2.3 The rereading of ninth-century early Arabo-Islamic thought: The theorization of notions of justice through Mernissi's transcultural and humanistic approaches[151]

In this chapter, I discuss Mernissi's reinterpretation of ninth-century Arabo-Islamic thought. First, the purpose is to show Mernissi's interest in questions of divine justice, legal justice, and political justice as derived from her account of the thought of the jurist Malik Ibn Anas, the Sufi Al-Hallaj, and the Mu'tazila theological school. This chapter presents the main normative ideas on justice, power, and right in early Arabo-Islamic thought to inspire contemporary discourses on gender justice and democratic rules. Second, the chapter highlights the reception of rational Arabo-Islamic thought in ninth-century Islam. The aim is to show the influence of this rational thought on the development of a transcultural and humanistic approach that shaped early Arabo-Islamic thought. The chapter ends with the argument that reinterpreting early Arabo-Islamic thought is a crucial task because it challenges conventional interpretations within the Islamic heritage and corrects Western misunderstandings and simplifications of the rich intellectual heritage of Arabo-Islamic thought.

Legal justice as the right of interpretation (*ijtihad*)

One can argue that in the context of Islamic feminism, Mernissi focuses on the right of interpretation (*ijtihad*) to find the meaning of justice and promote legal rights for women. Here, in her reinterpretation of early Islamic thought, Mernissi turns to the Muslim jurist Malik Ibn Anas, whom she portrays as an intellectual who advocates justice.[152]

Mernissi uses a transcultural and comparative approach, pointing to early Arabo-Islamic thought and invoking the Western modern tradition of human rights. She affirms that the Western treaty of the UDHR does not frighten the Arab masses because it declares that "the will of the people shall be the basis of the authority of government" and that "everyone has the right to take part in the government of his country."[153] However, the UDHR frightens Arab leaders because it brings back memories of the earlier Muslim intellectuals and philosophers who promoted thoughts of justice, freedom, and autonomy.[154] Among these Muslim

151 This chapter is quoted from: Karoui, Kaouther (2020): "Relektüren des Klassisch-islamischen Erbes für eine Gerechtigkeitsgrammatik der Gegenwart". In: Transkulturelle Perspektiven auf Gerechtigkeit, Special Issue for: Deutsche Zeitschrift für Philosophie, (Vol. 68, No.6, pp. 915–927) Berlin: De Gruyter.

152 Mernissi 2002: 19.

153 Mernissi 2002: 19–20.

154 Mernissi 2002: 19–20.

intellectuals and philosophers, Mernissi introduces Imam Malik Ibn Anas, the founder of the Malikite school.

> The West compels Muslims to remember Imam Malik Ibn Anas, the founder of the Malikite school, which we adhere in North Africa. [He died as a result of] torture ordered by the caliph … [because Ibn Anas] refused to take back his words … [which] expressed his opinion, which was different from the caliph's.[155]

Mernissi does not give us any further information about Ibn Anas' intellectual role, especially in developing an assertive conception of jurisprudence. I would therefore like to discuss Ibn Anas's conception of juridical justice as interpreted in modern academic texts dealing with the question of justice in Islam. In this way, I would like to illustrate the idea of justice that lies behind Mernissi's unveiling of Ibn Anas' thought. Before I do this, I define the concept of legal justice in Islam in the following.

In Islamic vocabulary the substantive 'legal justice' is the core of the Islamic law of Shari'a, which consists of a declaration of rights and wrongs called permissions and prohibitions. However, Islamic law does not specify categories of permissions and prohibitions. The question is: What is the measure which distinguishes the just from the unjust, the right from the wrong? Muslim jurists propose to distinguish between just and unjust acts by pointing out the ultimate goals or the purposes of what Islamic law ought to be.[156]

In this sense, Ibn Anas explains the principles of legal justice based on the principle of interpretation (*ijtihad*) as a method of legal thinking that aims to find and protect the common good or the public interest. Ibn Anas was reputed to be the first Muslim jurist in Islamic history to use the concept of public interest (*maslaha*) as a basis for legal decisions.[157] First, the principle of public interest (*maslaha*) is implied in the Qur'an. Ibn Anas maintains that Islamic law is derived from the Qur'an, and, thus, it could not guide man to the path of evil because God does not desire evil to befall man, and as a result Islamic law is designed to protect the public interest.[158] Yet one should consider that the Qur'an declares that a man is not always aware of what is good for him: "Fighting is ordained for you, though you dislike it. You may dislike something although it is good for you, or like something although it is bad for you: God knows, and you do not".[159] This Qur'anic verse could be interpreted as a request for various interpretations, to understand how to do the good and how to avert the evil, because human beings cannot realize what is good for them. To avoid

155 Mernissi 2002: 19.

156 Khadduri 1984: 136; Kamali 1989: 216–217.

157 Khadduri 1984: 137.

158 Khadduri 1984: 137.

159 The Qur'ān, Chapter 2, The Cow, Verse 216.

this quarrel, Ibn Anas insisted on the principle of the understanding of the ultimate goals (*maqasid al- shari'a*) based on the intellectual struggle *ijtihad* to achieve legal justice.

Second, the concept of public interest is indicated in the Tradition (sayings and actions of the prophet Muhammed). The Tradition asserts different issues on how to do what is just. For example, it asserts that injury should neither be imposed nor inflicted on human beings. Indeed, only the public interest (*maslaha*) should be implemented in Muslim societies because no God and no prophets wish evil upon humankind.[160] It is important to note that in modern-day Tunisia, a Sunni country that adheres to the Maliki school of legislation, the public interest is a source of legislation used by Muhammad bin 'Ashur,[161] the former rector of the notable Zaytuna Mosque. Ibn 'Ashur asserted that the public interest should be the basis of all legal decisions.[162]

One could speculate about the reasons behind Ibn Anas's torture, as outlined by Mernissi above. According to Ibn Anas, Islamic legislation must interpret intellectually. Ibn Anas sought to foster a sense of justice among all Muslims through interpreting the Qur'an and Tradition. His aim was to search for the interest of Muslims. Therefore his conception of legal justice challenged the politics of his time, just as it could also challenge the politics of most Muslim countries today that use Islamic law as a tool to maintain power and close interpretation gaps.

One could argue that due to the influence of Ibn Anas on Mernissi in her role as an Islamic feminist scholar, Mernissi provides a challenging interpretation of the sources of Islamic Shari'a law: the Qur'an and Tradition to establish a search for the interest of Muslims, especially women in contemporary societies. This will be clarified below. In fact, Mernissi discusses the issue of the revelation of the Qur'an and the transmission of the Tradition of the Prophet Muhammad in two of her books, *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam* (1991) and *Islam and Democracy: Fear of the Modern World* (2002).

First, I refer to her thoughts regarding the Qur'an to point out her doubts about the circumstances of its revelation to the prophet Muhammad. According to Mernissi, the Qur'an was transmitted to the prophet Muhammed orally. The prophet controls neither the time nor the length of the chapters of the Qur'an. According to her, the order of the written Qur'an that Muslims have today is different from

160 Khadduri 1984:137.

161 Muhammad bin 'Ashur was born in Tunisia in 1879 and died in 1973. He was one of the great Islamic scholars. He was a prolific writer and author about reforming the education and jurisprudence of Islam. See Nafi, Basheer M,(2005), Tahir ibn 'Ashur: The Career and Thought of a Modern Reformist *'alim*, with Special Reference to His Work of *tafsir*, in the Journal of Qur'anic Studies, Volume 7 Issue 1, pp.1-32.

162 Khadduri 1984:138.

the order of the revelations of the Qur'anic chapters as exposed to the prophet. For example, there are chapters revealed at Mecca that set forth dogma and the duties of Muslims, and there are chapters revealed at Medina that are related to problems that the Prophet faced and to the questions asked him by the first Muslims.[163] Hence Mernissi's statement about the revelation of the Qur'an puts forward two problems: on the one hand, the Qur'an revealed to the prophet Muhammed orally. On the other hand, the prophet does not control the length and the order of the Qur'anic chapters. Mernissi wants to argue beyond this statement that an understanding of the Qur'an, which is the most important text in the development of legal claims in Islam, should be based on a clarification of the circumstances of the revelation of each chapter in order to understand the goals and the message that each Qur'anic chapter intends to convey.

Second, according to Mernissi, the Tradition is divided into two grounds: The sayings of the prophet, called *Hadith*, and the acts of the prophet, called *Sunnah*. She argues that the content of the Tradition is important in drawing ethical duties for most Muslim communities. Mernissi declares that most Muslims, since the prophet's death, seek to follow his ideals, which were illustrated by his Tradition.[164] In Mernissi's view, Tradition was not illustrated by God or the Prophet Muhammad, but was formulated after the Prophet's death, when the succession issue developed and it became necessary to replace the Prophet in both his political and legislative roles.[165] Consequently, Mernissi presents a rereading of the Qur'an and the Tradition that looks for a notion of legal justice in Islamic law and promote the needs and interests of women. In this regard, she argues in her book, *Scheherazade Goes West: Different Culture, Different Harems* (2001):

> What is debated is whether *Shari'a*, the law inspired by the Koran, can or cannot be changed. The debate is therefore reduced to "who" made the law. If it is men who made it, then the text can be reinterpreted; reform is possible. But extremists who oppose the democratization of the laws claim that *Shari'a* is as divine as the Koran and therefore unchangeable.[166]

This affirms that Islamic law can be reformed because it is man-made and not divine in nature, thus, it can be reinterpreted according to the times and conditions of societies. As just outlined, one might affirm that Mernissi refers to Ibn Anas's notion of *ijtihad* to preserve her right as an intellectual Muslim woman to participate in

163 Mernissi 2002: 75–77.
164 Mernissi 1991: 25–48.
165 Mernissi 1991: 25–48.
166 Mernissi 2001: 22–23.

the interpretation of the religious corpora. In this context, Mernissi portrays the social segregation between men and women in her Moroccan society.[167] She challenges "religious authorities" and "functionaries of the Ministry of Justice" in Morocco who, after independence, signed the Personal Status Code—*Mudawana*—depriving Moroccan women of their rights.[168] Thus, the first code of personal status, instituted in 1957 in Morocco, called the *Mudawana,* was masterminded by men only. It was presented as Islamic law to make it 'sacred' and not open to public debate. Its key features consist in asserting women as minors and distancing them from the public sphere.[169]

As discussed earlier (see 2), today and in most Muslim countries, scholars within Islamic feminism discourse continue to engage in the task of interpretating Islamic law (*Shari'a*), to claim gender justice in Islam. They demonstrate how it is not the religious scriptures themselves but their interpretation that allows for the construction of patriarchal traditions within Islamic legacy. Moha Ennaji (2020) argued that Mernissi is one of the prominent founders of Islamic feminism. Mernissi sought to reclaim the ideological discourse on women from the monopoly of patriarchy. She critically analyzes the traditional corpus of religious-juristic texts, including the Hadith, and reinterprets them from a feminist standpoint. She argues that the perceived Muslim ideal of the 'obedient woman' has nothing to do with the genuine message of Islam. Rather, it is a production of the *ulama,*' the male jurist-theologians, who manipulated and interpreted the Islamic texts to defend the patriarchal system.[170] Thus, Mernissi uses Ibn Anas' concept of *ijtihad* to claim her right to interpret Islamic law to challenge today's patriarchy and masculine interpretations.

Divine justice as the principle of self-direction (*freedom*)

Sufism[171] constituted the core of spiritual belief in the tradition of Islam. However, certain misconceptions and prejudices were proclaimed against this Islamic doctrine. These prejudgments were most often due to ignorance of Sufism or because

167 Mernissi 2003: 138.

168 Mernissi 2003: 149.

169 Sadiqi and Ennaji 2006: 20.

170 Ennaji 2020: 20.

171 Sufism is a belief and practice in which Muslims seek to find the truth of divine love and knowledge through direct personal experience of God. Sufism consists of a variety of mystical paths to achieve union with God: Purifying the soul, knowing God, union with God, or extinguishing oneself in him, and dying oneself and living again through him. About the doctrine of Sufism in Islam see: Schimmel, Annemarie, *Mystische Dimensionen des Islam. Die Geschichte des Sufismus* (Frankfurt am Main, 1995) ; *Le Soufisme ou les dimensions mystiques de L'Islam* (Paris, 1996) ; *Mystical Dimensions of Islam* (Chapel Hill, 1975).

rulers perceived in Sufism a menace to their authority.[172] Thus, one can predict that Mernissi presents the thought of the Sufi al-Hallaj[173] as a good critique of contemporary political authorities who contribute to denying Muslims their democratic rights to freedom and autonomy.

Mernissi introduces al-Hallaj's thought in two of her books, *Islam and Democracy: Fear of the Modern World* (2002) and *Scheherazade Goes West: Different Cultures, Different Harems* (2001). Mernissi declares at the beginning of her presentation of the Sufi doctrine of al-Hallaj that "the Sufis' thirsting for freedom"[174] was in contrast with the caliphs and their *Shari'a* interpretation of divine law, which was very authoritarian.[175] Always based on her transcultural and comparative methods of early Arabo-Islamic thought and the modern Western tradition of human rights, Mernissi argues that:

> The West, which constantly talks about democracy via its satellites and media networks, is frightening to some because it awakens the memory of forgotten greats of the past ... the defenders of that little thing, so fragile, so vulnerable, called *karama*, 'dignity.'[176]

In other words, Mernissi suggests al-Hallaj's concept of freedom is comparable to our contemporary conceptions of autonomy, self-determination, and freedom of thought. In this sense, al-Hallaj's thought has been associated with the modern notion of freedom of thought and opinion.[177] Thus, Mernissi reminds the Muslims of today of their humanistic past, and the West that in the heritage of Islam there was already a claim to sovereignty of the individual before the Western declaration of human rights. She argues that there was al-Hallaj the Sufi who insisted that human

172 Geoffroy 2010: 30.

173 Al-Hallaj was born in 858 in Persia and died in 922 in Baghdad. He was a controversial writer and teacher of Sufism. Al-Hallaj was attracted to Sufism as a way of life at an early age. He was not satisfied in learning the Qur'ān by heart; he wanted to understand the deeper meaning of it. During his childhood and when Sufism was in its formative period, al-Hallaj began to seek individuals who were able to instruct him in the Sufi way. The French orientalist Louis Massignon looks at the Sufi thought of Al-Hallaj. See: La passion de Hallaj, martyr mystiq ue de l'Islam , 4 vols. (Paris, Gallimard.,1975); trans. Mason; Herbert, The Death of Al-Halla j: A Dramatic Narrative (Notre Dame Press, ed., 1991). The German orientalist Annemarie-Schimmel, too, wrote extensively on the thought of Al-Hallaj. See: *al-Halladsch, Martyrer der Gottesliebe; Leben und Legende* (Köln, 1968).

174 Mernissi 2002: 19.

175 Mernissi 2002: 19.

176 Mernissi 2002: 19.

177 Wolfs and El-Boudamoussi 2004: 23.

beings are the depository of *haqq*, 'truth,' and that each person should be necessarily sovereign.[178]

According to Mernissi, the question evoked by al-Hallaj is how human beings who possess the truth and incorporate the divine beauty of God are condemned to obey to the authority of the Imam. Al-Hallaj insisted on the idea that human beings are the creatures of God, indeed, they are capable of self-direction. Mernissi continues by affirming that al-Hallaj's ideas challenge the political authority of his time because he simply declared that human beings should be independent from the authority of the rulers. Mernissi assumes that the ideas of al-Hallaj were received by the Muslim masses and discussed in the streets and bazaars of Baghdad; as a result, and for fear of its anti-authoritarian content, the caliph ordered his execution.[179] Putting it simply, the spiritual thought of al-Hallj consists of distorting the boundaries between human beings and God that the imam or the caliph (the leader in Islam) wished to establish. In the core of Islamic religion there is no intermediary between God and the individual. "Al-Hallaj believed that if you concentrate on loving God, without intermediaries, a blurring of the boundaries with the divine becomes possible."[180] Mernissi quotes from Ibn Khallikan's description of the painful death of Al-Hallaj: "'He received a thousand blows and didn't utter a word . . . The executioner cut off his hands and feet, cut off his head, which he kept aside, and then burned the body. When it was nothing but ashes, he threw it into the Tigris and planted the head on Baghdad's bridge.'"[181]

As outlined earlier, the concept of divine justice introduced by al-Hallaj has been associated with modern notions of self-direction and freedom. To better understand Mernissi's purpose behind her reference to this school of Islamic tradition, I discuss divine justice as it appears in secondary literature.

Al-Hallaj's notion of divine justice was described as a manifestation of spiritual experience gained directly from the union with God and not from ordinary human actions. Hence, it consists in highly abstract and poetic symbols like Light, Beauty, and Love. The goal of the Sufi is to achieve the apprehension of truth (*al-haqq)*, but this truth is deeper, it is in the soul. Indeed, to achieve perfection and to gain the truth, human beings should exercise their soul to become isolated from everything foreign to the truth. It means to keep the soul out of all that is not divine. When the soul is finally united with the divine, the Sufi transformed from the state of extinction, (*al-fana)*, the reality of existence, to the state of (*al-haqq)*, the ultimate reality or the reality of union with the divine.[182] Al-Hallaj declared to have achieved union

178 Mernissi 2002: 20.
179 Mernissi 2002: 19–20.
180 Mernissi 2001: 3.
181 Mernissi 2002: 20.
182 Khadduri 1984: 70–71.

with God, and he used to say, "I am the Truth." For this declaration he was accused of heresy and brought to trial. He was condemned to death, and was executed by beheading and crucifixion. [183]

To sum up, al-Hallaj asserts that human beings are the sole repositories of truth. He thereby promoted the idea of self-guidance. It means human beings should not surrender to the ruler's power and determinations. In this way, to achieve divine justice, human beings should get rid of the earthly restrictions and manipulations to unite with God. The phrase *I am the truth* declared by al-Hallaj was to express that he had achieved the peak of Sufism, meaning his unification with God and the mingling of his soul with the Divine. The Divine is God, and God is the Just, therefore the Sufi who achieved incarnation with God incarnates divine justice. It means God incarnates, reflects, and reproduces in him His Justice. *I am the truth* means *I am the just*. As a result, one can understand that Mernissi refers to al-Hallaj and particularly his idea of self-direction, i.e. freedom, thus, arguing that Muslims have the right to self-determination through democratic means in contemporary Muslim societies.

Political justice in the tradition of Islam: A tangle of rational and fundamentalist arguments

In most Muslim societies today, citizens claim their political rights. In most cases, they assert their rights through rational or fundamentalist arguments. Based on this fact, Mernissi uses the history of the Arabo-Islamic thought to argue that fundamentalism is inappropriate for claiming political rights in contemporary societies. She focuses on two traditions within the history of Islam: first, the Kharijites[184] who used violence to demand political rights, which led to fundamentalism. Second, the Mu'tazila[185] who fought for political rights based on rational values. I discuss this in the following section.

183 Khadduri 1984:72.

184 The Kharijites were the first identifiable sect of Islam. The specific context for the emergence of the Kharijites was the struggle for leadership of the Muslim community following to Uthman the third caliph after the prophet's death. The community leaders choose Ali ibn Abi Talib as the successor of Uthman. However, Mu'awiya, the governor of Damascus, was against the election of Ali as leader. The supporters of Mu'awiya are the Kharijites who assassinated Ali in 661. The Kharijites sect has been revived in the context of late 20th century by few Muslim groups. In this context: See; Jeffrey, Kenney. Muslim Rebels: Kharijites and the Politics of Extremism in Egypt. Oxford: Oxford Univ. Press, 2006.

185 Al-Mu'tazila is a rationalist school of Islamic theology, which flourished in the cities of Basra and Baghdad both now in Iraq, during the 8th and the 10th centuries. It is an important school of Islamic theology. It is mentioned as the first school of speculative theology. And it is often argued that the thought of Islamic theology developed from it. Al-Mu'tazila are not just theologians, but they also discussed philosophical problems concerning psychology and physics. It is evident that the thought of Al-Mu'tazila inspired most contemporary Muslim thinkers.

Political justice as the entanglement of political fundamentalism

Mernissi introduces the idea that the Kharijite sects claim political rights by force, which could be interpreted as violence, terrorism, and fundamentalism today. Mernissi explains, "In theory, it is the Muslim's duty to revolt against an imam who makes unjust decisions".[186] According to Mernissi, the Kharijites thought that by rebelling against the imam and killing him, they could establish justice. In fact, they ask the question: Why do you have to obey the imam if he does not protect your rights? The Kharijites' answer is this: You are not obligated to obey the Imam. You can detach yourself from obeying the imam because you only have to obey God.[187]

Mernissi also clarifies that the Kharijite not only go out from obedience to the imam, but they also adopt his murder as a solution for defending their rights. Hence, they sustain the use of terrorism as an answer to revolt against the injustice of the imam or the caliph. In this context, Mernissi draws on a list compiled by Ibn Hazm of those caliphs who were assassinated by the Kharijite during the eighth and ninth centuries of Islam. Among them she points out the caliph, 'Umar Ibn al-Khattab, who was the second caliph to govern after the death of the Prophet Muhammed. She argues that 'Umar Ibn al-Khattab was the figure with the greatest reputation for justice; he was one of the supporters of *ra'y*, individual judgement, as the source of decision-making.[188] One might argue that Mernissi uses the Kharijite conflict with Muslim leaders by demanding political rights to express her disagreement with, disdain for, and rejection of terrorist and fundamentalist thought.

Moreover, Mernissi uncovers the history of Arabo-Islamic thought on fundamentalism to argue that it is still prevalent in today most Arab Muslim societies. As evidence, she cites the fundamentalist attack on Egyptian President Anwar Sadat (1970–1981), who was killed in October 1981. Mernissi mentions the killings of "hundreds of imams and Muslim leaders, the last of whom was President Anwar Sadat of Egypt. Political dissidence is expressed in Islam as condemnation of the leader. It is this rebel tradition that links dissidence with terrorism".[189] Notwithstanding Mernissi's claim that Anwar Sadat was the last Muslim ruler to be assassinated, I would like to add that there are other Muslim leaders who have been assassinated in recent times, such as Saddam Hussein (he was president of Iraq from 1979 to 2003) and Muammer Gaddafi (he was president of Libya from 1979 to 2011), both of whom

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See: Arnaldez, Roger: « l'analyse des sept arguments mu'tazilites » in *Les sciences coraniques: Grammaire, droit, théologie et mystique*. Paris Vrin, 2005, p.130-132.

186 Mernissi 2002: 27.

187 Mernissi 2002: 27.

188 Mernissi 2002: 28–29.

189 Mernissi 2002: 27–28.

were killed and tortured under different circumstances because of their positions as despotic and unjust Muslim leaders.

In her account of the Kharijite sect and its adherence to a notion of righteousness within the framework of fundamentalism, Mernissi fails to tell us in more detail that the Kharijite sect was divided into two groups: the radical group she highlights and another, less radical group. Indeed, in his book, *The Islamic Conception of Justice* (1984), Majid Khadduri states that the less radical Kharijite sect favored social justice in the broadest sense of the word and therefore kept a simple lifestyle and resisted the worldly ways and lax habits of urban life. They are adamant about defending freedom and equality.[190] If one examines early Arabo-Islamic thought more closely, one can avoid generalizations by making more nuanced judgments than Mernissi suggests. Indeed, it is necessary to consider other schools of Islamic thought that flourished during the ninth century, which sought justice through more moderate and logical frameworks. I have mentioned the less radical Kharijite sect as an example.

Mernissi chooses to discuss the Mu'tazila, an Islamic school of theology which, she argues, promotes the idea of political rights through reason. In this context, I examine the Mu'tazila's claim to political justice, which I understand from Mernissi's account.

Political justice based on reason and free will: A philosophical approach to morality in Islam

The Mu'tazila and the Kharijites favor political transformation, but the Mu'tazila dispute with the Kharijites on one point. They disagree with the Kharijites on the issue of killing a leader and using violence and terrorism. The Mu'tazila did not believe that by the usage of weapons political rights and political change can be attained. They believed in reason as a philosophical tool for the achievement of political rights.

The Mu'tazila are a school of Islamic theology that flourished in Baghdad at the beginning of the ninth century. Along with their speculations on the relationship between the ruler and the ruled, the Mu'tazila also put reason as the basis of understanding Islamic law. Therefore their views on Islamic theology also disagree with other theological schools of their time, such as the Jabarites.[191] The following section goes into more detail about this. My purpose is to develop from Mernissi's ex-

190 Khadduri 1984: 22.

191 The Jabarites theological school is often associated with the traditionalist school of Salafism that based their argumentation on the textual sources of Qur'an and Tradition by affirming that human actions are predestined by God, without taking into consideration other texts which on the contrary affirm the responsibility of man. See: Bouamrane, Chikh: Le Problème De La Liberté Humaine Dans La Pensée Musulmane (Solution Mu'tazilites), Section 2 Les Sources Doctrinale: Les Début de la Doctrine Jabrites. Paris. J. Vrin pp. 34–42.

planation of "the rationalist tradition of the Mu'tazila"[192] a notion of political justice founded on reason as a philosophical principle. In this sense, Mernissi argues:

> The Mu'tazila moved the problem [of the relationships between the ruler and the ruled] to the philosophical level, asking, What is the purpose of our existence on earth, and to what use should we put *'aql* [reason], that marvelous gift from heaven? If God has created us intelligent, it is to carry out a plan. … By introducing reason into the political theater, the Mu'tazila forced Islam to imagine new relationships between ruler and ruled, *giving all the faithful an active part to play alongside the palace.* [emphasis added][193]

Indeed, according to Mernissi, the Mu'tazila questioned the ruler-ruled relationship and argued for the participation of the ruled in decision-making processes. With this in mind, Mernissi criticizes blind obedience to religious authorities and argues for greater political rights. This leads me to argue that it is of current importance to re-read the Islamic philosophy of the Mu'tazila because it establishes the basic principle of the modern concept of democracy, namely the ability of the people to choose their ruler. The importance of the Mu'tazila, then, for Mernissi, was political. Mernissi draws out the Khariji/Mu'tazili contrast, as outlined earlier, as a theme of Islamic political history and as a basis for understanding the fear Islamic fundamentalists have, as she claims, of rationalism and democracy.[194]

Some further explanation is needed regarding the philosophical approach of the Mu'tazila school of Islamic theology in rethinking Islamic legislation to make it more compatible with their political philosophy. One could argue that there is a sense in which theology and politics are correlated, because when Islamic law is interpreted based on reason, justice will prevail in the political sphere. Theological justice is in accordance with the doctrines laid down by the theologians concerning the attributes of God (the will and power) and the essence of god (the essence and perfection), that make up divine justice. Indeed, theologians of Islam like the Jabarites agreed that justice is divine, and God is the source of justice, by directing their argument at the textual sources (Qur'an and Tradition) and at the principle of predestination. The question then must be: How could this divine justice, attributed to God, be realized on Earth? Here the theologians are divided into two schools: The school of Revelation based on the texts, which is the Jabarites School, and the school of Reason, the Mu'tazila, who are the followers of reason in calling themselves the partisans of justice and Oneness.[195]

192 Mernissi 2002: 32.

193 Mernissi 2002: 32–33.

194 Martin, Richard C., Mark. R. Woodward and Dwi S. Atmaja 1997: 208.

195 Khadduri 1984: 40–41.

The Mu'tazila conceive the existence of two levels of justice: divine and human. The former is laid down by God and the latter, determined by reason. Indeed, they argue that divine justice is based on the essence of God and not on the attributes of God. They conceive that God can do only what is salutary for man. Therefore, how can man realize this divine justice of God on earth? The Mu'tazila maintain that only by reason can man endeavor to achieve justice on earth. It means that God predicts the just and the salutary, and man can realize the determinations of God through his (man's) reason and free will (choice, *ikhtiyar*).[196] In this regard, Mernissi explains,

> One of the questions the Mu'tazila debated, and which drew crowds, was the question of *qadar*, "predestination": are we free (*qadir*) to act and thus responsible for our fate, or is our destiny already fixed by God? One branch of the Mu'tazila, the Qadiriyya, made this its central concern. Its adherents, the Qadiri, were "believers in free destiny, who thought that the human being was free to decide his own acts and so was responsible for everything he did, for evil as well as good."[197]

Following from this, the Mu'tazila argue that a man is obliged to establish justice according to his faculty of reason. Hence they understand that the achievement of justice on earth depends on the free will (choice) of man, who decides to realize justice or not; in fact, man is responsible for whether his acts are just or unjust. The Mu'tazila undertake three principles to determine that justice is based on reason:

1) The principle of reason: that justice is determined by reason.
2) The principle of voluntarism: that the acts of man are the product of his free will.
3) The principle of responsibility: that individuals should assume their choice, knowing that they could be punished in accordance with their choice of justice or injustice.

Furthermore, the Mu'tazila undertake the principle of *the metaphorical method of interpretation (al-ta'wil)* to avoid the conflicting meanings of the revelation's texts (Qur'an and Tradition). They argue that the foundation of legal justice requires that *the rational judgement* should be made in accordance with the judgement made by the theologians who refer to the Revelation.[198]

Hence, the Mu'tazila correlates with considerable aspects of justice, such as theological, divine, and legal. These concepts of justice have already been discussed above, including Ibn Anas's notion of legal justice and Al-Hallaj's notion of divine

196 Khadduri 1984: 40–41.
197 Mernissi 2002: 34–35.
198 Khadduri 1984: 41–44.

justice. The main characteristic of Mu'tazila thought is that they attach foremost importance to reason as a tool of philosophy. They recognize human beings as the owner and possessor of reason. Human beings are responsible for their actions and choices; they can make decisions based on their own free will. In this way, they are self-determined and are not predetermined. In addition, Mu'tazila argues that the Qur'an and Tradition must be interpreted rationally. In this sense, the Mu'tazila thought relates to the notion of legal justice of Ibn Anas based on the right of interpretation, and to the notion of divine justice of al-Hallaj based on self-determination.

Furthermore, Mu'tazila's thought is relevant in that it enables reason to be a part of the political framework. In their view, humans are rational beings capable of choosing and making political decisions. As outlined earlier, "The importance of the Mu'tazila, according to Mernissi, is that they asked philosophically: 'What is the purpose of our existence on earth, and to what use should we put *'aql*, that marvelous gift from heaven?.'"[199] Moreover, one could affirm that the Mu'tazila assert a notion of political justice by arguing that the ruled should participate in political decision-making. I mentioned this above. They argue that the ruler and the ruled are equal. This suggests an important level of equality between humans. Thus, their political philosophy conflicts with Islamic political tradition—by which I mean the Shi'a political tradition—which asserts that the imam, the ruler, is infallible. Mernissi declares, "Islam is based on an absolute prohibition against confusing God with man, so the obedience owed to the imam must in no way be considered equal to that owed to God."[200] Mernissi uses this interpretation to criticize blind obedience to religious authorities and to argue for more political rights in our contemporary societies. From a feminist perspective, one could argue that Mernissi radicalizes this idea by stressing the right of a Muslim woman to political participation. She stresses the principle of the equality between *all citizens*, men and women, to practice their political rights, and underlines the sovereignty of humankind, who freely select their representative (see 2.2).

Mernissi not only sheds light on the function of reason in enforcing political rights and, thus, political justice, but also on another concept of the Mu'tazila, namely the concept of neutrality. In this context, she argues:

> The entry of the Mu'tazila onto the political scene transformed and intellectualized it by bringing in new concepts: for example, *i'tizal*, that is, taking a middle position, weighing the pros and cons. This issue was important because it brought

199 Martin, Richard C., Mark. R. Woodward and Dwi S. Atmaja 1997: 208.

200 Mernissi 2002: 33.

> up the question of tolerance. What should be done with a Muslim who commits a sin? The Mu'tazila chose the second option—neutrality, and thus, tolerance.[201]

According to Mernissi, neutrality corresponds to the modern notion of tolerance. One could not take for granted that being neutral is the equivalent of being tolerant. The concept of neutrality could be differently interpreted. Being neutral means not expressing individual opinions. Thus, personal morals engage in neutrality. Tolerance, however, has more to do with the public interest. The concept of tolerance affirms the acceptance of different religious beliefs, political opinions, and differing cultures to achieve the common good and to maintain a peaceful society.

Importantly, the Mu'tazila support the importance of reason, which Mernissi stresses throughout her exposition of the Mu'tazila's thought. Reason is therefore alleging that one should reflect before taking a decision. As Mernissi declares, "One cannot condemn someone without mature reflection on his conduct."[202] Hence, reason cultivates in human beings the moral conduct of (*at-tarayyuth*); this means to examine or to reflect to learn whether something is correct. Furthermore, reason nurtures the philosophical conduct of (*at-ta'aqqul*). This Arabic word comes from the Arabic verb (*ta'aqqala*) . It means being rational and reasonable; one should listen to reason—be careful; be cautious; be discerning; be discrete; be judicious; be rational in taking decisions.

Through reactivating early Islamic thought on Mu'tazila's rationalism, Mernissi sheds light on contemporary Arab philosophers and thinkers who, as she asserts, embody the rational and humanistic ideas of Mu'tazila in our time. In this regard, she declares:

> In face of this convergence, Arab intellectuals, mostly philosophers, are defending the opening to all humanistic thought, whether ancient or modern. (…). Contemporary philosophers and ideologues like Muhammad 'Amara, Husayn Mruwa[203] (who was killed a few years ago in Beirut), and Muhammed al-Jabiri

201 Mernissi 2002: 35.

202 Mernissi 2002: 35.

203 Mernissi has a list of rational, modernist Arab intellectuals suffering from malign neglect on the part of Europe, such as Muhammad 'Amara Husayn Mruwa, Muhammad al-Jabiri, Taha Husayn. Only Taha appears in a European language in the Berkeley catalog, and then the only work is his autobiography. Mruwa does not appear at all. I argue that Mernissi had not discovered al-Jabri 's translations at the time when she wrote this declaration. "The work of al-Jabiri and the others are not translated, and their authors are not interviewed by Western television networks" (Mernissi 2002: 38). A-Jabri's books have been translated into French, English, and German. English translations: Al-Jabri, Muhammad Abed (January 1999). *Arab-Islamic Philosophy: A Contemporary Critique*. Translated by Abbassi, Aziz. Center for Middle Eastern Studies; University of Texas Press. (2008). *Democracy, Human Rights and Law in Islamic Thought*. I. B. Tauris. (2010). *The Formation of Arab Reason: Text, Tradition, and the Construction*

> (one of today's most important thinkers) have become more well known in the Arab world than hit singers and often more popular than the heads of state who try to repress them. The Moroccan al-Jabiri is the philosopher most red by Arab youth, if I can judge by the remarks of students in conference debates and informal discussions.[204]

Mruwa and al-Jabri, according to Mernissi, are claiming the openness toward other cultures and philosophies. They thereby defend reason and humanism as the Mu'tazila did in the ninth century of Islam. In a book entitled *Defenders of Reason in Islam* (1997), Mernissi is considered alongside contemporary thinkers like Mohammed Arkoun, Fazlur Rahman, and Hassan Hanafi who were influenced by Mu'tazila's rational philosophy and transmit their humanistic ideas in the contemporary time. Thus, Mernissi, one of the thinkers cited, sees the rationalism and free thinking of the Mu'tazila as symbolic of the ability of Muslims to stand up to external challenges in order to enforce a rethinking and reform of the Islamic legacy.[205] The Mu'tazila's view of rationalism, then, deserves to be explored for our contemporary times in seeking to demand more political rights and, thus, give meaning to political justice. Following Mernissi, I would further elaborate on the reception of the rational heritage of the Mu'tazila in the ninth century of Islamic civilization. This historical detail is presented by Mernissi by highlighting the transcultural and humanistic approaches that characterized early Arabo-Islamic thought. The transcultural approach is crucial to my research in showing how Arabo-Islamic thought and the various philosophical schools interacted. The humanistic approach is also important to show how intellectuals of different religions and identities lived together and participated in the development of knowledge under the rule of an Islamic empire.

The reception of the rational heritage of the Mu'tazila in the ninth-century of Islamic civilization

Mernissi emphasizes the reception of the rational heritage of Arabo-Islamic thought of the Mu'tazila and its influence on changing the dictatorial political rules of their time. According to her, "The … Mu'tazila triumphed and succeed in burying a corrupt

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of Modernity in the Arab World. I. B. Tauris. French translations: *La Pensée de Ibn Khaldoun: la Assabiya et l'État. Grandes lignes d'une théorie Khaldounienne de l'histoire musulmane*. Paris: Édima, 1971. *Pour une Vision Progressiste de nos Difficultés Intellectuelles et Éducatives*. Paris: Édima, 1977. *Nous et Notre Passé (Al-Marqaz al-taqafi al-arabi). Lecture contemporaine de notre patrimoine philosophique*, 1980. *Critique de la Raison Arabe* - 3 volumes, Beyrouth, 1982. German translation: *Kritik der arabischen Vernunft, Naqd al-'aql al-'arabi, Die Einführung*, Perlen Verlag, Berlin 2009.

204 Mernissi 2002: 38.

205 Martin, Richard C., Mark. R. Woodward and Dwi S. Atmaja 1997: 207.

dynasty, the Umayyads, through the insistence on the preeminence of *'aql*."[206] Indeed, one could understand that the Mu'tazila's demand for political rights achieved in the ninth century a revolution against the corrupt and despotic regime.

Moreover, she asserts that the Mu'tazila's rational thought was encouraged by the Abbasid dynasty (750–1258) during the ninth-century. She declares, "Unlikely as it seems, the Abbasids came to power riding the fiery steed of triumphant reason, which the Mu'tazila proposed to a fantastic medieval Islam."[207] Mernissi equally highlights that during the reign of the Abbasids there was encouragement of translation and of cultural openness toward other schools of thought.

> The Abbasids adopted the Mu'tazila philosophy as their official doctrine for a least a century, the century of openness. Openness meant embracing all human knowledge, including the scientific treaties and Greek philosophy now translated into Arabic. [208]

Thus, according to Mernissi, the translation of the Greek humanistic heritage into Arabic started out as a government project. As she declares, "Hunayn Ibn Ishaq,[209] a Christian (d. 873), founded a school of translators which recruited its staff from among the most brilliant intellectuals of Baghdad and the whole empire".[210] As one can see, Mernissi mentions an important detail in her account about Hunayn Ibn Ishaq: that Ibn Ishaq was a Christian Arab. The purpose of this statement is to demonstrate the religious tolerance that prevailed during the time of the Abbasid empire. To put simply, Mernissi's declaration shows that, even though Ibn Ishaq was not a Muslim, he was intellectually active during a time when an Islamic dynasty ruled.

Furthermore, in her book entitled *Scheherazade Goes West: Different Cultures, Different Harems* (2001), Mernissi highlights the interconnectedness of different ethnic groups, religions, and cultures during the ruling time of the Abbasid empire. She argues:

206 Mernissi 2002: 33.

207 Mernissi 2002: 33.

208 Mernissi 2002: 35.

209 Hunayn ibn Ishaq (809–873) was an Arab Christian doctor. He was known for his translations from Greek to Syriac, the language of his community, and his translations into Arabic. He was nicknamed "master of translators." See: Micheau, Francoise, Mécènes et médecins à Bagdad au III e /IX e siècle: Les commentaires des traductions de Galien par Hunayn ibn Ishaq, in: Les Voies de la Science Grecques: Etude sur la transmission des textes de l'Antiquité au dix-neuvième siècle, publiées sous la direction de Danielle Jaquert, (1997) pp.147.

210 Mernissi 2002: 36.

> To be a foreigner in the Abbasid court was not really a drawback, however, since the culture encouraged diversity and rewarded people for speaking many languages and bringing the richness of their own backgrounds into their performances. In fact, during the Abbasid dynasty, "scholars, artists, and *littérateurs* came from a variety of ethnic backgrounds (speaking Aramaic, Arabic, Persian, and Turkish), colors (white, black, and mulatto), and creeds (Muslim, Christian, Jew, Sabian, and Magian). It was this cosmopolitanism and multiculturism of Baghdad that made for its enduring strength as great center of culture."[211]

One can affirm that Mernissi describes the acceptance and tolerance of religious diversity, interdependence between Muslims and Christians, and the absence of racial discrimination. Mernissi wants to indicate that the intellectuals who participated in the flourishing of science and culture came from different ethnicities. Hence, not only were Arabo-Muslims, Arabo-Christians, or Arabo-Jews responsible for the prosperity of sciences, but also intellectuals from Europe, Asia and the Persian Empire. This illustrates the harmony between various religions and ethnic identities, thus, illustrating the humanist atmosphere that reigned in an Islamic empire. In this way, "the basis of the relationship between Christians, Muslims, Jews, Mazdeans, Zoroastriens, etc. is human reason. We are dealing here with a humanistic universal discourse, a non-sectarian discourse" [translation mine].[212]

Mernissi uncovers another important detail about the reception of Greek heritage. She argues that the scholars of that time not only translated Greek heritage, but "they also turned to Iran and India to collect, translate, and synthesize everything that the genius of other cultures had accumulated."[213] This assumption by Mernissi deconstructs, as she explains, "the Western stereotype"[214] that claims Arab scholars only translated the Hellenic heritage. Moreover, Mernissi affirms that the period of the ninth century was that of intellectual flourishing and emancipation of the mind, thereby the foundation of new rational science called *falsafa* (philosophy). In this sense, she declares "This importation and translation of foreign learning was enriched by original scholarship, producing the flowering of Muslim thought, which come to be known as *falsafa* (philosophy)."[215]

On the same lines as Mernissi, I wish to draw attention to this crucial event, which occurred in the ninth century of the Islamic Empire and marked the birth of philosophy. In Baghdad, schools of philosophy began to be established at the beginning of the tenth century. Philosophy was transmitted by teachers to students in or around Syriac monasteries. It was Al-Farabi (870–950) who founded what is

211 Mernissi 2001: 124.
212 Samir 2013: 28.
213 Mernissi 2002: 36.
214 Mernissi 2002: 36.
215 Mernissi 2002: 36.

known as the "Aristotelian School of Baghdad". There were disciples of different religions at this school. Miskawayh (d. 1030) and al-Tawhidi (d. 1023) are among the Muslim philosophers who frequented this school, and Ibn Zur'ah (d. 1108) is among the Christian philosophers. The philosophers of this school continue to translate and comment on Greek philosophical works. There is a commentary on Aristotle that has endured for generations. This text is now preserved in Paris in a large manuscript from the middle of the 11th century.[216]

In her re-reading of the Arabo-Islamic intellectual history, Mernissi wants to unearth and recover a transcultural and humanist tradition within the Arabo- Islamic thought of the ninth century. The aim is to show that disciples from different religions were participating in the flourishing of the science of philosophy, in order to give insight into their openness to different traditions of thought.

However, the intellectual openness that characterized the Arabo-Islamic world in that time does not persist. In this regard, Mernissi declares, "Alas, very quickly the Abbasids fell into despotism."[217] According to her, the result was that the opening to reason, individual opinion, and the cult of private initiative was condemned as a foreign enterprise. Philosophers (*falasifa*) were hunted down, and freethinkers condemned as infidels and atheists. She declares that the Abbasid rulers invoked the tradition of Islamic Shari'a law, based on obedience, *ta'a*, against the freedom of thought.[218] Recent research on Islamic philosophy can show that Mernissi's interpretation of the end of rationalism and the revaluation of obedience with the end of Abbasid rule is not tenable.[219] Indeed, because of her aim to criticize the dispotic legal systems of several Arabo-Islamic states, Mernissi adopts this Orientalist perspective.

She explains,today, the end of rational intellectual property still affects most Muslim societies, because in such societies it is difficult to access other thoughts that might contradict conventional beliefs. This prevents the improvement of democracy,

216 Samir 2013: 6.

217 Mernissi 2002: 33.

218 Mernissi 2002: 36–37.

219 Among the numerous research dealing with the history of Arabo-Islamic culture in its post-classical era, aiming to refute the notion that the end of rationalism in Islamic culture occurred during the classical period and especially with the end of Abbasid rule, I would like to highlight the intellectual work of Sabine Schmidtke, who has played a central role in researching previously unedited and unknown theological and philosophical writings. Her work focuses on the history of Islamic thought in the post-classical period (thirteenth to nineteenth centuries), with an emphasis on reconstructing the textual heritage and intellectual significance of the Islamic intellectual world. See: Sabine Schmidkte (2000): *Theologie, Philosophie und Mystik im zwölferschiitischen Islam des 9./15. Jahrhunderts Die Gedankenwelten des Ibn Abī Ǧumhūr al-Aḥsā'ī (um 838/1434/35 – nach 906/1501)*. Brill, Leiden, Boston, Köln.

which includes the concept of pluralism and the acceptance of differences. To protect their interests, Muslim rulers adhere to man-made interpretations of Shari'a law, thereby overriding the principle of rational thought. In this context, she says:

> This tradition is called the *shari'a*, creating the confusion that today blocks the democratic process by linking our blind obedience to the leader with our respect for religion. All calls for a rational relationship between the imam and his followers as well as any criticism of the leader are discredited as a rejection of Islam and a lack of respect for its principles and ideals. [220]

Still in accordance with Mernissi's investigation of the early Arabo-Islamic heritage, I would like to highlight one idea: that despite the despotism, which was spread by the caliphs in the ninth century of Islam, there was encouragement for the scientific and economic achievements. In this sense, Mernissi argues that Harun al-Rashid (786 - 809), one of the Abbasid caliphs, who was the architect of a most successful despotism, "used the decision-making power he took from the people to carry out great scientific and economic projects".[221] On the same lines as Mernissi, one could argue that the Period of Harun al-Rashid and his successors, the Abbasids, represents the period of scientific achievement across a wide range of scientific domains. Dmitri Gutas, one of the experts in Medieval Islamic philosophy has also confirmed this idea:

> A truly epoch-making stage, by any standard, in the course of human history. It is equal in significance to, and belongs to the same narrative as, … that of Pericles' Athens, the Italian Renaissance, or the scientific revolution of the sixteenth and seventeenth centuries, and it deserves so to be recognized and embedded in our historical consciousness.[222]

Moreover, Mernissi uses the socio-historical context of the ninth century of Islamic heritage to compare early despotism with contemporary despotism in most Muslim societies. She finds that modern despotism does not aim to promote scientific development, but rather is involved in intellectual, political, and economic decadence and dependence on the West. In this regard, she declares "modern despotism takes decision-making power from the people to buy Kabir watches from the Japanese."[223]

Consequently, despite the Abbasid despotism, rational thought played a crucial role in the progress of philosophy and other disciplines. Moreover, Abbasid rule offers a glimpse into the transcultural and humanistic atmosphere of the Arab world in

220 Mernissi 2002: 37.
221 Mernissi 2002: 143.
222 Gutas 1998: 8.
223 Mernissi 2002: 143.

the ninth century, achieved by fostering a commitment to philosophy and the development of the humanities. Nevertheless, most Muslim societies today are still concerned about political despotism because they continue to adhere to traditionalism to protect their political interests, which poses a threat to the philosophical legacy of rationalism.

Hence Mernissi's rereading of ninth-century Arabo-Islamic thought offers a crucial insight into the rational heritage embodied by the Muslim jurist Ibn Anas, the Sufi Al-Hallaj, and the Mu'tazila philosophers. They advocate the right to interpretation (*ijtihad*), self-determination, and rationality as imperatives for human progress and the flourishing of Islamic thought. From this, an appeal for issues of legal justice can be derived by emphasizing the right to interpretation (*ijtihad*) as a method of finding rights via Islamic law. It was also argued that divine justice is expressed in the notion that human beings make their own decisions and are responsible for their destiny. Moreover, political justice was derived from the underlying principle of equality between ruler and ruled, with the latter having the right to participate in decision making. In addition, Mernissi introduces the rational, transcultural, and humanistic tradition of the early Arabo-Islamic heritage to remind contemporary Muslims that a notion of democracy and justice is not foreign to Islamic thought, but that it is truncated due to political interests when despotic leaders cultivate the tradition of obedience instead of autonomy and freedom of thought, to protect their regimes. Mernissi also addresses the West by pointing to the rational and humanistic thinking of the Islamic heritage to counter the fundamentalist interpretive stereotypes with which Arabo-Islamic culture is presented today.

2.4 Transdisciplinary approaches to establish gender justice within the framework of Islamic feminism

One of the goals of my research is to examine the transdisciplinary approaches Mernissi uses to enforce gender justice in Islam. The first section of the following chapter focuses on her return to the pre-Islamic era, to show how Mernissi revives the story of female deities who occupied the political and religious spheres. With the advent of Islam and for religious and political reasons, the symbolic role of these female deities was hollowed out by creating a false interpretation about their mythical and symbolic existence. Mernissi attempts to provide an alternative interpretation of their existence. In her study of the pre-Islamic period, she argues that women, even as deities, were subject to patriarchal judgments.

The second section examines Mernissi's historiography of women at the time of the Prophet Muhammad and after his death. It examines her depicting of the economic, intellectual, and leadership roles played by the Prophet's wives. Mernissi