Islam and the American Common Good[*]

Sherman A. Jackson
University of Southern California

The European Wars of religion (real and imagined) are a legacy that inform the American attitude towards religion in some fairly major ways. Indeed, religion is often thought of as something from which society must be protected, it being the job of the state to provide this protection. In this light, given the contemporary optics and global conflicts involving Muslims today, this attitude of fear is all the more keen when it comes to the religion of Islam. The question of American Muslims contributing to an American common good is often unthinkable, especially given the racial and ethnic make-up of the American Muslim community. This article takes on the question of if and how American Muslims can, in good religious conscience, contribute to and uphold an American common good. It takes an 'emic' approach to this question, however, in that it assumes that America is no less home to American Muslims than it is to any other group of Americans. It also seeks to ground its articulations in the religious sources and Tradition of Islam.

Key words: Blackamericans, common good, Enlightenment, fundamentalism, immigrants, liberalism, ma'rūf, moral identity, plausibility structure, procedural common good, shari'ah, substantive common good, terrorism, 9-11, 1965

In his book, *Allah: A Christian Response*, Yale University professor Miroslav Volf engages the question of whether and how Muslims (and Christians) in America might devote themselves, in good conscience, to the enterprise of serving the common good. He recalls in this context, an inquiry by a Muslim student in his class, "Faith and Globalization," which he co-taught with British Prime Minister Tony Blair in 2008. This student asked the following pointed question: "How can we be expected to treat someone with whom we think God is displeased the same [way] as someone with whom God is pleased?"[1] Professor Volf recognized this question as going to the very heart of the matter as he understood it. In response he observed, "Secular and religiously impartial states mandate just that: equal treatment of all, of those who do what is deemed pleasing to God and of those who do not." He went on to note, "but God does not seem to treat all equally. Does loyalty to God clash with loyalty to the state? If so, religious exclusivism leads straight to political intolerance."[2]

Questions about Islam's relationship with equality, secularity, citizenship, loyalty, tolerance and the like typically inform discussions about Muslims in America these days. And given the

---

[1] Miroslav Volf, *Allah: A Christian Response* (New York: HarperOne, 2011), p. 220. The gist of this question has a long pedigree in the modern West. As far back as the 18th century, Rousseau would insist: "It is impossible to live in peace with people one believes to be damned; to love them is to hate the God who punishes them; it is an absolute duty either to redeem or torture them." See J.J. Rousseau, *The Social Contract* (London: Penguin Books, 1968), 186-87. Oddly, despite the spuriousness of this logic, as we will see, it continues to maintain a certain hold on the Western imaginary up to the present.

[2] Miroslav Volf, *Allah*, p. 220.

present Islamophobic atmosphere, one can hardly blame Muslims for some of the facile apologetics we hear from them from time to time. In the present effort, however, I shall attempt to move beyond this kind of apologia in favor of an authentically grounded articulation of Islam that can lend concrete, positive value to a Muslim's commitment to the American "common good." Along the way, however, I shall interrogate the very meaning and functional reality of the American common good, especially as it relates to religion in general and to Islam more particularly.

Let me begin, though, with a bit of context. Today, it is quite common to hear American Muslims invoke the notion of serving humanity beyond the boundaries of the American or even the global Muslim community. But things, were not always this way. Prior to 9/11, it would have been the exception rather than the rule for Muslims in America to speak this way. We might recall in this regard that the national profile we see today of Muslims from the Middle East and South Asia did not really take off until after 1965, when the U.S. government changed its immigration policy towards non-European applicants. At that time, the Muslim world was in the early stages of the rise of Islamic Revivalism, or what would become more commonly known as "Muslim Fundamentalism." Unlike Christian Fundamentalism, after which it was misleadingly named, so-called "Muslim Fundamentalism" had little to do with any literal interpretation of scripture. It was dedicated, rather, to the restoration of religion to a meaningful public role and to overturning its restriction to the private realm. This entailed a commitment to 'Islamizing' modern Muslim states, whereby they could resume what was understood to be their traditional role of nurturing citizens, rooting out corruption, and encouraging virtue as defined by Islam. This stood in contrast, of course, to both the secular and the liberal state. The secular state explicitly separated religion from the state and thus from any regulatory function; the liberal state, on the other hand, insisted that a good society could result from simply allowing people to pursue their own self-interests. Both the secular and the liberal state, meanwhile, were seen as products of the colonial and now neo-imperial experience. Ironically, *this* experience had laid a new structural foundation, namely, the modern state, for a dictatorial, secularizing and often Westernizing political reality that was now the target of the Muslim Revivalist critique.

This hostility towards the prevailing order informed the ideology and program of virtually every Muslim Revivalist movement to emerge in the 20th century. And precisely in this capacity, it informed, to varying degrees, the thinking and sensibilities of the 'Muslim diaspora.' In America, this 'diaspora' was overwhelmingly lay, and this bred an almost hopeless dependency upon the Muslim homelands for an understanding of what it meant to be a committed Muslim in the modern world. It is not difficult, in this context, to imagine how the idea of serving a specifically *American* common good might be looked upon with suspicion if not held in actual contempt.

Of course, not all American Muslims were or are immigrants or the progeny of expatriates from the Muslim world. The presence of Muslims among America's slave population is a well-known fact. Indeed, today, Blackamericans make up *at least* 20% of all Muslims in America, and Islam has enjoyed a *trans-generational* presence among Blackamericans for about a century now. While other races and ethnicities are also represented in the American Muslim community, Blackamericans are unique – and make America unique among Western nations. For Blackamericans enjoy the benefit of what I refer to as "communal conversion," by which I am referring not to any mass conversion to Islam but more simply to the *possibility* of such conversion by virtue of there being no perceived conflicts or contradictions between being authentically black and openly Muslim. Numerous Blackamerican social phenomena confirm this reality, from the religiously blended nature of so many Blackamerican families to the quasi-Arabic "a-ee-a" pattern of names (e.g., "Lakeesha,"

or "Shameeka") among *non*-Muslim Blackamericans. One might also consider in this regard that, to this day, despite his explicit assertions to the contrary, there are people who believe that former president Barack Obama is a Muslim. These same people could never dream of 'accusing' George Bush, Hillary Clinton or even Marco Rubio of being Muslim.

As with their immigrant co-religionists, however, the notion of an American "common good" also proved problematic for Blackamerican Muslims. For Blackamericans have long experienced the American "common good" as not so common. Indeed, Blackamericans have often found themselves living in what some have referred to as the "under-commons." Their existence as a dominated minority has been a classic one, wherein they have faced the consistent threat of being disabused of their own story and assigned a supporting role in someone else's, at which time, instead of simply being able to be themselves and follow their own lights they are judged *and treated* according to their ability to 'perform' and uphold what the dominant culture deems to be 'normal.' In this capacity, no matter how much they might contribute to America – as fighters in her wars or producers of her most seductive export: pop-culture – this does not seem to translate into proportional benefit or standing. One need but notice the disproportionate rates of incarceration or unemployment among Blackamericans, or the racial exclusivity represented by the photos that decorate the walls of America's state capitol buildings or elite educational institutions. Or the next time one is downtown in any city in America, one might ask how many skyscrapers bear the names of *Blackamerican* families.

In sum, for these and related reasons, the American Muslim community, in all its variety, generally nursed a palpably diffident if not hostile attitude towards the American polity all the way up to the turn of the 21st century. Of course, as a religious community, they were hardly unique in this regard. Earlier in their history, American Catholics were explicitly advised by the Pope in Rome: "Unless forced by necessity to do otherwise, Catholics ought to prefer to associate with Catholics, a course which will be very conducive to the safeguarding of their faith."[3] Even many Protestants would embrace what H. Richard Niebuhr called the "Christ-Against-Culture" attitude towards America, on the basis of which they dreaded and resented America as a corruptor of Christian loyalty to Christ.[4] In short, Muslim attitudes were quite consistent with those of other religious communities in the United States as they struggled to come to terms with what Yale professor Sydney Ahlstrom refers to as "The American Problem."

But then came the attacks of September 11, 2001. This was a major turning point for American Muslims. Among its more obvious effects was the collective guilt with which it smeared anyone associated with Islam, placing Muslims under collective indictment as a suspected fifth column. Less apparent, however, was a corollary effect that reverberated *inside* the American Muslim community. In a word, September 11 announced the end of America as an ideological playground, where Muslims could freely spew all manners of political vitriol and unfiltered diatribe modeled after some of the anti-American rhetoric wafting across the Muslim world, especially the Middle East. The harsh and scary aftermath of 9/11 forced Muslims in America to reassess all of this and imbued them with a deeper sense of discipline and the need to weigh their words, actions *and thoughts* with greater care. This in turn would eventually give rise to a more explicit recognition of America as

---

[3] S. Ahlstrom, *A Religious History of the American People* (New Haven, Conn.: Yale University Press, 1972), 837.

[4] See H.R. Neibuhr, *Christ and Culture* (New York: Harper Collins, 2001), 8.

"home" and of the need to engage American life more directly and spontaneously with both feet on the ground *in America*, as opposed to living vicariously through the vision, rhetoric and sensibilities of the traditional Muslim homeland. What we are witnessing today in the way of greater focus on such notions as the common good and serving humanity as a whole is in large part a direct outgrowth of these developments.

In truth, however, 9/11 does not tell the whole story. The settling of critical masses of immigrants from the Muslim world after 1965 set in motion, however imperceptibly at the time, a psychological move among Blackamerican Muslims that ultimately brought them too to a more explicit recognition of their American-ness. Immigrants from the Muslim world tended to assume and enjoy a certain presumption of religious authority as representatives of the Islamic norm. From a certain perspective, this was not entirely unreasonable; after all, if Muslims *from the Muslim world* could not be assumed to be authentic Muslims, who could? Ultimately, however, this hierarchical arrangement would leave Blackamerican Muslims with a feeling that their perspectives and concerns *as Blackamericans* were being marginalized in favor of the "back home" sensibilities and obsessions of their immigrant co-religionists. Even their encounter with *African* Muslim immigrants would alert them to a surprisingly palpable distinction between "*Africans*" and "African-*Americans*."[5] All of this would eventually heighten Blackamerican Muslims' sense that they were the product of a unique socio-cultural, political, psycho-historical and even biological reality that was patently and undeniably *American*. While America remained an existential battleground on many levels, it was increasingly recognized among Blackamerican Muslims as *their* battleground, and, for better or worse, as "home." As early as the late 1970s, we see indications of this with the decision by Imām W. D. Muhammad to place the American flag on the front of the movement's newspaper and to designate July 4th as "New World Patriotism" Day, following his takeover from his father, The Honorable Elijah Muhammad, and his redirecting the bulk of the Nation of Islam into Sunni Islam in 1975. Yet, the broader Blackamerican Muslim community's largely negative response to these gestures shows that full ingratiation with America was still a work in progress.

Today, however, there can be little doubt that the general outlook of American Muslims has organically and quite genuinely evolved to the point that whatever reservations they might have regarding the American common good are no longer existential or historical but largely ideological. The question, in other words, is not whether American Muslims genuinely *feel* inclined to serve the common good on a psychological, visceral or even practical level; the question is whether they can get the sources and tradition of Islam to *validate* such a move and, if so, on what terms and to what end. It is actually here, however, that the situation gets more rather than less complicated, this time not so much on the "Muslim" as on the "American" side of the equation. Indeed, here is where Muslim scholars and intellectuals tend to face a far more daunting intellectual challenge, especially within the walls of the American academy.

The problem begins with the fact that American political culture is overwhelmingly liberal in orientation. I am not speaking here of "democrats" or "republicans," big or limited government, or the tendency towards open-minded versus 'conservative' socio-cultural impulses. I am speaking, rather, of the philosophical perspective that grew out of the European Enlightenment. At its most basic level, Enlightenment liberalism called into question all forms of authority outside the individual self, especially that of the church. Liberalism in this regard emerges as the philosophy of

---

[5] See, e.g., Z. Abdullah, "West African 'Soul Brothers' in Harlem," in M. Marable and H. Aidi, *Black Routes to Islam* (New York Palgrave Macmillan, 2009), 249-69.

autonomous, individual choice. Individuals must be free to choose, with the only restrictions on their choices being the extent to which these encroach upon the freely made choices of others. In this context, choice becomes its own legitimizer, and the "right" to choose is placed over the intrinsic "good" or "bad" of any particular choice itself. Meanwhile, the individual is placed above the community. As one major advocate of liberalism put it, "each person is one and not more than one… each feels pain in his or her own body [and] the food given to A does not arrive at the stomach of B."[6] Thus, liberalism is "opposed… to forms of political organization that are corporatist and organically organized – that seek a good for the group as a whole without focusing above all on the well-being and agency of individual group members. The central question of politics should not be, 'How is the organic whole doing? but rather, How are X and Y and Z and Q doing?'"[7]

To my mind, this raises an obvious question: Beyond the *procedural* common good of simply allowing everyone to pursue his or her own 'victimless choices,' what is the actual *substance* of the American common good? In other words, beyond the imperative to live and let live, is there really any such a thing as the American *common good*?[8] More to the point, what should American Muslims do in the face of these questions? Should they simply accept the procedural common good as the best or at least the safest thing that we as a society can achieve? Or should they commit to trying to bring more concrete substance to the American common good, with at least *some* attention to producing a certain type of American citizen for whom personal sovereignty is more explicitly recognized as a *negotiated* rather than an *absolute* ideal? Would any attempt by Muslims to bring more substance to the American common good constitute an unacceptable incursion of Muslim *religious* values into the public domain? And should Muslims, in such light, simply give up on the common good altogether and just try to find a space away from it all where they can be left alone to practice their religion in peace – and in private?

These are difficult questions. And given the diversified composition of the American Muslim community, one should hardly expect a single answer. Muslim intellectuals who are liberal in orientation (perhaps the majority working in the academy) would probably go with the first option, the procedural common good, as the best and the most that we as a society can or should try to achieve. Muslim intellectuals who are *not* liberal, on the other hand, such as myself (and here I must insist that I am *not* a conservative, at least not on the common understanding of that term[9]) would

---

[6] Martha Nussbaum, "The Feminist Critique of Liberalism," *Political Philosophy: The Essential Texts* 3rd ed., ed. Steven M. Cahn (New York: Oxford University Press, 2015), p. 1033. Nussbaum's essay is taken from her book, *Sex and Social Justice.* She is defending liberalism against the critiques of such feminist writers as Alison Jaggar, Catherine MacKinnon and Andrea Dworkin.

[7] Ibid.

[8] Note here the warning of Sheldon Wolin that the notion that liberalism tends to dissolve solidarities of social ties and commitments by replacing them with the liberties of the unfettered, independent individual, the masterless man, is woefully misguided. Liberalism actually *promotes* social conformity by way of the elision of social convention into actual conscience. See his *Politics and Vision: Continuity and Change in Western Political Thought* (Princeton: Princeton University Press, 2006), p. 307.

[9] I am not a conservative, for a number of reasons. To begin with, conservatives seem to lack the Muslim distinction between moral and political judgment, according to which one can categorically condemn a thing on moral, theological or ideological grounds (e.g., wine-drinking or the trinity) while explicitly

see more of a need to add more *substance* to the American common good and insist that the common good work more concretely *for* and certainly not *against* them. This is not to negate or even challenge the value of the procedural common good. It is simply to recast it as a *negotiated* rather than an *absolute* value that works in the service of a broader (or higher) good. For this allows us to recognize some of the procedural common good's limitations, including at least one particular challenge it poses to religion, including Islam.

Of course, the very notion of Muslims contributing to the *substantive* content of the American common good raises deep fears and apprehensions among some non-Muslim Americans. For them, this is just another way of Muslims expressing their desire to impose their religion on society. This is especially alarming, given the notion that Islam is an all-encompassing religion that recognizes no distinction between the sacred and the profane. On this understanding, Islam's *shari'ah* or religious law is assumed to determine *everything*, and there is thus no basis for any kind of compromise, conversation or negotiation with those who do not recognize the authority of Islam.

Here, however, I would like to unpack this notion of Islam being a totalitarian religion that recognizes no distinction between the secular and the dictates of the religious law (*shari'ah*). It is true that Islam holds God-consciousness or what the Qur'ān calls "*taqwā*" to be a state of being that *every* Muslim should strive to maintain in *all* of his or her endeavors. Indeed, "heedlessness" or what the Qur'ān refers to as *ghaflah* – *not* just plain intentional evil – is among human beings' most deadly flaws. In this sense, Islam is indeed "totalitarian" in that it is relevant to every aspect of life. But the necessity of approaching all of one's affairs in a God-conscious state of mind is not the same as God dictating through the religious law an actual concrete rule to govern *every* concrete situation an individual or society might face. In fact, even on issues of a patently religious nature, not everything

---

upholding the right of non-Muslim persons to indulge these things (e.g., allowing Christians to live as Christians, to drink wine and to extol the trinity). Or to put it another way, conservatives tend to over-indulge *sadd al-dharā'i'* (the jurisprudential principle of "blocking the means," which bans prima facie legal acts that threaten to lead to illegal ends) to the point that they are willing to target *persons* rather than just *actions*. E.g., the notion that gay-couples should be denied housing does not merely target their homosexual acts but their actual persons and the personal right to shelter; they are being denied, in other words, not simply the right to engage in such activity but to live, period. Second, as F. Hayek put it, conservatives are largely obstructionists who can only function as brakes on liberal 'progress' with little to no life-giving vision of their own. Third, conservatives are often possessed of the same conceit as liberals, i.e., that they can speak authoritatively for everyone through the false universalization of their culturally and historically informed perspectives. Fourth, when it comes to money, conservatives are as liberal as liberals are when it comes to rights, declaring the untrammeled sanctity of the right to spend their money as they please, just as liberals claim the untrammeled right to execute their rights as they please. Fifth, there is something in the American past that conservatives seem to want to conserve that I find difficult to disentangle entirely from white supremacy. Indeed, in a 'debate' with James Baldwin in 1965, William F. Buckley, Jr. identified American civilization with European civilization, which leaves one wondering about all those non-Europeans who make and have made America what she is. Finally, there is something in the tone of American conservatism with which I do not identify. Having said this, I do identify, more on a personal than an ideological level, especially as I get older, with much of what Michael Oakeshott describes as conservative: "to prefer the familiar to the unknown, to prefer the tried to the untried, fact to mystery, the actual to the possible, the limited to the unbounded, the near to the distant, the sufficient to the superabundant, the convenient to the perfect, the present laughter to utopian bliss." See M. Oakeshott, "On Being Conservative," in *Rationalism in the Politics and Other Essays* (Indianapolis: Liberty Fund, Inc., 1991), pp. 408-09.

will be reducible to scripture.[10] For example, the Qur'ān exhorts Muslims to build mosques; but neither the Qur'ān nor the Sunna nor sharī'ah itself give *any* instructions on how to build a mosque. For this, Muslims must rely on the knowledge that they and or others have accumulated in such areas as engineering, architecture, materials development and the like, none of which has any basis in sharī'ah.

All of this is another way of saying that in terms of concrete manners of proceeding in the full panoply of life, sharī'ah is demonstrably *limited* in scope. And beyond the scope of sharī'ah's proper jurisdiction, Muslims must rely on forms of reasoning, knowledge and deliberation that are not dictated by the religious law and are generically *indistinguishable* from those relied upon by their non-Muslim compatriots. This becomes extremely important when we consider the vast number of issues in the public domain – from speed-limits to licensing medical doctors, from immigration policy to zoning regulations, from the procedures for tenure and promotion to food-safety standards – on which sharī'ah would be virtually silent. In this very sizeable domain, Muslims and non-Muslims would be able to negotiate the common good on a virtually equal footing, neither *relying upon* nor *giving offense* to sharī'ah. For in this domain, discussions would proceed on the basis of such principles as efficiency, safety, economic cost, order, professional promise, long-term resource management and the like. Neither Islam nor Muslim God-consciousness would pose any impediment to including or engaging non-Muslims on these obviously mutually shared principles and concerns.

Thus, even where a Muslim commits his or herself to the most fastidious practice of his or her religion, this does not necessarily entail the kind of intolerance that would preempt social cooperation or social solidarity between Muslims and non-Muslims For in the end, social cooperation and solidarity depend not on the ability to reach actual consensus on the issues but on the ability to recognize shared interests and sustain meaningful, inclusive public conversation. As I hope to have shown, there is a vast area of concerns in the public domain wherein sharī'ah would pose no barriers at all to recognizing such interests and promoting such public conversation between Muslims and non-Muslims on these and many other obviously mutually shared concerns.

Of course, one might ask *why,* even if Islam poses no formal barriers to recognizing the common good of society *in general,* a Muslim should *want* to promote the common good of a *particular* society such as America that does not reflect his or her religious values, and, in fact, often seems to mock or vilify these? Is it Islamically *wise*, in other words, not just *permissible*, to seek to promote the common good of a society whose government *does* not and constitutionally *cannot* dedicate itself to the glory of Islam?

To my mind, the key to resolving this dilemma lies in the normative practice or Sunna of the Prophet Muhammad. The operative element here is the Prophet's refusal to embrace zero-sum

---

[10] Indeed, even the reputedly puritanical Ibn Taymīyah would note the following: "Even were we to assume that a person came to know every command and every prohibition in the Qur'ān and Sunna, the Qur'ān and Sunna would simply address matters ofgeneral, categorical import, as it is impossible to do other than this. They would not mention that which is specific to each and every individual. And for this reason, humanity has been commanded to ask for guidance (*hudā*) to the straight path." See his *Amrāḍ al-qulūb wa shifā'uhā* (Cairo: al-Maṭba'ah al-Salafīyah wa Maktabatuhā, 1386/1966), 12-13.

thinking, according to which society is deemed either entirely good (and therefore worthy of support) or entirely bad (and therefore to be categorically rejected). Especially in Mecca, the Prophet and the Muslim minority faced stiff opposition, vilification and the threat of persecution to the point that they were forced to make *two* migrations, one to Abyssinia (roughly modern day Ethiopia) and another later to Medina. Listen here to a few Qur'ānic depictions of the treatment the Prophet and the early Muslims received at the hands of their fellow Arabians: "O you upon whom this so-called Reminder has been revealed, you are indeed mad" [15:6]; "And remember, O Believers, when you were few, oppressed and marginalized in the land, living in fear that the people would snatch you away…" [8:26]; "Nay, they say that this [Qur'ān] is but confused dreams; nay, he has merely concocted it; nay, he is simply a poet…" [21: 5]; "They drive out the Messenger along with you yourselves, O Believers, for no other reason than that you believe in God your Lord…" [60:1].

Despite all of this, however, the Prophet never ceased to identify as a member of his society and to seek to enhance and preserve Arabia's common good. This is clearly captured in the Qur'ān's repeated command to the Muslims to act in accordance with what it terms "*al-ma'rūf*," which literally means "that which is known by convention to be good, wholesome, and sound." While the Qur'ān and the Prophet would scrutinize Arabian practices and only sanction those that met their criterion, neither the Prophet nor the early Muslims themselves were the actual authors of those many conventions that were recognized. Yet, the *ma'rūf* retained its authority as a definer of proper behavior for Muslims, despite the fact that it served not simply the *Muslim* good but the overall *Arabian* good, and this in a society whose elite openly opposed and vigorously campaigned against Islam. Against the presumption that seems to drive discussions around Islam in America today, the Prophet clearly recognized the undeniable relationship of interdependence between the Muslims and the rest of society. Faulty food-safety standards or weak family ties would have no less a negative effect on Muslims than it would on anyone else, even (or perhaps we should say especially) in a society that was hostile to Islam. On this understanding, upholding the common good is clearly not just permissible but also wise.

This might be a good place to return to the point raised by Professor Volf's student with which I opened this discussion. That student asked, "How can we be expected to treat someone with whom we think God is displeased the same [way] as someone with whom God is pleased?" Given what I have said thus far, it would seem that when it comes to aspects of the common good that fall outside *sharī'ah*, the question of God's being pleased with a person or not would be irrelevant to the question of how Muslims should treat them. For part of the whole point of the *common* good *in this realm* is to serve not any *particular* group's exclusive ideals but the broader interests of the community at large. In other words, a person's status as Muslim or non-Muslim would be irrelevant to whether we issued them a speeding ticket or granted them a medical license. God was clearly not pleased with the idol-worship of the pagan Arabians. Yet, this did not affect their status as beneficiaries of the prevailing Arabian *ma'rūf* or common good. Nor did it detract from the value of upholding that common good for the early Muslims.

And yet, if a truly "*common* good" should not be *owned* by Muslims, it should also not be exclusively owned by non-Muslims either. The common good in America cannot be understood to be the simple result of Muslims' willingness to shut up, go along with the program and disregard the authority of their own religious values or world-view. If the common good is to be truly "common," it must serve Muslims *as Muslims*, just as it serves everyone else as everyone else. Of course, the circumference of the common good will always be smaller than that of any particular ideology or religion; but it cannot be perceived as the simple result of negating *all* ideology or religion. My point

in unpacking the notion that Islam is a totalitarian religion was *not* to imply that Muslims should never enter the public domain with values or perceptions that are grounded in sharī'ah; my point was, rather, that Muslims *can* enter the public domain *as* believing, practicing Muslims, with any number of views on any number of issues that are *not* based on sharī'ah. At the same time, however, Muslims may, and in *my* view absolutely *should*, remain attached to the values, practices and sensibilities of sharī'ah (in the broad sense where sharī'ah remains open to negotiation) and this may bring them into conflict with the ideals, preferences or sensibilities of other members of the American community. Such attachment, for example, may bring Muslims to oppose pornography or to promote a culture of marriage over one of responsibility-free sex or to call for criminal justice-reform or for the state to get out of the marriage business or to curb the excesses of turbo-capitalism and its pernicious effect on the poor (especially racial minorities). Again, however, such attachment to sharī'ah should not be seen as an attempt to "take over" or undermine the common good. On the contrary, Muslim attempts to promote the kinds of virtues and practices that produce and sustain good Muslims – or, in their view, good citizens generally – implies neither a disservice to the common good nor a demand that all Americans embrace Islam.

Nor, again, should attachment to sharī'ah be seen as totally negating the value of the *procedural* common good, i.e., the idea that one's freedom to choose is the default assumption that can only be challenged or overturned on the basis of legitimate justifications. After all, Islam recognizes a similar – even if not identical – freedom to choose. Part of the very meaning of *lā ilāha illa Allāh*, "There is no god except God," is that, ultimately, no one but God has the right to restrict our choices. For Muslims, knowledge of what God restricts is expressed in concrete terms in the form of Islam's sharī'ah, which renders sharī'ah a legitimate restrictor of Muslim choices. Islam's autonomy, in other words, is a *qualified* autonomy based on the Muslim recognition of God's ultimate authority as the Giver of life. But this is hardly the same as a total *denial* of human autonomy. If nothing else, moral accountability both implies and requires the ability to choose. The difference, therefore, between liberal autonomy and Islamic autonomy is more a difference of degree than it is of kind.

Of course, the big question on everyone's mind these days is how sharī'ah affects *non*-Muslim choices. While this is a bigger topic than I could hope to manage in this article, there are two inter-related features of traditional Islamic law that I would like to share in this regard. The first is that the classical Muslim state, unlike the modern state, never assumed a rightful monopoly over law-making, such that state sovereignty could only be maintained by coopting or obliterating all other sources of law. The late Robert Cover of Yale Law School referred to this tendency as the "jurispathic nature" of modern states.[11] By contrast, the classical Muslim state ceded huge powers of law-making to its constituent communities and did not insist on a one-size-fits-all approach to law, neither as applied to Muslims *nor* to non-Muslims. Legal pluralism, in other words, was entirely consistent with the Muslim understanding of statecraft. To see Islamic law, then, as necessarily insisting that non-Muslims be bound by its every concrete rule is to superimpose upon sharī'ah the jurispathic presuppositions of the modern, Western state. It is to assume, in other words – falsely –

---

[11] See R. Cover, *Narrative, Violence and the Law: The Essays of Robert Cover* (Ann Arbor: University of Michigan Press, 1995), 138ff.

that Islamic law *must* seek to make itself the exclusive, one-size-fits-all law of the land because this is what the law of the modern Western state does.[12]

The second point simply carries the first point to a more concrete level. It is well-known that non-Muslims living in a Muslim state could drink wine, eat pork, charge interest and, according to a majority of jurists, enjoy exemption from such Islamic laws as those governing adultery. What is perhaps less known, however, is the *degree* to which this logic was practically engaged. As far back as the early 3rd/9th century, Zoroastrian minorities, to take just one example, were granted the right to engage in incestuous marriages. This was in accordance with the general agreement that non-Muslim marriages were to be judged according to *their* religious law and not the religious law of Islam. In response to the surprise of some early inquirers who asked how a man could possibly be allowed to marry his mother or daughter, one jurist responded as follows: "We allow religious minorities to do more than marry their mothers and daughters; we allow them to invent false claims against God and to worship other than the All-Merciful!"[13] Of course, in any society, the real has a dogged habit of diverging from the ideal. As such, it should be no surprise that non-Muslims often faced discrimination in Muslim society. But I hope that what I have shared here will be enough to suggest that non-Muslim fears about sharī'ah as an ideal are more often than not misplaced or overblown.

At this point, at any rate, I would like to move on to what I mentioned earlier about a particular challenge that a substantively neutral, open-ended procedural common good poses to religion in general and to Islam more particularly. I should note in this regard that I am speaking here in my capacity as an American Muslim for whom part of the very value of religion resides in its ability and willingness not simply to aid, applaud or cooperate with the state and dominant culture but, where appropriate, to *challenge*, *resist* or even defy the state and the dominant culture – including the *"dominant culture"* of the religious community. After all, if religion is simply going to confirm everything the secular state, the dominant culture, or blind adherence to religious tradition prescribes, it is not clear how religion can remain an effective moral force and why. Therefore, it should not be simply disposed of or privatized.

We might get a clearer sense of the concerns I have in mind if we think about what the late sociologist of religion, Peter Berger, referred to as religion's "plausibility structure."[14] Basically, a plausibility structure is the socio-cultural context within which a religion exists and from which it is able to sustain its status as "normal," "relevant" or even "true." Where a functional plausibility structure is in place, individuals are not likely to ignore or flout religious beliefs or institutions but to

---

[12] By the way, Muslims are also prone to falling into this trap, as we see in some of the policies of groups such as ISIS.

[13] *al-Mudawwanat al-kubrā* 4 vols. (Beirut: Dār al-Fikr, N.d.), 2: 219.

[14] See P. L. Berger, *The Sacred Canopy: Elements of a Sociological Theory of Religion* (New York: Anchor Books, 1967), 110-13. Berger argues, inter alia, that early modern Protestantism's significant success in stripping the world of any mystical or super-natural elements has sapped religion's ability to sustain its meaning and relevance in the modern world, spawning the rise and diffusion of a secular (i.e., non-religious) worldview.

take them for granted and perhaps assimilate them as their own.[15] Where a religion's plausibility structure is displaced or severely damaged, however, the plausibility of religious commitment will simply fade. When this happens, even deeply held religious beliefs may not be enough to sustain proper religious behavior. For the prevailing socio-cultural context may include psychological, socio-cultural or socio-political disincentives that are so powerful that only super-humans could be reasonably expected to resist them. Berger spoke in terms that implied that religion had to exercise a monopoly over the socio-cultural eco-system. While I think this goes too far, I *do* believe that a socio-cultural eco-system or plausibility structure *can* be degraded to the point that it threatens religion's viability.

Ultimately, this is the danger I see in the kind of substantively empty common good underwritten by Enlightenment liberalism's commitment to autonomous choice. If the mere fact of my freely choosing a victimless action is enough to confer moral legitimacy upon that action and if this understanding of morality or acceptable behavior comes to define the public space in general, one can imagine how religion's scriptural injunctions, moral disciplines, and technologies of the self will fade into irrelevance and ultimately come to be resented as an unnecessary nuisance. Even if religious *discourse* remains fully intact, without the embodied *practices* of religion to aid in the acquisition of a *moral identity* that includes the kinds of proper pre-judgments and modes of being that allow one to monitor and transform the self, as well as the world around one, religion will be essentially reduced to *the right to use religious language*. Of course, free speech is a value that we all hold dear. But there *is* something, I think, to the communitarian argument that communal *practice* is at least as important as personal *privacy*. And as religious *practice* tends to be collective by nature, recognizing *its* value will entail a shift of sorts from a primary focus on X and Y and Z and Q back to the organic whole and something beyond a purely procedural common good.

Of course, the big question here is how religion can play a meaningful role in all of this without obliterating everyone's interests but its own. Here I think it is important to consider two interrelated points. The first we have already seen in my discussion of *ma'rūf* above. There we were reminded that good food-safety standards or effective speed-limits, for example, serve us all, regardless of our respective religious affiliations. This same logic would extend to such concerns as public safety and assuring that the public space remains free of publicly directed violence (a.k.a. terrorism[16]), be this motivated by religious extremism, racial bigotry, or any other cause. For the ability to move about freely, to be able to earn a living, get an education, or merely visit a friend is something from which *everyone* benefits, regardless of religion. It would be silly to suppose that the absence of this general state of security would somehow affect American Muslims *less* than it affected non-Muslims. In sum, American Muslims *as Muslims* have just as much reason to work for the *common good* of a secure public space as does anyone else.

The second point is that the common good is *not* simply the same as *unanimous consensus*. Groups and individuals can differ among themselves, at times strongly, without this necessarily constituting a breach of the common good. As we saw in the case of the Prophet Muhammad, he continued to battle his Arabian adversaries while also remaining committed to the Arabian common good. In a similar fashion, modern religious perspectives may clash with secular or liberal ones, but

---

[16] See my "Domestic Terrorism in the Islamic Legal Tradition," *The Muslim World*, vol. 91 no. 3 and 4 (Fall, 2001): 293-310.

this does not necessarily spell the death of the common good. After all, deeply held convictions are deeply held convictions. I am not sure why deeply held *religious* convictions should be so singularly feared.

This is not to deny the many good reasons to fear those forms of religion that are aggressively strident and suffocatingly misanthropic, that tend to look upon the very pursuit of human happiness as if it were a cardinal sin. Beyond certain liturgical duties, this kind of religion focuses almost exclusively on the public policing of a seemingly endless list of moral don'ts. Freedom in this context appears almost as an after-thought or even as a non-concern, which is why the only freedom that many of us can imagine today is *liberal* freedom, i.e., the freedom to *de*tach (and be safe) rather than the freedom to *at*tach (and be vulnerable) or the freedom to recognize that someone other than myself, including the group or tradition to which I belong, may be better at guiding some of my choices than I am. This kind of dark and dour religion is rightfully feared and is the perfect foil for Enlightenment liberalism and its commitment to individual autonomous choice and the wholly procedural common good.

And yet, the reaction to this kind of misanthropic religion is often a form of religion that has essentially lost its nerve. This 'domesticated' religion equates 'feelings' with 'truth' and 'manners' with 'morality,' and it flees from divisiveness and confrontation as if 'peace' and 'unity' were unassailable, absolute goods. This kind of religion is often indistinguishable from the secular ideologies whose bidding it seems to do. And as these secular ideologies continue to bedazzle us with their promises, often fulfilled, to augment our happiness and bring about a better world, this domesticated religion routinely fails to force the question of whether what makes us happy actually *should* make us happy or whether the better world we are creating includes a better human self, or whether we *are* or shall *remain* more or less empowered and 'free' in the brave new world we are making.

In these current times of NSA surveillance, the Patriot Act, Freddie Gray, global warming, Citizens United, corporate greed, nuclear proliferation, genetic engineering, artificial intelligence and a host of other secular challenges, including, according to some, the dreaded possibility of an emergent American fascism, it seems odd that we should remain so firmly in the grip of those 18th and 19th century European notions that point to religion as the greatest danger to our collective well-being. In fact, given our contemporary challenges, *now* may be the time when religion in America, including Islam, is *best* positioned to demonstrate its value as a social force and contributor to the common good. For religion can stand up to the state, the market *and* the dominant culture, by equipping its followers with an independent *moral identity* with which to analyze and assess the activities of the state, 'the economy' and the dominant culture, instead of looking upon the state as essentially the god of the nation or upon the economy, or the dominant culture as the ultimate, supreme value that is too lofty to be subjected to critical examination. Even as Muslims must speak out boldly and unequivocally on matters such as terrorism or "radicalization" among Muslim youth, they, along with their non-Muslim compatriots, especially the religious community, must not allow the American state, "the U.S. economy," or the dominant culture to see themselves as being so high and mighty that they cannot benefit from constructive critique. And when "reason," "justice" and "technology" all fail us, as they occasionally must, "perseverance," forgiveness," "humility," even "repentance" cannot be just dismissed as outmoded relics of a happily discarded past.

But religion in America will be able to serve the common good in this fashion only if it is willing to cooperate across denominational and confessional lines. The zero-sum mindset of the

past, according to which the gains of one religion could only be seen as coming at the absolute expense of others, will no longer serve *any* religion in America. Jews and Christians may *think* that Islamophobia and Muslim-bashing merely tarnish the image of Islam; in reality, however, the discrediting of on *any* religion has the cumulative effect of discrediting *all* religion. It may be time, then, for all religious communities in America to recognize that they simply cannot preserve the efficacy of Islam, Christianity, Judaism or any other religion without first securing a meaningful place for religion as a whole.

Again, however, and I feel compelled to reiterate this point, this is hardly to look upon religion as an entirely unproblematic social force. Religious communities will have to work hard to overcome the comfort of lap-dog domestication as well as the idolatry of absolutizing their every historically informed or ego-driven reflex or obsession. And *if*, as they often claim, religiosity is ultimately a gift from God, religious people will have to accept the pluralistic implications of this claim. Not everybody is going to be religious, at least not as *they* would like them to be. Thus, instead of taking as their model the triumphalist victor who must always win or the pathetic victim whose very existence is little more than a perpetual complaint, religious communities must find greater meaning in the way of the tragic hero who in great humility is willing to put it all on the line and then stand ready to accept God's decree to bring his or her efforts to success or not. As the Qur'ān commands the Prophet Muhammad: "Say [O Muḥammad] I control neither that benefit or harm should come to me, except by God's will. And if I knew the unseen, I would augment good for myself and evil would never touch me. Verily, I am but a warner and a bringer of good tidings to a people who believe" [7: 188].

In this post-9/11 moment in which we presently live, American Muslims are routinely called upon to prove their loyalty to the American state and society by demonstrating their willingness to serve the common good. All too often, however, Muslims are imagined in this context to be essentially "guests" or "wards" of a pre-existing order into which they must blindly assimilate or from which they must be excluded. Then, when Muslims balk at this false choice, it is *they* who are routinely blamed for being insufficiently American. I hope that the foregoing has amply demonstrated that American Muslims can, in good conscience, recognize and serve the American common good, not as guests or wards but as believing, practicing Muslims, complete with their own genius and vision, their own grounding in America, and their own contributions to the American commonweal. Gaining more public recognition of this possibility, both within and without the American Muslim community, stands as one of the defining challenges of our time. It is my hope that the present effort will contribute, however modestly, to this critical enterprise.

Bibliography

Ahlstrom, S. *A Religious History of the American People.* New Haven, CT: Yale University Press, 1972.

Berger, P. L. *The Sacred Canopy: Elements of a Sociological Theory of Religion.* New York, NY: Anchor Books, 1967.

Cover, R. *Narrative, Violence and the Law: The Essays of Robert Cover.* Ann Arbor, MI: University of Michigan Press, 1995.

Marable, M and Aidi, H., *Black Routes to Islam.* New York, NY: Palgrave Macmillan, 2009.

Nussbaum, Martha. "The Feminist Critique of Liberalism." In *Political Philosophy: The Essential Texts* 3rd ed., ed. Steven M. Cahn. New York, NY: Oxford University Press, 2015.

Oakeshott, M. "On Being Conservative." In *Rationalism in the Politics and Other Essays.* Indianapolis, IN: Liberty Fund, Inc., 1991.

Volf, Miroslav. *Allah: A Christian Response.* New York, NY: HarperOne, 2011.

Wolin, Sheldon. *Politics and Vision: Continuity and Change in Western Political Thought.* Princeton, NJ: Princeton University Press, 2006.