# The Women's Foreign Policy Group

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## *"Islamic Perspectives on Democratic Virtues, Pluralism, and the Common Good"*

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**PATRICIA ELLIS**:
I am Patricia Ellis, Executive Director of the Women's Foreign Policy Group, an organization dedicated to promoting women's voices on the pressing international issues of the day. We do this through our membership directory. The 2006 edition will be out by the end of the summer. We also fulfil this mission through our issues programs such as our program today on "Islamic Perspectives and Democratic Virtues, Pluralism and the Common Good" with Asma Afsaruddin, Associate Professor of Islamic Studies at the University of Notre Dame. She's also here as a 2005 Carnegie Corporation of New York Scholar.

We have been doing a series on the role of Islam. This is the fourth program in this series. And the programs have just been really wonderful. We all need more information and we're able to hear from scholars who have been spending a lot of time working on and thinking about these issues. This enables us to put things in historical perspective, giving us a framework more than just what happened yesterday and what might happen tomorrow. So, it's really been a wonderful series and we're really excited about it. We're going to have another program on September 7th right after Labor Day with Professors Lawrence Rosen of Princeton and Brian Edwards of Northwestern. They will be talking about the intersection of western culture and Muslim values. It should be really exciting.

We regularly hear from women leaders and experts from the United States and from around the world. Recently, we heard from the Egyptian Assistant Foreign Minister for the Americas, Dr. Sallama Shaker. It was really a very interesting program. We also work closely with the women ambassadors to Washington, one of whom is here today, the Ambassador of Austria. She is a member and was a recent speaker at a really interesting session on the challenges facing the EU. She spoke during the period when Austria was President of the EU Council.

We have a great turnout today. Who says no one is in town in July? It's fantastic. We're so glad you could all come. We also have representatives of other embassies – France, Germany, Pakistan, Saudi Arabia, the UK and from the State Department. We have a great group, so I know the discussion after our speaker makes a presentation will be very exciting. It's a real tribute to our speaker that all of you have turned out. The topic is so interesting – "Islamic Perspectives on Democracy and Pluralism," especially given the crises in the Middle East. We're all looking forward to hearing from our speaker.

It's now my pleasure to introduce Professor Afsaruddin. As I mentioned, she's Associate Professor of Arabic and Islamic Studies. She specializes in religious and political thought of Islam, the *Koran*, Hadith studies, Islamic intellectual history and agenda. In addition, she chairs the board and executive committee for the Center for the Study of Islam and Democracy. She's on the editorial board of the *Oxford Encyclopaedia of Modern Islam*, and the bulletin of Middle East Studies Association. She's on many different advisory boards of women's organizations including Peace by Peace, the Women's Global Initiative Karma, and also the U.S. Institute of Peace's Muslim World Initiative. She's authored *Excellence in Presidents,* and *Medieval Islamic Discourse on Legitimate Leadership.* She's now working on a book, *The First Muslims, A Short History* which is due out in 2007, which looks at competing perspectives of jihad and martyrdom in Islamic thought. She's received many fellowships and awards including ones from the Carnegie Corporation of New York, Guggenheim Foundation, Center for Islamic Studies, London School of Oriental and African Studies, the American Research Institute of Turkey, and the American Research Center of Egypt. She has a Ph.D. from Johns Hopkins and previously taught at Harvard. Please join me in welcoming Asma Afsaruddin.

**DR. ASMA AFSARUDDIN**:
Well, thank you, Patricia, for that very generous introduction. And thank you all for coming. I guess I should feel flattered that all of you are here in the middle of the summer when you probably have better things to do with your time and I hope I live up to your expectations. Now, within the span of 20 or 25 minutes, I'm going to be able to barely scratch the surface, so what I'm hoping is the remarks that I present today will serve as a springboard for further discussion and will tie in with some of the larger issues at stake. I do want to point out that on your table is a handout that accompanies my talk. I kind of through out some technical terms in Arabic but I should warn you, some of them are a little scary. But I think if you refer to this handout as I proceed with my talk that might be helpful.

History, as it is commonly stated, should be studied so that one may not be condemned to repeat it. In the Islamic context, there is a good deal of justification to state just the opposite. History we may say, "should be studied so that one may repeat at least selected parts of it." This injunction may well apply when scouring the early Islamic landscape for pointers on how to govern the polity and recreate a moral political culture based on values indigenous to Islam and which resonate in our contemporary world. This, after all, is a topic that has been the subject of much debate in recent history, and even earlier among the Muslims themselves of the first and subsequent generations.

The cluster of ethical and political values that may be retrieved by examining early historical and theological works as well as the praxis of early Muslim communities will be evaluated to determine if they may be found to be consonant with modern democratic virtues and notions of pluralism and the common good. This would then set the stage for reflection on how these principles may be applied in contemporary Muslim societies to promote civil and democratic polities. Here I want to stress that a widespread popular desire for democratic reform in a majority of Muslim countries has been documented through various surveys. For example, the Pew Global Attitudes Project within the Pew Research Center for the People and the Press released a survey in June 2003 which established that a majority of the people in many Muslim countries want democratic governments and that more inhabitants of these countries were in favor of democracy than residents of Eastern Europe, for example. This report was based on a poll of 16,000 people in 20 countries plus the Palestinian territories. The results of this survey affirmed what many of us had been stating all along – that Muslims in a wide cross section of the Islamic world desire political reform in their countries and wish to see Democratic governments installed.

This brings us to the critical question which has achieved urgency in the contemporary period in discussions concerning the possibilities of democratic reform in Muslim-majority countries.
The question is: was there an Islamic state in the early period and, if there was, what did it mean and

what were its goals? Needless to say, those whom we term Islamists today believe there was and their program, which has been termed political Islam, is relentlessly geared towards resurrecting the assumed Islamic state. The "Islamic State," for them, coincides with the historical caliphate of the first century during which the four Rightly-Guided successors of the Prophet Muhammad ruled, between 632-661 of the Common Era, and which they believe can be replicated wholesale in the modern era.

The traditional nemesis of the Islamists – that is, the modernists and reformists – do not necessarily have a consistent position on the issue of the so-called Islamic state and government. Some modernists advocate the establishment of a state that would be recognizably Islamic, primarily by upholding the Shari'a or the religious law. The Shari'a, however, unlike the Islamists, is understood by modernists to be an adaptable moral and legal code providing broad guidelines for moral and ethical behavior and which can be interpretively accommodating of modern life and its complexities. Unlike the Islamists, the revival of the caliphate as an institution is not necessarily an integral part of the modernist project, although the revival of the ethical and political principles and the general ethos associated with the Rashidun caliphate usually is. Furthermore, unlike the Islamists, the modernists do not believe that there is a pre-conceived blueprint specifying the structural format of an "Islamic State" as such. Modernists tend to regard any state which guarantees certain basic individual and communal rights and liberties as being in accordance with broad Islamic moral parameters and thus meeting the Islamic litmus test. The actual mode of governance may be decided upon by consultation with knowledgeable people, the consent of the public, and the prevailing historical circumstances, since they believe that there are no specific directives concerning this matter.

With regard to legitimate government, Muslim thinkers in general, and modernists in particular, tend to insist on three cardinal tenets that are defining of consultative and accountable government, an ideal believed by them to have been pursued by the earliest Muslims and actually implemented by the Rightly-Guided Caliphs. Even the Islamists pay at least lip service to them but they disagree with the modernists as to the political purview of these tenets. These three tenets are: a. *shura* ("consultation") and accountability; b. *bay'a* ("allegiance;" "ratification"); and c. *ijma'* ("consensus"), which I will now briefly discuss further.[i]

First, the *Shura* is a Qur'anic concept and thus sanctified by revelation and rooted in prophetic practice. There are two Qur'anic verses advocating consultation which are frequently quoted in this context. The first (3:158-59) states, "So pass over [their faults], and ask for [God's] forgiveness and consult them in matters; then, when you have made a decision, put your trust in God." The second verse (42:38) runs, "[The believers are] those who answer the call of their Lord and perform prayer, and who conduct their affairs by mutual consultation, and who spend of what we have bestowed upon them."
Consultation on various matters has been considered obligatory by most scholars while others have tended to regard it as a highly recommended practice. The predominant sentiment in the sources – theological, juridical, ethical, and administrative – is that *shura* as mutual consultation in various spheres is the preferred and desirable method of resolving matters, including in the political sphere. Numerous instances of the Prophet Muhammad's consultative activities are documented in these literatures.[ii] Such attestations from the time of the early period have created, in fact, a powerful normative precedent for succeeding generations of the faithful.[iii]

More examples drawn from the Rashidun period further buttress the position of the modernists. They point to the first caliph Abu Bakr's inaugural speech which emphasized governance based on consultation with the people and his complete accountability to them, inviting the people to correct him if he should fall short in any way. The second caliph 'Umar's setting up of the six-man electoral council (*shura*) to deliberate upon the choice of his successor is a powerful feather in the cap of the modernists. *Shura* and the principle of accountability it embodies has in fact been the clarion call of many Muslims railing against despotic government throughout the pre-modern and modern periods. Accountability on

the part of public officials remained a hallmark of political legitimacy. The twelfth century Andalusian Qur'an commentator Ibn 'Atiyya was of the opinion that an individual who did not confer with knowledgeable and morally upright people was liable to be removed from public office. His opinion forefronts the important corrective role of both moral values and knowledge in reining in unbridled power and in making political authority accountable to the broader collective will.

*Shura* as an actual deliberative body has been understood by many modernists to be the precursor of the modern parliament or legislative assembly, setting a normative example for the translation of broad guidelines of proper governance into administrative reality. They insist that a representative and accountable government which upholds justice and equitable treatment for all its citizens is the only kind permissible within Islamic societies, regardless of what its actual structure and mode may be.[iv] Modernists tend to be strong proponents of democracy today, whether in its liberal or republican form, since in their perception such a mode of government best satisfies Islamic standards of righteous governance established in the earliest period.[v]

Next, B*ay'a* ("allegiance;" "ratification") is established through prophetic practice and the custom of the Rightly-Guided Caliphs. It is well-known that newly converted Muslims, male and female, personally came to the Prophet and gave him their allegiance, which signaled their inclusion in the Islamic community. In the post-prophetic period, this remained a standard practice which served to recognize the importance of the people's explicit or tacit consent to being governed by specific individuals. Thus, Abu Bakr's election could only be ratified by the allegiance or the *bay'a* given by the people present during his selection process, as were the subsequent choices of the remaining Rashidun caliphs. The practice continued, at least nominally, even when dynastic rule became the norm.

Many modernists tend to interpret the early *bay'a* as the equivalent of the modern ballot whereby an individual gets to register his or her opinion regarding the eligibility of specific political candidates.[vi] The *bay'a*, by the way, was taken from both men and women during the Prophet's time so that it has been argued by some feminist historians that Islam politically enfranchised women in the seventh century. Many today also suggest that since the rationale behind the *bay'a* in the Rashidun period was the soliciting of individual opinion in the election of the leader, such a rationale can best be realized in the contemporary period through the modern voting system.

Thirdly, *ijma, or* consensus, is ideally speaking, the desired end of the consultative process and collective decision-making. In addition to *shura* and *bay'a*, modernists underscore the concept of *ijma'* to point to what they perceive as the inherently democratic impulse within Islam. *Ijma'* is not a Qur'anic term but its normativeness is established through the practices of the earliest Muslims (*salaf*). Modernists thus refer to the process of caliphal selection from the Rashidun period which depended on popular ratification to establish its legitimacy. The manner of election of the caliphs, they affirm, points to the importance of building a broad base of consensus to legitimize key political decisions in particular.[vii] Consensus, in fact, became one of the sources of jurisprudence, along with the Qur'an, *sunna*, which refers to the customs and practices of Muhammad and analogy (Ar. *qiyas*), as articulated by the prominent jurist o f the ninth century al-Shafi'i (d. 820). Consensus, in theory of the people[viii] but in reality of the scholars who claimed to represent the people,[ix] would over time also come to be regarded as reflective of the divine will; for, surely, was the pious view, the majority of righteous Muslims through study of their sources, consultation among themselves, and deliberative reflection would decide on the right course of action that would meet with divine approval.[x]

Let me go on now to a discussion of perceptions of the common good. The Qur'anic designation of human beings as "God's viceregent" (Ar. *khalifa*) on earth is emphasized by modernists as investing humans with the right and authority to assume custodianship of earth. The example of the Rightly-Guided Caliphs, the modernists assert, clearly establish that such custodianship was understood in the

early period to be predicated on human agency and reasoning while safeguarding the moral objectives and spirit of the religious law. The second caliph 'Umar's bold innovations, for example, in instituting the state register of pensions (*diwan*), establishing the Islamic (*hijri*) calendar, and in modifying inheritance laws are lauded by posterity as reasoned measures whose adoption was prompted by both moral and practical considerations of the common good, known in Arabic as *maslaha*.

There was in fact a diversity of opinions regarding the nature and scope of government as recorded in some of our sources. This diversity is attested to, for example, by the eleventh century rationalist theologian 'Abd al-Jabbar (d. 1095) who identifies three broad trends of thought in his time on the issue of the caliphate. The first, a minority, held that the caliphate was not necessary; the second believed that it was required on the basis of reason; and the third maintained that it was necessary according to the religious law.[xi] This range of thought testifies to the active engagement of many thinkers with the critical issues of sound governance and socio-political administration, unfettered by an assumed religious mandate for a specific political institution. Their suggestions and solutions were clearly the product of rational deliberation and philosophical reflection, based on the needs of their own times and circumstances and on the conception of the common good. Therefore for good historical reasons, most Muslim modernists and reformists today reject the notion of a supposed, magical blueprint for a reified Islamic State. Rather, they maintain, there are broad political and ethical values within the Islamic tradition which support the concept of good, consultative governance and the creation of a moral political culture.

The law, in fact, insist the modernists must always uphold the common good (Ar. *maslaha*). Thus they emphasize the application of the intent and overall objectives (Ar. *maqasid*) of the religious law more than its literal injunctions, especially when the literal understanding of a specific dictum in a particular circumstance would result in unusual hardship and/or violation of an inviolable broader moral imperative. Thus, many of them argue, since the *Shari'a* or the religious law must uphold certain ethical values such as justice and mercy at all times, specific legal injunctions may never violate these fundamental requisites in any given historical and social circumstance.[xii] Those injunctions that appear to do so need to be reexamined and reinterpreted.[xiii] Modernists thus place more emphasis on determining underlying cause or rationale of specific legal precepts than on their literal, textual meaning. To support their views, the modernists point to the writings of pre-modern scholars such as al-Ghazali, al-Tufi, and al-Shatibi, for example. There is in fact a large corpus of legal writings from the pre-modern period that they can appeal to for valuable support for their views. It is this legal genealogy that needs to be emphasized to convince the large majority of Muslims today that this kind of legal reasoning was already a vibrant part of the classical legal heritage and is a legal hermeneutic and practice that needs to be resurrected and applied in the contemporary period.

This modernist position flies in the face of a number of misconceptions regarding the Shari'a, the religious law of Islam, and its purview. For example, it is often sweepingly asserted that the Islamic religious law, the Shari'a, covers *every* aspect of life. The religious law of Islam does indeed cover many important aspects of human existence and offers broad guidelines for proper conduct in various spheres. But it certainly does not, and cannot, have a specific prescription for every possible human situation or contingency. The well-known modernist scholar of Islam Fazlur Rahman has commented that the Qur'an, the principle source of the religious law, is not a law book but is primarily a corpus of moral and ethical imperatives from which legal rulings may be derived.[xiv] Through human effort and reasoning, specific legal rulings in specific circumstances may be extrapolated from the broad moral guidelines offered by the Qur'an, as well as by the *sunna*. The result is *fiqh* - the Arabic name for the "science of law" or "jurisprudence," which, by definition, is what results from human rational activity. *Fiqh* in Arabic literally means "perception" and "understanding."

The Tunisian political activist, Rachid Ghannouchi, has referred to what he calls *faraghat* [lit: 'empty

spaces'] in the spectrum of human activities for which the Shariʻa does not have specific rulings. Instead, humans are expected to exercise their faculty of independent reasoning (Ar. *ijtihad*) guided by the overall objectives of the religious law in order to determine the proper course of conduct in these spaces.[xv] One such "empty space" is the political realm, regarding which the Qur'an and the *sunna* has broad guidelines, as I have already maintained, but does not mandate a specific form of government.

One may argue that if ultimately the purpose of human governance is to promote lawfulness and order in society, any mode of governance which is conducive to the achievement of this objective is "permissible" and in itself morally neutral. It has thus been argued, rightly in my opinion, that even a benevolent monarchy that resorts to consultation with representatives of the larger society may be considered "permissible" as long as the broader objectives of proper human governance are attained. With the contemporary discrediting of monarchies, benevolent or otherwise, should the majority of the people wish to elect their representatives instead of "anointing" them and if the principle of *shura* or consultation is thereby better implemented, which is a basic requirement of the Shariʻa, then a democracy in the modern sense is also permissible, according to this reasoning, as a means towards a moral and legitimate objective.

I would hazard a reasoned guess that many, if not most, people in the Islamic world today want to continue to be observant Muslims and live in democratic societies at the same time, seeing no disjunction between the two but rather regarding political democracy as the modern realization of the Qur'anic concept of *shura* and the juridical principle of ijmaʻ ('popular consensus').[xvi] As the Shariʻa clearly allows for creativity and change in the political realm, regarding which it provides no detailed prescriptions, Muslims may consider themselves free to experiment with various modes of political governance and the institutions required to uphold them.[xvii]

Now let me go into a brief discussion of the concept of pluralism within Islamic thought. Democratic structures are necessary for ensuring orderly and consensual political decision-making, but they alone do not guarantee peaceful social relations among various groups of people. Most religious and cultural communities of the world draw on ethical precepts and rich scriptural tradition to fashion codes of inter-personal and inter-communal conduct. In this regard, Muslims have recourse to specific Qur'anic concepts and ideas from which universal ethical principles may be derived to promote harmonious relationships among diverse peoples and faith communities. One of the most important of such concepts is the concept of knowledge of one another (Ar. *al-taʻaruf*), based on respect for diversity and difference.

The concept of *al-taʻaruf* or "knowledge of one another" derives from Qur'an 49:13, which states: "O mankind! We have created you from a male and a female, and made you into nations and tribes, that you might get to know one another. The noblest of you in God's sight is the one who is most righteous." The tenth century medieval Muslim exegete Muhammad b. Jarir al-Tabari (d. 923) explains this verse as emphasizing that only on the basis of piety may we distinguish between human beings, not on the basis of lineage and descent. He quotes a *hadith* or a saying of the Prophet Muhammad in this context in which he relates that all humans were descended from Adam and Eve. "Indeed," the Prophet asserts, "God will not question you regarding your pedigree and tribal affiliation on the Day of Judgment, for only the most righteous is the noblest before God."[xviii]

Let me give you a related verse, Chapter 5, Verse 48, which further underscores the notion of pluralism. Again, these are the kinds of verses that are being mentioned and repeated frequently in contemporary discourses about retrieving a pluralist impulse within earlier Islamic thought. It states:

"For every one of you, we have appointed a law and way of life. And if God had so willed, He could surely have made you all one single community, but (He willed it otherwise) in order to test you by means of what He has given you. Hasten, therefore, to do good works! To God you all must return; and

then He will make you truly understand all that on which you were inclined to differ."

These two verses (49:13 and 5:48) are crucial proof-texts invoked by Muslims today to indicate divine sanction of religious and cultural pluralism. Many classical as well as modern commentators on the Qur'an have taken serious note of these verses and commented on how this affects the relationship of Muslims to practitioners of other faiths, or, I may add, people of no faith. Possibly the most significant part of this verse is the statement "For every one of you we have appointed a law and way of life." Every community - religious or religio-cultural community - is thus regarded as having its own law and its own way of life and capable of attaining spiritual growth in keeping with this law and way of life. This is further emphasized in the next part of verse 5:48, which states, "And if God had so willed, He could surely have made you all one single community." It would not be difficult for God, after all, to fashion a single community out of all humankind. But the Qur'anic view is that pluralism is a divinely mandated feature which adds richness and variety to human existence. Each community's laws or way of life should be such as to ensure growth and the enrichment of life, without causing harm to others. Beyond this proviso, a wide variety of local customs and cultural variations has traditionally been tolerated in many Islamic societies through time. As an example, we can mention here the 'Abbasid period during which Christians and Jews contributed to the intellectual and cultural life under their Muslim patrons. We may also mention al-Andalus or Muslim Spain which existed between the eighth century and the late fifteenth century and was noted for its period of convivencia or co-existence between Muslims, Christians, and Jews, leading to the flowering of the sciences and arts there. Much of this learning would be transmitted to medieval Europe and pave the way for the Renaissance there. Another very strong example is provided by the Ottoman Empire which was a truly multi-faith, multi-cultural, and multi-ethnic society in which various non-Muslim communities - the different Christian denominations and Jews - lived within their autonomous religious communities known as millets, governed by their own religious laws until the early modern period.

In our time, as we seek genuine understanding between individuals, cultures and nations, traditions of tolerance within the Islamic heritage that historically have been accommodating of a diversity of perspectives and helped keep extremism at bay for lengthy periods of time clearly need to be forefronted by Muslims today as they battle the forces of intolerance and illiberalism in their midst. It is noteworthy that Qur'an 49:13 goes beyond simple toleration of our diversity of background; it further advocates that one should get to know one another (Ar. *li-ta 'arafu*) so as to inspire in us affection for the other and to appreciate the diverse gifts and richness that we bring to one another. Because of the circumstances of their own time, medieval exegetes like al-Tabari tended to gloss the verb *ta'arafu* to mean learning about each other's tribal and similar affiliational backgrounds in order to establish bonds of kinship and affection.

In our globalizing world, we can, however, go beyond al-Tabari's understanding and expand the semantic reach of this verb to extend to not just our blood-relatives but all the co-residents of the global village we are now beginning to regard as our shared home. In our vastly expanded contemporary circumstances, this verse may indeed be understood as goading us into learning about each other as inhabitants of different countries, cultures, and faith communities, so as to discover our commonalities ultimately as human beings. Like knowledge of the ties of blood-kinship, knowledge of one another as fellow humans is also conducive to affection and good-will among diverse peoples.

In conclusion, if the cultivation of democratic and civil virtues were to become more widespread and accepted through educational and other means, they would truly have the potential to remake Muslim majority societies today. The practice of such virtues would bring them closer to achieving accountable, democratic modes of governance, promoting the public welfare, and strengthening pluralistic values which firmly rest on certain Islamic political and ethical principles. A democratic society based on rule of law is the best way, in our time, to ensure social justice which in turn is conducive to non-violence,

social stability, and enduring peace. A strong case can be presented that these values are in fact consonant with the basic Islamic world-view; the urgent matter at hand is creating the favorable circumstances today for their implementation.

Thank you very much.

**MS. ELLIS:**
It seems today that there are many different interpretations of what you were talking about historically, whether it's divisions within countries that are predominantly Islam or from country to country. How do we reconcile that with what you are talking about – a historic view or the view of modernists in terms of ideals that they would like to see achieved in terms of democracy, for example, and pluralism?

**DR. AFSARUDDIN:**
In other words, you're actually asking who do we believe more? Who actually invites more credibility? The historical record is there. And actually that's something I'm doing in my book that's forthcoming, *The First Muslims, A Short History*. What I do is I try to go back to the earliest sources at our disposal and I try to look at how certain institutions, specifically the Caliphate, are depicted.

What's very clear, first of all, is that there is no such conception of an Islamic state as such. What you see the various Caliphs doing is improvising on the ground. There is no blueprint that they are referring to. There's a very important word that's used in reference to the election of Abu Bakr, the first Caliph and the word is *falta* which means happenchance. It happened out of the blue. When Mohammed died, he had left no instructions as to who his successors should be. He also died rather suddenly and his companions as they're called, his followers and friends, were not prepared for this. They were responding to the situation on the ground as it unfolded. And *falta* accurately describes what happened. They didn't say, "Oh, you know, we were told – our understanding is the Islamic way to proceed on this issue is to do such and such." Now, the sources are very clear, the early sources as least, Babari again, who's also a historian. He calls it a *falta*. It's something that happened and they reacted to it on the basis of what they perceived to be the common good and what would further enhance it. There were certain tribes that were seceding from the polity. They had to respond to that urgent situation. So, in a day or so, the matter was settled and they were able to forge a consensus on the basis of the fact that Abu Bakr seemed to be the most appropriate person to elect as the ruler under those circumstances.

When I refer to Islamists, I am really talking about more of a hard line core within the Islamists. There are Islamists who may be described as moderate who actually support democracy. Rashid Hanushi is often perceived as an Islamist but he's very strongly in favor of democratic values. There is a whole spectrum of ideas within the Islamist rubric. So, the way to challenge some of the hard line Islamists is to say, let's look at the early sources because you are claiming to be recreating the earliest possible institution. Let's find out if the facts actually support what you say.

**Question:**
Thanks. That was a fascinating description of a logic that I don't think many of us here have heard before. Where are these modernists? How many of them are there? What are the major centers of intellectual thought? And how much impact do they have? Is it just an academic discussion? Do they actually have a constituency following them? What countries are the leading countries? Give us some idea of where these modernists are located.

**DR. AFSARUDDIN**:
They're all over. Having said that, I could not tell you how many there are. There are not enough. They have not reached a critical mass at the point where they would actually start making a really big difference. But they are gaining strength. It's not a movement, necessarily that's identified as such. It's

a name I'm applying to a different cluster of people who, however, subscribe to a common set of values.

**Question**:
Mainly North African?

**DR. AFSARUDDIN**:
No.  Okay.  I will give you a few names.  There's Hassan Hannifi in Egypt, for example.  There is Mohammad Shaharu in Syria who wrote a big Koran commentary in a very modernist vein that people actually loved. However, the government found it very threatening because it talked about democratic values.  That could be problematic in Syria, and consequently, it was banned.  There are a lot of people also writing in the West, for example, Hali Doubelfado whom I think you should probably invite.  He was a Carnegie Scholar also in 2005 and he's not very well right now but he's written a number books, for example, *The Challenge of Democracy in Islam* – I think I'm misquoting the title.  It presents a lot of the problems associated with promoting democracy within many Islamics and the standard arguments that are advanced.  Ramadan, who works mainly in Europe, is at Oxford University right now.  Assiz Al-Hibri teaches at the University of Richmond.  I'm trying to think of more people, however, in the Middle East.  There's another name that I'm trying to think of that's Syrian and is also very influential other than Hassan Hannifi.  Also, there is Hanushi who is Tunisian.  And it seems like a number of people are coming from Egypt.  It is not a function of where they're coming from, but rather a function of being better grounded in the tradition and having a better idea of the diverse views that were articulated in the pre-modern period.  So, it's a question of being better conversant with the classical which a lot of the Islamists are not. They're usually not scholars.  They tend to be engineers or scientists and really have no clue as to what the larger picture is.

**MS. ELLIS**:
Thank you.  Yes.

**Question:**
Yes, thank you very much.  Mine is more of a question and observation on – pardon my Arabic titles – Oca-ados?

**DR. AFSARUDDIN**:
Yes.

**Question:**
What efforts are being done in Sudan with the government in the north to stop this genocide?  It seems to me that something like *Gar-aduf* would be the way to approach the government and the *janjaweed*, whoever, and say these are your brothers and sisters.  And I want to know because I have yet to see very much condemnation from the Islamic world for the situation.  So, if you could shed some light on that I'd appreciate it.

**DR. AFSARUDDIN**:
To my knowledge, I don't think I've ever seen the term *Gar-aduf* applied in this particular context.  It's treated as an internal struggle between two political factions.  It's very politicized.  It is rather below the radar screen of a lot of people and it shouldn't be.  It's an awful tragedy.  There is a Sudanese émigré who teaches at Emory University in the Law School, Abdullah An-naim who's extremely critical of the government and who is definitely a modernist and obviously would not be welcomed back in the Sudan. He has come up with a new legal hermeneutic of human rights, again, drawing upon the indigenous Islamic sources, but making them compatible with universal ideals and principles of justice and human rights. You could say that kind of a crisis has created this kind of discourse of human rights among Islamists themselves. But I think you're absolutely right.  Not much has been done about it.  It's not

perceived as a religious issue but rather, an inter-ethnic struggle. It's usually depicted as an Arab versus non-African struggle and even that is highly problematic because those are not precise terms at all. So, it's a very complex situation. I don't have an easy answer for you. I do believe, actually, invoking principles like *gar-aduf* would help but I don't think anyone's dong that.

**Question:**
Thanks for speaking to us today. It was wonderful to hear your remarks. You said in your last remarks that we should put in place the groundwork in order for people to implement these ideas that were part of the Islamic community initially. I'm curious as an outsider what people like the U.S. government and other governments can do in order to help this community or if it's something that has to be organic, that must come from within the society itself. Will people accept something that's helped from the outside or is it anything that we can take part in? And if it is something that we can be a part of, what are those things that we can do in order to help these ideas be expressed and for the majority of the Muslim world that supports democracy, how we can help that be achieved?

**DR. AFSARUDDIN**:
That's a very difficult question to answer. I think it would also depend on which countries you had in mind and what kind of relationship that particular country has had historically with the West, in particular with the U.S. It has to be primarily an organic movement. The problem is in the current situation with the U.S. being involved to the extent that it is in Iraq, in our being an occupying force, being perceived as someone who's trying to shove certain alien values down people's throats complicates the matter considerably. This is not the best time to suggest that somehow there is a major attempt or intervention from the outside to push these values. There would be more success if it is demonstrated that the values that are indigenous to the Islamic tradition. It finds considerable resonance within the contemporary world and with the universal principles, certain liberal principles of justice and freedom and self-determination and so forth. That creates fertile ground for these ideas to take root and flourish. And if people of good will then want to take part in these ventures –that's where the U.S. government could step in. The track record of the U.S. in the area is considered to be so mixed right now that and certainly if it's accompanied by any kind of military show of strength it's not going to work. That is not the way to impose democracy.

Citizens, NGOs within the U.S., American NGOs, Western NGOs, actually can play a very positive role. It's almost a truism, but people do distinguish between the government as such – the U.S. government - and private citizens to this day, when I go to the Middle East, for whom Middle Easterners in particular, Muslims in general have a very strong affection because there is a sense that there is a pool of shared values that they can draw on. Women NGOs could be extremely effective in doing this for multiple reasons, but particularly, they're perceived to be less threatening and more encouraging of social values. So, there is a role, but it's a complex one. It's going to vary from situation to situation and from country to country.

**Question**:
I just want to thank you also for coming and speaking to us today. You spoke very eloquently about the foundations for democracy and pluralism in early Islamic thought and I was wondering if you could talk a little bit about the concept of jihad and how it was interpreted in the Koran historically, versus how now it is perhaps manipulated and twisted by militant Islamists, for example *bin Laden*.

**DR. AFSARUDDIN:**
The idea is to trace a historic and diachronic treatment of the concept of jihad and starting with the Koran. The term jihad in the Koran in the early sources simply means "struggle." It has often been tied in with the term *fisa belele* in Arabic meaning "for the sake of God" or "in the path of God" and there are many ways to achieve that end. One way is that you could do it through charity. You could do it through

supporting people in a variety of ways. Hadith literature offers a lot of amplification, helping people to acquire an education or acquiring education yourself, this struggle that you make towards that end is part of jihad. Jihad is tied to a very basic moral imperative which is always to support or enjoin the good and forbid what is wrong. Now, if you're going to prevent evil, you can't always read verbally and you can't always do it through just good deeds alone. There are times when you will have to resort to force or to physical means and that includes fighting. Fighting, the Koran makes very clear is in response to an attack from the other side. It's a response to an initial act of aggression from your enemy. Then you are allowed to respond, but again, proportionately. And that's a very important word or concept to keep in mind that the response is always proportionate to the force applied by the other side.

Now, classical jurists also created other conditions according to which military means may be adopted and which renders it legitimate war to defend yourself or defend your way of life, your community, or your land. First, it has to be declared formally by an officially recognized legitimate political authority. And in the pre-modern period that would be the Caliph. In other words, someone like Osama bin Laden cannot come out of thin air and declare a jihad. That carries no weight whatsoever legally and morally speaking.

Secondly, there must be just cause. And this might remind those of you who are familiar with the Christian tradition of just war, there also has to be a just cause reason. Again, the Koran gives several of these and one of them is an attack from the outside. There is a verse in the Koran about how Muslims can come to the defense of everyone – all those communities whose faith is under attack. So, it includes people who want to defend their houses of worship and the houses of worship that are mentioned include temples and synagogues, churches and mosques. So, interestingly, Muslims can fight a jihad in defense of other defense of other people who are under attack. And I want to forefront that because otherwise it becomes reduced to this very narrow definition of how jihad is supposed to be only fought in the defense of Islam and therefore can be used by people like Osama bin Laden and they can come up with a cause saying they are under attack and therefore all Muslims should rally to our cause and not worry about whether it's a just cause or not. That really needs to be questioned.

Thirdly, the proportionality is very important. That is a rule that the militant groups are clearly in violation of. Reacting proportionally means you also cannot attack civilians. Non-combatants are not to be hurt. It's only the combatants. There are very clear regulations on this particular aspect of conducting a jihad in the sense of armed combat. On all three scores, the militants are absolutely not carrying out any kind of legitimate military activity even though the kind of grievances they bring up resonate with a large cross-section of Muslims, particularly that the Muslim world has been unjustly treated by the West. That might have quite a bit of resonance among general Muslims. However, that does not mean that other Muslims would support the adoption of the kind of means that they have resorted to redress these grievances. And classic Islamic law has a word of opprobrium for the kind of activity they engage in and that's *heraba*. It's not jihad. *Heraba* is unlawful violence. It's militancy and actually what we would call today, terrorism. But particularly that focuses – that targets civilians and non-combatants.

**MS. ELLIS**:
We are going to start taking a few questions together.

**Question**:
I too want to express my appreciation for the ideas you've expressed today. And I'm curious to know if you have published any of your prior research in Arabic or if your forthcoming book will be published in Arabic as well as English.

**DR. AFSARUDDIN**:
With regard to the question about forthcoming publications whether they're going to be available in

Arabic – so far there are no plans to that effect. This is something that has been at the back of my mind because by publishing only in English, I'm not reaching the heartlands. I want to bring other people into the debate. Otherwise, we're basically just talking to one another and it's kind of an echo chamber.

I published an article recently called, "The Islamic State Genealogy Facts and Myths" and I would very much like to translate that. A lot of the ideas I expressed today are coming out of that article and I would love to see the kind of reactions it would elicit in various majority countries. In my experience, we did a workshop recently through The Center for the Study of Islam and Democracy in Saudi Arabia on democracy. The reaction was extremely favorable. It was interesting how many dissenting views were expressed in an atmosphere that I think a lot of people found empowering. So, there is a lot of sentiment that I think could be tapped into and that people are dying to engage these kinds of discourses that are coming out of western academia. But the opportunities are not quite there yet, but I will keep exploring this possibility so that these opportunities are in fact created. It's a topic that's very close to my heart.

**Question**:
Among the moderate Islamists that have not reached a critical mass, what role does Turkey play and does it have any weight among the broader Muslim world? Or you can address it specifically with the current government which is coming from the political Islamist culture.

**DR. AFSARUDDIN:**
Turkey has actually put forth as a very positive example of a moderate Islamist government that has embraced democratic values, and could serve as a precursor of other similar governments to follow. Now, it's still very much a work in progress and we do not know what's going to transpire in a couple of years. But right now, it certainly gives life to people who say that there can be political parties that subscribe to Islamic principles and can come to power in a democratic manner and retain the support of the people. In that sense, it has added weight to the position of those people who would maintain that there is the basic contradiction between the two. But again, this is something that's being monitored, I think, by those that a friend of mine once called "anxious Islam watchers" to see what will happen. It will be interesting to see what happens in a couple more years down the road and again, if this is an example that will be followed by other countries.

**Question**:
I was wondering if any study has been done comparing the concepts you have put forth with the corresponding Western concepts. I saw a lot of parallels - even what you said about the three characteristics of war and the legitimate authority. For example, we have that debate here. And has anybody looked at the evolution and parallel?

**DR. AFSARUDDIN:**
I'm still not sure if I understood your question correctly, but for example with regard to legitimate authority and the whole notion of rebelling and violence, there's a very good book that I want to recommend by Halid Abulfadul, one of the modernists I mentioned who teaches at UCLA School of Law. And he has dealt with this issue exhaustively, comprehensively. He's looked at early works, modern works, and everything in between. It's a complex topic and we need to take into consideration also the kind of historical circumstances in which these jurists were working and producing these interpretations. In my own preliminary research, it made a very clear difference if the jurists were based in Syria close to the circles of power or whether they were based in the Arabian peninsula which by then had become a political backwater. So you have a difference of opinion between a jurist like Sophia Nosthori who lived in the Arabian Peninsula and Alav Zei who worked for the Umayid government. Alav Zei was a former belligerent in his attitude. He even supported the notion of an expansionist jihad whereas Sophia Nosthori was totally against it. He said jihad can only be defensive, only if someone attacks us. You cannot use that as a tool for political expansion. It also depends on what their

proclivities were, who they're working for, what kind of audience were they catering to.  It is extremely important to take those circumstances into consideration, contextualize the discourse.

**Question:**
Thank you very much.  You mentioned in the very beginning of your speech, the Pew Study on Democracy.  Could you speak about which countries, or which people in what countries were asked about this, what the questions were and if there really was a majority in favor of democracy and could you tell us why these voices have not been heard?

**DR. AFSARUDDIN**:
It's been a while since I've seen that survey.  It was done in 2003, but there were a number of Middle Eastern countries, Arab countries, that were included in the survey.  The issue was that whenever they're asked about democratic representation – and it would be in support of the creation or institution of democratic reforms that the answer was overwhelmingly "yes" in comparison with the residents of certain Eastern European countries where there was more ambivalence towards that kind of question.

There have been follow-up surveys done by other organizations.  I know Zogby does quite a bit of surveying in Arab countries in particular.  I think they particularly focus in Arab countries, and they've found similar results that corroborate these early findings. So, again, I think you could find more information on-line. I know I do.  And also it helps to go to these various web-sites of these institutes.

**Question:**
I'm wondering if you can help me make a connection between the ideas you've been talking about in Islam to the practices on the ground in Muslim cultures because you've definitely shown that there's room for – and strong grounding for democracy in the Muslim world, but I'd like to hear your recommendations for creating the circumstances for implementing those values when there is such a variety of interpretation for cultural and traditional reasons.

**DR. AFSARUDDIN:**
Yes, that's the hard question.  That's why I left it at that at the end because there is no canned answer to that.  I'm probably beginning to sound like a broken record here but it really is going to depend on what kind of society we're dealing with, which country we are talking about.  Projects like that, implementing something on the ground is always full of surprises and you cannot predict how that will turn out.  It all starts with education.  People have to be educated.  There is no shortcut.  People have to be convinced that this is actually right for them.  They have to be convinced that this jibes with the overall tradition, that this rings true for them.  These are not alien values that are being imposed on them.  They have to have a sense of ownership.

The problem is terminology. If you come in and say, we want to promote democracy; sometimes a wall can go up because democracy then immediately acquires western connotations and these days often unfavourable connotations.  I am talking about the average person on the street.  If you rephrase that and say, what if you wanted to institute *shura*, we are really talking about consultative government.  And the other thing is when you say we do not necessarily mean a liberal democracy because sometimes that also has a very negative resonance because immediately that brings to mind unfettered freedoms, licentious behavior and so forth, that there are no caps or restraints on – I'm talking in terms of the popular image these words conjure up.  Do you have any problems with the idea of registering to vote and picking a candidate that you're comfortable with?  The answer is going to be, "of course not."  Most people would accept that as part and parcel of what one does as a political citizen and a citizen of a polity that they want to be part of because you have examples of that in the early period.  That's a practice most people feel should be resurrected and become part of the normal political culture that they inhabit.  Finding an idiom that resonates with people is going to be very important and education has to be part of that.  And I

think part of what you suggested, too, being able to translate certain key articles and works that are being produced in the West because obviously there is more freedom of thought and more resources for doing so that can be made available within the Islamic heartlands. That would definitely be a step in the right direction.

**Question:**
I wanted to piggy back on that question and talk about the groundings for the role of women in political thought in Islam and how you would comment on that, and also just an aside. We are starting a non-Western political philosophy course at the Air Force Academy and any recommendations you have for basic, fundamental readings of political science in Islamic society would be very helpful.

**DR. AFSARUDDIN:**
The role of women. The question was what has traditionally been the role of women in Islamic political. There is an article I wrote recently in which I compare early biographical dictionaries with later biographical dictionaries. What's interesting is that early biographical dictionaries present a very positive image of the women from the first and second generations, particularly the first generation of Muslims. If you compared those dictionaries with later ones, you often find that certain things are edited to fit the sensibilities of the audience of the time.

I'll give you an example of a woman called Omwadaka. Someone like Ibn Saad who's writing in the 9th century has a section in his biographical dictionary about the companions of the Prophet meaning again, the first generation of Muslims who were the close associates of Mohammed and he includes women. These women played very robust roles. They had a very public persona as well. They were very active in religious scholarship. They did a lot of voluntary humanitarian activities; they ran make-shift hospitals. One woman in particular, Omura Kar, has been depicted in the sources, in ibn Sa'ad's work, as having led the prayer in her household. Now, there's no further explanation or details. But it's clear that if it's her household, then it's a mixed household, so she led both the men and the women in her household in prayer. Mohammed himself told her that she could because she was the most learned in her household and that was the only criterion. It wasn't a gender-based criterion at all. So, I go on to look at how someone like ibn Hadjer in the 14th century; in the Mamluk period.

Things have changed drastically for women. Their public roles have been considerably restricted and jurists have whittled at their legal and social rights. He has an entry under Omura Kar and mentions the fact that she was very learned and that she knew the Koran very well. There is no reference to the fact that she led that prayer session for her household and it was the Prophet himself who had given her the permission to do so. Now, you may think that the omission of such a detail is not that significant, but actually it is. What it does is reflects changed societal notions of women's legitimacy, a legitimate presence in the public sphere. And it's an attempt to dilute that. And even in this case, to literally erase it. And whether women can lead a mixed group in public prayer or not has been an issue. I don't know if you remember this from a year ago, but it received a lot of public attention in the media and people have pointed to the early sources as corroborating the modernist position that there should be no gender-based consideration. It really is a function of who is the most qualified in terms of learning and scholarship rather than simply male or female.

**Question**:
I come from the central Asia, which is a region with five countries almost 100 percent of which are Muslims. Does the region of Central Asia have a place in the scholarly studies in Islam and in your scholarly opinion, what is the future of the region?

**DR. AFSARUDDIN**:
I would think you're a better expert on this than I am. I have to confess, I do not know that much about

Central Asia.  It has been gaining in prominence.  And I know people who specialize, particularly in Central Asia, have to learn the languages.  I think Russian is still a required language to do a course of studies on Central Asia.  Central Asia definitely has a role in these contemporary discourses about renewal of Islamic thought and creating civil and democratic polities.  Now, within Central Asia, there's been a very powerful and prominent modernizing movement known as Jadidism - the Jadidists.  They were extremely active.  I do not know what happened to them.  I think the steam has gone out of these movements.  But they were a very important part of the early modernist discourses like around the time of Mohammad Abdul, 19th century, early 20th century; they were still very much around.  But I have a feeling that given the current circumstances with renewed interest in the kind of work they were doing, they were actually light years ahead of many of the Muslim countries and perhaps they will make a come back.  They must be the intellectual descendants of those early activists.  Maybe they've been marginalized.  I don't know if you've perceived any trend towards that development or not, but I would think that they would find what's going on now very empowering of their platform.

I have a feeling that as radical thought perhaps gains more prominence or is perceived to be a problem by certain sectors of society, then it will force people who think contrary to them including maybe the modern day descendants of the original Jadidists to reclaim the ground from them and try to present an alternative discourse in Shanare.

**MS. ELLIS**:
One of our past speakers in this series, Kathleen Collins focuses on Central Asia. You could look for what she's been working on.

**Question**:
It was an excellent talk.  To repeat the question for people who want to do more reading in this area.  I assume your articles are published by Carnegie, but if you could suggest possibly some other sources for us to read or perhaps for our children to read on topics we've been talking about – the role of women, the jihad.

**DR. AFSARUDDIN**:
With regard to role of women, there's a very accessible book by Lela Achment who teaches at Harvard Divinity School.  It's simply called *Women and Gender in Islam* so that starts from the very earliest time period and takes you through the contemporary period.  On jihad, there are a number of articles.

**Question**:
I wondered if you could talk about the concept of *ta-aruf* and applying that in particular to Iraq right now where there's such great sectarian divisions and if you could comment on the possibility or the current existence of Islamic platforms for reconciliation between all the myriad groups there.

**DR. AFSARUDDIN:**
With regard to *ta-aruf*, in the past, there have been attempts to bring Sunnis and the Shia closer together.  Now, one way of doing that and this is particularly attempted in the medieval period, was to declare the Shia to be just another school of legal thought.  For example, in Sunni Islam, there are four Mathhab schools of legal thought. And to include the Shia and to make them part of the mainstream declared that to be a fifth Mathhab.  The Javre Mathhab was the name that was suggested.  The idea never really took hold.  But that doesn't mean that there have not been attempts throughout to try and affect a rapprochement.  The Arabic term for that is *takarub*, literally meaning "to bring together."  It wasn't *ta-Aruf* that was invoked, but rather *takarub*, literally reconciliation.  *Ta-Aruf* goes a little further than that because it implies that you have to interact with the other person or the other group and get to really know them.  We're not talking about superficial acquaintance but get to know what they believe, where they're coming from and respect the difference.  That's the major challenge.  That is something the pre-

modern mind wasn't quite ready to accept – tolerate. *Ta-Aruf* asks you to go a step considerably beyond that.

To this day even in our very multi-cultural society in contemporary America, it's still a problem, the acceptance of difference and diversity. There are concerned people who are also trying to affect that. Now being caught in a wartime situation in Iraq is not terribly conducive to those kinds of approaches. In Amman recently, offices of Prince Hassan, who runs the Royal Interfaith Institute in Ahmed, brought together leaders of all the various Muslim communities' denominations. They wanted to be as inclusive as possible. They were all brought together under one roof and produced a document saying that they were actually committed to pursuing this idea further to affect a genuine reconciliation among all these various groups and denominations. What they all unconditionally agreed on was that they denounced the violence and the militancy and the terrorism that has been committed in the name of Islam. They said no one but these recognized leaders and groups were allowed to issue a *fatwah*, an edict, in the future, declaring any kind of jihad against the non-Muslim world. That action was to be condemned as illegitimate, a gross violation of what Islamic law allows and does not allow and that there was going to be firm agreement. It's a very important document. It did not get much press coverage here unfortunately because I think it would challenge a lot of stereotypes, especially, the unfortunate canard that Muslims have not condemned enough violence in their midst. That's just not true. The media does not pick it up enough. That's too bad. I do not know how many petitions I have signed in the past few years to that effect.

**MS. ELLIS**:
Asma, thank you so much. This has been wonderful. We've had great questions. I know we all learned so much and it's a dialogue that we really want to continue with you. We await the release of your new work because it sounds like it is going to be so important. So, thank you very, very much.

**DR. AFSARUDDIN**:
Thank you. Thank you for having me.

**NOTES**

i. For a general discussion of these principles and their invocation as building-blocks for democratic systems, see Ahmad S. Moussalli, *The Islamic Quest for Democracy, Pluralism, and Human Rights* (Gainesville, 2001), Chapter One; also John L. Esposito and John O. Voll, *Islam and Democracy* (New York, 1996), esp. 25-30.

ii. Cf., for example, Muḥammad b. Idris al-Shafi'i, *Kitab al-Umm* ("the Source Book") (Bulaq, 1903), 7:86.

iii. This is stressed, for example, by Azizah al-Hibri, "Islamic Constitutionalism and the Concept of Democracy," in *Case Western Reserve Journal of International Law* 1 (1992): 21- 24.

iv. The Tunisian political dissident Rachid Ghannouchi (see his *al-Hurriya al-'Amma fi al-Dawla al-Islamiyya* ['Public Freedom in the Islamic State'] [Beirut, 1993], Muhammad 'Imara, (see his *Al-Islam wa al-Sulta al-Diniyya* ['Islam and Religious Authority'] [Cairo, 1979]); Sa'id al-Ashmawy (his views are primarily expressed in the important work *Al-Islam al-Siyasi* ['Political Islam'] mentioned above), and Azizah al-Hibri (see her previously cited article "Islamic Constitutionalism and the Concept of Democracy," 1-27), among others, see no problems with recasting and aggrandizing *shura* as the organizational principle for a modern democratic polity. Among the constellation of choices available to modern Muslims, they regard democracy as the system of government that offers the best opportunity for

consultative and collective political decision-making.

v. For a thorough discussion of the application of democratic principles in the Islamic context and the kind of discussion such a project engenders, see Khaled Abou el-Fadl, *Islam and the Challenge of Democracy* (Princeton, 2003).


vi.  See,  for example, the online article "Islamic Viewpoint on Voting," posted by Muslim Professionals, UK at http://www.muslimprofessionals.org.uk/uk_elections_2005/uk_elections_2005/voting_in_islam_2005041139/, April 11, 2005; and Michael Wolfe, "Islam: The Next American Religion?" posted at http://www.beliefnet.com/story/69/story_6982_1.html.

vii. M. Y. Faruqi, "The Development of *Ijma'*: the Practices of the *Khulafa' al-Rashidun* and the Views of the Classical *Fuqaha'*, *American Journal of Islamic Social Sciences* 9 (1992): 173-87.

viii. Al-Ghazali, *al-Mustasfa min 'ilm al-usul* ("Selections from the Science of the Sources") (Beirut, 1997), 1:171, where he defines *ijma'* as an agreement of the Muslim community on a particular religious issue.

ix. For this view of *ijma'*, see, for example, Fakhr al-Din al-Razi, *al-Mahsul fi 'ilm usul al-fiqh*, ("The Repository of Knowledge Concerning the Sources of Jurisprudence"), ed. Taha al-Alwani (Beirut, 1992), 4:20.

x.  Such sentiments are already prefigured in the well-known *hadith*, "My community will never agree on error."  For a brief and excellent discussion of *ijma'* as a juridical principle, see Hallaq, *Islamic Legal Theories*, 75-81.

xi. See his *al-Mughni fi Abwab al-Tawhid wa 'l-'Adl* ("The Indispensable Source regarding Chapters on the Unity [of God] and Justice"), eds. 'Abd al-Halim Mahmud and Sulayman Dunya (Cairo, n.d.), 20:16.

xii.  Cf.  Robert D. Crane, "Shari'ah: Legacy of the Prophet: the Role of Human Rights in Islamic Law," *The American Muslim*, January-March 2005 issue, online at http://www.theamericanmuslim.org/; Tariq Ramadan, *Western Muslims and the Future of Islam* (Oxford, 2004), 147-52; Abou el Fadl, *Speaking in God's Name*, 27-30; Sachedina, *Islamic Roots*, 109-12. For a comprehensive discussion of justice in Islamic thought, see Majid Khadduri, *The Islamic Conception of Justice* (Baltimore, 1984).

xiii. Abou el Fadl, *The Place of Tolerance in Islam* (Boston,

2002), 11-23.

xiv. See his *Major Themes of the Q ur'an* (Minneapolis, 1980), 47. It is worth noting that out of the 6,000 verses in the Qur'an, only about approximately 500 verses (slightly less than ten percent) have to do with legal rulings.

xv. See Azzam S. Tamimi, *Rachid Ghannouchi: A Democrat within Islamism* (Oxford, 2001), 187.

xvi. It is worth keeping in mind here Abdul Karim Soroush's perceptive remark that in a religious society "any purely secular government would be undemocratic" since it would not reflect the popular will; see his *Reason, Freedom, and Democracy in Islam* (Oxford, 2000), 126.

xvii. The Pew Global Attitudes Project within the Pew Research Center for the People and the Press, based on a poll of 16,000 people in 20 countries plus the Palestinian Territories, released a survey in June, 2003 which established that a majority of the people in many Muslim countries favor democratic governments and that more inhabitants of these countries were desirous of democracy than residents of Eastern Europe, for example.

xviii. Al-Tabari, *Jami' al-bayan fi tafsir al-Qur'an* ("The Compendium of Eloquence in Exegesis of the Qur'an") (Beirut, 1997), 11:399.