

# CORDOBA WORKSHOPS REPORTS

## **Experts' Conclusions Memorandum Towards a Common Action Space**

## **Religion and Politics in the Public Sphere Promoting Peaceful Co-existence among Political Actors with Different Worldviews**

Istanbul, 17 March 2017

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## Experts' Conclusions Memorandum: Towards a Common Action Space

March 2017

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**Acknowledgements:** This report benefited from the advice and feedback of experts who participated in the workshop. We would like to thank Dr Jean Nicolas Bitter, Senior Adviser on Religion, Politics, Conflict in the Human Security Division of the Swiss Federal Department of Foreign Affairs for his contributions at different phases of the production of this document

**Disclaimer:** Jean-Nicolas Bitter is Senior Adviser on Religion, Politics, Conflict in the Human Security Division of the Swiss Federal Department of Foreign Affairs. The opinions expressed here are his personal view.

## CORDOBA FOUNDATION OF GENEVA (CFG):

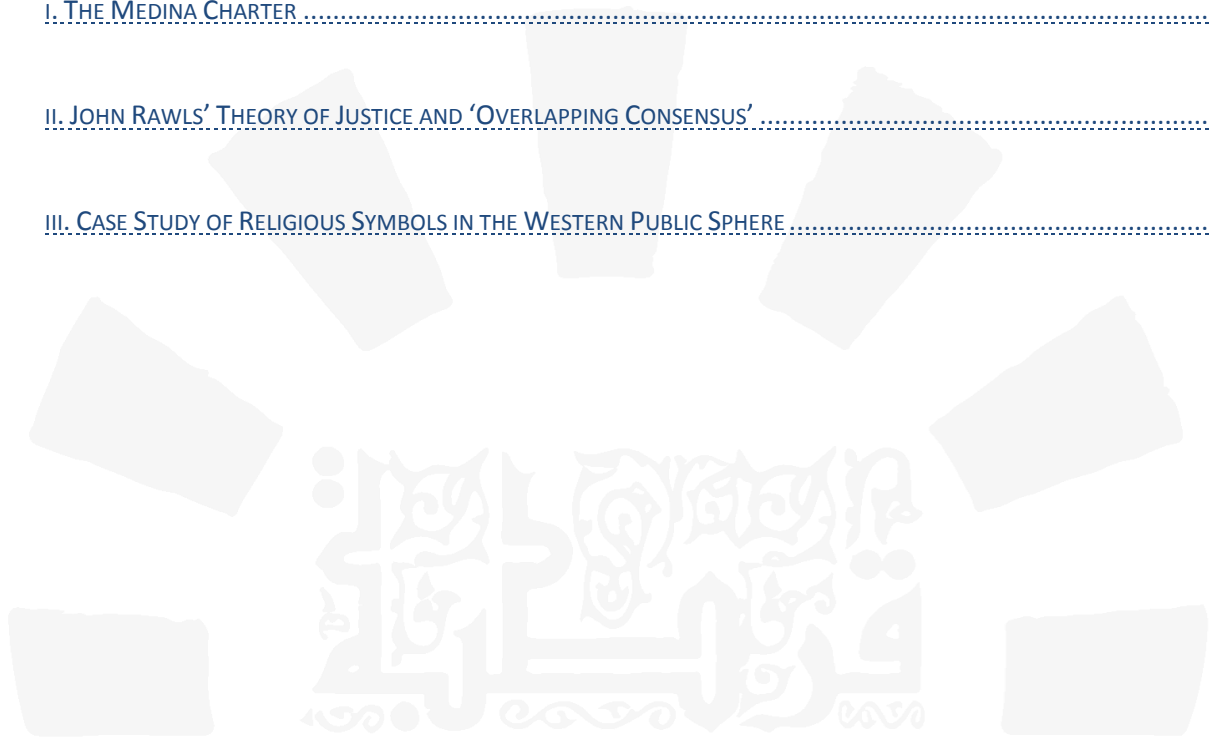
The Cordoba Foundation of Geneva (CFG) is a Swiss non-governmental non-profit organisation working on peace promotion. The CFG was established in Geneva, Switzerland, in 2002 to foster research and dialogue on peace issues, and to promote exchange between cultures and civilisations in the spirit that prevailed in 10<sup>th</sup>-century Cordoba. The Andalusian city called the “Capital of Spirit” remains an almost unique model for peaceful coexistence and for the cross-fertilisation of ideas. The CFG focuses on tensions and polarisations in all societies where Muslims live, and aims to enhance theoretical and practical conflict transformation resources in Muslim majority countries.

**The North Africa Programme** is jointly developed by the RPC (Religion, Politics, Conflict) desk of the Swiss FDFA’s Human Security Division (HSD) and the Cordoba Foundation Geneva (CFG). The programme’s strategic field of interest is to address polarisations and tensions occurring at the intersection of religion and politics and/or involving religiously-inspired political actors across this region. The overarching vision of the NA programme is inclusive, participative and peaceful societies in North Africa. The goals of the NA program are to contribute to 1) alleviating Islamist-Secular tensions, 2) reducing the factors leading to the political exclusion of religiously inspired political actors and 3) responding to violent religious extremist discourses with alternative narratives and practices.



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## I. INTRODUCTION

The interaction of religion and politics in the public sphere remains at the heart of the political transition in the MENA region six years on since a wave of uprisings swept the region. The Cordoba Foundation of Geneva, in partnership with the Religion Politics and Conflict Desk within the Human Security Desk of the Swiss FDFA, has taken special interest in promoting the constructive political participation of new faith-based political actors as well as in alleviating tensions between these actors and others with different worldviews. Thus, over forty Islamist and secularist experts and political leaders from across the region were brought together, from February 2016 to March 2017, to ponder the question of the role of religion in the public sphere as well as explore collaboration for peaceful co-existence.<sup>1</sup>

Acute polarisations during periods of fragile political transition lead to instability and chaos, which pave the way to the return of authoritarianism or civil war. It is therefore vital to focus on the production of a shared new political culture anchored in the values of justice, dignity, inclusion and citizenship, through building cross-ideological coalitions that contribute to the success of the peaceful political transition in the region.

This effort is based on the assumption that depolarizing the relations between Islamists and secularists should transcend the philosophical debate and focus on the necessary common action for the general good. This does not imply that the parties should renounce their ideological reference or be unfaithful to their cause. In order for the

common action to be sustainable during the whole transition period, it should rely on conceptual tools that justify, from the respective religious or ideological point of view of each stakeholder, the common endeavour among the different constituencies and in compliance with the constituencies' ideological reference. Otherwise, the common action will be merely a matter of political calculation limited by narrow partisan interests and political manoeuvring.

This document sums up the experts' and political actors' discussions on issues related to establishing trust and a framework for cooperation among actors of different world views. In the context of a political system, this framework will correspond to a 'common civic space', which means a space for common action aiming at the common good. It begins by addressing the issue of the nature of the relationship between religion and politics. In the second part, the document sums up two conceptual tools drawn from the Islamic Tradition (Medina Charter) and the Western tradition (John Rawls Theory of Justice) that participants discussed as possible normative frameworks to help establish cooperation in a civic space. The third part presents a case study of religious symbols in the Western public sphere.

## II. RELIGION AND POLITICS IN THE ISLAMIC TRADITION

Several questions are raised on the extent to which the Muslim's culture can enable co-existence and establish harmony between the Muslim society and the civil state, where legitimacy would be based on the will of the

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<sup>1</sup> The discussions took place in Istanbul (28 February – 4 March 2016), Doha (21–22 September 2016) and Istanbul (17 March 2017).

See workshop reports <http://cordoue.ch/workshop-reports/item/479>;

people, and whether all the actions of the Prophet Mohammed are to be considered as a revelation that should be followed. These interrogations on the relationship between religious and worldly/life matters trigger a continuous discussion in the Muslim world. There is a prevalent viewpoint that strongly defends the organic link between religion and politics, in principle. It is the argument that Islam, as a religion, has emerged as a ruling belief from its inception and, therefore, it is difficult to separate the two basic components of the equation, i.e. religion and politics. Yet, this argument has been questioned for some time, by many, even from within some circles that are affiliated to the Islamists. In fact, some of them have come to believe that Islam offers space for distinction between purely religious matters, governed by immutable texts, and worldly/life matters subject to the effort of renewed reflection.

There is a school of thought that considers that the concept of the civil state is a Western concept imported into the Islamic thought. According to them it designates either a non-military state, or a state where the institutions are independent so that the state is under no dictatorial power, or a non-theocratic state, i.e. a secular state which has no relation with religion, even if it does not fight religion. This third meaning is the most common among a segment of the Islamic spectrum, particularly the Salafi current.

Proponents of this opinion believe that despite the wide divergence between Western thought and Islamic thought, an assessment of the concepts and the terms pertaining to the civil state in the light of Islamic law and in accordance with the Islamic political jurisprudence is possible. Without compromising the fundamental issues, this exercise would contribute to reducing the intensity of the confrontation between those who seek to build a fair civil state and those who work to establish a state that is in

accordance with Islamic values, in other words an Islamic state. Concepts and terms at the heart of the debate could be grouped in three categories. First, there are those which are difficult to find acceptance in the Islamic system, because they are in opposition with the founding principles of Islam. Second are those concepts and terms which are indispensable in the Islamic system and are of the order of mechanisms and tools. Finally, a third category encompassing common spaces where the concepts and terms oscillate between acceptance and rejection, and which could be the subject of research and further work, in order to bring the two views closer, and perhaps lead to a form of joint action that is satisfactory to the conflict parties.

The source of legislation is one such issue that has caused much of the divergence between Islamists and secularists. For example, the legislative power in Islam has a special independent status, and is subject to nothing but the provisions of Sharia. It is defined by the group of wise scholars who oversee legislation for the state. Because the legislative power is limited by the scope of the provisions of Islamic law, when the Prophet was asked about an issue he used to wait for a revelation, and if this happened he would transmit what was revealed on him, otherwise he would make a personal judgement and provide an answer. If he was confirmed in his answer by revelation, this would become a provision of Islamic law, and if he was disapproved than he would transmit the revealed answer and abrogate his personal one. When the Prophet died and the revelation was interrupted the Caliphs used to derive their rulings from the Qur'an, the Sunna and the consensus of Muslim scholars among the companions of the Prophet. Islam provides guarantees for the separation of powers. This includes a legislative authority composed of scholars capable of ijtiḥad; a high political authority composed of the wise leaders of the

community; and an oversight authority for accountability. All of these bodies have the duty of public oversight on the executive power and guarding legitimacy.

Secularists, however, maintain that the concerns of Islamists regarding the tyranny of the legislative power embodied by the parliament is not justified. A system of checks and balances guarantees separation of powers. This mitigation system comprises the constitutional court which ensures that laws passed by the parliament are in conformity with the constitution.

The scholars who advocate the distinction between religious and worldly matters argue that the state has been, and still is, benefiting from this rigid link between religion and politics, to legitimize the policies and interests of the ruling classes. This tendency has taken shape since the Umayyad dynasty came to power and established the 'Umayyad Caliphate'. Such a situation led to posing the following question: how is it possible to liberate religion from the authority of the State in the Muslim World? There are those who consider secularism not to be a problem per se; what is problematic is the ruling authority's employment of the political power of religion, attempting to monopolize it and turn it into a weapon in the State's fight against its opponents.

Based on a number of religious texts and the opinions of jurists and specialists on the fundamentals of Sharia, a number of scholars consider that the actions of the Prophet are divided into two categories. First is a category with special legislative dispositions, which are the actions by the Prophet whose objective is to have them followed and emulated by all Muslims. The second category of actions and behaviours of the Prophet are non-legislative and, therefore, they are acts and works by him yet they are non-binding to the believers. And it is incorrect to confuse between the two

levels of the works and actions carried out by the Prophet.

Accordingly, the actions of the Prophet as the Imam (i.e. in the matters that related to managing affairs of the government and ruling the state) should be regarded as relative to the context and temporal actions that are linked to managing the realities of daily-life and the policies that govern the community. Thus, these are specific to their time, place and circumstances and these actions are not general and holistic as part of Sharia, i.e. not legally binding as Sharia to the nation until the end-of-days. Therefore, having a rigid stalemate between scholars and Sharia experts with regard to these prophetic acts, when there is a dire need to change such perspective, would be nothing but a further departure from the intended objectives of Sharia and Fiqh, and would stand as an element that hampers the implementation of the Sunna and the teachings of the Prophet.

Supporting this point of view is the fact that the acts of the Prophet as an Imam (i.e. ruler) were aimed at achieving the public interest, and his actions as a political leader should be considered as discretionary actions. Therefore, the opinions of the Prophet on these matters could be subjected to being right in some instances and wrong in others, and there should be a distinction between the actions that are aimed at the interests of worldly matters and those that are intended to be serving the interests of the after-life. This is an interpretation of the Prophet's two Hadiths that say: "If it was one thing of the things of your religion, it's on me, and if that was a thing of your worldly life, it is up to you", "If I have commanded you with something from your religion, you should take it from me, and if I have commanded you with something out of my mind, you should know that I am only a human being".

Those who support this categorization of the actions of the Prophet believe that it could offer a possible conceptual framework for the renewal of Islamic political jurisprudence and would basically provide a solid methodological foundation for many of the issues in contemporary Islamic political thought. The actions of the Prophet as the Imam (i.e. political ruler) do show that the concept of the Islamic State (not be confused with ISIS) is a civil state, rather than a theocratic one. It is therefore a non-theocratic state and its decisions are human-driven because the political ruler in Islam does not derive his legitimacy from the metaphysical un-earthly power, as he stands as a single human individual, and he derives his mandate from the nation that has freely chosen him to rule.

The second conclusion reached is that there is a need to remove the holiness and sacredness from all the aspects of the interaction between politics and religion, with the exception of the general principles and the major objectives of Sharia; as the rest of all things are merely mundane worldly and earthly human affairs. According to the consensus of the Muslim scholars and the opinion of the constitutionalists – be they the ancient or the modern ones – the basis for legitimacy is the nation or the people. And if this is applicable on the basis of the legitimacy of the state, it would, a fortiori, apply also to the other constitutional elements and requirements in the political system; such as good governance and the accountability of the political institutions, proper free election of State officials at all levels, as well as limiting the terms of holding office for State leaders, determining the relationship between the different authorities in the State and ensuring their independence, etc., bearing in mind that all these political elements are, by default, subjected to human diligence.

Those who defend this thesis believe that the Islamic experience in the era of the first four Guided Caliphs is a 'historical' one that does not extend beyond its own time, place and the circumstances that configured it and imposed many elements on it. They also see that the fact that the State in Islam is a civil state would make Muslims always open to develop a governance model according to whatever mechanisms and political administration models mankind invents. This would also make Muslims always able to represent the democratic model in the best of its forms.

There was a certain consensus among the participants on what issues refer to religion and life, not understood as separate, and not just defined with the term 'distinction'. In the dynamics of the discussion, it was clear that there is contention over the understanding of certain issues of life and what is not fully religious. To overcome this difficulty, the participants discussed and found some consensus around useful distinctions on categories of rules and doctrines. Two were summarised for the sake of the political discussion, but it was agreed that more categories could be mentioned.

The domain of religious rules, influenced by doctrine, can be called the domain of prescription, as these rules concern the orthopraxy (correct conduct) of religion. How one prays, etc., follows a category of doctrine that is prescriptive to a large extent. In the domain of the influence of religion on life, however, rules function in a preventive way: they say what should not be done, but do not prescribe what should be done. A rule forbids certain actions, but this gives options for a space where non-forbidden actions are possible. In the discussion, it was noted that religious rules in matters of life constitute a framework which provides orientation but also allows for creativity.



It was agreed by the participants that this distinction allows for an explanation of how matters of life, distinct from religion in the prescriptive and ritualistic sense, are nevertheless within the realm of religion, and not separated from it. At the same time, matters of life fall within a realm of flexibility and adaptation to contexts. This life-space is a location where procedures and actions can be agreed on across different religious communities, while remaining faithful to each community. This distinction allows the envisaging, from a religious perspective, of a 'common space'. This can be understood as the equivalent of secularity in a manner which is acceptable from a cultural and religious standpoint.

### III. CONCEPTUAL TOOLS FOR A COMMON SPACE

The 7th C. Medina Charter and 20th C. John Rawls' Theory of Justice and 'Overlapping Consensus' were reviewed by experts and political actors as two conceptual tools from different worldview sources with the potential of promoting the merits of cooperation for the common good of the community.

#### 1. THE MEDINA CHARTER

The Medina Charter was established in the first year of the Hijra in 622 CE. This document was valid until the end of Ali's Caliphate, which means four decades later. The Charter constitutes 47 to 57 articles, depending on the structure of the version considered. It is interesting to look at the Charter through the prism of conflict transformation, as it was clearly beneficial for the population living in the city back then, which at the Hijra of the Prophet, according to the estimates, was made up of 10-15 thousand inhabitants belonging to about twenty tribes. The Charter defines the basis of a multi-tribal, multi-religious state in

Medina (literally meaning The City in Arabic), which is referred as Yathrib in the text (the former name of the city, before the Hijra).

By the time of the Prophet's arrival in Yathrib, the city was torn by several tribal conflicts (especially between the Arab Aws and Khazraj tribes), so he proposed the Charter as a tool for conflict transformation. The success factors of his initiative can be summarised as follows: First, the Arabs at that time usually preferred external third-party mediators, and the Prophet, coming from Mecca, was perceived as such. Moreover, he had a good track record in mediating conflicts in Mecca, like the dispute among several tribes in the Holy City about placing the black stone of the Kaaba. Second, as the tensions were along tribal lines, the introduction of the religious dimension in the Medina Charter contributed to mitigating them (non-aligned divisions). Furthermore, the Prophet managed rapidly, during the first months of the Hijra, to identify the parties to the conflict, and consult during the drafting process of the Charter with the tribal leaders to grasp their different needs, goals and interests to be taken into consideration, and to set new common goals for the tribes. Lastly, the success of the Charter lies also in the fact that the conflict issues were identified and dealt with separately, which made it easier to solve them.

The Medina Charter is concrete proof that co-existence and positive interaction was possible within the same country (as Medina was a city-state it is referred to as a country). It succeeded in doing so by introducing a new conception of social belonging in three different layers. The first layer being the tribe recognised as a social reality; the second layer being the social belonging to religion with a set of shared values – religion is introduced to mitigate 'tribal chauvinism' – and thirdly the affiliation to the City (Al Medina): the concept of citizenship is introduced here to mitigate 'religious chauvinism'. It also defined a closed

geographic space in which the Charter prevails, as shown in Art.1 stating that the Charter is an agreement between the inhabitants of Yathrib, Art.39 defining Yathrib as a sanctuary for those who adhere to the Charter, and finally Art.44 asserting that they accept to defend Yathrib in case of invasion.

More importantly, this constitution conceived a unity of all the inhabitants by defining the community of the City: The Medina Umma. Indeed, all the adherents to the Charter constitute the same Medina Umma, which embraced Muslims (a few hundred originally from Yathrib or coming from Mecca), Jews (five to seven thousand), and polytheists (five to seven thousand) living in the city. With this principle, the Charter coined the concept of City-Community, and by extension 'State-Nation', and set the rules regulating the city-sharing by the diverse constituent units. Hence, the Charter is often said to be the first constitution in history. The document also determines the autonomy of the Medina Umma in social, cultural and religious matters. Each constituent unit is faithful to its belief without asking the others to be unfaithful to theirs. Therefore, the tribal and the religious affiliation is subsidiary and decentralised whereas the notion of citizenship is centralised through the defence and security of the city, and the recourse to the central authority in case of conflict between the constituent units.

## 2. JOHN RAWLS' THEORY OF JUSTICE AND 'OVERLAPPING CONSENSUS'

In his extensive reflection on how Europe re-emerged from its wars of religions between Catholics and Protestants and achieved co-existence, Rawls distinguishes between two levels of realities. The primary level is that of prescriptive rules and the secondary level about the application of those rules. Between the two levels there is a space of possibilities.

Communities with different prescriptive rules in their value systems and worldviews can choose to engage in a common action with a different community, each for its own reasons. In this way, different communities can live together in a space (action reality level) with each one finding justification and motivation for doing so in its own set of prescriptive rules (rules reality level). John Rawls calls this process of joint engagement by different communities to interact in the same space an 'overlapping consensus'. In the liberal tradition one rule (symbol) could have multiple realities (meanings or actions). This distinction between symbol and sense, which can be multiple for the same symbol, explains for example the perception and interpretation of religious symbols in the public sphere in the West (the minarets, the Islamic veil, the *burkini* debate, etc.).

## 3. CASE STUDY OF RELIGIOUS SYMBOLS IN THE WESTERN PUBLIC SPHERE

A Swiss researcher of religion and politics in the public sphere presented an analysis of the political and cultural aspects underpinning the debate about the burkini in France and Europe in general. Three approaches could be identified as far as the handling of the religious symbols in the public sphere is concerned. First, there is what could be described as a strict secularism. For proponents of this closed or confrontational approach the display of religion in the public sphere means that religion is creeping in to take control of public affairs. Strict secularism enshrines national identity to a high degree; it insists that for religion to be compatible with democracy it (religion) must accept being insulted and criticised. Open secularism, on the other hand, is essentially preoccupied by the integration of communities, in that integration is necessary in order to avoid tensions. This open approach allows more

space for individual freedom and conscience, and demands from the state that it be neutral in order for it to embody the role of a mediator. This distinction between the two approaches is mainly apparent in Europe, and approach. Different religious identities are free to express themselves and practise their faiths. In this context, the *burkini* is considered a matter of freedom of women. Citizenship and religion are compatible, unlike in France where Muslims should be “a bit less Muslim in order to be a bit more French”.

In the last fourth meeting, participants recommended that strategic themes such as

does not follow necessarily the classic right / left political division. A third approach to secularism is that practised in Canada or the UK, where freedom is the keyword of this

youth citizen participation, education, and new political cultures should figure among the priorities of this endeavour for joint action. This process of meetings yielded a communiqué entitled: “[Towards a Space for Interaction and Common Action](#)”.

