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OBJECTIVES AND SCOPE

• Islam and Civilisational Renewal (ICR) is an international peer-reviewed journal published by Pluto Journals on behalf of the International Institute of Advanced Islamic Studies (IAIS). It carries articles, book reviews and viewpoints on civilisational renewal.
• ICR seeks to advance critical research and original scholarship on theoretical, empirical, historical, inter-disciplinary and comparative studies, with a focus on policy research.
• ICR aims at stimulating creative and original contributions within contemporary Muslim and non-Muslim scholarship to further civilisational renewal.
• ICR promotes advanced research on the civilisational progress of Muslims and critical assessments of modernity, post-modernity and globalisation.

CONTRIBUTIONS AND EDITORIAL CORRESPONDENCE

Notes to contributors and details of submission can be found at: ICR.plutojournals.org
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For this issue, IAIS’s journal *Islam and Civilisational Renewal* (ICR) is privileged to have secured submissions from several distinguished scholars, including Salah El-Sheikh, Ahmad Kazemi-Moussavi, Osman Bakar, Karim D. Crow, Stephen Young, Wan Mohd Nor Wan Daud, Christoph Marcinkowski, Alina Zvinkliene, and others. I would like to thank all of them for their contributions.

This issue features **five articles with policy recommendations**. The first article, “The World System in Civilisational Crisis”, is by IAIS Principal Research Fellow **Karim D. Crow**. His piece tries to review voices that are offering cogent alternatives from the reigning Euro-American schools of thought. We need to recognise that differing societies realise their own distinctive modes of modernity by drawing on civilisational values and experiences deeply embedded in their own cultures. Crow conveys the insight that globalisation and market capitalism together with their philosophical template (i.e., Enlightenment) have divided the world into privileged and under-privileged segments that do not promise a harmonious future for the wider humanity. Eastern Europe, China, Brazil, and perhaps India, although industrialised are short on technological sophistication and do not control global finance. The main question is whether an alternative model will take the place of the western financial model. This will be the dominant challenge of the twenty-first century. Muslim thinkers have yet to succeed in their efforts to articulate coherent alternatives to the capitalist model that convey a veritable Islamic position. Crow recommends that

- policy makers, officials, economic and financial advisors, and all thinking persons seeking to understand what drives the present, must give intelligent and sustained attention to the search for viable alternatives which effectively meet human needs and serve timeless values – whether they be Chinese or Islamic or Socialist.
- This mandates toleration of a variety of economic patterns and cultural modes, and opens the way towards addressing genuine human needs within an emergent multi-polar era.

The next article, “Economics as a Science: Insights from Classical Muslim Classifications of the Sciences” is by **Osman Bakar**, the Deputy CEO of IAIS Malaysia. Its author asserts that the progress of modern Islamic economics as a true
science would depend as much on the clarity and solidification of its foundational assumptions as on the building of its necessary institutions. Osman Bakar’s contribution aims at reformulating this science in Islamic terms by addressing in particular the issue of its foundational assumptions. Among those assumptions is the idea of the modern *homo economicus* and his needs and social setting. The author discusses those premises and the classical subject matter of economics by explaining the meanings of the two classical terms for economics, namely, *tadbīr al-manzil* (lit. ‘household governance’) and *iqtiṣād* (thrift, providence, and moderation). Osman Bakar makes the valid points that

- there is a need for a few research institutes and think-tanks that would conduct serious research on conceptual and philosophical issues pertaining to economics from the Islamic perspectives;
- the place and role of both home economics and jurisprudential economics in various colleges and universities need to be enhanced and brought into conformity with the teachings of Islam;
- institutions and individuals responsible for economic planning in Muslim countries need to review their philosophies of economic development and their approaches in the light of the holistic idea of economic health as emphasised in Islamic social philosophy.

“Implementing Islamic Law Within a Modern Constitutional Framework: Challenges and Problems in Contemporary Malaysia” is by Salah El-Sheikh, a professor in the Economics Department of St Francis Xavier University at Antigonish, Nova Scotia, Canada. He argues that the delicate balance within Malaysia’s current constitutional and social setting has been recently threatened by the increasing penetration of a form of orthodox Islamist legalism which antagonises non-Muslim minorities and unduly homogenises its Malay-Muslim population. According to the author, there exists in Malaysia a wide perception among Muslims and an increasing number of non-Muslims that the whole Islamic bureaucratic and judicial structures forgo compassion and social propriety in dealings with the public. State Islamic administrators, in El-Sheikh’s view, have cultivated a “holier-than-thou attitude”, resulting in the reluctance of the wider public to believe that Islamic institutions are able and willing to dispense justice to them. Increased politicisation of Islam in Malaysia has engaged the country in contentious politics over religion. To change this rather bleak outlook for the better, he recommends the following:

- The country may need to better equip itself with skills to re-interpret the *sharīʿah* in line with its prevailing social realities.
The fatwā issuance structure and mechanism in Malaysia need to be re-examined and revised. Efforts should be made to lower political concentration on Islamic issues in favour of greater involvement of academics, expert institutions and investigative procedures to provide input at an early stage before issues are moved to the arena of media and public debate.

The following article, “Modern Intellectual Approaches to Islamic Law”, is by Ahmad Kazemi-Moussavi, who is professor of Islamic law and Persian language in the University of Maryland in the United States. Kazemi-Moussavi’s contribution seeks to offer creative proposals by exploring the works of four contemporary authors – Mohammad Hashim Kamali, ʿAbd al-Ḥamīd Abū Sulaymān, Ṭāḥā Jābir al-ʿAlwānī, and Naṣr Ḥāmid Abū Zayd – who promoted reform either from within the sharīʿah or by borrowing methods such as empiricism and hermeneutics beyond the conventional scope of the sharīʿah. In his concluding part, Professor Kazemi-Moussavi makes the following recommendations to address shortcomings in contemporary Islamic legislation:

- The legal theory of Islamic law (usūl al-fiqh) in its revised structure, as attempted in the works of Mohammad Hashim Kamali, merits attention for integration into the working modalities of Muslim legislative assemblies and parliaments.

- Ijtihād today is a collective endeavour to be exercised by a council of scholars that should include experts not only of Islamic jurisprudence but also of other fields and disciplines. Ijtihād today must also be guided by the higher goals and purposes (maqāṣid) of the sharīʿah.

- A textualist approach to the understanding of sharīʿah which has characterised the history of Islamic scholarship needs to be moderated by a more empirical approach, as suggested in the works of ʿAbd al-Ḥamīd Abū Sulaymān and Ṭāḥā Jābir al-ʿAlwānī.

The last article, entitled “Qurʾānic Teachings and John Locke: Two Compatible Approaches to Good Government”, is by Stephen Young, the Global Executive Director of the Caux Round Table (CRT), an initiative by business leaders from all over the world aiming at innovative global changes. Young’s article explores the notion of a just and trustworthy government consistent with qurʾānic guidance. The author tries to compare both views with each other in order to make out common ground. In recommending a just form of government consistent with qurʾānic guidance, he deems it appropriate.
to adopt John Locke’s understanding that public office is a public trust where the people have a legitimate expectation that government will serve their needs and not do them any injustice;

and that, when government fails of these purposes, they may replace it by democratic means with one that is more faithful and just.

This time, ICR features five viewpoints, which address a variety of matters – from the issue of the implementation of the ḥudūd to Cultural Pluralism, Malaysia’s development prospects, and German–Muslim relations – as well as a book review section with five reviewed works.

Moreover, this time we are also very pleased to have in our documents section the keynote address presented at the first anniversary celebration of IAIS Malaysia on 29 October 2009 by the distinguished patron of our Institute, Tun Abdullah Hj Ahmad Badawi – Malaysia’s former Prime Minister.

I would like to thank all of our distinguished contributors as well as the IAIS Malaysia editorial committee and staff for their hard work and I look forward to their continued support.

Mohammad Hashim Kamali
Editor-in-Chief
THE WORLD SYSTEM IN CIVILISATIONAL CRISIS

Karim D. Crow*

Abstract: Neoliberal financial-market capitalism has dragged the world into a crisis which threatens human civilisation as such. It is characterised by an extreme form of the combination of the expansion of production, transport and life-style, with on the other hand the destruction of its own foundations, and suffers from a crisis of social reproduction, societal integration, democratic identification and security. Climate destruction, resource wars, terror, the transformation of democracy into oligarchy, class divides, a new racism and fundamentalism are unavoidable. It therefore leads to a crisis of civilisation, and produces ever stronger elements of barbarism and authoritarian power, which can only be contained at ever greater expense.

Introduction

It is impossible to be sanguine amidst the severe continuing recession and worldwide financial and economic uncertainty proliferating since September 2008. Rather than searching for ‘green shoots’ we require historically informed critical perspectives on the actual real significance of this ongoing event and its implications for the near future. To expect a return to ‘business as usual’ – even with imposed government regulations and transparent standards for financial procedures – is dangerously naïve. If people cannot learn from misplaced hopes and delusions, it will only compound our difficulty in advancing effective pragmatic policies, particularly for meeting the human needs of developing Asian societies.

Carbon-based fuels are the world’s greatest single commodity in volume and value traded on world markets – in 2007, the top ten consuming nations alone used a total of ca. 64 million bbl/day. With fossil fuels remaining the chief source both of energy and of environmental pollution, our era of the late twentieth to early twenty-first centuries may be termed the ‘Carbon Age’. At this time of writing the headlines shout: “The Demise of the Dollar” (The Independent, 6 October 2009), announcing the intent of oil producing Arab states in the Gulf Cooperation Council (GCC – primarily Saudi Arabia, the United Arab Emirates, Kuwait and Qatar) to

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stop pricing and trading their oil in US dollars within nine years by 2018. Central bank governors and finance ministers of the GCC states, China, Japan, France and Russia are agreed to non-dollar payments for oil, moving to replace the greenback by a ‘basket of currencies’ pooling the euro, yen, the yuan and a new unified GCC currency, and which appears set to draw in the Russian rouble, British pound sterling and Indian rupee. America’s declining economic power flowing from global recession and imperial overreach assumes even greater symbolic magnitude with this coming move away from the dollar’s hegemony as the dominant global reserve currency and motor of the international financial system. It prefigures a major reconfiguration of economic power relations. Significantly, the juxtaposition of China and rich Arab Gulf producers, in tandem with Japan and Russia, signals the reconfiguration of strategic power alignments within an emerging *multipolar global order*. This increasingly evident shift may magnify the likelihood of future clashes over resources and rivalry for influence between China and the United States with intensified competition for Middle Eastern oil. It should not be forgotten that behind the deceit over weapons of mass destruction with the Iraq invasion in 2003 the previous US administration under George W. Bush was primarily motivated by desire to secure access to oil resources viewed as indispensable to US global financial and military primacy.

The condensed overview offered here does not pretend to perform an autopsy or a vivisection on the global financial recession. Other studies in this volume provide food for thought on this complex and depressing web of motives and events. Our concern is with the historical, ideational and civilisational trajectories operating at a deep level, the buried movement of forces provoking surface currents. Uninformed opinion by unreflective observers sees only the obvious outward convulsions and tremors, while gradual shifting of tectonic plates over decades and centuries unexpectedly throws up a violent quake or destructive tsunami. A shock of the magnitude of this current global free market collapse provides the opportunity to take stock and assess deeper forces at work. But to learn its broader meaning and better understand its real implications is possible only by looking dispassionately when grasping the underlying trajectories of human ideas and societies. Such understanding requires us above all to comprehend our world today – this perplexing and violent world of late modernity – and how it has unfolded to its present situation fuelled by the power and action of master ideas and ‘myths’. Chief among these are the ideas of reason and progress inherited from the thinkers of the eighteenth-century European Enlightenment, coupled with its corollary rise of scientism and dissemination of technological advances. These form the ultimate background to the spread of the global Free Market advancing the political agenda of capitalist financial and ruling elites. A lack of awareness of the past undermines our ability to make sense of the present.

*Islam and Civilisational Renewal*
Why is it important to go back over time and trace out intellectual and ideological trends at work over several centuries, in order to achieve a more adequate grasp of what is occurring today? The simplest answer, and the truest one, is that ideas matter: master ideas which condition and channel human thinking and political activity, human social and cultural achievements, and the global realities we share in common today. The generality of observers who pause to reflect upon the course of events over the past two decades might not find this assertion credible. Certain ideas reviewed here may actually strike them as incredible! Furthermore, the importance of critical historical understanding of today’s global situation lies in the many peoples and societies who find their destiny inextricably tied to what leaders in Berlin, Paris, London, Washington, Tokyo, Beijing and Moscow perceive and understand. Post-colonial nation-states in Africa and Asia have been experiencing the transformations induced by globalisation bringing Euro-American domination in mercantile, military, financial and cultural spheres. In their search for realising their own authentic form of modernity, non-Western peoples are forced to come to grips with political, economic and civilisational values and forces imposed from without. Lacking a clear comprehension of the deeper currents shaping their era, without a better understanding of the actual forces and ideas sweeping the planet, the diverse peoples risk ‘losing themselves’ becoming alienated from their own proper values and ethos through a pervasive and irresistible ‘occidentalisation’.

Significant questions about our emerging pluralist era must therefore be addressed from a longer term perspective informed by critical awareness of historical roots and trajectories. It is imperative to listen to cogent alternatives dissenting from reigning Euro-American schools of thought. The ideas of a major alternative voice will be briefly sketched below who validates the reality of a diversity of cultures with distinctive political and economic models. John Gray is an iconoclastic English thinker whose political philosophy offers a bold critique of the dominant neoliberal ethical, political and economic thinking and policies in the United Kingdom and the United States.

The Egyptian francophone Samir Amin is a profoundly original political economist and tireless advocate of non-Western ‘peripheral’ alternatives to dominant capitalist economic theory and practice. Over many years he has developed a coherent interpretation of the rise and spread of capitalism, and paid close attention to its transformation and patterns of hegemonic dominance. He also offers detailed reflection on the pragmatic possibility of the contours of a new multipolar global order. Both Amiya Kumar Bagchi and Amartya K. Sen are eminent Indian economists whose welfare development theories have shaped contemporary thinking on the imperative to achieve human needs in social and political transformation. It is significant that these three eminent thinkers have paid close attention to the economic and cultural realities of India and China, as well as other Asian societies.
Taken together along with John Gray, the ideas of these alternative voices affirm that differing societies realise their own distinctive modes of modernity by drawing on civilisational values and experiences deeply embedded within their own cultures.

We emphasise again that this concise presentation is intended to arouse thought and prompt reflection on wider civilisational implications of recent events. The reader should not uncritically imagine that by presenting these views we are blessing them with unqualified approval. Our motivation is primarily to prompt critical reflection upon ideas in historical perspective which government officials as well as the official media frequently ignore or marginalise. The emphasis on critical reason was an essential Enlightenment motivation, and prepared the way for the advent of modernity.

The Enlightenment and Modernity

Modernity arose in Western Europe about three centuries ago with the rise of new social classes of intellectuals who sought to free themselves from the grip which traditional Christian churches exercised over men’s minds. There emerged an audience of educated readers eager to absorb new ideas promising an egalitarian social order through ending feudal monarchic privileges, as well as replacing authoritarian dogmas of the Church with rational principles in harmony with the uniformity of nature displayed by the rising tide of scientific discoveries. A new ethos, or existential stance toward reality, united diverse participants into a broader intellectual movement sharing similar political ideals and social aims in a common cosmopolitan spirit spreading throughout the cities of Europe and extending to North America. This so-called ‘republic of letters’ was an inevitable consequence of growing public literacy augmented by the spread of popular literature, along with the growing popularity of public coffee houses and of debating societies and literary salons where thinkers of various tendencies gathered to converse on fashionable or pressing issues. These public intellectuals – the self-styled ‘philosophists’ (French: philosophes, with France at first being the social and intellectual heart of this tendency) – highlighted the rule of law and the need to introduce constraints upon arbitrary exercise of institutional power by kings, nobility, or priests. They taught democracy and equality, revolution and reform, cosmopolitanism and internationalism, scepticism and science – all in a heady mix of rationalist and social-political agendas that captured the imagination of both the leisured class and of a growing public middle class.

The basic components of various tendencies jostling together under the umbrella of this ‘Enlightenment’ (German: Aufklärung, French: Les lumières, Italian: Illuminismo) or ‘Age of Reason’ were grounded on unbounded faith in the primacy of critical reflection, confidence in the demonstrable physical laws of nature, and an
optimistic utopianism in material progress through controlling nature and history. They embraced the following:

1. The universe is fundamentally rational and can be understood through the use of reason alone.
2. Truth can be attained by empirical observation, the use of innate human reason, and systematic doubt, while traditional authority (of monarchs, or the Church) is not to be preferred over experience.
3. All social and individual human life may be understood in the same way physical laws of the natural world are understood – they are subject to manipulation or engineering in the same manner that the natural world is subjected to human use, thus to ‘instrumental reason’. Instrumental rationality refers to employing human reason as a tool to reach goals, rather than using reason to critically assess the value or end of goals. For the natural sciences, it denotes knowledge of natural processes with the potential for technically harnessing natural laws or manipulating physical properties and conditions of nature. In the social sciences, economics well exemplifies instrumental reason in that it investigates how economic laws constrain human activity, and seeks to manipulate those laws or conditions.
4. Human beings may be improved by education and developing their rational facilities.
5. Human history is largely a history of ascending material and rational progress: by developing scientific knowledge of the natural world along with the ability to manipulate the physical world through technology, by overcoming ignorance bred of superstitions and religions, and by mitigating human cruelty and violence through social improvements and government structures.
6. Religious and metaphysical teachings on transcendent values as the source and goal of human existence have no intrinsic place in the understanding of the physical as well as human realms (secularism).
7. The greatest human crimes were perpetrated in the name of religion and of God – so a fair, just, and productive society requires religious tolerance between differing Christian sects, and even (in the view of some) towards non-Christian religions.

These newly-formed ‘philosophists’ of the Enlightenment were convinced they had discovered a sure formula for perpetual human happiness. They sought to deliver individuals from political and religious restraints so that they could act freely in accordance with human nature. The formula promised that pursuit of unfettered self-interest would benefit society as a whole; while it also promised that unfettered human reason would produce sound moral judgments, liberated
from the dogmatism and superstition of organised religion (Deism). *Autonomous individual freedom* encouraged the application of natural physical laws in shaping human activity and organisation. Material reality was accepted as the only reality, and natural laws affecting human society were deemed to be basically mechanistic. In their theories of human personality and development, and of social dynamics and organisation, Enlightenment thinkers departed from older religious and moral explanations of human behaviour and interactions towards an empirical analysis and mechanistic explanation of the laws of human activity and motives. Believing they now understood these scientific laws, the eighteenth-century rationalists were convinced they had found the secret of never-ending *progress*.8

Gray bluntly labels such belief in progress as a utopian ‘myth’ – portraying it as an inverted or sublimated act of faith deriving (unconsciously) from older Christian salvational teachings that were recast in a secular mould. He depicts secular culture as a “mutation of religious faith” being “a hidden re-birth of apocalyptic religious myth that is repressed in thought and emotion and shut off from conscious scrutiny”.9 As we shall see below, the consequences of this displacement from salvation in the *Hereafter* toward a perfect social and economic order in the *here and now*, continues to reverberate in our lives today.

The signatories of the *French Declaration of the Rights of Man and of the Citizen*, the *American Declaration of Independence*, the *United States Bill of Rights*, and the *Polish-Lithuanian Constitution* (3 May 1791) were all motivated by these Enlightenment principles. The French Revolution in 1789 was experienced in Europe as the most profound spiritual and intellectual crisis, when the sense of common purpose fostered by the Enlightenment gave way to divisive conflict. The assault undertaken by the *philosophes* against the old feudal order led to the long international battle fought by means of revolutions and dissenting political movements – from 1789 until 1939 into the present – between both liberal and socialist forces imbued with the Enlightenment heritage, and those forces of religious reaction, conservative prejudice and landed feudal privilege whose inspiration derived from what Isaiah Berlin termed the ‘Counter-Enlightenment’.10

The triumphalist Eurocentric view of history which maintains not only that the scientific and technological changes emanating from Europe resulting in the Industrial Revolution brought economic change throughout the world, but also gifted ‘civilisation’ to the rest of the world (thanks to Colonialism), was not effectively challenged until the mid twentieth century.

Understanding the natural world and humanity’s place in it solely on the basis of instrumental rationality – while trivialising the experience of religious faith and relevance of transcendent values for human existence – was perhaps the outstanding feature of the Enlightenment project. Unfettered innate reason was promoted as the primary source and legitimacy for ethics, political authority, economic ‘science’ and
social organisation. This prepared the way for the emergence of the contemporary ‘physicalist’ notion of reason as a brain function or ‘mental event’ at the basis of scientism. The foundation of modern Western political, economic, scientific and intellectual culture rests upon the Enlightenment – with its general hostility towards religion, promotion of secularism (separation of State from Church), and the privileging of applied reason for securing human freedom and material progress. The ‘grand narratives’ which enshrined those sweeping principles continued to hold sway during the nineteenth century which attempted to reconstitute a continuum of gradual progress in the new scientific paradigms of Positivism, Socialism and Evolutionism (Darwinism) taken to be truly ‘modern’. In one sense, all of us moderns are children of the Enlightenment.

The devastating critique by thinkers of the Frankfurt philosophical school Max Horkheimer and Theodor Adorno in their seminal study *Dialectic of Enlightenment*, highlighted the ‘dark’ side of the Enlightenment project which fed into the revolutionary Reign of Terror of the Jacobins (1793–94) during the French Revolution, and appeared in the twentieth century in the cruel totalitarian excesses of fascism, as well as of Marxist socialism in Russia and then of Maoist China. In addition, by facilitating the dramatic spread of capitalism, there is the undeniable impetus which the Enlightenment endowed to European imperialism with all its injustices and oppression. Thus, from the French Revolution of 1789 through centuries of exploitation, war and imperial conquest – ‘modernity’ has remained entangled with bloodshed and terror.

Contemporary debates assessing the legacy of the Enlightenment have recently been magnified by conflicting evaluations issuing from the political left and from the fundamentalist as well as conservative right in Euro-American thought. The German social theorist Jürgen Habermas, one of the most eloquent defenders of the contemporary relevance of the Enlightenment project, pointedly asked:

> Enlightenment thinkers still had the extravagant expectation that the arts and sciences would promote not only the control of natural forces, but would also further understanding of the world and of the self, would promote moral progress, the justice of institutions, and even the happiness of human beings. The 20th century has shattered this optimism [...]. Should we try to hold on to the intentions of the Enlightenment, feeble as they may be, or should we declare the entire project of modernity a lost cause?

However, in the view of Horkheimer and Adorno, the scientific method of the Enlightenment may have originally intended to serve the ideals of human liberation in an assault upon religious dogma. Yet the power of scientific reason ultimately wound up being directed not merely against the gods, but all metaphysical ideas – including conscience and freedom – as well. ‘Knowledge’ became
divorced from ‘information’, norms from facts, and the scientific method, increasingly freed from any commitment to liberation, transformed nature into an object of domination, and itself into a whore employed by the highest bidder.

In the more charitable positive evaluation: “the Enlightenment was always a movement of protest against the exercise of arbitrary power, the force of custom and ingrained prejudices, and the justification of social misery,” and it remains essentially relevant to democratic and liberal impulses for Western thought today. But in the more radically negative evaluation:

[…] all schools of contemporary political thought are variations on the Enlightenment project […]. That project, though irreversible in its cultural effects, was self-undermining and is now exhausted. Fresh thought is needed on the dilemmas of the late modern age which does not simply run the changes on intellectual traditions whose matrix is that of the Enlightenment. This is so […] because some of our dilemmas issue from aspects of the Enlightenment itself – in particular its assault on cultural difference, its embodiment of Western cultural imperialism as the project of a universal civilisation, and its humanist conception of humankind’s relations with the natural world. This last element of the Enlightenment has been transmitted even to cultures which have modernized without Westernizing, and constitutes the West’s only truly universal inheritance to humankind, which is nihilism.

This is indeed an unsparingly harsh critique of Enlightenment legacy. But Gray goes even further in his unrelenting unsentimental analysis, stripping naked the harmful delusions and arrogant hubris inflicted on our world over the past several decades including the ongoing financial crisis, and asking what path the orphans of the Enlightenment should now take.

**John Gray on Casino Capitalism and Missionary Politics**

A strong upholder of value-pluralism and self-described ‘post-Christian unbeliever’ Gray is a political philosopher of the old school deeply engaged with political economy, history, and social theory. He understands modernity from the multidisciplinary perspective of a post-liberal historicist view. Gray is controversial in the United Kingdom for having been an advocate for the New Right in the 1980s, and then crossing over to New Labour in the 1990s; yet now Gray sees the conventional political spectrum of conservatism and social democracy as passé. Since the 1990s he also attracted controversy for his position on value-pluralism linked to his interpretation of Isaiah Berlin’s liberalism; and more recently for his strong criticism of neoliberalism and the global free market. He now defends a pluralist perspective where “the animating project is that of framing terms of harmonious coexistence
among different cultures and traditions”, seen as the end-phase of Enlightened modernity for a post-Christian liberal humanism. Gray has further criticised central currents in Western thinking including progress and humanism, and favours Green thought. He consistently forecasts that the twenty-first century shall be marked by wars over natural resources accompanied by civilisational dissonance. With the fall of the Iron Curtain, trans-national Jihadist attacks, and a coming anarchic global economy, the world will find itself facing many familiar conflicts that never went away but were only submerged: religious and ethnic enmities, ideological rivalries and divergent economic interests over resources, with the world awash in weapons.

His well-informed writing brims with up to date references, and he integrates ideas into the wider cultural and institutional conditions underlying political developments in Europe and Asia over the past two centuries. Gray’s style is briskly invigorating, nuanced and ironic, at times boldly provocative and daring, exhibiting a consistent tendency to capture the political and social crux of key ideas, events, or thinkers. This undoubtedly leads him occasionally into oversimplification for the sake of dramatic effect, but this is a risk a writer takes when seeking to engage and persuade the reader. Rarely does he descend into polemic, although his US critics have dogmatically accused him of bias against American economic, political and cultural values. He continually invites the reader to think afresh about our world by questioning unexamined assumptions, engaging deeply with human history and experience fully conscious of the unfolding of ideas and their transformations.

Gray’s starting point for reflection is that over the past several decades three world-historical events have occurred: collapse of the Soviet Union with ensuing economic and political transformations; the 11 September 2001 Jihadist attacks with its corollary US-led ‘War on Terror’ and military interventions into Asia; and the ongoing crisis of ‘Free Market Capitalism’ with ensuing global financial turmoil. Collectively these suggest the exhaustion of the Enlightenment project which initiated our present era of late-modernity. The rationale for this view is his understanding that these three seemingly unrelated developments are actually deeply rooted in the ethos of the Enlightenment, and draw nourishment from its ideals as they unfolded over the nineteenth century.

In 1998 Gray published False Dawn: The Delusions of Global Capitalism, wherein he argued that a single global market is primarily a political project (i.e. of the neoliberal financial elite), and asserted: “The free market is not […] a gift of social evolution. It is the end-product of social engineering and unyielding political will.” Five years later in 2003 he published a slim volume summarising his views on modernity, Al Qaeda and What it Means to Be Modern, in which he wrote:

The global free market is not the result of competition between different economic systems. Like the free market that was created in England in the mid-nineteenth century, it
was established and maintained by political power. Unlike its English precursor, the global free market lacks checks and balances. Insulated from any kind of political accountability, it is much too brittle to last for long [...].

The global free market is the offspring of a marriage of Positivist economics with the American sense of universal mission. It was only in the last decades of the twentieth century that Positivist thought came to be associated with the defence of free markets. [...] It was the Positivist doctrine that economic efficiency is measurable in terms of productivity that gave the free market the authority of science. [...] The American free market was elevated to the status of a universal economic system.18 (see below for more on nineteenth-century Positivists)

Not everyone will agree with his assessment. In False Dawn Gray maintains that economic globalisation essentially represents the spread of new technologies worldwide, and may occur without necessitating a free market. By means of a concise comparison of several economic case studies of specific nation-states who took up economic liberalisation by opening to the global free market (South Africa, New Zealand, Argentina), he shows that uneven development within nations and between nations often ensues. He pays particular attention to transformations underway in Russia and especially China. He predicted that competitive currency devaluations, economic and political upheavals, and global shocks were unavoidable within the (then) current system.

Gray attacks “the political thought of the New Right for its fundamentalist conception of market institutions and its hubristic neglect of the human need for common life” which endanger liberal institutions and practice.19 Among the real effects for the developed economies of extensive ‘marketisation’ of society are high structural unemployment, falling wages for low-skilled workers, the growing reality of two-income families, along with high rates of incarceration and drug abuse. Gray concluded, presciently, that global capitalism is inherently unstable given that a global free market cannot self-regulate, and will inevitably fall apart. He wrote False Dawn during the Asian financial crisis of 1997, yet it offers serious reflection on the history of global capitalism since the nineteenth century, weaving into his argument many inter-related topics and themes such as post-Soviet shock therapy and considerations on East Asian economies.

Throughout his writings Gray reiterates several basic themes from differing contexts or considerations. Prominent among these are: the continuing reverberation of Enlightenment ideals of universalism and social progress within European political thinking over the past two centuries cutting across various ideological divides and political projects; and the utopian expectations animating historical movements of “political religion” as “projects of universal human emancipation”.20 In False Dawn (ch. 1, p. 2) Gray aligned together several Enlightenment thinkers,
including the influential English philosopher John Locke (1632–1704) and the German political historian and economist Karl Marx (1818–1883), on the basis of a common striving for a utopia where “a diversity of cultures […] is a stage to a universal civilisation”. Specific historical efforts to impose a “universal civilisation” included Victorian era England, the Soviet Union, and currently the United States as “the last great power to base its policies on this enlightenment thesis” – namely, as reflected in the ‘Washington Consensus’. He traces the Enlightenment project of universal emancipation and a universal civilisation through successive incarnations, tying together movements, thinkers and ideas. Maoism is portrayed as “a modern western doctrine of universal emancipation”, while the War on Terror is seen as “an Enlightenment crusade for universal democracy”.21

Gray directly controverts the central Enlightenment thesis positing the uniformity of scientific and technological advance with social progress, i.e. the parallel posited by instrumental reason between natural physical laws and the laws of human moral activity.22

The belief that scientific advance engenders social progress suggests that science and ethics are alike, when in fact they are very different. Once it has been acquired and disseminated, scientific knowledge cannot now be lost; but there is no ethical or political advance that cannot be reversed. […] there may be some types of society in which science cannot flourish, but there is no one type that it advances. Any society that has the power of invention is modern. Not all societies can be modern. That does not mean that only one kind can be.

So there is no compelling reason to assert that science is bound to yield a single view of our world; “it is only a metaphysical faith in the uniformity of Nature that supports the idea that one day a single view of things will be left alone in the field”. Gray connects this observation with the impact of ideas of the Positivists upon the recent American neoliberal view that the free market is the inevitable model for financial activity to be adopted globally.23

The Positivists believed that modern societies would be the same everywhere. Most people believe the same today. The truth is that we cannot know in advance what it means to be modern. If the modern period is simply the mix of things produced by accelerating scientific advance, modern societies will vary widely and unpredictably. This is the true meaning of globalisation. In the sense in which it is now used by politicians, it refers to the global free market that was constructed at the end of the Cold War. The global free market is a political construction not much more than a dozen years old.

Believing that one way of life is best for all of mankind and viewing history as the struggle to achieve it, Marxism and neoliberalism are post-Christian cults. Beyond Christendom, no one has ever imagined that ‘world communism’ or ‘global
capitalism’ could be ‘the end of history’. The Positivists believed that with the advance of knowledge humanity would come to share the same values; but this is because they had inherited from Christianity the belief that history is working to a finale in which all are saved. Positivism is a doctrine of redemption in the guise of a theory of history. We laugh at the enthusiasm of these prophets of modernity (the Positivists St Simone and Auguste Comte) for the pseudo-science of phrenology. Yet free market economics is no different. Like its predecessor, ‘scientific socialism’, it rests on a spurious claim to knowledge of the future.

Gray assumes, of course, that readers are acquainted with the naïve thesis advanced by the (former) neo-conservative Francis Fukayama on the ‘End of History’ which trumpeted the victory of American capitalism over totalitarian communism, and proclaimed Western liberal democracy to be the ultimate form of government and an American-led global free market the perfect financial order. Yet Gray’s point is well taken, if somewhat overdrawn or exaggerated to provide effect – ‘post-Christian cults’. Next, he invokes his conviction on the reality of value-pluralism (the ethical theory positing a multiplicity of incommensurable values) as an indispensable constituent of his view of liberal modernity:

The modern myth is that with the advance of science one set of values will be accepted everywhere. Can we not accept that human beings have divergent and conflicting values, and learn to live with this fact? […] We can imagine a future in which each country would be free to find its own version of modernity. […] Societies with widely diverging histories and values would be allowed to develop correspondingly divergent economic systems. If countries sought to establish alternative monetary systems, they would be free to do so. Projects such as Islamic banking may not be fully practicable; but they can hardly be as unrealistic as the madcap schemes imposed on many countries by the IMF and the World Bank.

Gray’s thinking tends to exercise a liberating effect by confronting us with juxtaposed ideas we normally do not associate with each other. Although not everything he states is equally convincing, there is undoubted utility in being exposed to viewpoints one rarely hears from Anglo-American circles. We will leave him now with a final citation taken from his discussion on the post-Soviet economic breakdown:

Western liberal institutions not only have no universal claim in theory but also are often flawed in practice; except where their underlying cultural and political traditions are themselves European, the post-communist countries have good reason to seek to develop new, non-Western institutions of their own. The thesis that the institutions of Western civil society are functionally indispensable to the success of a modern economy, though at first sight plausible, is theoretically and historically groundless.
Conclusion and Recommendations

A lack of awareness of the past undermines our ability to make sense of the present and chart a future course. In sighting a way beyond the current impasse, seeking sound alternatives to the civilisational crisis we find our planet in, we must keep in mind both the weight of historical unfolding and the notions of what human motives and fulfilment truly comprise. Neoliberal marketisation of societies may be understood as serving a political project whose concern is the profits of a narrow elite not possessed of any binding obligation to states or to societies, let alone to humanity. Economic systems and orders arise out of specific social relations and mirror a definite image of what the human is – an anthropology. Alternatives spell choices, and many alternatives are being propounded with the dawning realisation of the severity of the world system crisis. Many of these proposals complement and converge with one another, others contradict or oppose. What is not evident is how successfully Muslim thinkers have elaborated coherent alternatives that convey a veritable Islamic position.

The shifts and realignments that the global market turmoil triggers have given wiseacres and pundits cause for alarm over the close, or the opening, of a stage in history. Fareed Zakaria, Newsweek International’s editor, does not concede the United States will be obliterated by emerging power reconfigurations:

America will be the most powerful economy in the world for the foreseeable future and the West will still be important […] but it will have to share that power with countries, cultures and civilisations it has traditionally dominated, colonised and looked down on, and that re-balancing of the world will be the great story of our time.27

The historian Niall Ferguson is more ambivalent and questions the viability of the neoliberal capitalist model of market institutions: “The question really is whether an alternative model will take the place of the Western financial model.”28 John Gray in his thought-provoking manner gives one pause for thought:

We live today amid the dim ruins of the enlightenment project, which was the ruling project of the modern period. […] Contrary to the hopes which buoyed up Enlightenment thinkers throughout the modern period, we find at the close of the modern age a renaissance of particularisms, ethnic and religious. […] Within Western cultures, the Enlightenment project of promoting autonomous human reason and of according to science a privileged status in relation to all other forms of understanding has successfully eroded and destroyed local and traditional forms of moral and social knowledge; it has not issued in anything resembling a new civilization […]. Where modernization has been achieved without the destruction of the traditional culture, and without the incursion of the illusions of the Enlightenment […] it is reasonable, and in fact imperative, to resist
Western demands for the development of social and economic institutions on a bankrupt Western model.  

In closing, policy makers, officials, economic and financial advisers, and all thinking persons seeking to understand what drives the present, must give intelligent and sustained attention to the search for viable alternatives which effectively meet human needs and serve timeless values – whether they be Chinese or Islamic or Socialist. They must pay serious attention to:

- exposing and training mid-level economic, planning and social system officials in the history and theory of capitalist World System development;
- paying close attention to advancing informed and intelligent formulations of social and economic institutions for sustainable development that mirror their own specific cultural legacy and values;
- devoting meaningful material and human resources to forging networks with neighbouring nations and societies whose experience and assets can provide real help and assistance in these tasks, and thereby promote regional solidarity, self-reliance, de-linkage from the dominant Centre, and genuine democratic reform and progress.

Notes

1. Iran – a major oil producer – announced in late September 2009 that its foreign currency reserves would henceforth be in euros.
3. For one of his most recent works see Amiya Kumar Bagchi, Perilous Passage: Mankind and the Global Ascendancy of Capital (London: Rowman and Littlefield Publishers, 2005).
4. His most recent work is The Idea of Justice (London: Allen Lane, 2009).
7. An assumed correlation in the uniformity of natural laws with the principles governing human social and political activity – a chief feature of Enlightenment thought and its approach to instrumental reason – has been critiqued as a totally gratuitous assumption; see esp. Paul Feyerabend, *Farewell to Reason* (London and New York: Verso, 1987), ch. 3 on relations of theoretical knowledge with historical traditions on the development of modern science (I am indebted to the late Professor Syed Hussein Alatas for this reference). See also J. Gray, *Al Qaeda and What it Means to Be Modern* (London: Faber and Faber, 2003), 109.


18. Gray, *Al Qaeda*, ch. 4 “A Very Short History of the Global Free Market” (48–50). He traces the Positivists’ influence mainly to the impact of Comtean ideas – the French sociological positivist Auguste Comte died in 1857 – reaching American social science in the late twentieth century through the Vienna Circle. On p. 49 we read: “American economists followed the Positivists in thinking that productivity is the best measure of economic efficiency, but lacked their understanding that productivity alone does not make a humanly acceptable economy”.

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23. Gray, *Al Qaeda*, 112, 104–6. On p. 105, Gray cited the remark of the philosopher Stuart Hampshire in ‘Justice is Strife’, who stated: “The Positivists believed that all societies across the globe will gradually discard their traditional attachments […] because of the need for rational, scientific and experimental modes of thought which a modern industrial economy involves. […] We now know there is no ‘must’ about it and that such theories have a predictive value of zero.”


28. Ibid.

ECONOMICS AS A SCIENCE:
INSIGHTS FROM CLASSICAL MUSLIM
CLASSIFICATIONS OF THE SCIENCES

Osman Bakar*

Abstract: This article seeks to emphasise the need to re-examine the foundational assumptions of modern economics, especially in light of the traditional Islamic idea of economic wisdom and Islamic conception of the science of economics as conceived by Muslim political philosophers. As argued by the philosophers and more generally the epistemologists every academic discipline or every science, including economics is structured on the foundation of four epistemic elements, namely, its subject matter, its premises, its methodology, and its objectives. Any attempt to rethink this science in Islamic terms needs to address in particular the issue of its foundational assumptions. These premises include beliefs about the modern homo economicus, what his needs are, and the kind of society best suited to help deliver these needs both at the individual and collective levels. This article will discuss these premises and the classical subject matter of economics by explaining the meanings of the two classical terms for economics, namely, tadbīr al-manzil (lit. ‘household governance’) and iqtisād (thrift, providence, and moderation). It concludes with the assertion that the progress of modern Islamic economics as a true science depends as much on the clarity and solidification of its foundational assumptions as on the building of its necessary institutions.

Introduction

Every time there is a crisis in the world’s economic or financial system and practices, which as everyone knows are basically modern western in origin and spirit, hopes run high in Muslim circles that the world will soon turn to alternative economics for inspiration and practical solutions for its ‘societal salvation’. For these Muslim circles the alternative is obvious enough. It could not be other than the Islamic economic and financial system, notwithstanding its varied understandings. After all, it is the most visible and also the most viable alternative – not to mention its spiritual

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and ethical affinities with their Muslim identity. But unfortunately, except for a few voices, which are obviously not sufficient to sustain a true rebirth or ‘Renaissance’ of Islamic economics, the Muslim responses to one such crisis after another are largely ad hoc and superficial in nature. Even then, most of these responses tend to focus on the crisis like the current one at the level of practices alone. Only rarely is the crisis fathomed, as to reveal the more disturbing underlying causes that have precipitated it. The usual response is to be merely content with looking at its symptoms and addressing them instead of treating fully the underlying cause.

In this article, I try to draw an analogy between medical health and economic health. The analogy proves to be quite instructive in a number of respects. One of these pertains to the big difference between attempting to cure a disease by just treating its symptoms and attempting to cure it by treating its root causes. Traditional Islamic medicine is holistic in its view of health and disease. Moreover, it focuses on the treatment of the root cause of the disease. In contrast, allopathic or modern western medicine focuses on the treatment of symptoms. Likewise, Islamic economics is holistic in its view of economic health and ailments. It is primarily interested in addressing the root causes of economic ailments even if we were to grant the necessity of treating them at the level of practices itself. In contrast, modern economics and its related financial system are content with finding remedies to cure what seem to be mere symptoms of its recurring disease.

Keeping our analogy in view, we could then say that the Muslim response to the periodic economic and financial crisis engulfing our modern society – although calling for an Islamic alternative – is likewise generally confined to the treatment of its symptoms that are manifested at the level of institutions and practices. If Muslims, however, have Islamic economics as a serious alternative to modern economics in mind – embodied in western capitalism – then it won’t be sufficient for them to delve into the crisis by simply arguing for new institution building or for reforming economic and financial institutions and practices. It would be necessary for them to look deeper into the very foundation of the present world economic system. A veritable Islamic response to the global economic and financial crisis would entail a thorough re-examination of the system at all levels and in all its dimensions.

Apart from the legitimate concern with the institutional weaknesses and shortcomings in ethical guidelines in the present economic and financial system the need to scrutinise the foundational assumptions of the system appears to be no less paramount. However, it is precisely such a scrutiny that is lacking among Muslims right now. Intellectually speaking, what this means is that there has to be a critical re-examination of the epistemology of modern economics and finance. Perhaps this re-examination if diligently and creatively pursued would then help to reveal the weaknesses and shortcomings many intelligent minds have long suspected in some of the fundamental assumptions of modern economics. Perhaps it would even reveal
also the obsoleteness of some of the other assumptions. But given the fact that the intellectual undertaking at hand will take time to bear fruit it needs to be sustained with the right kind of educational and research institutions and with material and moral support from all concerned with the task of realising a veritable Islamic economic and financial system in our contemporary world. Although research into foundational issues is primarily theoretical in nature it should not be shunned since it would be highly rewarding in the long run.

This article is primarily concerned with just one aspect of this major intellectual undertaking I have in mind. It is at once to offer a critique of some of the foundational assumptions of modern economics and to lay an epistemological foundation of Islamic economics. I will attempt to do this by analysing the notion of the science of economics both in its Islamic and modern western epistemological context. This article is partly inspired by the 2008 Hokkaido Science Symposium in Japan in which I participated. This symposium, an interdisciplinary discourse contributed by a small group of participants but representing the major academic disciplines – the natural and social sciences and the humanities – as well as the major cultural traditions of the world, was convened with the objective of re-examining the foundational assumptions of contemporary science in the light of both the new frontiers of scientific knowledge and the new global consciousness of its own pluralistic nature. Elisabet Sahtouris, a convenor of the symposium, has argued that there is a similar need for a critical re-examination of the foundational assumptions of the social sciences, particularly economics in the light of the same new epistemological and cultural realities to which I have referred. She also feels rather strongly that Islam has the potential to make a major contribution to the new science of economics that is now awaiting formulation.

Economics as a True Science: an Islamic Epistemological Claim

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about two centuries after the death of the Prophet Muḥammad. In a short treatise on the classification of the sciences al-Kindī reaffirmed the epistemic status of economics as a science as inherited from the Aristotelian tradition and also the latter’s intellectual legacy of the division of practical philosophy into the sciences of politics, economics and ethics.\(^4\) Al-Kindī referred to this science of economics by the Arabic term *tadbīr al-manzil* which literally means household governance. Why traditional Islamic economics was named by this term will be explained later.

But what did the Muslim thinkers and scholars mean by economics as a true science? Before going to the specific subject of economics let us first discuss the idea of a true science as conceived by them.

**The Epistemological Basis of a True Science**

Traditional Muslim writings on the subject of epistemology\(^5\) tell us that they had a rather well-articulated idea of what a true science is, which was later to influence modern western scientific thought. They were very much concerned with the idea of science (*ʿilm*) understood as an academic discipline or as an organised and systematic body of knowledge that fulfils certain conditions and criteria. They discussed the nature and characteristics of science understood in this sense. In its plural form the various sciences studied by them are referred to in Arabic as *al-ʿulūm* (sciences). They studied the sciences from different aspects and with different objectives in mind. As I have sought to demonstrate elsewhere, a major intellectual concern of Muslim scholars and thinkers of various schools of thought was with the classification of the sciences (*taqsīm al-ʿulūm*).\(^6\)

In their study of science understood as an academic discipline our classical Muslim epistemologists came to the conclusion that all true sciences share at least four common fundamental characteristics. According to ʿUmar Khayyām, for example, arguably the Islamic world’s most famous mathematician, every scientific discipline “possesses a subject matter (*mawḍūʿ*) whose properties, essential or otherwise it investigates, and primary principles or premises (*muqaddamāt*) which it assumes to be true”.\(^7\) He further maintains that each scientific discipline seeks to provide “an essential definition to the object and the principles and rules of the art”.\(^8\) Following the Aristotelian tradition, what Khayyām and other fellow Muslim philosopher-scientists were saying was that, first of all, every science has a well-defined subject matter (*mawḍūʿ*). Secondly, it possesses premises or assumptions (*muqaddamāt*) that are assumed to be true in that science but none of which could be proved in that science. Thirdly, each science is characterised by its distinctive ways and methods (*ṭuruq*; sing.: *ṭarīqah*) of investigating and studying its subject matter. In Khayyām’s terminological expression, these ways and methods are “the principles and rules of the art”. And fourthly, it has well-defined objectives (*aḥdāf*; sing: *ḥadaf*). As
Khayyām puts it, the main goal of a science is to arrive at an essential definition of the object being investigated. Philosopher-scientists of whom he was a distinguished one have generally termed it the perfect definition (al-hadd al-tamm) or the perfect conception (al-taṣawwur al-tamm). This epistemological goal which is analogous to the modern idea of the perfect theory is attained through a gradual process of knowledge accumulation by means of a creative interplay between a progressive conceptualisation and the corresponding empirical and rational verifications.

Let me discuss a bit further each of these four epistemological characteristics of a true science. It is its subject matter which defines the scope and boundaries of a science and which, therefore, among others helps to distinguish it from another science. The subject matter provides the inexhaustible materials for study, investigation, research and analysis in that science. Depending on what kind of science it is, the materials in question could be concrete physical entities such as chemical elements and chemical reactions as studied in chemistry, energy and atomic particles as in physics or living organisms as in the biological sciences. Or, the materials could be abstract entities such as numbers and algebraic concepts as studied in mathematics, the human mind and human thinking as in cognitive psychology or cognitive science, and the divine reality as in metaphysics or theology.

Or again, the materials in question could be a combination of both physical and abstract entities such as human physical characteristics and human beliefs as studied in anthropology, and human behaviour and human intentions as in psychology. As to what constitutes the proper subject matter of the science of economics I will show later that it is very closely related in its meanings to what is implied by the two terms used for economics in Islam, namely, tadbīr al-manzil and iqtiṣād (being thrifty and provident; adoption of a middle course or moderate position in life).

The second fundamental characteristic of a true science pertains to its epistemological foundation. Every science has to make certain assumptions (muqaddamāt) about the natures and realities of the entities that constitute its subject matter. These assumptions are foundational in the sense that they serve as the most fundamental epistemological basis for the creation of ideas and conceptual tools that are needed for the growth, development and progress of the science in question. As an organised, well-defined and systematic body of knowledge, a true science is comparable to a good and beautiful building. Both need a strong foundation and a solid structure not to mention an architectural beauty, which, of course, reminds us of the fact that knowledge also possesses an aesthetic dimension. The main difference between the two is this: whereas in the case of a physical building the construction materials are physical objects, we have intellectual objects as building materials in the case of a science. These intellectual objects are ideas and concepts and derived entities such as definitions, postulates, hypotheses and theories.
The foundational assumptions are also foundational in the sense of their being belief statements that are accepted as true even though their truths cannot be proved in the science in question. We may say that there are epistemological beliefs underlying every science. It is the contention of classical Muslim epistemologists that these beliefs have been adopted as foundational assumptions of the science because they happen to be true, and they are appropriate for the science. Their epistemic status as assumptions in that science does not arise from their being untrue since on the contrary, they are indeed true statements. Rather, they are regarded as such since the proofs of their truths come necessarily from a source external to the science, namely, from another science higher up in the hierarchy of the sciences if we were to use a classical Islamic epistemological expression.

Notwithstanding this dependence on another science for the proofs of its foundational assumptions, it is in the nature of each science to accumulate rational truths and collective empirical experiences (among its practitioners) within its own body of knowledge that tend to confirm the truths of those assumptions. The more rational truths and empirical experiences it accumulates the more apparent it becomes that its assumptions are indeed true. Illustrating our discussion of the second characteristic feature of a true science, namely, its foundational assumptions, with the specific example of the science of economics, we may say that its foundational assumptions pertain mainly to the reality of man considered in relations both to his natural and cultural environments. Both nature and culture serve as important backgrounds to the Islamic understanding of economic life and of the idea of man as *homo economicus* or man as an ‘economic being’.

Central to the subject matter of economics is man and his constructed social reality of which economic life is just one though a very important aspect. The conception of man and the conception of human social reality are therefore extremely important to a science of economics especially one that is claiming to be truly well-founded, scientific and all-encompassing. In the modern world in particular, these two conceptions, however, are hotly contested between the different schools of thought. There are not only different but also conflicting assumptions about man and human social reality between these different schools of thought. A true science of economics would conform to Islamic teachings on man and on human society. And such an Islamic economics would contend that there is much to be disputed about the assumptions or beliefs of modern western economics regarding the human reality both at the individual personal level as well as at the collective societal level.

For instance, the modern belief in the idea of man as the product of a historical, evolutionary process both in his physical and cultural aspects is found on many points to be at odds with the traditional Islamic idea of man,10 which of course forms a foundation of the Islamic science of economics. This modern belief is very much an integral part of modern western economic thought right up to our present times.
The modern ideas of development, progress, technological society and incidentally also the idea of waste are all core elements of the modern conception of man. This modern belief about man is actually philosophical in nature. It should therefore be established and proved philosophically through a higher science such as metaphysics as traditionally understood in and as insisted by, for example, Islamic thought. But instead it is sought to be proved through the empirical sciences of biology and anthropology, both physical and cultural, which from the Islamic point of view is a great epistemological error. Classical Islamic thought on the other hand is based on the metaphysics of man which is thoroughly explained and clarified in a science that may be termed as spiritual anthropology, that is, a spiritual science of man.

The third major characteristic feature of a true science is its well-defined methodology. Islamic epistemology is in agreement with the pre-Islamic Aristotelian methodological principle which may be stated as “only the like can know the like”. What is meant by this principle is that there is a one-to-one correspondence between the nature of the object known and the nature of the cognitive instrument used by the knowing subject. The nature of the object sought to be known should be similar to that of the cognitive instrument used by the seeker of knowledge in order to know the object in question. Without a strict observation of this methodological principle no acquisition of knowledge by a human being would be possible. For instance, to know physical objects we need to use our physical senses (al-quwwāt al-ḥassah); to know abstract objects that are rational in nature we need to use our reason (ʿaql) or the rational faculty (al-quwwāt al-nāṭiqah); to know God who is absolutely spiritual we need to use our cognitive faculty of the spiritual heart (qalb) or intellect (ʿaql); likewise we would employ our spiritual cognitive organs if we want to know spiritual objects such as the angelic world. And if we want to know the imaginal world (ʿālam al-khayāl) and its contents such as the human psyche and the human imaginative powers then we need to use our imaginative faculty (al-quwwāt al-mutakhayyilah) which embraces such internal senses (al-ḥawāss al-bāṭinah) as the faculty of memory (al-quwwāt al-ḥāfiẓah) and the faculty of estimation (al-quwwāt al-wahm).

Islamic epistemology teaches that there are many avenues open to man to the treasury of knowledge. There are many ways and methods of knowledge acquisition. This Islamic conviction so strong among many Muslims of every generation and age, especially when they were at their best in the pursuit of knowledge, is based on the Qur’anic teaching that God has provided man with different kinds of cognitive instruments and powers that would enable him to know both God and His hierarchy of creation as well as to know himself which is also structured hierarchically. A human being possesses multiple levels of consciousness and also multiple levels of cognitions. With this sort of understanding of the reality of the human microcosm human needs are bound to be perceived as varied and diverse even at the rational and
intellectual levels let alone at the physical and psychological levels. An important corollary of this Qur’ānic doctrine is an acknowledgement of the epistemological principle that seeks to affirm a pluralistic scientific methodology according to which each true science would employ ways and methods (sing: tariqah; manhaj) of study and research that are in conformity with the nature of its subject matter.

This Qur’ānic based epistemological position is in great contrast to that presently adopted by the mainstream modern epistemology which seeks to impose a monolithic and uniform scientific methodology on all sciences and academic disciplines. We are now in a position to see a correlation between the foundational assumptions of a science and its chosen methods of study and research. This kind of correlation applies to the science of economics as well. The reality of man assumed in modern western economics is no longer the complete and holistic man with all his human needs encompassing the physical, the psychological, the rational and intellectual, and the spiritual as believed in the world’s religious traditions such as Islam but rather the lesser and fragmented human being whose needs have been reduced to merely the physical and the mental. The traditional man assumed in Islamic economics has been subject to successive reductionisms first by rationalism16 then followed by mechanisation,17 empiricism18 and evolutionism.19 As a result, the reality of modern homo economicus has been reduced to the quantifiable and the measurable, thus confirming as true the claim made nearly a century ago by the French philosopher-mathematician, René Guénon that the modern world has succumbed to the reign of quantity.20

The norm in all the modern sciences has been the adoption and application of the kind of scientific methodology based on empirical and experimental studies that would allow for quantification and measurement. The unquantifiable and the immeasurable is at best ignored and at worst rejected as unreal. With this sort of epistemological belief it is only a matter of time before human reality becomes totally impoverished to the point of being content with a vision of a human being who is nothing more than an animal with mere physical needs but who happens to be endowed with reason. This impoverishment is bound to negatively affect the science of economics in how it looks at the issue of human needs and at the larger picture of the meanings and purposes of human existence.

Since the physical and the mathematical sciences are the most successful in producing results on the basis of the above-mentioned criterion of quantifiability and measurability it is not surprising to see widespread attempts by scholars and academics to set up physics as a model science to be emulated by the rest of the sciences. For instance, psychology tries to emulate physics by adopting the latter’s quantitative methods of study. Thus we could see that a reductionism in the conception of man was to be followed by a corresponding reductionism in epistemology. Contemporary economics is seen to be falling into the same epistemo-
logical trap. It is in the context of this incompatibility between the epistemology of traditional Islamic science of economics with its methodological pluralism and the epistemology of mainstream contemporary economics that we need to understand why, as of late, there is a growing Muslim criticism of the latter.

The fourth and last major characteristic feature of a true science considered here is its well-defined objectives. It is the contention of classical Muslim epistemologists that each science seeks to know that aspect of reality which is implied by its subject matter. The main goal of a science is to acquire knowledge of the reality of the things under study. A science may have either theoretical or practical objectives or both. This fact is clearly displayed in the Muslim classification of the sciences in which a good number of the sciences are presented as having both theoretical and practical parts. Medical science and economics are good examples of a science with both theoretical and practical objectives, although they themselves are practical sciences. Ibn Sina defines medical science in his celebrated work, *The Canon of Medicine* (*al-Qānun fī 'l-ṭibb*) as that “branch of knowledge which deals with the states of health and disease in the human body with the purpose of employing suitable means for preserving or restoring health”.

The theoretical objective of medical science, which is the concern of its theoretical part, is to know the reality of health and disease in the human body. It is therefore the aim of theoretical medicine to formulate a comprehensive and sound theory of health and disease, including its physiological basis which is itself based on the foundational assumptions about the human body. In the case of Islamic medicine, its theory of health and disease is based on the Islamic conception of the human body, particularly its physiological dimension. The practical objective of medical science, which is the concern of its practical part (practical medicine), is to secure and adopt suitable measures which would help to preserve or restore the health of the human body. This objective gives rise to the twofold division of practical medicine, namely, preventive medicine which pertains to the task of preserving one’s normal state of health and therapeutic medicine which pertains to the task of restoring health in cases where the body has been inflicted with disease.

The science of economics too has theoretical and practical parts, a feature that is quite similar to the division of political science into its theoretical and practical parts as made by al-Fārābī and Ibn Rushd, two of Islam’s most famous political philosophers. I have purposely mentioned economics alongside medical science as examples of a science with both theoretical and practical objectives. This is because there is a close analogy between medical science and economics. Both sciences are concerned with the fundamental issues of the health and diseases of the human body. But whereas medical science is mainly concerned with the health and diseases of the individual human body, the microcosm of the human world so to say, economics
is mainly concerned with the health and diseases of the collective human body which we call society.\textsuperscript{22} More precisely, so as to distinguish it from political science which is also concerned with the issues of societal health, we should have said that economics deals with that component of the societal body which we normally associate with economic life and thought centred on the production, distribution and consumption of goods and services. The state of wellness of this particular component of the societal body is what we term its economic health. We do use the term quite often as when we speak of the economic health of this or that society or country although we may not fully grasp and appreciate its connotations. In the same vein we speak of its opposite or contrast as when we speak of the economic malaise of a society or country as a result of being inflicted with economic diseases even to the point of being chronic in nature.

Economic health has become a major preoccupation of our times. And rightly so, just like all other types of health, economic health is an issue about which we all should be duly concerned. Islam itself as a religion seeks to emphasise the importance of each of the major kinds of health – political health, economic health, moral and ethical health, and environmental health. It also sees these different types of health as closely interrelated, each needing the rest for its full realisation. We cannot expect to see and experience economic health in the real sense of the word in both our personal and communal life without the presence and contributory role of political, moral, and environmental health. There is therefore a lot of wisdom to be found in the traditional division of practical philosophy into its three major components, namely, politics, economics, and morals and ethics as to be found in the classifications of the sciences by such philosopher-scientists as al-Kindī, Ibn Sīnā, and Qūṭb al-Dīn al-Shīrāzī. In this division economics is seen as having politics and ethics as two of its closest neighbouring disciplines. One major implication of this view is that the disciplinary proximity in question ought to be well reflected in the learning and research of economics in educational institutions. Students trained in economics need to be well tutored in political science and ethics and moral philosophy as well. It is quite heartening to know that this traditional academic feature in the study of economics is still to be seen in a number of western universities but unfortunately not so in many universities of the Islamic world.

Qur’ānic and \textit{hadīth} teachings appear to have anticipated the dominant role economics would play in modern life and civilisation in a number of ways. In illustrating this variety of ways of Islamic anticipation we may mention first of all the fact that there is a substantial economic content in the \textit{sharīʿah}, Islam’s divine law. Quite clearly, there are much more economic teachings in the Qur’ān than in any other sacred scripture. Many Qur’ānic verses and \textit{hadīths} deal with issues of wealth creation and distribution and poverty management, wasteful consumption and proper spending, and human activities of economic value such as in agriculture,
business and trade all of which are of concern to the *shari'ah*. From the very early period of the crystallisation of Islamic law into its many different branches and legal schools of thought economic jurisprudence (*fiqh al-iqtiṣād*) has emerged and remained as one of the major branches of the science of civil transactions (*fiqh al-mu‘āmalāt*) thus testifying to the great volume of economic production and transactions in classical Islamic civilisation. For Islam to claim that its *shari'ah* is the last of the divine laws to be revealed to humanity it has to possess within its revealed law teachings and practices in all domains of societal life that would serve the contemporary human needs of every century as well as serve as an allusion to the kind of world society yet to come. Divine guidance in Islam indeed extends to the domain of economic life in an extensive way.

Then there is the Qur’ānic way of conducting spiritual and moral lessons for human beings by employing parables, metaphors and symbols drawn from the world of economic life such as from agriculture, business and trade. Many verses of the Qur’ān and *ḥadīths* deal with such lessons. One may say that these lessons seek to enlighten us with the different aspects of Islamic spiritual significance of economic life and thought. In viewing the place and role of economic life in the history of Islam one can say that, prior to the modern period, the historical development of the religion and its civilisation was itself a witness to the increasing importance of economic life in the realisation of Islamic religious and social ideals and in the pursuit of “societal salvation” and human progress.

By ‘societal salvation’ I mean a society’s state of health and wellness that is deemed necessary and sufficient to serve as a socio-cultural or civilisational (*ḥadārī*) context for the ordinary human being or the average citizen of the state to attain his or her posthumous salvation. As I have earlier asserted, economic health is a major component of a society’s health and wellness. Given the close relationship in Islamic teachings between human societal salvation in present terrestrial life and posthumous salvation Muslims are expected to attach great importance to the pursuit of economic health in the realisation of both types of salvation.

Given the importance of economic life in Islamic teachings and practices it is only reasonable for us to expect to see Islam’s own unique approaches to the issue of economic health. *Zakāt* (religiously prescribed alms-tax), one of the five pillars of Islam with its unique multi-dimensional institution dealing with taxation issues, and prohibition of usury (*ribā*) are two of the most fundamental principles governing the Islamic idea of economic health and wellness. Very much like in the treatment of medical health and disease which it sees as primarily the consequence of a person’s life style and therefore as basically a human issue Islam views economic health and malaise as the product of a collective life style which groups within a particular human community have chosen to adopt. As such, the issue calls for the regulation of human behaviour both voluntary and state-imposed, in accordance
with the injunctions of the *sharīʿah* within the framework of its ultimate objectives (*maqāṣid al-sharīʿah*).\(^{25}\)

The most fundamental and also the most universal of these regulatory principles embodied in the *sharīʿah* is the qur’ānic doctrine of ‘enjoining what is right (*amr bi ’l-maʿrūf*) and forbidding what is wrong (*nahy ʿan al-munkar*). So fundamental and all-encompassing is this principle in its applications that the Qur’ān considers it as the foundational principle of community (*ummah*) building and the best formula of societal success (*falāḥ*) and salvation,\(^{26}\) and the most important criterion of community or ‘ummatic’ excellence.\(^{27}\) Like all other sectors of societal life it is this same prescriptive doctrine that must govern the pursuit of economic life in Islam. However, only a wise, holistic, and efficacious application of this doctrine to economic activities and practices can ensure a balanced and sustained economic development and therefore economic health.

All things considered, the idea of economic health has therefore to prominently feature in the objectives of the science of economics. The main objective of this practical science is to gain knowledge of that aspect of social reality called economic health and also that aspect of it which is its negative contrast, namely, economic illness or malaise. In other words, economics seeks to know the states of economic health and illness in all their dimensions. It also seeks to know their respective causes, how economic health can be preserved, and economic illness avoided. As in medical science which seeks to restore the physical health of a body that has fallen sick the science of economics seeks to know how to treat economic diseases and how to recover the health of the societal body whose economic organs and parts have been inflicted with diseases.

In the light of the foregoing discussion, Islam is seen as having the inner resources – spiritual, religious, and epistemological – to effectively respond to the contemporary need for a new science of economics that will do justice to the total human needs, both individual and communal. In the course of discussing the four major epistemological features of every true science I have not only illustrated them by referring to economics in general but also pointed out what an Islamic epistemology and an Islamic socio-economic philosophy would dictate to the formulation of these features for an Islamic economics. In the following pages I will attempt to further concretise and refine the subject matter of economics as seen in Islamic perspectives.

**Household Governance: the Core Subject Matter of Economics**

As asserted earlier, Muslim philosopher-scientists such as al-Kindī, Ibn Sīnā and Quṭb al-Dīn al-Shīrāzī defined economics as the science of household governance (*ʿilm tadbīr al-manzil*). Some people may view this definition as obsolete in the
sense that it is based on the reality of economic life of a bygone era which may be considered as “primitive” in comparison to modern economic life. The purpose of this section is to show, on the contrary, that the classical Muslim definition is still legitimate and defensible. However, what I seek to defend is not the idea of limiting the world of economics to and identifying it with household governance or home economics. It is rather to defend the idea of identifying home management or home economics as the core subject matter of economics and also as a foundational element of “national” economics.

In my view, this is also the standpoint of the philosopher-scientists when they maintained that economics is the science of household governance. But if this is the case then their view of economics is not at all obsolete or “totally out of place” in the modern world. On the contrary, the subject variously referred to as household governance, home management and home economics continues to be taught formally and informally in many societies in an interrupted way. In fact, the subject has gained greater popularity in developed societies in recent decades as more people come to realise that the home and family institution is increasingly under the threat and at the mercy of modern economies.

Many people feel that the complex, technologically-driven modern economies have in cultural terms the devastative impact of depriving human beings of their individuality, identity and freedom to take control of their own lives and the lives of their family dependants. In natural terms, they see their impact on the environment as equally destructive. They are deeply concerned that this destructive impact will deprive the future generations of natural resources needed to support and sustain their life in a decent way. It is not an exaggeration to claim that modern economies have helped to destroy the traditional family and home institution in the developed and advanced countries without being able to offer a better one to replace it just as they have helped to destroy much of the natural environment, which is the larger, common natural home of the human species, which, of course, is irreplaceable.

The mutual influence and impact on each other between the family and home institution and the national economic system is thus not lost on these critics of modern economies. A science of economics and an economic system based on it that fail to define a clear place and role for home economics in the national economic life and even worse that deliberately marginalise or ignore it are bound to develop in a direction that would eventually weaken the family and home institution and put it in a state of crisis. In contrast, an economic system that is based on the fundamental and foundational character of home economics and household governance, as insisted, for example, by traditional Islamic economic wisdom, would likely have the effect of significantly strengthening the family and home institution which Islam and other religions, of course, prize very dearly.
The virtues of household governance are duly emphasised in traditional Islamic economic thought. There are many arguments for this emphasis. It is beyond the scope of this article to provide a comprehensive account of these arguments. I will refer to just a few of them for the sake of clarifying the traditional Muslim justification of conceiving household governance as the core subject matter of economics. First, the religion of Islam views the family as the most important social unit and also the most important social institution. Islam therefore seeks to protect this institution and preserve its health in every possible way. If economic health is one of these ways—and certainly it appears to be so—then its pursuit becomes necessary. It then becomes obligatory on the head of the family and indeed every member of it to cooperate in the management of the household affairs in order to ensure that its economic health is attained and preserved. The idea of the family as the most important social unit and social institution, which Islam teaches, is assumed to be true in economics. It is one of what is called the foundational assumptions of Islamic economics.

Second, insofar as the family or the home is considered as the most important social unit and social institution, it serves as an indispensable nursery where the seeds of the common good in society are being sown. “Every societal good begins at home”, says a traditional maxim. According to another traditional maxim, “every charitable act begins at home”. This means that all good societal values and virtues, including the economic ones, have to be first nurtured and cultivated within the family institution and the home environment it has created.

Third, the family institution is closely related to at least one of the al-maqāṣid al-ʿāmmah (general objectives) of the shariʿah, namely, the protection of progeny. I am claiming here that there is an economic dimension to this relationship. The fulfilment of the overall economic needs of a nation, especially in such an economic system as envisaged in this article that seeks conformity with the teachings of Islam, presupposes the existence of a stable and healthy family institution. As an example to illustrate the relevance of my claim, in the modern experience of Singapore as a city-state, the relationship between its family institution and its economic growth needs has been a turbulent one despite its world fame as having the world’s most successful state-sponsored social engineering.

Fourth, and the last to be listed and discussed here, is the argument of interdependence of the individual and communal dimensions of economic health and their balanced and mutually reinforcing roles in the development of society. From the point of view of the issues of household management and economic development it makes more sense if I were to understand the individual dimension of economic health as referring to the state of health of the family and home institution in economic matters. This last argument is in a sense related to all the three previous arguments. The idea of interdependence is implied in each of the latter arguments.
But for the purpose of emphasis and also for revisiting the bodily health symbolism I have decided to treat the last argument as a separate and distinctive one. I am arguing here that the living societal body is alive and well to the extent that its constituent cells are healthy and functioning normally. For the societal body its constituent cells are none other than the family units.

Now, there is something significant about classical Islam’s approach to the anatomy of the economic health of a society. Islam looks upon the family as the most important social unit to contribute to the economic health of a society just as its medical philosophy looks upon each individual constituent cell in the human body as the most important biological unit to contribute to the physical health of the body. Conversely, Islam views the state of economic health or malaise of society as a whole as being able to significantly influence the economic health of every family that is a constituent part of the society in question. This is quite in the same manner that the physical environment and factors external to the human body such as air and food and drinks being consumed can have an important effect on the bodily health.

From the point of view of Islamic social philosophy the real purpose of society having a healthy economy is to enable each individual person to fulfil his or her overall needs as a human being, embracing the material, the psychological, the intellectual-rational, and the spiritual. It would be the central concern of an Islamic economics worthy of its name to seek ways and means of how society could contribute through economic life to the fulfilment of each person’s total needs. Generally speaking, it is through the family institution that each individual citizen is able to benefit from a nation’s economic development and to share in its economic health. But the converse principle would be even truer in Islamic social thought. Each human individual is not to be seen as merely a beneficiary of the community’s societal development. He or she is first and foremost a contributor to society’s development and wellbeing. As insisted in several hadīths reported by Bukhārī and Muslim, the upper hand that gives is more honourable than the lower hand that receives.

In my view, the four arguments I have given are more than sufficient for the purpose of understanding the traditional Muslim rationalisation of household governance as the core subject matter of economics.

**Another Term for Economics: ʿIlm al-iqtisād**

Another term used by Muslims for the science of economics is ʿilm al-iqtisād. The Arabic word iqtisād conveys the meanings of thriftiness, providence and moderation, all of which are important concepts in traditional Islamic religious thought in general and in Islamic economic thought in particular. These meanings are all related to the idea of human life style. Thus, on the basis of the linguistic meanings of iqtisād alone
we already have got the idea that there is a close relationship between economics and life style. An understanding of the Islamic economic philosophy in its broadest sense would help us to see this important relationship in an even clearer manner.

In Islam, it is the *sharīʿah* that basically addresses issues of human behavioural patterns and life styles. One of the main goals of the *sharīʿah* is to provide moral guidance and ethical codes of conduct that will enable human beings to lead a decent and healthy life style. A major characteristic feature of a healthy life style as emphasised by Islam is living moderately, which can have many positive implications for economic life. Moderation is the central pillar of the Islamic way of life. So central is the idea of moderation in Islam that it runs as a common thread through the entire gamut of its spiritual and societal teachings. Thus, significantly, the word *iqtiṣād* is used not only as a technical term in the specific sense of economics but also in the general sense of moderation traditionally referred to as the “golden mean” which applies to the whole domain of human life. The well-known theologian-jurist, Abū Ḥāmid al-Ghazālī (d. 1111), titled one of his many works as *Iqtiṣād fī 'l-iʿtiqād*, which may be translated as ‘The Golden Mean in Belief’. The title implies that it is possible to speak of moderation in matters of belief and, consequently also, of its opposite, namely, “spiritual extremism”.

It is fully justifiable to identify the Islamic identity, individual and communal, with moderation. It is the Qurʾān itself which defines the collective identity of the *ummah* or the ‘ummatic’ identity in terms of moderation (*wasaṭiyyah*) and which at the same time characterises the model human community as one that practises moderation. Further, the Prophet Muḥammad is known to have scolded a number of his companions, including Huzayfah, for displaying tendencies toward a kind of spiritual extremism by vowing to lead an extreme ascetic and monastic life that went against his own spiritual model and life style. He told them that if they persisted in their extreme behaviour then they no longer belonged to his *ummah*, meaning that their behaviour was tantamount to being ‘anti-ummatic’. This rebuke by the Prophet of a particular instance of spiritual extremism among his companions only goes to confirm the truth of the claim that Islamic identity is synonymous with moderation.

In the more specific domain of economic life and practices that are of central concern to us here, the Qurʾān is even more vocal and emphatic in its pronouncements on moderation and extreme life styles. Wasting and hoarding of essential goods and extravagant spending are well-known factors that can contribute to economic ailments in society. The seriousness of these “economic crimes” is clearly reflected in the Qurʾān’s condemnation of them. Says one verse on hoarding, “[…] and there are those who bury gold and silver and do not spend it in the way of God: announce unto them a grievous penalty”. Another verse says: “[…] waste not by excess: for God does not love the wasters”. The Qurʾān seems to be insisting on spending as a necessary activity for the economic wellbeing of society when it

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praises the righteous (al-muttaqīn) as “those who spend whether in prosperity or in adversity”\(^3\). But it should not be just any kind of spending. The spenders praised in the Qur’ān are “those who, when they spend, are not extravagant and not niggardly, but hold a just balance between the extremes (qawām)”\(^3\)

The significance of the usage of both terms for the science of economics, tadbīr al-manzil and iqtiṣād, is perhaps worth noting. While there is an overlapping of epistemological concern as conveyed in the overall meanings of the two terms, they also seem to complement each other in terms of their respective conceptual roles and contributions to what we may refer as a comprehensive Islamic science of economics and to Islamic economic thought and practices. In this respect, ‘ilm tadbīr al-manzil may be viewed as focusing on theoretical economics or the philosophy of economics and ‘ilm al-iqtiṣād as focusing on practical economics, which in an Islamic setting, would coincide much with jurisprudential economics (fiqh al-iqtiṣād).

**Conclusion and Recommendations**

In the foregoing pages I have sought to re-examine some of the foundational assumptions of modern economics in the light of classical Islamic conception of the science of economics. This re-examination is being taken with the hope that contemporary Muslim scholars in general and Muslim economists in particular will undertake a far more serious discourse on the need for a new Islamic economics that will succeed in synthesising traditional economic wisdom with the best of modern economic ideas. In my view, the progress of modern Islamic economics as a true science would depend as much on the clarity and solidification of its foundational assumptions as on the building of its necessary institutions.

The various ideas and views presented in this article have many practical and policy implications for contemporary Muslim economic thought and practices. Here, due to space and time constraints, I will just concentrate on three of these implications.

- First of all, there is a need for a few research institutes and think-tanks that would be doing serious research on conceptual and philosophical issues pertaining to economics from the Islamic perspectives.
- Second, the place and role of both home economics and jurisprudential economics in various colleges and universities need to be enhanced and brought into conformity with the teachings of Islam.
- Third, institutions and individuals responsible for economic planning in Muslim countries need to review their philosophies of economic development and their approaches in the light of the holistic idea of economic health as emphasised in Islamic social philosophy and as I have attempted to explain in this article.

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Notes


2. According to Sahtouris, in the light of the newfound cultural pluralism the still surviving non-western scientific traditions such as Islamic science should be given all the encouragement they deserve and the necessary cultural and epistemological space for their expressions and contributions to humanity.

3. She emphasised this point more than once in her public lectures in Malaysia and Indonesia in December 2008 and July 2009. IAIS Malaysia is now in the process of editing and publishing the lectures as a monograph.


6. Bakar, Classification of Knowledge in Islam.

7. ʿUmar Khayyām, Fī sharḥ mā ashkala min muṣādarāt kitāb Uqlīdūs (Concerning the Difficulties of Euclid’s Elements), ed. ʿAbd al-Ḥamīd Ṣabrā (Alexandria: Munshaʿāt al-Maʿārif, 1961). 2. Khayyām maintains that the premises belong to any of the following three categories: (1) elementary or self-evident propositions (awwaliyyāt); (2) principles which are demonstrated in another science or art; (3) postulates (muṣādarāt). None of these premises is established through the science in question.


9. It was the modern philosopher-scientist Albert Einstein who once said that a mathematical formula is true, because it is beautiful, a statement evoking the same sentiment for the much neglected aesthetic dimension of knowledge in our modern times.

10. For a comprehensive critique of the modern biological theory of evolution and its extension to the socio-cultural domain in the form of such theories as social Darwinism from the perspectives of a number of academic disciplines, see Osman Bakar (ed.), Critique of Evolutionary Theory: A Collection of Essays (Kuala Lumpur: Islamic Academic of Science, 1987).


12. In traditional Islamic thought metaphysics is defined as the science of Reality which is equivalent to theology which is literally understood as the science of God. An Islamic metaphysics of man is discussed in spiritual anthropology where man is presented as the meeting point between God the Real and the Absolute and man the relative and yet reflecting the absolutely Real.

13. An Islamic spiritual anthropology deals among other things with the origin, nature and ultimate purpose of man, the meaning, place and role of ethnic identity which seems to find scriptural support in the Qur’ān, and also with the holistic concept of human needs. It purports to provide a complete and holistic picture of who a human person is. For an introductory discussion of these ideas and

14. For a detailed discussion of this correspondence between the cognitive instruments of the knowing subject and the various levels of objective reality that can be known, see Osman Bakar, Tawhid and Science: Islamic Perspectives on Religion and Science (Kuala Lumpur: Arah Publications, 2008, rev. ed.), chapter 2. See also the first edition, published under the title Tawhid and Science: Essays on History and Philosophy of Islamic Science (Kuala Lumpur and George Town, Penang: Nuran Enterprise and Science University of Malaysia, 1991) and the UK edition, published as The History and Philosophy of Islamic Science (Cambridge: Islamic Text Society, 1999).

15. For a detailed discussion of the different kinds of human cognitive faculties and instruments as indicated below see Bakar, Classification of Knowledge in Islam, chapter 2, especially 48–64.

16. Rationalism seeks to abolish the superiority of revelation over reason and equivalently the superiority of faith over reason. It succeeded in doing so in the history of western thought through the European Renaissance transformation of a God-centric worldview to a man-centric worldview, which may be regarded as the first reductionism to have happened in western thought. With this reductionism the angels were banished from the universe since their presence was no longer felt necessary to the human quest for a better understanding of how the universe works and functions.

17. It was Sir Isaac Newton, one of the most notable founders of modern western science, who laid down the foundation for the mechanisation of the universe through his mechanistic physics. The foundational assumption of this Newtonian physics is the idea of the universe as a machine governed by uniform and immutable physical laws that can be discovered by the human mind through empirical studies and that can be predicted in its physical consequences. This mechanisation of the universe may be viewed as another phase of reductionism in the modern western perception of reality. It led to a further depletion of the spiritual content of the universe resulting in a new awareness that the religious vision of the universe and therefore its source as well, namely, God, have become redundant. Deism, an eighteenth-century offshoot of the Newtonian mechanistic worldview has, in fact, taken the unfortunate step of cutting off the hands of God from the world of nature. Mechanisation has not only reduced the universe, the macrocosmic reality, to a machine but also the microcosm, the human body. Consequently, modern medicine as a science began to treat the human body as nothing more than a machine whose organic parts can be easily detached from its parent body for treatment and then quickly assembled back to it. For a good discussion of the reductionistic impact of mechanisation on western thought and on the modern sciences as well, see Fritjof Capra, The Turning Point: Science, Society, and the Rising Culture (New York: Simon and Schuster, 1982). See also the 3rd edition (New York: Bantam, 1983).

18. Empiricism is the philosophical belief that the world perceived by the five senses alone is real and that only empirical knowledge based on such perceptions is considered to be true.

19. Evolutionism is the philosophical belief that all organisms which constitute the whole of the plant and animal kingdoms that exist or have existed, including human beings, have developed from a few extremely simple forms or from one alone.


22. Both al-Fārābī and Ibn Rushd have referred to human society as the macrocosm of the human world and the human individual as its microcosm.
23. For a good introductory account of the characteristic features of the *sharīʿah* and its classifications into many branches see Mohammad Hashim Kamali, *An Introduction to Sharīʿah* (Kuala Lumpur: Ilmiah Publishers, 2006), especially chapter 3.


25. The objectives are many, both general (*al-maqāṣid al-'ammah*) and particular (*al-maqāṣid al-khāṣṣah*), thus giving rise to many classifications of the *maqāṣid*. For a discussion of these classifications see Kamali, *An Introduction to Sharīʿah*, 126–31. The most widely and frequently cited classification is the one comprising of the five following general objectives: (1) protection of religion (*al-dīn*); (2) protection of intellect-reason (*al-ʿaql*); (3) protection of life (*al-nafs*); (4) protection of property (*al-māl*); and (5) protection of progeny (*al-nasl*).

26. The Qur’ān says: “Let there arise out of you a community (ummah) inviting to all that is good, enjoining what is right, and forbidding what is wrong. They are the ones to attain success and prosperity” (3:104).

27. In the words of the Qur’ān, “you are the best community (khayra ummat) evolved for mankind [because] you enjoin what is right and forbid what is wrong and you believe in God” (3:110).

28. The word *wasaṭiyyah* is synonymous with *iqtiṣād*. For a good discussion of the qur’ānic principle of *wasaṭiyyah* and also its etymological and conceptual relationship with the idea of *iqtiṣād*, see Mohammad Hashim Kamali, “The Middle Grounds of Islamic Civilisation: The Qur’ānic Principle of *Wasaṭiyyah*”, *IAIS Journal of Civilization Studies* 1, no. 1 (October 2008), 7–41.

29. Says the Qur’ān: “Thus We have made of you an ummah justly balanced so that you might be witnesses over the nations, and the Messenger a witness over yourselves […]” (2:143).

30. Qur’ān 9:34.


IMPLEMENTING ISLAMIC LAW WITHIN A MODERN CONSTITUTIONAL FRAMEWORK
CHALLENGES AND PROBLEMS IN CONTEMPORARY MALAYSIA

Salah El-Sheikh*

Abstract: While the Federal Constitution of Malaysia readily proclaims Islam to be Malaysia’s official religion, opinions have fiercely diverged among legal scholars and practitioners as to how substantive should the relevant clause on this be interpreted. Such vagueness is typical of the document, whose drafting took place amidst intense negotiations among Malaysia’s multi-racial communities, resulting in an informal bargain or ‘social contract’ which until today has become a subject of bitter dispute amidst rising polarisation along ‘Muslim versus non-Muslim’ lines. Locating origins of contemporaneous legal conflict to divergent understandings of constitutional clauses, this article proceeds to discuss contemporary controversies which shed light on Malaysia’s struggle to identify itself as a nation-state which integrates the best of both modern and Islamic civilisations. It is argued that this delicate balance has been recently threatened by the increasing penetration of a form of orthodox Islamist legalism which antagonises non-Muslim minorities and unduly homogenises its Malay-Muslim population. The cut-off point for this article is Abdullah Ahmad Badawi’s tenure as Prime Minister of Malaysia, which drew to a close in April 2009 under embattled circumstances.

Historical Background

It has been widely established that Islam in Malaysia locates its provenance to thirteenth-century peripatetic Sufi missionaries whose trading guilds simultaneously played the role of fronts for proselytisation. As the indigenous Malays were then deeply steeped in Hindu-Buddhist and animist traditions, the Sufis prioritised social over politico-legal transformation. Many elements of the pre-Islamic customs were initially incorporated as part of early Malay-Muslim polity, giving rise to the once-popular view of Malaysian Islam as being imbued with syncretic qualities. Islam in traditional Malay society has not uncommonly been discussed in terms of

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constant tension between the shari’ah (Islamic law) and adat (Malay for ‘customary law’). In terms of legal systems, as documented by Winstedt, contradictions between the shari’ah (in Malay spelled Syariah) and indigenous legal digests of pre-colonial Malay states abound. Nevertheless, there was evidence of the politico-legal structures of medieval Malay states gradually being Islamised, such that by 1908, wrote colonial administrator R.J. Wilkinson, “There can be no doubt that Moslem law would have ended by becoming the law of Malaya had not British law stepped in to check it [...]”.

This checking came in the form of treaties between the British and Malay states which bound Malay rulers into accepting a ceremonial role as protector of Islam and Malay custom. Clause VI of the Anglo-Perak Pangkor Treaty of 1874 – a model for subsequent British treaties with other Malay states, specified that a British Resident’s advice “must be asked and acted upon on all questions other than those touching Malay religion and custom”. Malay’s individual lives were thereafter governed by ‘Muhammadan law’, which was essentially ‘culturally defined’ personal and local religious law applied to “those who acknowledge Islamism”. Through a gradual formalisation of its substantive rules into statute, ‘Muhammadan law’ became a prelude to the Civil Law Enactment for the Federated Malay States, which recognised English law as law of the land. In 1951, its application was extended to the whole Federation of Malaya – formed in 1948 out of the former Federated Malay States and the Unfederated Malay States. The Civil Law Ordinance of 1956 secured a permanent place for English law in the Malaya’s legal system.

Under British colonialism, the shari’ah was completely usurped by English statute law in socio-religious matters affecting waqf (charitable endowments), zakāt (alms-giving) and bayt al-māl (treasury). According to Hooker, “[t]he only substantive Muslim principles dealt with were ‘offences against religion’, i.e. attendance at mosque for prayers, fasting, teaching religion without authority, and unlawful proximity.” In order to administer Muslim affairs, Islam was administratively bureaucratised. On top of the religious hierarchy of each state was now a Majlis Agama Islam dan Adat Istiadat Melayu (Council of Islamic Religion and Malay Customs), which supervised a Department of Religious Affairs (Jabatan Hal-Ehwal Agama Islam). The Majlis personified a newly found alliance between the sultans, the aristocratic elite and a nascent religious bureaucracy linked to colonial officialdom. Shari’ah courts were instituted, but their verdicts could be overridden by civil and magistrate courts. Religious personnel such as muftis, district qādīs and imāms were made public servants dependent on state payroll. Thus was born an official class of ‘ulama’ (religious scholars) who were increasingly divorced from the masses, over whom they had been granted authoritarian policing powers.
Islamic Law in the Federal Constitution and Recent Controversies

The Malayan delegation that negotiated for independence with the British government in 1956 comprised representatives of state rulers and ministers of the United Malays National Organisation (UMNO)-Malayan Chinese Association (MCA)-Malayan Indian Congress (MIC) Alliance, which had won an overwhelming victory in the 1955 general elections. A Commonwealth Commission chaired by Lord Reid, Lord of Appeal in Ordinary, was duly appointed by the Queen and the Conference of Rulers to draft the Federation of Malaya’s Constitution. The other members were Sir Ivor Jennings, Master of Trinity Hall, Cambridge; Sir William Mckell, former Governor-General of Australia; B. Malik, former Chief Justice of Allahabad High Court and Justice Abdul Hamid of the West Pakistan High Court. Ironically, no Malayan citizen, who would presumably be sensitive to local conditions, was included in the Commission.13

The Alliance memorandum submitted to the Constitutional Commission proposed that “the religion of the Federation of Malaya shall be Islam”, but that this “shall not imply that the State is not a secular State”.14 The Commission had made it clear that should any provision to the effect that Islam be made Malaya’s state religion be included in the Constitution, it must not “in any way affect the civil rights of non-Muslims”. The state rulers initially opposed any declaration installing Islam as the established religion of the Federation, for they feared such an enactment would transfer any authority they wielded as heads of Islam in their own states to the proposed Head of Federation. The sultans finally relented after the Alliance explained to them that the purpose of making Islam the official religion, far from intending to usurp their powers, was “primarily for ceremonial purposes, for instance to enable prayers to be offered in the Islamic way on official public occasions such as the installation of the Yang diPertuan Agong [i.e. Malaya’s and subsequently Malaysia’s King], Independence Day and similar occasions”.

Article 3(1) of the Federal Constitution states: “Islam is the religion of the Federation, but other religions may be practised in peace and harmony in any part of the Federation.”15 State rulers retain their positions as heads of the Muslim religion in their respective states, while the Yang diPertuan Agong, elected as Head of Federation from among the state rulers every five years, continues to become head of Islam in his own state and assumes a similar role in Malacca and Penang, and later by a constitutional amendment, in the Federal Territory, Sabah and Sarawak. However, the Federal Constitution does not oblige the various states to proclaim Islam as their official religion, such that Penang, Malacca and Sarawak have not done so in their state constitutions.

Article 8(2) guarantees “no discrimination against citizens on the ground only of religion, race, descent or place of birth in any law or in the appointment to any
office or employment under a public authority [...]). Hence, although the Head of Federation will necessarily be a Muslim, no provision in the Federal Constitution prevents him from appointing a head of government, a minister or a federal high official who is a non-Muslim. Consequently, post-independence state constitutions have been amended to enable sultans to appoint non-Muslims as Chief Ministers. Article 11 confers on every individual the right to profess, practise and propagate his religion, but the propagation of any religious doctrine or belief among Muslims may be controlled or restricted by state law, or in respect of the Federal Territory, by federal law. Thus, not only are non-Muslim missionary activities subject to strict regulation or even prohibition in the states, but Muslim missionaries also must obtain a tauliah (letter of authority) from state religious departments. Article 11 also authorises all religious groups to manage their own religious affairs, to establish and maintain institutions for religious or charitable purposes and to acquire, possess, hold and administer property in accordance with the law. Article 12 extends such religious freedom to the purview of education, but specifies only Islamic institutions as lawful for the Federation or state to establish, maintain and assist in establishing or maintaining. The Federation or a state is also empowered to provide, or assist in providing, Islamic religious instruction and incur expenditure as may be necessary for the purpose.

Islam also plays a vital ethno-cultural function as a determinant of ‘Malayness’ – the prime indigenous group who benefits from their ‘special position’ as entrenched in Article 153. Such privileges include measures to accelerate Malay economic and educational progress, protection of Malay land reservations and preference in the recruitment for public service. The constitutional definition of a ‘Malay’, as embedded in Article 160(2), is “a person who professes the Muslim religion, habitually speaks the Malay language, conforms to Malay custom”. Under the so-called ‘Bargain of 1957’ or ‘social contract’, the aforesaid privileges, together with provisions to ensure the positions of Islam as the official religion, of Malay sultans as heads of the various states and of Malay as the national language, were quid pro quos for non-Malay demands for relaxed conditions for citizenship, the continued use of the English language in official matters for ten years and the preservation of the free market economy.

Technically, the administration of Islam falls under the jurisdiction of states, such that, according to a legal expert, “the provision that Islam is the religion of the Federation has little significance [...]). Accordingly, through a series of Administration of Muslim Law Enactments, the various states have instituted Councils of the Islamic Religion (Majlis Agama Islam) to aid and advise the sultans in their capacity as heads of the Islamic religion, Departments of Religious Affairs (Jabatan Agama Islam) to handle daily affairs of Muslims and shari’ah courts to adjudicate in Muslim matters. Although the federal government has endeavoured to coordinate
the administration of Islamic affairs within the federation by setting up, in 1968, a National Council for Islamic Affairs with the authority to issue fatwās through its National Fatwā Committee, it is decisions at state level which are ultimately binding upon Muslim residents in a state. Set up via the Conference of Rulers, the National Council cannot encroach upon any authority, rights and privileges of sultans as heads of Islam in their states. Nonetheless, states are not free to implement the sharīʿah even if they wish to do so. Firstly, they are bound by Article 75 of the Constitution, which states that in the event of any inconsistency between state law and federal law, the latter shall prevail. Secondly, the jurisdiction of the sharīʿah courts is extremely limited. Theoretically, it covers only Muslim personal law, successor of the ‘Muhammadan law’ of the colonial era. This includes family law, charitable property, religious revenue, places of worship and religious offences such as adultery and other forms of sexual misconduct, defamation, non-payment of alms and consumption of liquor. In criminal matters, sharīʿah courts can only try offences which involve no punishment beyond the stated maximum imprisonment or fine under federal law, making it impossible for them to impose ḥudūd punishments. Even a fatwā issued by the state muftī, and understood to be binding upon all Muslim residents in the state, can practically be rendered null and void by a simple recourse to a conflicting decision of the High Court.

In practice, until 1988, the authority of the sharīʿah courts was circumscribed even within its limited jurisdiction. Where sharīʿah courts differed in opinion from civil courts, verdicts of the latter prevail. The Rule of High Courts 1980 and the Court of Judicature Act 1964 conferred power upon High Courts to override decisions of lower courts. In 1988, Article 121 of the Federal Constitution was amended so as to include clause (1A): that the courts referred to in clause (1) i.e. the High Courts of Malaya and of Sabah and Sarawak, “shall have no jurisdiction in respect of any matter within the jurisdiction of the Syariah courts”. Raising the status of sharīʿah courts and judges to be at par with their civil counterparts, the amendment effectively created jurisdictional dualism in Malaysia’s legal system. It was hurriedly passed through Parliament under controversial circumstances, as many vocal non-Muslim opposition parliamentarians were then confined under the Internal Security Act (ISA) following the Operation Lalang crackdown in October 1987.

After a spate of high profile court cases involving disputed conversions into and out of Islam, Article 121 (1A) has of late become a bone of contention dividing civil society into a Muslim ‘pro-sharīʿah’ and a largely non-Muslim ‘pro-freedom of worship’ camps. The latter, embodied by the ‘Article 11’ coalition, calls for a review of Article 121 (1A) in the wake of the perceived injustice meted out to non-Muslim families of new Muslim converts who may have converted without their knowledge. The reluctance of civil courts to interfere in cases involving claims made...
by state Islamic authorities to bodies of the converts upon their deaths, or involving forced conversion of children to Islam by the converting spouse, leaves the baffled non-Muslim kin without any legal remedy. Article 11 calls for a return to the original spirit of the Federal Constitution, which guarantees all citizens fundamental liberties, which concerned non-Muslims see as having been usurped by federal judges who pronounce that non-Muslims could seek redress in *sharīʿah* courts. Such decisions arguably not only trample upon the non-Muslim litigants’ rights, but also contradict the Ninth Schedule of the Federal Constitution: that the “constitution, organisation and procedure of Syariah courts [...] shall have jurisdiction only over persons professing the religion of Islam [...].”

The former camp, represented by the Organisations for the Defence of Islam (PEMBELA: *Pertubuhan-pertubuhan Pembela Islam*) and the Allied Coordinating Committee of Islamic Non-Governmental Organisations (ACCIN), grew out of rising concern that there were concerted attempts to subvert Islam’s entrenched position in the Federal Constitution and the national polity. The anchor group behind PEMBELA are Muslim professionals and lawyers who are worried that cases involving apostasy might get a hearing in civil courts, paving the way for Muslims to leave Islam at will via legal channels. The establishment of PEMBELA in July 2006 was triggered by court cases such as the Moorthy Maniam aka Muhammad Abdullah and the Lina Joy cases, in which there was danger that verdicts would threaten the authority of *sharīʿah* courts. On 29 September 2007, a memorandum containing 701,822 signatures was presented to the *Yang diPertuan Agong* and the Prime Minister, outlining aggressive attempts, allegedly with international support, to whittle away the substance of Islam’s constitutional role. These attempts comprised the demands to establish an Interfaith Commission (IFC), to repeal Article 121 of the Federal Constitution, and to advocate unbridled freedom of worship, including to renounce Islam by a simple change to one’s religious identity in one’s national identity card. Until the present time, court verdicts have generally upheld PEMBELA’s stance. In the Moorthy Maniam aka Muhammad Abdullah case, this national mountaineer’s corpse was buried in December 2005 according to Islamic rites after the High Court, in adherence to Article 121 (1A), refused to hear the litigation of S. Kaliammal, Moorthy’s widow who contested claims that he had converted to Islam. In the Lina Joy case, the Federal Court rejected, in a 2–1 majority decision, Azlina Jailani aka Lina Joy’s appeal to compel the National Registration Department to remove the word ‘Islam’ from her national identity card. Such a deed, ruled the Federal Court, needed the sanction of the *sharīʿah* court which held jurisdiction over matters concerning apostasy. The verdict, lauded by PEMBELA, was lamented by non-Muslim groups. While PEMBELA focuses on legal issues, ACCIN, an umbrella body of 14 Muslim non-governmental organisations (NGOs), coordinates endeavours to oppose of the formation of the
IFC, which is seen as a front by the secular legal community to usurp powers of the state’s Departments of Religious Affairs, by-pass *shari'ah* courts in Islamic legal matters, and interfere in intra-Muslim affairs.43

In the early years after independence, Islamic law made slow progress because there was a lack of political and intellectual will to further its cause among Malay-Muslim members of the ruling elites and the judiciary. Having enjoyed British education and legal and public administration training, Malay-Muslim leaders who inherited the reins of government exhibited socio-political inclinations hardly different from their colonial forefathers’.44 Their favourite themes in opposing a greater role for Islam in managing politico-legal affairs revolved around the supposed incompatibility of Islam with racial harmony and national economic development. For example, Tunku Abdul Rahman, Prime Minister 1957–70, once noted, “[…] unless we are prepared to drown every non-Malay, we can never think of an Islamic Administration”.45 In opposing suggestions of making Friday a public holiday, he insisted that it was “impossible to apply the Islamic religion in every way to the administration of the country”.46 When a Muslim member introduced in the Federal Legislative Council of 1958 a motion to prohibit the serving of alcoholic beverages in federal government functions, he retorted, “[…] this country is not an Islamic State as it is generally understood, we merely provide that Islam shall be the official religion of the State”.47 The same sentiment was echoed by Mohamed Suffian Hashim, the first Lord Chief Justice of independent Malaya: “For many generations the various ethnic groups in Malaya have lived in peace and harmony and there was no overwhelming desire that the newly independent State should be an Islamic State.”48

Nonetheless, after the onset of Islamic resurgence in Malaysia, there has been rival upping the ante on Islamisation between independent Islamists on the one hand and the state on the other. While the state undeniably responded to the increasing demands from the grassroots Malay-Muslim constituency for a greater role for Islam in public affairs via coercion and tight regulation,49 the stick was applied concomitantly with the carrot via dexterous co-optation of Islamist figures and Islamisation initiatives which were to have direct impact on the future course of Islamic law. Since the early days of Dr Mahathir Mohamad’s Premiership, there had been equivocal indications that he was not averse to Islamic rule, though not of the theocratic or ‘Islamic state’ *à la* Iran type as aspired to by the *'ulamâ’* leadership of the opposition Islamic Party of Malaysia (PAS: *Parti Islam SeMalaysia*).50 Co-opted Islamists such as former Muslim Youth Movement of Malaysia (ABIM: *Angkatan Belia Islam Malaysia*) leader Anwar Ibrahim, until his unceremonious dismissal as Deputy Prime Minister in September 1998, and former PAS Vice President Nakhaie Ahmad, who heads the state-sanctioned National Dakwah Foundation of Malaysia (YADIM: *Yayasan Dakwah Islamiah Malaysia*), and Islamic think-tanks such as
the Institute of Islamic Understanding (IKIM: Institut Kefahaman Islam Malaysia), were highlighted so as to portray a moderate image of Malaysia’s ruling regime in terms of the application of *sharīʿah* at public level. Under state patronage, tertiary Islamic education, of which *sharīʿah* education is a cornerstone, greatly improved, reaching a new milestone in June 1983 with the founding of the International Islamic University of Malaysia (IIUM). This spurred the production of new cohorts of *sharīʿah*-based lawyers, consultants, economists, judges and religious officials to fill posts in the expanding Islamic bureaucracy and widening network of state-encouraged Islamic financial institutions.

Although ridiculed by the PAS leadership as “little islands amidst an ocean of secular institutions”, and qualified by government spokesmen as no guarantee that Malaysia will become an Islamic state, the piecemeal Islamisation measures by the federal government emboldened the various UMNO-controlled states’ authorities into executing more *sharīʿah*-based legislation. For example, Penang and Johor imposed stiffer penalties for Muslims convicted of Islamic criminal offences, Terengganu affirmed its commitment to an Islamic economic package including the formation of an Islamic-based securities company, Kedah started a programme to revive the role of the mosque as a social and educational centre, Perlis passed a law on apostasy for converts, and Selangor started charging Muslims deemed to have acted immorally by working in liquor-serving outlets and participating in beauty contests. Yet, these actions were not short of controversy. Following the row over three Muslim beauty contestants’ arrests in 1997, the Selangor *muftī*, Ishak Baharom, was implicated with slighting ruling state politicians for their not defending the religious authorities’ action, and with accusing the Prime Minister of almost committing apostasy by criticising the religious authorities’ ‘misuse of power’. Ishak Baharom’s contract as *muftī* was eventually terminated, ostensibly on account of old age. In 2005–06, following a spate of nightclub raids in search of Muslim offenders and the proposed formation of religious snoop squads, serious unease over the states’ religious authorities’ overzealousness in ‘moral policing’ was articulated by both liberal Muslim quarters and non-Muslims who feared a spillover effect affecting the rights of non-Muslim communities.

Whatever the brouhaha which Islamic morality laws had created by trespassing, rightly or wrongly, into the public sphere in recent years, it is indicative of the extent to which *sharīʿah*-based laws, albeit still within a limited purview and jurisdiction, have progressed in Malaysia. Ironically, this took place amidst constant affirmation by the Malaysian state that it was nowhere near to becoming a puritanical Islamic state. The Islamic outlook of long-time Prime Minister Dr Mahathir, despite his occasional lip service to fundamentalist Islam, was more of a modernist reformer à la Turkey’s Kemal Atatürk, who revelled in reprimanding orthodox jurists and *ʿulamā’* for their intellectual stagnation and emphasis on the form rather than the substance.
of Islam. Judith Nagata has summarised such an eclectic approach as attempting to “be Islamic without being an Islamic state”. In September 2001, on the occasion of the 30th national delegates assembly of the non-Muslim-dominated Gerakan Rakyat Malaysia (GERAKAN) – a component party of the ruling National Front (BN: Barisan Nasional) coalition – Mahathir shocked the nation by declaring that Malaysia had already become an Islamic state. In support of the Prime Minister, government spokesmen and Islamic think-tanks argued that significant elements of the country’s legal and administrative systems had manifestly Islamic foundations, and that Islam was increasingly prominent in the economic, educational and constitutional spheres. In fact, an Islamic State Discussion (Muzakarah Daulah Islamiah) on 3 August 2001 chaired by Dr Abdul Hamid Othman, the Religious Adviser to the Prime Minister, had gathered 70 religious scholars, notables and academics who reached an unequivocal agreement, on the basis of scholarly opinions since the Umayyad and Abbasid caliphates, that Malaysia qualified as an Islamic state.

In June 2002, Mahathir reinforced his stance by laying claim to Malaysia as a “model Islamic fundamentalist state” instead of a “moderate Muslim state”. This was followed by a loud chorus of approval from a panel of experts discussing the implementation of sharīʿah laws in Malaysia. Under Dr Mahathir, Malaysia’s legitimacy as a model Islamic state was very much based on its economic achievements and related accolades from other Muslim countries and the Organisation of Islamic Conference (OIC). Since his retirement, Dr Mahathir has continued to shun ‘moderateness’ as being part of Islam, and has even re-affirmed his conviction that Malaysia is an Islamic state by virtue of Islam being practised in Malaysia’s administration, regardless of whether or not there is explicit mention of this in the Federal Constitution. But since the conventional yardstick to measure the ‘Islamicity’ of a polity is the status of the sharīʿah – in the Malaysian case, via statutory enactment – such claims would have rung hollow if Dr Mahathir’s Islamisation had not been accompanied by a corresponding entrenchment of the sharīʿah in Malaysia’s legal system. This entrenchment did take place, albeit incompletely and surrounded by weaknesses. In retrospect, Francis Loh views the Federal Court verdict in the Lina Joy case to be in tandem with the increasing propensity of Islam to assume “the authority of civil state’s laws” within the whole scheme of expanding the Islamic legal system, making Mahathir’s proclamation of Malaysia as an Islamic state “not that far-fetched”.

Problems in the Implementation of Islamic Criminal Law in the Opposition-held State of Kelantan

The experience of Islamic political parties in the democratic process of post-colonial Muslim states shows that even in a relatively tolerant political environment, Islamic
parties would be tolerated only up to the point where their presence is just enough to legitimise the established order. In authoritarian states, Islamic parties are usually proscribed. Encountering severe limitations and lack of a peaceful initiative apart from succumbing to defeat and incurring humiliating penalties, and further driven by a firm belief in the infidelity of Muslim leaders who repudiate the shari‘ah, some Islamists have chosen to take up arms in their fight against the secular state. In Malaysia, the need for a militant Islamic struggle has been obviated by a relatively tolerant political environment and a political culture which abhors violence. The peaceful political climate explains why the government has invariably invoked images of violence that would allegedly be perpetrated whenever it wants to crush its political opposition conveniently labelled as anti-state or subversive.74 The pugnacious portrayal of its political enemies by the national media often serves to justify the government’s use of draconian measures such as the ISA, which authorises detention without trial upon anybody who “has acted or is about to act or is likely to act in any manner prejudicial to the security of Malaysia”.75

The orderly transfer of power in the state of Kelantan after a stunning electoral victory by PAS over the incumbent BN government in 1990 and the continuous success of PAS in retaining control over Kelantan until today,76 shows that on paper, the democratic wishes of an Islamic-oriented electorate for a shari‘ah-based polity at state level are constitutionally respected by the federal government. Such precedents initially raised hopes of grassroots Islamists that the ‘political opposition’ approach offered a viable alternative towards an Islamic state. As then PAS Deputy President Abdul Hadi Awang confidently proclaimed in connection with its status as the chief component of Kelantan’s state government: “We already have a vehicle to implement an Islamic state.”77 Such a project may now be initiated in Kelantan, whose experience offered examples for the formulation of electoral strategies to capture other states and the federal legislature. Indeed, PAS’s success in expanding its power into other states forms one scenario by which Malaysia can eventually be transformed into an Islamic state.78 But the practical difficulties of administering changes from a secular-based to an Islamic legal system are highlighted by the obstacles encountered by the PAS-led government in its bid to introduce the shari‘ah, as embodied in the hudūd laws, in Kelantan.

As the cornerstone of PAS’s 1990 election manifesto, the implementation of hudūd laws would inevitably feature prominently in the Kelantan government’s plans. As a prelude, the newly elected state government initiated small-scale Islamic measures such as ending extravagant state functions, banning gambling, partially outlawing consumption of liquor and extending maternity leave. The non-Malay minorities were appeased by the state government’s appointing their representatives to the state legislative assembly and reaching a compromise over alcohol proscription.79 After the hudūd debate had got under way, PAS understandably
distanced itself from the radical image it had cultivated since 1983. While affirming ḥudūd laws as an ultimate aim of the state government, Kelantan Chief Minister-cum-PAS Murshid al-ʿāmm (‘General Guide’, from Arabic murshid al-ʿāmm) Nik Aziz Nik Mat asserted that immediate implementation had been ruled out in order to avoid accusations of cruelty by detractors. So dilatory was PAS in its legislative programme on ḥudūd that UMNO was prompted into challenging PAS to realise its rhetoric by submitting constitutional proposals to enable the implementation of ḥudūd laws in Kelantan.

At first, Prime Minister Mahathir Mohamad declared that the federal government was willing to allow PAS to enforce ḥudūd laws in Kelantan, even if it necessitated amendments to the Federal Constitution. To Mahathir, Islamic teachings offered many extenuating circumstances which disputed the appropriateness of ḥudūd laws in present-day Malaysia. He viewed PAS’s rhetoric on ḥudūd laws as a political gimmick, whereby the federal government could be blamed for allegedly thwarting the legislative path of ḥudūd. Mahathir’s extraordinary concession, which caused consternation in non-Muslim circles, was then interpreted as a political ploy to woo Malay-Muslim voters in a forthcoming state by-election in Bukit Payung, Terengganu. The tactic appeared to have paid off when the BN snatched the seat away from PAS. But it also strengthened PAS’s resolve to push through plans on the ḥudūd laws.

The Kelantan state government’s procrastination in putting forward proposals for ḥudūd laws could be explained by two factors. Firstly, the relative inexperience of PAS’s ʿulamā’, most of whom were trained in religious sciences in the traditional mould, in drafting legal documents for contemporary application. Such deficiency necessitated requesting the assistance of non-PAS academic scholars, some of whom were staggered to discover the considerable lack of preparation and effort on the part of PAS’s committee responsible for drafting the ḥudūd proposals. Secondly, the lack of understanding of ḥudūd laws among both Muslims and non-Muslims in Kelantan. Since premature implementation may prove politically counter-productive, PAS was compelled to conduct state-wide explanatory sessions, even though the considerable time spent for them exposed them to accusations of prevarication. Despite its sluggishness, PAS’s strategy of bringing the issue to the public showed signs of bearing fruit by late 1992. Chief Minister Nik Aziz Nik Mat claimed that his government’s clarification of ḥudūd laws had convinced Kelantanese – Muslims and non-Muslims alike – to accept their implementation. Although the claim was disputed by Chinese opposition leaders, independent polls did suggest that non-Muslims in Kelantan did not face discrimination and were reasonably content with proposals to turn Kelantan into a full-fledged Islamic state, so long as their businesses were not interfered with.
The long-awaited *ḥudūd* enactment bill was eventually debated and passed by the Kelantan state legislature as the *Kanun Jenayah Syariah (II) 1993* (*Enakmen Undang-undang Kanun Jenayah Syariah (II) 1993 (Hukum Hudud))* 1994. Its implementation, however, was conditional upon amendments to the Federal Constitution intended to accommodate the jurisdictional expansion of *sharīʿah* courts, and effectively exalting the status of Islamic law as the supreme law of the land in Kelantan.92 Hostile to such an idea, the federal government rallied sympathetic ‘ulamā’ from among academics and religious functionaries to its endeavour of exposing the weaknesses and impracticalities of *Kanun Jenayah Syariah (II) 1993*.93 While deficiencies of *Kanun Jenayah Syariah (II) 1993* were pin-pointed and revisions were proposed to the document, hardly any of the invited scholars rejected the implementation of *ḥudūd* laws in principle.94 But the federal government considered the scholars’ critical comments of *Kanun Jenayah Syariah (II) 1993* as sufficient grounds to reject what it dubbed the ‘PAS’s *ḥudūd*’. In a personal letter to the Kelantan Chief Minister clarifying the decision, Prime Minister Mahathir Mohamad cited, among other things, concern that the proposed laws would potentially create chaos by implementing a two-tier system of justice separating Muslims and non-Muslims who would remain under existing secular laws.95 Understandably appalled by the federal government’s reneging its previous promise to allow the implementation of *ḥudūd* laws in Kelantan, PAS’s leaders challenged the federal government to propose its own version of *ḥudūd* or accept their invitation for a dialogue to break the deadlock. Instead of responding constructively, Dr Mahathir replied somewhat mockingly that the ‘UMNO *ḥudūd*’ was already contained in the Qur’ān.96 Although independent research by the Malaysian Bar Council acknowledged the concurrence of *Kanun Jenayah Syariah (II) 1993* with Islam,97 the political environment in Malaysia ensured the political inefficacy of such opinions without the ruling elite’s backing. Until today, UMNO, unabashed at their denial of democratic rights to the Kelantanese, appears content to let the *ḥudūd* issue rest until such a time when it recaptures Kelantan from PAS.

Demoralised by its incapacity to carry out its most important pledge to the Kelantan electorate, PAS was constantly kept under pressure by UMNO and the federal government. The UMNO elite seemed intent upon provoking PAS into reviving its radical posture, in order to discredit it in public eyes. When the UMNO General Assembly of 1994 proposed a motion to urge PAS to drop from its name the term ‘Islam’ for supposedly connoting disunity, PAS interpreted it as an attack on the sanctity of the Islamic struggle itself.98 The fierce outburst from PAS leaders was handily exploited by UMNO to portray PAS as a prevaricator and a security threat, resulting in PAS being given a stern warning by the Inspector-General of Police to stop arousing public tension.99 The establishment’s media assaults on PAS were handed a boost by the widely publicised arrest of a prominent Kelantan PAS
leader for sexual impropriety, the case of which was summarily dismissed by Chief Minister Nik Aziz Nik Mat as a conspiracy.100

On PAS’s own admission, its rule in Kelantan had been grossly undermined by undue interference from the federal authorities and the Kelantan royal family.101 In mid 1996, PAS’s coalition partner Semangat 46 decided, citing a series of irreconcilable rifts with PAS, to sever links with PAS, dissolve its party and rejoin UMNO.102 The most contentious issue was PAS’s decision to table a bill to curb the powers of the Kelantan sultan, who was a kin of the Semangat 46 leader, Tengku Razaleigh Hamzah.103 With its decline in strength, PAS conveniently moderated its image by forging closer ties with the federal government, acknowledging the federal government’s financial help for development projects and even toying with the idea of a coalition pact with UMNO in Kelantan.104 On official occasions, senior PAS leaders publicly reaffirmed PAS’s commitment to democracy, and advised younger members to forsake radical methods and maintain a moderate profile.105 These manoeuvres took place amidst continuous attacks on PAS’s rule in Kelantan by its former partners of the defunct Semangat 46. For example, former Semangat 46 Deputy Liaison Chief in Kelantan, Shukri Mohamed, lambasted PAS’s failure to tackle poverty and pressing issues of development in Kelantan,106 and Tengku Razaleigh Hamzah rebuked PAS for failing to administer Kelantan according to true Islamic principles.107

PAS’s failure to administer Kelantan according to its cherished ideals sheds some light on the weaknesses of the opposition party political alternative towards the establishment of an Islamic legal system at state level. The realities of federal-state relations in Malaysia circumscribe PAS’s Kelantan government’s capacity to manoeuvre. Realistically, PAS’s political objectives can only be achieved by mustering at least a two-thirds majority of federal parliamentary seats, by which it can amend the Federal Constitution. But judging by the present political map, such a scenario remains far-fetched until PAS broadens its appeal beyond its traditional strongholds in the north and northeast of Peninsular Malaysia. Continual reliance on federal funds for development projects renders powerless the state government’s attempts to counter the ruling elite’s perennial strategy of tying votes for the BN with development.108 The creation of a Federal Development Department responsible to the federal government, and especially to monitor federal projects in Kelantan, compounds the state government’s problems of coordinating development initiatives in an Islamic-oriented fashion.109

A similar fate befell PAS’s one-term government of Terengganu (1999–2004) under the Chief Ministership of Abdul Hadi Awang, who also officially assumed the post of PAS President in 2003. In Terengganu, PAS unsuccessfully attempted to impose the kharāj (land tax) on non-Muslims and to force through the Syariah Criminal Offences (Ḥudūd and Qiṣāṣ) Enactment, which was ultra vires with
respect to the Federal Constitution. Economically, PAS’s Terengganu government was denied oil royalty payments, which were arbitrarily stopped by the federal government which suddenly realised its ‘mistake’ of contributing directly to the state government’s budget. The funds were now converted to goodwill money which was distributed via federal development agencies specially created in Terengganu.

Problems in Government-orchestrated Implementation of Islamic Law in Malaysia

Islamic law has come a long way in Malaysia since colonial times, when it was tainted with syncretism, and since the first 30 years of Malaysia’s independence, when it was marginalised vis-à-vis civil law, as derived principally from English common law. The clause “Islam is the religion of the Federation […]” in Article 3(1) of the Federal Constitution was never intended by the original drafters to mean that Islam had more than a ceremonial role in the new nation state. In fact, the provision in Article 3(4): “nothing in this Article derogates from any other provision of this Constitution” ensures that despite Islam’s exalted status, the sharīʿah occupies an inferior position to constitutional clauses even if they may not strictly conform to Islamic requirements. In addition, Article 3(1) does not trump guarantees of fundamental liberties as provided in Articles 5 through 13 of the Federal Constitution.

However, as Professor Shad Saleem Faruqi observes, for the past decade, “a critical mass of Muslim lawyers, judges and politicians has adopted the view that Islam is the core, central, overriding feature of the Constitution”. The mainstay of their argument is that even though the Federal Constitution does not explicitly mention Malaysia as an Islamic state, the very existence of Article 3 itself is proof that Malaysia is not a secular state either. Article 3 enables the federal government to disburse preferential funds towards the development and propagation of Islam, which would have been impossible to do in a secular state. Moreover, Article 11(4) empowers state legislatures and in the case of federal territories, the Parliament, to “control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam”. That Islam occupies a permanently pivotal place in Malaysia’s legal system is confirmed by the Article 121 (1A) amendment which, despite many non-Muslims increasingly seeing it as a symbol of injustice and a portent for future legal impasse and emotional misery, these Muslim legal practitioners will stoutly defend.

The critical factor providing the main impetus towards a defence of the position of Islamic law within Malaysia’s whole legal corpus is the political will demonstrated by the powers that be. As we have seen, Mahathir started a pro-Islamisation drive which culminated in his Islamic state declarations of 2001–02. The crusade
might have initially been solely an attempt to outflank PAS, but Islamisation soon acquired a dynamics of its own as the UMNO ruling elite derived manifest political advantages from it. The presence and meteoric rise of Anwar Ibrahim – long-time icon of Islamic resurgence among the Muslim youth, in government, and his patronage of Islamic intellectual endeavours such as the country’s International Islamic University (IIUM), augured well for the future of Islamic law in Malaysia. Indeed, the progress of Islamic law survived the ouster of Anwar from the ruling party and government in 1998. Mahathir made sure he did not lose legitimacy among pro-

\[ \textit{shari'ah} \]

enthusiasts by replacing Anwar as Deputy Prime Minister and heir apparent with Abdullah Ahmad Badawi, who enjoyed a reputation as a clean politician and a religious scholar in his own right, with an honourable pedigree.\(^{116}\)

Although Abdullah Ahmad Badawi refrained from unequivocally proclaiming Malaysia as an Islamic state, his promotion of \textit{Islam Hadhari}, officially translated as ‘Civilisational Islam’, as a fundamental tenet of his administration sends cues throughout Malaysian society that he is not about to halt the progress of Islamic law in Malaysia’s polity begun by Mahathir. In spite of the simmering inter-religious tension that appeared to have been created and perpetuated by Article 121 (1A) of the Federal Constitution, Abdullah and fellow Muslim cabinet ministers several times insisted that the contentious clause will not be amended or repealed.\(^{117}\) In fact, in January 2006, when all nine non-Muslim cabinet ministers – all of them leaders of BN component parties, unprecedentedly presented Abdullah with a memorandum requesting a review of Article 121 (1A), the Prime Minister was quick to show his displeasure such that the memorandum was swiftly withdrawn.\(^{118}\) Notwithstanding this apparent rigidity, Abdullah portrayed to the outside world that under his \textit{Islam Hadhari} administration, the practice of Islam had been “\textit{moderate}”.\(^{119}\) To Abdullah, \textit{Islam Hadhari} called for values and principles of a state to be compatible with Islam, without necessarily forging a state which incorporates the Islamic legal framework, which was understood as being constantly prone to change and not fixed. Thus Abdullah repeatedly exhorted for a reappraisal of past \textit{ijtihād} (legal reasoning) so as to make them relevant with contemporary developments.\(^{120}\) In a speech delivered at the Oxford Centre for Islamic Studies, he explained the position of the \textit{shari'ah} in his \textit{Islam Hadhari} grand design:

\begin{quote}
The Syariah must not only be seen as a set of black-letter laws but also as a system of values, where the specific rules and laws are manifestations of those overriding values. The science of al-Maqasid al-Syariah [lit., the ‘goals or purposes of the \textit{shari'ah}] was an important but often neglected development in Islamic history. Its development by thinkers such as Hujjatul Islam al-Imam al-Ghazzali and al-Shatibi was motivated out of a similar concern that we face today – that Islamic thought must concern itself with the broader objectives of our religion and not solely on its prohibitive aspects or exclusively
\end{quote}
literal interpretations…. The science of al-Maqasid allows Muslims to focus on a more fundamental notion of religion, freeing us from excessive literalism and legalism. It is through this that I believe Muslims can find answers to contemporary problems from within our faith. By understanding al-Maqasid al-Syariah and by placing it as a basis for contemporary *ijtihad*, we are also rekindling a tradition of reason and intellectual inquiry, which will in turn lead to a culture of learning among Muslims […]. As far as Malaysia is concerned, I believe we have tried to walk the middle path of moderation. While we recognise that rituals are important, that the written word of the Quran is sacred, we also believe that as Muslims we must also understand the spirit and ultimate objectives of our religion. We also believe that rituals alone will not make us good Muslims. We are enjoined to find success in this world and in the hereafter. We must therefore never forget about progress in this world […]. We call this approach Islam Hadhari, literally civilisational Islam, or an approach towards a progressive Islamic civilisation.121

While Abdullah Ahmad Badawi’s background and explication of his Islamic scheme provided reason for one to be optimistic of the future of Islamic law in Malaysia, there remain serious operational obstacles against the *shari‘ah*’s becoming the bedrock of Malaysia’s legal system. Firstly, the federal structure of government, whereby Islamic matters are put under the ‘State List’ in the Federal Constitution,122 means that whatever policy on Islam is proclaimed at the federal level, its grassroots efficacy is subject to implementation at state level. Efforts since Dr Mahathir’s Premiership to effect administrative streamlining between the federal Islamic bureaucracy and the states’ Councils of the Islamic Religion and Departments of Religious Affairs, have met with mixed and lethargic response. For example, only the Federal Territory and four states, viz. Malacca, Penang, Selangor and Negeri Sembilan, agreed to be covered by a law to coordinate the role of religious officials between federal and state levels.123 In early 1997, the Islamic Centre – the central arm of the federal government’s Islamic bureaucracy – was elevated to the Department of Islamic Development of Malaysia (JAKIM: *Jabatan Kemajuan Islam Malaysia*) under the Prime Minister’s Department. Despite being granted purportedly wider responsibilities, JAKIM’s functions are primarily secretarial; its directives having advisory rather than binding effect in states.124 Whatever grandiose visions articulated by JAKIM on behalf of the Prime Minister, they do not necessarily get implemented in the precise form and manner as envisaged by federal-level policy makers. As has been shown in the cases of Kelantan and Terengganu under PAS rule, the federal government is wont to reject proposals for *shari‘ah*-based reforms, in spite of their veracity from a legal point of view, if the political mileage from such measures is going to be gained by the opposition party. Political impulses get the better of ruling UMNO politicians in matters where
political advantage is at stake, even when the advancement of Islam and the *sharīʿah* regardless of political affiliation should be prioritised.

Even in states which have agreed to cooperate more closely with the federal government, there exist serious problems of administration and implementation which hamper the uplifting of Islam’s and the *sharīʿah*’s dignity. It is at state level that the Muslim populace encounter Islam as a ‘living religion’ relevant to their daily activities, yet in popular parlance, Islam is widely perceived as nothing more than “rules and laws and fines [...] always telling us what to do”.125 Despite the lofty ideals aspired to by their political masters at federal level, state religious functionaries have focused on anti-vice operations in which they have continually engaged in wanton abuse of powers. For example, in raids conducted against Muslim couples suspected of *khalwat* (an Arabic term usually translated as ‘close proximity’) and potential adultery or fornication, state religious officials have been reportedly filming on videotape the physically unclothed conditions of disgraced couples, arguing that such circumstantial evidence was needed in court to incriminate the suspects. Worse, some of these sexually compromising images were leaked to the tabloid press and circulated via the internet by none other than the religious officials.126 Investigating officers of religious departments have been charged with requesting for sexual bribes from alleged sex offenders in order to settle their cases.127 The effects of religious officials’ spying and snooping for sex offenders have been deleterious to the public image of religious departments and the Muslim populace, especially when couples were found to be lawful spouses or tourists. But despite calls for the end to such a practice which encroaches on privacy and intentionally shames suspects, religious functionaries have stoutly defended it.128 Even officials of the Islamic administration of justice have not been spared disgraceful allegations. A judge of Perak’s *sharīʿah* high court was hauled to the sessions court on five counts of corruption,129 while an official in Kuala Lumpur’s *sharīʿah* court was sentenced to three years in jail and three times caning for falsification of legal documents.130

In a raid to detain and charge the hosts and guests of a company function allegedly organised to revive the banned Darul Arqam movement, Penang’s religious officials rode roughshod over the accused perpetrators, constantly and mercilessly violating not only their fundamental human liberties but also their Islamic rights to proper conditions of ritual worship.131

Finally, the process of *fatwā*-making in Malaysia is blemished with weaknesses that erode the legitimacy of *fatwās* and threaten the credibility of *muftīs*. In his seminal study, Othman Haji Ishak outlines five criticisms of *fatwā*-making in Malaysia.132 Firstly, the inconsistencies of *fatwās* among the states weaken the *fatwās*’ authority and confuse the public, who can simply move from one state to another to escape the binding effect of a particular *fatwā*. Questionable conduct by the ‘*ulamā∗’ further compounds a *fatwā*’s weak authority. Secondly, *fatwās*

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issued have failed to list down satisfactory references and explain the methods of jurisprudence used to derive them. Thirdly, some methods persistently used in the states have been found to be inconsistent with Islamic law. For instance, the usage of opinions generally accepted as weak (qawl ḍaʿīf), the application of majority voting in deliberations of a state fatwā committee, and the acceptance of adat as a basis for drawing out Islamic enactments. Fourthly, the authority of fatwās lacks legal effect due to the sharīʿah court’s subservience to civil courts and the ensuing reluctance to implement them on the part of the authorities. However, much of this weakness has been remedied by the 1988 amendment of Article 121 of the Federal Constitution, as previously discussed. Fifthly, the qualifications of members of state fatwā committees, in terms of expertise and not necessarily formal degrees, are found to be extremely lacking. Hardly any possess knowledge beyond the limited purview of Shafie jurisprudence, the dominant Sunni legal school followed by Muslims in Malaysia.

Except for the fourth criticism, the other four criticisms still hold sway today. In the case of the banning of Darul Arqam in 1994 for instance, the National Fatwā Committee on 31 March 1994 had originally instructed the various states’ Councils of the Islamic Religion and Departments of Religious Affairs to use provisions in the states’ Islamic enactments to halt Darul Arqam’s activities.133 There was lackadaisical response from the states, where Darul Arqam was hugely popular among the Malay-Muslim masses for its economic projects and systematic missionary activities, as opposed to the less than people-friendly reputation of religious departments. The National Fatwā Committee followed suit with a comprehensive fatwā banning Darul Arqam on 5 August 1994, based on nine facets of Darul Arqam’s teachings which were deemed to have deviated from Islam.134 But this was not before the repressive state apparatus engaged in media vilification of Darul Arqam and systematic persecution of its members at the national level. None other than Zainal Abidin Abdul Kadir, the Chief Director of Islamic Centre – JAKIM’s predecessor – had accused Darul Arqam of trying to usurp political power through a ‘magical struggle’.135 While ‘deviationism’ served as the ostensible reason for Darul Arqam’s proscription, the Islamic Centre first impressed on the public that Darul Arqam was a militant group which were fomenting revolution in Malaysia via the formation of a suicide squad called the ‘Badr Army’ based in Bangkok, Thailand.136 A week before the promulgation of the fatwā proscribing Darul Arqam, Abdullah Fahim, chief research officer at the Islamic Centre, sensationally confessed to Reuters reporters that the ‘suicide army’ charge against Darul Arqam was actually “a propaganda exercise […] to get people ready for a comprehensive fatwa” banning Darul Arqam.137 Only after this national fatwā, and indeed after Darul Arqam members had been demoralised, boycotted and harassed throughout the country, did states follow suit with their own fatwās outlawing Darul Arqam.138

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Evidence abounds to show that, despite the government’s disclaimers, its stern measures taken against Darul Arqam, culminating in the ISA arrests of its leaders throughout September 1994, were politically inspired rather than theologically grounded. Both the national and states’ fatwā committees had a conspicuous lack of experts in taṣawwuf (Sufism), the branch of Islamic spiritualism which Darul Arqam professed. Hardly any members of the committees had done any specialised research on Islamic eschatology, under which the disputed futuristic-messianic theories of Darul Arqam’s leader, Ustaz Ashaari Muhammad, could be judiciously investigated. But due to lax requirements in terms of listing of references from various schools of Islamic thought, the fatwās got away with conveying a monolithic portrayal of Darul Arqam as guilty of deviant teachings. Whatever the motivations of the ruling elites were, the less than professional manner in which fatwās were issued in Malaysia enabled the system to be exploited by vested interests. Whatever methods were used to elicit them, the fatwās on Darul Arqam had to support the political elites’ demand that the movement be disbanded. Throughout Southeast Asia, where Darul Arqam had built influential business networks, Muslim communities refused to abide by the Malaysian fatwās. Only Brunei agreed to ban Darul Arqam at national level. In Indonesia, where a healthy tradition of religious pluralism had long existed, the Nahdatul Ulama (NU: Renaissance of the ʿUlamā’), Indonesia’s largest Islamic organisation with 60 million members, issued a contrary fatwā which exonerated Darul Arqam from charges of deviationism and exhorted the government not to ban Darul Arqam on the basis of creed.143

Conclusion and Recommendations

The various controversies that have arisen in recent years, as chronicled in this article, signify the growing importance of Islamic law in Malaysia’s polity. Large prospects for the further progress of Islamic law are afforded by the political will that exists among the ruling elites. Hitherto, these elites have been too steeped in their political prejudices, such that Islamic endeavours pursued not through UMNO or official government channels, such as PAS’s Islamic law bills in Kelantan and Terengganu, have been throttled. In the case of Darul Arqam, which had erected miniature Islamic societies in its numerous self-sustaining villages scattered throughout the country, and was thus considered “way ahead of other revivalist groups that desire to see the actualisation of Islamic law in Malaysia”,144 the whole organisation was forcibly disbanded. The Darul Arqam saga had exposed myriad weaknesses in the process of the making and dissemination of fatwās in Malaysia. Intellectual rigour is not given due importance in fatwās, the writers of which have wilfully neglected to mention scholarly references upon which they base their decisions.145 Lax procedures have rendered the fatwās vulnerable to political
manipulation and arbitrary judgement by muftīs and sharīʿah committees, in addition to the lack of room for views of other than the dominant school of Islamic thought in Malaysia to feature in deliberations of the fatwā committees. In November 2007, Islamic officials of the states of Perak and Penang raided functions and premises of Rufaqa’ Corporation, the private limited company founded by the former Darul Arqam leader in 1997, after the muftīs of both states had pronounced that the company propagated false teachings. The pronouncements were based on their scrutiny of contents of a video-tape recording which displayed a Rufaqa’ director, Major (Retired) Abuzar, allegedly spreading deviant doctrines whilst speaking at a closed Rufaqa’ function. Ironically, while Abuzar remains free today after brief detention for questioning by religious officials of Selangor where he resides, Rufaqa’ employees and guests in Perak and Penang were maliciously apprehended, interrogated, incarcerated and hauled to the sharīʿah court for allegedly opposing the states’ fatwās. The federal structure of government compounds the dubious fatwā-making procedures in Malaysia.

The greatest challenge in realising Islamic law in Malaysia has been the wide perception that exists among Muslims and an increasing number of non-Muslims that the whole Islamic bureaucratic and judicial structures forgo compassion and social propriety in dealings with the public. State Islamic administrators, through their holier-than-thou attitudes, have cultivated the public image of abominable witch-hunters and undisciplined office-bearers. The public is not convinced that Islamic institutions are able to dispense justice to them, while federal structures of power display increasing reluctance to interfere in the workings of the Islamic administrations, despite their actions having flouted fundamental liberties as guaranteed in the Federal Constitution. The judicial powers of state religious courts and the policing powers of religious functionaries have aggrandised so rapidly and menacingly that the federal executive’s powers are unwittingly being threatened. Political scientist Farish Noor cynically traces the whole problem to the Islamisation policy:

The entire Islamisation policy had little to do with Islam or the promotion of Islamic ethics, but more to do with creating a massive (and costly) parallel bureaucracy whose main aim was to employ Malaysian Muslims with the hope that they would not fall out of the bureaucratic net and thereby end up voting for the Opposition…. we have reached the stage where there is a dispersion of power and the weakening of the executive branch of the state. If we allow local religious courts to impose more sentences like this, or allow local self-appointed moral police to go around harassing Malaysian citizens like they have done, then the net result will be the weakening of state power and the erosion of the state.
That a collusion exists between ruling political elites and the religious bureaucracy is shown by the fact that Chief Directors of the Islamic Centre and JAKIM have upon retirement successively contested for UMNO in general elections, become Members of Parliament and even Ministers. In the case of Penang, the Council of the Islamic Religion is headed by Shabudin Yahaya, a Muslim cleric-cum-UMNO state assemblyman for Permatang Berangan. With such interlocking relationships, chances are slim that Muslims of the non-UMNO variety would be treated fairly by the states’ religious bureaucracy. Although Shabudin’s relationship with the new DAP-led state government has been tense due to attempts to dislodge him, Shabudin stood his ground by seeking a direct audience with the Yang diPertuan Agong, Penang’s head of the Islamic religion.

Regrettably, non-Muslims have been harbouring a negative view of states’ Islamic judiciaries and administrations as having trampled upon their fundamental rights as Malaysian citizens. As a result of a spate of legal decisions which many non-Muslims perceive as having victimised them, there has been a conspicuous and continuous worsening of ethnic relations during Abdullah Ahmad Badawi’s tenure as Prime Minister. Small wonder that when the then Chief Justice, Ahmad Fairuz Sheikh Abdul Halim, floated the idea that Malaysia forgo the use of English common law as the basis of Malaysia’s legal system, the Bar Council, whose leadership is dominated by non-Muslim lawyers, voiced their disapprobation. The Ahmad Fairuz-led bench had previously been rebuked by the Bar Council for prioritising personal religious beliefs and implied jurisdiction of the sharīʿah courts over constitutional provisions in the Lina Joy case. The Bar Council similarly expressed disapproval of the then Deputy Prime Minister Najib Razak’s claim that Malaysia is an Islamic rather than a secular state. Being an ethnically mixed country par excellence, it is urgent for the Malaysian state to find intellectually credible solutions to accommodate non-Muslim concerns if Malaysia’s politico-legal system is going to increasingly assume Islamic features. But the situation will not improve if partisan politics keeps on exercising control over institutions which are integral to nation-building and supposed to be run in a politically neutral manner. Hence, for instance, while the newly established National Unity Advisory Panel had proposed the formation of an Institute of Ethnic Relations to manage issues of national unity and integration, worries were expressed that research conducted by the Institute would be politically influenced by the powers that be.

Taking all the above into consideration, we arrive at the following recommendations:

• The reality and place of Islamic law in Malaysia is beyond dispute. Malaysia is likely to be increasingly moving towards a dual legal system. To accommodate this, the country may need to better equip itself with skills to re-interpret the sharīʿah in line with its prevailing social realities.
• The fatwā issuance structure and mechanism in Malaysia need to be re-examined and revised.

• Increased politicisation of Islam in Malaysia has engaged the country in contentious politics over religion. Efforts should be made to lower political concentration on Islamic issues in favour of greater involvement of academics, expert institutions and investigative procedures to provide input at an early stage before issues are moved to the arena of media and public debate.

• Article 121 (1A) of the Federal Constitution needs to be revised in the interest of judicial uniformity in the country. As it is, this article is vague and calls for elaboration and greater clarity.

Notes


9. Hooker, “Muhammadan Law”, 173–4. In Malaysia, the offence of ‘unlawful proximity’ is commonly known as khalwat, taken specifically to mean the act of being in close proximity with a marriageable member of the opposite sex in a secluded place, such that might arouse suspicions of an intended carnal relationship.


Ibid., 4.

Ibid., 6–7.

Ibid., 7.


Federal Constitution With Index, 113.


A fatwā is an authoritatively considered legal opinion; the figure authorised to issue a fatwā is called a muftī. For details on the history, definition, position and principles of fatwā and muftīs, see Othman Haji Ishak, Fatwa dalam perundangan Islam (Kuala Lumpur: Penerbit Fajar Bakti, 1981), 1–19.


Hamid Jusoh, The Position of Islamic Law, 52; Federal Constitution With Index, 46.


Ahmad Ibrahim, “Law and Religion”, 13; Hamid Jusoh, The Position of Islamic Law, 52. Hudūd punishments are criminal penalties instituted by the Qur’ān and Sunnah after lawful conviction in a court of law, such as amputation of the hand for thieves, flogging of 80 lashes for consuming intoxicating liquor, flogging for libel, stoning to death for adultery and flogging of 100 lashes for fornication.


Federal Constitution With Index, 79.


40. ALIRAN, “The Moorty Maniam Case”.


42. See the anti-IFC website, available online at http://bantahific.bravehost.com/index.html (accessed on 14 January 2009).


47. Patricia A. Martinez, “The Islamic State or the State of Islam in Malaysia: From Revivalism to Islamic State?”, *Contemporary Southeast Asia* 23, no. 3 (2001), 482–3.

60. Berita Harian, 16 October 1997.
67. Ooi Kee Beng, “Mahathir as Muslim Leader”, 176.
69. See, for example, the interviews with Rachdi Allal, OIC’s Director of Trade and Development in Utusan Malaysia, 15 October 2003, and with Malaysia’s then Foreign Minister, Syed Hamid Albar, in Mingguan Malaysia, 19 October 2003.
73. ALIRAN, ISA dan keselamatan negara (Penang: Aliran Kesedaran Negara, 1988).
74. The People’s Unity Front (APU: Angkatan Perpaduan Ummah) coalition, comprising PAS and splinter BN parties – Semangat 46 (Spirit of 1946), Hizbul Muslimin (HAMIM) and Barisan Jamaah Islamiah Malaysia (BERJASA), swept all 13 parliamentary and 39 state legislative seats in Kelantan in the 1990 elections and withstood BN gains to hold on to the state government which was and has been led by PAS, which is an opposition party in the federal Parliament.
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77. Roff, “Patterns of Islamization in Malaysia”, 211.
78. Hussin Mutilah, Islam in Malaysia, 81–2.
84. The by-election on 21 April 1992 was called after a court declaration that the 1990 election result, which gave PAS victory by a majority of 17, was null and void due to technical errors in voting. This time, the BN candidate pulled off a 389-vote majority. PAS sources however claimed that victory was denied to them by UMNO's disreputable tactic of importing non-resident voters whose travelling expenses were fully covered; see Far Eastern Economic Review, 7 May 1992.
91. Hussin Mutilah, Islam in Malaysia, p. 82.
100. A Vice-Chief of PAS Youth well-known for his outspokenness, Mohamad Sabu was caught red-handed allegedly being in a compromising situation with a friend’s wife in a hotel room. Both defendants were eventually acquitted on grounds of ‘insufficient evidence’. Mohamad Sabu is now a PAS Vice-President. See The New Straits Times, 2 February 1995, and Nik Abdul Aziz Nik Mat, Islam Boleh, 73–5.

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114. Federal Constitution With Index, 7.
115. For arguments along these lines, see for example newspaper articles by Muslim lawyers: Zainul Rijal Abu Bakar and Nurhidayah Muhd Hashim, “Sejarah bukti Malaysia bukan negara secular”, Berita Harian, 1 August 2007; and Norizan Abdul Rahman, “Nilai Islam dalam perlembagaan”, Berita Harian, 30 August 2007.
116. Abdullah was a grandson of Haji Abdullah Fahim, a religious scholar credited for having chosen the date of independence for Malaysia – 31 August 1957 – based on its equivalent date in the Islamic calendar. Abdullah’s father, Haji Ahmad Badawi, was also a scholar and active UMNO politician who had been a member of Penang’s state legislative assembly continuously from 1959 until his death in 1978. Loyal to the family tradition, Abdullah opted to read Islamic studies at the University of Malaya despite having obtained a scholarship to read economics. Upon graduating in 1964, Abdullah joined the civil service until 1978, when he contested in the general elections and became UMNO/BN Member of Parliament for Kepala Batas, Penang. Prior to assuming the Premiership in November 2003, he held posts at federal level continuously, except for a brief lull in 1987–91, when he was thrown into the political wilderness for having sided with Dr Mahathir’s opponents during the UMNO factional crisis of 1987.
118. Mingguan Malaysia, 22 January 2006; Ooi Kee Beng, “Malaysia: Abdullah Does it his own Vague Way”, 185. It was initially thought that only one non-Muslim cabinet minister, the Tourism Minister Leo Michael Toyard, had refused to sign the memorandum. While he did refuse to sign the document, it was later disclosed that he had secretly converted to Islam before the issue erupted.
120. Utusan Malaysia, 5 August 2004.
125. Martinez, “The Islamic State or the State of Islam in Malaysia”, 485.
130. Utusan Malaysia, 20 December 2006.
131. As disclosed by a victim of the operation, see the account of his ordeal in Detainee, “Treated as Deviant even before Court Hearing”, Aliran Monthly 27, no. 9 (2007), 32–6.
145. Such concerns were passionately expressed in the light of the recent national fatwā banning yoga in Malaysia; see Hariati Azizan, “In a Twist over Fatwa Ruling”, The Sunday Star, 30 November 2008.
148. Detainee, “Treated as Deviant”.
149. See for example a recent letter to the editor entitled “Bapa kecewa layanan Mahkamah Tinggi Syariah” in Utusan Malaysia, 2 November 2007.
150. See his interview in The Sun, 15 July 2005.
151. They are, Dr Mohd. Yusof Nor – former Minister in the Prime Minister’s Department, former Minister of Primary Industries and currently chairman of the Federal Land Development Authority (FELDA); Dr Abdul Hamid Othman, former Minister in the Prime Minister’s Department and presently religious adviser to the Prime Minister; Zainal Abidin Abdul Kadir, former one-term state assemblyman for the Melor constituency in Kelantan (1995–99) and then became Malaysian ambassador to Egypt; and Abdul Hamid Zainal Abidin, former Minister in the Prime Minister’s Department and now Member of Parliament for Parit Buntar in Perak-cum-chairman of the Council of Trust for Indigenous Peoples (MARA: Majlis Amanah Rakyat).

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156. *The Sun*, 18 July 2007. Najib Razak succeeded Abdullah Ahmad Badawi as Prime Minister on 3 April 2009 after the latter gave in to intense pressure to step down from internal UMNO and BN elements, having a year earlier led the BN to its worst electoral performance since 1969. Najib has since come up with his ‘One Malaysia’ slogan to win back support from traditional non-Muslim voters who defected to PR in 2008 out of disgruntlement at having been increasingly excluded from Abdullah’s Islamic polity, which was developing uncompromisingly legalistic and racialist undertones.


MODERN INTELLECTUAL APPROACHES TO ISLAMIC LAW

Ahmad Kazemi-Moussavi*

Abstract: This article deals with creative proposals by four contemporary authors who promoted reform either from within the shari‘ah or by borrowing methods such as empiricism and hermeneutics beyond the conventional scope of the shari‘ah. To revive the forgotten sphere of Islamic public law, Mohammad Hashim Kamali puts forth the idea of identifying Islamic notions of ijmā‘, shūrā and ijtihād with modern statutory law and government ordinances. ‘Abd al-Hāmīd Abū Sulaymān proposes that the application of Islamic legal norms (ahkām) must be aligned within space-time considerations, which centre on two principles of necessity and fine-tuning (talfīq). Tāhā Jābir al-‘Alwānī signifies the important role that knowledge of ‘rational priorities’ (‘ilm al-awlawyyāt) can play in balancing and stabilising Islamic jurisprudence. He extends the scope of ijtihād in such broad sense to bring the higher objectives of the shari‘ah into account to conform to timely requirements. Naṣr Hāmid Abū Zayd is one of the first Muslim scholars to approach the shari‘ah by applying modern hermeneutics as a method of inquiry into the interpretation of legal texts. The modern hermeneutics, he believes, opens the gate for new understandings to update Islamic law.

At the dawn of the twenty-first century, creative interpretations of the textual sources of Islamic law are the most salient feature of the current Islamic intellectual movement. Although overshadowed by political ‘Islamism’, the theoretical changes in contemporary Islamic legal thought appear to be the most compelling facet of the current intellectual revolution in the minds of modern Muslims. The rise to prominence of Islamic law in recent decades has ignited new approaches to the primary sources together with new methods of interpretation. At present, there are several quarters who voice a desire for an ideal application of Islamic legal norms

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as the central theme of their agenda. Under the umbrella of the *sharīʿah*, some of them even defy the status quo to express a desire for social justice. In response, some Muslim scholars and intellectuals strive to rationalise this pressing aspiration with modern proposals and an updated presentation of the *sharīʿah* that they find suitable for the requirements of the modern era.

The *sharīʿah*, as a blend of Islamic law, ethics, and rituals, does not have a unique entity, and it was often reshaped and presented in the form of *fiqh* (jurisprudence) echoing the dominant mindset of the time. However, modern scholars have introduced a new dimension to the interpretation of sources in which human rational concepts play a central role in discerning and defining the appropriate legal norms. By applying the methods of modern scholarship, some intellectuals propose an independent reading of the primary sources that run in fact contrary to conventional interpretations. Thus, we may discern two trends within modern Muslim scholarship:

1. those who promote reform from within the *sharīʿah* legal tradition, and
2. those who try to approach the *sharīʿah* from the outside of the revealed law, that is to say, to apply the modern fields of linguistics and hermeneutics to the *sharīʿah*.

All of these approaches focus upon the method of reading the law from its original sources, i.e., *uṣūl al-fiqh* or Islamic legal methodology. This article surveys the proposals of four prominent figures who represent each trend by examining their methods of making Islamic law more relevant to the requirements of the modern era.

**Mohammad Hashim Kamali**

As an accomplished professor of Islamic law, Mohammad Hashim Kamali (b. 1944) combines an elaboration of the traditional legal methodology with proposals for adaptation to recent changes within Muslim societies. His consistent engagement with the law allowed him to not only produce detailed presentations of the various disciplines of the field, but also to come up with new proposals that may reconcile the legitimacy of Islamic law with the ruling Muslim governments. He has written several works on various branches of Islamic law, legal methodology, *ḥadīth* studies, and human liberty in Islam. His two important contributions to the field, *Principles of Islamic Jurisprudence* and *Sharīʿah Law: An Introduction*, allow us to observe his ideas. In the 2003 edition of *Principles of Islamic Jurisprudence*, Kamali first recapitulates most topics of legal methodology, and then attempts to present a new scheme to reorient some of the sub-disciplines of *uṣūl al-fiqh* to address various contemporary issues.
In his introductory remarks, Kamali defines *uṣūl al-fiqh* as both ‘methodology’ and ‘principles’. ‘Methodology’, in his view, concerns mainly methods of reasoning such as analogy (*qiyās*) and presumption of continuity (*istiṣḥāb*), whereas ‘principles’ includes general directives that comprise the larger part of the primary sources that can be utilised as raw material in the development of law. Components of the methodology or principles are, however, identical and primarily include knowledge of the sources of the law and their order of priority, then legal rules, which may be deduced from the sources, and finally the exercise of *ijtihād*. Kamali separates *ijtihād* from ‘the deduction of rules’ in order to give it an independent identity aimed at further adapting and refining in response to the changing needs of Muslim societies.¹ In the second part of his introduction, Kamali distinguishes two main approaches to the study of *uṣūl al-fiqh*: theoretical and deductive. He states, “[w]hereas the former is primarily concerned with the exposition of theoretical doctrines, the latter is pragmatic in the sense that theory is formulated in light of its application to relevant issues”.² The arrangement of his *uṣūl al-fiqh* indicates that Kamali stands closer to the latter approach, as we will see below.

Kamali commences his account with the sources of the law, which are the Qurʾān and the *sunnah*. This marks his consideration for the theory of Islamic law that derives its legality from the fundamental sources of the law i.e. the Qurʾān and the *sunnah*. He later turns to the much elaborated yet complicated topic of ‘legal language’ or *mabāḥith al-alfāẓ*. The topic of legal language is very important in Islamic law since it is considered not only a conduit for ‘legal norms’ (*aḥkām*), but often the very ingredient of the legal norms. However, Kamali by separating ‘literal indications’ from ‘textual implications’ (*dalālāt*) draws a clear picture of what he rightly considers as ‘Rules of Interpretation’. The former deals mainly with the proposition of words such as allegory (*mu’awwal*), metaphor (*majāz*), clear (*wāḍiḥ*) and unclear words; whereas the latter centres on textual implications such as alluded, inferred, or required meanings. Kamali allocates two chapters to the above topics under the rubric of ‘Rules of Interpretation I’ and ‘Rules of Interpretation II’ to distinguish the two sets of literal and contextual implications.³

The next chapter on legal language is entitled “Commands and Prohibitions” of the revealed texts. Kamali perceives this issue as a matter of the qur’ānic (and prophetic) language that follows up the discussion on the sources.⁴ Kamali characterises the Islamic conception of ‘commands and prohibitions’ as “often coupled with an appeal to the conscience of the individual”, making it different from the ‘imperative rules’ of the modern laws that are often devoid of such appeal and confined to tangible results.⁵ This explains the importance of ‘command and prohibitions’ as the core issue of both Islamic legal language and legal norms.

In line with Kamali’s elaboration on the revealed texts is the problem of ‘abrogation’ (*naskh*) that he then sets forth. Not content with depicting the opinions
of the traditional authors like Ibn Salāmah alone, he reflects contemporary views of Wahbah al-Zuḥaylī (b. 1932) and Abū Sulaymān and eventually concludes that “[n]askh is basically factual and has little juridical substance of its own, nor does it seem to have a direct bearing on the substance of legal theory”. For the same reason, one can transfer the topic of naskh from the adillah (indicants) to the ‘conflict of evidences’, a secondary issue discussed at the end of Kamali’s work.

Kamali then turns to two other sources of Islamic law, ijmāʿ and qiyās, on which he elaborates both the traditional and contemporary viewpoints at length. Afterwards, he brings to the fore two other methodologically trivial topics, namely ‘revealed laws preceding the sharīʿah of Islam’ and ‘the fatwā of a Companion’. Concerning the former, Kamali, on the authority of Abū Zahrah, concludes that “[…] disagreement among jurists on the authority or otherwise of the previous revelations is of little practical consequence, as the sharīʿah of Islam is generally self-contained and its laws are clearly identified”. Regarding the latter, he draws attention to the fatwā of a companion which he feels either fits into the category of ijtihād or is provided to be a persuasive source of guidance having priority over the ijtihād of other mujtahids that may squeeze into the context of legal norms.

After covering revealed indicants, there remain a number of supplementary indicants that can simply be arranged under the rubric of ‘rational indicants’ (adillah al-ʿaqliyyah) as some Muslim uṣūl authors did. They include istihsān (equity in Islamic law), al-maṣāliḥ al mursalah (considerations of public interest), istiṣḥāb (presumption of continuity) and sadd al-dharāʾiʿ (lit. ‘blocking the means’). Kamali, however, follows the general pattern set by earlier Muslim authors, and deals with each of the above-mentioned topics as an independent subject matter. With reference to Islamic jurisprudence, Kamali propounds that the main object of analysing the textual sources and legal indicants is to arrive at a legal norm (ḥukm al-sharʿī). He initially submits the five sharīʿah values (ḥalāl, mandūb, mubāḥ, makrūh and ḥarām), then the three legal sanctions (ṣaḥīḥ, fāsid and bāṭil) and lastly, the pillars of legal norm, i.e. the subject matter (referred to as mahkūm fih) and the authority of lawgiver (ḥākim), who must be capable of understanding the legal norm (mahkūm ʿalayh). This pattern of ḥukm analysis that was proposed by al-Ghazālī and elaborated by al-Shawkānī and Abū Zahrah reiterates the status of legal norm from an individual perspective.

Kamali completes his arrangement of uṣūl contents with the three essential topics of ʿurf, conflict of evidences, and ijtihād, each of which he characterises as deserving an independent category. ʿUrf is an important social concept and practice that can supplement the legal sources theoretically and practically. The theoretical role of ʿurf can be seen in the principle of presumption of continuity (istiṣḥāb) which originates from the normal practice of the people. The next subject, conflict of evidences, encompasses several juridical issues to which the uṣūl methodology partly owes
its origin. In the early stages, the argument on the conflicting authority of the legal sources – especially problems of abrogation and particularisation (takhsīṣ) – gave birth to uṣūl al-fiqh. For his last topic, Kamali not only elaborates on the procedure, variety, and qualification of ijtihād, but also presents an interesting account on how statutory legislation leaves a discouraging effect on the practice of ijtihād today. He concludes his remarks by referring to Muḥammad Iqbāl’s (d. 1938) proposal for revitalising ijtihād by instituting an assembly of scholars practising ijmā’ (consensus) as part of the fabric of modern governments.8

Kamali’s conception of collective ijtihād is much broader than the prevailing conventional understanding of the issue. Following Imām al-Shāfiʿī’s concept of the infallibility of general consensus of the Muslim community at large (‘āmmatuhum lā tajtama’u ‘alā khaṭā’),9 Kamali assigns legal authority to the collective ijtihād of Muslims either in the form shūrā or ijmā’. He criticises the traditional scholars who increasingly subjected the issue to difficult technical conditions to the point that ijmā’ altogether lost its popularity. To him, the Qur’ānic verses on shūrā are inspiring enough to be translated into their own workable formula.10

In the last chapter of Principles of Islamic Jurisprudence, Kamali presents a new scheme for uṣūl al-fiqh that explores novel avenues for the utility and relevance of the discipline to today’s statutory legislation. Like al-ʿAlwānī and Abū Sulaymān, Kamali’s point of departure here is historical, as he sees a gap created between Muslim governments and the ʿulamā’ by the historical isolation of Islamic legal scholarship (particularly Islamic legal methodology) from the state authority of respective governments. This approach signals the beginning of the struggle of Muslims to reduce the existing tension between theory and practice in Islamic thought. We shall see below how Kamali entertains new ideas to bridge the gap between government and legal scholarship. The second point of view is the time-space consideration that the traditional scholars often dispensed with. In his A New Scheme for Uṣūl al-Fiqh, Kamali blames taqlīd (literalist approaches) and dogmatic interpretations for ignoring the role of time and space in the understanding of the Qurʾān and sunnah. In his paper “Toward a Maqāṣid-Oriented Legal Theory”, he re-introduces al-Shāṭibī’s idea of considering the end-goals (maqāṣid) of the shariʿah in relation to public and civic interests as a possible method of connecting these elements of time and space into the contemporary jurisprudence.11

Finally, Kamali presents his evaluation of the attempt of a contemporary Egyptian author, Jamāl al-Dīn ʿAṭiyyah, to strike a balance between the need for continuity and preservation of Islamic values, and a purposeful move to change the existing impasse regarding uṣūl al-fiqh. Kamali sees two Islamic core values, the Qurʾānic notions of consultation (shūrā) and the obedience to those who are in charge of community affairs (ulū ‘l-amr), as having been neglected and therefore not fully integrated into the principles of Islamic jurisprudence or uṣūl al-fiqh. He expects...
that governing authorities would extend their reach to the theoretical consensus, and even place their decisions on the same level as transmitted proofs.\textsuperscript{12} Relying on the above premises, Kamali supports the first three out of the following five of ʿAtiyah’s suggestions for a new division of the sources of the sharīʿah:

1. the transmitted proofs, which include the Qurʾān, sunnah and revealed laws preceding the sharīʿah of Islam;
2. ordinances of the ulū al-amr, which include ijmāʿ and ijtihād;
3. the existing conditions or status quo, insofar as it is harmonious with the preceding two categories, and this includes custom (ʿurf) and the presumption of continuity (istiṣḥāb);
4. rationality (ʿaql) in areas where full juridical ijtihād may not be necessary (the day-to-day rulings of government departments, for example, that seek to ensure good management of affairs may be based on rationality alone);
5. original absence of liability (barāʿat al-aṣliyyah), which presumes permissibility and freedom from liability as the basic norm of the sharīʿah in respect of things, acts and transactions that have not been expressly prohibited.\textsuperscript{13}

The significance of the above-mentioned suggestions essentially rests in the way they contribute to the legitimacy of a government of which most Muslim states are in a pressing need today. It is noteworthy that attempts to include ordinances of a Muslim government into the legal structure of the sharīʿah have precedence in Islamic scholarship. Some scholars have proposed the context of siyāsah sharʿīyyah (Islamic legal policy) that can overrule the textually derived rules of the sharīʿah, but they lack the universal value and durability required to preserve the tradition.

In his conclusion, Kamali once more attempts to bring the existing instruments of legal methodology into the service of today’s social realities, that is, to merge ‘the government ordinances’ into ijtihād and ‘statutory laws’ into ijmāʿ.\textsuperscript{14} In this respect the government and the Muslim legislative assembly are entrusted with the role of being the main repository of ijtihād and ijmāʿ, and this move per se is considered to be in the direction of maqāṣid. The conventional scope of maqāṣid identified under five or six headings is evidently not enough and should be revised and supplemented in conformity with recent developments and the demands of contemporary life.\textsuperscript{15} As such, one can see that most of the proposed pretexts aim to bestow more legitimacy upon government ordinances. This seems to be a sound proposal as long as it is coordinated with the principles of ‘checks and balances’ that are mostly lacking in Muslim societies. In contrast, one may also expect to see that the maxim of the ‘supremacy of the sharīʿah’, one of the first principles of ʿasāl al-fiqh, to develop in such a manner as to guarantee the restrained nature of governmental authority.
Kamali considers that the two important notions of *ijmāʿ* and *shūrā* have historically exhausted their traditional importance due to the lack of interest by Muslim scholars over time. In Islam, public participation is encouraged in both performing rituals and fulfilling social duties. The latter, nevertheless, has not received so much attention of the ‘ulamā’ as the former did. As a result, the rules of congregational prayers, for example, are far more elaborate than the principles of *shūrā* that should shape the consultative part of Islamic government. Kamali’s suggestion, therefore, offers a new outlook for reviving the forgotten sphere of Islamic public law.

ʿAbd al-Ḥamīd Abū Sulaymān

ʿAbd al-Hamīd Abū Sulaymān (b. 1936) is amongst those authors who sought to reform Islamic legal methodology from within the *sharīʿah* and align the method of understanding it in relation to contemporary requirements. His approach to the *sharīʿah* is imbued with an assumed crisis in the minds of Muslims that prevented them from appreciating Islamic values in the light of time-space factors. While he has not written a work on Islamic legal or theoretical methodology, he has presented a broad criticism of traditional methodologies in which he re-evaluated the sources of the law and the method of juridical interpretation with reference to the international relations of Muslim governments.

Abū Sulaymān defines his approach to the *sharīʿah* as *aṣālah* or ‘innovative’, in contrast to some traditional approaches which he labels as ‘imitative’.16 This approach reveals itself in his treatment of the authority of the sources of Islamic law; although, Abū Sulaymān adds many qualifications to bring his approach into line with the orthodox perception of the *sharīʿah*. He divides the sources into two types: primary sources – including the Qurʾān, *sunnah*, consensus and *qiyās* – and secondary sources such as juridical preference (*istiḥsān*), consideration of public interest, and obstruction of ostensibly legitimate means (*sadd al-dharāyi*).17 Concerning the authority and application of the primary sources, Abū Sulaymān makes the following novel observations.

The Qurʾān, according to Abū Sulaymān, is the first revealed source of the Islamic law, and as such, should neither be considered a subject for abrogation, nor should it be divided into Meccan or Medinan verses. Rather, it should be regarded as part of the same whole, whose application must be aligned within space-time considerations, which are said to be applied “[…] in the light of changing circumstances in the overall flow of human life and experience”.18 In this way he implies that this broader context can affect the basic principles of religion. Aware of possible problems, Abū Sulaymān tries to filter his idea through the conduit of *uṣūl al-fiqh*. He ultimately reduces the problem of the space-time consideration into the application
of two principles of ḍarūrah (necessity) and talīf (lit. ‘piecing together’). In this connection, he reconfirms the precedent of some Muslim muftis such as Rashīd Riḍā (d. 1935) who legitimised the charging of interest in today’s banking system. In this case, Abū Sulaymān speaks about the necessity of methodological reforms, but elaborates only on the possible changes concerning the rules of abrogation.

The problem of conflict of laws was the raison d’être for the formation of uṣūl al-fiqh. Muslim scholars have attempted to solve the problem firstly by delineating hierarchical considerations for the sources of the law, and secondly by setting rules for cases of abrogation (naskh) and particularisation (takhṣīṣ), followed by semantic interpretations. According to Abū Sulaymān, Muslim scholars did not elaborate the philosophy of abrogation well enough to justify the flexibility of the law embedded within the Islamic legal system. He observes that:

The concept of naskh, as traditionally elaborated, reflects a static understanding in the methodology of Islamic thought, for it acts without taking notice of the difference between the general and universalistic nature of the Qur’anic teachings as opposed to the specific and particularized treatment of subjects found in the Sunnah. The traditional concept of naskh also reflects a total lack of appreciation for the elements of time and place in the process of interpreting and applying texts, as well as in comparing and analyzing them.

By emphasising the late Medinan verses and traditions as a standard for Islam, Abū Sulaymān describes the prevalent juristic legal methodology as static, as it leaves aside many Meccan and the early Medinan verses and experiences. For instance, the universal verse of the early Medinan period “Let there be no compulsion in religion: Truth stands out clear from error” (2:256) was subverted by the late Medinan verse: “When the forbidden months are past, fight and slay the pagans wherever you find them” (9:5). According to Ibn Salāmah (d. 1019), this verse alone abrogated 124 earlier verses. Abū Sulaymān observes that this genre of methodology suited the powerful governments of Umayyad and the early Abbasids during which Muslim jurisconsults standardised their methodologies. Contemporary Muslim jurists, though they have attempted to reinterpret many cases of naskh, seem to accept the same concept as permanent. Abū Sulaymān suggests that a way to solve this problem is “to reconcile verses that seemed to contradict one another in the light of space-time factors”. This suggestion was in reality practised by Muslim societies of the past in the context of ḍarūrah and maṣlahah. By considering both space and time, Abū Sulaymān nevertheless outlines a formula that is adaptable to the ever-changing situations within contemporary society.

Secondly, it is Abū Sulaymān’s view that the traditions of the Prophet, more than the Qur’ān, reflect this space-time element; meaning, they should be read within their own context. While appreciating al-Shāfiʿī’s effort to establish the authority of the Sunnah, Abū Sulaymān nevertheless rejects the validity for today...
of al-Shāfiʿī’s view of the Prophet’s attacks on the mushrikūn (the pagan Arabs) at least once a year. Instead, he determines that the prophetic traditions regarding war are not fully applicable to modern warfare. Abū Sulaymān also criticises the historical arrangement of the traditions and finds it amazing that despite the usage of highly technical terminology in their categorisation, the traditions nevertheless appear somewhat disorganised and even inauthentic. This often engenders automatic criticism whenever an author cites a ḥadīth that serves little more than to distract readers from the point the author was trying to make.

Finally, the principle of Muslim consensus or ijmāʿ is useless, according to Abū Sulaymān, unless new intellectual approaches to the traditional methodologies are developed. Basing ijmāʿ on the agreement of mujtahids, who merely cite the authoritative ‘ulamāʾ in turn, only serves to add to the confusion. Today, different subjects require the consensus of experts drawn from many segments of society. By approaching these problems in this way, Abū Sulaymān develops formulas for the application of other disciplines such as empiricism and systematisation to jurisprudence.

Abū Sulaymān considers qiyās, or juristic analogy, as a product of historical developments in the eighth century that aimed at supporting and maintaining the basic model of the early caliphate. As a supplement to qiyās, the principles of maṣlaḥah and siyāsah sharʿīyyah (Islamic legal policy) were elaborated upon by later jurisconsults in response to the political conditions of the time. Abū Sulaymān does not assign any religious or rational value to these principles; rather, within his space-time theory, he is content with a historical analysis.

In the chapter “Reform of Methodology” in his Towards an Islamic Theory of International Relations, Abū Sulaymān advocates a new reading of the Qurʾān and sunnah. In his critical reading of Islamic history, he makes a number of interesting observations that may help us to understand the present state of stagnation within Muslim thought. He finds a series of undue rifts not only between religious and political leadership, but also between religious and empirical sciences. He considers the replacement of caliphate with hereditary kingship as the main cause of the rift between governments and Muslim legal interpretation and their resulting scholarship. In his view, this rift not only led up to the isolation of the Islamic world, but is also ‘the underlying cause of all the maladies that would later beset the ummah’. The lack of empiricism within the religious sciences resulted in a disorientation of the latter from the time-space dimension that is necessary for updating these legal norms.

Ṭāhā Jābir al-ʿAlwānī

Among the graduates of the traditional school of Al-Azhar in Cairo, Ṭāhā Jābir al-ʿAlwānī (b. 1935 in Iraq) is renowned for his time-honoured ideas, command
of the *sharīʿah*, and his legal methodology. He edited and published *al-Maḥṣūl*, the great *uṣūl*-work of Imam Fakhr al-Dīn al-Rāzī (d. 1209). This work pioneered al-ʿAlwānī’s legal outlook as depicted in several treatises and articles which he later wrote on legal methodology and the history and principles of Islamic jurisprudence. Al-ʿAlwānī taught Islamic jurisprudence in Saudi Arabia for ten years before becoming a founding member and subsequently president of the International Institute of Islamic Thought (IIIT) in 1985. Currently, he is the president of Corboda University at Ashburn, Virginia, in the United States, where he holds the Imam al-Shāfiʿī Chair in Islamic Legal Theory. He has also written at length on the ethics of disagreement in Islam, appraisal of *ijtihād*, and Islamisation of knowledge. Within the contexts of legal methodology and particularly *ijtihād*, as we will see below, al-ʿAlwānī offers new proposals for the social problems facing today’s Muslim societies.

Al-ʿAlwānī holds the decline of *ijtihād* as the main cause of the present crisis of Islamic law. In several treatises, he surveyed the history of *ijtihād* and the rise of *taqlīd* (unquestioning following of the opinion and practice of others), and concludes that the present crisis of Islamic jurisprudence (*fiqh*) started with the prevalence of the idea of a ‘closure of the door of *ijtihād* in the tenth century’. He even marks the year 922, the date of demise of the historian and jurisprudent al-Ṭabarī, supposedly the last *mujtahid*, as the beginning of the crisis – ‘the closing of the door of *ijtihād*’. This phrase came practically to mean an official banning of public recognition for the existence or appearance of any new *mujtahid*. As a result, al-ʿAlwānī argues, Islamic law was confined to the following of the opinions of one of the four early ‘orthodox’ Imams (Abū Ḥanīfah, Mālik, al-Shāfiʿī and Ibn Ḥanbal).

It was for this reason that Imām al-Ḥaramayn [d. 1086] claimed that there was *ijmāʿ* [consensus] among the scholars of his day that *taqlīd* of one of the *saḥābah* [the Companions of the Prophet] was not acceptable. Rather, people were to adhere to the *fiqh* of the four imams who had probed and examined the *sharīʿah*, who had classified and given form to questions of *fiqh*, and who had digested the teaching and opinions of the Companions and the Successors.

The circulation of such supposed consensus on banning the *ijtihād* in the juristic circle of the thirteenth century led Ibn al-Ṣalaḥ al-Shahrazūrī (d. 1245) to claim that “following one of the four Imams was obligatory (*wājib*), as only their teaching had been systematised, clarified, and preserved”. *Ijtihād* as an intellectual exercise could not come to a complete halt, but, as a result of the above tacit consensus, it acquired an oblique path built on several temporary, rather miscellaneous formulas. For example, the *ḥiyal waʿl-makhārij*, as well as legal stratagems and dodges, were proposed by traditional scholars to make an outlet for day-to-day problems facing Muslim societies. Al-ʿAlwānī refutes this kind of marginal and superfluous solution,
which often skirts the issue without setting a norm to deal with the core problem. His own proposals have so far been presented in two categories:

1. In his earlier works, al-ʿAlwānī focused on the critical presentation of the history of Islamic jurisprudence and the methodology of *ijtihād*, most of which may be considered as traditionally oriented proposals. In 1990, al-ʿAlwānī published a treatise on the nature and history of the development of Islamic legal methodology (*uṣūl al-fiqh*), characterising it as “the most important method of research ever devised by Islamic thought”. His evaluation of the nature and place of legal methodology centres on the history of the development and the role that *uṣūl al-fiqh* played in conforming revelation with reason. He lays emphasis on the period of the Companions of the Prophet who are the source of the prophetic instructions after the Qurʾān. His main topic, however, consists of issues related to *ijtihād*. To restore the practice of *ijtihād* in its proper sense, he proposes that:

   (a) special attention should be paid to the methods of exercising *ijtihād* by traditional scholars who developed theories for *qiyās* (legal analogy), *istiḥsān* (juristic preference) and *maṣlaḥah* (consideration of public interests);

   (b) since it is impossible to have an absolutely all-inclusive mujtahid, it is necessary to form a scholarly council, which should include experts specialising in all aspects of life;

   (c) it is necessary to take an interest in knowing the purpose and end-goals of the *sharīʿah* and setting guidelines to organise the study of problems.

2. More updated ideas of al-ʿAlwānī appear in his works on *ijtihād* and *maqāṣid*. In an article published in 1991, al-ʿAlwānī proposed that the dynamism of *ijtihād* should be used in restructuring an Islamic methodology (*al-minhāj*) suitable for Islamisation of contemporary knowledge. He insisted that to construct such a methodology, it would be next to impossible to free oneself from the influence of Western scholarship; their categorisation and concepts. For this reason, he does not sketch a structure for such methodology other than notifying the need for definition, perspective and proper point of departure. In a panoramic assessment of the progression of *ijtihād*, al-ʿAlwānī divides methodological (*uṣūl*) studies into two general categories of specialised and unspecialised studies.

The specialised studies match up more or less with the above-mentioned traditional approach of al-ʿAlwānī. The unspecialised studies may also be subdivided into two categories: secular and non-secular. The former, according to al-ʿAlwānī, are those who stretched the meaning of *ijtihād* “to the breaking point to justify their dream of modernization and Westernization”. For the latter groups, he offers the following remarks that should be attended before approaching a methodology:
1. knowledge of the historical background to ijtihād and taqlīd is necessary to understand the issues related to issues such as the division between intellectual (mainly juridical) and political authority in Islam;

2. the connection between ijtihād and the higher objectives (maqāṣid) of the sharīʿah is important to illustrate the affinity between ijtihād, or the antipathy between taqlīd and the maqāṣid;

3. minute attention is required to the realization of multiplicity in ijtihād and to clarify the truth behind differences of opinion (ikhtilāf); and finally

4. the element of continuous self-renewal should be preserved through meeting and adjusting to changing circumstances. Ijtihād should not be considered a purely legalistic and legislative function.38

The above outline points only to the positive side of al-ʿAlwānī’s proposals. He does not fail, however, to equip his arguments with numerous mistakes and shortcomings performed by Muslims in exhorting ijtihād especially during the recent history. By aiming to make Islamic legal methodology (uṣūl al-fiqh) relevant to today’s problems, he does not find any avenue better than ijtihād in such broad sense to bring the higher objectives (maqāṣid) of the sharīʿah into account to conform to timely requirements. There is no need to emphasise that al-ʿAlwānī wishes to see all changes within the limits of the sharīʿah rules and Islamic spirit.

Al-ʿAlwānī’s continuous search for dealing with questions facing Muslims today, but from an appropriately Islamic perspective, led him to another juridical formula, i.e. the ‘knowledge of priorities’ (ʿilm al-awlawiyyāt). In a work published under the rubric of maqāṣid al-sharīʿah (The End-Goals of the sharīʿah), al-ʿAlwānī signifies the important role that knowledge of ‘rational priorities’ can play in balancing and stabilising Islamic jurisprudence. He justifies this fact with examples taken from topics of ‘conflict of laws’ (taʿāruḍ) and preferences (tarajīḥ) that originally stem from reason rather than revelation. What he interprets as awlawiyyāt in this context is much broader than the literal definition. A comprehensive knowledge of the sharīʿah, i.e. Islamic theology as well as jurisprudence, is needed to acquire the wisdom of ‘priorities’.39

The negative effects that result from disregarding the ‘priorities’ constitute a topic in which al-ʿAlwānī elaborated on five unwanted outcomes. The first outcome is that Muslims have plunged into details [of the sharīʿah] to the extent they are not able to systematise them, and to address the subtle relation between cases and principles. The second is the fact that they preferred to adhere to blind following (taqlīd) rather than carrying out their initiatives (ijtihād). Third, they placed too much significance upon supererogatory or optional undertakings, before obligatory actions. Fourth, Muslim jurists often rely upon their presumptions, and decline to find out the causality of things and to seek the relationship between cause and effect.
Fifth, the overreliance upon the names of iconic (and often deceased) scholars from whom Muslims expect to hear the truth instead of verifying the authenticity of what they said. This is in fact a kind of idolatry (ṣanāmiyyah) that deters Muslims from thorough contemplation. In the rest of his elaboration, al-ʿAlwānī signifies how trivial trends of thought and superfluous spiritual displays occupied the minds of Muslims without making a real contribution to religion and society.40

The above outline points to remarkable focuses and explanations that al-ʿAlwānī made on the principles of awlawiyyāt although their origins go back to al-Ghazālī’s formula of munāsabah (lit. ‘relevancy’) and al-Shāṭibī’s theory of maqāṣid. In the later part of his book Maqāṣid al-sharīʿah, al-ʿAlwānī acknowledges al-Ghazālī and especially al-Shāṭibī as precursors of the idea. Priorities which were not followed up by Muslims since the trivial notions kept them away from a proper course of dealing with the substantial problems.41 Al-ʿAlwānī does not hesitate to point out the fact that his concept of priorities should indeed be understood along with the high purpose (maqāṣid) and command of the sharīʿah as the title of his book suggests.

Al-ʿAlwānī is one of only a few Muslim authors who in their writings have presented scholarly opinions of Islamic thinkers regardless of their sectarian or devotional attachments. He refers to and sometimes incorporates the Shi’ite-oriented works of thinkers such as Sayyid Jamāl al-Dīn Afghānī (d. 1897) and Muḥammad Ḥusayn Nāʿīnī (d. 1936) as much as he refers to their Sunni counterparts such as Shaykh Muḥammad ʿAbduh (d. 1906) and ʿAbd al-Raḥmān al-Kawākibī (d. 1902).42 Due to his pioneering work in The Ethics of Disagreement in Islam, al-ʿAlwānī is well aware that he should not expect all Muslims, regardless of their circumstances and background, to realise the ideal vision of Islam.43 In this book, al-ʿAlwānī finds examples of more tolerant and open-minded attitudes towards the disagreements of Islamic history, particularly from the precedents set by the Companions of the Prophet.

We now turn to the topic of new hermeneutical proposals for legal language in Islam. Ever since 1980, Islamic law not only adopted new ideas, but also became subject to an epistemological analysis, i.e. hermeneutics, a modern discipline concerned with the nature and presuppositions of the interpretation of religious texts.44 Before the 1980s, most changes to the Islamic law were offered through the channels of interpretive disciplines such as tafsīr (exegesis), taʾwīl (allegorical interpretation) and ijtihād (independent judgment) all enclosed by the rules of Islamic legal methodology. None of these devices were used to extend the meaning of a text beyond the intention of the lawgiver, nor beyond the religious context in which the text evolved. In contrast, modern approaches to the sharīʿah incorporate epistemology that can easily go beyond these primary textual sources. Innovative approaches to the sharīʿah are best reflected in the works and ideas of Abū Zayd.
Naṣr Ḥāmid Abū Zayd

The contemporary Egyptian author Naṣr Ḥāmid Abū Zayd (b. 1943) is among the first Islamic scholars to approach the sharīʿah by applying hermeneutics as a method of inquiry into the interpretation of legal texts. The early works of Abū Zayd centred on evaluating Islamic methods of semantics and its implications on the interpretation of the text, preceded by a brief survey in the theories of the European founders of hermeneutics such as Friedrich Schleiermacher (d. 1834) and Wilhelm Dilthey (d. 1911). He examined the writings of Muʿtazilite and Ashʿarite scholars and grammarians such as al-Jāḥiẓ (d. 869) and al-Bāqillānī (d. 1012) in the light of theories of hermeneutics. Abū Zayd presented a new, critical reading of the above-mentioned Muslim authors.

The controversial work of Abū Zayd is Mafhūm al-naṣṣ (The Concept of Text), a version of his discourses on the Qur’ānic sciences. In this book, he launches a new way of reading the religious texts in the light of modern hermeneutics. To signify the importance of the ‘text’, Abū Zayd defines Arabian Islamic civilisation as a ‘Civilization of the Text’ (ḥadārat al-naṣṣ) in contrast to Greek civilisation, which he dubs a ‘Civilization of Reason’ (ḥadārat al-ʿaql). He emphasises an understanding of the texts that requires interpretative skills to discern the cultural context surrounding it. As the Qur’ān is the primary textual source of Islam, in categorising the verses, Abū Zayd prefers to characterise the verses revealed before the hijrah as ‘faith-building’, in contrast to those from after the hijrah (622/632) which are more concerned with ‘building societal character’. Nevertheless, the textual output of the Qur’ān was, in Abū Zayd’s view, overshadowed by the immense sanctity later attached to it as the Holy Book.

In one of his later works, Naqd al-khiṭāb al-dīnī (A Critique of Religious Discourse), Abū Zayd notes the abuse of the Qur’ān by Muʿāwiyah (d. 680), the founder of the Umayyad dynasty who placed leaves of the Qur’ān on lances in an attempt to divert Muslims’ attention from their own ijtihād to an expected direct judgment of the Qur’ān. “The Qur’ān is just pieces of writing”, Abū Zayd quotes the fourth caliph ʿAlī b. Abī Ṭālib (d. 661) saying in the War of Ṣiffīn, “[i]t [i.e. the Qur’ān] does not speak; only men speak for it”. Abū Zayd concludes that the texts require a certain scope of rational interpretation that only the human mind can afford.

Abū Zayd claims that the understanding of a text revolves around the data and perceptions of the time of the reader. He quotes from Literary Identity, written by the contemporary author Peter W. Nesselroth who argues that the process of understanding a text does not begin with reading the text, but rather it starts prior to that with the dialogue between the culture shaping the reader’s perception and the text. In the case of the Qur’ān, knowledge of the ‘occasions of revelation’ is
necessary for eliciting a legal norm (ḥukm) or for inferring a meaning of one. But Muslim interpreters often assumed an independent entity for the qur’ānic legal norms by separating the text from the legal norm (ḥukm). Some of them even claimed that the ḥukm, or the command of God existed before the revelation and appearance of the text. Abū Zayd draws out three factors that may cause this misunderstanding:

1. The literal implication (al-dalālah al-lughawiyyah) was confused by some interpreters with the legal implication (al-dalālah al-sharʿiyyah), as in the qur’ānic verse 87:14: “But those will prosper who purify themselves”. ‘Purification’ in this Meccan verse does not imply zakāh (legal alms) which, according to the famous qur’ānic scholar al-Suyūṭī (d. 1505), was historically established after the hijrah.

2. Some interpretations were attributed to the Companions of the Prophet whose explanations are associated with the Medinan period, whereas the content of the verse belonged to Meccan era. To solve the problem, the later ‘ulamā’ had to assume that the ḥukm existed before the text. The qur’ānic verse 33 of the Meccan chapter 41 reads: “Who is better in speech than one who calls [men] to Allah, works righteousness, and says ‘I am of those who bow in Islam’”. It was quoted from ʿĀ’ishah (one of the wives of the Prophet, d. 678) that the verse was revealed for the muezzin (announcer of the hour of prayer); whereas history tells us adhān (the call for prayer) was established in the early Medinan period.

3. Confusing the sequence of verses with the occasion of revelation resulted in different readings of a verse and in gainsay assumptions: firstly that the text was revealed before the occasion arose, and secondly that the text preceded its suitability and necessity to be a legal norm. An example is verse 45 of chapter 54: “Soon will their multitude be put to flight, and they will show their backs.” Al-Suyūṭī quoted the second caliph ʿUmar stating that he had heard the Prophet reciting this verse during the Battle of Badr when the army of Quraysh was defeated. Yet the sequence of verses suggests a similarity between the ancient Egyptian Pharaohs and Meccan pagans. Another meaning can be understood by reading ‘between the lines’ in light of the future tense used in the verse, in that it applies to the Resurrection Day. Abū Zayd concludes that different readings of a text result from the reader’s standpoint, and that the evolution of one’s knowledge opens the way for a new understanding of the text.

In the quest for finding a new meaning or function for legal principles, Abū Zayd, in Mafhūm al-naṣṣ, draws on a number of methodological topics from uṣūl al-fiqh such as the ‘general and its particularisation’, ‘occasions of revelation’, ‘abrogation’, ‘implication and divergent meaning’ and ‘absolute and qualified’. For instance, he evaluates abrogation as the main proof for a dialectical relationship.
exists between the revelation and external realities, and says that its function is to adapt changes and to advance law giving.\textsuperscript{52} He considers both the generalisation and particularisation of the Qurʾānic verses as a means to maintain the unity of the law and to fully understand both the literal expressions and the occasions in which the law was given.\textsuperscript{53} Abū Zayd finally concludes his arguments in the \textit{Mafhūm al-nāṣṣ} with a mystical explanation for the relationship of “real to metaphor”, as a relationship of change with transformation.\textsuperscript{54}

To pave the way for exploring alternative concepts for the religious texts, Abū Zayd tries to refute certain Islamic legal interpretations such as the prevailing attitude that there is no room for \textit{ijtijād} wherever a text is available. He claims that the statement (\textit{manṭūq}) of the Qurʾān is fixed and permanent, but its conception (\textit{mafhūm}) is changeable and open to variable approaches. To establish this claim, Abū Zayd refers to the history of Muslim rational approaches (especially Muʿtazilite approach) in addition to practical principles of legal methodology such as the priority of consideration of public interest (\textit{maṣlaḥah}) over the text; preservation of objectives (\textit{maqāṣid}) of the law and suitability (\textit{munāsabah}) of \textit{ratio leges} in analogous applications. These principles were mainly proposed by the fourteenth-century jurist al-Shāṭibī and endorsed partly by Ibn Taymiyyah and others. Pursuing different objectives or grounding themselves on variable information, Muslim jurists historically presented varying conceptions out of certain texts.\textsuperscript{55}

A legal case in point is a daughter’s share of inheritance that principally should screen (\textit{ḥajaba}) the right of all second-degree relatives in the absence of other first-degree heirs such as brothers. According to most Sunni schools of law, a daughter is not entitled to inherit more than her determined share (\textit{farḍ}), which is half, from her parents’ bequest. The rest should be returned to either \textit{ʿaṣabah} (paternal male residuary) or to the public treasury (\textit{bayt al-māl}) in the absence of other first-degree heirs. Only the Jaʿfarī school of law clearly gives the right to the daughter to appropriate the second half of the bequest by returning (\textit{radd}) it to her, regardless of the presence of the \textit{ʿaṣabah}. The above problem was strongly debated in Egyptian media in the 1980s. Abū Zayd supported those writers who had advised the government to enhance women’s rights by adopting the Shiʿite position in the law of inheritance. He argues that the different understanding of the same Qurʾānic verses by Shiʿites (and some Ḥanafīs) points to the fact that there is room for \textit{ijtihād} and new understanding of the Qurʾānic verses. He draws two spheres for understanding the verses:

1. to find out the meaning (\textit{maʾnā}), and
2. to delineate the end goal (\textit{maghzā}) of the law.
Abū Zayd thinks that the focus of the seventh-century Muslims was to adjust the meaning of the verses according to the existing Arab customs. They sometimes sacrificed the spirit and overall objectives of the Qurʼān for its literal consistency. However, this was not the case for some Sufi-like authors, as it is not the case for our modern understanding of the text.56

Abū Zayd claims that today’s Muslim juridical understanding of the religious discourse (al-khiṭāb al-dīnī) is often more strict than that of their predecessors. He quotes al-Suyūṭī’s account of the literal categorisation of the qur’ānic verses as an example of the historical approach to the text of the Qur’ān. In his al-Itqān, al-Suyūṭī plainly claims that all legal verses of the Qur’ān are particularised, except 4:23: “Prohibited to you [for marriage] are your mothers”. According to Abū Zayd, al-Suyūṭī divides the levels of clarity of the qur’ānic verses as follows:

1. A clear verse is the one which does not bear two meanings, and this is a naṣṣ (or the text).
2. Each verse bears two meanings but one is preferable, and that is the zāhir (apparent) one.
3. Should both meanings bear equal weight then the verse is mujmal (generalised).
4. If both meanings are not equal, but the stronger (aqwā) does not fit into the overall apparent meaning closely, rather a remote meaning is preferable; and that is called mu’awwal (allegorically interpreted).57
5. Abū Zayd concludes that the concept of naṣṣ according to al-Suyūṭī and most traditional authors meant nothing but ‘clear verse’, whereas naṣṣ appears often as a ‘fixed and sacred verse’ in the writings of the later, and especially present, juridical authors, which leaves practically no room for a rational reflection by the human mind.58

In 2006, Abū Zayd published an analytic history of reformation of Islamic thought in which he examines various phases of reform that occurred after the encounter of Muslims with the West. He concludes his work with reference to the setback of Iranian intellectuals in the 2005 presidential election. He blames the defeat on the advanced level of an intellectual debate that currently touches on so many issues previously considered taboo. He then plainly identifies this intellectual debate with hermeneutics that was discussed by people like Soroush and Shabestari. Abū Zayd describes the discussion as more than rethinking the Qur’ān, rather it was “[…] humanizing the Qur’ān by formulating a liberal theology”.59 Here, we see Abū Zayd who was exiled for his rethinking of the Qur’ān methodology, is now concerned about Iranian ‘advanced rethinking’ that can simply go beyond the traditional frame.

Abū Zayd’s works on reading and rethinking Islamic texts have produced a plausible criticism of some traditional approaches to the sharīʼah. This criticism
proposes a drastic change in both the traditional application and function so as to be able to incorporate timely considerations. In comparison with rational approaches of the past such as the maqāṣid theory of al-Shāṭibī, it does not, however, provide enough of a religious basis to legitimise or to compromise the application of the new approach within the well-founded structure of the sharīʿah. Abū Zayd’s writings, nevertheless, influenced some Muslim milieus in North Africa and Indonesia. One may draw parallels between his writings and some new legal proposals for reform in the civil law of the Maghreb (Morocco, Algeria and Tunisia). This proposal reads: “[…] the idea of an immutable and sacred ‘Muslim law’ is the fruit of a doctrinal development, and a dominant version of history that presents it as a compact and definitive whole”.

Concluding Remarks and Recommendations

Modern approaches to the sharīʿah propose certain reforms to legal thought either from within, or by borrowing methods beyond the conventional scope such as empiricism and hermeneutics. The clearest proposal for reform from within is offered by Kamali who, like Abū Sulaymān, considers the duality between the ʿulamā’ and government since the Umayyad period as the main stumbling block for the advancement of the legal system among Muslims. Kamali suggests that statutory law and governmental ordinances should either take the place of ijmāʿ and ʿijtihād, or be incorporated within them. We have seen how two important notions of ijmāʿ and shūrā have historically exhausted their traditional importance due to the lack of interest by Muslim scholars over time. In Islam, public participation is encouraged in both performing rituals and fulfilling social duties. The latter, nevertheless, has not received so much attention of the ʿulamāʾ as the former did. As a result, the rules of congregational prayers, for example, are far more elaborate than the principles of shūrā that should shape the consultative part of Islamic government. As a result, the Qur’ān, the traditions of the Prophet, and the practices of the early Companions still remain the best sources of inspiration for the theory of public participation in today’s Muslim societies. Kamali’s suggestion, therefore, offers a new outlook for reviving the forgotten sphere of Islamic public law.

The application of hermeneutics to the reading of legal texts links the criticism of legal methodology with the promise of fresh understandings of the sharīʿah. On the criticism of the present methodology, Abū Zayd believes the conventional literary interpretations (mabhath al-alfāẓ) are not flexible enough to capture the variety of contextual meanings of a given text. More importantly, the traditional conception of usūl al-fiqh ignores the fact that the development of one’s knowledge opens the way for a new understanding of the text. New ways of reading the sharīʿah have opened new gates for understanding and updating Islamic law, as Muslims pave
new ground for applying other relevant disciplines in their quest for fresh readings of the texts, although they can hardly propose a theory for their application.

All the above-mentioned criticism and analysis persuades us that *uṣūl al-fiqh* still offers the most important conduit for approaching the *sharīʿah*. The infiltration of interdisciplinary skills into legal methodology has neither affected its character nor its status. The most serious criticism is addressed to the literary structure of legal texts that appear meta-historical and self-existing (*wāqiʿī wa nafs al-amrī*), and thus not open for direct timely adjustments. By offering alternative approaches, such as consideration of *maqāṣid*, the inclusion of empirical deductions and the reevaluation of the sources of the law, some contemporary authors make fresh attempts to align legal methodology with the requirements of time. However, it remains up to modern linguistics and hermeneutics to conform rational concepts to the revealed sources and to propose independent readings side by side with conventional ones.

In closing, we would like to recommend the following:

- The legal theory of Islamic law (*uṣūl al-fiqh*) in its revised structure, as attempted in the works of Mohammad Hashim Kamali, merits attention for integration into the working modalities of Muslim legislative assemblies and parliaments.

- *Ijtihād* today is a collective endeavour to be exercised by a council of scholars that should include experts not only of Islamic jurisprudence but also of other fields and disciplines. *Ijtihād* today must also be guided by the higher goals and purposes (*maqāṣid*) of the *sharīʿah*.

- A textualist approach to the understanding of *sharīʿah* which has characterised the history of Islamic scholarship needs to be moderated by a more empirical approach, as suggested in the works of ʿAbd al-Ḥamīd Abū Sulaymān and Ṭāhā Jābir al-ʿAlwānī.

**Notes**

2. Ibid., 9.
3. Ibid., 117–86.
4. Ibid., 187.
5. Ibid.
6. Ibid., 225.
7. Ibid., 312.
8. Ibid., 494–7.
15. Ibid., 517.
20. Abū Sulaymān, *Crisis*, 49
23. Ibid., 78–9.
24. Ibid., 77.
27. Ibid., 74–5.
28. Ibid., 25 and 87.
31. Ibid., 321 (based on ʿAbd al-Malik al-Juwaynī, *al-Burhān* (Qatar: Maṭbaʿah al-Dawḥah al-Ḥadīthah, 1399 AH [1979 CE]), 2:1146. Al-ʿAlwānī does not take into consideration that the very idea of ‘closure of the door of *ijtihād*’ was challenged by some contemporary authors such as Wael Hallaq in his article “Was the Gate of *Ijtihād* Closed?”, *International Journal of Middle East Studies* 16 (Spring 1984), 3–41.
33. Ibid.
35. Ibid., 68–70.
37. Ibid., 134.
38. Ibid., 138–40.
40. Ibid., 78–82.
41. Ibid., 123–9.
42. Ibid., 67–9.
46. Ibid., 15.
50. Ibid., 93–4.
51. Ibid., 89–95.
52. Ibid., 117, 120.
53. Ibid., 195.
54. Ibid., 245–97.
55. Abū Zayd, *Naqd al-khiṭāb al-dīnī*, 82–6, also see 59.
QUR’ĀNIC TEACHINGS AND JOHN LOCKE:  
TWO COMPATIBLE APPROACHES TO GOOD  
GOVERNMENT  

Stephen B. Young*

Abstract: In his 1689 “Essay Concerning the True, Original Extent and End of Civil Government”, John Locke set forth a number of famous propositions on limited government. His fundamental premise is that the extent of government authority is limited by its end. The purpose of government defines the scope of its responsibilities, which in turn justify its use of power to accomplish those specific ends. Government, under Locke’s approach, has no authority where it has no mission to accomplish. For Locke, public power was thus to be held in trust to accomplish enumerated goals and objectives on behalf of certain beneficiaries; for Locke government was stewardship. Government was to be the servant and the people were to remain the master. For different reasons, the Qur’ān, too, teaches us that government is a trust that should not be abused. This article tries to compare both views with each other in order to make out common ground.

John Locke and Good Government

Locke’s thesis on the proper legitimacy of government was adopted by Great Britain’s colonies in New England when they rose in revolt against royal authority in 1775 and declared their independence from Great Britain in 1776. Locke’s thesis on government was summarised in their Declaration of Independence as follows:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. – That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, – That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

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In 1789 when Great Britain’s former colonies, now independent states united into a national federation known as the United States of America, adopted a new constitution to strengthen the legitimate authority of their federation, Locke’s thesis – as exemplified in his 1689 “Essay Concerning the True, Original Extent and End of Civil Government”¹ – was again put to use. The Constitution of the United States set forth the purposes of the trust which held the powers conferred on the government in a preamble as follows:

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Locke arrives at his conclusions that government consists of powers held in trust for the benefit of the people by starting with certain assumptions about the natural conditions into which all people are born. Locke starts not with religious teachings or a moral code of right and wrong but with observations about the natural order.² In this, he was very much a product of the European Renaissance, the emergence of scientific thinking, and the Enlightenment. It is often said that Locke was a natural law thinker for whom reason more than revelation was the supreme guide to conduct.

Locke tells us as he opens his essay on civil government that he seeks to understand the source of political power, the origins of the rights of a magistrate. In this quest, he is setting out to determine the basis for legitimacy of government and, by implication, how to justify revolt against illegitimate use of public power.

His first step is to define the “state all men are naturally in”.³ For Locke, this state is one of political independence and ethical autonomy. The state of every individual is self-mastery he argues. Independence of will is a fact for each and every human born alive. Loss of an independent will – the subjection to the will of another – is slavery, which is an un-natural condition for a person, says Locke.⁴

Concomitant with having independence over the self, says Locke, comes a right to punish others for the infringement of selfhood.⁵ Here Locke infers an ethical proposition on the legitimate use of power from a description of natural conditions. To preserve such natural conditions, human beings may be granted licence to defend the status quo in which they have been placed.

Similarly, enjoyment of such independence in moral judgment leads to equality among all people. No person is inherently more suited to rule or control than any other.

Next, Locke asserts that the moral autonomy of the individual reaches out and penetrates into the physical world into which we are born. That extension of one’s will gives rise to rights of property.⁶ To respect the will, we must respect the facts which express implementation of that will. Ownership of things, therefore, arises

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as a consequence of moral autonomy: what I accomplish with my work, what I control for my own pleasure and purposes, becomes a part of me, subject to my will and not to that of another. Individualism leads inevitably to exclusivity over some things. I have a claim to keep others out of what is “mine” in order to protect the effective presence of my will in history.

Now Locke must confront the factual implications of having many autonomous individuals each with their own properties and independent wills. What results is conflict; conflict over rival purposes and conflict over property. For Locke, all humans may be born with claims to autonomy, but they are not all born as just and upright paragons of wisdom possessed with humble and becoming virtues. As Madison wrote in justification of the American Constitution, “[i]f men were angels, there would be no need for government”.

Locke’s solution to the problem of conflict inherent in the human condition is to establish government. Individuals, he says, can agree to surrender certain powers to the community. Executive powers of enforcement are assigned to public authorities. The assignment alone gives them whatever authority they are to have and to hold. Locke uses agency theory here to support legitimate civil government.

Importantly, he argues, people will only give up that increment of power necessary to the end of the agency contract. And, the scope of the powers delegated to the government reflects the will of the majority who agree to subject themselves to the authority so created. The state is an agent for the preservation of property and to provide public good for the people. As Cicero wrote in his De Legibus (3.8): salus populi est suprema lex – “the wellbeing of the people is the highest law”.

Now Locke has a standard by which to judge excessive and oppressive government: abuse of powers given in trust. When power is abused, the contract of agency is broken by a breach of trust and the tie that binds the principal to the agent is instantly dissolved. The government loses its authority and a new one needs to be instituted in its place to carry out the work of providing for the public good.

Public authority, according to Locke, can come in a variety of institutional arrangements: democracy, oligarchy, monarchy, and combinations thereof. Each form of government is subject to abuse of its trust and therefore must be kept in proper check.

Locke then discusses legislative power as common to all forms of sovereign authority. To keep the legislative power from abusing its trust, Locke recommends a number of rules to limit its authority:

- it may not act arbitrarily or capriciously but must use reason to support its decisions;
- it must honour standing laws and judges;
it can’t take private property without consent of the owner; including taxing of private wealth and income;

it can’t transfer its power to another in order to evade these limitations.\(^\text{13}\)

Locke recognises that, to accomplish its ends, government needs more than legislative authority; it needs executive actions to focus on specific tasks. The power to execute laws, then consistent with agency theory, is delegated to an agent of the legislature, or the executive who is a fiduciary, Locke says. And, as has any agent or fiduciary, the executive has some degree of discretion over its use of power. This discretion Locke calls “prerogative”.\(^\text{14}\)

Importantly, the prerogative of the executive must always be used in trust for the benefit of the people; the executive may not seek to further any interest separate from the people.\(^\text{15}\) The executive is a servant, not a despot or a tyrant able to go beyond the bounds of legitimate government and impose a selfish will.\(^\text{16}\)

Locke found a new way to express the core principle of constitutional rule: the king is neither a servant, nor a master. As the early English jurist Henri de Bracton wrote after the Magna Carta: *Ipse autem rex non debet esse sub homine sed sub deo et sub lege* – “Kingship should not be under a man but under God and under the Law”.\(^\text{17}\)

Should any executive become despotic, he loses legitimacy and forfeits the trust.\(^\text{18}\) His term of office, so to speak, comes to an end and he must return the substance and the trappings of power to the people.

Locke concludes that when powers are used contrary to the trust in which they were given, when power is misused to violate the terms of the trust, the government is automatically dissolved and is no more. Now the people must select a new government – hopefully one more faithful to its trust.

Further, when a government is so dissolved because of its oppression and tyranny but does not surrender its instruments of power (the police, the army, the central bank, etc.), the people enjoy a right of revolution to drive the faithless office-holders from their positions using armed force if necessary.

**Qur’ānic Teachings and John Locke**

It is sometimes alleged that John Locke’s arguments for limited, responsible constitutional government reflect a parochial cultural framework about human possibilities. It is true that Locke was Western European, Protestant, humanist, as well as rational and scientific in the Enlightenment way of thinking. But that does not mean that his conclusions are necessarily irrelevant to other cultures and peoples who do not share that culturally specific European view of how to think about the world. In fact, it is a matter of collective common sense that similar conclusions may be
supported by different arguments and either inferred from a variety of propositions or deduced from a range of premises.

When we seek to establish governments in a global community of many nations and cultures, it is the conclusions as to what form of government is just that should matter most, not the specific premises and arguments that lead us to such conclusions. Cross-cultural agreement on the ends of government permits cross-cultural cooperation and mutual respect.

Qur’ānic revelation, for example, starts from a set of understandings about the circumstances in which we live that were not completely shared by John Locke. Nonetheless, Qur’ānic revelation provides us with analogous concepts to those used by Locke that can carry us to very similar conclusions about the proper role and nature of government.

In short, for different reasons, the Qur’ān teaches us that government is a trust that should not be abused.

The Qur’ānic Thesis

The Qur’ān reveals a proper destiny for humanity in that it should be wisely responsible in the use of power. It presents six inter-related aspects of that destiny, which are the nature of humanity, the assumption of trustee responsibilities, the office of khalīfah, the necessity of wise discernment, the use of good counsel, and the seeking of justice.

First, the Qur’ān teaches that each human is born possessing something of God’s life force. According to the Qur’ān, God provided humans with remarkable potential by breathing into the first created human some holy spirit.

We created man from dry clay, from black moulded loam, and before him Satan from smokeless fire. Your Lord said to the angels: “I am creating man from dry clay, from black moulded loam. When I have fashioned him and breathed of My spirit into him, kneel down and prostrate yourselves before him.” (15:29)

But He fashioned him in due proportion, and breathed into him something of His spirit. And He gave you the faculties of hearing and sight and feelings. Little thanks do you give! (32:9)

We have honoured the sons of Adam; provided them with transport on land and sea; given them for sustenance things good and pure; and conferred unto them special favours, above a great part of Our Creation. (17:70)

We created man in a most noble image […]. (95:4)

He therefore not just made human persons in the image of God but with God’s life force within them. Humans, according to the Qur’ān are specially created by
God to serve a divine purpose: “I am placing on the earth one that shall rule as my deputy” (2:30). Thus, all human persons are possessed with something of the Creator’s energy, will, capacity and purpose. We have the possibility of being God’s deputies with a sparkle of the Divine light in each of us. But the gift of God’s powers and spirit comes with a condition: such energies and capacities are to be used on a restricted basis for set, limited purposes. Our special status as possessing something of God’s essence is not to be misconstrued as justification for our seeking to rival God as a master being. By no means (59:12; 96:6).

Of course, the Qur’ān is most explicit at how easily humanity turns from its higher potential to acts of unrighteousness because of temptation, or excessive pride, narrow fixations, lack of patience or too much sensuality.

Indeed, Man transgresses in thinking himself his own master. (96:7)

Man’s soul is always prone to selfishness, but if you do good and are God-fearing, then surely God is aware of the things you do. (4:128)

O David, We did indeed make you vicegerent on earth: so judge you between men in truth and justice and not follow the lusts of your heart, for they will mislead you from the Path of God: for those who wander astray from the Path of God, is a grievous penalty, for that they forget the Day of Judgment. (38:26)

Second, the Qur’ān relates that humanity accepted God’s offer of executing a trust for the betterment of creation. The abilities and potentials that the Creator afforded to humanity and to each human being, the Qur’ān teaches, are given in trust – amānah – so that God’s purposes can be served on earth.

We offered this trust to the heavens and the earth and the mountains but they refused to bear it and were afraid of it, the but man undertook to bear it. Indeed, he is unjust and ignorant. (33:72)

Believers! Do not be unfaithful to God and the Messenger, nor be knowingly unfaithful to your trusts. (8:27)

God brought you out of your mothers’ wombs in this state that you knew nothing: He gave you ears and eyes and thinking minds so that you may be grateful. (16:78)

Do not follow that of which you have no knowledge for you shall be questioned for [the use] of your eyes, ears and minds. (17:36)

Of course, trust can be abused and many passages of the Qur’ān discuss how humans do and most likely will abuse the various amānah given to them by God. According to the Qur’ān, evil doers are those who “break [God’s] covenant after

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accepting it, and put asunder what He has bidden to be united, and perpetrate corruption in the land” (2:27). Moreover, we read:

If, after all the knowledge you have been given, you yield to their desires, then you will surely become an evil-doer. (2:145)

If you obeyed the greater part of those on earth, they would lead you away from God’s path. They follow nothing but idle fancies and preach nothing but falsehoods. (6:116)

And there are some among them who twist their tongues when quoting the Scriptures so that you may think it is from the Scriptures, whereas it is not from the Scriptures. (3:78)

Do not devour one another’s property by unjust means, nor bribe the judges with it in order that you may wrongfully and knowingly usurp the possessions of other men. (2:188)

Believers, do not live on usury, doubling your wealth many times over. (3:130)

God does not love aggressors. (2:190)

[...] vanity carries them off to sin [...] do not walk in Satan’s footsteps [...]. (2:206; 2:208)

Do not make God, when you swear by Him, a means to prevent you from dealing justly, from guarding yourselves against evil, and from making peace among men. (2:224)

Men are tempted by the lure of women and offspring, of hoarded treasures of gold and silver, of splendid horses, cattle and plantations. These are the enjoyments of this life. (3:14)

God does not love arrogant and boastful men, who are themselves tight-fisted and enjoin others to be tightfisted; who conceal the riches which God of His bounty has bestowed upon them [...] and who spend their wealth for ostentation. (4:36, 37)

Whoever recommends and helps in a good cause becomes a partner therein: and whoever recommends and helps an evil cause, shares in its burden. (4:85)

So do not be led by passion, lest you swerve from the truth. (4:135)

Do not allow your hatred for other men to turn you away from justice. (5:8)

Third, the Qur’an states that the office holding the amānah given to humanity is that of khalīfah, or vicegerent of God on the earth.

Just recall the time when your Lord said to the angels, I am going to appoint a vicegerent on the Earth. (2:30)

The role and responsibilities of serving as khalīfah are not to be understood as reserved for only one person seeking to govern the Muslim ummah, but as expectations for each human to contribute to the achievement of God’s right order.
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O David, We did indeed make you vicegerent on earth: so judge you between men in truth and justice and not follow the lusts of your heart, for they will mislead you from the Path of God. (38:26)

An important distinction can be made between the image of human persons as agents of God – as khalīfah – and an image of human persons as masters in their own right as a challenge to God’s dominion. The role of khalīfah, something more than beasts but yet less than God, is as subordinate as an appointee and delegate who must turn for powers and direction to the principal and master.

Did you not know that God has sovereignty over the heavens and the earth? (5:40)

And, correspondingly, humanity is not to pick from within its own ranks those who will be given any such sovereign status (96:9).

He is God besides whom there is no other deity. (59:21)

Humanity was given its proportion and form by God alone (82:7–8). Mankind was created only to worship God, not itself (51:56).

Fourth, the Qur’ān requires that, as each human executes his or her amānah and serves God as khalīfah, he or she must use some of what has been given as part of the amānah – the capacity to observe, think, reason and judge – in order to take proper and correct action. One of the important capacities given to human persons by God is this faculty of ijtihād, or independent reasoning to deduce a particular ruling from the sources of sharīʿah. Ijtihād is needed by human persons to distinguish between conjecture and truth (10:36).

The meanest beasts in God’s sight are those that are deaf, dumb, and devoid of reason. (8:22)

Such beings have no capacity to discern truth or use ijtihād. How could they possibly serve God as a steward on earth, attending to his bounty and acting with moral purpose?

We sent the former Messengers with clear Signs and Books, and now We have sent the Admonition to you [O Muhammad!], so that you should make plain and explain to the people the teachings of the Book which has been sent for them; and so that they [themselves] should ponder over it. (16:44)

And We bestowed the same favour upon David and Solomon: Remember the occasion when the two were judging a case regarding a field into which the goats of other people had strayed at night, and We Ourself were watching their conduct of the case. At that time We guided Solomon to the right decision, though We had bestowed wisdom and knowledge upon both of them. (21:78–9)
The capacity of *ijtihād*, or application of the human mind to new issues in the light of *sharīʿah* guidelines, was given, it seems, in order that an individual’s stewardship, his ‘khalīfahship’, can be successfully undertaken with wise use of all the various *amānah* held by that person.

Fifth, the Qur’ān recommends the use of institutions of consultation – *shūrā* – as a means for the application of individual *ijtihād*.

Those who listens to their Lord, and establish regular prayers; who conduct their affairs through consultation (*shūrā*), who spend out of what We bestow on them for sustenance […]. (42:38)

It was thanks to God’s mercy that you were gentle to them. Had you been rough, hard-hearted, they would surely have scattered away from you. So pardon them, and pray for their forgiveness, and take counsel from them in matters of importance. (3:159)

The wisdom and thoughts of others function as a check on the possible corruption and selfish biases our own minds are prey to out of temptation and petty jealousies. As our own use of *ijtihād* may be imperfect or biased, we can purify and correct our thinking by taking into account, as a responsible trustee does, the standards and conclusions of others. The Qur’ān realises only too well the limitations that may infect *ijtihād* with ignoble purpose or misunderstanding. We do not surrender our power of *ijtihād* to others in a process of *shūrā*; we only feed it with more raw materials of fact and opinion for thoughtful consideration as we assume personal responsibility for acting as God’s agent – a dutiful and non-negligent *khalīfah*.

Sixth, the purpose of the vicegerency, on the individual as well as on the collective level, is to achieve justice.

*O* you who believe! Stand up as a witness for God in all fairness, and do not let the hatred of a people deviate you from justice. Be just. (5:8)

God commands justice, the doing of good, and generosity to relatives and near ones, and He forbids all shameful deeds, and injustice and disorder: He instructs you, that you will be reminded. (16:90)

Indeed God wrongs none, not even as much as an atom’s weight. Whenever a man does good, He multiplies it two-fold, and bestows out of His grace a mighty reward. (4:40)

Justice requires fairness, honesty, transparency, compassion and mercy. Justice implies that humanity – both on the individual and the collective levels – will be empowered to carry out its office of *khalīfah* and to execute its various *amānah*. Accordingly, tyranny was to be avoided in politics and the institution of *zakāh* was recommended to provide powers of economic activity for all.
In conclusion, the core aspects of the Qurʾān with respect to governance point to governance as a high, noble calling seeking the best for humanity and creation. In these principles, God is speaking not only to Muslims, but to all who can hear the revelations and consider them as guidance for living.

These are the messages of God which We recite to you in truth, and God desires no wrong to the people of the world. (3:108)

Highly blessed is He, Who has sent down al-Furqān [the criterion for judging right and wrong, i.e. the Qurʾān] to His servant so that it may be a admonition to all mankind. (25:1)

Re-constructing Locke’s Thesis on Government

Qurʾānic revelation takes us to a starting point for analysis very close to where Locke begins his essay: the nature of our being as a human person. Where Locke emphasises the autonomy of our will, the Qurʾān teaches that we have within us – every person – something of the spirit of God. Each individual man or woman, therefore, has an inherent value and dignity given by God. The individual, not the collective, is the starting point in the world of meaning and purpose and right and justice. To get to government, we must begin with the individual person.

The Qurʾān teaches that each individual person has the capacity of *ijtihād* – reasoning from premises to conclusion, thinking wisely about consequences, making ethical decisions, solving problems, etc. As noted above, the Qurʾān warns us to beware of vanity, passion and of hatred, precisely because such emotions have power to turn us away from truth and justice. We reach truth through our minds used rightly; we obtain justice when our reason keeps our passions in check. The Qurʾān says: “Some there are who would indulge in frivolous talk, so that they may without knowledge lead men away from the path of God and hold it up to ridicule” (31:6). Knowledge, the capacity of our mind to seek and discern that which is without us, that which is true and false, then is the path to God. Without a capacity for reflection, comprehension, personal judgment, how can we draw closer to God’s will and purpose? What would be the point of revealing a Qurʾān if human persons had no capacity to read and understand its words and its meaning? The Qurʾān states that “God forgives those who commit evil in ignorance and then quickly turn to Him in penitence” (4:17). The exercise of *ijtihād* enables us to become as God wants us to be, to rise from ignorance and to learn when repentance is necessary. The capacity of using right reason in restraint of our passions and desires and to guide our wills according to known standards of right and wrong enables us to become our best.
We have revealed it thus so that We may sustain your heart. We have imparted it to you by gradual revelation. No sooner will they come to you with an argument than we shall reveal to you the truth, better expounded. (25:32)

The Qur’ān was thus given to humanity in a process of dialectic and response of one proposition to another, engaging humanity in its capacity for understanding.

He that received wisdom is rich indeed, but none will grasp the message except men of understanding. (2:269)

What would be the point of divine guidance if human persons had no capacity to receive it, understand it, and, most importantly, apply it to the conditions and circumstances of life as they change and unfold from day to day? It is our capacity for possessing and using wisdom and our mental faculties that is the receptacle that corresponds to the outpouring of guidance from God in the Qur’ān and in other signs from which humanity can learn the truth.

Indeed he that chooses Satan rather than God for his protector ruins himself beyond redemption. (4:119)

The choice between God and Satan is ours; what faculty shall we call upon to guide us in that choice if not our powers of *ijtihād*?

God has given us signs for our thoughtful mind to contemplate and to learn from:

> In the creation of the heavens and the earth; in the alternation of night and day; in the ships that sail the ocean with cargoes beneficial to man; in the water which God sends down from the sky and with which He revives the earth after its death; dispensing over it all manner of beasts: in the disposal of the winds, and in the clouds that are driven between sky and earth: surely in these there are signs for rational men. (2:164; 6:99)

Those that hide the clear roofs and the guidance we have revealed after we had proclaimed them in the Scriptures shall be cursed by God. (2:159)

The Qur’ān (2:256) also teaches that “there shall be no compulsion in religion. Truth stands out clear from error”, leaving us to use reason and faith as human capacities from which we can reach out to the Divine and learn of God’s purpose and of right and wrong. Compulsion would deny a person the free use of his or her reason as the grounds for conviction and moral conduct. God wants us to do the right things for the right reasons as he does on his exalted level of oversight.

Call men to the path of your lord with wisdom and kindly exhortation. Reason with them in the most courteous manner. (16:125)

The Qur’ān makes a distinction between wrongful acts done without knowing intention but from carelessness and those done with knowledge. The latter acts
only deserve retribution from God, thus placing an emphasis on right thinking as a guide to our conduct.

Your unintentional mistakes shall be forgiven, but not your deliberate errors. (33:5)

But whoever is driven by necessity, intending neither to sin nor to transgress, shall incur no guilt. (2:173)

Except those who are really weak and oppressed – men, women, and children – who have no means in their power, not a guide post to their way forward; for these there is hope that God will forgive. (4:98, 99)

Adam was given “names” or thought constructs by which to serve God as khalīfah on earth (2:31). In this way did God empower Adam with the tools that opened up his capacity to use ijtihād in his daily life. Similarly, the Qur’ān (2:282) instructs that “you shall not withhold testimony”. Those hearing a case must know all the signs and proofs of truth so that their minds can reach a right and just conclusion.

So, as Locke argued that individual reason would lead people to come together in agreement to set up a common authority, we can argue that people blessed with ijtihād could similarly decide and act. And, with reference to the Qur’ānic practice of shūrā or consultation in decision-making, the process of selecting a government to provide for the public welfare would require participation of the many and their concurrence to the proposal before a government becomes legitimate and can seek to establish its effective control.

The Qur’ān provides us with another framework for understanding the human person, and that is the fact of fitrah, or our essential orientation towards life. That orientation is to be able to be moral, ethical and responsible; to listen and to cooperate; to be fair and just and control our worst instincts and passions. We were shaped by God, the 2:282 instructs, to receive his teachings and have it in our power to live as we should. The operation of our fitrah permits us to subordinate our will – appropriately – to a common authority, a public government.

Islam is the submission of the will before God’s righteousness; it is the activation of a faith and a will to follow God’s guidance and revelations. Human persons, therefore, must, in God’s eyes, have a capacity for such submission. That capacity would be part of their nature as he created it. Thus, adherence to standards of right, to just outcomes and decisions is very much a part of every person’s potential. As noted above, many passages of the Qur’ān point out to readers the many ways in which passions and selfishness lead people away from rightful submission to sin and oppression. What is less clear in reading the Qur’ān is to what form of human enterprise should we submit our wills? Presumably, it would be a form of government that itself complies with God’s intentions – it should be a form of government that functions as khalīfah for God here on earth. It thus becomes
important in evaluating human institutions of governance to measure them against standards of justice and trusteeship. If government is provided as servanthood, it is aligned with God’s purposes. But if government is provided to oppress, to serve the passions, the hatreds, and the ambitions of the rulers and their close associated, then it would not be aligned with God’s purposes. Using *ijtihād* associated with *shūrā* becomes essential to the achievement of good *khalīfahship*. One cannot act as God’s agent without judging and reasoning for oneself as to God’s intentions and how his guidance should be applied in particular cases.

The Qur’ān, however, places some restrictions on our use of *ijtihād*. First, like all our abilities it was given as an *amānah* or trust. It is, therefore, a power to be used to attain higher purposes, not to be selfishly abused. When we hold a power in trust, we become stewards or fiduciaries in order to achieve a future good that will benefit more than ourselves.

On the Day when their tongues, their hands and their feet will bear witness against them as to their actions. On that Day God will pay them back all their just dues and they will realise that God is the (very) truth, that makes all things manifest. (24:24–5)

Like all other powers, potentials, and opportunities that we receive from God, *ijtihād* is subject to abuse in our hands. Abuse of our use of *ijtihād* occurs when we treat it as a personal possession to be used according to our selfish interests and passions.

Indeed, the wrongdoers are led unwittingly by their own appetites. (30:29)

Many are those that are misled through ignorance by their desires. (6:119)

When passions and appetites control our behaviour and not our right minds, then, use of *ijtihād* does not lead us towards Islam, towards God and the right way, but, to the contrary, towards sin and wrong-doing. That is why, perhaps, building up powers of mental acuity so that our minds are trained and strong would be taking a necessary step towards living as God prefers. When our use of *ijtihād* is persuasive to our hearts and the results of our thinking are compelling in our behaviours, we are more likely than not to do right.

When we use *ijtihād* for our personal pleasure or other self-interest, we act like an owner of its powers and not like a trustee. An owner is entitled to selfish exploitation of a power for personal gain. A trustee is limited in the range of uses to which a power can be put. A trustee is bound to use the power, or the property, for the benefit of others. With powers received from God, we are bound to use them for God’s purposes, which is to serve as *khalīfah*. Thus, *ijtihād* is subordinate to the moral ends of *khalīfahship*. 
Another way of putting this point about the wise use of reason is to consider *ijtihād* as a special right belonging to human persons when every right comes with a corresponding responsibility. Our responsibility with respect to our use of *ijtihād* is to use it thoughtfully, upon due consideration, with an open mind, in the spirit of God’s compassion and mercy.

For example, the Qur’ān instructs that

> These are they who have bartered guidance for error: but their commerce is profitless, and they have lost true direction. (2:17)

> Who is more wicked than the man who invents a falsehood about God or denies His revelations? (10:17; 2:75)

Here the person uses his or her human power to challenge God; a rebellious act inconsistent with holding a trust from God.

The Qur’ān teaches that wisdom is necessary to understand its revelations:

> It is He who has revealed to you the Book. Some of its verses are precise in meaning – they are the foundation of the Book – and others ambiguous. Those whose hearts are infected with disbelief observe the ambiguous parts, so as to create disension by seeking to explain it. [...] Those who are well-grounded in knowledge say: We believe in it: it is all from our Lord. But only the wise take heed. (3:7)

In this passage, disbelief – a failure in the good use of *ijtihād*, compromises a person’s salvation hopes. The power of understanding is within us, but we must cultivate it and use it properly so that we may internalise its teachings.

So for example, we are not to use our right of *ijtihād* to twist scripture, to tamper with words out of their context (5:12), to charge an innocent person with one’s own wrongdoing (4:112), to cheat in weights and measures, to ignore signs from God, to mediate in bad causes, to extract usury. It is a mistake to use knowledge to maliciously disagree with one another (45:17). Hypocrisy is another form of self-seeking and wrongful use of *ijtihād* (9:73).

Repentance is a Godly use of *ijtihād*.

Those who seek to redress their wrongs will incur no guilt. (42:43; see also 9:104; 8:38)

So is enjoining charity, justice, kindness, conciliation and peace among men (4:114). Thus, the Qur’ān presumes that human persons in their right minds can accurately distinguish right from wrong. Such a faculty of judgment is part of our natures, given by God to be used as he enabled humanity to serve his Creation.

God knows that we will not always reach truth in our use of *ijtihād*; we are too impulsive and mischievous for that to happen all the time. Still, he expects us to
make the attempt to live rightly, find truth, and obtain justice. It is our responsibility as a free moral agent to do so.

Your unintentional mistakes shall be forgiven, but not your deliberate errors. (33:5)

He forgives us when we are under compulsion or are negligent or weak.

Indeed, in no way does God wrong mankind, but men wrong themselves. (10:44)

God does not change a people's lot unless they change within their hearts. (13:11)

If they accept your faith, they shall be rightly guided; if they turn back, it is they who will be in schism. (2:137)

Because we have been given the capacity for *ijtihād* to guide our path through life, God will not use his great powers to do for us what we will not do for ourselves.

Had I possessed knowledge of what is hidden, I would have availed myself of much that is good and no harm would have touched me. (7:188)

He rewards right use and punishes wrong use of all powers given to humanity. We were not created, the Qur'ān says, to serve Satan. If we use our *ijtihād* for Satan’s purposes, we turn away from God and will receive due retribution.

Show forgiveness, speak for justice, and avoid the ignorant. (7:199)

When tempted, it is our responsibility to be discerning and alert and to move towards God of our own will. He will not force us to move to him as there is no compulsion in religion.

Had the people of those cities believed and kept from evil, We would have showered upon them blessings from heaven and earth. But they disbelieved and We punished them for their misdeeds. (7:96)

Never have We destroyed a nation whom We did not warn and admonish beforehand. (296:210)

Had the truth followed their appetites, the Heavens, the Earth, and all who dwell in them, would have surely been corrupted. (23:71)

Following God’s guidance demands a critical faculty of mind to discern warnings and to find the right understanding. This is use of *ijtihād* as an *amānah* from God, as a blessing, and not as a tool of human arrogance, conceit and self-seeking.

Some wrangle about God, though they have neither knowledge nor guidance nor divine revelation. They turn away in scorn, leading others astray from God’s path. (22:8, 9)
Second, the goal of our amānah is to serve God as khalīfah. We are here for God’s purposes not only for our own. In using our ijtihād, we should take care that we are acting as a khalīfah, for a wider benefit. This precludes our selfish abuse of power or our acting haughtily from a warped sense of personal dominion.

In the context of Locke’s reasoning, we should easily come to see that creating a public power to prevent harm from coming to those who have been dignified by God is consistent with our khalīfahship. Thus, we would agree to submit ourselves to a government that is a trust, one which holds its powers to do good for us and no more.

God commands you to deliver trusts to those worthy of them; and when you judge between people, to judge with justice. (4:58–9)

And, it would follow as it did for Locke, that any government which abused its trust and violated our dignity would fail of its purpose and lose our loyalty and support.

The conclusion that government too is a trust – an amānah – seems a necessary one given Qur’ānic teaching that we as humans were created for certain ends and that everything that comes our way – money, education, power – is to be used constructively, thoughtfully, and responsibly. We cannot be in government and escape our responsibilities for acting as if we hold an amānah from God, for thinking and conceptualising in fulfilment of that amānah, and for seeking to be a good khalīfah.

Thus, Qur’ānic guidance may provide more compelling reasons to support John Locke’s conclusions about democratic constitutionalism than Locke’ enlightenment rationalism did.

The Qur’ān provides an additional ground for support of Locke’s recommendations; the need for justice. Justice – not abuse or oppression – is to be gained by the establishment of government. Government is an agency dedicated to service of the good, which includes acting as khalīfah in its own right, using its ijtihād as an amānah, and helping people achieve their highest potentials as God made it possible for them to do.

Justice serves as a check on the actions of government. When government abuses its duty to seek justice, or fails to do so, then, through intention or negligence it forfeits its claim to our support and loyalty. The failure of government to act as a proper agent for justice dissolves its authority.

Checks on the Legislature and the Executive

The Qur’ān does not provide specific guidance to the extent found in Locke on the limitations that should be imposed on legislatures and executives. The Qur’ān does, however, hold up the example of Pharaoh as contrary to God’s intentions for human civilisation. Tyranny and oppression as epitomised by Pharaoh cannot be justified under the Qur’ān. This is a teaching, reinforcing the obligations of amānah.
and khalīfahship, that human institutions of government must be kept away from tyranny and despotism and subjected to practices of accountability. Discretion in the legislature as well as in the executive must be kept within limits.

The Qur’ān does provide an example of right-minded practice when it teaches about the use of shūrā in decision-making. Consultations around decisions serve to draw out a range of opinions, interests, and suggestions. Such consultations act as a check on the will of any single decision-maker, restraining discretion and prerogative and forcing the use of *ijtihād* in defence of any recommendation or decision.

The requirement to use *ijtihād* and to practise *shūrā* would seem to prevent the application of any harsh, literal, fundamentalist approach to government. This is, of course, in keeping with the trust purposes of government. In a position of fiduciary stewardship, flexible judgment – some reasonable degree of discretion – is always required so that actions can respond to actual conditions at the time and take into account the needs and thoughts of others.

The qur’ānic requirements of *amānah* and *khalīfahship* for exercising the powers of government provide quite solid grounds for intellectual acceptance of Locke’s provisions for limited government. The first point would be that the specific powers of the legislature and the executive should be limited to those needed to achieve the ends of government. For government to have a wide range of discretion would be to push it closer to despotism with its indulgence in arbitrary command. Second, government must justify its decisions with reason and keep its actions within the scope of its stated reasons. These first two requirements are the requirements in American constitutional law of substantive due process and equal protection.

The third point would be having institutions of judicial review and courts and judges to keep government within set limits and prevent it from abusing its powers.

The fourth point would be respect for individuals and their property. If human persons are, as the Qur’ān teaches, repositories for God’s spirit and his agents, then they and all that they incorporate into their various expressions of personhood are quasi-sacred. They should not be taken away from them or harmed by government, which serves as God’s *khalīfah* too.

Of course as for Locke, if individuals abuse their trust, become despotic, cruel, unjust or criminal, then they lose their protected status as objects of the right and the good and government may subject them to appropriate penalties and discipline. Locke’s doctrine of government as a public trust includes a right of revolution when government abuses its powers.

With respect to the executive, Locke’s recommendations would also be sound under qur’ānic guidance. The executive should have a prerogative limited to only what is necessary and proper to implement the standing laws passed by the legislature. The executive is not to develop an interest in benefiting from government separate from the general interest of the people. The executive is not to become
a rival to the people as a beneficiary of the trust held by the government. This prohibition would apply to a person, a family, a clan or tribe, an ethnic group, a faction, a political party, or a religious sect.

Locke’s conclusions about the automatic dissolution of moral authority on the part of a government when it abuses its trust and a resulting right of revolt and revolution among the people would seem to follow very smoothly from these Qur’ānic teachings.

Conclusion and Recommendations

Faithful believers in Qur’ānic teachings may fully and enthusiastically embrace as part of their khalīfahship the principles of democratic constitutionalism as advocated by John Locke.

It might even be said more broadly that democratic constitutionalism is the most appropriate form of Qur’ānic government. In support of this conclusion, reference to the understanding of government on the part of the first Caliphs is helpful. The first Caliphs seemed to have acted on the very Lockean premise that their authority depended on their faithful execution of a trust, that they were servants of a common weal and did not hold their powers as a form of personal dominion over the people.

Consider in this regard, the pledge of responsibility given by the first Caliph Abū Bakr upon his assumption of office:

I have been given the authority over you, and I am not the best of you. If I do well, help me; and if I do wrong, set me right. Sincere regard for truth is loyalty (al-ṣidq al-amānah) and disregard for truth is treachery (wa-‘l-kidhbu khiyānah). The weak amongst you shall be strong with me until I have secured his rights, if God wills; and the strong amongst you shall be weak with me until I have wrested from him the rights of others, if God wills. Obey me so long as I obey God and His Messenger. But if I disobey God and His Messenger, ye owe me no obedience. Arise for your prayer, God have mercy upon you.

Caliph Abū Bakr was explicit in thinking that his authority depended on his faithful execution of an assignment from a superior power. He saw himself as an agent and provided for a right of revolution in the people if he ignored the terms of his agency. Unlike Locke’s recommendations, however, Caliph Abū Bakr saw his agency as coming from God above and not from the people below. But with due regard for the servanthood aspect of his office, Abū Bakr defined his work as to empower the weak and to prevent the strong from imposing their wills on the weak.

What is of great interest in Abū Bakr’s pledge is his use of the phrase (al-ṣidq al-amānah). These two words can be translated into the following ways: Truthfully speaking; I have been given a trust; we should be true to our trust:
• my government will require all citizens to be true to their trusts and duties of citizenship;
• being true to our trust will bring security to society;
• sincere regard for truth is loyalty;
• being truthful will bring you security.

The root of the word used here, *amān*, denotes security of life and possessions, the very goal Locke set forth as the end of government. And the root word is used to derive the expression of *amānah*, or trust, where one provides security to the aspirations and possessions of others. Abū Bakr is committing his government to a set of trustee responsibilities that are not grounded on his personal will or interest, but on some objective standard of truth.

Later, the second Caliph ʿUmar wrote the following in a letter to his officers about their responsibility to pursue justice over any personal prejudice:

Glory to Allah! Verily Justice is an important obligation to Allah and to man. You have been charged with this responsibility. Discharge this responsibility so that you may win the approbation of Allah and the good will of the people. Treat the people equally in your presence, and in your decisions, so that the weak despair not of justice, and the high-placed harbour no hope of favouritism. The onus of proof lies on the plaintiff, while the party who denies must do so on oath. Compromise is permissible, provided that it does not turn the unlawful into something lawful, and the lawful into something unlawful. Let nothing prevent you from changing your previous decision if after consideration you feel that the previous decision was incorrect. When you are in doubt about a question and find nothing concerning it in the Qur’ān or the *Sunnah* of the Prophet, ponder the question over and over again. Ponder over the precedents and analogous cases, and then decide by analogy.21

Other miscellaneous statements of ʿUmar in this regard:

• Trust is that there should be no difference between what you do and say, and what you think.
• That ruler is most accursed whose misconduct leads to the distress of people.
• Every ruler should keep his door open to people.
• Without consultation, the caliphate is unlawful.
• He who has any public responsibility should perform his duties without caring [about] criticism.
• If a sheep dies on the shore of the Euphrates I fear lest Allah ask me to account for it on the Day of Resurrection.22

As Professor Kamali has written: “None of the Companions have ever said that I rule in this or that issue according to my personal inclination, or that it is based
on what is dear to me and what I desire.” This stance by the Companions reveals that they understood without confusion that their powers were to be used in trust, not for personal gain or pleasure. They lead the community as trustees for good ends, not for personal power.

This understanding of powers held in trust, including the power of *ijtihād*, became evident when the third Caliph ʿUthmān ruled in a case of inheritance that considerations of fairness should prevail over the rule that a divorcee is excluded from sharing in the inheritance. In that case, a woman was divorced by a dying husband in order to exclude her from the marriage and so from possession of what was her due as a wife of long standing.

In searching for and recommending a just form of government consistent with Qur’ānic guidance, it would not be inappropriate

- to adopt John Locke’s understanding that public office is a public trust where the people have a legitimate expectation that government will serve their needs and not do them any injustice;
- and that, when government fails of these purposes, they may replace it with one that is more faithful and just.

Notes

2. Ibid., Chapters 2 and 3.
3. Ibid., Chapter 2.
4. Ibid., Chapter 4, see also Section 63.
5. Ibid., Section 8.
6. Ibid., Chapter 5.
7. Ibid., Section 19.
10. Ibid., Section 89.
11. Ibid., Chapter 9.
12. Ibid., Section 111; Chapter 19.
13. Ibid., Chapter 11.
15. Ibid., Section 164.
16. Ibid., Sections 172, 199.
20. “A political system based on force, oppression, changing people’s votes, killing, closure, arresting and using Stalinist and medieval torture, creating repression, censorship of newspapers, interruption
of the means of mass communications, jailing the enlightened and the elite of society for false reasons, and forcing them to make false confessions in jail, is condemned and illegitimate”, the late Ayatollah Montazeri said in a written comment with reference to the current government of Iran (available online at http://www.nytimes.com/2009/11/22/world/middleeast/22ayatollah.html?r=1&scp=1&sq=ayatollah%20montazeri&st=cse, accessed on 5 January 2010).

24. Ibid., 61.
VIEWPOINTS

Are the Hudūd Open to Fresh Interpretation?

Mohammad Hashim Kamali

The issue I raise below is over the scriptural, as opposed to the juristic, understanding of the ḥudūd, and what I am proposing is a revision of the whole concept from a qur’ānic perspective that reflects on the following four points.

Terminology

Let me say first that ḥudūd (‘limits’, pl. of ḥadd) in the sense strictly of penal sanctions do not occur in the Qurʾān. Ḥudūd’ are mentioned 14 times in the Holy Book, all in the sense, however, of limits of proper behaviour that must be observed in a variety of contexts. Six of the 14 instances of ḥudūd in the Qurʾān occur in just one passage (2:229–30) in the context of marital relations and limits that the spouses must observe in the events of estrangement, separation and divorce. The punitive connotation of ḥudūd can admittedly be subsumed under the concept of limits, as penalties are also markers and limits that separate acceptable behaviour from crime. But to reserve the ḥudūd entirely for certain types of punishments is a juristic convention that does not originate in the Qurʾān.

Number of Ḥudūd Offences

Ḥadd is defined as an offence for which a specified punishment is stipulated in the Qurʾān or authentic hadīth. The Qurʾān stipulates such punishments for four offences, namely adultery, theft, slanderous accusation and highway robbery. Yet the blueprint of fiqh or Islamic law raises this number to six, thus adding wine drinking and apostasy (and according to some seven, thus adding mutiny). The text condemns these as heinous behaviour which must be avoided but provides no penalty for them. This is yet another point of divergence between the fiqh tradition

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and the more restrictive approach the Qur’ān takes to punishments. Modern criminal law and jurisprudence also advise a restrictive approach to punishments.

Reformation and Repentance

The prevailing fiqh treats the hudūd as fixed and mandatory penalties, which leave little room for rehabilitation and repentance, despite the fact that these are stipulated in the Qur’ān. All that is needed is a proof of the offence which must then be followed by enforcement, thereby leaving no room for flexibility and discretion. Each of the four qur’ānic verses on hudūd specifies a punishment, which is then followed, in every case, by a reference to repentance and reform: if the offender repents and reforms himself then God is truly forgiving and merciful. The clear text thus leaves the door open to leniency for those who have fallen into error and become regretful, first time offenders, and those who show promise of correcting themselves. The rather harsh approach to punishment taken by the fiqh tradition also stands in a state of tension with the totality of Islam as a religion of compassion.

The four qur’ānic verses on hudūd consist basically of two provisions each, one specifying the offence and its punishment, and the other that provides for reformation and repentance. There is no expatiation beyond these terms. The question that arises is that the fiqh blueprint on hudūd has essentially ignored the latter portion of the text. Only the penalties were adopted but no provision was made to implement or contextualise the repentance (tawbah) and reformation (islāḥ) aspects of the hudūd. A structure of penalties, indeed a penal system, was thus envisaged that provides virtually no space for an educational and reformative exercise – presumably because of the shortcomings of the pre-modern system of criminal justice: to apply quantified punishments is a relatively facile task for courts and enforcement agencies than devising carefully nuanced procedures and approaches of the kind as are now known of probation orders, remand centres, community service, open prison, police attendance, suspended sentence and the like that are absent, even to this day, in most of the less affluent countries of the Muslim world. Only in the case of apostasy it is reported that the second caliph, ʿUmar b. al-Khaṭṭāb, ordered the apostate to be given three days in which to repent, failing which the hadd is to be implemented. This obviously takes rather a mechanical view of repentance, which may well require an educational approach within a more flexible time frame.

Now, if one were to review the whole theory of hudūd from a strictly qur’ānic perspective, the hudūd can no longer be seen as mandatory and fixed penalties. The qur’ānic penalties under review are admittedly quantified, which we can retain as such, but only in the sense of uppermost limits, the absolute maxima that can be reserved for the most heinous offences in the range. All other instances of hudūd as quantified penalties will accordingly have to integrate the flexibility that is embedded.
in the Qur’ānic text. This will effectively relegate all these instances of ḥudūd to the level of what is known as taʿzīr in the sense of unquantified deterrent punishments. The judge would thus be authorised to order a suitable punishment while taking into consideration the attendant circumstances of each case. This is proposed to apply not only to cases where some level of doubt in the proof of ḥudūd may arise and consequently relegate them to taʿzīr, as is the position now, but even to cases of ḥudūd that are free of such instances of doubt.

Exaggerated Beyond Merit

A substantive revision of the ḥudūd is important, indeed necessary, not only for Malaysia but for the Muslim world generally – simply because of the difficulties encountered in their implementation. Muslim countries have generally shied away from the enforcement of ḥudūd due to the severity of these penalties, yet because of public sensitivities they have not ventured to undertake a fresh interpretation of ḥudūd. The problematic of ḥudūd thus persist and are made worse by Western media and human rights activists that have taken the ḥudūd as a centre-piece of their anti-Islam propaganda. We know that Islam stands on its five pillars, and ḥudūd is not one of them. Punishment of any kind is rather remote from the spiritual core of Islam, yet the general public has maintained a highly exaggerated perception of ḥudūd as a litmus test and criterion of the ‘Islamicity’ of their governments. The whole issue has been riddled with misunderstanding, exaggeration, and disillusionment. We need to take stock of the issues and also the needed initiative to actualise an integrated reading of the Qurʾān on ḥudūd and the Islamic penal system as a whole.
Germany and the Muslim World

Christoph Marcinkowski

Germany, the ‘Friend of the Muslims’: Some Bright (and not so Bright) Spots

The relations between the world of Islam and Germany (or what was then the Holy Roman Empire) date back far into the Middle Ages and were particularly intense during the times of the Crusades. However, Muslims came to Germany in larger numbers as part of the diplomatic, military and economic relations between Germany and the Ottoman Empire in the eighteenth century. German diplomats and travellers, in turn, visited the Ottoman lands as well as Safavid Persia from the fifteenth and sixteenth centuries, respectively.

In Muslim public opinion, Germany appears to have been always seen as the ‘friend of the Muslims’, a kind of ‘exception’ compared with other Western colonial powers which controlled large chunks of the Muslim homeland. Germany – so it was thought – had no colonial ambitions in the Dār al-Islām. Germany’s last emperor, William II (r. 1888–1918), during his famous 1898 speech in Damascus, declared himself the ‘eternal friend’ of the (then) 300 million Muslims in the world. In a symbolic act, he even financed in that city for the upgrading of the tomb of Saladin, the Muslim war hero who fought during the Crusades against King Richard Cœur-de-Lion of England – England, the main opponent of the Kaiser’s expansionist agenda. That the Kaiser used at other occasions also to advocate a ‘Place in the Sun’ (by which he was not so much referring to the expansion of the German tourism sector but the acquisition of colonies for the Reich) might perhaps only disturb the minds of somewhat more sensitive individuals. At that time, the Reich had no difficulties in allying itself with ‘pan-Islamist’ Sultan ʿAbd al-Ḥamīd II (r. 1876–1909), who is revered even today by fundamentalist and certain right-wing strata, especially in Turkey. As it is well known, Germany took part significantly in the reform of the armed forces of the ailing Ottoman Empire. Consequently, Germany fought side-by-side with its Ottoman ally during the Great War, enabling the Ottomans – under the command of the Imperial German field-marshal Wilhelm Leopold Colmar Freiherr von der Goltz (‘Goltz Pasha’) – even to destroy the British invaders in December 1915 during their first attack on Iraq at the Battle of al-Kūt.

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Some 23,000 British and Indian soldiers died in the attempts to retake al-Kūt – probably the worst loss of life for the British away from the European theatre.

During the subsequent darkest period of Germany’s history, the ‘Third Reich’ even used widespread Muslim sentiments against increased Jewish immigration into Palestine, and some units of Hitler’s brutal Waffen-SS consisted exclusively of Muslims of a variety of ethnic backgrounds. In part, Serbian atrocities against the Bosnians in the 1990s wars that followed the destruction of unified and multicultural Yugoslavia can be traced back as a revanche to the slaughters of ethnic Serbs carried out by Muslim Bosnian SS units during World War II.

Particularly disturbing, to my mind, was also the role played by Muḥammad Amīn al-Ḥusaynī during his tenure as Grand Mufti of Jerusalem, when Heinrich Wolff, the then German Consul-General in Palestine, sent a telegram to Berlin reporting al-Ḥusaynī’s belief that Palestinian Muslims were supposedly enthusiastic about the new regime and looked forward to the spread of Fascism throughout the region. As a matter of fact, al-Ḥusaynī visited both Mussolini and Hitler (greeting the latter repeatedly with raised right arm, the infamous ‘German salute’). Germany’s involvement with the Muslim world in the past had thus a variety of facets...

Germany’s Present Stand in the Muslim World: Opportunities and Challenges

However, Germany’s association with the Muslim world has also featured some rather bright spots. Several prominent figures of German-language intellectual life are known for their positive attitude to Islam. Johann Wolfgang von Goethe (1749–1832), for instance, Germany’s most famous literary artist, was writing a verse drama on the life of Muḥammad at his death. His work *West-östlicher Diwan* (1819) shows sympathies with the world of Islam and its intellectual and literary achievements. Friedrich Rückert (1788–1866), the professor of Oriental languages, translated the Qur’ān as well as Persian poetry into German. This list could be continued...

Moreover, in the world of scholarship Germany has been able to paint a less sensational picture of Islam and the Muslim world that often tends to be somewhat more balanced and accurate – although the motives behind this may often have been driven by self-interest. Academic periodicals such as *Der Islam*, established as far back as 1912, contribute to these efforts. To this day, it continues to be one of the country’s leading academic journals in Islamic studies. Moreover, German scholars, such as the late Harvard professor Annemarie Schimmel (1922–2003), a leading expert on Sufism and Islamic spirituality, are still respected also in the Muslim world.
In the field of internal politics, Germany’s current CDU/CSU-FDP federal coalition government is going to continue the Deutsche Islam Konferenz (DIK) project initiated by the painstaking efforts of former federal interior minister Dr Wolfgang Schäuble, which is aiming at producing somewhat more meaningful results in the dialogue between the German state and the country’s Muslim organisations. In the light of several million Muslims residing and working peacefully in Germany, the recent announcement of the government that the DIK is going to continue are to be highly appreciated.

In the arena of international politics, German federal governments made up by Social-Democrat/Liberal coalitions had been able to engage Yasser Arafat’s PLO in a dialogue, and the achievement of a ceasefire at the end of the 1980–88 war between Iraq and Iran is seen by political analysts as mainly the result of ‘good contacts’ of Bonn with Tehran, as well as Baghdad. In line with Germany’s past as the major initiator of World War II, Social-Liberal federal governments repeatedly rejected an active participation of Bundeswehr units in UN peace-keeping operations or other active military ventures of the United Nations. It had been argued by some – although not by this writer – that such uses of the German armed forces outside the NATO territory would not be authorised by the Grundgesetz, the German Federal Constitution. Germany’s usually good relations with the Muslim world in the past may have played a part in this decision.

At the same time, Germany has also ‘special responsibilities’ as a result of its World War II genocide of the Jewish people – rightly so, in the view of this writer. Germany’s ‘unique position’, however, could also well enable it to have a restraining influence on Israel as well as certain countries that are often portrayed as ‘rogue states’, among them being Iran. Germany, with 4,500 soldiers and policemen, the third-largest contributor of troops to the UN-backed mission in Afghanistan, has so far also played a positive part in that country in terms of building up and training local security forces and in helping the country in numerous development projects, especially in the East, where German forces are predominantly stationed.

**Perspectives**

Today – within the context of the West’s rather strained relationship with the Islamic world at large – Germany could play an even more constructive role by investigating carefully its foreign policy vis-à-vis the Muslim world, weighing its political and economic interests and the long-term consequences. On the other hand, Germany cannot stand aside when it is asked by the international community or a Muslim country like Afghanistan for assistance. However, Germany’s internal security, too, could be affected negatively as it would now also become a convenient target for
terrorists. Whether such a scenario would be in the long-term interests of Germany – economic and otherwise – remains to be seen.

Germany’s military engagements abroad should be backed up – even more than it is already – by credible economic and development aid as well as training for the security forces of Afghanistan, where Germany is already present – based on a UN-mandate and on its NATO obligations of mutual defence.

Germany’s new Federal Minister of Defence, Karl-Theodor Freiherr von und zu Guttenberg, is thus not to be envied in his new position which he took over only in October 2009 from his predecessor Franz Josef Jung. As a matter of fact, zu Guttenberg recently addressed only a fact, when he referred to the situation in Afghanistan as ‘war’ – rather than a mere ‘peace-securing operation’. As Germany has no economic or strategic interests whatsoever in Afghanistan, the sacrifice – at the time of writing (November 2009) – of 39 German lives should deserve somewhat more gratitude – at home as well as abroad.
Malaysia’s Journey Toward Becoming a Truly Independent Nation

Wan Mohd Nor Wan Daud*

Being properly cognizant of our achievements after more than half a century of independence – no matter how small – can be building blocks for bigger and greater successes; and conversely, recognising our major and lingering weaknesses can be useful in eliminating encumbrances that will sap our energy and waste our already limited resources – both human and otherwise – which may unravel the achievements that have been attained with great difficulty.

However, independence is really a multi-levelled challenge. Merely obtaining political independence from colonial powers is not enough. Higher level independence starts with the freedom and independence of the mind to think and act according to the highest principles of knowledge and worthy traditions of a nation. Our challenges are therefore mostly centred on the higher intellectual level.

Political Stability and Economic Success

Considering our long colonial heritage, our truly linguistically, ethnically and religiously plural society of more than 23 million people, the relatively young age of our nation, and the large oceanic distance separating West from East Malaysia – our continuing political stability and economic successes remain one of our greatest achievements. In the last 52 years, we have dealt with great success with the Communist insurgency, the confrontation with Indonesia, the secession of Singapore, the racial riots of May 1969, and the political crisis of 1998.

I think, as a whole we have learnt the lessons of May 1969 rather well and have made great attempts to root out the social-economic causes of the problems by instituting new socio-economic and educational policies, as well as legislating new laws. The fact that, since then, there have not been any serious racially or religiously motivated riots or fatal incidences – which have happened relatively quite regularly even in the more economically advanced European nations – gives us good reason to realise that, perhaps we are on the right track. This does not mean that everything is fine under the surface: the apparently widening racial polarisation in the institutions of higher learning and the emerging of venomous, and vitriolic racial and religious

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remarks in the world of cyberspace are signs of unhealthy trends, even though in the latter development, we are not certain how much of these are written by Malaysians.

Some key aspects – such as education – of the recently expired National Economic Policy (NEP), and its current successor, the National Development Plan (NDP), have been criticised by some as not being based on meritocracy, a concept whose meaning is taken for granted. Like many key concepts and terms in modern Malaysian socio-political, legal and economic discourse, meritocracy is derived from the English language without much regard for the possible historical and cultural differences embedded therein.

To further sustain political stability and the credibility of our democracy we need to effectively demonstrate greater respect for our increasingly more educated, informed, and vocal citizens. Hence, we need to allow more freedom for dissenting or alternative opinions on all matters pertaining to public interest through open and transparent dialogues and communication. Fair criticism on all these matters and peaceful gathering to express their concerns must be allowed. The unwritten pre-Independence Social Contract between leaders of various races and ethnic groups, the Constitution and the laws, as well as ethical and moral reasoning and consensus should always remain our guide and parameters.

**Moderate Religion-Centric Development Programme**

In Malaysia, the constitutional declaration that Islam is the religion of the Federation and that other religions are free to practise is not merely a reflection of the original genius of the nation’s modern founders, but, of equal importance, of their recognition of the historic role of Islam and its respect for the adherents of other religions and ways of life.

Some people have argued that Malaysia is a secular state and not an Islamic state. They argued that the Constitution is a secular one and the first Prime Minister Tunku Abdul Rahman had supposedly indicated that the provision of Islam as the religion of the Federation is to be interpreted in a secular and ceremonial manner. Again, the confusion arises mostly from the meaning of the English terms ‘secular’ and ‘secularism’ and their manifestations in Western history and culture. Our own scholar who is also one of the most powerful thinkers in the contemporary world – Syed Muhammad Naqib al-Attas – in his seminal work *Islam and Secularism* (1978) has already clearly explained these matters. An Islamic state is not a theocratic state and does have valid secular functions.

Merely implementing religious-minded policies does not guarantee national stability and prosperity if religion is interpreted and applied in a narrow and unbalanced manner, which would lead to injustice. In Malaysia, religion has become a general guide for its modernisation process, an achievement that can be
considered quite unique. The presence of many of the world’s great religions and ethical philosophies in this country should be regarded as a blessing. Recognising the fundamental differences that exist between each of them – especially in theological and ritualistic matters – does not mean discarding and not benefiting from the many common ethical teachings.

Freedom of religion should not be interpreted merely in a limited personal sense, but also in a social sense, because religions – especially Islam – do have social, legal and institutional dimensions. Personal freedom of religious belief and practice must be allowed within the valid social, legal and institutional frameworks of that religion of which a person is a member. Otherwise, it may lead to a religious and moral anarchy. Freedom of religion also means that the teachings and practice of a particular religion and its related institutions should not be interpreted from principles and methods that are diametrically opposed to its own well-established epistemological traditions. A wise, moderate and just balance must always be maintained. Religion and ethics-based national development, just like its secular opposite, should never be allowed to exhibit any extremist tendencies.

**Strengthening of Key Institutions Through Proper Leadership Selection and Succession**

Integrity of key institutions, or the lack thereof, reflects a great deal on the spiritual and ethical level of the national elites – and the people who elect them – of a particular country. Malaysia has not done too badly on Transparency International’s Corruption Perceptions Index – even if we accept the criteria and definitions used by the various bodies, which are not truly reflective of the comprehensive meanings of development and corruption understood from a religious perspective, Muslim or otherwise.

While the scope and volumes of actions that betray the erosion of integrity have increased, as a whole, Malaysians have done quite well. This statement of mine will surely elicit cynical remarks from some quarters and a quick dismissal from some others, in the light of the regular allegations – as well as officially documented cases – of major corruption and abuse of power by certain individual leaders and others in white collar positions in the various sectors of the country.

Obviously, the perception of some educated groups, as indicated by the keen and critical postings in the various popular blogs, is that the current state of democracy and government is indeed not a positive one. This negative perception among popular internet blogs may not be enough to cause major damage to the overall stability of the country, but it can possibly erode a very important sentiment leading to paralysing cynicism and apathy among the middle class professionals and some members of the private sector, which will derail on-going and future efforts of the
Government. This is because the middle class is the most instrumental group in explaining and implementing the national agenda.

Success and failure of a country, including Malaysia, depend on those of its key institutions such as the executive, judiciary, administrative, educational and religious etc. which in turn rely on the individuals who are selected or appointed to lead them and their constituent departments, branches and units. There is a greater need to ensure that persons with the necessary intellectual abilities, administrative acumen and ethical integrity be appointed. Of course, they must firmly agree with the general outlook of this democratically elected government.

While finding such leaders is hard enough, developing and grooming the next level of capable successors is even more daunting, which explains why a majority of key institutions in many developing nations cannot be sustained or advanced, despite having been led by able leaders in the beginning. Although we have done relatively well compared to most of the other developing nations, we must do better in order to advance to the next and higher level.

It is quite sad that sometimes many policies and projects of a retiring leader are seldom sustained, and further developed by his successor, even if the latter is from the same political affiliation or is from within a similar organisation. There seems to be an ingrained psychological complex that in order to underline one’s contributions an almost total cleansing of all the predecessor’s policies and projects would be required, even if they have been proven successful. A lot of resources are wasted and negative feelings are generated.

Furthermore, major new policies and projects will not garner full commitment from the members of the institution, because everyone therein knows that these will be likewise dismantled or sidelined by the next successor. Lip service, no doubt, is always loud and impressive but substantially wanting. Often minor players are raised high and acknowledged while the truly worthy ones are ignored. Under such debilitating circumstances, meaningful legacy and traditions that transcend political exigencies can never be established.

Moreover, leadership succession must be relatively orderly and predictable to ensure continuous stability and movement from strength to strength, even if, through fair democratic process, new leaders may emerge and a new government may be formed. The strengths and accumulated experiences of former leaders are seldom solicited, and when offered they are regarded as dangerous criticisms. Hence, similar, though not the same mistakes are repeated and the vicious cycle continues.

Conclusion

For the next 50 years of our journey, a lot more needs to be done – and done well. We must collectively learn from past mistakes and wastages, and develop a systematic
means to reduce and eliminate them. Small nations like Malaysia cannot afford to make many major mistakes and wastages without leading to catastrophic effects. The nature of reality is constant change, but the underlying identity and meaning of a nation should remain the same. It would be a great gift to our future generations and to those of other nations, if we bequeath them guiding ideas, vibrant institutions as well as strong financial structures that they should further improve and refine to deal with the vicissitudes of their own times.
In the following paragraphs I would like to highlight the impact of globalisation on cultural pluralism and then the issue of how the resulting cultural pluralism might in turn impact the future pattern of the world order. The thrust of my theme is on emphasising the need to better understand the meaning and implications of the changing face of cultural pluralism for our contemporary world. It is also to suggest what we need to do to effectively confront the major challenges posed by the cultural pluralism landscape of our early twenty-first century. In hammering home my points I will take Malaysia as an example, which itself was created out of the cultural pluralism unleashed by the European wave of globalisation during the colonial era. Malaysia is today a Muslim-majority country with a large non-Muslim population thanks largely to what I have termed as demographic globalisation. With all the major religions of the world each having a good number of followers in the country Malaysia is truly a multi-religious society. It is also a good example of a truly multi-ethnic country boasting of dozens of ethnic groups. For more than 50 years now Malaysia has been struggling to create a pluralistic and yet united modern nation out of its ethnic, religious, and cultural diversity. Its successes and failures are all there for everyone to see.

Our World: More Globalisation, not Less

Without doubt we live today in a world which is increasingly globalised. No matter how we define globalisation it is true to say that our world of today is more globalised than our world of say only a few decades ago, let alone of a century ago. We can say with confidence that our world of tomorrow will be more globalised than our world of today. There is a good explanation why this phenomenon of progressive globalisation is happening to our world. A powerful combination of material and human factors, especially those pertaining to communications and transportation technology, economic interdependence, and education help to guarantee the momentum of our world moving in the direction of greater globalisation. These three main factors have resulted in an unprecedented flow and

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movement of people across national boundaries and across continents that help to bring about far-reaching changes to the demographic and cultural map of the world. In order to better understand the irreversibility of this direction we need to look at the nature of globalisation itself.

Globalisation has been understood and defined in many different ways. The popular understanding of it is unfortunately but understandably limited to its economic and financial dimension. In reality, however, globalisation as a whole refers to a much broader, more comprehensive, and more complex phenomenon shaping our contemporary world. No matter how important the economic and financial transformation of our world is to our understanding of globalisation we need to see and understand it for what it is. As I seek to define it, globalisation is a multi-dimensional process embracing at least six major dimensions of human life and thought, namely, the economic (including the financial), the political, the religious and cultural, the scientific, the technological, and the demographic. The multi-dimensional nature of globalisation should be obvious to us when we can see very clearly the different kinds of objects that are being globalised, both material and intangible. As a process, globalisation involves the interrelated flows on a global scale of such things as goods, services, money, people, information and technological skills as well as less tangible things such as ideas, values, behavioural norms and cultural practices across state and national boundaries either in ways that are planned and regulated or otherwise.

Globalisation is therefore to be seen as a dynamic process in which the global human community is becoming more and more interconnected and interdependent as a result of the complex interplay of various kinds of forces, both natural and human, associated with each of the six dimensions to which I have referred. It is also a global process in which both unity and diversity in human life and thought are becoming more visible than ever before.

Several assertions can be made: First, it is meaningful to speak of the different kinds of globalisation, namely, economic and financial globalisation, political globalisation, religious and cultural globalisation, scientific globalisation, technological globalisation, and demographic globalisation. We may therefore speak of globalisation both in the singular and in the plural. Globalisation in the plural refers to its different dimensions I have listed. And globalisation in the singular refers to the overall process in which these different dimensions interact with one another to produce progressive interconnectedness and interdependence in the global human community.

Second, we may claim that it is in the nature of this multi-dimensional globalisation to display increasing interconnectedness and interdependence in the world community as a clear manifestation of its underlying unity hand in hand
with increasingly problematic religious and cultural encounters between its diverse components as a clear sign of its poorly managed diversity.

Third, the trends observable in the globalisation process are also very clear to us. Our world is moving in the direction of greater globalisation and not less. The different parts of the world which used to be separated from each other in the past by both geographical and cultural distances are now moving closer to the emergence of a single global human community. The idea of our world becoming a global village, once a much talked about topic, may still serve as a potent reminder of the strong belief among many people in the irreversibility of globalisation. If we are looking for a deeper reason for this irreversibility then we may be able to find it in the fact that this globalisation is essentially knowledge-based. The scientific and technological globalisations are two major components of this knowledge-based globalisation that by their very nature would help to ensure its irreversibility. Scientific and technological knowledge is accumulative by nature. It is this fact more than any other which will help to produce more intensive globalisation not only within their own specific domains but also in the other four domains of economics and finance, politics, religion and culture, and demography.

**Effects of Globalisation on Cultural Pluralism**

The effects of globalisation in the sense I have understood it on our contemporary world both in material and human terms are numerous, diverse, and in many cases extremely challenging. Many of these are positive to the future wellbeing of humanity. But perhaps equally true are the plentiful negative effects of globalisation on our contemporary human life. Much has been spoken about and written on the virtues and vices of globalisation. While the discourse on globalisation is an ongoing thing at all levels – national, regional, and global – the different faces of globalisation are also changing. One of the most fateful consequences of globalisation is the increasingly pluralistic nature of our world. Of course, long before the modern word ‘globalisation’ was coined, the world as a whole has always been pluralistic in the sense of being multi-ethnic, multi-religious, multi-cultural, and multi-civilisational since the beginning of historical times. But human perceptions of this fact of plurality have not remained unchanged. We in the modern world have become more conscious than ever of the fact that we do live in a very much pluralistic world. Our new consciousness pertaining to cultural pluralism is no doubt largely due to the fact that thanks to the dominant forces shaping our contemporary globalisation – media, telecommunication and transportation technology in particular – we are able to personally observe in human societies everyone becoming more pluralistic and heterogeneous.

**Islam and Civilisational Renewal**
We can hardly find today a culturally homogeneous society on earth any more. Malaysia is in a good position to speak about its long experience of the major ‘waves of globalisation’ since Islam appeared on the world scene in the seventh century CE. Malaysia – a country situated in Maritime Southeast Asia – was impacted by the Islamic wave of globalisation particularly in the thirteenth century. As a result of this wave which was mainly driven by trade and Sufi missionary activities, Malaysia and the neighbouring region were gradually transformed into Muslim-majority territories. Second, there was the impact of the European wave of globalisation – unleashed primarily by colonialism. Third, there is the post-colonial (post-World War II) wave of globalisation, dominated by the United States, which we are still experiencing. All those three waves of globalisation have helped to significantly change the religious and cultural landscape of Malaysia over the centuries. Despite the large influx of migrant workers from China, India and Sri Lanka during the colonial period, Malaysia remains until today as a Muslim-majority country. However, the large non-Muslim minorities in the country (about 40 per cent) are a major legacy of the colonial wave of globalisation. Interestingly, the post-colonial wave of globalisation has had the reverse effect of bringing continuous streams of migrants, mostly Muslims, from former colonies to Europe and the United States.

Addressing the Challenge of Cultural Pluralism

While technology has helped to turn our world into a homogeneous “global village” in the material sense we find ourselves hardly ready to live in the same village in peaceful coexistence with others who are culturally different from us. But given the changing nature of our world irreversibly moving in the direction of greater and more complex pluralism we have no choice but to live with the reality which such a world would dictate upon us. We have to confront wisely and patiently the challenge of cultural pluralism. There may be many different ways of responding to this challenge. In my view, it is extremely important to highlight the importance of cultural dialogue in the pursuit of the common good as a way out of our present dilemma posed by the multi-faceted contemporary phenomenon of cultural pluralism.

The key to peaceful coexistence in a world of diversity and pluralism is the cultivation of cultural dialogue as a way of life. Through this dialogue we hope to identify our commonalities with the view of strengthening them and to identify our differences which we then seek to reduce to their irreducible levels. We then appeal to education to help us inculcate the right spirit of respect and tolerance for these irreducible differences.
The issues of ‘honour’ – and in particular honour-related crimes – in modern societies undisputedly need more public reflection and discussion, especially at the meeting points of different cultures.

The ‘concept of honour and shame’ – although not the only factor – is very important for understanding the background of domestic violence. This applies also – although in no way exclusively – to those Muslim family structures that are based on particular cultural traditions. The division of honour into ‘true’ and ‘artificial’ honours indicates that honour can be used to legitimate the hierarchy between members of the family. From a sociological perspective, the minimalist definition refers to honour as a right to respect. This means that honour exists both subjectively and objectively. It exists subjectively as a personal feeling as being entitled to respect. However, it exists also objectively as a public recognition of the public value of the individual. Honour/dishonour-shame always has a form of publicity.

There are two academic traditions in the interpretation of honour: honour is defined as virtue on the one hand and as dominance/hierarchy on the other. In both cases honour is considered as a value system which is gendered. Honour as virtue is usually associated with women, and honour as dominance/hierarchy links up with men. Honour is a ‘cornerstone’ in the construction of gender identity and public representation of masculinity-femininity in so-called ‘honour and shame societies’. However, honour is not merely a gender-specific or individual genderless phenomenon; it is simultaneously a concern of the kinship group (nuclear or extended family). Therefore, honour unites the family but, simultaneously, also divides its members.

Honour expresses the group’s highest values and its public recognition. Hence ‘honour killing’, i.e. ‘washing shame with blood’, of a violator of the group’s values is only one method to ‘restore’ honour of the family in most of the ‘honour and shame cultures’. The violator may be a female or a male, a member of the dishonoured family or an outsider. However, only males are allowed to ‘restore’ the honour of the family. In the rarest of cases, when a family does not have male members, a female may be allowed to execute the ‘honour killing’.

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Patriarchy, in its general sense, represents the institutionalisation of hierarchy. In feminist thought, patriarchy is usually defined as a system of male authority over women. The power of patriarchy is based on the greater access of men to (and mediation of) the resources and rewards of authority structures. Patriarchy is deeply embedded in culture, and, consequently, it challenges and influences the structures of social institutions responsible for ‘processing’ a gender identity in a boy/man and a girl/woman. The traditional Western (patriarchal, Christian) pattern of gender relations is best explored in positivist sociology and represented in the concept of the family. The family is understood as a stable nucleus with a hierarchical structure that assumes male dominance and, accordingly, the subordinate position of women and children. The husband is seen as the main breadwinner while the wife is the homemaker. Such an idea of the family implies what can be termed a ‘dictatorship of marriage and childbearing’. In the West, this idea of the family was politically reformulated by the New Right ideology and strongly supported by neo-liberal policy of the governments under leadership of Margaret Thatcher in the United Kingdom and Ronald Reagan in the United States in the 1970s–80s, respectively. Hence, patriarchy affects social structures of society as gender identity. Despite the theoretical deconstruction of the concept of the family, in the Western world (and, of course, not only there) many individuals – both women and men – in their private life follow such patterns.

‘Classical feminism’ and/or ‘post-feminism’ was born and developed within the Western societies. The analysing of social theories implies the knowing that any theory is a product of a specific society and its culture. Due to the worldwide globalisation of our times, the ‘local’ theories may therefore have the universal keys for the explanation of ‘other’ societies and cultures.

The methods of control range from psychological to physical. It would be possible to speak about an egalitarian model of family relations in Islam if women would have a minimal legal prescription to the control of men at least.

In analysing cases of confirmed ‘honour killings’, a recent study distinguished the differences between the victim-perpetrator in ‘honour killings’ and ‘ordinary’ domestic violence. The victims are largely teenage daughters or young women. Wives are also victims, but to a lesser extent. Moreover, unlike most cases of Western domestic violence, ‘honour killings’ in a Muslim milieu are mostly carefully planned. The perpetrator’s family may warn the victim repeatedly over a period of years that she will be killed if she ‘dishonours’ her family by refusing to veil or act as their family’s domestic servant; wearing makeup or Western clothing; choosing friends from another religion; dating; seeking to obtain an advanced education; rebuffing an arranged marriage or seeking a divorce from a violent husband; or behave in ways that are considered too independent or ‘westernized’,
which might mean anything from driving a car to spending time or living away from home or family.

Most importantly, only ‘honour killings’ involve multiple family members: fathers, mothers, brothers, male cousins, uncles, and sometimes even grandfathers commit the murder, but mothers and sisters may ‘lobby’ for the killing. Some mothers collaborate in the murder in a hands-on way and may assist in the getaway. Family members conducted ‘honour killings’ with excessive violence – repeatedly stabbing, raping, setting aflame, and bludgeoning – in more than half the cases. Only in serial-killing-type scenarios are Western women targeted with similar violence; in these cases, the perpetrators are seldom family members and their victims are often strangers. In the West, domestic violence is seldom celebrated, even by its perpetrators; wife batterers are ostracised. Here, there is an important difference in ‘honour crimes’. Misguided Muslims who commit or assist in the commission of ‘honour killings’ often view these killings as ‘heroic’ and even view the murder as the fulfilment of a religious obligation. ‘Honour killings’ are thus not stigmatised.

According to Chesler, 90 per cent of honour murders in the West are committed by Muslims against Muslims. The next-largest group practising honour killings is comprised of Hindus and Sikhs. Nor is there any significant difference between honour killings in North America and Europe. Neither the average age (20) nor the percentage of daughters as victims in the European cases is significantly different from those in the North American cases. In every case, perpetrators view their victims as violating rules of religious conduct and act without remorse.

Chesler’s study suggests that the occurrence of ‘honour killings’ is accelerating in North America and may correlate with the numbers of first-generation immigrants. Immigrants who ascribe to extremist views in their religious outlook, tend to control and patrol their women very closely; a free interpretation of the rules of women’s obedience may define a lot of things to kill them for. The problem is diverse but originates with immigration from majority-Muslim countries and regions – the Palestinian territories, the Kurdish regions of Turkey and Iraq, majority Muslim countries in the Balkans, Bangladesh, Egypt, Afghanistan and Pakistan. Still, there are legal interventions underway in Europe – home to between 20 and 30 million Muslim immigrants and their descendants – as opposed to perhaps 4 million in the United States and Canada. Honour-related violence is, therefore, more visible in Europe than in North America.

At the same time, neo-Orientalism reflects the Western public discourse in relation to honour in Muslim societies. The new technologies have a profound impact on it: ‘honour killings’ of women often feature among the news-of-the-day in the transnational media; filmed Taliban-style executions circulate on the internet and can be seen online via YouTube. Undoubtedly, the media representation of ‘honour killing’ is the best proof of ‘washing shame’ and the teaching tool for both a possible
victim and her killer. However, thanks to the media, police, politicians, and feminist activists in Western and some of the Muslim countries are beginning to treat ‘honour killings’ of women as a serious social problem – and ultimately as a crime.

Despite the fact that the language of honour and shame has largely disappeared in modern Western societies, it has never really done so totally. Honour transformed into reputation, prestige or status remains a powerful motivation of an individual’s behaviour in fighting for recognition of his/her public value. Notorious Western individualism does not deny the significance of the family in the life of an individual. However, ‘dishonoured’ families or – in the modern Western meaning – families with damaged or lost reputation, prestige or status, in an attempt to restore honour prefer a ‘symbolic’ rather than real killing. The violator of the family values would be ‘publicly eliminated’ from the family. This means that the family would compel or simply let the ‘wrong’ family member go away – usually with some financial support. ‘Elimination’ from the family is a very serious kind of punishment, especially for youngsters, because it changes their life-scenario dramatically from the start and often in a negative way. At the same time, ‘symbolic killings’ allow the family to ‘restore honour’ in their respective community and, simultaneously, to remain obedient to the state’s law and, therefore, to evade the penal institutions. Moreover, ‘symbolic killing’ gives some chance to the violator of the family values for future forgiveness.

In the view of this writer, the issue of a ‘culture of honour and shame’ is thus not necessarily based on the original teachings of Islam but might well be related to certain Muslim cultural practices. ‘Honour and shame cultures’ are also found in countries with strong Christian traditions, such as in the Mediterranean region and Latin America. Undoubtedly, historical changes affect the perception and notion of honour and the methods to defend it. In sum, the concept of honour has shifted over time from rank and behaviour to moral character, but unfortunately the same cannot be said about everyday practice.

Notes

2. Ibid.
BOOK REVIEWS

Sedat Laçiner, Mehmet Özcän and Ihsan Bal – *European Union with Turkey: The Possible Impact of Turkey’s Membership on the European Union*


Christoph Marcinkowski  *International Institute of Advanced Islamic Studies*

Turkey’s 22 July 2007 parliamentary elections resulted in a clear victory for the ruling Justice and Development Party, in Turkish known as *Adalet ve Kalkınma Partisi* or AKP. AKP is part of the right-wing, conservative spectrum of the Turkish political arena. In the West (with the post 9/11 scenario of distrust of anything smacking of ‘Muslim revivalism’) as well as among Turkey’s secular-minded elites and many citizens, the AKP is often perceived as ‘Islamist’ and thus as a danger and detriment to Turkey’s EU membership, regardless of the fact that it had been the AKP government which carried out drastic reforms of its legal and economic, and institutional system.1 Based on what it views as merely lukewarm support for its accession to the EU and alleged double standards in its negotiations, the Turkish public has become increasingly ‘eurosceptic’ in recent times, as revealed by several surveys. Ankara has been trying desperately to comply with EU legislation and standards, but Brussels has so far refused to back 2013 as a deadline for Turkey’s EU membership. It is believed that the accession process will take at least 15 years, if not longer. In spite of Turkey’s impressive record in terms of moving towards regional integration, the issue of the country’s future EU accession constitutes to date the central controversy of the ongoing enlargement of the EU. Among the Turkish public as well as the present Turkish government (both of which had been rather enthusiastically supportive of the bid for EU membership in the past) significant changes of ‘mood’ in this regard are noticeable.

Published in 2005, the book by Laçiner, Özcän and Bal falls into the category of rather passionate support of Turkey’s EU membership. Each of the three authors has contributed one chapter, Laçiner’s being the longest. The publisher, the International Strategic Research Organization (ISRO, in Turkish: *Uluslararası Stratejik Araştırmalar Kurumu* or USAK), sees itself as a stern critic of a supposed domination of strategic and international studies by a ‘Western’ point of view and
as offering an alternative perspective. ISRO, its branches, and its publications are considered by some to have a highly nationalistic stance, particularly in issues regarding the Armenian Question.

The first part by Laçiner (pp. 15–86), who is also the Director of ISRO, tries to address the issue of a possible Turkish EU membership on EU foreign policy. He identifies the following areas where Turkey would – in his view – be able to leave a positive impact that would also reflect positively on the Union as a whole: the Balkans (Turkey as a mediator in the various conflicts there, in particular Kosovo), the Middle East (Turkey has diplomatic relations with Israel but is also a Muslim country which supports a “just” peace with the Palestinians; Turkey as a guarantor of stability in Iraq), the Black Sea region (Turkey reaching out to former Soviet bloc member states, such as Ukraine and Russia), the Mediterranean, Central Asia (Turkey as well as most of the Central Asian republics are Muslim and Turkic-speaking countries), and the Caucasus. Laçiner’s presentation, however, seems to overstretch Turkey’s actual capabilities and, more grave, seems to lack a proper understanding of what the Union is all about. Not unilateral steps to the advantage of individual states in order to revive the grandeurs of, for instance, Ottoman fame, but rather acting in concert with all the other member states is the key of a successful EU foreign policy. Laçiner’s concept of a more active role for Turkey would mark a clear departure from the path of the Republic’s founder, Atatürk, who disregarded adventurism and political interference outside the country’s borders. But even back in 1974 the Cyprus invasion could be seen as such an incidence. This reviewer has tried to address such utopias already in the review of another, somewhat more balanced book.² Laçiner’s conclusion, entitled “Before it is too late”, says it all: a rejection of Turkey’s accession would play into the hands of religious fanatics. One is left to wonder, however, as to why Europe should be responsible for solving Turkey’s internal political issues?

The shorter second part (pp. 87–134) authored by Özcan deals with possible influences of a Turkish membership on the internal security scenario within the EU. His focus is on the issue of illegal immigration to the ‘old’ EU member countries, and on the Turkish diaspora residing in them. It is perhaps the most balanced part of the book as it provides facts and figures. In his conclusion, Özcan focuses on Turkey’s role as a ‘transit’ country rather than a ‘source country’. Admission to the Union would, according to the author, ease the pressure on other EU member states. However, the answer to many a European’s burning question of how to integrate those millions of Turks who have already been living for decades in countries like Germany – countries with an entirely different cultural background – has been left unanswered. Özcan’s main argument in his conclusion seems to be that Turkey could ‘filter out’ certain ‘unruly’ elements on their transit via Turkey towards illegal
immigration in the core EU member states. However, as a matter of courtesy, this would also be expected from any other member state of the United Nations. To the mind of this reviewer then it does not appear why a full membership in the EU should be a requirement for this. Does this mean that Turkey would forward extremists who are ‘on transit’ straightaway to the Union in case the processing of its membership application would take ‘too long’? Moreover, what would happen if Turkey’s voters should one day decide to give up its secularist principles by bringing to power a government of a somewhat more decidedly ‘Islamist’ flavour than that of the rather ‘mild’ AKP?

Bal’s contribution (pp. 135–66), the shortest of this book, is dedicated to the role played by Turkey in combating regional and international terrorism. Bal rightly argues that Turkey has during the second half of the twentieth century had its own experience with the fight against (internal) acts of terrorism – against political right and leftwing extremism and against violent separatists, such as the Kurdish PKK. He adds that those experiences could be of use to Europe as well. However, once again, it does not appear why an accession to the EU should be made a preliminary for forthcoming assistance from the part of Ankara in the fight against terrorism.

The book contains also an extensive appendix (pp. 167–270) with four EU documents that are basically supportive of Turkey’s bid for full membership, one of them being a recommendation of the European Commission on Turkey’s progress towards accession (COM (2004) 656 final, dated Brussels, 6 October 2004).

To the mind of this reviewer then, the practical arguments brought forward by the three authors for a Turkish full membership are quite weak. At times, the reader might get the impression that the main agenda of the authors is to scare (and even threaten) their opponents, as if suggesting that “if you don’t let us in, you will be lost, as the Muslims here (and inside Europe) will be ‘very very angry’ at you”. This and other vaguely hidden threats and rhetoric might only cause anxieties and would further repel wider strata of the European public, evoking similar, more drastic images of the sixteenth-century confrontation of Europe with ‘The Turk’, the powerful Ottoman Empire.

However, in spite – or rather because – of the controversial character of the contents, the book provides deep insights into the current discussion of the issue of a possible Turkish EU membership inside Turkey. To sum up, as the arguments against such a membership from the part of certain European countries have already been publicised well to a wider audience, European Union with Turkey could contribute well towards understanding the other side. The book should thus be on the shelf of any individual or institution concerned with the study of the relations between the contemporary Muslim world and Europe.
Notes

1. I have tried to address the pros and cons of a full EU membership of Turkey in somewhat more detail in my “The Islamic World and Europe at the Crossroads”, in: Christoph Marcinkowski (ed.), The Islamic World and Europe: Managing Religious and Cultural Identities in the Age of Globalisation (Freiburg Studies in Social Anthropology 24; Zurich: LIT Verlag, 2009), 17–37.


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This book by Pulitzer Prize-winning New York journalist Paul Moses retells the story of a meeting that took place in the summer of 1219 during the Fifth Crusade (1213–21) between Saint Francis of Assisi – one of the best-loved saints of Catholic Christianity – and the Ayyubid Sultan al-Malik al-Kāmil (r. 1218–38) in the Egyptian city of Damietta at the mouth of the Nile. In a dangerous and daring move by crossing enemy lines to advocate peace, St Francis and Malik al-Kāmil shared a brief dialogue about war, peace and faith in the One God. The conversation inspired St Francis to return home with a bold challenge to his fellow Christians: to live peacefully with the Muslims despite the war between their religious leaders and to stop warfare of any kind.

The Fifth Crusade was another attempt on the part of Christianity to retake Jerusalem and the rest of the Holy Land from the Muslims by first conquering the powerful Ayyubid state in Egypt. Due to famine and disease after the Nile failed to flood, al-Kāmil could not defend Damietta. This led to the fall of the city to the Christians in November 1219. The sultan withdrew to al-Manṣūrah, a fortress further up the river. After this there was little action until 1221, when al-Kāmil offered peace again, but was again refused. After their initial success at Damietta, the Crusaders for their part marched south towards Cairo in July of 1221. An attack by al-Kāmil during the night, however, resulted in a great number of crusader losses – and eventually in the surrender of the Christian army. The sultan agreed to an eight-year peace agreement with the Christians. He was able to retake Damietta in September 1221. In the following years, al-Kāmil was locked in a power struggle with his brother and was therefore willing to accept a peace agreement with the Holy Roman Emperor (and King of Jerusalem) Frederick II of Hohenstaufen (r. 1220–50), who was scheduled to arrive in the region for what became known as the Sixth Crusade (1228–29).
In February 1229, al-Kāmil negotiated a ten-year peace treaty with Frederick II and returned Jerusalem and other holy sites to the Crusader kingdom. The treaty of 1229 is unique in the history of the Crusades. By diplomacy alone and without major military confrontation, Jerusalem, Bethlehem, and a corridor running to the sea were ceded to the Kingdom of Jerusalem. Exception was made for Jerusalem’s Temple area, the Dome of the Rock, and the al-Aqṣā Mosque, which the Muslims retained. Moreover, all current Muslim residents of the city would retain their homes and property. They would also have their own city officials to administer a separate justice system and safeguard their religious interests. The walls of Jerusalem, which had already been destroyed, were not rebuilt, and the peace was to last for ten years. Nevertheless many Muslims were still opposed to this treaty, as were many Christians. In 1239, the treaty with Frederick expired and Jerusalem came again under Ayyubid control.

In 2009, the Catholic Church celebrated the 800th anniversary of the Franciscan Order. Although St Francis of Assisi came from a wealthy family, he is best known for his embrace of poverty, which led to his founding of the Franciscan Order. St Francis – or il poverello, the ‘little poor one’, as he is known among his admirers – is probably the Catholic Church’s most popular saint – in part because he appeals to so many non-Christians. That he could communicate with animals and live harmoniously with nature might have something to do with it, as well. Less well-known is his role in the establishment of the historic peace talks during the violent Crusades. Christopher Tyerman’s massive history of the crusades, God’s War, for instance – reviewed by the writer of these lines in the previous issue of this journal – devotes less than two pages to the encounter between St Francis of Assisi and the sultan of Egypt.

By contrast, that historic encounter between the two forms the centrepiece of Moses’ book. Moses believes that the meeting of Francis with the sultan – a nephew of the legendary warrior Ṣalāḥ al-Dīn al-Ayyūbī (known to the West as ‘Saladin’) – is crucial for understanding how Francis understood his strategy of dialogue with ‘the Other’. Moses centres on Francis’ dedication to peace, highlighting the saint’s 1219 meeting with al-Malik al-Kāmil. Embracing a life of poverty, Francis was joined by other young men fleeing the violent culture around them, whom he exhorted to preach peace and repentance. The saint’s long-standing desire to preach to the Muslim world led to his famous encounter with al-Malik al-Kāmil in 1219. Francis came across the lines unarmed, merely chanting the 23rd Psalm, “The Lord is my shepherd…”. Apparently, al-Kāmil – already a serious Muslim who respected Christian monks and Muslim Sufis – was impressed with Francis.

Moses’ book, which aims at a wider audience – also traces the origins of Francis’ thinking about peace back to his early years when he himself was an aristocratic warrior for his Central Italian home town of Assisi as it waged war
against neighbouring Perugia. It was to advance his vision of peace that Francis travelled to the Middle East to seek out the sultan and engage him in a dialogue, much to the chagrin of the institutional Church, which was supporting the Crusades as an attempt to win back the Holy Land. Through logic and reason, he also hoped that the sultan would be won over to the merits of Christianity. While the meeting between the two did not produce an immediate peace or a conversion, Moses asserts that it blazed the path to what still can be a similar conversation between Christians and Muslims in our own day. Moses’ realistic and powerful book gives readers an informed idea of how difficult it was to follow Francis in an age of broad acceptance of violence. The saint comes through as both lovable and naïve, never able to win sufficient acceptance for his approach, even among his own followers.

The encounter between the Christian saint and the Muslim sultan has been famously depicted in biographies and art throughout the centuries, and in 2008 IAIS Malaysia published a monograph3 which featured a modern depiction of St Francis’ meeting with the sultan. In the pertinent historical literature, Sultan al-Kāmil is variously presented as an enlightened pagan monarch hungry for evangelical teaching, a cruel oriental despot, or a worldly libertine. However, Moses argues that the facts were misconstrued or simply fabricated – mainly for political ends. Although to the mind of this writer, this is a rather controversial claim, Moses makes a strong case for the significance of Francis’ (and al-Kāmil’s) approach toward inter-religious dialogue for our own troubled times.

To sum up, The Saint and the Sultan is above all a story about peace (and the art of peace-making) – a story that is nearly 800 years old but still resonates in an era where Christians and Muslims look at each other with suspicion. Moses’ account of St Francis’ meeting with the sultan in the midst of the Fifth Crusade not only details the historical record, puts it into context, and tries to strip it – in Moses’ view – of centuries of distortions. It also documents how its true significance has recently come to blossom and bear fruit in Christian–Muslim relations and is therefore highly relevant to those involved in the dialogue industry.4

Notes

Bilveer Singh – *The Talibanization of Southeast Asia: Losing the War on Terror to Islamist Extremists*


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The terrorist attack on the New York twin towers on 11 September 2001 has resulted in a number of works on terrorism committed by Muslims in the name of Islam. Bilveer Singh’s book is one of those which try to explain the radicalisation of Muslim societies in Southeast Asia – termed as ‘talibanisation’. Since the Bali attacks on 12 October 2002, a number of articles and books have been published examining the nature and extent of the militant Islamic threat in the region, and Bilveer Singh’s *Talibanization of Southeast Asia* falls into this category. The book is, of course, not the first of its kind in trying to understand the question of the emergence of militant Islam in the region. It is extremely informative, especially on Jemaah Islamiyah (JI), as the author has collected and put together various information and earlier writings on the issue, as evident in the bibliography, chronology and appendixes provided.

In the first chapter, the author provides an explanation on the meaning of ‘talibanisation’ as he intends to use in the book. For the purpose of the study, he defines ‘talibanisation’ as encompassing “Islamist political endeavours, including the resort to violence and terrorism that is legitimized through selective reading and interpretation of Islam” (p. 14). He adopts the concept of ‘talibanisation’ as a socio-political phenomenon to explain the political struggles that are taking place in Southeast Asia where there is a clear nexus between religion and terrorism. Bilveer even includes the quest for greater autonomy in southern Thailand, Acheh separatist movements as part of this ‘talibanisation’ endeavour.

The next chapter describes the development of Islamist extremism and jihadism in Southeast Asia, focusing on the Indonesian JI and several movements considered as ‘jihadi-oriented movements’ such as Darul Islam, the Acheh separatist movements, the Moro National Liberation Front (MNLF) and MORO Islamic Liberation Front (MILF), Muslim separatist groups in Thailand and the Rohingya struggle in Myanmar. These are considered as the ‘old’ national jihadi movements. Bilveer contends that the “Talibanization of Southeast Asia is riding high on the birth of many new Islamist groups that came into being in the 1980s and 1990s”.

The new movements are distinguished from the old with their intense military, extremism and increasing propensity to resort to or condone violence to achieve their political goals. The rise of the ‘new Jihadis’ is attributed to the disillusionment of Muslims with the international system and failure of national governments.
to address grievances of these groups. The author also contends that “while all, if not most, Islamist organizations have seen the intensification of radicalism be it in Malaysia, southern Thailand and southern Philippines, it is in Indonesia that the process of Talibanization is most acute and apparent”. He attributes this to both internal and external developments. After explaining at length the development, the threat of radicalisation to the extent of ‘talibanisation’, Bilveer concludes that despite the widespread experience with Islamist radicalism in Southeast Asia, the region “succeeded in maintaining a balance in favour of moderate Islam and kept the ensuing radicalism at bay”. This is on a more positive note than the alarming subtitle of the book might suggest.

The third chapter focuses on the rise of JI as Southeast Asia’s leading transnational terrorist organisation. It provides the reader with a detailed survey of the origins, evolution, development and the organisation of the JI and its connection to Al-Qaeda. The author considers “the fact that the United Nations and a number of countries such as the United States, United Kingdom and Australia, and even the European Union have listed JI as a terrorist organisation justifies analyzing the origins of this largely elusive organisation, believed to be behind most of the major terrorist activities in the Southeast Asian region since the late 1990s.” In this chapter, Bilveer also reproduces arguments forwarded by some denying the existence of JI. Abu Bakar Baasyir has argued that “the notion of Jemaah Islamiyah (JI) as a terrorist organisation is a fiction created by the United States, Israel and countries like the United Kingdom, Australia and Singapore that have always expressed enmity towards Islam”. This conspiracy theory is also shared by some who believe that “JI is not real, but only a fictitious organisation set up by Malaysian and Singaporean governments to silence the criticism of Islamic radical groups in their respective countries”. To support this argument, Bilveer also cites a number of scholarly writings that have alluded to the intelligence–terrorist nexus in the case of JI. In response to the lengthy discussion on the doubt about the existence of JI, Bilveer finally concludes following a brief explanation that “it is difficult to deny the existence of JI”.

The fourth chapter on “Counter-terrorism in Southeast Asia” is interesting for the light it sheds on the difficulty of combating terrorism in Southeast Asia. The author contends that “even though ASEAN has committed itself to combating the scourge of terrorism, its ability to do so has been greatly hampered by growing differences among its member-states over various issues” (p. 130). Among them, the different approaches adopted by member states to tackle the menace, the growing political clout of political Islam in Indonesia, and the “most serious obstacle in stamping the terrorist threat in the region has been the presence of a large Islamic community that is not always supportive of government policies as far as antiterrorism is concerned” (p. 130). However, the book does not provide the relevant and necessary details of policies and examples of how and where such obstacles emerged.
In the fifth and concluding chapter, Bilveer reviews the failure of Southeast Asia’s war on terror against Islamist extremism and its prospect. His conclusion echoes the common perception that counter-terrorism in Southeast Asia can be won and lost. Quoting a Singapore official spokesperson, the book states that “JI is believed to have been stripped of its ability to strike big anytime soon”, but at the same time “it would be naïve of us to believe that we are out of the woods”. Following the 9/11 incidents, several governments in Southeast Asia began a crackdown on JI which resulted in the organisation being weakened and split up, even if its primary infrastructure remains intact. The author also argues that “most governments in Southeast Asia increasingly have began paying attention to various Islamic-related educational institutions and other organisations that are believed to have acted as ‘feeders’ in providing potential recruits to the JI” (p. 137). They include institutions such as the pesantren in Indonesia, religious schools in Malaysia and the pondok schools in Thailand. Southeast Asian countries have also collaborated with external powers, such as the United States and Australia, in the war on terror in the region.

While the book makes a useful reading for those looking for extra details on the activities of JI and the threat the organisation may pose to Indonesia and Southeast Asia, it does not sufficiently analyse the conditions which make such a situation possible in Indonesia and other parts of Southeast Asia. Equating the degree of religiosity of Muslims in Southeast Asia with propensity towards terrorism reduces the credibility of the book. The book is mainly devoted to the activities and threats of JI, but it would be misleading to suggest that JI represents the beginning of the process of the so-called ‘talibanisation’ of Southeast Asia. While JI can be taken as a recent example of the dangers of Islamic extremism, many other movements mentioned in the book did not have their origins in religious extremism or fundamentalism. The Talibanization of Southeast Asia provides a catchy title, although it does not quite catch the real situation on the ground as far as the development and threats of Islamic extremism in Southeast Asia are concerned. The book reminds the reader of other works dealing with militant Islamic movements in Southeast Asia, but with less sensationalised titles. It is informative on JI, but for those who are looking for a more intellectual and honest explanation of the nexus between Islam, political violence and terrorism in Southeast Asia, the book generates more questions than answers. It has not exhausted the efforts at providing a more satisfactory answer to why and how Southeast Asia may fall victim to ‘talibanisation’. A sense of history on the part of the author might have led him to avoid the label of ‘talibanisation’ in discussing the rise of militant Islam and its activities in Southeast Asia. One might as well heed the advice that Islamic politics in Southeast Asia must be viewed within its own specific context and not seen as part of the process of ‘talibanisation’. Perhaps it is more important not to jump unprepared onto the fashionable bandwagon of the worldwide alert in the war on Islamic extremists and terrorism.
Ismail Noor – *Najib Razak: A Sense of Mission*, with a Foreword by Datuk Seri Dr Rais Yatim

ISBN: 978-967-69-0771-4. RM70.00

Abdul Karim Abdullah (alias Leslie Terebessy)  *International Institute of Advanced Islamic Studies*

“The purpose of this book is to depict Dato’ Seri Mohd Najib Tun Razak as the natural successor of Tun Abdul Razak Hussein in terms of the son extending the legacy of his father […]”, writes Ismail Noor in his *Najib Razak: A Sense of Mission* (p. xxi). Information, Communications and Culture Minister, Datuk Seri Dr Rais Yatim contributed the foreword. The book, at 186 pages, spans 33 years of public life – at both state and federal level – of Dato’ Seri Mohd Najib, the current Prime Minister of Malaysia, and highlights his roles as leader, administrator, manager and politician.

The book is introduced on page xvi with a well-known verse from the Qur’ān (49:13):

> O mankind! We have created you from a [single] pair of a male and a female, and have made you into nations and tribes, that you may know one another (not that you may despise each other). Verily the noblest of you, in the sight of God, is the best in conduct […].

Each of the book’s ten chapters – illustrated with photographs – highlights a particular stage of the Prime Minister’s career. Recollections of the past mingle with glimpses of the present. The chapters conclude with a wise saying by a sage from a different civilisation, reflecting Malaysia’s multi-cultural makeup. The book contains an extensive bibliography and index.

Chapter one makes clear that the challenges facing the current Prime Minister are no less daunting than those that had faced his father. The elder Razak’s greatest challenge was to re-establish social order and safeguard inter-ethnic harmony in the aftermath of the racial riots of 13 May 1969. The younger Najib’s tenure as the Chief Minister of Pahang is recounted in chapter two. Appointed to this post at a young age, he learned to liaise both with state royalty as well as with the national leadership.

Chapter three highlights strategies to overcome the current financial and economic crisis, and explains the stimulus packages launched to spur economic activity. One of Malaysia’s priorities is reducing unemployment; this is to be accomplished primarily by increasing the size of the service sector. Liberalisation in key subsectors of the economy, including finance, health, tourism, transport, computers and rental/leasing
services, has also been scheduled to take place. Creating a high-income economy is another priority.

The fourth chapter outlines Najib’s contributions to Felda (Federal Land Development Authority), which aims to be a globally integrated and diversified multi-crop agro-business transnational corporation. Felda has played a prominent role in improving the quality of life of the rural poor. While working as a lecturer at USIM, University Sains Islam Malaysia, the present writer has interacted with a number of university students from the Felda settlements. The students, young men and women, displayed character, discipline, piety, and a keen eagerness to learn.

Najib’s stint as minister of education is summed up in chapter five. Among the initiatives undertaken during his tenure was the establishment of the National Higher Education Fund (PTPN).

The prime minister’s tenure as Minister of Defence is detailed in chapter six. The Armed Forces underwent much restructuring during this period. A number of peace missions to various conflict zones around the world were launched during this time.

The implementation of the National Service programme is explained in chapter seven. The purpose of the programme is to foster patriotism, camaraderie, and discipline among the younger generation. The emphasis is broadly on national integration. A number of measures have been implemented to improve the programme since its inception.

Chapter eight outlines the Prime Minister’s agenda, as encapsulated in the 1Malaysia concept. In addition to calling for national unity, 1Malaysia aims to make education accessible to all, as well as affordable, and to provide a better quality of life for Malaysians. To achieve this, the Prime Minister introduced key performance indicators (KPIs) for measuring progress in what he termed Key Results Areas (KRAs). These include crime prevention, improved transportation, reducing corruption, and providing better infrastructure (p. 124). Chapter nine gives an account of Najib’s loyalty to party.

The last chapter provides an overview of the first 100 days in office. The liberalisation of some subsectors in the economy should stimulate foreign direct investment, affected somewhat by the currency controls imposed during the economic crisis of 1998.

Overall, the book strikes a positive note, while providing a bird’s eye view of the immediate challenges faced by Malaysia today. As the Prime Minister stated, “We must reach out to all parts of Malaysia […] to all our diverse communities. In our national discourse and in pursuing our national agenda, we must never leave anyone behind” (p. 190).

As of this writing, the current Prime Minister is still within the first year of his office, much of which was also preoccupied by responses to the global financial crisis and the incessant challenges posed by the multi-religious and multi-ethnic
makeup of Malaysia that engage all Malaysian leaders. These issues have taken a more cogent turn since the March 2008 general elections and the transfer of leadership from Tun Abdullah Badawi to the present incumbent. Time will tell how he fares, but – in spite of the inter-ethnic disturbances of January 2010 – early indicators seem to promise positive changes and a consistent pattern of progressive leadership for Malaysia under Prime Minister Najib Razak.

**Hans Küng – Islam: Past, Present and Future**

[German original: *Der Islam: Geschichte, Gegenwart, Zukunft* (Munich: Piper Verlag, 2004)]

**Karim D. Crow  International Institute of Advanced Islamic Studies**

The historian-theologian Hans Küng is best known today for his passionate pursuit of inter-religious dialogue and understanding within a global perspective. Since the 1960s he was professor of Ecumenical Theology at the Eberhard-Karls-Universität of Tübingen in Germany and Emeritus Professor there from 1996. This dissident Swiss Catholic priest is a controversial theologian and prolific author in the inter-faith industry.

Since 1995, his primary occupation has been President of the Foundation for a Global Ethic¹ (*Stiftung Weltethos*). He described what world religions share in common, not what separates them, and compiled a minimal code of moral rules everyone might possibly accept. From 2001 onwards, the exhibition “World Religions – Universal Peace – Global Ethic”, conceived by *Stiftung Weltethos*, has been displayed around the world.

*Islam* completes his trilogy on “The Religious Situation of Our Time”, treating the three monotheistic religions of Southwest Asian provenance (Küng employs the expression ‘Near Eastern’, a Eurocentric designation). The first two volumes were *Judaism: Between Yesterday and Tomorrow* (1991; English trans. New York: Crossroad, 1992), and *Christianity: Its Essence and History* (1994; English trans. 1995). In the course of his project, Küng made long filming trips around the world for the television series *Spurensuche* (aired in Germany in 2000), which then appeared as an illustrated volume and a DVD.² All these remarkable efforts by Küng are the fruit of extensive research conducted between 1989 and 1997, forming the basis for his life project: ‘No World Peace without Religious Peace’.

His is a massive scholarly undertaking whose successful completion should be a cause for gratitude and relief. Concerning the structure of this trilogy, Küng states: “The view expressed in this book is the end-product of a long course of
thinking which has matured over decades”, and confidently asserts that “my view is comprehensive and well-founded” (p. 664 n.1). (The table of contents is available online at http://www.weltethos.org/dat-english/00-books-islam.htm.) The blurb for Islam on this website reads:

For more than two decades, the world’s religions have been a central topic for Hans Küng. As one of the best-known pioneers of dialogue between cultures, his books have been a source of inspiration for millions of people. In this extraordinarily comprehensive book, he gives an in-depth account of Islam’s history and core beliefs. Describing paradigm shifts in its 1,400-year history, outlining the various currents and surveying the positions of Islam on the urgent questions of the day, few present-day Christian theologians could have written such a complete analysis.

Such advertised competence and self-assured claim to authoritative expertise (“deft and assured”) inviting serious attention from interested non-Muslims, provides a stark contrast to Küng’s former academic colleague in Tübingen Joseph Ratzinger, whose September 2006 Regensburg speech as Pope Benedict XVI revealed serious flaws in his own appreciation of Islam.3 Recall that in December 1979 Küng had been formally stripped of his licence to teach as a Roman Catholic theologian by the then Vatican’s Prefect of the Congregation for the Doctrine of the Faith (a post later held by Joseph Cardinal Ratzinger, now Pope Benedict XVI, from 1981 to 2005). Küng carried on as tenured professor of ecumenical theology at the University of Tübingen and is still a catholic priest.

Küng exploits the best occidental scholarly resources on Islam which perhaps only German academia may best supply the modern researcher. Yet this does not spare Küng from a number of obvious errors and mistaken judgements (e.g. pp. 194ff. his treatment of early Shi’ism relies overly on the tendentious work of H. Lammens, ignoring the very important revisionist contribution of Wilferd Madelung’s The Succession to Muhammad); as well as minor infelicities over dates (e.g. pp. 190, 198, 200…).

Nevertheless, the richness and density of his survey, the diachronic attention devoted to a host of topics and themes over hundreds of pages, and the uniformly high quality of his acumen and judicious penetration into the gist of many complex issues, is really impressive. He deserves to be congratulated. Reading Küng’s Islam is an intellectual challenge replete with relevant insights (see his treatment of Jewish-Christianity in pre-Islamic Arabia on pp. 32–45, with which this reviewer is in complete agreement). He is sympathetic and participatory, and continually poses questions of himself and of his readers eliciting critical self-reflection (e.g., on Christology pp. 484ff.; on Qur’ānic criticism pp. 518ff.), and that keep true to his admonition “to say old things in a new way”. According to Küng, “[o]ur situation is not that of a theological dogmatic conversation, but of a modern, postmodern inter-
religious conversation” (p. 515). Frequently the presentation mediates perspectives acutely discomfiting and difficult for most unreflective Muslims to even contemplate (is the Qur’ān literally God’s Word?). Yet much of his presentation rings true as authentic statements immediately recognisable to Muslims once they get beyond his overly theological (Thomistic) terms.

The essential key to his entire approach throughout this trilogy is the influential notion of ‘paradigm change’ (also underlying his understanding of a new ‘Global Ethic’; see charts on pp. 145, 467, 477, 579, 582, 584). He means by ‘paradigm change’ a Copernican shift in the exemplary pattern or prevailing model of self-understanding (pp. 144, 160), the “macromodel of society, religion and theology” (p. 456) expressed in fresh, more adequate conceptions and discourse which meets human historical, social, psychic and ideological needs. Shifts in the dominant historical paradigm reflect the re-working of timeless values and essential principles in light of actual historical conditions. Interestingly, all three religions are assigned exactly five major paradigm stages – culminating in a sixth final shift yet to be achieved: his ‘postmodern’ Global Ethic! More importantly, older paradigms persist into the present alongside younger paradigms, which helps explain the diversity and contradictions among Muslims themselves, and between Muslims and Jews and Christians.

Here is an outline of the book. Following a brief sketch of his Aim, there are five major sections designated by roman letters A to E, each with many chapters with sub-divisions, consummated by his Epilogue and Conclusion (a total of 662 pages of text). The five sections are: A. Origin, B. Centre, C. History (the longest section pp. 143–429), D. Challenges of the Present, and E. Possibilities for the Future.

It is in section C where Küng presents his five ‘paradigms’ (designated by P) encapsulating the unfolding and development of the Islamic religion over the past millennium and a half:

P I  Paradigm of the original Islamic community
P II  Paradigm of the Arab empire
P III  Classical Paradigm of Islam as a world religion
P IV  Paradigm of the Ulama and Sufis
P V  Paradigm of Islamic Modernization

Finally, Küng suggests in section E that (like its brother prophetic faiths) the religion of Islam should be moving toward elaborating a fresh postmodern ‘Contemporary paradigm’. Yet this possible and hoped for enlightened transformation is couched in a series of questions with various alternative answers under contestation in the form of competing paradigms prolonged from the past. This final section is perhaps the most significant portion of this book, and certainly the most relevant for today.
I sincerely hope that intelligent Muslim thinkers make the effort to respond to Father Hans Küng’s work *Islam*, and in particular to critique his influential theory of ‘paradigm change’ which appears to place a peculiar demand upon contemporary Muslims to think and speak in a different mode or manner – like Euro-Americans at ease with ‘secularity’. In my understanding, Professor Küng is a true child of the Enlightenment, and his conception of what the ‘postmodern’ paradigm entails posits an instrumentalised mode of rationality that is a forced projection upon the true situation of many Muslims today. This is most evident in his untenable assessment of why Muslims repelled ‘Arab Islamic’ philosophy (i.e. Hellenic rationality) and lapsed into a prolonged Middle Ages of religious obscurantism, while Europe surged ahead into modernity. Yet this interpretation has now become ubiquitous among non-Muslims, and is even upheld by a number of prominent Muslim thinkers.

As so often, assertions through one-sided attempts at conversation directed by non-Muslims toward Muslims either fall on uncomprehending ears, or are passively ignored and marginalised as unworthy of response due largely to intellectual lethargy. The recent *Common Word* initiative involving Pope Benedict XVI is an important exception.

Notes


2. Published in English as *Tracing the Way: Spiritual Dimensions of the World Religions* (London and New York: Continuum, 2002).

3. However, for a different evaluation of this matter see the Viewpoint in an earlier issue of this journal by Christoph Marcinkowski, “Religion, Reason, ‘Regensburg’: Perspectives for Catholic–Muslim Dialogue Today”, *Islam and Civilizational Renewal* 1, no. 1 (2009), 159–67.
In the Name of God, Most Compassionate, All-Merciful,
al-salāmu ʿalaykum wa-raḥmatu ʿLāhi wa-barakātuh,
and a very good morning!

Professor Dr Mohammad Hashim Kamali,
Founding Chairman and CEO,
International Institute of Advanced Islamic Studies (IAIS) Malaysia,

Excellencies,
Distinguished guests,
Ladies and Gentlemen,

This International Institute of Advanced Islamic Studies came into being over a year ago and – right from the start – has successfully functioned as a think tank to civilisational renewal in Muslim countries and to promoting inter-civilisational understanding worldwide.

When I was Prime Minister, I introduced Islam Hadhari as the approach for nation-building and good governance in which the principle of justice and fairness for everyone in Malaysia retained the highest priority. This manhaj or ‘approach’ served to establish, at the same time, a fresh climate of trust between different religions and ethnic groups in the country. I am convinced that Manhaj Islam Hadhari is suitable for plural societies everywhere.

Islam Hadhari encompasses the humane teachings of Islam. I remain committed therefore that Islam’s civilisational approach is the key to successfully meeting the contemporary challenges of socio-economic development, particularly in Muslim countries where the population includes other minority communities and religions.

Central to Islam Hadhari is the civilisational potential that Islam offers for the renewal of societies, grounded upon the essentials for human wellbeing, uprightness, and equity.

We should be concerned that the contemporary Islamic discourse has not given sufficient emphasis to these Islamic values which are in fact universal values. We
need to encourage Muslims to think global and overcome the challenges posed by ethnic and religious diversity.

We have to admit as well that the immediate task at hand is to establish the unity of the ummah. Many parts of the Muslim world suffer from the adverse effects of sectarian schism and bloodshed. Only when there is a true unity of the ummah can Islam claim leadership in the promotion of universal values which are in fact enshrined in the Islamic religion.

Islam is the universal religion of ‘oneness’ (tawḥīd) not only theologically, but also in terms of ethical norms and the integration of values which provide the guidance for social relations as well as fair and just governance. Tawḥīd rejects artificial divisions in its perception of human dignity, people’s welfare, and justice.

Sadly, our history has been drifting dangerously along sectarian lines and madhhabī or ritual divides – so much so that we now stand in a state of tension with the outlook and philosophy of tawḥīd. The thirst for consensus and unity in the Muslim world today can best be nourished by the unitarian spirit of tawḥīd and the universalist teachings of our great religion.

Indeed, the unity of the ummah will be a blessing not only for Muslims but for all of humanity as well. A fractured ummah cannot contribute meaningfully to global peace and security. On the contrary, conflicts within our ummah shall increase insecurity and feed the flames of discord among nations.

It is the duty of all Muslims to prevent a ‘clash of civilisations’. Instead, we should be supporting an Alliance of Civilisations based on common values – as proposed in the Ten Principles of Manhaj Islam Hadhari. It should be a comprehensive project for a pragmatic vision of the future that integrates the best teachings of Islam into our nation-building and our engagement with other civilisations. World leaders – especially political and religious leaders – should work together to advance the Alliance of Civilisations proposed by the United Nations.

We should take the qur’ānic principle of wasatiyyah – ‘moderation and balance’ – as the guiding light for understanding Islam and its vision of human relations within and beyond the ummah. This is the same principle which inspired the spirit and methodology of Manhaj Islam Hadhari.

In the Holy Qur’ān, balanced moderation or wasatiyyah is inseparable from equity and justice. Social inequalities and economic imbalances are incompatible with equity and justice. Extremism is frequently a reaction against unjust situations within societies or in the larger international community.

The manhaj we advanced upholds moderation and social harmony within the rich multi-religious and pluralist environment of Malaysia. It also offers realistic prospects for constructive engagement with other world civilisations. We must therefore advocate both intra-Islamic dialogue and dialogue with other religious traditions and civilisations.
Now, we are aware that some have taken issue with the word ‘hadhari’ – perhaps without seriously pausing to reflect on its real intent and goals. Our purpose has been to reawaken the sleeping potential which our Islamic ethical and intellectual legacy holds in abundance to enable us to forge our own authentic model of modernity.

The authentic Islamic principle of *tajdid* (renewal) normally confined to religious themes in the past may today be extended and deepened to embrace *tajdid hadāri* – ‘civilisational renewal’. Our approach to civilisational renewal should thus be guided by the *tajdid* methodology when attempting to formulate appropriate responses to globalisation and other tasks facing the *ummah* in the twenty-first century.

Our dual purpose, then as well as now, has been first, to meet the challenge of globalisation and second, to confront the hegemonic claims of civilisational superiority by those forces that dominate the process of globalisation. We should not forget that Islam has always been a religion as well as a universal civilisation from the outset. This is a pertinent feature of our tradition that has not received adequate attention.

The humane imperative upheld by Islam is clear. Mutual recognition and friendship (*ta‘arruf*) among nations, cooperation in good works (*ta‘āwun*), honouring family ties (*silat al-raḥīm*), and the active realisation of knowledge are among those timeless civilisational teachings which the Qur’ān addresses to the whole of humanity. Their relevance for today remains constant.

The civilisational ethos of Islam is rooted in three Qur’ānic master ideas. One is the innate dignity of man’s created nature known as *fitrah*. Another is the unique distinction of our ‘human deputyship’ on Earth, as God’s *khalīfah* in creation. The third is that humans are entrusted with the flourishing habitation of the Earth or *‘imārat al-arḍ* by establishing a social order grounded in moral virtue, compassion, beneficence, human dignity and justice (in Arabic: *ḥusn al-khuluq*, *raḥmah*, *iḥsān*, *karāmah*, and *‘adl* respectively).

It is unfortunate that in some Muslim societies Islam has become identified with narrow nationalist and cultural boundaries. These societies should instead be expanding into the horizon of *fitrah* or inborn human nature.

This civilisational vision of Islam exhibits a different order of inner ethical and intellectual engagement than what we have witnessed in recent decades. The simplistic way of thinking and discourse of Muslim political revivalism focusing on external social mannerisms and what Muslims should wear or eat is no longer adequate for the work facing us today.

In our capacity as God’s vicegerents on Earth, we are the custodians of its ecological balance and the health of its natural environment. The progressive environmental degradation we are witnessing counters the civilisational mission and religious mandate of Islam.
There has been too much preoccupation with outward religious rituals – often at the expense of Islam’s higher aims for securing genuine human wellbeing. Rather than exploring balanced human and economic development, or ensuring fair and just governance, recent discourse on Islamic revivalism has preoccupied itself with divisive ideological and juridical issues. In fact, such discourses have led to vengeful violence and indiscriminate killing of innocent people.

At the top of our agenda must come nation-building and establishing a fresh climate of trust between various ethnic and religious groups. Our mission is to strengthen social harmony and cohesion in a pluralist society. This is not a destination but a process of continuous engagement for all people in Malaysia.

Our foundation of unity as Muslims imposes the responsibility to prioritise a coherent set of principles and objectives shared with our fellow citizens – despite any differences in language, ethnicity or religion. It is vital for all of us to stand together and support the oneness of our society and nation. This must remain the continuing commitment of our people, civil and educational organisations, political parties and the government.

We in Malaysia are fortunate that to a large extent we have been able to celebrate our diversity in many ways. However, more than merely ‘tolerating’ the views of others, mutual respect requires that we sincerely and directly engage each other. We have no alternative but to build long-term bonds of confidence and understanding. Cultivating genuine respect can yield fruitful results in repairing the inadequacies of the past and preparing for harmony and prosperity of the future.

Strengthening the roots of unity demands a sense of dedication and purpose that Malaysians may achieve a unified society where people enjoy partaking in another’s cultural diversities and lifestyles. The taste and colour that all may bring into our day-to-day living-experiences as colleagues and neighbours, friends and relatives, truly enriches our lives.

In the Malaysian context, IAIS provides a rare platform for Muslims and non-Muslims to exchange critical views on sensitive issues in a reciprocally respectful manner. It gives me great personal satisfaction to see that IAIS Malaysia is now recognised for providing a shared common space illuminating a reasoned path of cooperation between diverse peoples and faiths. For this, I would like to congratulate and thank Professor Mohammad Hashim Kamali, the Founding Chairman and CEO of IAIS, for providing the leadership and his personal effort to make IAIS a centre of excellence.

Our approach to economic development, nation-building, and poverty eradication must be informed by ethical norms that energise accountability and good governance. To speak of religious piety without integrating ethical and religious concerns into our personal conduct violates one of the vital higher aims of Islam. Such a divorce
between the public and private spheres weakens our shared goal of creating an 
exemplary nation that celebrates its cultural diversity as a positive asset.

Fourteen centuries of Islamic scholarship and its authoritative interpretative 
e Endeavours have left us with an intellectual legacy of considerable diversity 
and depth. This legacy embraces a wide scope of differing schools and madhhabs 
ranging from the conservative, to moderate, to liberal interpretations of the tenets 
of our faith. There is a need to prioritise a set of objectives flowing from normative 
teachings of Islam, yet relevant to the real concerns of our society and generation. 
The Ten Principles of *Manhaj Islam Hadhari* are intended to fulfil that need.

Without these goals our nation’s progress and unity may be exposed to unceasing 
disagreements that only distract us from our national endeavour of strengthening 
the foundations of social harmony among ourselves.

Managing socio-cultural diversity and channelling the creative energies of the 
varied communities in our midst is indeed a demanding task. This underlines the 
importance of defining a national endeavour that celebrates diversity, while deeply 
Informed by an unshakeable awareness of our nation’s unity and the oneness of 
humanity in God’s creation.

Yet the road ahead is an upward path with many difficulties to surmount. The 
serious efforts undertaken here at IAIS should be coordinated and networked with 
similar efforts underway in other Muslim as well as non-Muslim societies, by 
parallel organisations and institutions in our immediate region and throughout the 
world.

Why are we convinced that creative policy-oriented research nourished by higher 
civilisational values is so important for our nation and the entire Muslim world?

The truth is there is a shortfall within Islamic nations of credible institutes that 
can serve as Islamic think tanks dedicated to sound academic research and at the 
same time produce practical results with relevance to real issues.

Over this past year this Institute has distinguished itself by its remarkable record 
of achievement. It has grown into an important forum dedicated to inter-disciplinary 
research into the critical issues of reconciling tradition with modernity, interethnic 
and interfaith relations, and the refinement of educational methods in our centres 
of learning.

IAIS Malaysia is proving its utility by providing directed practical research for 
Malaysian policy makers, education leaders, and the several religious communities 
forming the rich mosaic of our nation.

I wish to commend the dedication, vision, and hard work of the leading officers 
and research fellows of IAIS Malaysia. This Institute has embarked on the demanding 
task of ensuring that faith and moral integrity take their rightful place in the public 
sphere, and that wisdom and intelligence guide our nation’s policies and shape our 
global position.
It offers the realistic hope that harmony and reciprocal respect between communities may grow deeper roots and nourish mutual understanding. This is not something to be taken for granted, but requires continual effort and goodwill, selfless service and sacrifice.

Our age shows the green shoots of a ‘conversation between civilisations’ – the era of clash and rivalry cannot last and has been exposed as self-defeating. It is imperative that we ensure that Muslim peoples are well-prepared and equipped to contribute meaningfully to the emerging global civilisational conversation.

More pragmatic steps have to be taken when engaging meaningfully with other civilisational blocs and regional bodies. The civilisational potential which Islam offers relates directly to the need to build genuine trust and reciprocal respect between diverse peoples and faith.

This applies both to Malaysia’s nation-building, as well as to the global Muslim community when seeking cooperation and recognition from others.

There is scope for like-minded institutions of scholarship and research both within and outside Malaysia to liaise more effectively among themselves and pool their resources together.

We must continue to explore fresh avenues of cooperation and joint research on topical issues of concern to Malaysia, as well as to the Muslim world and the international community.

We must effectively employ our imagination and creative intelligence towards raising the superstructure of *tajdid hadārī* grounded on the solid base now in place.

The work of renewing human civilisation through equipping it with more adequate ethical and intellectual resources for negotiating the needs of our late-modern age is a sacred trust to be met with confidence, hope in the future, and reliance on the grace and guidance of Almighty God.

Thank you.

Wa-bi ‘Lāhī ‘l-tawfiq wa ‘l-hidāyah,
wa- ‘l-salāmu ‘alaykum wa-raḥmatu ‘Lāhī wa-barakātuh.
Those who have been closely following the development of Japanese scholarship in Islamic studies could not have failed to notice that there has been a remarkable increase in both interest and academic output over the last two decades in the area in question. The interest shown by fresh university graduates towards studies of one or more aspects of Islam is even more remarkable. A growing number of Japanese graduates are taking up Arabic and other Muslim languages such as Turkish, Persian, and Malay with the view of pursuing academic research on Islam and the Muslim communities. I myself have been regularly invited to Japan to present seminar papers and give lectures on various aspects of Islam over the years. Based on my conversation with university Professors and academics and Japanese policy makers I have gained the impression that Japanese academic interest in Islam has been bolstered over the decades by a series of major events of global significance that have been linked in one way or another with Islam. The first was the OPEC oil embargo of 1973–74 which sought to use oil as a weapon to influence the West’s support of Israel in the Yom Kippur War. As a major exporter of oil on which its industrial power and activities largely rest Japan was badly shaken by the embargo. The second was the 1979 Iranian Islamic revolution; the third, the September 11 tragedy and its aftermath, especially the United States’ invasions of Afghanistan and Iraq. But perhaps, there is no other international factor more important than the perennial Palestinian–Israeli conflict in sustaining the Japanese interest in Islam and issues affecting Arabs and Muslims.

The second Islamic Area Studies International Conference held in Cairo at the Marriott Hotel by the Nile on 12–13 December 2009 is another series of international conferences organised by Japanese academics and scholars that points to the same phenomenon of Japanese academic interest in Islam. The first conference in the series graced by the keynote speech of His Royal Highness, Raja Nazrin Shah, Malaysia’s intellectual-prince, was held in Kuala Lumpur in 2008. It was a successful one in

* Osman Bakar is Deputy CEO of IAIS Malaysia and Emeritus Professor of Philosophy in the University of Malaya, Kuala Lumpur.
terms of both attendance and intensity of discussion. The second conference in Cairo, equally successful, was convened with the general theme “New Horizons in Islamic Area Studies: Identities, Coexistence and Globalization”. It was co-hosted by the Faculty of Arts, Cairo University, the National Institutes for the Humanities (NIHU) Program and Islamic Area Studies, Japan, and the Japan Society for the Promotion of Science (JSPS). There were two plenary and six parallel sessions. In addition there was also the poster session during which mostly graduate students were making their presentations.

The two plenary sessions had the themes “Identities, Coexistence and Globalization” and “Modernization and Cultural Identities in Japan and Arab Society” respectively. The six parallel sessions dealt with the following subthemes: (1) re-discovering the richness of al-turāth (heritage): intellectual efforts, dialogue, and interaction in search of humanity (al-insāniyyah); (2) the Palestinians in Diaspora from within and without; (3) personalities and identities; (4) theory and practice of sharīʿah courts: between universalisation and localisation; (5) Islamic economics in the age of globalisation; (6) re-considering “Islam and Nationalist movements” from a historical perspective. I must say that these parallel sessions taken together have sought to cover a vast domain of studies pertaining to Islam and Muslims. Certainly there were complaints made regarding this issue of vastness and the number of papers presented. The general complaint I heard was that there were too many papers for the ordinary participants to digest their content. The organisers’ justification of the vastness was that this was inevitable since one objective of the conference was to provide a forum for all researchers and academics in what is called the Islamic Area Studies to present their research and academic findings over the last year. The Islamic Area Studies happen to be a too large an area of studies and research. Still, one can take comfort in the fact that there were a number of good papers presented and in several sessions the discussions were intellectually serious in nature and of good quality.

In my own paper, I have attempted to show that one of the most fateful consequences of globalisation is the increasingly pluralistic nature of our world. The world as a whole has always been pluralistic in the sense of being multi-ethnic, multi-religious, multi-cultural, and multi-civilisational ever since we humans had a common world history. This fact has never changed. What has changed is our perception of our diversity and pluralism mainly because both their contours and character have undergone rapid changes. We have become more conscious than ever of the fact that we do live in a very much pluralistic world. Our new consciousness on cultural pluralism is partly due to the fact that, thanks to the dominant forces shaping our contemporary globalisation – media, telecommunication and transportation technology in particular – we are able to personally observe human societies
everywhere becoming more pluralistic and heterogeneous. Today, there is hardly any society left on our planet that could be considered ‘culturally homogeneous’.

Hopefully, the whole proceedings of the conference will be published for dissemination to a wider audience. Knowing them I trust the Japanese organisers will do just that. In the meantime, we are very much looking forward to the Third Islamic Area Studies Conference to be held in Kyoto, Japan, in December 2010. This particular series of conferences appears to have the dynamism and influence to boost the image of the Japanese academic and scholarly community insofar as their pursuit of Islamic studies is concerned.
NOTES ON THE CONTRIBUTORS

Osman Bakar is the Deputy CEO of IAIS Malaysia. He received an undergraduate degree and an MSc in Mathematics from the University of London. He then graduated from Temple University with an MA in Comparative Religion and a PhD in the Philosophy of Science and Islamic Philosophy. Bakar is currently Professor of Islamic Thought at the International Institute of Islamic Thought and Civilisation (ISTAC) in the International Islamic University Malaysia (IIUM). In addition, he is a Senior Fellow at the Prince Al-Waleed Center for Muslim-Christian Understanding, Georgetown University, Washington DC, Senior Research Fellow at the Center for Civilisational Dialogue (founded by him in 1995), University of Malaya, and Visiting Research Fellow at Doshisha University, Kyoto, Japan. He was also the holder of the Malaysia Chair of Islam in Southeast Asia at Georgetown University. He is also Emeritus Professor of Philosophy of Science and Senior Research Fellow at the Centre for Civilisational Dialogue in the University of Malaya. Bakar had previously held the post of Deputy Vice-Chancellor of the University of Malaya. He is the author of 15 books and nearly 200 articles.

Karim D. Crow, an American Muslim scholar who was born and raised in Beirut, is Principal Research Fellow at IAIS Malaysia. From 2006 to 2008, he had been Associate Professor in Contemporary Islam at the S. Rajaratnam School of International Studies, Nanyang Technological University, Singapore. Professor Crow took his university education in Beirut and Cairo, and his Doctorate from the Institute of Islamic Studies at McGill University (Montreal, Canada). During 1980–92 he taught Islamic Studies and Arabic Language and Literature at Columbia University, New York University, Fordham University, the University of Virginia, and the University of Maryland. In 1999 and 2000–05 he served as Professor of Islamic Thought, teaching philosophy, theology and intellectual traditions, at the International Institute of Islamic Thought and Civilisation (ISTAC) in Kuala Lumpur. Among his publications is (ed. with Ahmad Kazemi-Moussavi), Facing One Qiblah: Legal and Doctrinal Aspects of Sunni and Shi‘a Muslims (Singapore: Pustaka Nasional, 2005). Currently, he is working on an historical survey of Islam and rationality, a book on the wisdom of the Prophet Muhammad, and a monograph on the life and thought of Imām Ja‘far al-Ṣādiq (d. 765).

Salah El-Sheikh is Professor at the Economics Department of St Francis Xavier University at Antigonish, Nova Scotia, Canada, of which he served as a former
Head. Previously, he taught at the Economics Departments of Cairo University, Egypt, University of Western Ontario and Queen’s University, Canada. He also formerly served as Advisor to the President of Egypt’s statistics and census agency (CAPMAS). He specialises in mathematical economics, econometrics, and economic theory, including development theory. His primary research interest being the theory, policies, and philosophy of economic development, the focus of his research and published work has been the econometric policy modelling of developing countries (with special reference to Egypt) as well as the relationship between religion and culture, economic institutions, and governance. He has authored two books: *Islam and Economic Philosophy* (1992, Arabic) and *Globalization, Arabo-Islamic Culture and Socioeconomic Development* (forthcoming), and numerous articles in scholarly journals, including *Economic Modeling, Empirical Economics, Economia Internazionale, Canadian Journal of Development Studies, The Muslim World, The International Journal of Middle East Studies, The American Journal of Islamic Social Sciences, L’Egypte Contemporaine*, among others.

Mohammad Hashim Kamali is Founding Chairman and CEO of IAIS Malaysia. He graduated from Kabul University, before going on to complete an LLM in Comparative Law and a PhD in Islamic and Middle Eastern Law in the University of London from 1969 to 1979. Kamali was a Professor of Islamic Law and Jurisprudence at the International Islamic University Malaysia (IIUM), and also Dean of the International Institute of Islamic Thought and Civilisation (ISTAC) from 1985 to 2007. He was previously Assistant Professor at the Institute of Islamic Studies, McGill University and has also held Visiting Professorships at the Capital University, Ohio, and at the Institute for Advanced Study (*Wissenschaftskolleg*) in Berlin. Kamali is on the board of several local and international bodies and was a signatory of the international ‘Common Word’ document between Christians and Muslims. He has addressed over 120 national and international conferences, published 16 books as well as over 110 academic articles.

Ahmad Kazemi-Moussavi, a Canadian-Iranian scholar, is currently professor of Islamic law and Persian language in the University of Maryland, United States. Prior to this, he had been a Full Professor at ISTAC in Kuala Lumpur (1992–2005). Born and educated in Iran, he received his bachelor degree in law from Tehran University. Subsequently, he served as a judge for five years before transferring to the Imperial Iranian Ministry of Foreign Affairs in 1968. Before retiring from diplomatic service in 1980, in the aftermath of the events that had led to the change of regime in his native country, he had served at the Imperial Iranian embassy in Canada. In Canada, Kazemi-Moussavi joined Montreal’s McGill University, from where he received his PhD in Islamic Studies (1991). Subsequently, he taught at
McGill and Tehran University before joining ISTAC’s faculty in 1992, first as an Associate Professor and subsequently Full Professor. He is the author of several books, including *Religious Authority in Shi‘ite Islam* (ISTAC, 1996).

**Christoph Marcinkowski**, an award-winning German scholar focusing on Catholic–Muslim dialogue, Islamic and Middle Eastern, as well as Southeast Asian and Security Studies, is Principal Research Fellow at IAIS Malaysia. He holds an MA in Iranian Studies, Islamic Studies and Political Science from the Free University of Berlin and a PhD in Islamic Civilisation from ISTAC. Marcinkowski serves on the editorial board of several distinguished academic journals and has published ten books, among them *Religion and Politics in Iraq* (2004), as well as about a hundred articles and book chapters. He was Associate Professor of Islamic History at ISTAC and has held numerous distinguished visiting fellowships, such as at New York’s Columbia University, Switzerland’s University of Fribourg, Singapore’s Nanyang Technological University, the National University of Singapore, and Kuala Lumpur’s University of Malaya. He is the editor of *The Islamic World and the West: Managing Religious and Cultural Identities in the Age of Globalisation* (Freiburg Studies in Social Anthropology 24; Zurich: LIT Verlag, 2009). His latest book, published in the same series (2010), is *Shi‘ite Identities: Community and Culture in Changing Social Contexts*. Currently, he is working on two new books on Shi‘ites and their organisations in Germany and the European Union, which address also integration and security-related issues.

**Wan Mohd Nor Wan Daud**, one of Malaysia’s most eminent Muslim educationists, is currently Principal Research Fellow at the Institute of the Malay World and Civilisation (ATMA) at Universiti Kebangsaan Malaysia, Bangi, Selangor. He received his early education at Sultan Ismail College, Kelantan, Malaysia. He obtained his BSc in Biology and his MScEd in Curriculum and Instruction from Northern Illinois University, DeKalb, Illinois, United States. In 1987, he obtained his PhD in Islamic Thought from the University of Chicago, where he had worked with the late Professor Fazlur Rahman, one of the most learned major Muslim thinkers in the second half of the twentieth century. He has taught at the Faculty of Islamic Studies at UKM and worked at the Educational Planning and Research Division of the Malaysian Ministry of Education. He is also one of the pioneers of ISTAC, of which his mentor, the pre-eminent contemporary Muslim philosopher and thinker Professor Syed Muhammad Naquib Al-Attas, is the Founder Director. ISTAC – under the leadership of Al-Attas – had been one of the Muslim world’s most distinguished postgraduate institutions. Wan Mohd Nor has published seven books and monographs in English and Malay – aside from being an accomplished scholar – also as an accomplished academic researcher and educator.

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Some of his works have also been translated into other languages, among them Russian and Indonesian.

**Stephen Young** holds a PhD in Law from Harvard University and is the Global Executive Director of the Caux Round Table (CRT), which brings together business leaders from Europe, Japan and other parts of Asia, as well as the United States, and which is committed to energising the role of business and industry as a vital force for innovative global change. Young is the author of *Moral Capitalism* (2004) and *The Tradition of Human Rights in China and Vietnam* (1989). He was previously Assistant Dean at the Harvard Law School and Dean of the Hamline University School of Law. He has taught at the School of Law and the Carlson School of Management at the University of Minnesota, the Minnesota State University, and the SASIN Graduate Institute of Business Administration at Chulalongkorn University, Bangkok. In 1966, Young discovered the now UNESCO World Heritage Site of Ban Chiang in Thailand.

**Alina Zvinkliene** is Senior Research Fellow in the Department of Social Theories at the Institute for Social Research in Vilnius, Lithuania. She studied at the Vilnius State Pedagogical Institute, Faculty of Physics and Mathematics (1975–79) and did postgraduate work at Russia’s Leningrad State University, Faculty of Psychology (1980–81) and at the Institute of Philosophy, Sociology and Law, Lithuanian Academy of Sciences (1984–87). In 1988, she obtained her PhD with a dissertation on “Young Families: Expectations and Realities”. Prof. Dr habil. Zvinkliene’s research interest is in gender studies, family sociology, family planning, democratisation of society, and nationalism. Various Visiting Fellowships had been awarded to her, among them by the Central European University in Budapest, Hungary (1998–99), the Institute of Ethnology in the University of Fribourg, Switzerland (1993–94 and 1994–99), the Institute for Human Sciences in Vienna, Austria (1996), the Institute of Family Studies in the University of Wolverhampton, United Kingdom (1994), and the Institute of Sociology in the University of Oslo, Norway (1991). Since 1985, she has published more than 40 scientific works in Lithuanian, Russian, English, French and Japanese. She is fluent in Lithuanian, Russian, English, Polish and Italian.
AIMS OF THE JOURNAL

Islam and Civilisational Renewal (ICR) was established in order to link up with the unique Islamic tradition of more than 1,400 years of dialogue, pluralism, and coexistence with other world civilisations.

ICR advances civilisational renewal, based on Malaysia’s Islam Hadhari (Civilisational Islam) initiative and its ten component principles:

1. Faith in God and piety
2. A just and trustworthy government
3. A free and independent people
4. A rigorous pursuit and mastery of knowledge
5. Balanced and comprehensive economic development
6. A good quality of life
7. Protection of the rights of women and minorities
8. Cultural and moral integrity
9. Safeguarding the natural resources and the environment
10. Strong defence capabilities

ICR aims at becoming one of the platforms of policy-relevant contemporary research that will contribute to a better understanding of Islam’s universal teachings through inter-faith and inter-civilisational dialogue.
CALL FOR PAPERS

*Islam and Civilisational Renewal* (ICR) invites scholarly contributions of articles, reviews, or viewpoints which offer pragmatic approaches and concrete policy guidelines for Malaysia, the OIC countries, civic non-governmental organisations, and the private corporate sector. The principal research focus of IAIS is to advance civilisational renewal through informed research and interdisciplinary reflection with a policy orientation for the wellbeing of Muslim communities, as well as reaching out to non-Muslims by dialogue over mutual needs and concerns.

Our enquiry and recommendations seek to be realistic and practical, yet simultaneously rooted in Islam’s intellectual and spiritual resources, Muslim political and social thought, inter-faith exchanges, inter-civilisational studies, and global challenges of modernity.

Based at the International Institute of Advanced Islamic Studies (IAIS) in Kuala Lumpur, ICR’s inaugural issue appeared in October 2008 with contributions from distinguished scholars including Mohammed Hashim Kamali, Osman Bakar, Syed Farid Alatas and Christoph Marcinkowski.

ICR invites contributions on the following topics:

- issues of good governance and Islamic law reform in Muslim societies
- science, technology, development and the environment
- minorities and culture-specific studies
- ethical, religious or faith-based issues posed by modernity
- inter-faith, inter-civilisational, and Sunni–Shi’ah dialogue and rapprochement.

A complete list of topics may be consulted at: http://www.iais.org.my/research.html. Contributions should be submitted as an e-mail attachment in Word for Windows (Mac files must be converted) to: journal@iais.org.my as well as a hard copy (double-spaced and consecutively numbered on one side only) to: Associate Editor – ICR, International Institute of Advanced Islamic Studies (IAIS) Malaysia, Jalan Elmu, Off Jalan Universiti, 59100 Kuala Lumpur, Malaysia.

ICR is published in English and it is essential that to help ensure a smooth peer-review process and quick publication all manuscripts are submitted in grammatically correct English. For this purpose, non-native English speakers should have their manuscripts checked before submitting them for consideration. The Editorial Board holds the right to make any necessary changes in the approved articles for publication upon consultation with the writers.
GUIDELINES FOR CONTRIBUTORS

Islam and Civilisational Renewal (ICR) publishes original research works. Contributors to ICR should take the following guidelines into consideration:

Form

- Articles should not have been published elsewhere or sent for publication. Articles that have been a part of a dissertation can be considered if there is a major modification and adjustment.
- Articles should be between 6,000 and 8,000 words. Authors should also include a 100 to 150 word abstract, outlining the aims, scope and conclusions but not containing sentences from the article; a list of six key words should be suggested. Book reviews should be between 1,000 and 2,000 words. Viewpoints should be between 1,000 and 1,500 words.
- All submissions must include a separate page with the author’s name and current affiliation as they should appear in the journal and contact information (e-mail address, phone and fax numbers, and mailing address: all to remain confidential).
- Contributors will receive a free copy of the Journal issue in which their article appears.

Content

- The Journal is devoted to civilisational renewal, in particular of Muslim communities, while, at the same time, reaching out to non-Muslims.
- Submitted articles should be scholarly, but also accessible to a wider audience.
- Articles should be of relevance to contemporary practical issues faced by Muslim communities, such as Islam and its encounter with the West, but also science, technology and ethics. A particular focus of this Journal is on civilisational renewal based on the ten component principles of Islam Hadhari.
### TRANSLITERATION TABLE

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**Vowels**

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<tr>
<td>Doubled</td>
<td>iyy (final form ī)</td>
<td>iy (final form ī)</td>
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<td>uww (final form ū)</td>
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**Urdu Aspirated Sounds**

For aspirated sounds not used in Arabic, Persian and Turkish add h after the letter and underline both the letters e.g. ١١ ١١ ١١

For Ottoman Turkish, modern Turkish orthography may be used.
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* Afghanistan, Albania, Algeria, American Samoa, Angola, Argentina, Armenia, Azerbaijan, Bangladesh, Belarus, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo (Dem. Rep.), Congo (Rep.), Costa Rica, Côte d’Ivoire, Croatia, Cuba, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Georgia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Korea, Kyrgyz Republic, Lao PDR, Latvia, Lebanon, Lesotho, Liberia, Libya, Lithuania, Macedonia, Madagascar, Malawi, Malaysia, Maldives, Mali, Marshall Islands, Mauritania, Mauritius, Mayotte, Mexico, Micronesia, Moldova, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Romania, Russian Federation, Rwanda, Samoa, São Tomé and Príncipe, Senegal, Serbia, Seychelles, Sierra Leone, Solomon Islands, Somalia, South Africa, Sri Lanka, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Tanzania, Thailand, Timor-Leste, Togo, Tonga, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, Uruguay, Uzbekistan, Vanuatu, Venezuela, Vietnam, West Bank and Gaza, Yemen, Zambia, Zimbabwe.