

CAN MODERN RATIONALITY SHAPE A NEW RELIGIOSITY ?

M. A. JABRI AND THE PROJECT OF REDUCTION OF ISLAMIC APORIES

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Mohamed Abed Jabri is renowned as a philosopher whose main work, “*A Critique of the Arab Reason*”¹, had a profound impact and stirred a large debate within the Arab world. It has become now one of the “classics” of the contemporary Arab thought. Jabri’s field of interest, until recently, was not religion as such, since he is neither a theologian (a *‘alim*), nor a liberal Muslim whose aim would be to offer critical or alternative views to the prevailing orthodoxy, nor even a modern specialist of religion. He did work indeed on conceptions related by their authors to religion, as far as they were part of systems produced within the Arab thought throughout its history and as far as they have contributed to shape it and define altogether its basic approaches and the worldviews it generated. In this, he acted as a philosopher and a historian of ideas who is attracted by the epistemological foundations of systems of thought, rather than as a thinker interested in the content or the impact these systems may have.

During the last few years, he shifted from his basic direction and proposed several series of articles – most of them published in popular daily newspapers – on some of the most intensely debated issues related to religion. These articles were assembled into two books, tackling the highly sensitive themes of *Democracy and human rights*², and the *Religion, State and the implementation of religious law*³.

The style and format of these texts are those of short essays, specially aimed at a large public, who is not supposed to have prior philosophical or theological knowledge. They clearly attempt to address some of the basic issues intensely debated among Muslims nowadays, and to solve some “apories” of the contemporary Islamic thought. They stand apart from the abundant literature dedicated during the last decades to these questions, by the absence altogether of apologetic tones (typical of the islamist

¹ *Naqd al’Aql al-‘Arabi*. Vol. I : « The Formation of the Arab Reason » [*Takwin al-‘Aql al-‘Arabi*]. Casablanca & Beyrouth, 1984. Vol II : « The Structure of the Arab Reason » [*Binyat al-‘Aql al-‘Arabi*]. Casablanca & Beyrouth, 1986. Vol III : « The Arab Political Reason : Determinants and Manifestations » [*Al-‘Aql as-Siyasi al-‘Arabi : Muhaddidatuh wa Tajaliyatuh*]. Casablanca & Beyrouth, 1990

² *Ad-Dimuqratiyah wa Huquq al-Insan*. Beyrouth, 1994

³ *Ad-Din wa ad-Dawla wa Tatbiq ash-Shari’a*, Beyrouth, 1996

literature) and of polemic tones (which are often a distinctive feature of secularist or modernist writings). They attract the attention by the manifest intention of finding, through rational inquiry and scientific investigation, consensual or definite answers to some of the questions which are passionately disputed nowadays.

How far can an approach based on rational inquiry, however emancipated from its technicalities, help solve some basic religious dilemmas ? How can it aspire to shape new religious conceptions and make them acceptable to contemporary Muslims ?

The convergence of Islamic and universal ethics

As a starting point of this reflection, in *Democracy and Human Rights*, he formulates the basic question that in his opinion Muslims are impelled to answer nowadays : how can Muslims accommodate conceptions and attitudes required by democracy and human rights in their particular conceptual world ? How can they create, within the Muslim consciousness, the *turn* which should enable it to adopt democracy and commit Muslims to its enactment ?

Until now, we should observe that the answer given to these questions were offered mainly by two opposed *élites*, the modernists and the traditionalists, each of them proposing an alternative by which it expressed its own interests, through a language and a system of concepts of its own. Besides these *élites*, the largest part of the society was a kind of “silent majority”, alternatively attracted by the one or the other of the two currents of thought. No attempt had been made to give the word to the masses. In fact, democracy seems to be feared by both *élites*.

“Looking closer to the question and taking into account the "model" to which our thinkers refer when they write about democracy, one finds that this concept is defined, as other *Nahda* concepts in our modern and contemporary thought, through two completely different systems of reference, none of which is relevant to the present Arab situation : the cultural heritage system and the *Nahda* system. The first one links democracy to the Arabo Islamic view of *shura* ; the other derives the elements of definition from the final stages of the three-centuries combat for democracy in Europe.”⁴

For a short time, modernists’ answers were supported by reformist traditional *élites*, when Muhammad ‘Abduh attempted to identify the rationality of Islamic principles with modern rationality, democracy with *shura*... and so on. However, this orientation did not prevail after ‘Abduh : the “reformists” of the second generation (Rachid Rida⁵ and his followers) stepped back and returned to con-

⁴ *Democracy and Human Rights*. pp. 39-40

⁵ A disciple and friend of Muhammad ‘Abduh, editor of the review *Al-Manar* and author of « The Califate or Great Imamate » [*Al-Khilafa aw al-Imama al-'Uzma*]. Cairo : 1924

ceptions which stress the “peculiarities” of the “Islamic model” and its opposition to the “Western” values and conceptions.

Nowadays, we should recognise that deep and rapid changes altered our conditions of life. These changes imposed democracy, which enables the silent masses to express their views, as the only acceptable form of legitimisation. The alternative choices, the traditional one (i.e. religious systems of government) and some modernist ones (“revolutionary” systems of government) express the interests of limited segments within modern societies, even within the Third world. Although the conditions which initially made possible the birth of democracy are probably not available in these countries, democracy has become an aspiration and a mode of legitimisation deeply entrenched in the modern consciousness.

At this point, Jabri mobilises his philosophic resources to defend a position which had been submitted to severe attack during the last decades. The attitude of M. ‘Abduh, which conceived of modernity as an implementation of Islamic principles, was intensely criticised by modernist thinkers, like A. Laroui⁶, A. Al-Azmeh⁷, who held it to be responsible for the ambiguities and confusions which favoured the ideal of restoration of the “glorious” past as the only way to achieve progress in the present conditions. Jabri does not accept the idea of a complete separation between traditional and modern values and moral ideals.

However, while Jabri declares to adhere firmly to the idea of a deep convergence between Islamic principles and the ethical foundations of democracy and human rights, he stresses the importance of the historic turn which led to the birth of modernity. Two steps are needed to solve this apparent paradox, and to make a clear perception of the convergence and the turn which gave it a new form of existence : first, we should take into account that the modern conceptions are not the direct outcome of Western traditional conceptions, that they owe nothing to the traditional Western worldview and cannot be considered in this sense as “Western”. They have to be recognised as the result of a deep reaction against these traditions and all what made the peculiarities of Western societies. Secondly, within the Islamic framework, the principle of *shura* which is the basic principle of social and political life, expresses an ideal of social consensus which is in no way linked to a specific political system, surely not the ones that traditional Muslim societies have implemented, nor even the ones that traditional thinkers have imagined and linked to what they considered as the ideal califate. It therefore keeps its value and “appeal” to modern consciousness, as an ethical principle which should prevail in all conditions, taking different forms in different historical contexts.

⁶ *L'idéologie arabe contemporaine*. Paris : 1967 & *La crise des intellectuels arabes : traditionalisme ou historicisme*. Paris : 1974

⁷ *Islams and Modernities*. London : 1993

Indeed, *shura* is a concept linked to the conceptual environment which prevailed in ancient and medieval Muslim societies. It refers to the idea of the just despot, who accepts to act morally and to consult his subjects (or a limited circle of advisers, who may be the *'ulama* or the notables of the community). Democracy, on the other hand, is something else. It did not emerge within the Islamic context and has no founding element in it. It was born in the European environment, where the opposition between feudal masters, the church and cultural power favoured a kind of stalemate and led to the emergence of democracy. But it is at the same time a virtue by religious standards, as far as it stresses the attitude of consultation and understanding among the members of the Muslim community. Therefore, it can be mobilised and referred to as a way of legitimisation of democracy, as a principle which points in the same direction as the new aspirations of humanity for political systems which provide the highest chances of freedom and equality.

"The state in the Arabo-Islamic context, in the past and in present times, has a particular feature : it rejects the idea of an "associate" (*charik*) to the man in power, while democracy in its substance is nothing but association ("*shirk*") in political power. Believing in the oneness of God is a founding principle in our religious creed, and we should adhere firmly to it. However we should believe that everything below God is plural and is founded on the principle of plurality, especially the human governance (*Hakimiya*) which should be strictly denied the character of unity."⁸

Some basic theological observations are formulated in order to support this approach. At the level of the essential orientations, Jabri is convinced that freedom of faith and equal rights for women are among the aims (*Maqaçid*) of the Islamic law. Historic conditions gave these principles contents which are *below* what modern aspirations have come to be. *Shari'a* rules against apostasy and about the status of women are examples which illustrate how traditional Islamic societies were below what we, as contemporary Muslims, expect and hope from Islam. We should therefore go back to the finalities of the law in order to define new rules, which offer better expressions of our aspirations and are closer to the spirit of the law.

"The theologians made a distinction between rites (*'ibadat*) which should not be taken as objects for rational examination (*Ijtihad*) because they are not amenable to rational justification, like break-fasting at sunset in Ramadan for example[...], and transactions (*mu'amalat*), which are properly objects of rational examination (*Ijtihad*) because of their link to the finalities (*Maqaçid*) of the religious law (*shari'a*), and to the conditions of revelation (*asbab an-nuzul*) which are taken to be their causes. On whether it is possible to link religious commandments to finalities instead of causes, I do not think that we should impose on ourselves a strict and absolute implementation of the rule adopted by theologians (*Fuqaha*), which declares that "commandments

⁸ *ibid.* p. 57

evolve following their causes rather than the reason sought by their implementation" because this rule has been reached through mere rational examination (*Ijtihad*) and nothing else.

The causes (*'ilal*) of the commandments are not given by [sacred] texts, but instead are inferred by the theologians through rational inquiry, and built, as they readily admit, on guess and probability rather than certainty and absoluteness. The most reasonable position in our view is to defer detailed religious commandments, when their finalities diverge, to the totalities (*Kulliyat*: overall principles) of the *shari'a*, because these totalities (*kulliyat*) in law are the equivalent of the explicit verses in matters pertaining to the creed. Since we have to defer the ambiguous (*Mutashabih*) to the explicit (*Muhkam*), why should we not consider arising contradictions between some specific commandments and newly emerging finalities, as kinds of ambiguity (*mutashabih*), which is solved by being deferred to the explicit (*muhkam*), the basic principles and totalities?"⁹

This solution has a striking resemblance with what most contemporary Muslim thinkers propose in order to reform Islam. The program on which all the thinkers seem to converge, despite the important differences between their initial moves, consists in pushing aside all what tradition has accumulated on top of the basic principles of faith, and going back to the core of the creed and the attitude it aimed at creating among believers.

The reign of religion and the government of politics

The opening remark of the second book : *Religion and State, and the issue of implementation of shari'a* emphasises the necessity of adopting what he calls an "open reference". This reference is two-fold : it takes a particular historical episode as a paradigm of Islamic politics and attempts to use the paradigm following a methodology respectful of the rules of modern rationality.

As for this last point, Jabri observes that the debate among Muslims nowadays is so confused because most of the leading voices do not distinguish between facts, which can be the object of a knowledge, and the evaluations made of these facts, which are often built on the basis of different prejudices or preferences. No clear conception is made of what a scientific approach can be, i.e. an approach which sticks to the facts, and how different it can be from ideological attitudes. Even the collection of facts and their description are too often made under the domination of ideological choices, and do not lead to the definition of a common ground for a fruitful debate. In other words, Jabri insists that a scientific approach, a strict respect for facts and rational attitudes, be the starting point of any debate about sensitive questions.

⁹ *Democracy and Human Rights*. pp. 186-187

As for the issue which challenges the minds of Muslims nowadays, the main starting point or main reference which is available is the experience of the early Muslim community, the polity or regime created immediately after the death of the Prophet and called afterwards *Khilafa Rachida*:

“The original reference in the Arabo-Islamic history, which supersedes all other references, is the action (*‘amal*) of the Companions of the Prophet during the episode of the righteous caliphate. Since the Koran and Hadith do not legislate in matters of power and politics, and do not evoke the relationship between religion and state as clearly and precisely as they do for other questions like marriage and heritage, the main reference, if not the only one, in the question of the relationship between religion and state is therefore the practice (action *‘amal*) of the Companions (*çahaba*)”¹⁰

One may wonder about the choice of an episode of Islamic history as a ground for theorising about such a basic issue, and even ask : is the step proposed by Jabri a way of restoring the paradigm of an ideal Islamic model of state and, with it, the conviction that such a model exists and has been implemented in history ? Would it be a return to the deep frustration which shaped the Muslim’s overall feeling and conception of their history, i. e. the conviction that they were prevented from fully implementing the constitution offered to them by their religion, and that this failure was the origin of all their misfortunes and sufferings ? Would it not be a return to the fundamentalist approach, for which time has come to restore such a “true” Islamic state ?

Apprehensions of this sort are rapidly put aside when one considers the way Jabri handles this “ultimate reference”. The practice of the early Muslims is held in such a position because it was the first attempt of living Islam *within profane history*, after the end of revelation. Hence the first distinction that should be drawn : the political practice linked to Islam is part of the historical life of the community, *not* of its religious dogmas. It is a recognisable fact that no provision, no commandment is given to Muslims by sacred sources about the creation of a State or the form such a state should have. It was Muslims who felt at a particular moment of history that, in order to enact Islamic precepts, they had to create a State.

“[...] the absence of explicit and clear texts, in the Koran and Sunna, which regulate political power and state do not mean that Islam is globally not concerned by the question of power. In fact, the historical practice of the community (*umma*) runs against [such a conclusion] : the predication of the Prophet evolved during his lifetime into the creation of a state ; Muslims maintained that state, in a way or another, [since they considered it] as a necessary means to maintain religion and defend the domain occupied by the community. On the other hand, the Koran and the *Sunna* offer what may be taken as foundations for an ethics of political power in Islam,

¹⁰ *Religion, State and the Implementation of Religious Law*, p. 9

such as the apology of consultation (*shura*), the call for the implementation of justice, the care for the poor, for the deprived and all those in their situation.”¹¹

So, in order to be understood, this historic turn should be replaced in its context. In contrast to the conditions within which Judaism and Christianity were born, there was no state in the Arab society when Islam appeared first. The original Muslim community was not born within an existing polity, nor was it obliged to engage in a direct confrontation with a state or its representatives, as were the Jewish and Christian communities either in their beginning or throughout history. Hence early Muslims adopted Islam not only as an attitude toward God, but also as a way of organising their collective life, as a founding principle for new relationships among themselves, and finally as founding a new political entity. Therefore all that one can say is that Islam, while providing no provision, no regulation aimed at the creation and the management of a polity, gave birth to a process which led to the creation of a state. Further events made of this turn the essential event in the history, the deepest concern in the consciousness of Muslims and the main process which shaped their worldview. It had therefore a deep influence on the way Muslims conceive their religion and their history.

How all this happened is of the greatest importance for us today. The early Muslims reacted to the death of the Prophet as if it created an “*institutional void*”¹². And, their first reaction was to appoint someone who could exert the authority he had, accomplish more or less the same function. In so doing, they opted, without giving any thought to the consequences of such a choice, for a system where an individual holds all powers and was entrusted the organisation or the control of the political power thus created, without any kind of institutional provision for the coherence and continuity of its action. They thought in terms of persons (hence the question which dominated in their debates : *who should be appointed as a califate ?*), not in terms of institutions and organisation (hence the question which was absent : *how the community should be organised and managed ?*). The theories of the califate which were elaborated decades afterwards, were in fact efforts to express in theoretical forms what was implemented in spontaneous actions, to justify the facts that had happened, rather than real efforts to think what the community should adopt for its organisation at the light of the sacred texts and their teachings. The political *fiqh* has been therefore an attempt to legitimate a particular historic experience. It was the elevation to the level of a norm of the past of the community.

This has in turn enacted a kind of response which had the most devastating effects on the evolution of the community. The first and founding experience of Muslims had three main consequences which continued to act and to shape the handling of social and political issues by Muslims :

¹¹ *ibid*, p. 34

¹² *ibid*, p. 15

- Whenever it is question of the political direction of the community, the law is not derived directly from the sacred texts or from what may be considered as the spirit or the ethics of these texts, but rather from the actual practice of the dominant few, how far it may be from the religious principles. In this sense, it may be said that *facts define the law*, instead of facts being submitted to the law.
- The early practice of Muslims defined another pattern, by which no institutional provisions were adopted, but rather trust was given, in fact often conceded, to individuals. The rule one can deduct from this is that, in Muslim societies, *persons prevailed over institutions*.
- The far reaching consequence of these attitudes, which dominated the religious and social life of Muslims and deeply permeated their consciousness is that *no “workable” link was made between ethical principles and the actual organisation of the community*.

This latest feature manifests itself across the whole tradition of Muslims. It points to the major contradiction tragically felt by the community : the fundamental opposition between the actual history of Muslims, dominated by violence and politics of coercion, and the religious consciousness which was constantly and firmly attached to ethical principles. The fact that these principles found no way to the practice of every day and the actual life had the deepest influence on the feelings and the behaviour of Muslims.

Should we therefore admit that it is time to opt for secularism, to admit that state and religion should be separated, and abandon any hope to implement religiously permeated system of government and social order ? No, says Jabri :

“The question of secularism (*‘ilmaniya*) in the Arab world is a false problem, in the sens that it expresses actual needs by reference to categories which do not correspond to them : the need for independence within a single national identity, the need for democracy which protects the rights of minorities, the need for rational practice of political action, all are in fact objective needs, they are even reasonable and necessary claims in the Arab world. However, they loose their justification and necessity when they are expressed through ambiguous slogans like that of secularism (*‘ilmaniya*).”¹³

Secularism is not convenient to Muslim societies, says Jabri, because it is based on the separation of church and state. Such a separation was indeed necessary at some time within the Christian environment. Since there is no church in Islam, there is no need for such a separation. Our societies need that Islam be maintained and implemented as an ethical reference and as a *shari’a*, a divinely inspired law, as a ground and principle for social and political life, within the scope of an updated knowledge of the past.

¹³ *Religion, State and the Implementation of Religious Law*, p. 113

It should be noted that the kind of secularism Jabri seems to have in view here is rather what is labelled in French “laïcité”, and which has been translated by *‘Ilmaniya*, a far more systematic and hostile attitude towards religion than what is commonly understood in the English-speaking environment by secularism. He shares the hostility aroused by the notions into which secularism has been translated and received in the Islamic world : *Ladiniya* and *‘ilmaniya* and the idea of an exit or denial of religion that these translations convey. He seems also profoundly convinced that the defence of secularism by Arab intellectuals who were mostly Christians represented a kind of deviation and a transfer of the specific problems of the Islamic societies into alien settings.

This being said, he immediately insists that, if the separation of religion and state is to be discarded, there is another which should be seriously taken into consideration. It is the separation between political practice and religious concepts. The argument for this is that religion aims at uniting men while politics introduces necessarily divisions among them. Politics, being essentially the management of material interests, leads unavoidably to opposition and conflict among men. It should be therefore practised in reference to rational rules, or submitted to “profane” rationality. Religion, as a system which aims at providing men with beliefs and principles which transcend their material interests, and to unify them in ethically based attitudes, should be kept entirely apart from politics. In no way we should, as he says in his other writings, “practice politics within religion”¹⁴, defend our political ideas and interests through concepts and representations extracted from religion.

Jabri suggests to adopt an intermediate formula, through which Islam would be freed from the expressions in which it was enacted through history, and which would provide ethical foundations to the state and the society, while rules and practices would be submitted to rational considerations and to what human experience has reached and shown as the best solutions. These conclusions are very close to the conceptions defended by Ali Abderraziq in the famous essay of 1925 “*Islam and the foundations of political power*”, despite his proclaimed opposition to secularism. They respect the feeling which became widespread in the Islamic world toward “Western” models and concepts such as secularism, and at the same time calls for attitudes and behaviours which lead to the same results while alleging origins from within the traditional conceptions.

Is this a way, as many critics of Jabri pointed out, to reconcile some strictly irreconcilable views ? What is proposed seems to be a secularised political practice within a system warranted by, or suspended to, religious norms. Religion, like some European monarchies, reigns but does not govern. It does not provide the *modus operandi* of political practice, while providing the basis for a social and political consensus.

¹⁴ « *The Arab Political Reason : Determinants and Manifestations* » [Al-‘Aql as-Siyasi al-‘Arabi : Muhaddidatuh wa Tajaliyatuh]. Casablanca & Beyrouth, 1990

Religion, reform and modern knowledge

The first episode of the history of the community is not the only period to which attention is given. Jabri sketches a large view of the basic evolutions experienced by Muslims since the advent of modernity. He attempts to isolate some basic and influential facts and notes, along with other observers of Islam, that popular religiosity based on the cult of saints, myth and celebrations has nearly disappeared, while the religiosity of the urban *élites*, based on strict monotheism, doctrine and formal rites survived and gained force. The most important consequence of his evolution is, in this view, the birth of a new religious figure : the *salafi*, a kind of militant who engages in restoring the dignity and the strength of the community and facing the ills it suffers from inside and aggressions it faces from outside. Every thing in his attitudes make of him a kind of Modern “Saviour” : he is opposed altogether to colonialism and maraboutism, he is a reliable ally to nationalism, attached to progress and tradition. He finally emphasises self-assertion, confidence in the self.

These heroic virtues cover some ambiguities leading to some far-reaching consequences. *Salafi* type of reaction have been, in medieval history, an efficient form of conservatism, which enabled Muslim societies to recover their equilibrium in some circumstances, and produce some reactions useful to resist new menaces, to confront foreign attacks and internal degradation. Nowadays it is clear that this kind of conservatism provides no solutions to the problems faced by the community and by individual believers, it has become particularly harmful. Its main deficiency is that it prevents a realistic evaluation of the present conditions within which Muslims live. The influence exerted by *Salafi* doctrines led to the rehabilitation of the fusion, which was made within traditional societies, of Islamic ethical principles and doctrinal legal systems elaborated by theologians.

This kind of conservatism is no more sufficient in our present conditions. Within the system that encompasses the whole humanity nowadays, where rationality and critical attitudes are implemented in all human activities, and applied to all aspects of life, salafism is no more adequate to face the challenges all human societies have to face. It was probably the most convenient reaction in a time where faith and the preparation for eternal life dominated all endeavours and actions of men, where science and technology played no role in human conceptions and life. Salafism and its outcome, the *çahwa*, are now more of passionate, i. e. attitudes based on feeling and affective reactions, and are in no way actions toward a more realistic and effective way of handling religious and political issues.

To salafism Jabri opposes the historical experience of the community. What is needed is a re-examination of some conceptions which became deeply entrenched in the common consciousness of Muslims, i. e. the adoption of new attitudes toward Islamic history or, in other terms, the reconstruction of the historical consciousness of the community. Fundamentalism or extremism, as he prefers to call it, has gained such a large influence in some strata of Muslim societies because salafism did not succeed in the renovation of the Islamic thought. Salafism is not the direct ancestor of fundamental-

ism, as is claimed by some observers, but is, in a way, the direct outcome of its failure, its negative influence or of its type of reaction. The tones of apology and call to sentiment instead of rational attitudes are directly responsible for the backwardness and closeness of the predominant conceptions within the community. Fundamentalism would lose ground and draw back from the scene only if moderated salafi theologians indulge in the reconstruction of *shari'a* following modern rules and concepts.

In fact, the renewal which is needed nowadays is not the one to which people refer frequently, which deals with “consequences” and leaves “foundations” as they were. The foundations themselves need to be “re-founded”. In order to give a precise illustration of what he means by this expression, Jabri turns his attention to the widely debated notion of *Ijtihad*. He emphasises the asymmetry between this notion and the other sources of Islamic law. While these latter (Qur'an and Hadith) are sacred texts, *Ijtihad* refers to a mobilisation of the rational capacities of the human mind. In the classical ages, this mobilisation operated as an intensive usage of analogy (*Qiyas*), which was a process linking a particular case to another particular case. An impressive accumulation of cases and deductions was made by Muslim scholars throughout the first centuries, until exhausting literally the possibilities given by this approach. This is the real cause for what was called the “closure of the door of *Ijtihad*” : all the possible combinations that were potentially available within this type of reasoning were in fact systematically explored. The exercise, concentrating mainly on specific problems, theoretical hypotheses and questions of terminology, went to its ultimate consequences and a circle was completed.

Nowadays Muslims need something else. Shatibi, the Andalusian theologian of the eleventh century, was already aware that *Ijtihad* was at dead lock. He expresses this through his call for a reformulation of the foundations (*Ta'cil al-Uçul*). If *Maçlaha* (the common good or common interest) is the ultimate criterion for legislation, then the sacred texts should be read in a totally different way. The new *Ijtihad* it requires would attain its objectives if it is open to actual life, as it is experienced by contemporary Muslims. In these conditions, it can depart from the methods and concepts of the traditional schools. Instead of being imprisoned in meaning of words, and allowing language to be an active partner in legal thinking, instead of attempting to understand the literal sense of each precept and therefore to “decode” the intentions of the Legislator in each commandment separately, *Ijtihad* will adopt a single principle as the ground for all precepts and commandments and will therefore be based on what really transcends time and space : the common good for all men. This is the real link with the basic feature of *shari'a*, the fact that it is founded on ethical principles not on arbitrary uses as is customary law. It will avoid at the same time ambiguity and approximate opinion and build systems suitable to the conditions of modern man.

Conclusion

The original feature of the approach proposed by Jabri is that it represents a typical case of what may be considered as an invasion of the theological field by “secular” intellectuals. Since the advent of modernity in Muslim societies, the corps of *‘ulama* and *fuqaha*, which used to play a key role in the maintenance of the religious conceptions and the performance of social control, has lost much of its influence and power. Society has been more efficiently controlled by the modern state than it had been by traditional rulers. The role of the traditional theologians and jurists was consequently reduced to a mere symbolic legitimating stance. They acquired therefore a kind of timidity, a strict conservatism and a kind of refusal of any serious confrontation with the apories of contemporary Islam. The boldest approaches are therefore attempted by non-theologians : political activists on one side and secular intellectuals on the other. The first ones formulate in religious concepts tenets of their political and social resentment. The latter mobilise universal rationality and tools of modern historic critic in order to attain views of religion that would be compatible with modern conceptions.

Jabri is in line with these, especially when insisting on the necessity – and the possibility – of attaining a reasonable certainty and consensus on highly controversial religious issues related to politics and its control by religion. He even goes further in this direction, when he formulates a sharper critic against the traditional theology than most others, by insisting on the fact that it stressed the *duties* of the Muslim and neglected his *rights*. The absence of rules for the public sphere has created a deep asymmetry in the whole system of Islamic law, and made of the law a mean of submission to the ruler rather than of control of the political power. While questions of personal status were treated with a great attention and in great detail, the rights of people were largely neglected.

Shari’a is rather a reference system for law than a complete and closed system of commandments. Its basic tenets are transparent to reason. What it aims to, is to discard and replace systems based on traditions and social uses, in favour of rules based on ethical principles, which are entirely accessible to reason. The attempts to assimilate it to a specific corpus of rules, as did traditional *‘ulama*, forgets its basic inspiration and makes Muslim fall in dangerous confusions.

In so doing, Jabri recognises that he is no more adhering to a scientific attitude, but exposing revolutionary truths, i.e. considerations and conceptions intended to imprint a move to the present debate. The scientific approach is useful when there is a need to discard views aroused by outburst of passions and to prepare the terrain for new evolutions. At another level, the intellectual has to propose bold formulae in order to realise real advances in the collective consciousness.

Jabri underscores the fact that the religious consciousness of Muslims is profoundly influenced and to a vast extent shaped by the history of their community and especially some particular periods. Even the sacred texts are integrated in a vast synthesis where overall conceptions of the world and man, social norms and the self consciousness of the community, its frustrations and aspirations, are held

together and which are organised within and deeply permeated by a specific consciousness of history. These views seem to be still intact, and have not been altered by the recent transformations underwent by the community. It is in this fact that originate the main confusions which dominate the views and conceptions of contemporary Muslims. Their revision is the first step to be made in order to let the basic evolutions of the two last century be fully integrated and taken into account. The *salafī* intellectuals were not able to transform this historical consciousness and, therefore, could not perform the transition to a religiosity adapted to societies which had undergone the turn of modernity.

Hence the way to a true Islamic reform, which requires a sharp distinction between religious norms from historical forms, rules and traditions in which they were embodied, implies a renewal of the historical knowledge Muslims have of their past. In other words, reform is not to be expected nor attempted within theology and from the initiative of theologians, but rather from a new knowledge of the past built on modern (and rational) principles. The religious awareness is maintained and transmitted in a complex of historical representations. Therefore it is the task of the modern intellectuals, who act on these representations, to provide, build, and disseminate new concepts which would make possible a real reform. It is the reform of a traditional *'ilm*, or rather its replacement by a true and modern knowledge, which will provide the necessary preconditions for a real renewal in the Muslim world-view.

Instead of wondering : what should we keep from tradition and what should we take from modernity ? We should be aware that we do not have to make choices between elements or components, but rather change our approaches and criteria.