

BOISI CENTER INTERVIEWS



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ABDULLAHI AN-NA'IM is the Charles Howard Candler Professor of Law at Emory University in Atlanta. He spoke with Boisi Center associate director **Erik Owens** before delivering the Center's 8th Annual Prophetic Voices Lecture on the challenges and prospects of American secularism for American Muslims.

OWENS: Some of the questions I wanted to ask you relate, of course, to your new book, *Islam and the Secular State: Negotiating the Future of Sharia*. One of the things that struck me at the outset was about the project itself, not necessarily the content of your argument, but the way in which you describe, in your preface, how you distributed the arguments and had them translated. Could you say a bit about that, and why you chose to do that in advance?

AN-NA'IM: My sense was that after a long experience with similar projects, I felt that I have to integrate and add to each component persuasively in the concept and the process. Because for me, persuasion is the key, and if I am not able to persuade with what I am trying to say, there is no point in even saying it.

I am a Muslim myself and have struggled with this question for many years. When I came to this insight over the last ten years, gradually building up the argument, I was able to develop this project. I took almost three years off, combining my sabbatical with leave on the project from the Ford Foundation, to write the basic concept theory. And I had that translated into languages of different Muslim societies and also had colleagues helping me in various countries organizing those tours because I was trying to present and see what Muslims think of

it. It was very much co-authorship in a way: I had my ideas, but I was open to see what people thought of my theory, what was right and wrong about it, and how to be persuasive about it.



OWENS: Was it useful? Did you get a lot of feedback?

AN-NA'IM: Extremely, yes. Whenever I get to explain what I mean, people really accept it. But there are so many barriers to a clear understanding: the fact that I am based in the U.S. or the fact that I'm from Sudan. So one or the other tends to distract people. To some it's the language, the terminology, about the secular and secularism, and Christianity. Others

suspect that this is just a Trojan horse, to undermine Muslim religious conviction and life. So I think I just keep persisting to explain and to really push myself to say – what do you think is wrong with this and what do you think I should do about it, or we should do about it? I found that to be extremely helpful. So I think in many ways, my whole argument and how to present it has been influenced by that process, and I'm grateful for it.

OWENS: It's a very impressive act—generous as well as helpful. At the outset of your book, it struck me that you declared this to be your final word on the topic. Did you mean that?

AN-NA'IM: I meant it at the time. I still do, in the sense of my ultimate statement. But I've found that there were so many other questions to address. It is more that sense of ultimate because I am religious. For me, as a Muslim, this is what I'm accountable for. For me as a Muslim, there's a very strong sense of accountability, and I very much believe in the afterlife and the day of judgment when I will be held to account. And what I'm saying is by that—my final statement, my ultimate statement—I mean that this is what at this stage in my life I'm willing to stand before God to defend. I think people who are not religious may not understand what that means.

So for me, it is not a matter of scholarship, or an academic exercise. It's a very personal religious statement that, as I say in the opening, I say that I need the state to be secular for me to be the Muslim I choose to be by conviction, which is the only way to be a Muslim. So it is something that I'm trying to present in that light. But I started thinking about the second book, or a follow-up book, in which I am trying to unpack some of the ideas out of this one.

OWENS: So let's talk about some of the ideas, then, from the book. The book is structured around an argument about a new relationship between Sharia and Islamic governments of predominantly Muslim societies. Could you give a brief account of the relationship, the future of Sharia, as your subtitle says? And then we can talk a bit about a few details in the American context.

AN-NA'IM: My sense is that the notion of an Islamic state to enforce Sharia is objectionable from a conceptual point of view. It is not just simply that experiments with Islamic states, so-called, have not worked out, but that they cannot work out. The state is a political institution that's incapable of having a religion. So whenever we say a religion of the state, as many Muslim majority countries' constitutions say—Islam is the religion of the state—it's incoherent. What they mean is that the ruling elite use the state to implement their view of Islam, and when it is seen in that light, people can see how dangerous it is to concede and declare that the state can be Islamic.

So my sense is that the nature of Sharia, as a religious, ethical, normative core, inherently requires voluntary compliance. It does not count as a religious act of observers as it should be, unless it is voluntarily and with intent to comply (niyah in Arabic). If I happen to miss a whole day of eating and drinking because I'm lost in a desert, or because I'm dieting, that does not count as religious fasting. For it to be fasting, it has to be

with intent to comply. And I say that compliance with Sharia obligations, all of them, whether they have to do with social relations, with commercial interaction, whatever—must be voluntary in accordance with the religious nature of those obligations. Coercive enforcement by the state, therefore, negates that possibility and it changes the nature of the norm. It becomes a legal norm instead of a moral, religious norm. From that fundamentally religious perspective the state cannot be

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Islamic, and Sharia cannot be enforced by the state. Whatever the state does is secular.

But then, my other question is, what to do about Sharia in public life? It is true that the state cannot enforce Sharia, but it's also true that our society needs a moral anchor and normative sort of moral principles to work with. And those come from religion for most people. It is conceivable that someone could have some humanist philosophy as a source of moral principle, but that usually comes later in life, often

after having been raised on some religious basis. So that's why I use the notion of civic reason to open the possibility of a public engagement of religion, instead of relying on the state coercive enforcement of religion.

OWENS: So your argument for civic reason relates to the mode of discourse that religious people should use, and non-religious people should use. How do you respond to the broad strand of criticism against public reason, civic reason? Arguments that it keeps authentic religious voices out of the public sphere, which is exactly where they should be, according to some people.

AN-NA'IM: That's exactly why I avoid the term public reason. Because to me, the term public reason comes in that strain of political philosophy that is too prescriptive of what counts as public reason, the space where it can happen and the participants who can be part of it. This is because it is obsessed with the outcome. So it is prescriptive in that people like Rawls and Habermas are concerned about setting liberal outcome of the discourse. All I'm saying is that people decide what is persuasive. People decide what outcomes of their discourse should be, rather than political theorists or elite deciding what discourse is allowed to what ends.

I argue for constitutionalism, for citizenship, for human rights, but if those parameters are not persuasive to people, they're not going to count much. So I tried to present a framework within which civic reason would happen, without prescribing the outcome or the mode or what sort of arguments and what sort of participants.

OWENS: Why is civic reason the norm? Why ought that be the normative mode of discourse, as opposed to a broader conversation that includes religious justification?

AN-NA'IM: No, I'm not excluding it. That's what I mean by avoiding being

prescriptive. I sense that the public reason sort of logic excludes religion. When I say it cannot be based on Sharia, so that people are encouraged to have a conversation. It is not just a matter of positing or asserting a proposition, like we banned this or we punished that because God said so.

The religious discourse that comes into, say, when I give examples about prohibiting interest or certain kinds of transactions, or rules about family relations, that you have to persuade people. And if people are believers, part of the decision will be a religious discourse. What I'm worried about are assertions that are intended to end a conversation: "This is the way it is because God said so, and this is the only meaning of what God said.

How you define what's a religious discourse and what is a so-called secular discourse is important. The notion of negotiating the future of Sharia is critical for me, in the sense that it's all about how believers can contest and debate and transform their understanding of Sharia. Whether I take a view or idea to be religious or not the challenge is how I can be persuasive for other citizens who are not believers in my religion.

OWENS: One of the distinctions that I think many people who are Christian don't appreciate within the Muslim tradition is the great difference between the Christian concept of belief versus the practice of Islam. Could you say a bit about how this relates to your argument, the government's role in the practice of one's life, as opposed to the Western concept of freedom of conscience, for example, that you can regulate activity but not belief. You're moving into a whole different category, and belief doesn't have the same resonance for the Muslim world.

AN-NA'IM: think this can be true among Muslims, as well as between Muslims and others. A concept born in a particular historical political experience would be defined by that experience. But



as it travels into other domains and ways of thinking, then it will have to adapt, or cease to be an element.

So the notion of freedom of religion, whether in terms of distinction between belief and practice, how practice applies to public policy, for example—all of those questions are where the negotiation happens. This happens in terms of what we said earlier about why civic reason is necessary because we share the state, and society, with all our differences we must learn to share the space. By we I mean not only different varieties of Muslims, but also non-Muslims. So the more exclusive our discourse is, the less persuasive to others. The broader and more inclusive it is, the more persuasive. Whether it is belief or practice, we tend to differ in what we do and how we do it, but should not assume it to be a matter for the community as such. Communities are not entities that can act as such. We cannot speak about an "Islamic community," it is rather a community of Muslims.

So for me personally, the idea that it is Muslims who believe: they are Muslims who practice, as people. It is not an entity called the community that believe and practice. Even when we are standing to pray in one line, each of us is praying as himself or herself. And yet, there is something about communal practice,

which again, in different various types of communities—say, in Sufis, Sunni, Shia—it has different connotations. So among the Muslims, it's not uniform. We have to keep an open mind as to what these institutions and concepts mean in different settings, and to be flexible and adaptive.

OWENS: What sorts of principles do Muslims and predominantly Muslim societies need to agree with, in order for them to be on board with your project? For example, I'm thinking in particular of this sort of hermeneutics used, looking back—looking past Sharia to the Koran, and thinking of the Medina versus Meccan passages in the Koran. Is this something that those Muslims around the world who will be on board with your project need to agree with?

AN-NA'IM: No.

OWENS: Or can you speak to the importance of that kind of hermeneutic versus other ways of joining your project?

AN-NA'IM: Yes. I've tried to make this point in the book in the first place. I subscribe to a particular view of Sharia, and the role of the relevance of Koran, and the human agency of believers in interpreting and living by it.

My point is that whether you agree with that particular possibility or not, we

need to agree on some essential ground rules. So I'm talking more in terms of ground rules of acceptance of difference, of keeping the state as neutral as is humanly possible precisely so that we can all believe and practice and engage in reinterpretation or not, as we choose, and with the least coercion.

OWENS: Doesn't that, in some point, hinge upon a particular interpretation of political theology that arises from the Koran?

AN-NA'IM: I believe it does, but I'm not making it a precondition for others to accept. I'm saying, *in my view*, the argument to legitimize this principle themselves is better served by an approach to Sharia like the one I am advocating. But if you find that you can come to the same conceptual conviction and acceptance of it even pragmatically, or as a matter of principle, but from other type of methodology, that's fine. In fact, I am proposing here the idea of overlapping consensus, which I have proposed for multiple foundations or justification for the universality of human rights. . The notion of overlapping consensus is the idea that we can disagree as to the reason why we agree, as long as we do share the commitment to these principles.

So I'm saying to Muslims, if you concede utility, the legitimacy, the expediency, whatever it is, of these principles of keeping the state neutral and engaging in civic discourse about religion and so on, if we do, then you can have your own reasons for that commitment. My sense is that the methodology I subscribe to would be helpful for coming to that conclusion. But I'm not making that a precondition to give us commitment to this.

OWENS: One last question about the broader Islamic world before I turn back to the U.S. Can you envision the development of what might be called a liberal Islamic constitutional democracy, analogous to those with established religions in the Western world, which will provide

religious freedom and other important human rights, but at the same time, formally establish Islam?

AN-NA'IM: One point to make first is that this process of building liberal constitutional democracy has always been contingent, historical, contextual, and often contested. It has taken a long time, developed in very protracted manner of, fits and starts, back and forth. If you look at England, or the United Kingdom, or the United States, or Italy, or France, any of those countries, liberal constitutional democracy did not materialize in a uniform, or in a linear method.

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Taking into account the very fundamental point about Muslim majority countries as post-colonial societies is important, because that I think is not often taken seriously into account. Much of what is happening in those countries is not because the majority of their populations are Muslims, but because they are post-colonial countries. So there are certain problems of intolerance, of political instability, weakness of institutional development, that have to do more with

being post-colonial than to do with being Muslim majority countries. We find similar problems in other African and Asian countries which have Christian or Buddhist or Hindu majorities, and not only where Muslims are the majority.

Taking this point into account, I can see how other post-colonial societies are struggling to build their intuitions and to build their national identity and culture. The role of religion, negotiating the role of religion, that Muslims are struggling with is not different from the struggle of others with their religion—it is just in that Muslims have it in relation to Islam, where others have it in relation to Christianity, and so on.

And I think that we tend to think of Muslim majority countries with too narrow a prism of the Middle East. But in fact, there are more than 40 countries where Muslims are the majority of the population. And the vast majority of those countries, the issue of religion and the state is not really that serious or difficult to manage...I always give the example of the West African Muslim countries—Senegal, Mali, Morocco—those are majority Muslim countries where the problem is not at all that of religion and the state. This is true about other regions also, Southeast Asia, or Central Asia, and elsewhere where Muslims are the majority. My point here is not to take the Middle East as definitive or representative of the whole Muslim world.

But if you take each country on its own terms, its own history, its own context, and the type of Islam that came to prevail, and the way Islam came to the region, all of those factors are relevant to the Islamic dimension of the development of the country. There are also other dimensions which may be shared with other neighboring societies, regardless of religion. The Gambia has more in common with other West African countries than with Pakistan.

But to come to your question about the development of liberal constitutional



democracy specifically, I don't see any difficulty. In fact, I see the secular state (neutral regarding religion) unfolding as we speak. It's just that acknowledging it for what it is—that is what is difficult for many people. I think that the secular state is already happening, except that we are not naming it. And what I am trying to do in this is to name it.

OWENS: Where do you see it happening? You critique the Turkish example in your book. Where do you see it arising?

AN-NA'IM: I see it in many ways in Morocco, Senegal, Mali the Central Asian republic—in all these regions Muslims have accepted the secular state. That fact could be overshadowed by other problems, so much underdevelopment, political violence, that tends to distract our attention from seeing the secular state for what it is.

But again, there is the problem of timeframe. I mean, it is unfair to take all these countries which are 40, 50 years, 60 years, since they became independents, and compare them with the United States or European countries. Sometimes I say that the comparison should not be between today's United States and today's Sudan. But today's Sudan, and United States 60 years from its own independence, when women had no right to vote, when all sort of issues were going on.

So it is taking the timeframe, and taking the post-colonial versus colonial sort of perspective, and economic development, political stability, institutions, all of those factors.

OWENS: It seems to me that Americans have been politically quiescent the past two years. It poured out of a worry about Islamophobia, it arose in the campaign, but also, perhaps, a desire not to thwart the ambitions of a president Obama that they thought might do a better job in civil liberties. And of course, Colin Powell recently opened the door to a new conversation about this, by saying that there's nothing wrong with being a Muslim in America. Is that what you saw over the past year or so, and what do you think the future holds for Muslims in America in terms of politics?

AN-NA'IM: Actually, I have a very positive view of Muslims in America relative to other situations, like in Europe. I think that because of the stronger culture of immigration and cultural assimilation or integration of different cultural and religious traditions in this country historically, I think the United States did better than Europe did, over the last ten years or so. And that the tensions that the European liberal human rights orientations have been exposed to, because of the stronger uniformity and homogeneity

of European countries and ethnicity, sort of guest workers, and so where it not a threat to national identity and national culture, until recently. When it came to be for Europe and the United States, the cracks started to appear.

So I have a very positive feel of this country in this regard. I think it is an understanding of American secularism, which is by that, I mean, the First Amendment, basically, the Constitution amendment, as again, a very slow, protracted and contextual and historical process.

If it was not born [already] tolerant and accepted, it was very pragmatic. It was sometimes very tongue in cheek, in a way. I was thinking that we will say this, but in fact, it's not going to be much of a threat, because we were predominantly Protestant, and this and that, and so on.

But as the Catholic threat, I think, or the Catholic experience in the 19th century brought some of the tensions, and also created some of the possibilities. For me, the point is that when the Catholics started contesting on education, for example, and how they pushed for parochial schools and funding, and not happening on all of that, that led to an opening, a transformation of American secularism.

But it was the Catholic Church, it was the Catholic communities who were European, and who also had a stronger history of political engagement and citizen engagement. Are Muslims going to do as well, even over time, coming from where they come from, with little confidence in their ability to organize publicly, and also lacking the institutional hierarchy of the Catholic church, as a concept doctrine, as an organizing principle.

That is the challenge to American secularism from the Muslim immigrant, as well as native, indigenous Muslims, African-American Muslims. There's also a challenge to Muslims to say, are you going to come out and organize and exercise your citizenship, and to stake your share of the public concern, the civic

religion, or civil religion of this country, to be part of that process.

So that's how I see it playing out. I think that many factors fear that in this going out well, and part of it is the fact that Muslims are relatively better educated, economically successful, they tend to come from professional middle class—our middle class backgrounds. And all of that, once that—they come to terms that we need to engage this, we cannot afford to stay marginalized or disorganized and so on.

Once they come to acknowledge that, I think they can do well.

OWENS: Do you think that President Obama would help in any particular way create better relations between the United States and the Muslim world, or does it relate? Will he be just one more American president among many, with individual problems as they arise?

AN-NA'IM: I think personalities do make a difference, and that he is a

remarkable person. He has tremendous charisma, intelligence, eloquence, and a lot of things going for him.

But ultimately, this country is governed by institutions more than by personalities, which is something that people struggled for anyway, for a long time. And also, that there are so many centers of power, economic and political and social and cultural, that it is not likely that a single person, no matter how talented, can run away with things.

So we should not dampen, but sort of measure our expectations, and say that it's a good thing. Because if a single personality can transform the whole country's foreign policy or domestic policy, then they'll do it again, but with the wrong person doing it. So it is good that he cannot be [infallible], but I expect that you are not to recover the credibility of the American dream, and the American leadership, because material wealth and power and so on is unquestioned. But moral leadership has declined tremen-

dously in this country, for global issues—on global issues, human rights, foreign policy, peace. And I see that Obama's vision, personality, and also almost like a way of trying, bringing the best out of people.

If it turns out to be true that he can, in fact, bring the best out of people, and bring the American public, the American media, American intellectual leadership, to taking the traditional position of moral leadership globally, and telling themselves on that, I think it can take us a long way.

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The Boisi Center for Religion and American Public Life

Boston College
24 Quincy Road
Chestnut Hill, MA 02467

tel 617-552-1860
fax 617-552-1863
publife@bc.edu

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