

# Islam and Democracy: Text, Tradition, and History

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## **Abstract**

This paper challenges the popular perception that Islam and democracy are incompatible, and argues that the lack of democracy in some Muslim countries is not because of Islam but in spite of it. This argument will be developed in two stages. First, it will consider the legal–ethical order embedded in Islam’s text (the Qur’an) and tradition (prophetic example) to consider the democratic implications inherent in that construction. Second, it will explore three “high periods” of Islamic rule to consider their progressive, inclusive, and democratic tendencies. It will suggest that the current problems of democracy experienced by many Muslim countries are not necessarily caused by factors intrinsic to Islam, but by forces external to those areas.

## **Introduction**

Popular stereotypes in the West tend to posit a progressive, rational, and free West against a backward, oppressive, and threatening Islam. Public opinion polls conducted in the United States during the 1990s revealed a consistent pattern of Americans labeling Muslims as “religious fanatics” and considering Islam’s ethos as fundamentally “anti-democratic.”<sup>1</sup> These characterizations and misgivings have, for obvious reasons, significantly worsened since the tragedy of 9/11.

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However, these perceptions are not reflected merely in the popular consciousness or crude media representations. Respected scholars also have contributed to this climate of opinion by writing about the supposedly irreconcilable differences between Islam and the West, the famous “clash of civilizations” that is supposed to be imminent and inevitable, and about the seeming incompatibility between Islam and democracy. For example, Professor Peter Rodman worries that “we are challenged from the outside by a militant atavistic force driven by hatred of all Western political thought harking back to age-old grievances against Christendom.”

Dr. Daniel Pipes proclaims that the Muslims challenge the West more profoundly than the communists ever did, for “while the Communists disagree with our policies, the fundamentalist Muslims despise our whole way of life.” Professor Bernard Lewis warns darkly about “the historic reaction of an ancient rival against our Judeo-Christian heritage, our secular present, and the expansion of both.” Professor Amos Perlmutter asks: “Is Islam, fundamentalist or otherwise, compatible with human-rights oriented Western style representative democracy? The answer is an emphatic NO.” And Professor Samuel Huntington suggests with a flourish that “the problem is not Islamic fundamentalism, but Islam itself.”

It would be intellectually lazy and simple-minded to dismiss their positions as based merely on spite or prejudice. In fact, if one ignores some rhetorical overkill, some of their charges, though awkward for Muslims, are relevant to a discussion of the relationship between Islam and democracy in the modern world. For example, the position of women or sometimes non-Muslims in some Muslim countries is problematic in terms of the supposed legal equality of all people in a democracy. Similarly, the intolerance directed by some Muslims against writers (e.g., Salman Rushdie in the UK, Taslima Nasrin in Bangladesh, and Professor Nasr Abu Zaid in Egypt) ostensibly jeopardizes the principle of free speech, which is essential to a democracy.

It is also true that less than 10 of the more than 50 members of the Organization of the Islamic Conference have institutionalized democratic principles or processes as understood in the West, and that too, only tentatively. Finally, the kind of internal stability and external peace that is almost a prerequisite for a democracy to function is vitiated by the turbulence of internal implosion or external aggression evident in many Muslim countries today (e.g., Somalia, Sudan, Indonesia, Pakistan, Iraq, Afghanistan, Algeria, and Bosnia).

However, in the context of this discussion, it should be remembered that democracy is, after all, a “contested concept.”<sup>3</sup> Its meanings, practices, and outcomes may be very different. Authoritarian regimes may describe themselves as “people’s democracies,” and various western systems of governance may witness democracy’s coexistence with economic disparity, judicial inequity, racial prejudice, social pathology, and feelings of alienation and apathy on the part of many of their citizens.

It is possible, indeed necessary, to deconstruct the concept of democracy into its procedural and substantive aspects. In this sense, it may be considered as a set of practical, legal, and institutional arrangements that ensures constitutional/majority rule, but also, as a political system inspired by a conception of the “common good,” attempts to lay the foundations of a discursive, deliberative, communicative “community” and assumes a commitment to normative and humanistic ideals (“deep democracy”).<sup>4</sup> Consequently, on the one hand democracy may focus on such essential procedural elements as holding free, fair, and regular elections; functioning political parties; separating the powers of different branches of government; the possibility of judicial review to uphold constitutional supremacy, and so on. On the other hand, it may emphasize such substantive components as respecting the rule of law, tolerating debate, encouraging cultural inclusiveness, promoting intellectual and aesthetic excellence, embracing the idea of consultation in major decisions affecting the community, insisting on the preeminence of the public interest, pursuing social justice, and ensuring the individual’s dignity, security, and moral integrity.

If we consider the spirit of democracy rather than merely the process, it is possible to suggest that the relationship between Islam and democracy, complex and nuanced as it may be, is not inherently problematic even by western standards. In fact, this paper argues that the current problems experienced by many Muslim countries are not present because of Islam, but in spite of it. This argument will be developed through an examination of the Islamic text (the Qur’an) and tradition (prophetic example), and a consideration of some select periods of Islamic history.

## **Pluralist and Democratic Directions**

In spite of commonly held assumptions about the unity of the spiritual and the temporal in Islam, many scholars have pointed out that the Qur’an and the Shari’ah (religious law) provide an elaborate socio-moral framework rather than a detailed blueprint for an economic or political order.<sup>5</sup> This is

evident, despite overarching commonalities, in the vast range of ruling styles and institutions demonstrated in Islamic history and in the obvious diversity of organizational and cultural codes practiced by Muslims in different countries today.<sup>6</sup> It may be worthwhile to discuss briefly the core components that constitute Islam's ideal legal-ethical order and to consider the democratic ramifications implicit in that construction.

The basis of Islamic law and practice is the Qur'an. However, as the eminent scholar of Islamic law Wael Hallaq has pointed out, of the Qur'an's 6,200 verses, only about "500 are legal verses, and these cover a limited number of legal issues, and furthermore, treat of them selectively."<sup>7</sup> The vast majority are devoted to practical religious duties and issues related to family, property, and crime. Only about 30 verses are related to issues of justice, equality, and consultation; about 10 are related to economic matters, most of which are inspirational and normative rather than prescriptive and juridical.<sup>8</sup> Consequently Muslims have a vast (though not unlimited) space in which they can construct those institutions and practices that can help them to be good Muslims.

Furthermore, Islam's teachings are directed more at the individual level (in terms of its required spiritual, ritual, or practical commitments) than at the collective or governmental level (in terms of specifying the components of an organized state). The assumption is not that government makes good Muslims, but that righteous Muslims create good government, a contention that is profoundly democratic in its implications. However, the few references to sociopolitical aspects, admittedly abstract as they may be, are not unhelpful to the democratic temperament.

The very first commandment from God to Prophet Muhammad was *Iqra'* (Read). The first revelation began with: "Read in the name of thy Lord and Creator, who created man out of a clot of blood ... He who taught the use of the pen, taught man what he knew not" (96:1-2).<sup>9</sup> The implication is that God encouraged, indeed commanded, the pursuit of learning – an exhortation that was often repeated in the Qur'an and the Prophet's personal sayings.<sup>10</sup> It is also noteworthy that the Qur'an persistently emphasizes the need to understand (rather than blindly follow) the signs and messages contained therein, and that the same appeal to those who are wise and thoughtful is repeated many times (2:242, 6:65, 38:29, 16:44, 3:7,118, 10:24, 23:80, 24:61, 21:10, 30:28, 45:5, and 39:9).

The word *'ilm* (knowledge) and its conjugates recur in the Qur'an innumerable times.<sup>11</sup> While some aspects of knowledge belong only to God and cannot be known by any human being (that which is "hidden"

[*ghayb*]), nothing in the visible (phenomenal) world is beyond the scope of humanity's God-given intelligence (*'aql*). All this is at odds with the anti-intellectual preoccupations and the consequent authoritarian tendencies seen in many Muslim countries today and in the past.

Pluralist implications, in terms of tolerance toward other groups and faiths, (particularly the People of the Book [i.e., Jews and Christians]) are evident in many verses, among them 29:46, 5:72, and 2:62. Not only are Prophets Moses and Jesus supposed to have received books containing "guidance and light," but Jews and Christians are expected to be judged according to the laws contained in their scriptures (5:46-50).<sup>12</sup>

Significantly, Islam is not presented as a novel beginning but as a continuation of the Abrahamic tradition, not as a rupture but as a completion of God's messages. Prophets are frequently referred to in the plural as in: "To those who believe in God and the Messengers, and make no distinction between any of them, We shall soon give their due rewards" (4:152). In addition, the scriptural lineage is clearly established through mentioning various Prophets by name whose messages and good tidings were to ensure that "humanity might have no argument against God" (4:163).

The Qur'an's expansive spirit also is reflected in such specific proclamations as "to each among you have We prescribed a law and an open way" (5:51); "if God so willed, He could make you all one people," but He did not (16:93 and 5:51); "there is no compulsion in religion" (2:256); that the Truth has been conveyed and "let him who will believe, and let him who will reject [it] (18:29); and, finally, that "I worship not that which you worship, nor will you worship what I worship. To you be your way to me mine" (109:1-4).<sup>13</sup>

Significantly, the Qur'an refers to the Prophet only as one who "warns," "teaches," and "invites" others to the "straight path" of Islam (3:138, 24:54, 87:6-9, 62:2, and 34:27) and does not establish Muslims as "guardians," "keepers," or entitled "to coerce anyone to believe" (42:48, 17:54, 50:45, 88:21-22, 10:99, and 6:107). As Professor Abdulaziz Sachedina has demonstrated so eloquently and perceptively, the "exclusive salvific efficacy of Islam" claimed by later Muslims probably did not have an explicit Qur'anic endorsement.<sup>14</sup>

## Consultation

Democratic implications are underscored in *Surat al-Shura*, which suggests that the only people dear to God are those who, among other things, "conduct their affairs by mutual consultation (*shura*)" (42:38). This phrase some-

times has been interpreted as referring to consultation only among a select group of advisors, family members, or learned individuals (i.e., the ulama).<sup>15</sup> But the verse itself contains no such limitations. In fact, one verse in *Surat Al-i 'Imran*, while referring to people who may have demonstrated some weakness in faith and judgment, suggests that Muslims should try to ignore their faults, ask for God's forgiveness for them, and also "consult them in affairs of moment" (3:159). Consequently there is no test of virtue or intellect that narrowly construes the franchise or excludes anyone from full participation. Moreover, Muslims are encouraged to give advice (*nasihat*) in good conscience and judgment if requested by others.<sup>16</sup> Therefore, combined with the necessity of *shura*, this would suggest not only that the ruler must request direction, but that the people must provide it.

One verse enjoins the Muslims to obey God, the Messenger, "and those in authority over you" (4:59). Some infer from this the idea that opposition or dissent is forbidden and that authoritarianism is supported. However, the context and other references clearly indicate that the authority to be obeyed must be legitimate and engaged in establishing justice. If "an oppressive wrong is inflicted against them," Muslims should "not be cowed but help and defend themselves," and any blame for such action "is only against those who oppress humanity with wrongdoing and insolently transgress beyond bounds through the land, defying right and justice" (42:41-42). While the right to overthrow an oppressive government is not expressly granted, the right to challenge it certainly is.<sup>17</sup>

Moreover, the people's loyalty to the law is expected only insofar as they can bear it. In other words, since the Qur'an says that "none must be burdened with any more than he [she] can bear" (2:223, 286), the ruler runs the risk of defiance if the people cannot morally or physically comply with his demands (i.e., if they are considered oppressive). Furthermore, the Qur'an emphasizes the significance of human agency as a transforming force by reminding the faithful that "never will God change the condition of a people until they change what is in themselves (13:11).

The faithful are not supposed to be passive and timid recipients of a ruler's dictates; rather, they are to be engaged and active participants in improving themselves and their communities. It is also noteworthy that the injunctions to "fulfill your contract [or obligations]" (5:1), not to "devour each other's property" and allow "traffic and trade in mutual goodwill" (4:29), and accept personal responsibility for one's actions (6:164) all seem to indicate a system of individual integrity and responsibility that is wholly consistent with democratic norms.

The second source of Islamic law and practice is the Sunnah, which, together with the Qur'an, forms the basis of the Shari'ah. But while the Sunnah might provide some important symbols, ideals, directions, and clarifications to establish ethical and righteous conduct, it does not provide an elaborate or uncontested framework with which to organize government or public policy.<sup>18</sup> In fact, the noted scholar al-Ashmawi has argued that the Shari'ah, mentioned only once in the Qur'an and actually meaning the "source or mouth of water," only came to acquire its legal implications gradually.<sup>19</sup>

As the Shari'ah evolved, it made pragmatic adjustments to historical realities. This seldom has affected aspects of *ibadat* (i.e., spiritual and devotional issues) but certainly affected aspects of the *mu'amalat* (i.e., public policy issues).<sup>20</sup> While there is a clear Qur'anic direction to obey the Prophet, the Qur'an also reminds the faithful that the Prophet is "only a mortal" (18:111 and 41:6), and he himself suggested that "in matters revealed to me by God you must obey my instructions. But you know more about your worldly affairs than I do. So my advice on these matters is not binding."<sup>21</sup> Due to the need to respond to new situations and exigencies, the noted scholar Fazlur Rahman has emphasized the Sunnah as a "living tradition" rather than merely a historical template that meticulously and rigidly organizes the believers' behavior.<sup>22</sup>

## Seeking Consensus

Religious law also can evolve through *ijma'* (consensus of the community). This not only has a Qur'anic basis (e.g., the need for consultation), but is sanctified by the Sunnah. First, the Prophet practiced this principle in his private life and tried to institute it in the public sphere as well (to the extent possible). He frequently sought the advice of his Companions and family, occasionally followed their suggestions (sometimes against his better judgment), and apologized for any mistake he may have made.<sup>23</sup>

Second, when he accepted the invitation to go to Madinah in 622 to take over its administration, one of his first acts was to establish a written charter (sometimes referred to as the Constitution of Madinah<sup>24</sup>) in an attempt to establish a transtribal and suprarreligious "corporatist structure."<sup>25</sup> Even though the arrangements with the Jewish tribes became strained later on, the very attempt to institutionalize a political order through a written agreement allowing diverse entities to function with some degree of cooperation and autonomy displayed high political maturity and democratic tendencies.

Third, the ascension of the early caliphs to power was through mutual discussion with those present giving the *bay'ah* (voluntary allegiance) to whoever emerged as the best choice.<sup>26</sup> It is true that this was a choice among and by a very few people, and that all groups were not always happy with the decisions. It is also true that three of the first four caliphs were assassinated. But none of this should detract from the transparent and relatively inclusive process through which they ascended to power, or from their sentiments in terms of their approach to their role and duties. For example, upon accepting the responsibility of leadership, Abu Bakr (the first caliph) said:

O people, behold me - charged with the cares of Government. I am not the best among you. I need all your advice and all your help. If I do well support me, if I mistake counsel me. To tell the truth to a person commissioned to rule is faithful allegiance, to conceal it is treason. In my sight the powerful and the weak are alike, and to both I wish to render justice. As I obey God and His Prophet, obey me, if I neglect the laws of God and the Prophet, I have no more right to your obedience.<sup>27</sup>

All of the Rashidun caliphs expressed similar commitments respecting the equal rights of all people, encouraging responsible and responsive rule, and accepting their own subservience to the rule of law.<sup>28</sup>

Islam contains no sanction for monarchy or any support for primogeniture in determining succession. Professors John Voll and John Esposito follow many Islamic scholars in suggesting that the Qur'anic concepts of *tawhid* and *khalifah* resonate with the democratic spirit.<sup>29</sup> The first concept suggests the uniqueness and sovereignty of God, to whom all Muslims surrender fully and equally.<sup>30</sup> The second refers to a successor (hence the word *caliph*), but not to the throne. The concept really implies that every Muslim is a deputy, vicegerent, or representative of God endowed with equal responsibility for the stewardship of His creation.<sup>31</sup> These concepts make any human hierarchy or domination both irrelevant and impractical, for none can claim to be sovereign, compel subservience from others, or hold dominion over them. This spiritual and political egalitarianism can be expressed or organized only through seeking *ijma'* and following the *shura* process.

### **To Strive or Imitate?**

The last source of Islamic law incorporates the use of rational, logical, and independent opinion sustained by the spirit of *ijtihad* (exertion or striving).<sup>32</sup> As Khurshid Ahmad has argued:

God has revealed only broad principles and has endowed man with the freedom to apply them in every age in the way suited to the spirit and conditions of that age. It is through *ijtihad* that people of every age try to implement and apply divine guidance to the problems of their times.”<sup>33</sup>

The Prophet’s own example illustrates this practice: He supported Mu’adh ibn Jabal for a judgeship in Yemen when the latter suggested that “I will exercise my own legal reasoning” if the issue he was adjudicating did not have clear textual directions.<sup>34</sup> Moreover, the Prophet said that “the variety of opinion is a blessing (or mercy) to my community,” and suggested that those who form their own opinions honestly and virtuously will be rewarded even though they may not always be right.<sup>35</sup>

Questions not explicitly resolved in the text and traditions could be addressed either by developing *fiqh* (legal theory based upon the case method) or through the ulama’s opinions and judgments (*fatawa*). Consequently, *ijtihad* generated a rich and diverse *fiqhi* tradition with four different schools encompassing fully developed juristic doctrines. The discourse on *fiqh* was particularly spirited between the eighth and tenth centuries, after which a decline, the famous “closing of the door of *ijtihad*,” is supposed to have occurred.

The conventional wisdom is that beginning in the tenth century, “the point had been reached when the scholars of all schools felt that all essential questions had been thoroughly discussed and finally settled.”<sup>36</sup> Consequently, all future legal or interpretive activity would be limited to *taqlid* (imitation) and dedicated to replicating and applying “the doctrines of accepted schools and authorities.” Therefore, the door of *ijtihad* “was closed, never to be opened.”<sup>37</sup> Based on the formidable writings of Ibn Ash’ari (d. 941) and al-Ghazzali (d. 1111), a conservative and intolerant veil seemed to descend over the spirit of reasoning and scholarly disputation that had characterized the period up until that time.<sup>38</sup>

This “chilling effect” on open inquiry generally has remained a subtext in the evolution of the Islamic tradition. But, as Hallaq has demonstrated convincingly in a celebrated article, the door of *ijtihad* was never slammed shut, and the abilities, subtlety, and range of later jurists were not dimmed.<sup>39</sup> More likely, it was a period of Muslim decline and fragmentation, and the conservative movement was simply an intellectual retrenchment, a turning inward, a response to felt defeatism, weakness, and insecurity. This is a critical point.

In times of power and confidence, Muslim rule generated great interpretive flexibility and intellectual dynamism. This openness was abandoned

when Muslims felt powerless, overwhelmed by internal or external threats, and thus reacted defensively. The relationship between the Muslims' vitality and confidence and the intellectual and social expansiveness expressed by them at that time is a recurrent theme in Islamic history. The remainder of this paper will highlight three such periods to demonstrate this argument.

## The 'Abbasids

The first period of theoretical and political excitement appeared during the early 'Abbasid period and stretched from the middle of the eighth century until the middle of the tenth. This was the period that has given us the romanticized notions about *The Arabian Nights*, Caliph Harun al-Rashid, and the wonders of Baghdad. However, this was also one of the most intellectually invigorating periods of Islamic rule.

Several points are relevant. First, during this time, lively discussions led to the development of four distinct legal schools under some official protection. Even though Ibn Hanbal (founder of the Hanbali school) was persecuted for his conservatism, his juristic school was allowed to flourish.<sup>40</sup> Second, codifying the *ahadith* became important but difficult, because of disagreements about the meaning, relevance, and the authenticity of particular anecdotes attributed to the Prophet.<sup>41</sup> An elaborate classificatory and investigative methodology to trace their *asanid* (lines of transmission) was developed to examine their veracity. This project was pursued with great intellectual integrity and sophistication.

Third, various Sufi traditions also began to evolve in an attempt to establish a more direct, immediate, and enthusiastic experience of God. Even though Sufi *turuq* and *salasil* (orders and schools) did not develop until the eleventh century, Sufi practices began to be publicly taught in Baghdad from the ninth century.<sup>42</sup> The Prophet's piety and personal conduct, as well as his miraculous ascension to meet God in an awesome and overwhelming experience, became their model.<sup>43</sup> They were indifferent to, if not contemptuous of, the dry scholasticism and empty ritualism of the legists and the traditionalists, and therefore incurred their wrath. However, even though the noted Sufi Mansur al-Hallaj was executed, the mystical teachings of Sufi masters proceeded without official harassment.<sup>44</sup>

Eagerness to learn about other intellectual traditions was expressed in huge translation projects in the capital and provincial centers, where the state hired both Muslims and non-Muslims to translate classical Greek and other

texts.<sup>45</sup> In fact, it is now widely accepted that classical Greek writings found their way back into the European lexicon through the agency of Arab intellectual mediation. Franz Rosenthal broached the idea of a Greco-Arab Renaissance that eventually enriched the intellectual life of medieval Europe and strengthened its ties with classical antiquity.<sup>46</sup> Joel Kraemer points out that scholars in the European Renaissance “were involved in the absorption of Greek AND Arabic learning” (emphasis in original),<sup>47</sup> and Glenn Perry is more direct in suggesting that the “dose of Hellenism that later inspired the Western European Renaissance came largely by way of the Islamic world, particularly through Spain.”<sup>48</sup>

There were spirited discussions about practical and philosophical problems. These ranged from such sensitive issues as non-Arabs within the Islamic structure, to philosophical debates pursued by the Mu‘talizites (“those who stand apart”) about the meaning of text, the nature of God, the idea of free will, and even questions directed at the caliph (e.g., Ma‘mun) about the legitimacy of authority or the ideals of justice.<sup>49</sup> The Mu‘tazilites developed Socratic methods of argumentation and demonstrated an embrace of speculative inquiry and reliance upon reason that left a lasting imprint on Islamic intellectual history.

In conclusion, the ‘Abbasid period was unique for the protection, if not always the encouragement, that it provided for people to raise questions and disagree. In matters of law, faith, power, and reason, as well as in art and culture, there was a tolerance of diverse views that is truly impressive in its approximation of democratic norms.

## **The Ottomans**

The second period of Islamic history that in many ways represents a high point of Muslim power was that of the Ottomans. This was particularly true during the fifteenth and sixteenth centuries, culminating in the rule of Suleyman the Magnificent (d. 1566).

The Ottoman Empire gave rise to various misperceptions, of which the most widely held was popularized by Max Weber in his concept of “*kadi* justice.” The entire system was supposed to be arbitrary, unpredictable, and corrupt. This judgment was far from accurate.<sup>50</sup> Actually, the Ottoman Empire was a reasonably well-organized bureaucratic structure with an extensive, reliable, professional, and fair legal system. All four schools of Islamic jurisprudence were available as choices to most people, and the system was remarkably open and inclusive.<sup>51</sup> In examining the papers of one

court, Gerber estimated that out of 140 cases he studied, 71 consisted of cases where both the plaintiff and the defendants were commoners. Moreover, women won 17 out of 22 cases against men, non-Muslims won 7 out of 8 cases against Muslims, and commoners won 6 out of 8 cases against *askeris* (members of the official classes).<sup>52</sup>

Similarly, Fariba Zarinebaf-Shahr reported on the legal position of women under Ottoman rule. About 8-10% of all complaints to the Imperial Council in Istanbul came from women. About 70% of the complaints filed in 1675 were related to inheritance and property disputes, and about 31% were against local officials (which was far more than the 23% filed against husbands and relatives).<sup>53</sup> High government officers, including powerful provincial operatives and *kadis*, could be the object of popular dissatisfaction and provoke court cases or formal written complaints to the sultan for redress of grievances. These petitions, collected in the *Sikayet-e-Daftari* (the Book of Complaints), were made without fear, and the sultan received and acted upon them as fairly and promptly as possible.<sup>54</sup>

Two other features of the Ottoman system deserve mention for the tolerance they incorporated. One was the institution of *millet*s, which allowed people of different religious and cultural backgrounds to live in self-contained and self-administered enclaves having functional and ecclesiastical autonomy.<sup>55</sup> While they had to pay an additional tax that the Muslims did not have to pay, this was largely to offset their military exemption (except in the Balkans) and their non-payment of *zakat* (charity), which was obligatory for the Muslims. In addition, they also had to accept the sultan's overall authority, for he provided them with the opportunity and protection to live as relatively undisturbed entities. Such an understanding was hardly surprising, unreasonable, or applied in a discriminatory manner. In fact Jews, Orthodox and Monophysite Christians, Nestorians, and Copts all preferred Ottoman rule to Christian tutelage.

When the Jews were expelled from Spain in 1492, Bayezid II welcomed them into the Ottoman territories. By 1498, the Jews of Spain outnumbered the Byzantine Jews living there, and gradually the language shifted to Ladino (Judeo-Spanish).<sup>56</sup> Almost 30% of seventeenth-century Istanbul's residents were Jews, who were Ottoman subjects "by choice rather than conquest."<sup>57</sup> Christians and Jews could hold high government positions, had the full protection of the courts (apart from their own), had regular access to the sultan, and could petition the government for redress of their grievances. It is worth noting that when Sultan Abdul Hamid was deposed in 1908, the four-member parliamentary delegation carrying this

order to him contained representatives from the Christian and Jewish groups to demonstrate their position in the empire.<sup>58</sup>

Finally, the Ottoman Empire evolved in directions that tended toward the gradual separation of mosque and state (even though the relationship was both complex and delicate).<sup>59</sup> The Ottomans carried on the practices initiated by the earlier Seljuks and Mamluks of gradually developing a distinction between *siyasa* (statecraft) and Shari'ah (religious law), roughly corresponding to spheres enjoyed by the sultan's political authority and the ulama's spiritual authority.<sup>60</sup>

On the one hand, the Ottomans depended upon the military, scribal, and professional classes (often "foreign," sometimes non-Muslims) to buttress the imperial framework of governance. On the other hand, they needed the moral authority and cultural legitimacy that the ulama and the learned classes could provide. The Ottomans patronized the religious classes through building mosques and *madaris* (educational establishments), appointing them to important positions, and grafting them into the "sinews of the empire" as teachers, scholars, artists, notaries, scribes, administrators, and *kadis*.<sup>61</sup> Moreover, the sultan never questioned or threatened the ulama's supremacy in the specific sphere of personal law. Consequently, the matrix of tensions and turf battles that engulfed the European tradition was relatively absent in the Ottoman tradition.

A balance of power also developed between the bureaucratic state and the religious authorities. While the sultan appointed the religious authorities and often sought their advice through relevant *fatawa*, he was not always bound by their pronouncements. (And, one could always get a counter-fatwa). On the other hand, if the sultan transgressed the boundaries of Islamic law and practice in radical ways, the ulama had the power to issue decrees against him.

If the failures were severe and the opinion of the religious authorities was relatively united, such decrees could even lead to the sultan's deposition. Although not used very often, this power ultimately led to the removal of sultans Ibrahim (1648), Mehmed IV (1687), Ahmed III (1730), and Selim III (1807).<sup>62</sup> It is obvious that these occurred when the Ottoman Empire was beginning to fade and the sultan's authority was undergoing a relative devaluation. But the very idea that the supposedly dreaded sultan's arbitrary power could be checked by a countervailing civilian authority is itself rather impressive.

Therefore, in the Ottoman period we see the elaboration and application of a systematic and organized judicial system that tried to establish the

rule of law, extended tolerance and protection to religious and other minorities, and the gradual evolution towards a separation of mosque and state. These features appear to be much more in consonance with democratic principles than is usually assumed for the Ottomans, or for Muslim rule in history.

## The Mughals

Finally, the Mughal Empire in India also presents us with some fascinating developments and institutions. Built by Central Asian conquerors that swept into India in 1526, the Mughals presided over an empire that, between the mid-sixteenth to the early eighteenth centuries, was culturally grand, politically inclusive, and intellectually vibrant. Apart from the remarkable and glittering architectural and artistic achievements (e.g., the Taj Mahal, the Badshahi Mosque, and the Shalimar Gardens), Mughal rule was most notable for its flexibility toward religious minorities. In this, its position was far more creative and courageous than the Ottomans. The latter's generosity extended to Christians and Jews, who already had a protected status in Islamic tradition. But the Muslims in India demonstrated a tolerance toward the followers of religions (e.g., polytheistic Hindus, atheistic Buddhists, and other "non-traditional" faiths) with whom scriptural and ritual distinctions were profound.

The first Muslim contact with India was not hostile. Muhammad ibn Qasim conquered the Indian province of Sind in 712 and was immediately troubled by the question of how to treat his new non-Muslim subjects. He sought a ruling within Islamic law, and it was suggested that the Hindus and others should be treated with kindness and dignity because Islam expects and requires enlightened and just behavior of the rulers over the ruled.<sup>63</sup> In the treaties he signed with Hindu kings, he promised protection and proclaimed that "idol temples are exactly like the churches and synagogues ... and the fine temples of the Zoroastrians."<sup>64</sup> In spite of that auspicious beginning, the relationship between the two communities ultimately became mired in misunderstanding and division. The Mughal arrival in India helped to redefine that relationship in progressive ways.

First, the Mughal judicial system tried to replicate the Ottoman pattern in terms of organization and accessibility. While Islamic law remained in force throughout the empire, the Mughals legitimized caste *panchayats* (local councils), which catered to different religious groups. This followed the Mughal policy of interfering as little as possible with local customs and

authority structures.<sup>65</sup> A system of secular courts also evolved, under the jurisdiction of provincial authorities, to try criminal cases that did not involve Islamic property or family laws, or cases in which the litigants were of different faiths. Muslim judges, for the most part, showed no partisan loyalties in their judgments.<sup>66</sup>

Second, the Mughals removed many of the limitations and indignities that may have been imposed sporadically by former Muslim rulers. In 1562, the laws about conversion (which imposed Islam on those captured in battle) were repealed, and people, including women married to Muslim men, could choose to return to their former religion. The pilgrim tax (1562) was abolished, and the *jizyah* (a head tax placed upon non-Muslims) was eliminated (1564). Non-Muslims were allowed to build religious establishments. In fact, Akbar graced the opening of a church and provided a land grant for the Sikhs to build their Golden Temple at Amritsar, which they considered holy.

In instances where Mughal rule interfered with Hindu ritual and custom, it was done with progressive objectives. For example, the practice of suttee (widow burning) was abolished by Akbar (not by the British, as is often assumed), child marriage was declared illegal, and marriage contracts required not only parental consent (the prevailing custom), but also the consent of those getting married (as is common in the Islamic tradition).<sup>67</sup> There were other issues (e.g., dowries, polygamy, selling children, and old men marrying young women) on which imperial fiats were not imposed, but imperial discouragement was clearly expressed.<sup>68</sup>

Third, Hindus could rise to positions of power and privilege as trusted advisors to the emperors or in the highest ranks of the Mughal military and administrative system (e.g., the Mansabdars). The number of non-Muslim Mansabdars at the very top of the hierarchy usually hovered around 20%, even though under Akbar it reached 38%.<sup>69</sup> There were many non-Muslim provincial governors, revenue collectors, merchants (some with incredible fortunes), royal scribes, and learned men, all of whom enjoyed various privileges and protections.<sup>70</sup> Jesuit priests like Father Monserrate, Father Aquiviva, and Padre Geronimo Xavier commented favorably upon this religious tolerance, particularly in comparison to the European situation.<sup>71</sup>

Fourth, there was imperial encouragement of a vibrant and eclectic intellectual and cultural environment.<sup>72</sup> Hindu centers of learning flourished in various areas. In Nabadwip (eastern India), there were schools with about 4,000 students and 600 teachers; the province of Thatta (western India) had 400 institutions of higher education; Multan specialized in sci-

ence, Sirhind in medicine, and Madurai in philosophy, with about 10,000 students in various institutions. Muslim centers of learning developed in Agra, Delhi, Jaipur, Gujrat, Sialkot, and Ahmadabad. The Jesuits were allowed to establish their own colleges (Akbar's son was educated by the Jesuits), and Buddhist and Jain centers of learning were recognized and respected.

Good libraries were established, and some Mughal rulers loved books (e.g., Humayun carried a selection of manuscripts with him even on military missions, and Babur gave books to his sons as gifts).<sup>73</sup> Texts were translated from many languages, and even Hindu religious books were translated into Persian by imperial order. Other religions provoked more curiosity than discomfort or threat. Akbar established the *Ibadat Khana* (House of Worship), where scholars representing all religions "Sufi, Sunni, Shi'a, Jati, Siura, Charbaka, Nazarene, Jew, Sabian, Zoroastrian, Jesuit, and others" enjoyed the "exquisite pleasures" of debating and discussing relevant issues.<sup>74</sup> Musical talents were coveted and brought to the court to devise a new vernacular of Hindustani music; poets like Amir Khusrau, Attar, and Hafez were read with reverence; court poets were patronized; the syncretistic ideas of Kabir and Nanak were respected; and philosophers like Abul Fadl, Ghazi Khan Badaqshahi, and Hakim Abul Fath were venerated.<sup>75</sup>

Therefore, Mughal rule was marked by a tolerance, political inclusiveness, and educational and cultural excellence that was both impressive and surprising. This openness and dynamism was forsaken by Aurangzeb in the early eighteenth century, and his religious zeal coincided with the eventual collapse of Mughal rule.<sup>76</sup>

## Conclusion

This paper does not argue that Islamic history has always been glorious, tolerant, and open, or that Islam provides an unambiguous fount of democratic principles.<sup>77</sup> Clearly, there have been occasions when Muslim rulers have been corrupt, autocratic, and bigoted (and some may exist even today), and obviously not all Islamic scholars have been impressed with a democratic reading of the text and traditions. However Muslim rulers, either historically or currently, do not have a monopoly on being brutish or intolerant, nor are other religious texts any more inherently democratic than the Qur'an.

The purpose of this paper, however, is not to defend Islam from western detractors, but to argue two points. First: Islamic doctrine, as embedded in the text and traditions, is conducive to democratic thought in many com-

elling ways. The insistence on the equality of all believers, the emphasis on individual responsibility, the encouragement of consultative rule, the protection of private property, the requirement of establishing justice and pursuing the public interest, the celebration of learning, and the tolerance toward other faiths (particularly the revealed religions) are all strongly indicative of substantive democracy.

Second: The greatest periods of Islamic rule have been precisely those in which Islam's structural and intellectual developments were the most democratic. Thus, efforts to establish the rule of law, engage in robust discussions regarding juristic principles, encourage cultural refinement and philosophical debate, incorporate other groups into a tolerant social milieu, elaborate relatively rational bureaucratic arrangements, and accept interpretive flexibility, all of which were demonstrated in some select periods of Islamic history, strongly suggest democratic potentials and tendencies.

It may be more fruitful for western scholars to shift their attention from Islam's supposedly inherent internal and intrinsic barriers to democracy to the external conditions that may have distorted its historical dynamic and subverted its developmental potentials. They also must remember that democracy evolved gradually in the West only over the last 250 or more years. Coincidentally, throughout much of this period, most of the Muslim world languished under various subordinate arrangements imposed by western colonial rule.<sup>78</sup> Therefore, the "modern" period in which the West could afford to progress toward democratic directions was precisely the period in which such opportunities were denied to the Muslim world by the cynical, violent, exploitative, and oppressive rule that the imperialist powers had imposed upon it.

In addition, the West has tended to support – at times even create – some of the most brutal and durable dictatorships in the Muslim world (e.g., Iran, Indonesia, Pakistan, Turkey, and various Arab countries). For the same West to decry the lack of democracy in many Muslim countries today is disingenuous, if not hypocritical.

In conclusion one can only hope that the Muslims will be inspired to reclaim their greatness through a proper appreciation of the textual and historical narrative, engage in an open and honest discourse, and move toward a new democratic future consistent with the lessons and experiences of their own past. One can also hope that some western scholars will examine some of the categories and judgments through which they not only construct the dreadful and irreconcilable "Other," but also contribute to making that distinction a self-fulfilling prophecy.

## Notes

1. Five national polls in the 1990s found that most Americans held such views. See Fawaz A. Gerges, *America and Political Islam: Clash of Cultures or Clash of Interests* (Cambridge: Cambridge University Press, 1999), 7-8. For a scathing critique of how Muslims and Islam are presented in the American media, see Edward Said, *Covering Islam: How the Media and the Experts Determine How We See the Rest of the World*, 2d ed. (New York: Vintage Books, 1997), Jack Shaheen, *Arab and Muslim Stereotypes in American Popular Culture* (Washington, DC: Center for Muslim-Christian Understanding, Georgetown University, 1997), and Paul Findley, *Silent No More: Confronting America's False Images of Islam* (Beltsville: Amana Publications, 2001).
2. The quotations are from Amos Perlmutter, "Wishful Thinking about Islamic Fundamentalism," *Washington Post* (19 Jan. 1992); Bernard Lewis, "The Roots of Islamic Rage," *Atlantic Monthly* (Sept. 1990), 60; Samuel Huntington, "The Clash of Civilizations," *Foreign Affairs* (summer 1993): 32; Daniel Pipes, "Same Difference: The Islamic Threat Part 1," *The National Review* (7 Nov. 1994): 63; Peter Rodman, "Policy Brief: Co-opt or Confront Fundamentalist Islam," *Middle East Quarterly* (Dec. 1994): 64. It should be pointed out that many Muslims profess similar sentiments. For representative quotations from Abul A'la Mawdudi (the influential twentieth-century Pakistani thinker), Sayyid Qutb and Muhammad Qutb (the intellectual forbears of the Islamic Brotherhood), and from King Fahd of Saudi Arabia, see I. William Zartman, "Islam, the State, and Democracy: The Contradictions," in *Between the State and Islam*, eds. Charles Butterworth and I. William Zartman (Cambridge, Cambridge University Press, 2000), 234; Nazih Ayubi, *Political Islam: Religion and Politics in the Arab World* (London: Routledge, 1991), 139; Yahya Sadowski, "The New Orientalism and the Democracy Debate" in *Political Islam: Essays from the Middle East Report*, eds. Joel Bienen and Joe Stark (Berkeley: University of California Press, published in cooperation with the Middle East Research and Information Project, 1997), 33.
3. The phrase is used by W. B. Gallie, *Philosophy and Historical Understanding* (London: Chatto and Windus, 1964), 158, and is quoted in John Esposito and John Voll, *Islam and Democracy* (New York: Oxford University Press, 1996), 13-14. I am indebted to Esposito and Voll for their book and for the stimulation and encouragement they provided during an NEH Seminar at Georgetown University in 1999.
4. See Joshua Cohen, "Procedure and Substance in Deliberative Democracy," in *Democracy and Difference: Contesting the Boundaries of the Political*, ed. Seyla Benhabib (Princeton: Princeton University Press, 1996), 95-120. See also Ian Shapiro and Casiano Hacker-Cordon, "Promises and Disappointments: Reconsidering Democracy's Value," 1-19, and Philippe Van Parijs,

- “Contestatory Democracy Versus Real Freedom for All,” 191-98 in Ian Shapiro and Casiano Hacker-Cordon, eds. *Democracy’s Value* (Cambridge: Cambridge University Press, 1999). The concept of “deep democracy” is broached in Judith Green, *Deep Democracy: Community, Diversity, and Transformation* (London: Rowman and Littlefield, 1999), especially v-xv.
5. See Fazlur Rahman, *Islam*, 2d ed. (Chicago: University of Chicago Press, 1979), 235-65, and Charles Kurzman, ed. *Liberal Islam: A Source Book* (New York: Oxford University Press, 1998).
  6. For the rich diversity of Islamic “particularisms,” see Ahmed Al-Shahi, ed. *The Diversity of the Muslim Community: Anthropological Essays in Memory of Peter Lienhardt* (London: British Society of Middle Eastern Studies, 1987).
  7. Wael Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunni Usul al-Fiqh* (Cambridge, Cambridge University Press, 1997), 10. The precise number of verses with legal implications may vary with the definitions employed. However, most estimates hover between 200-300. For some estimates, see G. H. Jansen, “Islam and Democracy: Are They Compatible?” *Middle East Journal* 426 (May 1992): 18; Hoffman, “On the Development of Islamic Jurisprudence,” 76; Lawrence Rosen, *The Justice of Islam: Comparative Perspectives in Law and Society* (New York: Oxford University Press, 2000), 177, footnote 1; and Abdullahi Ahmed An-Naim, *Towards an Islamic Reformation: Civil Liberties, Human Rights, and International Law* (Syracuse, NY: Syracuse University Press, 1990), 20.
  8. Mohammad H. Kamali, “Law and Society: The Interplay of Revelation and Reason in the Sharia,” in *The Oxford History of Islam*, ed. John Esposito (New York: Oxford University Press, 1999), 119-20.
  9. I am using Abdullah Yusuf Ali, *The Holy Qur’an: Translation and Commentary* (Lahore: Islamic Propagation Center International, 1934).
  10. The Prophet said on various occasions that “an hour of contemplation and study of God’s creation is better than a year of adoration,” “one who spreads knowledge distributes alms,” “the ink of the scholar is holier than the blood of the martyr,” and “one who travels seeking knowledge is on the path of Allah until one returns.” See Salah El-Sheikh “*Sirat al-Mustaqim* and *Hikmah: A Qur’anic View of Socioeconomic Behavior, Economic Discourse and Method*,” *American Journal of Islamic Social Sciences* 16, no. 2 (summer 1999): 65-66.
  11. *Ibid.*, 64.
  12. The legal autonomy of Jews and Christians was hinted at, and the need to establish a legal identity for the Muslims began to emerge at Madinah. See Hallaq, *History*, 4-5.
  13. This does not mean that the Qur’an is neutral about all religions or contains no evangelical inspirations. On the contrary, it is quite categorical in suggesting that Islam’s spirit is the purest, its Prophet is the final one, its people are the best community that God has raised, and that its path is the straightest.

- However, whether it is the only way to reach God is not as unambiguously stated. As Sachedina has pointed out: “There is no verse in the Qur’an, direct or indirect, to suggest that the Qur’an saw itself as the abrogator of previous scriptures.” See Abdulaziz Sachedina, *The Islamic Roots of Democratic Pluralism* (Oxford: Oxford University Press, 2001), 31. The “abrogation verse”: “None of our revelations do we abrogate or cause to be forgotten, but We substitute something better or similar. Know you not that God has power over all things?” (2:106), may apply either to other scriptures or to earlier revelations in the Qur’an itself.
14. *Ibid.*, 30-36. Sachedina’s scholarship and humanism has influenced me greatly.
  15. This was how it was construed later, particularly by adherents of the Shafi’i school of Islamic jurisprudence. See Albert Hourani, *A History of Arab Peoples* (Cambridge: Cambridge University Press, 1991), 68. However, nothing in the Qur’an and the Sunnah denies the right of the entire people to be consulted.
  16. See Gudrun Kramer, “Islamic Notions of Democracy” in *Political Islam*, 77. Even the supposedly illiberal Hanbalite thinker Ibn Taymiyah said that the ruler is “morally bound to take counsel of his subjects and work for their welfare, and the subjects are equally bound to offer their good counsel to him ... The ideal of the social life therefore is not submission to the state but cooperation with the state.” Quoted in Patrick Bannerman, *Islam in Perspective: A Guide to Islamic Society Politics and Law* (London: Routledge, for the Royal Institute of International Affairs, 1988), 70-71.
  17. In fact, the people are encouraged to challenge a ruler when necessary and appropriate. The Prophet said: “If people see an oppressor and do not hinder him, God will punish all of them.” See Sachedina, *Islamic Roots*, 122. He also said “never will my community be united in an error,” obedience to a ruler should be “only in righteousness not in transgression” and that “the best form of jihad (struggle) is to tell a word of truth to an oppressive ruler.” All of this indicates the significance of the community’s will rather than the dictate of any ruler. For these quotations, see Gustav E. Grunbaum, *Medieval Islam: A Study in Cultural Orientation*, 2d ed. (Chicago: The University of Chicago Press, 1953), 150, and Hashim Kamali, “Law and Society,” 147.
  18. Such scholars as Abdullahi Ahmed An-Naim have argued against the “sacralization of the shariah” because it was, after all, a human construction and thus unreliable, fallible, and time-bound. See chapter 2, “On the Sources and Development of Shariah” in his *Towards an Islamic Reformation*, particularly pp. 14-21. This is also the position of Libya’s Muammar Qaddafi. See Bannerman, *Islam in Perspective*, 13. Fazlur Rahman refers to the Shari‘ah as having only a “derivative status” in content and context since it is “the historical product of lawyer–theologians.” See his “Approaches to Islam in Religious

- Studies: Review Essay,” in *Approaches to Islam in Religious Studies*, ed. Richard C. Martin. (Tucson: University of Arizona Press, 1985), 197.
19. See Bassam Tibi, *The Challenge of Fundamentalism: Political Islam and the New World Order* (Berkeley: University of California Press, 1998), 170-71. See also Al Ashmawi “Shariah: The Codification of Islamic Law,” *Liberal Islam*, 50.
  20. There are innumerable instances of the Shari‘ah changing in response to the new situations and demands that the community had to face. See Kamali “Law and Society,” 134-35 and 139-42.
  21. Quoted in Bannerman, *Islam in Perspective*, 36, and (in a slightly different form) in Afzalur Rahman, *Readings in Political Philosophy*, vol. 1, *Liberty* (London: Seera Foundation, 1987), 154
  22. Fazlur Rahman, *Islam*, 56. Al Ashmawi quotes Muhammad Amin ibn Abidin, a great Hanifite jurist, who wrote: “Numerous legal rules change in function according to the times, by reason of the modification of customs, of necessity, or of the change in time. If they do not change they would cause difficulties and harm people, thereby restricting the rule of shariah which directs us to smooth out difficulties and to avoid all prejudice.” See Al Ashmawi, “Shariah,” 55.
  23. There are many examples of the Prophet accepting his Companions’ advice on such issues as war tactics, forgiveness for those who may have behaved treacherously, or even the practical care of date palm trees. For these and other examples, see Afzalur Rahman, *Readings*, 153-54.
  24. The full text of the Declaration of Madinah is available in Abdulrahman Abdulkader Kurdi, *The Islamic State: A Study Based on the Islamic Holy Constitution* (London: Mansell Publishing House, 1984), 131-37.
  25. See Ayubi, *Political Islam*, 6.
  26. For a discussion of the “post-charismatic anxiety” that the Muslims faced after the Prophet’s death, see Hamid Dabashi, *Authority in Islam: From the Rise of Muhammad to the Establishment of the Umayyads* (New Brunswick, NJ: Transaction Press, 1989), 65-67. See also Wilfred Madelung, *The Succession to Muhammad: A Study of the Early Caliphate* (Cambridge: Cambridge University Press, 1997), 34-35 and *passim*.
  27. Bernard Lewis, translating from the writing of Ibn Hisham, *Islam from the Prophet Muhammad to the Capture of Constantinople*, 5.
  28. For many examples of the early caliphs’ tolerance and dedication to equity and justice, see Afzalur Rahman, *Readings*, 158-66.
  29. This paragraph is based on Esposito and Voll, *Islam and Democracy*, 25-26.
  30. For an excellent discussion of the concept of *tawhid*, see Muhammad Nejatullah Siddiqui, “*Tawhid*: The Concept and the Process,” in *Islamic Perspectives: Essays in Honor of Mawlana Abul A‘la Mawdudi*, eds. Khurshid Ahmad and Zafar Ansari (Leicester, UK: The Islamic Foundation in association with the Saudi Publishing House in Jeddah, 1979), 17-33. See also Farid Esack, *Qur’an*,

- Liberation, and Pluralism: An Islamic Perspective of Inter-Religious Solidarity against Oppression* (Oxford: Oneworld Press, 1997), 90-94. Esack appropriates and analyzes this and many other Qur'anic concepts to approximate the idea of "liberation theology" from within an Islamic perspective.
31. Kemal Kerpat points out that until the nineteenth century, the Ottoman sultans hardly ever used the caliphal titles to define their imperial power. See his "The Ottoman Rule in Europe from the Perspective of 1994," in *Turkey between East and West: New Challenges for a Rising Regional Power*, eds. Vojtech Mastny and R. Craig Nation (Boulder, CO: Westview Press, 1996), 9.
  32. *Ijtihad* is not a recent concept, for even such conservative classical jurists as al-Shafi'i encouraged it. See relevant quotations in Ann K. S. Lambton, *State and Government in Medieval Islam: An Introduction to the Study of Islamic Political Theory, The Jurists* (London, Oxford University Press, 1981), 9. Significantly, this principle is being utilized to "modernize" Islamic law in many Muslim countries. See the Pakistani High Court's ruling in *Khurshid Jan v. Fazal Dad* (1964), quoted in Bannerman, *Islam in Perspective*, 57. Among modern thinkers Abdullahi An-Naim's position is the most radical. He contends that *ijtihad* can, and should be, pursued even when it may go against some minor Qur'anic stipulation ("as long as the outcome is consistent with the essential message of Islam"). See his, *Towards an Islamic Reformation*, 28-29.
  33. Quoted in Esposito and Voll, *Islam and Democracy*, 29.
  34. See Hallaq, *A History of Islamic Legal Theories*, 86.
  35. Grunebaum, *Medieval Islam*, 150, 152.
  36. Quoted in Wael Hallaq, "Was the Gate of Ijtihad Ever Closed?" *International Journal of Middle East Studies* 16 (1984): 3.
  37. *Ibid.*
  38. The backlash against the rationalists is discussed in M. Umer Chapra, "Is Rationalism Possible in the Muslim World?" *American Journal of Islamic Social Sciences* 16, no. 4 (winter 1999): 110-16.
  39. The debates about the importance of reason vs. revelation continued well after the supposed "closing" of the door of *ijtihad*. For the legal-judicial debates, see Hallaq, "Was the Gate of *Ijtihad* Ever Closed?" 3-41. For the intellectual debates, see M. Umer Chapra, "Is Rationalism Possible in the Muslim World?" 103-28.
  40. Ironically, the pioneers of rationalism who carried out the first *mihnah* (or testing one's ideological loyalties) in Islam may have prompted a conservative reaction.
  41. Some of the difficulties and confusion in the *hadith* literature are discussed by M. J. Kirster. See his "On Concessions and Conduct: A Study in Early Hadith," in *Studies in the First Century of Islamic Society*, ed. G. H. A. Juynboll (Carbondale: Southern Illinois University Press, 1982), 89-107. Fatima Mernissi has argued that the restrictions on women, or the betrayal of

- the Islamic idea of a “mosque-based democracy,” came about because of patriarchal imperatives rather than Islam. See her *The Forgotten Queens of Islam*, trans. Mary Jo Lakeland (Oxford: Polity Press, 1992), 80.
42. J. Spencer Trimingham, *The Sufi Orders and Islam* (with a new Foreword by John Voll), 2d ed. (New York: Oxford University Press, 1998), 31. See also Fritz Meier, “The Mystic Path” in Bernard Lewis, ed., *The World of Islam: Faith, Culture, People* (London: Thames and Hudson, 1992), 117-38; and Michael J. Hodgson, *The Venture of Islam: Conscience and History in World Civilization*, vol. 1, *The Classical Age of Islam* (Chicago: The University of Chicago Press, 1974), 392-409.
  43. This intense spiritual experience is indicated in 17:1 and is elaborated in various *ahadith*.
  44. Meier points out that al-Hallaj’s execution was probably due more to the period’s specific circumstances and that it was not an attack on Sufism itself. See his “The Mystic Path,” 118-19. The most detailed account of this episode is found in Louis Massignon, *The Passion of al-Hallaj: Mystic and Martyr of Islam*, trans. Herbert Mason (Princeton: Princeton University Press, 1982).
  45. Franz Rosenthal remarks that the sheer quantity of texts that were recovered, translated, and commented upon by the Arabs was nothing short of “astounding.” Quoted in Joel Kraemer, *Humanism in the Renaissance of Islam: The Cultural Revival during the Buyid Age* (Princeton: The Darwin Press, 1985), 3. See also Abdur-rahman Badawi, “New Philosophical Texts Lost in Greek and Preserved in Arabic Translation” and F. E. Peters, “The Origins of Islamic Platonism,” both in *Islamic Philosophical Theology*, ed. Parviz Morewedge (Albany: State University of New York Press, 1979), 14-45. Peters’ *Aristotle and the Arabs* (New York: New York University Press, 1968) remains the magisterial work on the Arabs’ engagement with the Greek intellectual tradition.
  46. Franz Rosenthal, *The Classical Heritage in Islam* (London: Routledge, 1975), 14.
  47. Joel Kraemer, *Humanism*, 2.
  48. Glenn E. Perry, *The Middle East: Fourteen Islamic Centuries*, 3d ed. (Saddle River: Prentice Hall, 1997), 77. For an interesting, if slightly meandering, argument about Islam’s contribution to the West, see Alessandro Bausami, “Islam as an Essential Part of Western Culture” in *Studies in Islam* (Amsterdam: North Holland Publishing Company, 1974), 19-36.
  49. For the multicultural and diversity issues faced by the ‘Abbasid regime, see Bertold Spuler, *The Age of the Caliphs*, trans. F. R. C. Bagley (Princeton: Marcus Weiner Publications, 1995), 31-32. For a discussion of some of the Mu’tazilite arguments, see Tariq Khalidi, *Classical Arab Islam: The Culture and Heritage of the Golden Age* (Princeton: The Darwin Press, 1985), 79-87, and Richard C. Martin, Mark W. Woodward, and Dwi S. Atmaja, *Defenders of Reason in Islam: Mutazilism from Medieval School to Modern Symbol* (Oxford: Oneworld Publications, 1997), 1-45.

50. For this and other misperceptions, see Haim Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective* (Albany: State University of New York Press, 1994), 11-12, 176-77.
51. See Marshall Hodgson, *The Venture of Islam: Conscience and History in World Civilization*, vol. 3, *The Gunpowder Empires and Modern Times* (Chicago: Chicago University Press, 1974), 110.
52. Gerber, *State*, 56.
53. Fariba Zarinebaf-Shahr, "Women, Law, and Imperial Justice in Ottoman Istanbul in the Late Seventeenth Century," in *Women, the Family, and Divorce Laws in Islamic History*, ed. Amira El Azhary Sonbol (Syracuse, NY: Syracuse University Press, 1996), 88-89 and her "Ottoman Women and the Tradition of Seeking Justice in the Eighteenth Century," in *Women in the Ottoman Empire: Middle Eastern Women in the Early Modern Era*, ed. Madeline Zulfı (Leiden, The Netherlands: Brill, 1997), 256-58.
54. About 200 volumes of these petitions are extant. See Fariba Zarinebaf-Shahr, "Ottoman Women," 256, and Gerber, *State*, 156-58.
55. See Hodgson, *The Venture of Islam*, 3:125-26. The *millet* system was extended to incorporate other ethnic minorities as well. See Albert Hourani, *The Emergence of the Modern Middle East* (London: MacMillan, 1981), 9-10.
56. See Robert Maitran, "Foreign Merchants and Minorities in Istanbul during the Sixteenth and Seventeenth Centuries," in *Christians and Jews in the Ottoman Empire: The Functioning of a Plural Society*, eds. Benjamin Braude and Bernard Lewis (New York: Holmes and Meier Publishers, 1982), 128. See also Christopher de Bellaigue, "Turkey's Hidden Past," *New York Review of Books* 48, no. 4 (8 March 2001): 38.
57. Braude and Lewis, *Christians and Jews*, 24. The first census in the Ottoman Empire in the late nineteenth century revealed that Muslims were barely a majority in Istanbul. See de Bellaigue, "Turkey's Hidden Past," 38.
58. William H. Cleveland, *A History of the Modern Middle East* (Boulder, CO: Westview Press, 2000), 133.
59. Ira M. Lapidus, "The Separation of Church and State in the Development of Early Islamic Society," *Middle East Studies* 6, no. 4 (Oct. 1975): 363-85. Mehmed II (1451-81) issued the *kanunmeler* that helped provide the legal basis for the emerging "pluralist cultural-religious corporatist structure," a process that matured under Suleiman the Magnificent. See Kemal Karpat, "The Ottoman Rule in Europe," 7 and Halil Inalcik "Suleiman the Lawgiver and Ottoman Law" in his *The Ottoman Empire: Conquest, Organization, Economy: Collected Studies* (London: Variorum Reprints, 1978), 105-38.
60. Bernard Lewis points out that the term *siyasa* was already in use during the Rashidun period and that its distinctions with the Shari'ah became obvious by Mamluke times. The Ottomans simply organized and formalized the process with greater clarity. See his "Siyasa" in *In Quest of Islamic Humanism: Arabic and Islamic Studies in Memory of Mohammad Nowaihi*, ed. A. H. Green

- (Cairo: The American University of Cairo Press, 1986), 4-10. See also Niyazi Berkes, *The Development of Secularism in Turkey* (London: Hunt and Co., 1998), 14-15.
61. See Ira M. Lapidus, "Sultanates and Gunpowder Empires" in *Oxford History*, 378-81 and Marshall Hodgson, *The Venture of Islam*, 3:107-10.
  62. Esposito and Voll, *Islam and Democracy*, 48.
  63. R. C. Majumdar, general ed., *The History and Culture of the Indian People*: vol. 9, *The Mughal Empire* (Bombay: Bharatiya Bidya Bhaban, 1974), 544.
  64. Quoted in C. E. Bosworth, "The Concept of the Dhimmi in Early Islam," in *Christians and Jews in the Ottoman Empire*, 43.
  65. Burton Stein points out that while there may have been an early enthusiasm about the pillaging of temples (mainly for the wealth hoarded there), Muslim rulers were "practical men" who found it easier to rule by considering Hindus as *dhimmi*s (protected minorities) and thus made no self-conscious or organized effort toward mass conversion. See his *A History of India* (Oxford: Blackwell Publishers, 1998), 144. In fact, Richard Eaton makes the intriguing observation that there is an inverse relationship between the seats of Muslim power and a given region's level of Islamization. See his *The Rise of Islam and the Bengal Frontier* (Berkeley: University of California Press, 1993), 115. Significantly, the royal insignia that contributed to the Mughal emperors' "iconic ideological structure" contained no Islamic symbol or religious idiom. See Andrea Hintze, *The Mughal Empire and Its Decline: An Interpretation of the Sources of Social Power* (Aldershot: Ashgate Publishers, 1997), 51.
  66. See Eaton, *The Rise of Islam*, 179-82.
  67. This paragraph is based on S. M. Burke, *Akbar: The Greatest Mughal* (New Delhi: Munshiram Manoharlal Publishers, 1989), 140-41; R. C. Majumdar, *History and Culture*, 538-39; and Burton Stein, *A History of India*, 175.
  68. S. A. A. Rizvi, *The Wonder That Was India*, vol. 2, *A Survey of the History and Culture of the Indian Subcontinent from the Coming of the Muslims to the British Conquest* (London: Sidgwick and Jackson, 1987), 166-67.
  69. Majumdar, *History and Culture*, 194, 213. See also Athar Ali, "Towards an Interpretation of the Mughal Empire," in *The State in India: 1000-1700*, ed. Herman Kulke (Delhi: Oxford University Press, 1995), 273.
  70. While some Mughal officials could engage in predatory or whimsical behavior, Mughal rule generally supported trade, and the fortunes attained by some of the commercial bourgeoisie could be compared to the Fuggers of Augsburg, the Medici of Florence, or the Cranfields of London. For a discussion of the process, see Ahrar Ahmad, "Analysing Pre-colonial South Asia: Mode of Production or Proto-industrialization?" *Journal of Contemporary Asia* 27, no. 3 (1997): 318-23.
  71. R. C. Majumdar, *History and Culture*, 195.
  72. *Ibid.*, 704-05.
  73. Burke, *Akbar*, 26.

74. Pushpa Prashad, "Akbar and the Jains," in *Akbar and His India*, ed. Irfan Habib (Delhi: Oxford University Press, 1997), 97-98. Mughal intellectual debates lacked the "edge" or vigor of the 'Abbasid era, and the Mughals displayed no enthusiasm for science and technology. See Irfan Habib "Reason and Science in Medieval India," in *Society and Ideology in India: Essays in Honor of R. S. Sharma*, ed. D. N. Jha (New Delhi: Munshilal Manoharlal Publishers, 1996), 163-74.
75. For a full discussion, see Khaliq Ahmed Nizami, *Akbar and His Religion* (Delhi: Idarahi Adabiyati Delhi, 1989), 28-77.
76. However, Aurangzeb's position was more complex than is assumed. For example, in a letter to Rana Raj Singh (a non-Muslim), he wrote that kings must ensure that justice prevailed over all people including minorities and "[If any king] resorted to intolerance and became the cause of dispute and conflict and of harm to the people at large, who are indeed a trust received from God, [he must] be rejected and cast off." See Athar Ali, "Towards an Interpretation," 269.
77. One must be careful to ensure that, in the eagerness to look at the democratic implications inherent in Islamic text and history, democracy or Islam are not defined in ways that distort both. There are reasonable questions about the "cluster of absences" in Islamic thought and practice, or the lack of "Enlightenment," as in the European tradition, that must be explored.
78. Bernard Lewis has argued that "In the Middle East the impact of European imperialism was late, brief, and for the most part indirect." Quoted in Yahya Sadowski, "The New Orientalism and the Democracy Debate," 42. That position is questionable. By establishing political domination, economic dependency, and intellectual hegemony implicit in the "Orientalist project," the West contributed to the instability and vulnerability that continue to haunt most of the contemporary Muslim world.