



The Institute of Ismaili Studies

**The Ethics of the Public Square: A Preliminary Muslim Critique**  
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**Introduction**

Rarely has the nexus between social ethics and the public sphere made as urgent a demand as it does today for Muslim praxis and thought alike. After all, the public sphere occupies the turbulent centre of the idea of civil society, which has emerged since the end of the Cold War as part of a dominant discourse across disciplines and policy contexts.<sup>1</sup> In particular, civil society has been invoked in analyses of transitions to democracy, on the basis that the web of civic associations and institutions in the space between the state and the individual citizen effectively provides the ‘culture of democracy’. When applied to the Muslim world, however, the concept has encountered what are seen as profound barriers of history, ideology, and religion.<sup>2</sup> The claim is made that Islam’s merging of the secular and sacred (*dunya* and *din*) is inherently problematic for a liberal discourse premised on pluralist civic space.

If further impetus were required for fresh Muslim thinking in this regard, it was surely furnished by the aftermath of the tragic events of September 2001 in the United States: the public sphere on every continent has since been convulsed in debate over the implications concerning ‘Islamic’ political culture. The ensuing debate has frequently degenerated into polemical claims that stoke cultural prejudice.<sup>3</sup> But that cannot detract from the pressing need to examine the role of ethical values in the contemporary public culture of the Muslim world, notably with regard to civic accountability and political violence.

A perceived tension has long prevailed between Islam and the occidental liberal conception of civil society, relating to the Muslim view that ethical affinities - personal and communal - are a hallmark of social being. Historically, this perspective can be traced to the founding tenets of Prophet Muhammad’s Medina, through Farabi’s celebrated 10th century work, *The Virtuous City (al-Madina al-Fadila)*, and down to modern conceptions of the ideal polity.<sup>4</sup> Can such a perspective be reconciled with the modern conception of the public square, the secular civic space generally considered essential to civil society?<sup>5</sup> Or should the modernist civic project be embraced on its own terms, and the ethical affinities of old consigned to the private sphere? There are compelling reasons for rejecting the latter option, even if it means having to undertake a radical reconception of civil society in light of indigenous Muslim experiences.

I sketch here first what appear to be the salient, unfolding contours of the public square in the wider context of post-Cold War civil society, with particular regard to the emergent dichotomy in mainstream liberal praxis between norms of ‘civic’ and ‘ethical’ conduct, before bringing Muslim perspectives to bear on this discourse - and finally the discourse to bear upon Muslim praxis, prevailing as well as putative. At this juncture, the nature of the analysis that I offer is necessarily preliminary, as alluded to in the title. An exhaustive consideration is a task that

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awaits manifold Muslim as well as non-Muslim perspectives across disciplinary and geo-cultural lines, including a richer body of sociological data than is available today.

### **In Search of the Public Square**

For contemporary mainstream liberalism, a minimal consensus on moral or ethical precepts<sup>[6]</sup> is part of the *quid pro quo* for a maximal consensus on the rules and mores of coexistence amid diversity. “The ethic central to a liberal society is an ethic of the right rather than the good,” observes Charles Taylor; “its basic principles concern how society should respond to arbitrate the competing demands of individuals.” In effect, “society must be neutral on the question of the good life” – that is, on what most of us would deem the core question of personal and social ethics.<sup>[8]</sup> Indeed, even the classical, Aristotelian definition of ‘good’ broadly amounted to just such a perspective in its pragmatic stress on what is appropriate rather than morally correct.<sup>[9]</sup> At its most emphatic, this posture leads to Richard Rorty’s compromise of higher amorality: the many, competing quests for Truth have all been discredited anyway, so democratic pragmatism favours moral indifference.<sup>[10]</sup>

Another way of framing this central liberal ‘bargain’, in terms closer to the conceptual and policy concerns of civil society, is that the more a state is committed to a minimal agenda of negative liberties (freedoms from intrusions against the sanctity of the individual and his choices), the greater the prospect of maximising the plural goals that citizens and communities wish to pursue - and the less the danger of ‘Utopian engineering’ in pursuit of virtues or ideologies that forestall civic openness. It is no surprise that this view, associated with Isaiah Berlin and Karl Popper,<sup>[11]</sup> emerged from the mid-20th century European experience that culminated in key international human rights agreements.<sup>[12]</sup> Nor that it should have found deep resonance in post-Cold War Eastern Europe where the current discourse on civil society was born.<sup>[13]</sup> In that milieu, what could be more threatening to the vibrancy of civic culture than ideology, whether emanating from an authoritarian state, the church or fascist social movements?

The upshot is that liberal discourse seeks to privatise ethics and morality - or at least the moral dimension of ethics. There can hardly be a complete severing of ties between the tenets of social ethics and those of civic culture, given the shared preoccupation with upholding ‘appropriate’ behaviour (on public order, accountable governance and participatory politics, the integrity of the environment, and other fundamentals). However, ethics *qua* hard judgments about right and wrong is generally outside the parameters of the public sphere. In the most widely discussed recent work on civic culture in western perspective, Robert Putnam’s *Bowling Alone*,<sup>[14]</sup> there is not a single direct reference to ethics. Putnam, whose 1996 essay of the same title triggered a vigorous academic and policy debate, does invoke moral values like altruism, philanthropy, trust and religious participation. But nowhere in the book is ethics as such deemed worthy of consideration either as a conceptual or a pragmatic facet of the public sphere where civic engagement is located.

Still more recently, Joan Smith’s *Moralities*,<sup>[15]</sup> which has found an attentive audience in the United Kingdom, assails the notion that social ethics can embrace judgments about right and wrong without encountering a fatal scepticism. Smith sees the culture of human rights not as an



adjunct but a replacement of ‘Judeo-Christian ethics’. This, she asserts, is because of the greater pluralist reach of the former which has acquired global status, and the discrediting of religion-based tenets of behaviour whose traditional proponents (and ‘Victorian’ sensibilities) are responsible for a hypocritical disjunction between precept and practice.

Given that a secular landscape is felt to be the proper locus for modern civic culture,<sup>[16]</sup> perhaps that rejection is predictable. Nevertheless, a robust occidental critique of the foregoing has emerged since the mid-1990s, spearheaded by the ‘communitarian movement’ that draws on liberal values like the rule of law and pluralism, coupled with the civic republican tenets of social trust, self-help and community-building. Among the leading trans-Atlantic proponents of communitarianism are Amitai Etzioni, Anthony Giddens, John Gray, Gertrude Himmelfarb, Robert Kuttner, Robert Putnam and Michael Sandel, a broad church with varying political affiliations but joined by their primary concern about the corrosive effects of liberal individualism on solidarity and engaged citizenship.<sup>[17]</sup> For Himmelfarb and others on the more conservative end of the spectrum, the traditional morality dismissed by Smith is a condition *sine qua non* to advance civil society; any other brand of ‘social ethics’ lacks substance and undermines the desired civic ethos. For Giddens, Kuttner and other more liberal communitarians, it is chiefly economic/free market individualism that undercuts social solidarity; to counter this tendency, public policy must draw on a shared ethos of civic patriotism. Both conservative and liberal tendencies decry the sharp dichotomy between private and public ethics that is the staple of mainstream liberalism and its conception of civil society.

Yet the communitarian critique has been seized upon by those with a less pluralist commitment, and pressed into the service of a cultural patriotism that privileges a particular view of the Judeo-Christian ethic. In the influential writings of Samuel P. Huntington on the ‘clash of civilisations’, what is seen as a decline in fealty to traditional values (like respect for education, family integrity and the rule of law) is treated as a root cause of growing Euro-American political and economic weakness in relation to other cultural zones or civilisations, notably that of Islam.<sup>[18]</sup> As I have noted elsewhere, Huntington sees no contradiction in issuing a summons on behalf of ‘western’ ethical values that pointedly degrades the multicultural components (and citizenry) of Euro-American polities.<sup>[19]</sup> At the same time, he is oblivious of new realities of global citizenship and culture that enlarge civic membership beyond traditional frontiers of nationality and geography. Huntington’s thesis lends itself to a validation of a closed view of society in response to the incursion of non-western values and people<sup>[20]</sup> – which is surely antithetical to the open society envisaged by most theorists as vital to a mature civic culture.

The communitarian movement and other critiques of ‘radical secularity’ (after Taylor) tend to find themselves defending, at best, a marginal nexus between morally based social ethics and the modern public sphere. In this vein, Etzioni observes that the ‘moral revivalists’ among his fellow communitarians are really in pursuit of the ‘good society’ rather than civil society,<sup>[21]</sup> implying that social virtues need to be siphoned-off from civic values. Inasmuch as the rationale is a concern for civil liberties and the rule of law (rather than on responsibility as a counterweight to rights), it seems to reaffirm the primacy of an individualist ethos in the civic calculus.<sup>[22]</sup> It also brings us full circle to Gellner’s stance that modern man must choose between being ‘modular’ – that is, “individualist and egalitarian, while nevertheless capable of cohesion against the state”,<sup>[23]</sup>



- or being ‘communalist’ in his resistance to bonds outside of kinship, religion and tribe.<sup>[24]</sup> This captures the essence of a liberal definition of civil society that is mistrustful of serious ethical affinities. The corollary for Muslim and other ‘segmentary’ communities, as Gellner puts it squarely, is a choice between the traditional bonds of the *umma*, and the strictly secular bonds of pluralist civic modernity.<sup>[25]</sup>

There is much that Gellner and other mainstream theorists can be challenged about in the sweeping assumptions concerning Islam, the *umma* and ‘civic culture’.<sup>[26]</sup> Apart from the Orientalist overtones of some of those assumptions, the notion that the social capital generated by communal bonds is vitiated by a uniform resistance to freely moving in and out of such associations, is surely anchored in a limited understanding of how fluid those bonds often are.<sup>[27]</sup> The paramount concern here, however, is specifically about the unfolding nexus between social ethics and civil society - in terms of mainstream and, in the rest of this analysis, transitional Muslim contexts. I say ‘transitional’ in recognition of the quest for democratic modernity and its attendant civic culture that marks the contemporary reality of those societies and communities. Muslim critiques - unlike those of their western counterparts - are not, of course, directed at existing indigenous models but at putative/emerging ones. The stakes range far beyond mere theory, to the realm of competing choices with far-reaching social and political implications.

### **Finding the Public Square**

Before venturing into the rationales for an ethically-sensitive Muslim approach to civic culture, it is necessary to delineate the elements that define the latter, *dehors* the bounds of liberal, conservative or other political ideology. Most theorists and activists concur that any modern civil society must include three requisite elements: the rule of law, equal citizenship, and participatory politics with state accountability to the civic sphere. These primary elements in turn favour the organic separation of state and society, the independence of the judiciary as well as of the media, and guarantees of free association and thought. Only then is it meaningful to invoke a ‘public sphere’ in which civic interaction can occur.<sup>[28]</sup> No matter how desirable the existence of this civic culture in a secure and legitimate public space, it is value-neutral in the sense of commanding no allegiance to specific moral principles. There are moral dimensions to human rights that uphold the integrity of individual and communal life, belief and equality; but appeals to secular law are sufficient to safeguard these entitlements.

The value-neutral nature of these elements also accounts for how a rigorous critic of liberal ideology like E.P. Thompson could be effusive about an institution often associated with economic and social inequity: “the rule of law itself, the imposing of effective inhibitions upon power and the defence of the citizen from power’s all-intrusive claims, seems to me to be an unqualified human good.”<sup>[29]</sup> Thompson’s recognition of the instrumental value of the rule of law in limiting state power and safeguarding individual liberties had nothing to do with moral value; his praise could be recast as “an unqualified civic good”. The same is true of the other defining elements, from equal citizenship to freedom of worship: each is cherished instrumentally *qua* civic good in this ‘procedural liberal’ perspective. Indeed, the logic extends to the institutional basis of secular culture - the separation of Church and State - which accompanies the autonomy of state and civic spheres. There is much to contest even in a nuanced appreciation of what



secularism means; but ‘secular culture’ as an institutional facet of civil society is here taken to be value-neutral, without the anti-religious resonance that often attaches to it.<sup>[30]</sup>

Admittedly, the liberal ideal of civil society as a zone of freedom, tolerance and politico-economic choice that can face down both despotism and the atomisation of communities,<sup>[31]</sup> comes close to a conception of civic ‘virtue’. Fed by the historical streams of west European contests among monarchical and church institutions and the emerging bourgeoisie, and the more recent east/central European contests between totalitarian state institutions and the *volk*, a powerful wave of Civic Truth has swept contemporary discourse. The State is effectively seen as bad and Society as good. Hence human rights tend to be defined narrowly as limits on the power of the state (negative liberties), and only reluctantly as involving fundamental socio-economic obligations and individual responsibility.<sup>[32]</sup> In this characterisation, the quality of the public square is a function of society’s autonomy from the state. It is but a short step to the generalisation that all civil societies must be thus defined, irrespective of the diversity of historical and cultural realities. Or as Keane puts it, such idealisations wrongly suppose that “civil societies are largely unencumbered by self-paralysing contradictions and dilemmas” - which in turn calls for the need to constantly develop new images.<sup>[33]</sup>

Keane argues that in transitional states that lack civic traditions to enable peaceful democratisation, a common recourse is to seek refuge in nationalism or other certitudes of cultural and religious identity. These are as perilous as the certitudes embraced in established democracies, like individualism or the notion of rational argumentation, for they lapse into a reductive ‘foundationalist’ understanding of civil society, at odds with the pluralism of purpose and commitment that the members of society actually have.<sup>[34]</sup> In effect, “the meaning and ethical significance of civil society at any given time and place can be asserted and/or contested as such only within a socio-political framework marked by the separation of civil and state institutions, whose power to shape the lives of citizens is subject permanently to mechanisms that enable disputation, accountability and representation”.<sup>[35]</sup> This, for Keane, is a preference that overrides other organising options, contrary to Rorty’s willingness to treat civil society as merely one among many alternatives. Otherwise, relativism undercuts pluralism in precept and practice.

The modern public sphere, in other words, may encompass ethical or ideological frameworks but not the reverse: its boundaries are determined by civic elements alone. This is the only recipe for serving contemporary diversities of ethnicity, culture, religion, politics and individual purpose – *a fortiori* amid the growing impact of economic and political globalisation which has spawned a transnational, if still inchoate, civic culture. What has yet to be addressed, whether by theorists or activists, is the nature of the relationship between an ethical framework such as Islam’s to the kind of public sphere that is central to modern civil society, while recognising that varying national and cultural contexts make for varying dynamics on the ground. This takes the discourse beyond the usual question of whether ‘Islam’ is ‘compatible’ with democracy or civil society. That line of inquiry normalises Islam and occludes the complexity of changing Muslim intellectual and social life in favour of stock models and images. Rather, the key questions here are about why and how an ethical framework matters in a post-foundationalist (after Keane) understanding of the public square. Many of the issues on hand have been grappled with by



Muslim thinkers and activists like Abdolkarim Soroush, Mohamed ‘Aded al-Jabri, Fazlur Rahman, Rachid al-Ghannouchi, Sadiq Jalal al-Azm, Nurcolish Madjid, Chandra Muzaffar, Mohammed Arkoun, Basam Tibi and Abdullahi An-Na‘im,<sup>[36]</sup> some of whose works are drawn upon in the remainder of this analysis.

### Locating Muslim Social Ethics

There is rich irony in having to negotiate the nexus between ethics and civic culture past the currents and eddies of ‘secularism’ and ‘religion’ even outside the West’s Cartesian dualisms. Islam and Muslims have long shared a *Weltanschauung* - as ethos or worldview - wherein the sacred and secular (*din* and *dunya*) as well as the state (*dawla*) are merged. Yet the reductive idea of a “moral totality validated entirely by divine teaching continues to dominate contemporary Islamic discourse”, observes Arkoun, “and has even assumed an unprecedented public dimension, thanks to the multiplier effect of the media”.<sup>[37]</sup> Which, in turn, has more to do with nourishing the “social imaginary” than the exercise of moral reasoning that is critical to social ethics.

The irony is that in Islam’s classical age when the leading ethical texts emerged, drawing inspiration both from the wellsprings of scripture and the philosophical heritage of the Mediterranean world, a moral critique of politics was not seen as profaning sacred norms. The pragmatic rationale for the *Virtuous City* of Farabi (d. 950) was the interdependence of human beings in pursuit of self-sufficiency and fulfilment, a voluntary quest that he felt required the social and spiritual inspiration of Islam.<sup>[38]</sup> Moral traits (*akhlaq*) and habits (*adab*) were individual acquisitions with a social purpose, transcending the public-private divide. This perspective, expanded on by Miskawayh (d. 1030) in *The Cultivation of Morals (Tahdhib al-Akhlaq)*,<sup>[39]</sup> and its Perso-Shi‘i counterpart, *The Nasirean Ethics (Akhlāq-i Nasiri)* of Tusi (d. 1274)<sup>[40]</sup> drew conspicuously on Aristotle and neo-Platonist sources.<sup>[41]</sup> In the new Muslim ethos, integrity, courage, temperance, charity, justice and reason were virtues that made for individual happiness and the ideal *umma*. In the writings of Al-Ghazali (d. 1111), notably the *Criterion of Moral Action (Mizan al-Amal)*, they find expression not only as a set of social and personal rules about right and wrong, but also become part of a process of moral reasoning.<sup>[42]</sup>

Yet that aspect of ethics, as furnishing a critique of political as well as individual conduct, was in contestation with the role of the enacted *shari‘a*, the corpus of ethico-legal norms derived from the Qur’an, Prophetic traditions (*sunna*) and assorted subsidiary sources (like community consensus, and the interpretive reasoning of legal experts). While Ghazali brought his considerable authority to bear in casting a sceptical eye on the perceived ethical deficits of those wielding the *shari‘a* as legislation, the overarching historical trend was of the latter’s dominion.<sup>[43]</sup> The reasons were many and varied, leading a number of jurists from around the 11th century to affirm the “closure of the gate of *ijtihad*” (independent legal reasoning).<sup>[44]</sup> This decline of *ijtihad* was accompanied by a pattern of compartmentalising law and politics, so that the latter – *siyasa* - became the domain of the caliph or sultan, *qua* exercise in kingship. The law, in all its limited intellectual but potent civic and religious authority, was the domain of the ‘ulema or religio-legal scholars.



Not surprisingly, the die was cast for the caliph or sultan to seek the active collaboration of the *'ulema*, as a mutually expedient arrangement: the former in pursuit of 'religious' legitimacy, the latter for enhanced political authority.<sup>[45]</sup> Although this did not preclude *ad hoc* ethical judgments by communities and individuals about the conduct of civic affairs through to the modern era, the sacralisation of the law curtailed the scope, potency and systematisation of such a critique. The potential of ethico-legal principles as *rationes legis* – generalised tenets that could be applied to specific cases – was overshadowed by *taqlid*, an imitative compliance with a set of specific rules extracted from the manuals of various legal schools.

Since the sacralisation of law also enhances the legitimacy of establishments that can invoke it for the exercise of their authority, the tension with those seeking civic accountability is obvious. The hallowed phrase *siyasa shari'a* refers formally to the political/administrative facets of the law - but also signals attempts at sacralising political power.<sup>[46]</sup> In post-revolutionary Iran, for example, the constitutional tenet of *Velayat-e-Faqih* (rule of the juriconsult) confers special authority on 'supreme religious leader' as well as on the clergy and clerical courts. This includes strong influence over the media.<sup>[47]</sup> In Saudi Arabia, for example, princely and clerical institutions intertwine in enforcing conservative Wahabbi domination of civic life. Elsewhere, the primacy of the *shari'a* – as interpreted by traditionalist establishments – trumps secular law and circumscribes civic discourse, as witness recent developments in Egypt and Pakistan with regard to strictures on blasphemy, apostasy and gender equality.<sup>[48]</sup>

All of which underscores the need to separate the institutions of state, religion and society as a shared modern democratic and ethical imperative. Far from violating Islam's *Weltanschauung*, this institutional separation is a means of advancing its civic spirit in practice. Secular culture here is an ally rather than an antagonist of religious well-being, with social ethics serving as a bridge between the two in the public sphere. It is in this sense that Soroush advocates the secularisation of ethics en route to modernity,<sup>[49]</sup> abjuring the "ethics of the Gods" for "concrete and accessible rules" that admit of human frailty.<sup>[50]</sup>

Moreover, sacralising civic norms provides no guarantee of the primacy of the rule of law. Indeed, it may actively undermine the latter, insofar as the content and the implementing institutions *ipso facto* operate outside the framework of democratic/civic accountability. It is tantamount to a foundationalist approach of the type explicitly rejected earlier in this paper. The more general problem of the weakness of the rule of law shared by emerging democracies – especially those in post-civil conflict transitions (like Algeria, Azerbaijan, Bosnia, Indonesia, Iraq, Lebanon, Somalia, Sudan and Tajikistan) – only reinforces the 'ethical imperative'. That is, respect for social ethics becomes an organising principle not as a mere adjunct but an effective substitute for the rule of law, filling a normative as well as a practical vacuum.

Reliable sociological data on citizen perceptions of civic life in Muslim-majority contexts is relatively scarce today, but a recent opinion survey in Azerbaijan is instructive.<sup>[51]</sup> In a country undergoing a transition from nearly a century of Soviet rule as well as violent territorial conflict with Armenia, a majority of 90.7 per cent held the view that religion should not influence 'politics' – but was an important determinant of 'public morality' (83.9 per cent) and 'culture' (70.6 per cent). The institutional division of church and state that is written into Azerbaijan's



secular constitution enjoys widespread endorsement, with 'Islam' perceived foremost as an affirmation of personal spiritual and ethical values. Although most citizens identified themselves positively as Muslims, few considered themselves to be observant.<sup>[52]</sup>

In neighbouring Turkey, majorities of 78 to 85 per cent have opposed amending the civil code to accommodate *shari'a* norms concerning women – yet robust majorities favour social practices like prohibiting the sale of alcohol during Ramadan, allowing exclusively religious marriages, and modest public dressing by women.<sup>[53]</sup> In both instances, and one suspects across much of post-Soviet Central Asia and beyond, support for secular culture and religiously based social ethics is perceived not only as compatible but also as desirable. It also bears pointing out that a symbiotic nexus between law and social ethics is integral to the evolution of modern legal systems, and that a seminal principle of Muslim ethics is respect for the rule of law. Again, if transitional societies often draw on their ethical heritage to compensate for the weakness of the rule of law, they may also need to do so in terms of solidarity and self-organisation – the social capital of civic culture – especially when state institutions are fragile. Social capital is customarily seen as stemming from engaged citizenship, an elusive expectation in pre-democratic states. However, social traditions relating to charitable endowments (*waqfs*), direct and institutional aid through religious tithes (*zakat*) for the disadvantaged and community-based schools (*madrassas*) have deep roots in Muslim praxis. Regional variants include the *mahallas* (neighbourhood organisations) and *gaps* (interest-free support associations) in post-Soviet Central Asia. The potency of these ethical affinities becomes all the more evident in times of crises, when official institutions prove inadequate. This occurred rather conspicuously during the massive Turkish earthquake of August 1999, when mosque-based self-help initiatives were often the principal source of aid for thousands in need of food and shelter in several towns and cities; a militantly secular *devlet baba* (paternal state) was challenged by the civic energies of 'Islam'.<sup>[54]</sup>

In comparison with most transitional states in the Muslim world, the Turkish state is relatively strong and Islamist movements in the country do not at this juncture pose a significant threat to the Republican *status quo*. What is disconcerting about religiously-inspired ethical critiques from a statist perspective is their capacity to appeal to sources of legitimacy beyond the democratic framework of the modern polity – especially where the state's democratic credentials have yet to be fully established. Freedom of the media, judicial independence, clean elections and the probity of public finances, along with secessionist movements and the role of the military, are issues that can profoundly undercut claims to democratic legitimacy. In these circumstances, political accountability may be elicited through appeals to the *shari'a*, as has occurred in Afghanistan, Algeria, Iran, Sudan and, to a degree, in Nigeria. The results for individual liberty and civil society have been disastrous, not least because of the sundering of the *shari'a* from its ethical roots.

Yet as evinced by the surveys from Azerbaijan and Turkey, even a 'secular' citizenry is cognizant of the civic value of Muslim ethical precepts, including normative expectations of financial probity and consultative policy-making.<sup>[55]</sup> Hence, to the value of social ethics as a compensatory buffer against the frailty of the rule of law and of formal citizenship in transitional states, can be added its prospective role in fostering public accountability and participatory



politics. In states where the primacy of the *shari'a* curtails democratic avenues of accountability and participation, an ethical critique may effectively be the only available means to challenge the clerical establishment. This has typically been the case in post-revolutionary Iran. Intellectuals and activists have made challenges that claim legitimacy.<sup>[56]</sup> Such platforms appeal to wider notions of pluralism that might not otherwise get a hearing. Iranian women, for instance, have been actively engaged in United Nations conferences on gender equality.

### **Grounding a Culture of Nonviolence**

If social ethics have an empowering role to play, they also provide crucial restraints not only as proto-rule-of-law, but also as a compass for appropriate means to respond to and foster change. In the context of prevailing transitions to democracy, amidst the pressures of new global economic and political cultures, rapid change rather than continuity is the norm. Often, the pace and radical quality of change is perceived as an assault on indigenous values; on occasion, the assault is physical, when politico-economic establishments use the security apparatus of the state to stifle dissent and protest. The response by citizens and groups can also be violent, and the accompanying ideologies that seek to rationalise such behaviour may draw on a religious vocabulary. 'Islam' is harnessed as a legitimating discourse that privileges opposition to social, political and economic injustice – while its proscriptions against violent responses thereto are discarded. In a self-reinforcing cycle that Algeria exemplifies, the result can be to debilitate the public sphere – which in turn 'justifies' the use of violence to advance alleged democratic and religious ends. Hence, such conduct is exportable beyond national frontiers by proclaiming *jihad* (reduced to the notion of a 'holy war') against 'collaborating' establishments or even whole societies, as has occurred with the events of 11 September 2001 in the United States.

Frameworks like those of international human rights that outlaw the use of violence to advance claims of justice may be dismissed as ideologies of the same western establishments that collaborate with oppressive governments in the Muslim world. *A fortiori* with transnational criminal law directed at terrorism. The invocation of Islamic ethical injunctions against violence becomes imperative, and there is no dearth of authority in this respect. "Whoever slays an innocent soul ... it is as though he slays all of humanity", (Qur'an, 5:32) is an oft-quoted verse. Muslims are forbidden by the Qur'an from initiating hostilities, and warned when taking up arms in self-defence to "not transgress limits" (2:190). The rationale for *jihad* was to limit the legitimacy of warfare to preserving the highest moral values (Qur'an, 4:75; 22:40). These could never include forced conversion: "There must be no coercion in matters of faith!" (2:256), and Muslims are repeatedly urged to forgo revenge (5:45; 2:192, 193). Prophet Muhammad invoked in one of his last public sermons the pluralist tenor of the faith, captured in the Qur'anic verse, "O people! We have formed you into nations and tribes so that you may know one another" (49:13). Ideologues who claim that Muslims are enjoined to "slay [enemies] wherever you find them!" (4:89) overlook not only the defensive context,<sup>[57]</sup> but also the fact that the same verses insist that if the enemy ceases hostilities, "God does not allow you to harm them" (4:90). The social ethos of inclusiveness, compassion and reason is captured in the concept of *hilm*, which Izutsu deems a dominant feature of the Qur'anic text: "The constant exhortation to kindness (*ihsan*) in human relations, the emphasis laid on justice (*'adl*), the forbidding of wrongful violence (*zulm*), the bidding of abstinence and control of passions, the criticism of



groundless pride and arrogance – all are concrete manifestations of this spirit of *hilm*.”<sup>[58]</sup> It is an attribute that derives from the ‘traits’ of God, and becomes the highest aspiration of the community at large. It also counters the thrust of those inclined to resort to self-serving, decontextualised quotation from scripture and Prophetic tradition in support of political agendas whose legitimacy beggars the sanction of reason, revelation or civilisation.

## Conclusion

The polarity between mainstream liberal conceptions of civil society and putative Muslim approaches devolves ultimately to the locus of social ethics. While the world’s Muslims are diverse in their understandings of Islam, they share a *Weltanschauung* in which *din* and *dunya* are merged; both secular and sacred resonate in the public sphere. Far from precluding the institutional separation of Mosque and State, this perspective takes no ideological position: the *umma* can thrive in a plurality of political arrangements. The occidental liberal conception of civil society is not inimical to Muslim traditions simply because it is wedded to secular space. On the contrary, the primacy of the rule of law, participatory and dialogical politics, and the integrity of individual membership in a pluralist community are cherished by both traditions. However, a secularity that banishes social ethics from the public square is alien to Islam, for the moral orientation of individual and *umma* alike are privileged as public and private goals. There are obvious pitfalls in this privileging in the context of civil society.

Pluralism – of culture, thought and life-goals – as well as the capacity of modern states to abuse power, suggest that ethical frameworks should be bounded by democratic and civic commitments, including human rights. Bassam Tibi has cogently observed that the underlying challenge is about relocating civic life from a jealously-guarded ‘religious’ domain (in the reductive sense that Arkoun was quoted as lamenting) to a cultural-political one that accommodates the warp and woof of modernity.<sup>[59]</sup> For all the cultural anomie (after Durkheim) that is said to afflict Muslim elites in this Age of Anxiety, the prospects for civic life are scarcely likely to be enhanced by ‘religiously-led’ invocations of political or social authority. There is sufficient evidence on this score from contemporary transitional societies, including Saudi Arabia and the poignancy of Afghanistan’s post-1995 experience under the Taliban regime. As well, the rigidities of traditionalism that can reduce ethics to the minutiae of law must be resisted. If ‘Muslim ethics’ are to have salience in the public square, they must draw on a moral reasoning that transcends mere scriptural citation – and takes full account of the emerging discourse of global ethics.<sup>[60]</sup> Acts of political violence, for instance, must be understood as breaching the foundations of acceptable conduct by rupturing the social order in which the *umma* has its being and orientation, within and beyond the frontiers of Muslim-majority states. A moral calculus in this context would be mindful of Soroush’s plea for a pragmatism that focuses on the quotidian demands of secular life, yet finds inspiration in the verities of civilisational values. “Concern for individual rights, properly understood, is indeed compatible with community, duty, and virtue”, is a claim made for republican liberalism.<sup>[61]</sup> It could well be articulated by any number of Muslim reformers on behalf of the ‘Muslim public square’.



## Notes

1. See, inter alia, J. Cohen and A. Arato, *Civil Society and Political Theory* (Cambridge, Mass.: MIT Press, 1992); E. Gellner, *Conditions of Liberty: Civil Society and Its Rivals* (London: Hamish Hamilton, 1994); J.A. Hall (ed.), *Civil Society: Theory, History, Comparison* (Cambridge, UK: Polity Press, 1995); J. Haynes, *Democracy and Civil Society in the Third World: Politics and New Political Movements* (Cambridge, UK: Polity Press, 1997); J. Keane, *Civil Society: Old Images, New Visions* (Cambridge: Polity Press, 1998); L.C. McClain and J.E. Fleming, “Some Questions for Civil Society-Revivalists”, in *Chicago-Kent Law Review* (2000), 75.2, p. 301; London School of Economics, *Global Civil Society Yearbook 2001* (Oxford – London: Oxford University Press, 2001); A. Seligman, *The Idea of Civil Society* (New York: The Free Press, 1992); C. Taylor, “Invoking Civil Society”, in *Philosophical Arguments* (Cambridge, Mass.: Harvard University Press, 1995), p. 204.
2. Typically, see Gellner, “Islam” in *Conditions of Liberty*, p. 15-29; Serif Mardin, “Civil Society and Islam”, in *Civil Society: Theory, History, Comparison*, p. 301; M. Sariolghalam, “Prospects for Civil Society in the Middle East: An Analysis of Cultural Impediments”, in E. Ozdalga and S. Persson (eds.), *Civil Society, Democracy and the Muslim World* (Istanbul: Swedish Research Institute in Istanbul, 1997), p. 55.
3. See my cautionary comment on this score (2001): “Muslims Beware” (Op-ed) in *The Guardian* (London), 14 September, p. 22; and also shortly prior to the events of 11 September with regard to the use of religious rhetoric in political conflicts (2001): “No ticket to paradise” (Op-ed) in *The Guardian*, 4 September, p. 16.
4. On the ‘Constitution of Medina’, see R.N. Bellah (ed.), *Beyond Belief: Essays on Religion in a Post-Traditionalist World* (Berkeley: University of California Press, 1991), especially p. 150-151; on Farabi and the ethical heritage in Islam, see R. Walzer, *Al-Farabi on the Perfect State* (Oxford: Clarendon Press, 1985); M. Fakhry, *Ethical Theories in Islam* (Leiden: E.J. Brill, 1994); R.G. Hovannisian (ed.), *Ethics in Islam* (Malibu, Cal.: Undena Publications, 1985).
5. See J. Habermas, “Civil Society and the Political Public Sphere” in *Between Facts and Norms*, trans. W. Rehg (Cambridge, Mass. – Cambridge, UK: MIT Press / Polity Press, 1996), p. 329-387; C. Taylor, “The Public Sphere” in *Philosophical Arguments*, p. 257-87.
6. ‘Ethics’ and ‘morals’ are generally used interchangeably in contemporary parlance, scholarly and otherwise. Both are rooted in the Greek/Latin for ‘customs’, viz. *ethikos* and *mores*. For present purposes, I shall in the context of mainstream (as opposed to specific Muslim) usage refer to ethics, and particularly social ethics, as the set of rules that purport to guide the behaviour of a society. Morals are referred to more narrowly as judgements about right and wrong, mindful of their religious resonance today. See Peter Singer, “Introduction”, in P. Singer (ed.), *Ethics* (New York – Oxford: Oxford University Press, 1994), p. 4-5.
7. “Cross-Purposes: The Liberal-Communitarian Debate”, in *Philosophical Arguments*, p. 186.



8. — — p. 194. Taylor observes that in a broad sense, the “right” may include “the shared good”. But strictly speaking, a liberal consensus among citizens in increasingly pluralist societies is about such shared goods as individual dignity and sanctity, and respect for the rule of law, in other words, values that maintain social harmony.

9. Hence “virtue” is “human excellence”, which requires man to “perform his function well”: *The Ethics of Aristotle: The Nicomachean Ethics*, trans. J.A.K. Thompson (London: Penguin Books, 1976), p. 99-100; and Jonathan Barnes’s introduction in the same volume, especially p. 29-36.

10. R. Rorty, “The Priority of Democracy to Philosophy”, in *Objectivity, Relativism, and Truth: Philosophical Papers*, Vol. 1, (Cambridge: Cambridge University Press, 1991), p. 176. He therefore advocates working for a “post-Philosophical culture” in the name of civic pluralism.

11. See I. Berlin, *Four essays on liberty* (London: Oxford University Press, 1969), and *The Sense of Reality: Studies in Ideas and their History* (London: Chatto & Windus, 1996); K. Popper, *The Open Society and Its Enemies*, Vol. 1 (London, Routledge & Keegan Paul, 1945; reprinted London: Routledge, 1999).

12. Notably the ‘international bill of rights’ that comprises the Universal Declaration of Human Rights of 1948, and the ensuing United Nations covenants on Civil and Political Rights, and on Social, Economic and Cultural Rights. See generally C. Hesse and R. Post (eds.), *Human Rights and Political Transitions: Gettysburg to Bosnia* (New York: Zone Books, 1999); Charles Taylor, *Sources of the Self: The Making of Modern Identity* (Cambridge, Mass.: Harvard University Press, 1989).

13. See V. Havel, *The Power of the Powerless: Citizens against the State in Central-Eastern Europe*, ed. John Keane (New York: M.E. Sharpe, 1985); Gellner, *Conditions of Liberty*. Popper’s influence on Soros is reflected in the latter’s Open Society Institute, which funds civic projects across Eastern Europe.

14. R. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster, 2000).

15. Joan Smith, *Moralities: Sex, Money and Power in the Twenty-first Century* (London: Penguin, 2001).

16. See Taylor, “The Public Sphere”, p. 266-271; Gellner, *Conditions of Liberty*, p. 44-52. Richard Neuhaus famously lamented this state of affairs in *The Naked Public Square: Religion and Democracy in America* (Grand Rapids, Mich.: Eerdmans, 1984).

17. See A. Etzioni, *The Spirit of Community* (New York: Simon & Schuster, 1994), and “Law in Civil Society, Good Society, and the Prescriptive State”, in *Chicago-Kent Law Review* (2000), 75.2, p. 355; A. Giddens (ed.), *The Global Third Way Debate* (Polity Press, 2001); J. Gray, *Enlightenment’s Wake* (New York – London: Routledge, 1995); G. Himmelfarb, *The De-*



*Moralization of Society: From Victorian Virtues to Modern Values* (New York: Alfred Knopf, 1995); R. Kuttner, *Everything is for Sale: The Virtues and Limits of Markets* (New York: Alfred Knopf, 1997); M. Sandel, *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1998).

18. *The Clash of Civilizations and the Remaking of World Order* (New York: Simon & Schuster, 1996). The book elaborated on themes that Huntington had first set forth in a controversial essay, “The Clash of Civilizations?”, in *Foreign Affairs* (Summer 1993), 72.3, p. 22.

19. A.B. Sajoo, “The Crescent in the Public Square”, in *Islam in America* (1997), 3.4 , p. 1, and “The Islamic Ethos and the Spirit of Humanism”, in *International Journal of Politics, Culture and Society* 8 (1995), p. 579. See also B. Turner, *Orientalism, Post-modernism and Globalism* (London – New York: Routledge, 1994).

20. See, for example, J. Clark, “Americans are blind to barbarians at their gates” (Op-Ed). In *The Times* (London), 15 September 2001, p. 18 (Clark, who is Hall Professor of History at the University of Kansas, cites Huntington in support of a ‘jihad’ against terrorism in the wake of the September events). Ironically, Huntington’s stance was challenged in this context by Francis Fukuyama, who insisted that the liberal convergence envisaged in his “end of history” paradigm remains valid – that the “paroxysms of anger and violence” among Muslims did not alter the fact that there was no “viable political program for Muslim societies to follow” outside western liberalism: “The west has won”, in *The Guardian*, 11 October 2001, p. 21.

21. Etzioni, “Law in Civil Society”. See also McClain and Fleming, “Some Questions for Civil Society-Revivalists”, especially p. 302-309. On the idea of the good society, see R. Dagger, *Civic Virtues: Rights, Citizenship, and Republican Liberalism* (Oxford – New York: Oxford University Press, 1997); R.N. Bellah, R. Madsen and W.M. Sullivan, *The Good Society* (reprint, New York: Virgin Books, 1992).

22. For Mary Ann Glendon, the virtue-value dichotomy and primacy of individual liberties have eroded the “seedbeds of virtue” in which the civil society project must be grounded “Introduction: Forgotten Questions”, in M. Glendon and D. Blankenhorn (eds.), *Seedbeds of Virtue: Sources of Competence, Character, and Citizenship in American Society* 1, (1995), especially p. 12.

23. *Conditions of Liberty*, p.102.

24. — — p. 98-99.

25. — — p. 26-29. Segmentary communities may avoid central/authoritarian tyranny, Gellner argues, but in their failure to shake off the tyranny of ritual and kinship they cannot qualify as civil societies.

26. See my review of *Conditions of Liberty* in *Canadian Journal of Law and Society* 11, (1996), p. 307.



27. See D. Eickelman, “Inside the Islamic Reformation”, in *Wilson Quarterly* 22.1, (1998), p. 80; D. Eickelman and J. Piscatori (eds.), *Muslim Politics* (Princeton, N.J.: Princeton University Press, 1996); J.L. Esposito and J. Voll, *Islam and Democracy* (New York – Oxford: Oxford University Press, 1996); E. Ozdalga, “Civil Society and Its Enemies”, in *Civil Society, Democracy and the Muslim World*, 73.

28. See Taylor, “The Public Sphere”, in *Philosophical Arguments*, p. 257-87.

29. Quoted in D.H. Cole, “An Unqualified Human Good: E.P. Thompson and the Rule of Law”, in *Journal of Law and Society* 28.2 (2001), p. 177-203, at p. 182. Cole shows that Thompson’s “minimal conception” of the rule of law – a functional view that contrasts with more elaborate, ideology-ridden definitions – allowed him to be derisive about the workings of the law and yet laud it as an institution.

30. See K. Armstrong, *The Battle for God* (London: HarperCollins, 2000); C.G.A. Bryant, “Civic Nation, Civil Society, Civil Religion”, in *Civil Society: Theory, History, Comparison*, p. 136-57; R. Coles, *The Secular Mind* (Princeton: Princeton University Press, 1999).

31. Gellner, *Conditions of Liberty*, p. 5.

32. While this conceptual polarisation was accentuated by the ideological clashes of the Cold War, so that Soviet bloc states favoured socio-economic rights as against the civil-political rights espoused by western states, the roots of the conflict can be traced within the liberal tradition itself. See Taylor, p. 197-203.

33. *Civil Society: Old Images New Visions*, p. 80.

34. — — p. 52-57, 79-89. Keane tends to use ‘virtue’ and ‘value’ loosely and interchangeably here. It is prudent for purposes of clarity to avoid such overlapping usage: see note 24, supra, and accompanying text.

35. — — p. 56.

36. See A. An-Na‘im, “The Synergy and Interdependence of Human Rights, Religion and Secularism”, in polylog: Forum for Intercultural Philosophy 2 (2001), online: <http://them.polylog.org/3/faa-en.htm>; M. Arkoun, “The Ideal Community”, “The Person”, and “Ethics and Politics”, in *Rethinking Islam*, trans. R.D. Lee (Boulder, Col. – Oxford: Westview Press, 1994); S.J. Al-Azm, “Is Islam Secularizable?”, in *Civil Society, Democracy and the Muslim World*, p. 17-22; A. Filali-Ansari, “Can Modern Rationality Shape a New Religiosity? Mohamed Abdel Jabri and the Paradox of Islam and Modernity”, in J. Cooper et al. (eds.), *Islam and Modernity* (London – New York: I.B. Tauris, 2000), p. 156-71; N. Madjid, “Potential Islamic Doctrinal Resources for the Establishment and Appreciation of the Modern Concept of Civil Society”, in N. Mitsuo et al. (eds.), *Islam and Civil Society in Southeast Asia* (Singapore: Institute of Southeast Asian Studies, 2001), p. 149-163; C. Muzaffar, “Ethnicity, Ethnic Conflict and Human Rights in Malaysia”, in C.E. Welch and V.A. Leary (eds.), *Asian Perspectives on*



*Human Rights* (Boulder, Col.: Westview Press, 1990), p. 107-141; F. Rahman, “Law and Ethics in Islam”. in *Ethics in Islam*, p. 3-15; M. Sadri and A. Sadri (eds.), *Reason, Freedom, and Democracy in Islam: Essential Writings of 'Abdolkarim Soroush* (Oxford: Oxford University Press, 2000); R. Wright, “Two Visions of Reformation” (on Soroush and Ghannouchi), in *Journal of Democracy* 7 (1996), p. 64-75.

37. Arkoun, “Ethics and Politics” in *Rethinking Islam*, p. 117.

38. Walzer, *Al-Farabi on the Perfect State*, p. 229-259.

39. Miskawayh, *The Refinement of Character*, trans. by C.K. Zurayk (Beirut: American University, 1968).

40. Nasir ad-Din Tusi, *The Nasirean Ethics*, trans. by G.M. Wickens (London: Allen & Unwin, 1964).

41. See Fakhry, *Ethical Theories in Islam*, p. 61-99.

42. — — p. 193-206; Arkoun, *Rethinking Islam*, p. 118.

43. F. Rahman, *Ethics in Islam*, especially p. 4.

44. See M. Iqbal, *The Reconstruction of Religious Thought in Islam* (Lahore: Muhammad Ashraf, 1962), especially p. 178. While *ijtihad* was far more curtailed in the majoritarian Sunni than the Shi'i tradition in Islam, where imams and leading jurists (such as ayatollahs) continued to exercise it, it nonetheless lost the activist, innovative impulse that it had in both the traditions in early years. Iqbal characterises the post-11th century attitude in this regard as nothing less than of “intellectual laziness”.

45. There were exceptions, such as the Iranian Shi'i *ulema* who held out against pre-Revolutionary despotisms through much of the 20th century, and the Sunni *ulema* of Al-Azhar who did likewise in Egypt. But such resistance became – by and large – symbols less of ethical authority and independence than of rigid traditionalism in the face of ‘secular modernity’.

46. In which Ghazali himself, for all his theological and ethical authority, played an important part amid the Turko-Arabian political tensions of the Seljuk period in the late-11th century: see G. Makdisi, “Authority in the Islamic Community”, in G. Makdisi (ed.): *La Notion d'autorite au moyen age: Islam, Byzance, Occident* (Paris, 1982); and G. Makdisi, “The Marriage of Tughril Beg”, in *International Journal of Middle East Studies* (1970), p. 259-275.

47. F. Kazemi, “Civil Society and Iranian Politics”, in A.R. Norton (ed.), *Civil Society in the Middle East*, Vol. 2 (Leiden – New York: E.J. Brill, 1996), p. 119, 123-126; R. Wright, *The Last Great Revolution: Turmoil and Transformation in Iran* (New York: Knopf, 2000), p. 32-76, 243-88.



48. See generally A.S. Moussali, “Modern Islamic Fundamentalist Discourses on Civil Society, Pluralism and Democracy”, in A.R. Norton, *Civil Society in the Middle East*, Vol. 1 (Leiden – New York: E.J. Brill, 1995), p. 79.

49. *Reason, Freedom, and Democracy in Islam*, p. 39-53.

50. — — p.105-121 (quote at p. 120).

51. T. Faradov, “Religiosity in Post-Soviet Azerbaijan: A Sociological Survey”, in *ISIM Newsletter* 8 (2001), p. 28 (Institute for the Study of Islam in the Modern World, Leiden; also at [www.isim.nl](http://www.isim.nl)). The survey was funded by George Soros’s Open Society Foundation.

52. Although 63.4 per cent of respondents identified themselves as ‘believers’, 57.6 per cent said they did not observe any of the basic religious principles, and 82.3 per cent said they did not pray formally.

53. A. Carkoglu, “Religion and Public Policy in Turkey” [for the Political Islam in Turkey project at Bogazici University, Istanbul], in *ISIM Newsletter*, note 54 supra, 29.

54. See E. Kalaycioglu (forthcoming), “Civil Society in Turkey: Continuity and Change?”, in B.W. Beely (ed.), *Turkish Transformations* (Walkington, UK: Eothen); Nilufer Gole, “Authoritarian Secularism and Islamist Politics: The Case of Turkey”, in *Civil Society in the Middle East* 2, 17.

55. Fiduciary obligations on the part of private and public custodians of wealth are a well-known facet of Islamic tradition, as is the *shura* principle of decision-making by consultation with those who will be affected.

56. See Z. Mir-Hosseini, *Islam and Gender: The Religious Debate in Contemporary Iran* (London: I.B. Tauris, 2000), especially p. 103-104, 128-143, 241-246.

57. Parallel to what underpins far stronger exhortations in the Bible: “Kill every breathing thing in the city”, says the Book of Joshua, for example.

58. T. Izutsu, *God and Man in the Koran: Semantics of the Koranic Weltanschauung* (Tokyo: Keio Institute of Cultural and Linguistic Studies, 1964), p. 216.

59. Bassam Tibi, *Islam Between Culture and Politics* (Basingstoke, Hants. – New York: Palgrave, 2001), especially p. 69-81.

60. See, for instance, H. Kung (ed.), *Yes to a Global Ethic*, trans. J. Bowden (SCM Press, 1996); P. Singer (ed.), *A Companion to Ethics* (London: Blackwell).

61. Dagger, *Civic Virtues*, p. 201.