditions. In other words, party standards/norms are only about public sphere issues, not private

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29. *Case of Refah Partisi and others v. Turkey*, 85.
30. David Held, *Models of Democracy* (Cambridge: Polity, 2006): 3.
31. Bullock, *Citizens, Community and Crime Control*, 25.
32. Australian Christians, "Become a Member," accessed July 10, 2022. https://australian christians.org.au/membership.
33. Labour Party (UK), "About Us, Terms and Conditions," accessed July 10, 2022. https://labour.org.uk/terms-and-conditions.

and non-political characteristics of members. Becoming a member of a religious party does not mean a commitment to join the religious community. It means prior adherence to the beliefs of a religion. In this respect, membership of a religious party implies an inquisition to some extent and is void of committing the future.

4.2. Equality in the Religious Party

The principle of equality concretizes in the two stages of electing governors, in the form of one person, one vote, and during the period of governance, in the form of equality before the law. The basis of equality refers to the nature and equal value of human beings, autonomy, and the prohibition of following others.[34] This approach is incompatible with the view of religions on human relationships. From a religious point of view, there is a value hierarchy among people, based on the extent of following religious rules, which means on religious instructions, not human laws. In addition, the existence of religious authority leads to the superiority of values and the necessity of following religious scholars. The religious party is not necessarily free from these relationships. Therefore, the party legal system of some countries, such as Article 12 of the Law on Political Parties of Turkey, while recognizing the position of the party constitution in determining the conditions of membership, has prohibited discriminatory factors such as religious tendencies as a condition for membership.

4.3. Freedom in the Religious Party

There are two views of freedom: abstractly, individual freedom is equivalent to limited government; Concretely, freedom embodies the public/political sphere as a modern form of natural freedom, which means realization through democratic participation. Therefore, the people are not subjects under the control of the dominant government; they are citizens who participate in forming the national order. The way to seek democratic participation and exercise freedom is to act on the platform of parties.[35] In this way, people transfer their free individual will to the public.

Some human rights content, such as the freedom of the press, assembly, and association, are forms of freedom of expression/opinion as a principle of democracy. Freedom is not only inherently a religious issue, but the way of

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34. Beetham, *Democracy and Human Rights*, 9.
35. Kelsen, *The Essence and Value of Democracy*, 85, 86.

religions achieve good is to restrict freedom. The religious party, by its nature, does not recognize the freedom of expression for its members, at least regarding the criticism of Devin matters; Because from a religious point of view, people do not have equal competence to express their religious opinion; scholars are more competence than others. Therefore, freedom in religious parties is limited to the accepted framework of religion.

4.4. Making Decisions Based on the Numerical Majority in the Religious Party

In a democracy, the numerical majority is the only reasonable decision-making criterion for resolving disputes. The electoral system, as the means of the majority identification mechanism, is an essential formal difference between democracies. In religious matters, in the event of a dispute, the order of religion terminates the disagreements. In other words, the way to identify the direction of religion is not the majority votes but the religious authority view. Such a mechanism extends to religious parties and, therefore, leads to continuous communication of debaters of intra-party decisions with religious authorities, finally spreading information among members. For example, the training policy of the Christian Democratic Party of Australia is to promote Bible-based education.[36] Article three of the internal regulations of the Federation of Romanian Jewish Associations emphasizes the necessity of establishing the traditional values of the Jewish community.[37]

4.5. Acceptance of Public Monitoring in the Religious Party

Public monitoring upgrades representative democracy from citizens' political activity in periodic elections to their continued participation in the political/public sphere; In fact, it promotes a simple majoritarian democracy to a meaningful democratic democracy. In representative democracies, citizens delegate their sovereignty to representatives, then ensure that the representative stays within the framework of the prior agreement via continuous active monitoring.[38] A usual process of religious parties is to attempt to attract the attention and positive approval of the religious authorities

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36. Australian Christians, "Mission and Beliefs," accessed July 10, 2022. https://australian christians.org.au/mission-and-beliefs.
37. General Secretary of Federation of Jewish Communities in Romania, Regulamentut Intern Al Federatiei Comunitatilor Evreiesti Din Romania [Internal Regulations of the Federation of Jewish Communities in Romania], Art. 3. https://www.jewishfed.ro/downloads/legi/ regulament.pdf.
38. Bullock, Citizens, *Community and Crime Control*, 27.

(in the more fundamentalist examples, they directly intervene in political and party matters). Since there is no opportunity for the public to monitor them; On the contrary, religious authorities' monitoring encompasses faithful people and even others. Therefore, religious parties are under their hegemony. Thus, public monitoring within the framework of the party, even if it is applied, is a secondary mechanism.

4.6. Pluralism in the Religious Party

Democracy requires recognizing diverse wills, interests, and views to preserve the possibility of transforming today's minority into tomorrow's majority. In the religious approach, an opinion is absolutely right, and others are classified as lower values. Therefore, a disparaging approach to opposing ideas dominates in the religious party, contrary to value relativism and, consequently, pluralism. For example, the Christian Democratic Party of Germany, as a moderate religious party, explicitly declares in Article 1 of its constitution that it seeks to shape the public life of the people based on the moral rights of Christianity.[39] Another example is the Democratic-Christian Party of Australia. In the statement of beliefs, as a plan of the party to govern while presenting a Christian definition of family, it rejects all other types of family.[40] Then, it defines one of its goals: supporting Christian candidates in national and local elections.[41] Such a view has a transaction with intra-group relations.

4.7. Pursuing the Public Interest in the Religious Party

With a few simplifications, public participation means the protection of the pursuit of common individual interests by the democratic government.[42] Regardless of the nature of the public interest, that is, whether the public interest is the sum of private interests or something more than that (for example, respecting the possible interests of future generations), using public votes is the best technique or at least the best guide, to recognize the public interest. The majority vote is the method of electing rulers; After the election,

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39. Christian Democratic Union of Germany, Statutenbroschüre der CDU Deutschlands [Brochure of the Statutes of the CDU in Germany], Art. 1, accessed February 25, 2019. https://archiv.cdu.de/system/tdf/media/dokumente/statutenbroschuere_cdu_verlinkt.pdf.
40. Australian Christians, "Mission and Beliefs," accessed July 10, 2022. https://australianchristians.org.au/mission-and-beliefs.
41. Australian Christians, "Mission Statement," accessed July 10, 2022. https://australianchristians.org.au/wp-content/uploads/2022/07/MISSION-STATEMENT.pdf.
42. Bullock, Citizens, *Community and Crime Control*, 27.

the rulers represent the whole people, not only their adherents.[43] Therefore, they should seek to secure the public interest, not the interest of their voters. The constitution of Iran, on this issue, being national the representative of the parliament position, has been emphasized. The religious party has a priori and outside the democratic mechanisms, identified the public benefit based on faith teachings. Religion assumes that everyone's interest is in implementing the orders of religion; This assumption is valid for the whole society and a fortiori for the members.

It is noteworthy that bona fide criticism of the parties, as newfound political groups, in the early 20th century was the prioritization of group interests over public interests; Probably, for this reason, the article 130 of constitution of Weimar prohibited the party's dependency on official officials. Throughout history, governments have provided group and private interests and justified it in the name of public interest, so this criticism cannot lead to the banning parties, Kelsen answered.[44] Regardless of the debate between proponents and opponents of the party, the main difference between religious parties and others is that the former actually pursue the public interest in following religious teaching and do not simply use it as a justification. For example, the constitution of the Federation of Romanian Jewish Associations defines the purpose of this party exclusively to represent and pursue the interests of the Romanian Jewish minority.[45]

4.8. Separation of Powers in the Religious Party

Democracy means decision-making in public affairs by citizens or their representatives. Therefore, it naturally conflicts with the concentration of power and automatically leads to power distribution. Separation of powers is distributing power to protect their rights and freedoms. In the essence of religion, there is no separation of powers; Instead, there is a division of work and a kind of vertical delegation of powers (from God to the prophets, messengers, guardians, and other holy individuals). On the contrary, accumulating power is a common dimension of religious hierarchies. This centralized power circulates in inter-party relations through the direct intervention of religious authorities and constant communication with them to

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43. Held, *Models of Democracy*, 3.
44. Kelsen, *The Essence and Value of Democracy*, 84-109.
45. Federation of Jewish Communities in Romania, Regulamentut Intern [Internal Regulations], Art. 1.

legitimize decisions and processes. Following the decisions of a single source leaves no opportunity for modeling the separation of powers within the party.

4.9. The Rule of Law in the Religious Party

Observing the rule of law is so Vital that legal democracy is one of the types of democracy. It prevents, to a great extent, the transformation of democracy into the dictatorship of the majority and ensures the observance of minority rights. The rule of law means the existence and implementation of pre-written legal norms; that have attributes such as relative stability, future-orientedness, generality, publicity, arising from public reason (as different phenomena from the currently ruling majority), and having no contradiction with the international law system and especially international human rights law. The rules approved by religion do not originate from public wisdom; Instead, they originate from holy sources; That is, either their basis or source is religion; In both cases, their implementation does not fulfill the rule of law. Naturally, rules are established with respect for religious order by a religious party; They do not have the desired characteristics of the rule of law, especially in identifying the norm.

Moreover, one of the mechanisms of religious parties, especially the moderate ones, to exercise power is the religionification of secular concepts, such as considering participation in elections as a divine duty.[46] The complicated issue is that these concepts and institutions are subject to comprehensive agreement through the mechanisms of the rule of law before becoming sacred. However, by becoming a religious category, disobedience becomes political action. On the other hand, since religious parties combine the concepts of secular governance with their religious values, any change in power relations has a double value nature for them; as a result, they have a far more conservative approach to maintaining the status quo than secular parties. Therefore, sometimes, they consider the option of military participation in governance to protect their position.[47]

5. Conclusion

Representation is the essential mechanism of modern democracy; Its requirement is electing to distinguish the majority from the minority; Voting

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46. Sultan Tepe, "Religious parties and democracy: A comparative assessment of Israel and Turkey," *Democratization* 12, no. 3 (2005): 284, https://doi.org/10.1080/13510340500126731.
47. Tepe, "Religious parties and democracy," 301.

is the criteria for government formation; After winning the election, the government should exercise power concerning the rights/interest of the minority and all. In other words, from the beginning of the tenure, the ruling body is not the representative of the majority but each and every member of the political society. Through democratic mechanisms, members of the public sphere express their opinion about the policies for the next few years; They have not willed to reveal or change their religious beliefs; The mechanism of identification of the religious minority/majority, if it is necessary, is not the election but some kinds of statistical methods.

Banning the activities of political parties facing violation of the rights of minorities and international human rights law becomes inevitable as a solution to Self-Protecting Democracy. A party can play in democratic competitions to gain power only if it adheres to all the principles of democracy, including equality, public monitoring, freedom, basing decisions on the numerical majority, pluralism, observance of public interest, separation of powers, and the rule of law; Moreover, its members in intra-party relations practice these principles.

The above principles, especially the two fundamental ones, equality, and public monitoring, are contrary to the nature of religions and religious power-based relationships. Then their activity in the form of a party is undemocratic. Responding to the violation of human rights law in the case of banning religious parties, it accepts exceptional restrictions in similar items; Moreover, it approves the banning permission implicitly by prohibiting violence and creating religious hatred (article 20 of ICCPR). The way to fight against religious hatred and extremism, to protect equality and non-discrimination, as the spirit of democracy, is to announce the ban on similar dangerous parties. While the current practice of democratic governments is different; For example, the governments of Germany and France, as claimants of secular democracy, ban Islamic parties and fight against Islamism under the religious party restrictions, while Christian parties are practically not subject to this norm; Such a procedure is precedent by Islamic countries too.

Accordingly, the simultaneous realization of human rights and democracy is possible not only by the participation of religions but also by equally preventing the participation of all religions, regardless of whether the majority of the people of a country follow that religion or not. Significant pluralism is realized through secularism. So, secularism is one of the secondary elements of democracy. Banning religious parties does not refer to the presence of

religion or faithful people in the public arena. The association mechanism in the form of civil institutions, including independent NGOs, the press, and charities, is still open.

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