Islam and Civilisational Renewal

A journal devoted to contemporary issues and policy research

Volume 4 • Number 2 • April 2013

Produced and distributed by

International Institute of Advanced Islamic Studies (IAIS) Malaysia
ISLAM AND CIVILISATIONAL RENEWAL

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AIMS AND SCOPE

· ISLAM AND CIVILISATIONAL RENEWAL (ICR) offers an international platform for awakening the civilisational potential of the Islamic legacy. Revitalising synergies between Islamic and other civilisations in a spirit of self enrichment through discovery and research may facilitate renewal within Muslim societies and more significant contributions by Muslims to the global human community.
· ICR explores contemporary dynamics of Islamic experience in legal and religious practice, education and science, economic and financial institutions, and social and intellectual development.
· We seek viable policy-relevant research yielding pragmatic outcomes informed by the best values and teachings of Islam as well as of other contemporary civilisations.
· ICR is inter-disciplinary, non-political and non-sectarian. We seek to contribute to prospects of peace among all nations, and assist the conceptual and societal transformation of Muslims.
· ICR encourages a fresh discourse for self renewal informed by an inclusive tolerant approach to diverse schools of thought and expression of ideas. The intent is to integrate over 1,400 years of Islam’s civilisational resources of diversity, dialogue and coexistence for meaningful exchanges with other world civilisations.

CONTRIBUTIONS AND EDITORIAL CORRESPONDENCE
Comments, suggestions and requests to: journals@iais.org.my or karimc@iais.org.my
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Closed-door Roundtable Discussion on Human Rights and Islam
(Kuala Lumpur, 20 November 2012)

Karim D. Crow

International Conference on the Role of Science and Arts in Islamic Civilisational Renewal (Kuala Lumpur, 4 December 2012)

_Tengku Ahmad Hazri_

Seminar on Music Spirituality and Islam
(Kuala Lumpur, 12 December 2012)

_Tengku Ahmad Hazri_

12th International Conference on Islamic Studies
(Surabaya, Indonesia, 5-7 November 2012)

Karim D. Crow

Between Nonviolent Conflicts and Reconciliation: An International Workshop (Chiang Mai, Thailand, 19-20 January 2013)

Karim D. Crow

Call for Papers
EDITORIAL

ICR’s second issue of 2013 goes to press as diverse national and regional struggles are underway in many areas of the Ummah, the global Muslim community. The situations that Muslims find themselves living in today reflect intricately complex histories that have given rise to regional and local political contexts that are all too volatile, often with potentially devastating sectarian overtones and repercussions.

ICR Volume 4 Number 2 offers two key articles that provide for a determined optimism of spirit to guide us through what sometimes seems to be a world of turmoil and conflict. Professor Mohammad Hashim Kamali sets the tone authoritatively and eloquently for our “Articles” section, with an in-depth discussion of peace as the core Islamic value, drawing from Islam’s original sources in the Qur’an and Sunnah. Peace as a Universal Human Value constitutes a timely and reassuring assessment and offers the reader valuable insight into Islam’s all-encompassing embrace of peace.

Then, ICR proudly presents ground-breaking work by Dr Daud Batchelor that effectively creates a new Islamic rating index suitable to measuring the Ummah’s well-being, by zeroing in on particular Muslim-majority countries. The approach holds promise in assisting state planning efforts to improve well-being, particularly of the most vulnerable citizens – women, children, and the poor – and to encourage improvements in education, health, and religious practice. It is a tool, then, to help monitor progress, as we move forward into the future, both in the reverential practice of the faith (‘ibādah) and in attention to one’s daily affairs in society (muʿāmalah), each in his or her own country of residence. The findings also spotlight the frequent mismatch between high religiosity levels and weak social welfare institutions, something that calls for further study. We feel that a broadly applicable analytical instrument such as this can help Muslims everywhere to begin building a new and more enduring peace and a new and more resilient reconciliation, between all components of the Ummah, individuals, communities, schools of jurisprudence (madhāhib) and nations.

We may find that the way forward is helpfully illuminated by the insights of IAIS associate and friend, the Rev. Krsyztof Koscielniak, looking into the history of Christian-Muslim relations in Central Europe, with particular reference to the 400 years of Polish Muslim history. That Polish experience is not without relevance also to many other regions of the Muslim world today. In fact, wherever an individual Muslim performs his or her ‘ibādah and muʿāmalah, religion and state are, throughout the Ummah it would seem, hotly contested realms of human interaction.
All too often the public is caught in the middle, as “Internally Displaced Persons” or as refugees, and we have only to look as an example at the surging numbers of such persons in or streaming out of Syria, to cite a particularly extreme case of a now ubiquitous reality for so many persons. Another prime example gives rise to the second article in this issue of ICR, looking into the prospects for Afghanistan, and the lingering effects of undiminished US military occupation on the future of that beleaguered nation’s desperate search for peace. Former IAIS Visiting Fellow Dr Abdul-Qayum Mohmand underlines the importance of direct negotiations between the United States of America, the leading power behind the Afghan state protagonist at least, and, in this case, the Taliban.

Yet another challenge to peace and reconciliation, and to international diplomacy and peace-building, can be found here in the Southeast Asian vicinity of the continuing economic success stories of Malaysia and Indonesia, both nations now widely viewed as being dynamic, vibrant exponents of Islamic wasatiyyah and enlightened Islamic moderation in their economic and social policies. But in early February of this year a claim was made by outside interlopers to sovereignty over territory in Sabah, eastern Malaysia; a claim which has opened the gates to an invasion, a siege, and tragic bloodshed between the Malaysian Defense Forces and a contingent of invading combatants from the Philippines. Only just last year in October, Malaysia had been instrumental in brokering a peace treaty between the Philippine government in Manila and the Moro National Liberation Front in Mindanao (that treaty is still being consolidated). So it is timely and appropriate that ICR should feature in its current issue an article on The history of the Moro Islamic Liberation Front’s “revivalist approach” to national sovereignty and self-determination. ICR is pleased, with the help of contributor Marjanie Macasalong, to offer a presentation of this history to its readers to help sharpen the perception of the issues in this under-reported part of the Ummah.

Many of the struggles that are ongoing today in the Islamic world implicitly raise the question: can there be such a thing as an Islamic Capitalism, or a Capitalist Islam – and is it in anyone’s interest? In looking at how risk is variously employed in classic economic theory and in Islamic finance, IAIS Research Fellow Abdul Karim Abdullah outlines a framework for an assessment of this broader question, in his article on Risk Sharing, Transfer and Management.

In addition to the above articles, this issue of ICR offers five viewpoints on a variety of themes: Professor Mohammad Hashim Kamali weighs in with Islamic Law’s position with regard to the topic of Bribery and Corruption; Former Chief Justice of Malaysia Tun Abdul Hamid Mohamad presents his contribution to a collective effort currently underway to elaborate a new Penal Code for Afghanistan; IAIS Research Fellow Abdul Karim Abdullah discusses the economics of How Interest
Causes Unemployment (Risk and Interest); Saudi Scholar Dr. Tawfiq Alsaif, via ICR’s translation of a media summary of his intervention at the Arab Unity Studies Centre conference in Tunisia last October on Religion and State in the Arab World, presents a short historical perspective on relations between Religion and State in Saudi Arabia; IAIS Analyst Tengku Ahmad Hazri reflects upon Constitutional Law as Ethico-Political Discourse.

Finally, ICR presents its readers with an interesting array of notes on recent events engaging ICR’s family of researchers and partners and relating to a wide spectrum of topics in Islamic higher education, human rights, non-violent conflict resolution, music and spirituality.

Mohammad Hashim Kamali

Editor-in-Chief
ARTICLES

PEACE AS A UNIVERSAL ISLAMIC VALUE*

Mohammad Hashim Kamali**

Abstract: In many different ways the Qur’an and Sunnah bring peace into the heart of Islam’s spirituality, law and ethics. There is a persistent quest to instil tranquillity into the hearts and minds of the believers. The thrust of this presentation is to explore and substantiate the grounds of our belief that peace is a universal and normative principle of Islam. An introduction raises the question as to why Islam is associated with violence, and whether there any basis for this. This is followed by discussion of Islam’s self-definition and self-identification as a religion of tranquillity and peace. The sub-headings that follow are a reading of the source evidence, especially of the Qur’an and Sunnah. Then I take a glimpse into how in Islam Divine love and grace constitute the leitmotif and origins of God’s creation. The discussion proceeds to expound the centrality of ḵḥāṣān (beauty and benevolence) as a theological foundation of Islam. This is followed by a brief exposition of compassion (raḥmah), justice (ʿadl), human dignity (kārāmah) and the vicegerency of mankind on earth (ḵhilāfah) and how these feature in Islam as a religion of submission and peace. Then I explore the place of non-violence, forbearance and patience (ṣabr) in the teachings of Islam. Finally I turn to the use of force and the much-debated subject of jihād (selfless striving) under two sub-headings, one of which expounds textual dispensations and early developments on jihād, while the other examines jihād in the modern period. I show how the meaning of jihād has been changing in tandem not only with juristic and theological thought but also with the politics of power, domination and conquest. I end with a conclusion and recommendations.

Introduction

Despite the presence of violence in many regions of the world involving many religions, the Western world associates Islam more than any other religion with violence. Past history and contemporary evidence show, however, that Islam has not witnessed to any more violence than one finds in other civilisations, particularly that of the West, as manifested in colonialism, World Wars I and II, and occupation and conflict in Iraq and Afghanistan. It seems that the historical memory of Muslim conquest of Spain and the Ottoman domination of Eastern Europe may account for Islam’s association with force and power. Moreover, the upheavals of the past decades in the Middle East, and especially movements using the name of Islam and jihād for political ends, have reinforced the idea
prevailent in the West that in some special way Islam is related to violence.\footnote{It is necessary to specify what is meant by violence. Dictionaries attach such meanings to the word as “swift and intense force”, “rough or injurious physical force or action”, “unjust or unwarranted exertion of force especially against the rights of others”, and finally “injury resulting from the distortion of meaning or fact”. The question can be asked as to how Islam relates to these definitions. As far as force is concerned, Islam is not completely opposed to its use, but rather seeks to control it under the rules of Sharīʿah so as to curb criminality and unwarranted aggression. The Islamic concept of justice under the Sharīʿah aims at restoring equilibrium and normality when these are destroyed. Despite all the wars and invasions which it experienced, Islam was able to create an ambience of peace and tranquillity which can still be felt wherever something of the traditional Islamic world survives.

As for violence as “rough or injurious physical force or action”, the Sharīʿah is also opposed to it except for self-defence or punishment of criminals. In the course of war, Sharīʿah forbids injury to non-combatants, as I elaborate below. Punishment of criminals is the subject of adjudication by impartial tribunals, a matter which the Sharīʿah has regulated in considerable detail.

With regard to the use of violence against the rights of others, Islam is not only opposed to it but seeks instead to protect all people’s rights. What is remarkable, however, is not that some violence exists, as it does in this sense in most human societies including Muslim ones, but that despite so many negative social and economic factors, aggravated by colonialism, aggression, overpopulation, poverty and renewed western militarism as of late, “there is less violence as unjust exertion of force against others in most Islamic countries than in the industrialised West.”\footnote{Finally, if by violence is meant “injurious distortion of meaning or facts”, Islam is resolutely against it. Any distortion of truth is abhorrent to Islam, even if no one were to be affected by it. Falsifying the truth is especially objectionable when it causes injury to others.

Islam itself cannot be imposed on anyone through compulsion and violence (cf., \textit{Q al-Baqarah} 2:256). The Qur’an confirms that coerced religion would be pointless as it destroys the essence of conviction and belief. Muslims are enjoined to invite disbelievers “to the Way of Thy Lord with wisdom and beautiful preaching; and argue with them in ways that are best and most gracious...if you show patience, that is indeed the best (course)... For Allāh is with those who restrain themselves, and those who do good” (\textit{Q al-Nahl} 16:125–28). Explaining to his followers the need in some situations to undertake combat, the Prophet acknowledged God’s revelation that warfare was wrong, indeed a “disliked” activity, yet it was necessary under some circumstances to fight persecution and injustice (\textit{Q al-Baqarah} 2:216; \textit{al-Shūrā} 42:41).}
Furthermore, Islam identifies itself as a religion of moderation (wasatiyyah), and its moral teachings are grounded in keeping with the golden mean and avoidance of extremism. Even if force is to be used, it must be used in moderation and in proportion to the purpose sought. Only the aggressors are to be targeted, as the text proclaims: “There shall be no hostility except against the oppressors” (al-Baqarah 2:193) and that “if anyone is aggressive towards you, your response should be commensurate to the pain you have suffered” (al-Baqarah 2:194).

**Peace as a Normative Principle In Islam**

As a positive concept, peace connotes an enduring state of harmony, integrity, moderation and contentment. This is contrasted with negative peace, which merely denotes the absence of conflict. A positive notion of peace shifts the focus from only prevention of conflict and violence to a willingness to generate balance, inner tranquillity, and a just order of relations among individuals and communities.

Islam’s intimate identity with peace begins with its name: Islām means peace, which is also manifested in the daily greeting of Muslims: al-salām ‘alaykum ‘peace be upon you.’ ‘Al-Salām’ is, moreover, one of the Most Excellent Names (al-asmā’ al-ḥusnā) of God. It is also significant that Muslims venerate the Prophet Muḥammad and other Prophets with the typical phrase “peace and blessing be upon him.” God the Most High praises those who act with humility and peace: “the servants of Allah most gracious are those who walk the earth with humility, and when ignorant people address them, they reply ‘Peace’” (Q al-Furqān 25:63). The five daily prayers Muslims perform end with the salutation “peace be upon you,” saluting first the right side of the world and then the left side of the world with the same words. This is further endorsed in the supplication-cum hadīth Muslims recite after ritual prayer: “O Allah! You are Peace; peace comes from you, and peace returns to you; so welcome us with the salutation of ‘peace’ and admit us into the Abode of Peace…” Peace thus acquires a theological significance and partakes in a sparkle of the Divine, an important dimension of faith in Islam.

God’s love and grace for His human servants is manifested in the creation of Paradise, the Garden of Peace, as their final destination, but due to an act of disobedience, as the Qur’anic narrative of first creation expounds, man’s destiny took a different course. Yet divine revelation shows the way back to this place of all-embracing peace. Peace is a merit which the believers enjoy in Paradise: they reside there in God’s pleasure “and greet one another with ‘peace!’; they shall hear therein no vain or sinful talk, but only peaceful words” (Q Yūnus 10:10; al-Wāqi‘ah 56:25).
God shows His human servants the path to seek Him, and whoever sets out upon that path is rewarded with inner tranquillity (sakīnah) (Q Tawbah 9:26 & 40) giving the seekers inner strength to build a peaceful environment. Peace comes from God, but not in an obvious way, as the Qur’an says: “He it is Who sent down tranquillity into the hearts of the believers... so that they might grow firm in their faith (in Him)” (Q al-Fāṭih 48:4). Peace is thus to be found not outside the heart of man but primarily within it, and from here it spreads to the outer world. From the Qur’anic perspective, peace finds expression in three interlocking circles, the first of which is peace of the heart, which in turn nurtures peace with God and faith in Him, and this extends to the third circle: peace with the outside world. All three circles of peace constantly interact with and influence one another.⁵

The natural world is in a constant state of peace and submission, according to the Qur’an: it is muslim in surrendering itself (taslīm) to the will of God, thus rising above all tension and discord (Q Āl-‘Imrān 3:83; al-Tawbah 9:53). In its normative depiction of natural phenomena and the existential world, the Qur’an talks about stars and trees existing in a state of surrender or “prostration before God” (Q al-Rahmān 55:6). Tranquillity and repose thus become the normative order for God’s creation, the beginning and end of all existence.

The instigators of violence and war are, on the other hand, condemned in the Qur’an as follows: “Whenever they kindle the fire of war, God extinguishes it. They strive to create disorder on earth and God loves not those who create disorder” (Q al-Mā‘idah 5:64). Muslims are also directed not to decline the offer of peace whenever the opportunity arises to end a conflict: “If they (the opponents) incline to peace, you should also incline to it, and trust in God” (Q al-Anfāl 8:39).

Universality of Peace

The principle of Divine Oneness, tawḥīd, is the first article of the Muslim faith and a major theme of the Qur’an. There is only one God and essentially one humanity, which implies that all humans are equal, simply because we are born of one man and one woman. “O mankind!” God says in the Qur’an, “surely We have created you from one male (Adam) and one female (Eve) and made you into tribes and nations so that you may come to know each other. The noblest of you with God are the most righteous among you” (Q al-Ḥujurāt 49:13). Tawḥīd also teaches the unity of all being and urges Muslims to recognise the interconnectedness of all parts of God’s creation, particularly of all human individuals and communities. The Qur’an calls on all people to cooperate in good deeds, and “cooperate not in hostility and sin” (Q al-Mā‘idah 5:2), and then it also enjoins them to “vie with one another in good works; for to God you shall all return...”
(5:48). Any effort made in order to resolve conflict and restore harmony among people, especially when it is made in the spirit of unity and cooperation, qualifies as the Qur’anic conception of “cooperation in good works – ta’āwun.”

_Tawḥīd_ is the basis of Islamic universalism, tolerance and inclusivity. People are all equal in the eyes of their Creator, irrespective of race, nationality, creed or gender. Nevertheless, the Qur’an is cognisant of internal diversity and pluralism among human communities and nations on account of language, creed, custom and culture. _Tawḥīd_ is thus the governing principle that makes the Islamic outlook one of unity, inclusivity and universalism.⁶

The same tawḥīdīc approach is manifested in reference to the sanctity of human life. Every human life is equally important for humanity without discrimination of any kind. God has proclaimed that human life – a sacred gift – may never be taken without “just cause.” If anyone takes the life of another human, unless in punishment for cases of murder and aggressive violence, it is as though he has killed all humanity. Likewise if anyone saves a life, it is as though he has saved all of humanity (Q al-Māʿidah 5:32). The Sharīʿah thus protects every life and therefore seeks to establish safety and security (ʿamn, ʿamān) of life for all and every member of the human fraternity.

### Divine Love and Mercy

Islam is robustly monotheist in its belief in one transcendent God to Whom belong “all the beautiful Names”, including the names of Beauty (jamāl), Majesty (jalāl) and Perfection (kamāl). The names of beauty take precedence over the names of majesty, for God says: “My mercy encompasses everything” (Q al-Aʿrāf 7:156), and that “God has written mercy upon Himself” (Q 6:12, 54). This is further endorsed by the renowned hadith of the Prophet that “God is Beautiful and loves beauty.”⁷ As the ultimate source of peace and beauty, God transcends all opposites and all tensions and calls His servants to the permanent state of tranquillity in the Abode of Peace-Security (dār al-salām, Q Yūnus 10:25). Peace cannot be imposed from outside. It starts within the hearts and minds of people, and the dynamics it generates are externalised through compassion, generosity, forgiveness and cooperation in noble pursuits.⁸

God created the universe as a manifestation of His love and grace, aspects of His exalted self that underline His ninety-nine “Most Excellent Names”. The Sufis expatiate on this and maintain that God’s love for His servants also means that He is with them wherever they are; His face is turned to them whichever direction they face (Q al-Baqarah 2:115; al-Hadīd 57:4). He witnesses His servants who work for peace and justice, “and loves them for it never endingly”.⁹ God’s servants are enjoined never to give up hope that they will reach the Abode
of Peace. “It may be that God will bring love (and friendship) between you and some of those whom you (now) hold as enemies. For God has power over all things. He is most forgiving, most merciful” (Q al-Mumtaḥanah 60:7). Muslims should be just and kind to all their fellow humans regardless of their faith, if they have not been aggressive nor driven the Muslims out of their homes (Q al-Mumtaḥanah 60:8). A higher level of faith attainment is not only to avoid animosity and evil but “to repel evil with what is better” and thus build ties of affection and friendship (Q al-Shūrā 41:34). The Prophet defined a Muslim as the person “from whose hands and tongues other Muslims [we may take this as referring to other humans] are safe”.

Every act of peace, however small, helps, for it is equivalent to praising the Creator and partaking in ṣalmāliḥ (righteous conduct). This is why the Prophet (pbuh) said: “Do not despise even the smallest deed, even if it consists of meeting your brother with a friendly encounter.” Friendly encounters radiate from a peaceful heart, which is averse to hostility and arrogance. “God has told me,” said the Prophet Muhammad on another occasion, “that you should be humble; that none of you should raise himself above the other; and that none should treat the other unjustly.”

Islām and Iḥsān (Benevolence)

It is possible to act correctly in a manner which may nevertheless be devoid of spirituality and benevolence, practicing correct rituals unenlivened by an inner light. One can practice one’s faith externally at the level of submission (islām) yet be vacuous of sincere faith (īmān). One may also be religious in both these senses (islām and īmān) but lack spiritual beauty and virtue (iḥsān). The Qur’an repeatedly mentions God’s love for the muḥsīnūn, those who practice iḥsān, and this is only possible when the existential reality of one’s daily life is not overwhelmed by conflict. Peace thus becomes the prerequisite of beauty, indeed of comprehensive fulfillment of Islam.

The Qur’an is much more attentive to the internal dimensions of Islam than its externalities. The essence of being a decent, God-conscious, and benevolent Muslim receives greater attention therein. There is even a reference in the Qur’an denouncing those “performers of prayers who are absent-minded of the meaning of what they do, those who refuse to do a small act of generosity to the one in need” (Q al-Mā’ūn 107:5). Iḥsān means beautiful conduct, being good to others, the striving for perfection in the sense of bringing out beauty in all that one does. Hence the utterance of the Prophet that “God has inscribed beauty in all things / inna Allāh kataba l-iḥsāna ‘alā kulli shay’”. One can perform the ritual prayer, for example, either as a deliverance of duty, or in a manner imbued with iḥsān,
the awareful state that one is standing in the presence of one’s Creator. One can also commit reprehensible acts, such as ṭalāq (divorce) in an ugly fashion, or in a decent manner (known in fiqh as ṭalāq aḥsan). To state that God has inscribed iḥsān in all things is an incentive for us to discover it. For God loves Beauty, and the beauty of religion is iḥsān.

A renowned ḥadīth recorded in major collections recounts an audience of the Prophet with an enigmatic figure later identified as the angel Gabriel. While the Prophet was sitting in a circle of his companions, this stranger asked him to describe three concepts fundamental to Islam. The first was identified by the Prophet to be submission to God (islām), which consisted of performing the five basic acts or pillars (arkān) of Islam. The second of these was faith (īmān), which the Prophet explained as having faith in God, His prophets, angels, the holy books, the day of judgment and God’s knowledge of predestination. The third was spiritual beauty (iḥsān), which meant one prays as though one sees God face to face, and even though one does not see God, one must know that He sees His servant.¹⁴

This striking dialogue indicates a structure of religious values that proceeds from the outer to the inner. Submission (islām) is the first and most external feature, while the next two, namely faith and spiritual virtue, are affairs of the mind and heart, creating the basis for religious consciousness. To the extent that current interpretations and ritualistic practices of Islam exclude the internal aspects of faith and spiritual beauty, they present an impoverished picture of Islam.¹⁵

The Qur’anic conception of justice is also tempered with iḥsān: “God command justice and benevolence – al-ʿadl wal-iḥsān” (Q al-Nahl 16:90.) Islamic justice must, in other words, be delivered in the spirit of iḥsān, equity and fairness, and not of literalism consisting of measure-for-measure acts of retaliation and punishment.

Human Dignity, Compassion and Justice

Islam subscribes to a basic belief in human dignity as an expression of God’s love for the most noble of His creation. According to the Prophet’s Companion Ibn ‘Abbās, God’s unconditional bestowal of dignity on “the children of Adam” (Q al-İsra’ 17:70) was to honour and celebrate mankind’s faculty of reason, which is the hallmark of his dignity above the rest of God’s creation.¹⁶ This also qualified mankind to be the recipient of divine revelation. Man has been created in the most beautiful form (aḥsan al-taqwīm) (Q al-Ṭīn 95:4) both physically and spiritually, endorsed further by God’s affirmation: “I breathed into him [Adam] of My Spirit” (Q Ṣād 38:72). God Most High then ordered the angels to prostrate
themselves before Adam, which they did, thus establishing the highest rank of spiritual dignity for the progeny of Adam (Q al-ʾaraf 7:11). This metaphysical optimism designates human beings as God’s vicegerent on earth (khalīfat Allāh fī l-ard) with a mission to share the earth with God’s other creatures, promote good, prevent evil and establish justice. God requires human beings to behave with dignity, which entails a great deal, e.g., that one does what one says, speaks the truth, and exercises mercy and compassion. Dignified conduct also entails respecting one’s fellow humans, giving everyone what is due, and nurturing a caring attitude towards the earth’s natural environment.

Justice (ʿadl) must be done and evil fought through proportionate effort and use, if necessary, of force, yet Muslims are normally enjoined to be kind to everyone at all times: “Allah commands justice, the doing of good, and liberality to kith and kin, and He forbids all shameful deeds, injustice and rebellion” (Q al-Nahl 16:90). Thus ʿadl is the starting point and key to establishing harmony in family and society. Peace is not sustainable in the face of oppression and injustice; hence, justice becomes a prerequisite of sustainable peace. Indeed, in order of Islam’s priorities justice stands next to tawḥīd, and like tawḥīd it is also universal in that it must transcend all considerations of gender, race and religion (Q al-Māʾidah 5:8).

Mercy (raḥmah) and forgiveness (ʿafw) also rank high in the Islamic order of values. God, His Prophet, and the Qurʾān all associate themselves intimately with merciful compassion: al-Raḥmān al-Raḥīm (Most Compassionate, Most Merciful) are the two most favoured of God’s Excellent Names, as they also head every one of the 114 chapters of the Qurʾān. The Qurʾān characterises itself as a mercy to the believers (10:57) and the Prophet Muhammad as “a mercy to the world” (Q al-Anbiyāʾ 21:107). In a renowned ḥadīth the Prophet declared: “One who does not show mercy to people, God will not be merciful toward him,” and another ḥadīth states “People are God’s children, and those dearest to God are the ones who treat His children kindly.”

Forgiveness (ʿafw), which features prominently in the Qurʾān and ḥadīth, is meant to overcome animosity among people, enabling them to reconcile their differences and live a peaceful life. Forgiveness must counter and vanquish hatred; for the Qurʾān characterises true believers as those who forgive when they are angry (Q al-Shūrā 42:73). Believers are further advised to “keep to forgiveness, enjoin kindness, and turn away from the ignorant” (Q al-ʾaraf 7:199). Thus if someone annoys one out of ignorance, it is better not to confront him but to turn away and seek peace. People of distinctively virtuous character are those who can “repel evil (not with evil) but with something better, that is, with amnesty and forgiveness” (Q al-Muʾminūn 23:96). To win the people’s hearts is deemed the highest of virtues in Islam. The Prophet is reported to have
addressed his Companions: “Should I inform you of something that is better than prayer, fasting and pilgrimage”, and the Companions were eagerly listening: “It is to reconcile and bring peace among two parties (iṣlāḥ dhāt al-bayn).” The effort to bring reconciliation and peace often necessitates eliminating the grounds of strife and conflict. Hence peace, not war, is God’s true purpose for creation and the normative principle of Islam.

Non-Violence and Patience (al-Ṣabr)

There is evidence to suggest that the Sharī‘ah allows only defensive war and deterrence of impending aggression, if necessary by force, yet in all cases prescribes moderation, forbearance and patience. Doing no greater violence than the minimum necessary and “not transgressing limits” are repeatedly stressed in the Qur’an. Deterrence is achieved by doing to the aggressor what he has done to the innocent. Muslims are enjoined that they should respond to provocations with patience and efforts to facilitate conciliation, because forgiveness and restoration of peace remains the preferable options (Q al-Shūrā 42:40–43).

Of the twenty-three year period of his mission, The Prophet (pbuh) spent the initial thirteen of these twenty-three years in Mecca, where he conducted his campaign with peace and nonviolence. When he was persecuted during the Meccan period, he used to pray, “Forgive them Lord, for they know not what they do.” Later in the eighth year after the hijrah when the Prophet conquered Mecca with his followers, he set an exemplary record of forgiveness toward Meccans who had bitterly fought him for many years. He even showed mercy to Abū Sufyān’s wife Hind bint ‘Utbah, who was under a death sentence for having brutally mutilated the body of the Prophet’s beloved uncle Ḥamzah during the battle of Uhud five years earlier. When some of his Companions asked him to invoke the wrath of God upon the Meccans because of their persecution of Muslims, his reply was: “I have not been sent to curse anyone but to be compassionate to all.” A saying in Islamic ethics similarly declares that “the most gracious act of forgiving an enemy is when one has the power to take revenge.”

As for the meaning of the frequently recurring phrase in the Qur’ān, fī sabīl Allāh (in God’s way), it is related that a number of the Companions were sitting with the Prophet when a muscular man from the pagans of Quraysh came into view. Some of them exclaimed, “If only he would use his strength in the way of God!” The Prophet then asked: “Do you think only someone who is killed in battle is engaged in the way of God?” He continued: “Whoever goes out in the world seeking licit work to support his family, he is on the path of God; whoever goes out in the world to support himself is on the path of God; whoever goes out seeking worldly increase (al-takāthur) has embarked, however, on the way of the devil.”
This is a clear rebuttal of those who understand *striving in the way of God* in primarily military terms. Al-Bukhārī and Muslim have also recorded the hadīth: “one who helps widows and the poor are like fighters in the path of God.”

On the virtue of patience featuring prominently in the Qur’ān, the ninth century work of Ibn Abī al-Dunyā (d. 894) entitled *Al-Ṣabr wa’l-Thawāb ‘Alayhi* contains the following hadīth on the authority of the Companion ʿĪsāmah Abī Ḥukaymah:

> God’s Messenger (pbuh) wept so we asked him, “What has caused you to weep, O Messenger of God?” He replied, “I reflected on the last of my community and the tribulations they will face. But the patient from among them who arrives will be given the reward of two martyrs.”

Sufyān b. ʿUyaynah also reported the Prophet’s utterance: “The believers have not been given anything better and more meritorious than patience, by means of which they enter Paradise.” According to another hadīth on the authority of ʿAlī b. Abī Ṭālib:

> God’s Messenger (pbuh) said: “Patience is of three kinds: long-suffering during tribulations, patience in obedience to God, and patience in avoiding sin. Whoever remains patient during tribulation until he averts it by the seemliness of his forbearance, God will ordain for him three hundred levels of recompense....”

**Use of Force and Jihād**

*Jihād* or “struggle for a higher cause” has been extensively treated in existing literature, and our remarks merely address this topic in two segments: textual and early developments, and *jihād* in the modern period.

**A. Text & Early Developments.** The Prophet migrated to Madinah to escape the hostility and persecution which he and his small number of followers had endured at the hands of the Meccan pagans. He set up the first Muslim polity in Madinah; hence the Madinan verses of the Qur’ān began to address legal matters as well as defence against continued Meccan hostilities. In 624, two years after the migrations of Muslims to Madinah, “in which the Quraysh continued to persecute them and then led armies against them, Muhammad (pbuh) finally announced a revelation from Allah that Muslims were allowed physically to defend themselves.” A specific Qur’ānic verse was then revealed (*Q al-Ḥajj* 22:39):

> Permission [to fight] is given to those against whom war is being wrongfully waged, and indeed God has the power to help them. Those who have been driven from
their homes against all right, for no other reason other than their saying that “only God is our Lord and Sustainer.”

This was the first grant of permission in the Qurʾān.³⁰ Yet Muslims were still not allowed to engage in fighting during the months of pilgrimage (Q al-Baqarah 2:217). The Qurʾān also enjoined upon Muslims to defend those who were oppressed and who cried out to them for help (Q al-Nisā’ 4:75). Thus it was implied that Muslims could resort to defensive combat even on behalf of Christians and Jews who were the object of Meccan hostility.³¹ In the verse al-Shūrā 42:40 self-defence was allowed but not through violent means, only to repel the enemy’s oppressive and immoral behaviour. In the verse al-Ḥajj 22:39 a more explicit reason is given: wrongful expulsion of Muslims from their homes. Only when both just cause and right intention were present, did war in self-defence against the aggressor become obligatory (see Q al-Baqarah 2:216). Yet the majority of Muslim jurists has held that the call for jihād can be issued only by a legitimate Muslim leader in Muslim majority lands. Whereas jihād for self-defence need not be formally declared as such, all other legitimate jihād should be preceded by fair warning and declaration of intent.³²

Before assigning a leader to military expeditions, the Prophet would instruct him to fight honourably, not to hurt women and children, not to harm prisoners, nor to mutilate bodies, plunder, or destroy trees or crops.³³ After the Prophet’s death his close friend and successor the Caliph Abū Bakr announced the following code of conduct to Muslim warriors:³⁴

Do not act treacherously; do not act disloyally; do not act neglectfully; do not mutilate; do not kill children nor old men; do not cut off the heads of the palm-trees nor burn them; do not cut down the fruit trees; do not slaughter a sheep or a cow or a camel, except for food. You will pass by people who devote their lives to worship in cloisters; leave them alone. You will come upon people who will bring you platters in which are various sorts of food; if you eat any of it, mention the name of God over it.

The Qurʾān did not permit initiation of hostilities, as in verse al-Baqarah 2:190: “Fight in the cause of God those who fight you, but do not commit aggression, for God loves not aggressors.” Recourse to armed combat must therefore be in response to a prior act of aggression by the opposing side. As one commentator observed, the verses that talk of combat “are clear that war is only permissible against those who are waging war; and the enemy in combat…as well as those acting unjustly to prevent Muslims from practicing their faith… No one else is to be harmed.”³⁵

During the month of Ramaḍān in 624 CE the pagans of Mecca attacked the Muslims in what became known as the Battle of Badr. Two years later the Battle
of Uhud was fought wherein the Muslims suffered severe losses, followed by the Battle of Khandaq in 627. Apart from these three major battles, a large number of minor campaigns were fought until the Prophet’s death in 632. Some of the most trenchant verses exhorting the Muslims to fight were revealed on the occasion of these major military campaigns. One such verse is *al-Tawbah* 9:5, known as the sword verse (*āyat al-sayf*), which stated: “when the sacred months are over, slay the polytheists wherever you find them, and take them captive and besiege them....” The explicit reference to polytheists (*mushrikīn*) who may be fought after the end of the sacred months, highlighted the application of this verse to the pagan Arabs at that time. This is how many leading legal scholars including al-Shāfiʿī and al-Ṭabarī understood this verse. A contemporary observer similarly comments that the advice of these verses may well seem “out of place in a religious context, but they are not out of place in the context of what a military commander says before a battle.... That was precisely the context of those particular revelations.” The commentators are in agreement on the occasion of revelation of the sword verse: seven years after the exodus of Muslims to Madinah when the Prophet negotiated a truce with the pagans of Mecca known as the Treaty of Ḥudaybīyah. One year later the Meccans violated the terms of this treaty and then this verse was revealed. The latter portion of the verse still added the proviso: “If they repent and take to prayer...let them go their way. God is much forgiving, a dispenser of grace (*Q al-Tawbah* 9:5).”

During the Umayyad period (661–750) the constant border skirmishes with the hostile Byzantines predisposed Syrian and Iraqi jurists in particular to endorse the concept of an offensive *jihād*. “It would not be an exaggeration to state,” Afsaruddin states, “that to express support for expansionist war at this time was to proclaim one’s support for the existing government.” In contrast, Madinan and Meccan jurists placed greater emphasis on religious practices such as the pilgrimage, prayer and mosque attendance.

By the early ʿAbbāsid period (ca. late 2nd/8th century CE) the military aspect of *jihād* began to receive greater emphasis in certain official and juridical circles. *Jihād* from this period on was progressively conflated with *qitāl* (combat), collapsing the distinction that the Qurʾān maintains between the two. Many jurists also invoked the tool of *naskh* (abrogation), especially by the sword verse (*Q al-Tawbah* 9:5) in support of their assertions. An exaggerated claim was thus made that this verse abrogated all the previous verses of the Qurʾān regarding peace, perseverance, patience, moderation, forgiveness and tolerance, etc., and that no less than 114 (some reckon 140) verses were consequently abrogated by this single verse. One of the most important verses also claimed to have been abrogated by the sword verse is *al-Baqarah* 2:256, which proscribes compulsion in religion. This simplistic view was by no means accepted by all. Two celebrated
Qur’an exegetes, al-Ṭabarī (d. 923 CE) and Ibn Kathīr (d. 1373), maintained that this verse had not been abrogated and remained valid for all times. A contemporary observer also draws the conclusion that most Islamic authorities outside the era of the war-filled medieval period are firm in their judgment that the warlike verses in the Qur’an, even those “revealed very late in Muhammad’s mission, do not cancel out the overwhelming number of verses that extol tolerance, reconciliation, inclusiveness and peace.”

The foregoing helps to explain the juristic construction over dividing the world into the abode of Islam (dār al-Islām) and the abode of war (dār al-ḥarb), the latter referring to non-Muslim territories. Without entering into detail, it may be observed that many jurists have added to this the more peaceable divisions: abode of treaty (dār al-‘ahd) and abode of peace (dār al-ṣulḥ). Yet it is worth emphasising that the concept of dār al-ḥarb has no basis in the Qur’ān or the Prophet’s Sunnah.

B. Jihād in the Modern Period. The meaning of jihād had in course of time been changing from an intellectual and spiritual struggle to fight the evil within oneself and without, to one that is decidedly militarist. Much of this change has taken place in tandem with the turbulent course of political domination, colonialism and conquest. The reason for this shift in meaning becomes quite clear when one looks at developments in late nineteenth and early twentieth centuries. In just a few decades, nearly the whole Muslim world was attacked, invaded and occupied by non-Muslim nations. The Ottoman Empire, the last major Muslim power, was destroyed in World War I, and almost all the Muslim states that arose from its ashes were colonised by Britain, France or Italy. Russia and the subsequent Soviet Union also crushed Muslims in Central Asia during the Basmachi Revolt (1916–23), the Turco-Islamic uprising against Russian and then Communist rule. Sustained and successive foreign invasions of Muslim nations impacted the entire intellectual landscape of Islam. The West was no longer seen as a model to emulate but rather an intruder to eradicate. The push for intellectual reconstruction and ijtihād advocated by al-Afghānī, ʿAbduh and others was overshadowed by the drive for jihād.

Nikkie Kiddie, an American professor of Middle Eastern history, observed that militant jihād movements of the modern era began and grew mostly as a response to Western colonialism. In the nineteenth century, expansive waves of jihād movements emerged in Algeria, Sudan, the Caucasus, and Libya as “a direct response to French, British, Russian and Italian colonial conquests.” The eminent historian of the Middle East Bernard Lewis also wrote: “At no point do the basic texts of Islam enjoin terrorism.... At no point do they even consider the random slaughter of uninvolved bystanders.” Muslim scholars have
unambiguously opposed the intentional killing of non-combatants, because the Qur’ān bids: “Fight in the way of God those who fight you, but do not go beyond the limits” (Q al-Baqarah 2:190). The Prophet also ordered troops not to kill the very old, the infant, the child or the woman. Bernard Lewis added: 48

Fighters in a jihād are enjoined not to kill women, children and the aged unless they attack first, not to torture or mutilate prisoners, to give fair warning of the resumption of hostilities after a truce, and to honor agreements. The medieval jurists and theologians discuss at some length the rules of warfare, including questions such as which weapons are permitted and which are not.

The medieval Islamic concern for moral warfare is most apparent when contrasted with some of the wanton killing committed by certain enemies of Muslims, such as the Mongol invaders and the Crusaders. When the Crusaders sacked Jerusalem in 1099, they indiscriminately slaughtered the local population; as Karen Armstrong remarks: “They killed all the Saracens (Muslims) and the Turks they found…. They killed everyone whether male or female.” 49

In return, Muslim forces led by Saladin not only spared noncombatants but also released many prisoners of war. When Saladin reconquered Jerusalem in 1187, the city was unharmed and only the “Franks” or Christians from Europe were expelled, whereas Eastern Christians were allowed to stay. A modest ransom was assessed, but those who could not afford it were excused. 50 In this way he was behaving simply as a Muslim ruler who abided by the Shari‘ah.

The religious fanatics who resort to senseless violence “did not come out of the blue. The political history of the past two centuries of Islamdom holds the key to their emergence. What this also means is that Islamism and its violent offshoot, jihadism, is more of a political phenomenon than a religious one.” 51

The widespread hostility among Muslims to Western aggression and dominance has sometimes led even religiously indifferent but politically irritated Muslims to sympathise with the jihadists. “Even young Arab girls in tight jeans,” an American scholar observed, “praise bin Laden as an anti-imperialist hero.” 52

The situation has worsened since the September 11 attacks and the aftermath of violence in Afghanistan, Iraq, Kosovo, Palestine and elsewhere. Western Christian missionary activity, supported as it is directly or indirectly by the might of the West and the renewed zeal of the Christian Right movement, now poses a major challenge for contemporary Muslims dealing with Western Christianity, in contrast to local forms of Christianity with which Muslims have lived usually in peace for centuries. 53

The root causes of some of the present day conflicts have very little to do with religion even if they may appear to have some religious implications.
The Israeli-Arab conflict is about land, dispossession and the right of self-determination, even if some Jewish, Christian and Muslim fanatics are exploiting the issue for their own ends. The conflict in Kashmir is also about the right of self-determination. It is not a Hindu-Muslim war. The Sinhala-Tamil conflict is similarly not a Buddhist-Muslim conflict. It is well-known that Buddhism has been dragged into the conflict by only a small number of Buddhist monks. The Mindanao conflict in the Philippines is not about religion, it is about land and historical rights as well as unemployment and poverty, though religious sentiment then entered into the conflict. The Maluku conflict in Indonesia arose out of socio-political and economic circumstances, not a fight between Islam and Christianity.

Arthur Schneier, who convened four religious summits on peace and tolerance in the former Yugoslavia, asserted that “in our era, religion is not the cause of conflict, although it is often used as an excuse; religion, unfortunately is often the most visible difference between contesting groups and, as a result, is frequently blamed for conflicts.... A crime committed in the name of religion is the greatest crime against religion.” Feisal Rauf has also commented: “It is a travesty of religion, of God’s directives to humanity, to be brutal, cruel and inhumane in God’s name.... It is essential that the Cross, the Crescent and the Star of David become symbols of peace, tolerance and mutual respect.”

Conclusion and Recommendations

Broader Concerns: Peace is a universal objective and difficulties in its realisation concern people in all corners of the globe. The state of tension that has prevailed since post-September 11, 2001 has served to heighten awareness of the need for greater cooperation among people to vindicate peace. Senseless wars, border clashes, military occupation, the arms race and suicide bombings have not only failed to resolve any conflict, they have added to the size of the challenge. The fall-out of wars in many parts of the world that we are currently witnessing is draining the resources of the world, adding to frustration and deprivation. This serves as a stern reminder of the following:

- The sanctity of human life and dignity, the most cherished values of human civilisation, is rooted in spirituality and ethics which in turn have been concretised in a set of legal rules. Yet for legal rules to be effective, their grounding in religion and ethics should be made more visible. Islam’s teachings on peace, forgiveness, compassion, justice and social harmony should be integrated into our approaches to holistic education, good governance and international law.

- There is enough evidence in the Qur’an and hadith to support the conclusion that world peace is one of the higher goals and objectives or
maqāṣid of the Sharī‘ah. Should there be any aspects of fiqh that depart from the spirit of this objective, they should be duly revised through ijtihād-oriented efforts.

- **Jihād** is a powerful part of Islamic teachings that can mobilise Muslims to combat oppression and injustice. Yet the military overtones of jihād have almost totally suppressed its more peaceful purposes. A state of imbalance that has come about as a result calls for a corrective through education and media that should also enlist the support of religious leaders and ‘ulamā’.

- Western media is not helping the cause of peace by spreading Islamophobia and false premises that link Islam with terrorism and violence. Negative propaganda should stop. Truth should be told, and constructive criticism made. It is necessary for Western media to turn a page and assist their Muslim counterparts in the true spirit of “cooperation in pursuit of good deeds”.

- Media in the OIC countries should design suitable programmes to correct negative perceptions of Islam. Malaysia can play an important role in this effort. The OIC should also set up an international institute of peace studies with a combined agenda of study and research in Islam and traditions to develop active programmes of public engagement and publications.

- Security and peace are inter-related but two different themes. Basic security relates to observance of people’s rights and the effort it takes to make people safe as they go about the business of everyday life. It has also much to do with economic development and democratisation.

### Practical Proposals

- Our political leaders and officials should make peace-building a feature of their engagements, generate ideas and develop public support for a common peace agenda between Islamic and Western countries.

- Our religious leaders, ‘Ulamā’, judges and Muftis, ‘ulamā’ associations and civil society should draw attention to persistent violence, insecurity and conflict, instead of focusing on such issues as ḥudūd punishments or on what people eat and wear.

- The ‘Ulamā’ associations of Malaysia and other Muslim countries should engage in consultations with prominent figures among them to work on an agenda such as “Peace Building as the Jihād of the 21st century”.

- Malaysia should solicit support, initially from Turkey, Egypt, and possibly Morocco, to promote a “Common Peace Agenda” between Islamic and Western countries.
Western countries, the US and Europe. This may involve mediation to help resolve local conflicts in countries such as Afghanistan, Pakistan and Palestine. Having successfully brokered peace in the Philippines, nations such as Malaysia are in a favourable position to take other initiatives. Formation of a group of eminent persons from select Muslim countries may also seem advisable.

In mid-2011 IAIS-Malaysia introduced its new feature programme, “Peace–Security and Islam”, consisting of forum presentations, publications and a website feature. The Institute of Diplomacy and Foreign Relations (IDFR) and the Cordoba Foundation of London have more recently welcomed and joined hands with IAIS Malaysia in this venture. We hope to continue the endeavour and expand it with cooperation from individuals and institutions in this country and abroad.

Notes

* This is a revised version of my paper presented at the Forum “Peace and Security: Islamic Perspectives” jointly organised by the International Institute of Advanced Islamic Studies (IAIS) Malaysia, and the Institute of Diplomacy & Foreign Relations (IDFR) in Kuala Lumpur 4 October 2011.

** Mohammad Hashim Kamali, Founding Chairman and CEO of IAIS Malaysia, graduated from Kabul University, and took his PhD in Islamic and Middle Eastern Law at the University of London in 1969. Professor Dr M.H.Kamali served as Professor of Islamic Law and Jurisprudence at the International Islamic University Malaysia (IIUM, 1985-2007), then Dean of the International Institute of Islamic Thought and Civilization (ISTAC). He also held Visiting Professorships at McGill University's Institute of Islamic Studies; Capital University, Ohio; and the Wissenschaftskolleg, Berlin. A member of the Constitution Review Commission of Afghanistan (2003), he has provided expert legal consultation to the new constitutions of Iraq, the Maldives and Somalia. Eminent authority on Islamic legal studies, he has published over 150 academic articles and 35 texts, including standard textbooks at universities worldwide.

2. Ibid., 275.
10. Muslim, Mukhtaṣar Ṣaḥīḥ Muslim, v.1, 23 §69.
11. Ibid., 474 §1782.
12. Ibid., v.4, §2199.
13. Ibid., 338 §1249.
14. Şahîh Muslim, Kitâb al-İmân, Chap. 1, §1.
52. N. Kiddie, “The Revolt of Islam”, 90.
54. As of this writing an initial framework agreement has been reached between the Philippine government of President Aquino and the Moro Islamic Liberation Front to end the forty-year-old conflict. Malaysia has successfully mediated this agreement.
A NEW ISLAMIC RATING INDEX OF WELL-BEING FOR MUSLIM COUNTRIES

Daud Abdul-Fattah Batchelor

Abstract: The differing views that various parties and states hold regarding the efficacy of their Islamisation approach and its impact nationally remain unresolved until today. This paper is an attempt to assess the well-being of countries in an objective and scientific manner. It introduces a new Islamic Index of Well-being (IIW) for Muslim Majority Countries (MMCs), which is based on principles derived from the Qur’an and Sunnah to comprise the key fields of Personal Religiosity and Social Interactions. These two elements are given equal weighting. The Religiosity element is obtained from published data of the Pew Research Center for indicators of the percentage of Muslim citizens who perform obligatory practices of praying five times daily, men attending the mosque at least once weekly, and Muslims fasting in Ramadan (or paying zakah). Research has shown a direct, positive relationship between Religiosity levels and psychological well-being. Five parameters are assessed for the Social Interactions performance of MMCs: secondary education, good status of women, care of children, limited income inequality and elimination of corruption. From an Islamic perspective, governments are required to assist weaker members of society, which is reflected in indicators used to determine the status of women, children and the poor. The resultant IIWs calculated for the 27 (Arab Gulf countries were not surveyed) out of a total 50 MMCs plus Nigeria show that the highest IIW levels are in Southeast Asia (Malaysia and Indonesia take the top positions), followed by Senegal and the Palestinian Territories. Middle Eastern countries follow, then sub-Saharan African countries with overlap, while former Communist bloc countries generally have the lowest indices. 2012 IIWs represent a base level for the measurement of country improvements in years to come.

Introduction

The fifty Muslim Majority Countries (MMCs) in 2010 had 1.2 billion of the total Muslim population of 1.6 billion - 23 percent of the world population (Table 1). The Muslims comprise the Muslim Ummah or world community of believers in Islam. The MMCs are located in specific regions: the Middle East, West Africa, East Africa, South Asia, Central Asia, Southern Europe and Southeast Asia. Guinea-Bissau is included as an MMC on the basis that a reputable source cites Muslims as being 50% of its population. Nigeria with a Muslim population of 75 million, though included in this assessment, may not yet be an MMC but is expected to become one by 2030.

ISLAM AND CIVILISATIONAL RENEWAL
To determine the condition and progress of MMCs in terms of the attainment of well-being by their citizenry there is a need to identify suitable indicators for an objective assessment that would allow one to rate the countries accordingly. This would provide numerous benefits; not the least, to enable the *Ummah* to identify countries that successfully demonstrate a high level of well-being, which could possibly represent models for the leaders of other countries who are striving to realise the virtues of Islam.

### Table 1  Features of Muslim Majority Countries

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<th>Country ID</th>
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<th>Total Population (Million)</th>
<th>Independence</th>
<th>Colonial past</th>
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Notes: N/A = not applicable. Population figures are from the Pew Research Center report (2012) except for Guinea-Bissau. Data on colonisation and independence dates are largely from Samiul Hassan (2007). Self-declared independence by Kosovo is recognised by 94 from 193 UN member states. Mayotte is governed by France. Western Sahara is jointly controlled or claimed by Morocco and the Polisario Front. Figures apply to Sudan in 2010 prior to the separation of South Sudan in 2011.
What might “well-being” from an Islamic perspective be, and how could it be measured? One approach is provided here for assessing the overall condition of a population and the general state of its citizens. God, The Most High, states in the Qur’an:

Verily the most honoured of you in the Sight of Allah is (he who is) the most righteous. (Al-Hujurat, 49:13)

This could be understood to mean that the “best” country in terms of Islamic well-being is the one that can be shown to possess the greatest proportion of righteous individuals in the Muslim population who display God-consciousness. In the Qur’an these are the muttaqun and are described as follows:

True piety [is] to believe in Allah and the Last Day, and the Angels, and the Book, and the Messengers; to spend of your substance, out of love for Him, for your kin, for orphans, for the needy, for the wayfarer, for those who ask … to be steadfast in Prayer, and practice regular Charity … Such are the people of truth, the God-conscious (al-muttaqun). (Al-Baqarah, 2:177)

The combination of belief (Iman) and righteous practices (‘amal Salihah) leads to an internal satisfaction of the heart, which could be understood as indicating Islamic well-being, as suggested by the following verse:

Those who believe and whose hearts find satisfaction in the remembrance of Allah; for without doubt in the remembrance of Allah do hearts find satisfaction. For those who believe and work righteousness is (every) blessedness. (Al-Ra’d, 13:28-29)

If the performance of righteous deeds is the ultimate proof of correct belief and God-consciousness, then when assessing what we term Personal “Islamicity” (Islamic Religiosity or Acts of Worship) in each Muslim country, emphasis ought to be placed upon the key practices of Islam, rather than the sole act of declaring the Faith (shahadah). Whereas the declaration of Faith is the bedrock requirement for all who claim to be Muslim, the number of such Muslims includes a portion of nominal Muslims who do not carry out all of the obligatory prayers, fast or pay zakah. Emphasis has been given in the current assessment to identify practicing Muslims since these are the ones who will most likely experience the benefits of well-being from performing their acts of worship. For example, performing regular prayers prevents one from immoral actions:

Establish regular prayer, for Prayer restrains from shameful and unjust deeds. (Al-Ankabut 29:45)
Research since the mid-2000s indicates strongly and consistently that Muslims displaying higher religiosity in the main enjoy a greater sense of subjective or psychological well-being than those less religious. The benefits of Personal Religiosity are in line with the character of the practicing Muslim as described by Allah:

Verily, man was created very impatient; irritable when evil touches him; and niggardly when good reaches him. Except those who are devoted to Salah [prayers] - those who remain constant in their Salah - and those in whose wealth is a recognized right for the (needy) who asks, and him who is prevented (for some reason from asking). (Al-Ma'arij 70: 19-25)

Key parameters will be identified for Personal Religiosity as well as state societal responsibilities (Social Interactions) that are believed to be both an objective and reliable representation of well-being from an Islamic perspective. The benefits of determining the ensuing well-being rating are believed to be the following:

1. Identifying role model countries that demonstrate a high level of well-being for other less-well placed countries.
2. Providing a tool using the identified parameters and assessment criteria or indicators for state planning efforts to help identify development targets for improvements to enhance well-being.
3. Identifying countries that although performing well in terms of Personal Religiosity, have limited material resources for development and are worthy of financial support to enable them to advance towards a condition of more holistic well-being.

This assessment and rating of the well-being status of Muslim-majority countries represents the first of its kind, to the knowledge of the author. It provides comparative information on key indicators selected based on Islamic and ethical considerations. May Allah enlighten us further on this subject for the benefit of the Ummah.

Methodology, Parameters and Data Acquisition

The August 2012 report of the Pew Research Center, based in the United States, entitled “The World’s Muslims: Unity and Diversity”, is of clear relevance to our current assessment. This report from The Pew Forum on Religion and Public Life provides statistical data that allows a semi-quantitative evaluation of the Personal Islamicity (or Religiosity) of Muslims interviewed in 15 countries during 2008-2009 and 24 other countries in 2011-2012. The report was based on a large number (38,000) of face-to-face interviews, though it should be
recognised that researchers did not cover some countries with significant Muslim populations, such as the Gulf Arab countries. The Pew Forum’s survey included every nation with a Muslim population of more than 10 million, except Algeria, China, India, Iran, Saudi Arabia, Sudan, Syria and Yemen, “where political sensitivities or security concerns prevented opinion research among Muslims”. These are important Muslim communities that, it is hoped, will be covered in future surveys. The minimum number of Muslims interviewed in the MMCs in the 2008-09 survey was 373 in Guinea-Bissau, and in the 2011-12 survey, 551 in Lebanon. Otherwise, the range in Muslims interviewed in MMCs in 2008-09 was 811 (Chad) to 1452 (Djibouti), and 788 (Albania) to 1918 (Bangladesh) in 2011-12.

Similar to the approach taken by the Organisation for Economic Co-operation and Development (OECD) in developing their well-being indicators, the indicators to assess Islamic well-being have been selected for two quality criteria: first, conceptual soundness and relevance, and secondly, for their reliance on data of high quality based on established standards from reputable sources such as the United Nations, the World Bank, and Transparency International. The Islamic well-being indicators used in the current assessment are considered to be in a state of development; if better indicators can be found, these could be incorporated in future assessments.

The key parameters from the Pew Center report that are available for the current study to assess Personal Islamicity (Acts of Worship or Ibadat) include the profession of faith, that is, the percentage of the Muslim population who say they believe in one God and the Prophet Muhammad (PBUH), and then the practices or pillars of Islam, which comprise the obligatory five times daily prayer (salah) and attendance at congregational prayers at a mosque (masjid) on Fridays, fasting (Siyam) during Ramadan, and giving alms (Zakah). For the latter two criteria the writer proposes to use a single indicator, the percentage of the Muslim population fasting, unless the percentage paying zakah is higher, in which case it would be the one used. In a Muslim community, only those whose incomes exceed a minimum threshold are required to pay zakah and so the percentage of people fasting would normally at least equal the percentage paying zakah.

Not all Muslims are required to perform the pilgrimage to Mecca, the haj, which is limited to those who can afford it and are well enough to sustain the hardships involved. Performance of the haj is therefore dependent on factors such as wealth and health status as well as proximity to Saudi Arabia. Due to the various factors constraining one’s ability to perform haj and the complexity involved in assessing comparative religiosity levels from a nation’s collective haj performance, we have not included assessment of this element in a country’s religiosity score.
Emphasis in the rating of countries in the present study will be given first and foremost to the criterion of performing the prescribed daily prayers that Allah Himself has prioritised:

The Messenger of Allah said, “The first deed that the servant will be held to account for on the Day of Judgement is the prayer. If it is good, he will be successful and safe, but if it is not good, he will be of the unfortunate and wretched.” (Tirmidhi)

The beliefs and practices discussed above are related to the relationship of the worshipper with his Creator. However, an observant Muslim also has duties towards his fellow humans, which represent the field of Social Interactions or Mu’amalat. These are related to the five fundamental and essential objectives (maqasid) of the Shari‘ah, namely the protection of faith, life, lineage, intellect and property. Abu Hamid al-Ghazali was generally skeptical of using maslahah as a source of law but approved it if it is in harmony with the essential objectives of the Shari‘ah. This is in line with the basic definition of maslahah, which consists of considerations of well-being that secure benefit or prevent harm (mafsadah) but which are simultaneously harmonious with the Shari‘ah objectives.  Combating corruption, bribery and official abuse would then also fall within the purview of maslahah.

A country’s leaders as servants of the community are responsible to Allah to improve the welfare of the population and guide them to do good as implied by the Prophet PBUH in the following hadith:

A ruler who has been entrusted with the affairs of the Muslims, but makes no endeavour (for their material and moral uplift) and is not sincerely concerned (for their welfare) will not enter Paradise along with them. (Muslim 1:82)

A major test for well-being is particularly how the Muslim country or community discharges its duties towards weaker and disadvantaged members of their society who could easily become neglected, especially, children, women and the poor. Their uplift reflects positively on the overall health of a society. Since one important legal maxim of Shari‘ah states, “The imam’s (head of state) performance is judged by reference to people’s welfare,” Mohammad Hashim Kamali pointed out that this becomes the single most important criterion by which to evaluate success or failure of a government in Islam. On this basis, the following parameters of Social Interaction are seen as being necessary for a community to display true well-being: (1) a secondary education for all, (2) good treatment of women, (3) care of children, (4) limited income inequality, and (5) elimination of corruption. These parameters are also chosen over others since relatively comprehensive annual data to assess them are easily available from reputable published sources.
Education to Secondary Level

The Qur’an and the Sunnah are replete with appeals for Muslims to enhance their knowledge, and not only religious knowledge:

Are those who know and those who do not know alike? (Al Zumar, 39:9)

The superiority of the learned man over a [mere] worshipper is like my superiority over the least of you.8

It is the duty of an Islamic government to ensure that all citizens, male and female, receive an education so as to understand the essentials of Islam, and to provide a means of livelihood for themselves and their families. Today a secondary education is really the minimum required for a person to achieve well-being. According to the author of “The Ideal Muslim Society”, education in Muslim Society is essential for both boys and girls and must be made available. Failure to provide education should be regarded as an illegal action on the basis of this legal responsibility.9

An indicator to assess this is the adult literacy rate for both genders aged 15 and over. The OECD uses a similar (though stricter) indicator for measuring this parameter (i.e., per cent of the adult population, 15 to 64 years of age, holding at least an upper secondary degree) and emphasises the major secondary benefits deriving from education: “Using controls for income, race, social status and other variables, research has shown that education tends to be correlated with better health, lower crime, political and community participation and social cohesion.” It also has both immediate and long-term positive effects on self-reported happiness.10

Status of Women

From Islamic considerations, two indicators are chosen to assess this parameter. First, Islam in no way emphasises the education of men over women, and the Prophet stressed the obligatory duty of every Muslim woman (and man) to seek knowledge.

Search for knowledge is a sacred duty imposed on every Muslim man and woman.11

Women have the same need as men to recognise the obligatory nature of the acts of worship they are required to perform according to Islam. They are also the main influence in the upbringing of their children as good Muslims and so need to have correct knowledge to impart. Women, like men, are encouraged to read the Qur’an on a regular basis. All of this requires them not only to read and write, but to absorb and understand knowledge and act upon it. Men may be the protectors of women in the traditional Islamic world view with the responsibility to provide
support, but women in the family could have greater intelligence and Islamic and temporal knowledge. Consequently, there are no grounds for discrimination against women in this criterion. Status of women is partially assessed using the United Nations’ published data on Female/Male Ratio in Secondary Education of the country’s population who are 25 years and older.

A second indicator proposed to assess women’s status in a given country is the published country data on Maternal Mortality Rate per number of live births. This would be in accordance with the Qur’an’s specific call, in a passage highlighting the sacrifices women make in giving birth, to:

Reverence Allah through Whom you demand your mutual (rights), and (reverence) the wombs (that bore you). (al-Nisa’, 4:1)

The Prophet (PBUH) has also stressed the great importance of respecting one’s mother:


Logically then, in a truly Islamic society special care would be taken to minimise maternal mortality, which can be an indicator of how a country treats expectant mothers.

Care of Children

Providing a healthy nurturing family environment for the upbringing of children is a key Islamic value, so two indicators are proposed to assess the care of children in a given country.

Prophet Muhammad (PBUH) has said:

The most hated of permissible acts to Allah is divorce. (Abu Dawud, Hadith 1863)

Children are generally the most severely impacted when parents divorce. Divorce increases the risk that children will suffer from psychological and behavioural problems, and since young children develop a bond with their primary caretaker, taking this person away too early disturbs the social and emotional development process, which might result in serious long-lasting problems. It is clearly in the interest of the community then to minimise the incidence of divorce. Divorce also has other serious side-effects, and research has shown an increase in violent crime resulting from the easing of divorce procedures in the United States.
Adolescents who live in broken families are more likely to engage in substance abuse, exhibit behavioural problems, have poor academic performance, and engage in risky behavior. The indicator proposed to reflect the above criterion is the United Nations’ country “crude divorce rate”, based on the number of divorces per 1,000 mid-year total population.

The second proposed indicator here is the UN country “under-five mortality rate”, the probability per 1,000 that a newborn baby will die before reaching age five. High rates indicate either negligence or the economic inability of states to properly care for their newly-born citizens, and researchers have argued that high infant mortality rates correlate very strongly with state failure.

**Equitable Distribution of Wealth**

In the Islamic world-view, as expounded by Muhammad Asad, Muhammad Hashim Kamali and others, governments are obliged to protect the disadvantaged in accordance with the juristic principle that “averting of harm from the poor takes priority over the welfare of the wealthy”. Muhammad Asad has argued that the state is responsible to provide its citizens with basic economic facilities, citing the *hadith* which begins: “Behold, every one of you is a shepherd; and everyone is responsible for his flock. Thus the Imam [the government] that has been placed over the people is a shepherd, and is responsible for his flock.” Asad considered that Islam demands a society that provides not only for the spiritual needs of its members but for their bodily needs as well, and that a state “to be truly Islamic, must arrange the affairs of the community in such a way that every individual, man and woman, shall enjoy that minimum of material well-being without which there can be no human dignity, no real freedom and, in the last resort, no spiritual progress”. In an Islamic state “there shall be no soul-grinding poverty side by side with affluence”. This is the purport of Prophet Muhammad (PBUH)’s saying:

> He is not a faithful who eats his fill while his neighbour remains hungry by his side.

Asad reiterated that poverty in the midst of plenty is a negation of the very principle of brotherhood for which Islam stands, since the Prophet had stated:

> By him in Whose hand I repose! No one has real faith unless he desires for his brother that which he desires for himself.

Consequently he believed, “The Islamic state must see to it that equity prevails within the community, and that every citizen – man, woman and child – shall have enough to eat and to wear, shall be succoured in case of illness, and have a decent home in which to live.” This view is buttressed by considering Caliph...
Ali’s (RA) interpretation of Surah Baqarah, verse 177 and the verse below, that “God Most High has made it obligatory on the rich to provide the poor with what is adequate for them”:\textsuperscript{23}

As to the Righteous … in their wealth and possessions was a portion due to him who begs (the needy) and to him who was prevented (from asking). (al-Dhariyat 51: 15, 19)

Muhammad Ali Al-Hashimi also highlighted the importance of limiting income inequality: “This social balance that Islam seeks to achieve by narrowing the gap between rich and poor is in direct contrast to the society that has drifted away from divine guidance, in which you will find an astoundingly huge gap between rich and poor.”\textsuperscript{24}

Both the Fordham Index of Social Health and the Osberg Index of Economic Well-being use the Gini index of inequality to formulate their indices. An ideal Islamic economic system does not require absolute equality, but one would not expect extreme distributions between the rich and poor. As highlighted by the OECD in considering economic well-being, “A certain degree of income inequality may be desirable for ensuring incentives for work and may also reflect the preferences of individuals for a particular lifestyle, place of living, occupation and balance between leisure and work.”\textsuperscript{29} However, in developing countries, the inequality should not be a reflection of the wealthy disregarding the needs of the poor, or even worse, the poor being unable to progress due to corruption at the top.

The Income Gini coefficient is therefore the indicator proposed to be used here to reflect social equity. It is a measure of the deviation from an equal distribution of the distribution of income among households within a country. A value of 0 represents absolute equality where every household has the same income, while a value of 100 represents absolute inequality where one household receives all of the country’s income.\textsuperscript{26} While the main source of this data is the World Bank 2011 figures, those not available here are additionally sourced from the Global Peace Index estimates.

\textit{Elimination of Corruption}

Although many majority Muslim countries in fact exhibit high levels of corruption, the Islamic position against this is clear. The Prophet himself (PBUH) declared:

Cursed is the one who bribes and the one who takes a bribe.\textsuperscript{27}

Corruption in one form or another is a primary cause in the collapse of civilisations and an anathema to Islamic values as it is also accompanied by large disparities in incomes and wealth, the harsh implementation of government
decrees and serious human rights abuses. Negative features such as these would obviously distance citizens from a state of well-being.\textsuperscript{28}

The indicator that is proposed to assess a country’s corruption level is the Corruption Perceptions Index (CPI) developed by Transparency International.\textsuperscript{29} The 2012 CPI is a composite index based on multiple expert opinion surveys that poll perceptions of public sector corruption in 176 countries around the world. It scored countries on a scale from zero to one hundred, with a score of zero indicating extreme levels of perceived corruption.

\textit{Rating the Comparative Well-Being of Muslim Majority Countries}

In light of the foregoing, the present writer proposes a semi-quantitative method for identifying the relative position of countries in terms of well-being. Each of the parameters previously discussed is identified in quantitative terms according to published statistics. All MMCs for which numerical data is available are then “banded” into five 20-centile bands ranging from what is termed “very good”, to “good”, “average”, “fair” and “poor”. There is no attempt here to identify an absolute quantitative figure as ideal. The middle band represents average MMCs while the top band represents countries that reflect a measure of relative excellence in a particular field. This however should never encourage complacency since levels of achievement in seeking Allah’s good pleasure could be considered virtually infinite.

In the semi-quantitative assessment used for each parameter and indicator, countries are then awarded points of 5, 4, 3, 2, 1, in order from the top band to the bottom for each of the five bands. The writer proposes for this exercise that each indicator and parameter has equal weighting. Also, the assessed outcome value out of five for each of the Personal Religiosity and Social Interaction positions is given equal weighting and then combined to provide a total well-being index figure out of ten. A benefit of giving equal weighting in all these cases is that although it is arbitrary, it is not subject to any personal bias. In those cases where two indicators are used to determine a value for a parameter (e.g. divorce rate and under age of 5 mortality rate as indicators for welfare of children), the value is also obtained by averaging the score of each indicator. The positions of the MMCs in terms of the Islamic Index of Well-being (IIW) are then determined. The resultant ranking of countries is approximate rather than rigorously exact. However, it should nonetheless be meaningful and unbiased.

Well-being indices have been a topic of deep interest in the West, notably from the Organisation for Economic Co-operation and Development (OECD), which described the existence of various contentious views on the underlying philosophy and the selection and weighting of the various component indicators used.\textsuperscript{30} Examples of such well-being measures, which are generally of a composite
nature (as for the IIW), include the Genuine Progress Indicator (GPI), the United Nations’ Human Development Index, the Index of Social Health, the Index of Sustainable Economic Welfare (ISEW), and the Index of Economic Well-being. Most but not all emphasise human and social factors related to economic productivity. This writer looked at these indices to ascertain whether any of their components deserve inclusion within the IIW. Additional well-being parameters that may in future be assessed would be the status of the disabled as well as elderly citizens, though it is believed statistics on performance levels in these two sectors are not currently available across many MMCs.

Limitations of Data

In preparing this assessment, consideration has been given first to the validity of the statistical data used and secondly to the validity of the methodology used, including such matters as the selection of the parameters, selection of the indicator to represent each parameter, and then the weighting of the parameters. The approach taken here could be subject to review and improvement in future exercises of this nature. Data has been obtained from various sources including the United Nations, World Bank and the Pew Research Center on the basis that all data has been properly validated and is therefore reliable. Many of the well-being indicators used in the current assessment such as mortality rates, income disparity levels, and education indicators are also used by the United Nations and World Bank to evaluate the development needs of developing countries. There could be some concern regarding some of the data sources as to possible political bias against Muslim countries in their output.\(^{31}\)

Questions could be asked about the accuracy of the Pew Research Center data\(^{32}\) or how representative it is of the Muslim population as a whole. Although it is based on 38,000 face-to-face interviews in more than 80 languages, in some instances areas with high levels of insecurity or limited access were excluded from the national survey, which could have had some impact on the reliability of data, for example from Afghanistan. Pew Center reported “with 95% confidence that the error attributable to collecting data from some, rather than all, members of the Muslim populations is plus or minus the margin of error”. The margin of error for the countries sampled was less than 5.6 points, except in Iraq (5.8 points), Lebanon (6.1 points), Palestinian Territories (6.3 points), and Turkey (5.8 points). In some countries the achieved sampling suffered some gender bias with more women being sampled in Azerbaijan and Uzbekistan and more men sampled in Afghanistan and Niger. Also there may have been some overrepresentation of highly educated respondents in Albania, the Palestinian Territories, Tajikistan and Niger.
In the matter of responses to the highly personal questions on the Acts of Worship, key issues regarding data reliability would include, first, whether the interviewee properly understood the question, and second, whether the interviewee would be embarrassed to admit that he or she does not pray five times daily or complete other religious obligations, and consequently answers incorrectly in the affirmative to these questions. The participation rates could well be lower than indicated from the surveys.

It should be acknowledged that in the Islamic faith it is believed God judges each act of worship on both the sincerity (ikhlas) and the quality (i.e., done correctly according to fiqhi rules) of the Acts of worship performed by the Muslim. The survey does not in any way address this quality, only the quantity of Acts of Worship practices. Societal ills would be expected to be lower in countries scoring higher in religiosity if the quality of the Acts of Worship is also high. This is because the true value of all deeds is dependent on the sincerity of the person doing them, which cannot be ascertained in such a survey. Yet acts normally do originate in intention, and one assumes the right intention lies behind the Acts of worship recorded in the surveys.

Results

Acts of Worship or Personal Religiosity (Islamicity)

Table 2 shows that Afghanistan and the West African MMCs display the highest attachment to Acts of Worship or Personal Islamicity, followed by the Southeast Asian countries, South Asian countries, then the Middle Eastern countries and Turkey, and finally the former Communist bloc members in Central Asia and Southern Europe who display the lowest Islamicity levels. The low level of Personal Religiosity identified for Kazakhstan is in line with the similar finding of Riaz Hassan, who found among Muslims interviewed from seven Muslim-majority countries that Kazakhstan had the lowest level of Ummah-consciousness in terms of following standard Islamic beliefs and practices. Hassan believed this was due to the fact that the Kazak Muslim identity is based more on ethnicity and history rather than religiosity.

Social Interactions

Table 3 shows that most of the 47 Muslim majority countries surveyed in terms of indicators of Social Interactions congregate in specific zones of geographic, political, or cultural similarity, which display closely similar levels of well-being (best well-being on top, then reducing below):

- Gulf Arab countries and Brunei (‘Oil Shaykhdoms’)
- Malaysia, Indonesia; Kazakhstan and Tajikistan
• Other Central Asia, Turkey, the Middle East, Iran and Bangladesh
• East Africa, Afghanistan and Pakistan
• West Africa.

This outcome suggests that governments of the so-called Oil Shaykhdoms have utilised their wealth from petroleum resources for the well-being of their own populations.

For education to secondary level, best ranking countries are those among the former Soviet bloc, Qatar and Maldives, while the least are in West Africa.

Regarding the first indicator for women’s status, female to male secondary education, Qatar, Brunei, Kuwait, Syria and Libya have the highest rates of female secondary education attendance (female/male ratios above 1.00). This is somewhat skewed towards women’s education in some cases (especially Libya 1.26 and Kuwait 1.19!), which may not necessarily be beneficial for society.34

However, the situation where a larger proportion of women is educated than men is similar to that found in most OECD countries.35 Very low ratios are exhibited by the West African countries (especially 0.29 for Burkina Faso) and Yemen (0.31), while Afghanistan unsurprisingly is the lowest (0.17). The Gulf Countries and Brunei exhibit the lowest maternal mortality rates while the worst rates are in West Africa and the Horn of Africa. From the criteria assessed, the condition of women would seem to be poorest in Afghanistan, Chad, Mali, Niger, Nigeria and Sierra Leone.

Divorce rates are low in Yemen, Libya, Tajikistan, Uzbekistan and Indonesia. They are especially high in the Maldives, Kazakhstan and Jordan. The other indicator for care of children is infant mortality rates, which are low in the Gulf countries and Brunei but high in East and West Africa and Afghanistan.

It is has been found consistently that in countries where adult literacy and female to male ratios for secondary education are high, infant and maternal mortality rates are low. Low adult literacy and female secondary education in countries are however directly correlated with high infant and maternal mortality rates. This would suggest the importance of education, especially for females, in obtaining good health outcomes for infants and women giving birth. Both under-5-year child and maternal mortality rates are extremely high in all sub-Saharan African countries. As an example, in Nigeria, it has been estimated that one million women and children die every year from largely preventable causes. Most of the childhood deaths are due to polio, malaria, measles, bacterial meningitis and malnutrition.36

War seems to be a great leveller in terms of economic income since when an economy is devastated, wealth differentials reduce. This is one reading of the fact that war-torn countries, Afghanistan, Iraq, and Somalia, all show low
Gini income inequality indices of 27.8, 30.9 and 30.0, respectively, virtually the lowest among MMCs. To avoid giving an undeserved well-being “reward” for war-torn countries, these countries were marked down to an average Gini value when calculating the overall result for Social Interactions.

*Table 2* Parameters regarding Personal Religiosity for Wellbeing in Muslim Majority Countries

<table>
<thead>
<tr>
<th>Position</th>
<th>Country</th>
<th>Prayer (%; 5 x daily)</th>
<th>Attend Mosque (% males ≥ 1/wk)</th>
<th>Ramadan Fast (or Pay Zakah/yr) (%; highest)</th>
<th>Total and Average Scores</th>
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Legend for Tables 2, 3 and 5

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<td>Secondary Education, Female/Male, Age ≥25 yrs, 2010</td>
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<td>2010</td>
<td>61.3</td>
<td>2</td>
<td>0.35</td>
</tr>
<tr>
<td>47</td>
<td>Sierra Leone</td>
<td>2010</td>
<td>42.1</td>
<td>1</td>
<td>0.46</td>
</tr>
<tr>
<td>49</td>
<td>Chad</td>
<td>2010</td>
<td>34.5</td>
<td>1</td>
<td>0.34</td>
</tr>
</tbody>
</table>

Notes: N/A = Not available. (a) Latest data from years 2000 to 2009. (b) Income Gini index figures taken from Global Peace Index reports. (c) 2011 figure.


Apart from these countries, the lowest income inequality exists in some of the Gulf countries, while the highest Gini inequality occurs in Comoros, Malaysia, Qatar, Lebanon, Gambia, Sierra Leone and Nigeria. Significant gender differences in secondary education often correspond to countries with large income inequalities. For example, low female/male ratios of secondary education occur with high Gini income inequalities (respectively) in Burkina Faso (0.29, 39.8), Yemen (0.31, 37.7), Chad (0.34, 39.8) and Nigeria (0.35, 48.8).

Corruption is a major problem in Afghanistan, Iraq, Yemen, Libya, Uzbekistan, Turkmenistan and the Horn of Africa. The Gulf countries, Brunei, Malaysia and Jordan are perceived as having relatively low corruption levels. It is an anomaly that Afghanistan with the highest rating for Personal Religiosity has one of the worst levels of corruption. This is probably a consequence there of the precarious living conditions and lack of political stability over the past 30 years of continuous warfare.

Discussion and Conclusions

Acts of Worship or Personal Religiosity (Islamicity)

The results show that Communism with its overt atheism and extreme materialism has had the most severe negative impact on Islamicity as evidenced from its effect on Muslim peoples who have in the past come under the Soviet (and Chinese Communist) yoke. Harsh Kemalist secularism in Turkey was also highly detrimental but is being gradually reversed. In both cases, governments had discouraged and even penalised public worship, and the experience is so recent that this discouragement has not been overcome. The negative impact of Arab secular nationalistic regimes allied with the Soviet bloc in the cold-war era can be seen in the relatively reduced Personal Religiosity levels evidenced in the Middle Eastern countries (the “heart” of Islam) surveyed. One researcher blamed that group who became rich under a non-Islamic economic system “because of their greed, exploitation and stinginess” in not considering their duties to help the poor and in their estrangement from Allah’s guidance and saw this as a factor that enabled leftist regimes to spread their ideology in Muslim lands. By comparison, it could be stated that some other parts of the Muslim world formerly colonised by European countries seem to have withstood western secularist ideology and cultural globalisation better in maintaining and now rejuvenating their Islamic practices.

Social Interactions

The most surprising and significant finding of the present study is that the West African bloc of countries (Nigeria, Chad, Senegal, Niger, Mali) and Afghanistan
that display the **highest** levels of Personal Religiosity at the same time demonstrate the **lowest** levels of Social Interactions, as reflected in the chosen parameters of this study. This finding indicates that countries with Muslim citizens who perform well in terms of Islamicity do not necessarily display good levels of Social Interaction practices. This is an important finding that deserves follow-up research to elucidate the reasons for this dissonance.

World averages for each Social Interaction criterion were determined to show how MMCs stand through a global comparison (refer to Table 4). Since each parameter is an index of well-being, it might be expected that Muslim countries should lead worldwide in each of these fields. If they do not, then this would be a clear indicator of how much improvement is required for the MMCs to attain levels of excellence that could be recognised as truly Islamic.

Other factors of Social Interaction could be taken into account: for example, rates of homicide, rape, and theft, which are all an anathema to societal well-being. However, one could argue that these are secondary effects that are derived from the primary causes of well-being which have already been incorporated in the assessment. For example, social scientists have identified a common link between a country’s high divorce rate and incidences of homicides and rape.

### Table 4  Comparison for Social Interaction Indicators of Average Values for Muslim Majority Countries and the World Parameters of Social Interaction for Wellbeing in Muslim Majority

<table>
<thead>
<tr>
<th>Social Interaction Indicators</th>
<th>World</th>
<th>MMCs</th>
<th>MMC Comparative Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult Literacy, age ≥15 yrs, %, latest year</td>
<td>84.1a</td>
<td>75.6</td>
<td>significantly worse</td>
</tr>
<tr>
<td>Secondary education, Female/Male, age ≥25 yrs, 2010</td>
<td>0.90</td>
<td>0.74</td>
<td>significantly worse</td>
</tr>
<tr>
<td>Maternal Mortality rate / 100,000 live births, 2010</td>
<td>210</td>
<td>241</td>
<td>worse</td>
</tr>
<tr>
<td>Crude Divorce rate / 1000, latest year</td>
<td>1.83</td>
<td>1.28</td>
<td>significantly better</td>
</tr>
<tr>
<td>Mortality rate / 100,000 live births, Under 5 yrs, 2011</td>
<td>51</td>
<td>59.9</td>
<td>significantly worse</td>
</tr>
<tr>
<td>Gini Income Equality, latest year</td>
<td>39b</td>
<td>37.4</td>
<td>better</td>
</tr>
<tr>
<td>Corruption Perceptions Index, 2012</td>
<td>37c</td>
<td>32</td>
<td>significantly worse</td>
</tr>
</tbody>
</table>

Notes: (a) 2010 figure (b) from the Central Intelligence Agency’s *The Factbook* (c) 2012 median point for all countries surveyed by Transparency International.
National independence is one additional Social Interaction parameter that deserves to be incorporated within the well-being assessment but has not been, due to a lack of information and a reliable means of assessing its status. If the well-being of a Muslim country is dependent on external players, then there is certainly concern about the sustainability of a state’s long-term well-being when it is dependent on the whims of outsiders. Afghanistan as an example has suffered for centuries due to the interference in its affairs from outside powers. In this respect, one indicator that could be considered in future assessments to represent part of the well-being parameter “National Independence” is “net foreign debt per capita”. This is on the basis that if the country is indebted to bodies such as the International Monetary Fund or The World Bank, the control these institutions exercise over a country’s economy can severely reduce a nation’s freedom of action, which in turn has an impact on the living conditions of its citizens.

Islamic Index of Well-being (IIW)

Table 5 shows that many countries in zones of geographic, political, or cultural similarity are closely placed in the same band of well-being condition (best well-being on top, then reducing below):

- Southeast Asian countries (Malaysia, Indonesia)
- Occupied countries (Afghanistan, Palestine)
- Middle Eastern countries
- West African countries and Frontline states (Pakistan, Lebanon)
- Former communist bloc countries in Central Asia and Southern Europe.

Of the 27 countries for which largely complete sets of both Personal Islamicity and Social Interaction data are available, Malaysia and Indonesia hold the top two places and clearly lead all others in having much higher overall well-being scores (7.5 and 7.3, respectively, compared to next highest of 6.9). This result was observed only after all the data had been calculated on an objective and dispassionate basis, and no parameters were chosen to try to steer a result favourable to these countries (in the region where this writer is based). It is a positive outcome that Indonesia, the most populous Muslim country (2010 population: 233 million), is second while another populous country, Bangladesh (2010 population: 164 million), is fifth. These are both countries that have experienced major and frequent natural disasters—the 2004 tsunami resulted in the largest number of fatalities worldwide—which could represent divine messages that the respective countries’ populations have responded to positively.

In regard to the impressive achievement of Malaysia, this was acknowledged recently in published extracts from a letter to the Malaysian Prime Minister Najib Tun Razak by the highly regarded scholar Shaykh Yusuf Al-Qaradawi, who
opined that “Malaysia has been distinguished among Muslim countries with its impressive development strategy and openness, evolving as a referential centre and model for the Muslim world.” A number of possible reasons for the positive well-being condition of Southeast Asian Muslim countries could be suggested: the relatively soft approach towards Islamisation used historically; the substantial role of Muslim women in these societies; the lack of destructive wars in the region; the benefit provided from the Asian economic “miracle” in building strong economies accompanied by the appropriate allocation of public funds to enhance education, health and welfare; and the transformation in Indonesia from military rule to a functioning system of representative governance.

Table 5  Islamic Indices of Well-being and Rating of Muslim Majority Countries

<table>
<thead>
<tr>
<th>Rating</th>
<th>Country</th>
<th>Acts of Worship</th>
<th>Social Interactions</th>
<th>Well-being Index</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Malaysia</td>
<td>3.7</td>
<td>3.8</td>
<td>7.5</td>
</tr>
<tr>
<td>2</td>
<td>Indonesia</td>
<td>4.0</td>
<td>3.3</td>
<td>7.3</td>
</tr>
<tr>
<td>3</td>
<td>Senegal</td>
<td>4.7</td>
<td>2.2</td>
<td>6.9</td>
</tr>
<tr>
<td>4</td>
<td>Palestinian Territories</td>
<td>3.0</td>
<td>3.7</td>
<td>6.7</td>
</tr>
<tr>
<td>5</td>
<td>Bangladesh</td>
<td>3.7</td>
<td>2.9</td>
<td>6.6</td>
</tr>
<tr>
<td>5</td>
<td>Afghanistan</td>
<td>4.7</td>
<td>1.9</td>
<td>6.6</td>
</tr>
<tr>
<td>7</td>
<td>Tajikistan</td>
<td>2.7</td>
<td>3.7</td>
<td>6.4</td>
</tr>
<tr>
<td>8</td>
<td>Tunisia</td>
<td>3.0</td>
<td>3.3</td>
<td>6.3</td>
</tr>
<tr>
<td>9</td>
<td>Jordan</td>
<td>2.7</td>
<td>3.5</td>
<td>6.2</td>
</tr>
<tr>
<td>10</td>
<td>Nigeria</td>
<td>4.7</td>
<td>1.4</td>
<td>6.1</td>
</tr>
<tr>
<td>11</td>
<td>Iraq</td>
<td>3.7</td>
<td>2.3</td>
<td>6.0</td>
</tr>
<tr>
<td>11</td>
<td>Morocco</td>
<td>3.3</td>
<td>2.7</td>
<td>6.0</td>
</tr>
<tr>
<td>11</td>
<td>Niger</td>
<td>4.0</td>
<td>2.0</td>
<td>6.0</td>
</tr>
<tr>
<td>14</td>
<td>Chad</td>
<td>4.7</td>
<td>1.2</td>
<td>5.9</td>
</tr>
<tr>
<td>14</td>
<td>Egypt</td>
<td>2.7</td>
<td>3.2</td>
<td>5.9</td>
</tr>
<tr>
<td>16</td>
<td>Djibouti</td>
<td>3.3</td>
<td>2.4</td>
<td>5.7</td>
</tr>
<tr>
<td>17</td>
<td>Guinea-Bissau</td>
<td>3.7</td>
<td>1.9</td>
<td>5.6</td>
</tr>
<tr>
<td>17</td>
<td>Pakistan</td>
<td>3.3</td>
<td>2.3</td>
<td>5.6</td>
</tr>
<tr>
<td>19</td>
<td>Mali</td>
<td>3.7</td>
<td>1.8</td>
<td>5.5</td>
</tr>
<tr>
<td>19</td>
<td>Turkey</td>
<td>2.0</td>
<td>3.5</td>
<td>5.5</td>
</tr>
<tr>
<td>21</td>
<td>Lebanon</td>
<td>2.3</td>
<td>3.1</td>
<td>5.4</td>
</tr>
<tr>
<td>22</td>
<td>Kyrgyzstan</td>
<td>1.7</td>
<td>3.5</td>
<td>5.2</td>
</tr>
<tr>
<td>23</td>
<td>Azerbaijan</td>
<td>1.3</td>
<td>3.7</td>
<td>5.0</td>
</tr>
<tr>
<td>24</td>
<td>Kazakhstan</td>
<td>1.0</td>
<td>3.9</td>
<td>4.9</td>
</tr>
<tr>
<td>25</td>
<td>Albania</td>
<td>1.0</td>
<td>3.8</td>
<td>4.8</td>
</tr>
<tr>
<td>26</td>
<td>Uzbekistan</td>
<td>1.0</td>
<td>3.4</td>
<td>4.4</td>
</tr>
<tr>
<td>27</td>
<td>Kosovo</td>
<td>1.0</td>
<td>3.0</td>
<td>4.0</td>
</tr>
</tbody>
</table>
As with all regions, there are local and regional issues here concerning correct Islamic beliefs and practices and application of Islamic law, among others, which if not addressed properly could in the long term lead to deviation and a reduction in well-being. From this and many other factors there could be changes in the relative standing of countries and regions over time. Periodic monitoring of well-being in MMCs will help identify these trends and allow positive Islamic interventions that could enhance Islamisation and arrest any tendency for decline.

Countries with high well-being levels may also be ideal destinations for Muslim and other tourists who through engagement and observation could share and experience some of the benefits of well-being and how it is being accomplished. In this respect, Malaysia and Indonesia are popular and already have high tourist arrivals. Senegal as the country having the third highest level of well-being, and located in the part of the world where people have been found by the Pew Center interviews to be the most pious, would seem worthy of closer attention in this regard with potential for expanding its tourist facilities.

A significant and unexpected finding is the relatively high well-being levels of countries whose populations are suffering (or recently suffered) from war and foreign occupation. These are (with their ranking and well-being indices shown): Palestine (4; 6.7), Afghanistan (5; 6.6), and Iraq (11; 6.0). This result appears in the main due to their strong spiritual resilience as indicated by relatively high Islamicity scores: 3.0, 4.7 and 3.7, respectively, and indicates that rather than being crushed by the invaders, their Personal Religiosity levels are high, and consequently well-being seems relatively good. Countries, however, that could be called “front-line states” bordering war-torn or occupied countries, such as Pakistan (5.6) and Lebanon (5.4), have surprisingly lower well-being indices than the neighbouring war-torn states.

The scores obtained by the MMCs in 2012, both the totals and figures for the individual indicators, can represent a baseline level against which scores in future years can be compared. Such tracking of individual indicators or overall country scores over a number of years would allow the identification of trends that may be positive or negative. Any negative trends, representing deterioration in well-being, could signify to the government of the country concerned and its citizens the need for intervention and change to bring about an improvement. With such government interventions, the values and ratings provided in this article could be assessed periodically to confirm such improvements over time using set benchmarks. One such set of benchmarks could be obtained by determining an average value for the MMCs for each well-being parameter as is provided in Table 4.

The results from this study demonstrate that countries with a similar ethnic, cultural, religious and historical background may act as a group differently from
other regional groupings of Muslim countries in terms of the expression of their Islamic identity. That such groups represent elements of a “differentiated Muslim ummah” is confirmed by the grouping of countries, as above, from their characteristics of levels of Personal Religiosity, Social Interactions, and overall well-being in particular regions. For example, West African countries and Afghanistan show high levels of Personal Religiosity but low Social Interaction levels; Central Asian and South European countries show the opposite, that is, high Social Interaction levels and low Personal Religiosity levels; Southeast Asian countries show both relatively high Personal Religiosity levels and Social Interaction levels. As a consequence of the finding from the current assessment that countries other than in the Middle East display high levels for Personal Religiosity while the highest indices of overall well-being are present among the Southeast Asian countries suggest some de-centering within the Muslim world from the traditional cultural and religious centre in the Middle East. One could argue that the relatively high well-being status of Southeast Asian Muslim countries as a group gives some kudos to their Islamic development approach and provides country models in a region which is obviously not centred in the traditional Middle-Eastern hub.

Muslims of those wealthy countries that have high Social Interaction levels would be encouraged to think beyond their own national boundaries to help people of those countries that are trying to improve their Social Interaction well-being levels but may not have the financial means to do so.

It could well be useful to utilise a similar approach to assess the well-being of Muslims in Muslim-minority countries. This, however, is a different exercise and would require additional and different considerations such as, for example, on freedom of religious practices and degree of any religious, ethnic or racial discrimination.

Policy Recommendations

- In the spirit of helping each other in righteousness (Tawun ala al-bir; Al-Ma’idah 5: 2), encourage Muslim aid and financial support to be channelled to those countries comprising good Muslims but who have poor living standards (income, health, education, and running water) and need investment and loans to improve their economic situation, especially the pious Muslim communities in West Africa identified by the Pew Center studies.

- Inquire whether the Central Asian and South European Muslim Majority countries would be receptive to (i) Islamic missionary efforts in their countries, (ii) professional support for and establishment of more Islamic higher educational institutions, and (iii) provision of scholarships for their
citizens to seek higher education qualifications in Islamic disciplines in other parts of the Muslim world.

- Countries that fall low in the ratings in the Personal Religiosity, Social Interaction or overall Well-being fields, and who may wish to improve their standing for the benefit of their citizens, should assess the reasons for their rating and seek professional planning advice from experts in Islamic and other disciplines to develop appropriate amelioration strategies, particularly from experts in those countries that have a high standing in the specific fields of well-being sought.

- Conduct a review of the methodology provided in this article in two years time, revise if necessary, and publish a new 2014 well-being assessment of the Muslim-majority countries with comments on any trends from the 2012 baseline data.

- Conduct research to identify suitable target levels or benchmarks for each indicator that Muslim majority countries would strive to achieve or exceed within a certain time frame.

- Approach the Pew Center to ascertain whether the worldwide religiosity surveys of Muslims could be conducted on a periodic basis (say every two years); also those countries should be approached where interviews have not been conducted in the past to request their future participation. For the question asked regarding attendance at a mosque for Friday prayers, the person’s gender should be identified so that the obligatory male attendance levels can be captured.

- Ideally, a reputable Islamic research institution or an international Islamic body such as the Organisation of Islamic Cooperation should be the rating agency to plan and conduct the field interview surveys and to facilitate a comprehensive and reliable well-being assessment of all Muslim-majority countries.

Notes

* Daud Abdul-Fattah Batchelor, an Australian scholar, is Associate Fellow at IAIS Malaysia. He has a broad experience in industry, academia and international consulting covering the fields of Environmental Management, Islamic Political Science and Earth Sciences. Daud has taught at Sultan Qaboos University, Oman and Universiti Sains Malaysia. He has been active in Muslim community organisations and is co-founder of the Islamic College of Brisbane. Daud has an MA in Islamic and Other Civilisations from ISTAC, and was presented the Longmans Award for PhD research at Universiti Malaya. He has an MSc from the Imperial College of Science and Technology, London and a Master of Engineering Science. Publications comprise 50 articles including: “Flaws of ‘Democracy’ facilitate dangerous elite control over Australian foreign policy”, “The ‘Lucky Country’ bordering the Malay Muslim world”, and the Federation Museums Journal issue covering the Dengkil archaeological site he discovered. He is currently working at assisting the Afghanistan peace process by determining how differences may be resolved to achieve a workable political framework, in the context of his current research focus on Islamic political systems.


5. Mosque attendance for males was interpolated since the Pew Center mosque attendance figures provided were for both men and women. It is not obligatory for women to attend the mosque so their attendance should be removed to reflect only male attendance. Figures were available from Pew Center on the percentage of women who never attend the mosque. Assuming females comprise half of the population, the lack of attendance by these women could then be factored in to provide a percentage of men who attend at least once per week. This is the case except in those countries where women may attend the mosque once or more per week. It is however not possible to remove this discrepancy from the output of “male” attendance. Consequently there may be an artificial increase in “male” mosque attendance in Chad, Djibouti, Egypt, Guinea-Bissau, Indonesia, Malaysia, Mali, Morocco, Niger and Nigeria. These are countries where only small percentages of women never attend the mosque.


8. At-Tirmidhi, on the authority of Abu Umamah al-Bahili.


11. Ibn Majah, on the authority of Anas bin Malik.

12. Al-Bukhari and Muslim (hadith no. 6180), on the authority of Abu Hurairah.


19. Al-Bukhari and Muslim, on the authority of ‘Abd Allah ibn ‘Umar.


22. Al-Bukhari and Muslim, on the authority of Anas.


31. For example, although the Corruption Perceptions Index shows a rapid increase in perceptions of corruption in Iran over the past five years, an Iranian group interviewed and questioned about this said they had not observed any such major increase.


34. Cf. Julio H. Cole and Andres Marroquin Gramajo, “Homicide Rates in a Cross-section of Countries: Evidence and Interpretations”, *Population and Development Review, 35* (Dec 2009), 749-76. These investigators found across a large sample of countries that an increase in female education tends to increase homicides, and they provided several possible interpretations for this phenomenon. Female/male ratios in secondary education higher than 1.0 in MMCs may not necessarily then lead to well-being.


37. Muhammad Ali Al-Hashimi, 199.


39. Seyyed Vali Reza Nasr, *Islamic Leviathan: Islam and the Making of State Power* (Oxford: Oxford University Press, 2001), argued that Islamisation has been relatively successful in Malaysia compared to Pakistan because a “soft” approach was applied by the UMNO-led Malaysian government.

40. Riaz Hassan, 311 to 323.

41. For example, the Kyrgyzstan government of President Almazbek Atambayev has sought advice from former Malaysian Prime Minister, Mahathir Mohamad, and the Charge D’affairs in Malaysia, Arslanbak Umetaliev, recently commented, “We are trying to use Malaysia as a model for our development.” Balan Moses, “Kyrgyzstan wants to take after Malaysia,” *Diplomatic Dispatches, New Sunday Times*, 9 December 2012, 23.
CHRISTIAN-MUSLIM RELATIONS IN CENTRAL EUROPE
The Polish Experience

Krzysztof Kościelniak*

Abstract: Although thirty million Muslims currently reside in the European Union, and adherents to the Islamic religion now constitute the majority of immigrants and the second largest religious group in European society, the influence of Islam on the culture of Central Europe was and is small, with the notable exception of Poland. There, a small traditional group of Polish Muslims has made a considerable contribution during six centuries of history to Poland’s cultural and religious heritage: Polish Muslims or “Tartars” fought for Catholic Poland against the Catholic State of the Teutonic Order, and almost always stood by their Polish kings against incursions from the Sunni Turks, highlighting the importance of the loyalty felt to the Polish homeland. By the same token, Polish culture has been greatly enriched by Tartar customs, in a gradual and complex process of acculturation - a process that was ‘necessary’, ‘extended’ and ‘complete’ in its various phases. More recent migrants and refugees arriving in Poland have increased the ethnic and religious diversity of the Polish Muslim community, with marked social and theological implications. These are reflected today in the plethora of organizations representing the interests of various Muslim groups and organizations in the country. Furthermore, the advanced extent of Christian-Muslim dialogue, something well developed in Poland, manifests a true “dialogue of life” and reflects the shared desire to promote understanding, stimulate communication, and work collaboratively on specific problems of mutual concern.

Introduction

More than thirty million Muslims currently reside in the European Union, and adherents to the Islamic religion now constitute the majority of immigrants and the second largest religious group in European society\(^1\). The largest Muslim communities are found in France, Germany and the United Kingdom, and their rate of growth continues to accelerate. The vast majority of Muslims living in Western Europe are of immigrant origin: most of them are the consequence of economic migration in the 1960s and 1970s, and their descendants, second and third generation, born and raised in Europe, as well as recently arrived political refugees from Muslim countries.

The central Europe countries are an exception, with small Muslim communities, constituting less than 0.1% of the population\(^2\). This relatively small group of Muslims originate from the traditional group of Polish Muslims, which have
a history that is a few hundred years old along with recent Muslim migrants, refugees, workers and students from modern Muslim countries.

The lack of exact figures for the current Muslim population makes it difficult to estimate future population growth. Census information about residents’ religious identity eliminates some guesswork, but a trend among immigrant populations to adjust family size downward and among women to delay childbirth makes prediction difficult.

Traditionally, the influence of Islam on the culture of Czech Republic, Slovakia and Hungary was and is small. Poland is an exception, although the number of Polish Muslims is not high. The small traditional group of Polish Muslims made a considerable contribution to Poland’s cultural and religious heritage.

**Traditional Polish Muslims**

During the one thousand years of Poland’s history, Muslim-Tatars have lived together with Poles, who are predominantly Catholics, for over 600 years. The Polish language has become the mother tongue of the Muslims residing in Poland although they originated from the circle of the Turkish languages. Although these Muslims are a minority, they have worked for the benefit of their homeland and have often given their lives for it. In principle, the examples discussed here concern the special cases of acculturation and cultural-religious transformations, accompanying contacts of two social groups belonging to different civilisations.

The number of Muslims in Poland has been steadily increasing over the last 15 years: from about 7,000 in 1995 to 20,000-30,000 in the year 2010. They constitute 0.06% of the Polish population, mostly immigrants from Islamic countries, albeit with a certain number of Polish converts to Islam. One can hardly speak of a distinct cultural contribution of this group. A considerable portion treat Poland as a transit country, and those who choose to settle in Poland represent various forms of Islam.

Followers of Islam in Poland traditionally come from the Tatar community, “Polish-Lithuanian Tatars” who number between 3,000 and 5,000 among Muslims. Those Muslims who have resided in Poland for a long time were described in Old Polish as “muślimi”. The first Muslim Tatars came to Poland in 1397 as prisoners of the Golden Horde, which began its conquest of present day Russia and Ukraine in the 13th century. The western Mongols adopted Islam as their state religion in the early 14th century. More than half of the European portions of Russia and Ukraine were under the suzerainty of Muslim Tatars and Turks, from the 13th to the 15th century. The Crimean Khanate became a vassal state of the Ottoman Empire in 1475 and subjugated what remained of the Great Horde by 1502.
The leading occupation of the Tatars in the Polish-Lithuanian Commonwealth was service in the army, which often put them in paradoxical situations: they fought for Catholic Poland against the Catholic State of the Teutonic Order, and Polish Muslims almost always stood by the Polish kings against the Sunni Turks. This speaks volumes of the loyalty of Polish Tatars toward their new homeland.\textsuperscript{12}

The first Tatar settlements were built close to the border of the State of the Teutonic Order so that it would be easy to mobilise them in case of war. This is the reason for the localisation of the traditional Muslim communities in north-eastern Poland nowadays. There are several Muslim communities there as well as three old mosques in Kruszyniany and Bohoniki.\textsuperscript{13}

The Tatars had the right to teach their religion and build their sanctuaries. They also received plots of land for their obligation to serve in the Polish army, forming their own units under Muslim commanding officers. As a result, the Muslims participated in most wars Poland waged until the partition of the country,\textsuperscript{14} and fought in one of the most important battles in Poland’s history, the battle of Grunwald, in which 2,000 Tatars took part.\textsuperscript{15}

The fact that the Polish army consisted of both Catholics and Muslims caused both groups grief. For example, the Catholic enemies of Poland often saw the presence of Muslims in the Polish army as a betrayal of Christianity, as seen in the anti-Polish propaganda of the Teutonic Knights before the Pope and in European courts. In turn, during conflicts with the Ottoman Empire many Turks regarded the Muslims fighting for Poland as traitors of Islam. That could be the reason why the Polish Tatars wrote to their brothers in Crimea in the year 1508, “Neither God nor the Prophet orders you to plunder and us to be ungrateful; we regard you as plunderers and conquering you with our sabres we kill rascals and not our brothers.” The Polish kings appreciated the faithfulness of Polish Muslims in the awkward situations during the wars between Poland and the Crimean Khanate and Turkey.\textsuperscript{16}

Polish Muslims many a time distinguished themselves with fortitude and bravery in the 19th and the 20th centuries, after the fall of Poland. They participated in all uprisings against Poland’s occupiers, i.e., in the Kościuszko Insurrection (1794), the November Uprising (1830-1831) and the January Uprising (1863-1864). After Poland regained independence in 1918, the Tatars fought to protect her. Józef Piłsudski, Poland’s greatest hero and founder of the post WWI independence movement, created a military unit consisting of Tatars, the Regiment of Tatar Cavalry with 600 soldiers. The Tatars fought against the Bolsheviks under their own green banner with a crescent during the Polish-Russian war in 1919-1921.\textsuperscript{17}

Apart from their military contribution, the Polish Muslims showed unique invention in the field of literary interaction. Since they did not know the Arabic
language, they began creating texts in Polish or the Polish-Belorussian dialect written in the Arabic alphabet. These works, although relatively few, constitute an original, Oriental segment in the Polish literary texts. The Tatars created first of all religious works in Polish using the Arabic letters, e.g. *tefsiry* (from the Arabic *tafsīr*, “commentary”), Koranic texts with Polish translations: *tedżwidy* (from the Arabic *tajwīd*, “recitation”), textbooks containing the principles of reciting the Koran, Muslim textbooks, prayer books of less official character, *dalawary* (from the Turkish *dualar*, “prayers”), scrolls of prayers and finally, *hramotki*, talismans protecting against misfortune. 

The Tatars have always been aware of their identity. Nevertheless, those living in Poland have not shown any separatist tendencies. Rooted in Poland for good and bad, they have carried all burdens equally with the rest of the Polish population during World War II, as their ancestors did in all the wars that afflicted Poland in the past.

The Polish army adopted many elements from the Tatar military tradition such as clothes or arms. It is worth knowing that the valued Uhlan tradition, which we associate with the most beautiful chapters of Poland’s history, actually comes from the Polish Tatars. Recognising the Tatars’ merits, Poland’s President unveiled the ‘Tatar of the Republic of Poland’ Monument on 25 November 2010.

Polish Tatars replaced their native language with Polish. Terms from the Polish culture were applied to express Islam. The Polish culture was enriched with military Tatar customs.

The first stage that both groups passed was **necessary acculturation**, i.e., the first stage of living in a new culture that meant accepting necessary changes in one’s behaviour (adjusting to an indispensible cultural minimum). It was an external acculturation, adjusting one’s traditions and behaviours to those accepted in a given society. In the case of the Polish Muslims it was the acceptance of principles prevailing in Poland. They were granted permission to build mosques and found their schools; they had the opportunity to use their property freely, on equal rights with the Polish gentry. But they could not participate in the political life in the country.

Second, Muslims passed through the stage of **extended acculturation**, which embraced new areas in the process of integration with a new culture. This type of acculturation meant entering into the semantic sphere of defined behaviours, getting to know the language, adopting certain customs at work and in one’s environment. Thus Polish Muslims accepted the Polish language, customs and laws, at the same time preserving elements of the Turkish people’s culture.

Finally, traditional Polish Muslims are now at the stage of **complete acculturation** embracing new ways of thinking and self-identification. These Polish Muslims are fully recognised as consistent elements in their societies.
Complete identification is visible: Polish Muslims are recognised as Poles accepting the Polish heritage; they are sons of their homeland\(^{24}\).

Polish Muslims show that preserving one’s religious identity does not require enclosing oneself within one primary culture, thereby testifying that culture can be a dynamic reality, amenable to changes. These analyses show that the changes occurring in cultural patterns can lead to mutual enrichment and are not necessarily a taking over of elements of one culture by the other.

**Modern Muslim Migrants**

After World War II only about 10% of the traditional Muslim Tatar settlements remained within the new Polish borders. There were only two old Polish Tatar settlements on the post-1945 Polish territory in Białystok and Warsaw. However, the postwar migrations also attracted for the first time in modern history large numbers of workers and their families from the Tatar community. They migrated inside Poland and created new Muslim communities in Gdańsk, Gorzów Wielkopolski, Szczecin and Oleśnica\(^{25}\).

During the 1950s and 1960s, the Polish government renewed diplomatic relations with many Muslim countries. The majority of initiatives promoting inter-cultural contacts were from the University of Łódź, which organised a Polish language study program for students from the Third World, including a considerable group of Muslims. This helped to set the guidelines for the 9th General Council of UNESCO in New Delhi\(^{26}\), India, for its East-West Project. The Polish government systematically established new economic contacts with Arabic countries. During the 1960s, 1970s and 1980s many Polish workers as well as engineers, doctors, scientists were employed in Tunis, Libya, Egypt, Syria, and Iraq, remaining there for several years\(^{27}\). At this time economic contacts between Poles and Arabs were frequent. This was not about interreligious dialogue, being rather more linked to the political-economic situation in socialist countries. Poland enjoyed an improvement in relations with several Arabic states, and Polish professionals had opportunities to learn about Islamic culture.

On the other hand, since the 1970s the number of Arabs and Muslims from non-Arab countries in Poland has increased. Some of the Muslim graduates (mostly from technical and medical universities) have remained in Poland, considering it as their second homeland. A portion of them stayed in Poland only for several years before moving to Western Europe. Other Muslims returned to their country of origin. Many Muslim students married Polish Catholic women. A considerable group of Muslim migrants from Asia or Northern Africa have businesses in Poland; they are especially well known for preparing traditional Middle East food\(^{28}\).
A special case is that of Muslim refugees, whose situation is completely different from that of Muslims who have come voluntarily to Poland without the so-called “refugee experience”. In the language of anthropology, that means a stage of painful exclusion from their old community and then being forced to cross certain thresholds (connected with the refugees’ escape, administrative procedures, staying in a refugee centre) to be included again, but this time in a different society.

Beside migrants from Islamic countries, there are also some ethnic Poles (ca. 2000) who converted to Islam, but who have no Tatar roots. The Polish Shi’a community is made up of almost entirely of Polish converts.

A real challenge faced by the Polish Muslim community is their ethnic and religious diversity. One of the leaders of the Tatar community in Poland, Professor Selim Chazbijewicz characterised the relations between the traditional group of Muslim Tatars (united in Muslim Religious Union - Muzułmański Związek Religijny w Rzeczpospolitej Polskiej) and the modern Muslim migrants from Arabic countries in the following way:

“Bernard Shaw used to say that: I had had a friend who taught me so long to drink tea without sugar that he ceased to be my friend. In the same way the Arabs had taught us [Polish Tatars – KP] to be proper Muslims, that we went separate ways.”

This separation not only highlights a tension between traditional Polish Tatars and modern Muslim migrants, but also presents an organisational obstacle to setting up the Muslim League (Liga Muzułmańska w Rzeczpospolitej Polskiej) in 2001, founded by Polish Arabs.

Muslim immigrants in Poland come from different countries, cultures and traditions. Most Muslims are immigrants or descendants of immigrants from Asia, especially from the Middle East. Arabs constitute a group estimated at around 50%, and then there are Turkish (or Turkish-Kurd), Chechen, Pakistani and Iranian Muslims. In this situation of pluralism, one ethnicity does not dominate. A national background is sometimes significant for its capacity to integrate. The majority of Muslim migrants are Sunnis, but none of them follow the Hanafi madhhab as Polish Tatars do, considered to be the school most open to new ideas and situations.

Perhaps this explains why Polish Tatar beliefs are a mix of Turkish pre-Islamic traditions and Christian elements taken from the local Slavic population. For example, a cult of a local “saint”, a certain pious man, on a mountain near Bohoniki (Szorcowa Góra), shows that Polish Tatars have assimilated a tradition relating to some Christian hermit. Although the presence of four different schools of religious law within Sunni Islam should not be viewed as a schism, some Muslim
migrants consider Polish Tatar beliefs as “not pure”. These Muslims working to spread “pure Islam” believe that the only valid system of rule for Muslims is that based on Sharia law. Consequently, they think that Polish Tatars must first relearn the basic, correct beliefs of Islam: the proper understanding of God, correct prayer, and personal interaction.

It is estimated that about 20% of Polish Muslims belong to Muslim minority groups: Shi’ah, Alevites (Turkish), Alawis (Syrian), Ismailis and the Ahmadis, who like the Alevites are often not considered to be Muslim by other Muslims. The number of Shi’a Muslims in Poland accounts for up to 10% of all the Muslims in Poland. The Polish analyst Daniel Boćkowski, in his *Polish foreign policy towards the Muslim world: an attempt to define the problem*, notices that Poland is one of the areas of expansion of many forms of Islam from Sunnism to radical Wahhabism.

As a consequence, the modern Muslim group in Poland, born in the second half of the 20th century, is a very colourful and sophisticated segment of Polish society. Diversity has social and theological implications. Some of the practices that have enraged the European public such as forced marriages and patriarchal control are ethnic and not religious practices and should not be attributed to all Muslims. Variety in language and history across many Muslim traditions and practices is also a source of differentiation. The diversity varies from group to group and depends upon migration settlement patterns. Among Sunni Muslims, the various movements taking different views of the meaning of religious law (Sufism, Wahhabism) poses the question of who represents Polish Islam. Consequently, diversity is a source of intra-Muslim conflict over representation, with different groups taking different views on many issues, and of ideological conflict.

Muslim immigrants have created their own relations to Polish reality. There occur three types of Muslim reactions. The first one is represented by Muslim migrants who simply reproduce the Islamic way of life of the country of origin. They try to protect Islamic faith from the modern secular society where, according to their opinion, Muslim traditions could be easily destroyed. The European host society is considered a dangerous place and should be avoided as far as possible. This group is inclined towards exaggerated rigidity. They believe that dress, behaviour, relations between the sexes and patterns of worship should differentiate the Muslim from his or her European counterpart. Some Muslims accepting such principles constitute a specific group of refugees who arrived in Poland after 1989 from Afghanistan and Chechnya.

A second response comes from Muslims developing a religious identity adapted to Polish cultural surroundings. They try to work to build a “Polish Islam”, integrating what is good from the local cultures and making their own Islamic
contribution to the future of European societies. This point of view is based on the belief that Islam is a way of life which can be fully lived in any political and cultural context and is developed by the Moroccan Yakob Mahi in Western Europe and echoed by some Muslims in Poland. According to supporters of the idea of “Polish Islam”, the adaptation of religion to new environments has been central to the development of Islamic faith. They promote the concept of Shari’a as the way of life ordained by God for mankind which should not be turned into a code of punishment as it is in many Muslim countries, taking into consideration that less than 1% of the Koran consists of penal rules. In Europe, Mahi says, “We can see Shari’a not as law, but as a path to be understood in its context. When we transform it into daily European life, we see that Shari’a doesn’t mean cutting off the hand of a thief. Rather it’s a spirit present in many things we enjoy in Europe: the principles of democracy, the rule of law, the freedoms of expression and association.” That dynamic interpretation makes Muslim law compatible with its European secular counterparts. Therefore Mahi proposes a idea of “spiritual citizenship” in which Muslims “respect the laws [of the secular state] but try to give a spiritual impulse to everything they do.”

A third tendency is Muslim “missionary movement”, the aim of which is to win Europe (with Poland) over to Islam. This desire is motivated by the conviction that Islam is the ultimate revelation of the original revelation, and hence the religion for all. The failure of the ideologies of the last century and the moral degeneracy of liberal capitalism mean for some that Islam, and Islam alone, can offer salvation.

Intergroup relations within the Muslim population in today’s Poland differ markedly across the two community organisations: the Muslim Religious Union (Muzułmański Związek Religijny hereafter MZR) mostly represented by Polish Tatars and the Muslim League (Liga Muzułmańska w Rzeczpospolitej Polskiej, hereafter LM) led in 2001 by Polish Arabs.

Although in Poland there are 11 organisations representing the interests of various Muslim groups, there are, in fact, two major groups that speak in the name of all the Muslims, MZR and LM. Other smaller Muslim organisations in Poland are the following:

- The Association of the Muslim Students in Poland (Stowarzyszenie Studentów Muzułmańskich w Polsce),
- The Muslim Association for Cultural Formation (Muzułmańskie Stowarzyszenie Kształcenia Kulturalnego),
- The Association of Muslim Unity (Stowarzyszenie Jedności Muzułmańskiej – Shi’a Muslim organizations),
- Ahl-ul-Bayt - Islamic Assembly of Poland (Islamskie Zgromadzenie Ahl-ul-Bayt - Shi’a Muslim organisations),
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- Tatar Union of the Republic of Poland (Związek Tatarów Rzeczpospolitej Polskiej),
- The School of Sufi Teachings (Szkoła Nauk Sufich),
- Muslim Association Ahmadiyya (Muzułmańskie Stowarzyszenia Ahmadiyya),
- Mevlana Foundation (Fundacja Mevlana),
- Danube Dialogue Institute (Instytut Dialogu Dunaj) 41.

In the eyes of the Polish State, the oldest Muslim organisation in the country, the Muslim Religious Union in the Republic of Poland (established in 1925), plays the most significant role. From 1936 to 1989 MSR was officially recognised by the Polish state as a Muslim organisation. The Mufti of Poland, imams and muezzins were paid by the Polish state and originated only from the ranks of MSR. After 1989 new legislation allowing the establishment of new Muslim organisations automatically caused MZR to lose its monopoly as the sole representative body of the Muslims in Poland 42.

It is important for Polish policy to take into consideration differences between the Muslim world as a whole and the Arab world, which has apparently dominated Poland’s perception of Islam in terms of religious and political trends. The main principles of Polish policy are respect for the Muslim faith and tradition, supporting the Muslim path to modernity, strengthening modernisation (apart from efforts towards democratisation) of Muslim societies and hoping that Polish Muslims will reject the most extreme Islamic formations. Respecting democratic systems, policy makers should be alert to any infusion of radical Islam through the Internet and monitor the actions of the EU and NATO in Northern Africa and the Near East 43.

As followers of an officially recognised religion, Polish Muslims have the right to construct mosques. They often use private mosques, so-called “home mosques” for the Friday prayers. Diplomats from Muslim countries pray at the mosque in Wiertnicza Street in the Wilanów district of Warsaw. Polish Muslim minorities, who settled primarily in big cities, are relatively well organised. The most active Muslim centres are probably those in Wrocław, Poznań, Lublin, Katowice, and Kraków. They all have an Islam Center founded by the Muslim League in Żwirowa Street in Warsaw. The Muslim League is building the Center of Muslim Culture with a mosque according to the Polish law 44.

Since 2004, The Muslim League has published a socio-cultural magazine “As-Salam” 45. The Institute of Islamic Studies also operates in Wrocław. Both the magazine and the Institute are dialogue-oriented. Shi’a groups are present in Poland; one of them, the Warsaw based Association of Muslim Unity, has existed since the late 1970s (although it was not formally registered until 1989).
It founded the Muslim Institute, which publishes the Rocznik Muzułmański ("Muslim Yearly") periodical\textsuperscript{46}. This group is very much committed to dialogue with the Catholic Church.

In Poland, there is no ban on any item of Muslim clothing, and no regulations restricting the wearing of \textit{hijab} or \textit{niqab}. Some Polish Muslim women, especially converts of Polish origin, wear \textit{hijab} in public. Traditional Polish Tatar women wear \textit{hijab} only during prayers\textsuperscript{47}.

Summing up, the new Polish Muslims create small but colourful and diverse communities. Substantial effort is called for to counter any social isolation of Muslims in Poland and to prevent the construction of a negative identity, such as currently can be discerned with some Muslims migrants remaining in opposition to their surrounding socio-cultural environment. Until now, however, efforts to set up an organisation that would allow all Polish Muslims to speak with one voice to the government and the mass-media have been unsuccessful.

**Dialogue: A Challenge for the New Century**

Poland has been a predominantly Catholic country (more than 90\% of the 38.500.000 population\textsuperscript{48}), and for most Poles being Catholic is part of the Polish identity. Poland spent 123 years under the occupation of Prussia, Austria and Russia (1795-1918), but it did not lose its culture, language or identity. Catholicism was the major factor that protected "Polishness," distinguishing Poles from other countries that tried to absorb Poland. In Communist times (1945-1989) the Catholic Church had a renaissance, contrary to the dreams of Communist and Socialist leaders. The Roman Catholic Church is naturally the main Christian partner in the Christian-Muslim dialogue in Poland.

The growing Muslim population in Poland and the modern notion of dialogue in the Catholic Church resulted in the preparation of a document by the Council for Religious Dialogue of Polish Bishops’ Conference (PBC) entitled \textit{Dialog – zadanie na nowy wiek} (Dialogue: A Challenge for the New Century)\textsuperscript{49}. The text was accepted on 23 November 2003 during the General Meeting of the Polish Bishops at Jasna Góra in Częstochowa. The first section of this interesting document, "Church on dialogue and in relation to dialogue", presents the theological perspective of interreligious dialogue. In the second part, "Situation in Poland: diagnosis and recommendations," particular forms of relations with Muslims are presented among other issues. The document states that the Muslim Tatar minority has been present in Poland for more than six hundred years. Recently, the number of Muslims in Poland is on the increase, which is caused by migration from various countries. The majority of Muslims are not connected with fundamentalism and terrorism, and adherents of Islam engage
in ongoing debate on an adequate interpretation of Islam in the modern world. The document *Dialogue: A Challenge for the New Century* introduces the annual Day of Prayers Dedicated to Islam (currently known as the Day of Islam in the Catholic Church in Poland) at the end of January. Polish Catholic Bishops advocate a spiritual growth through the acceptance of God’s will and effort to develop their own understanding and respect for Muslims, “younger brothers” who seek to discover and obey God’s will, in accordance with the most important precept of Islam. Looking for platforms for mutual understanding and amicable coexistence, the Catholic Church in Poland follows the guidelines of the Second Vatican Council and John Paul II. This initiative is very important and fruitful for the Church even though Christians realise that in countries with a Muslim majority, they are often exposed to persecution, or simply do not enjoy the same rights as Muslims. The fragment discussing relations with Muslims ends with a very interesting suggestion: It would be advisable to establish and operate joint scholarly institutes and civic institutions that would work for the promotion and development of the Christian-Muslim dialogue in various areas of life. The fruits of such work in Poland may have an effect reaching far beyond Poland.

Many Polish Catholics and Muslims recognise today that in the century of globalisation, shared human imperatives must outweigh economic and political expediencies. How to evoke or instil common values in the broader community is still an open question. People cannot live without some security of identity, a sense of dignity and respect for others. It could be called the soft security of self; such security is not innate but learned and experienced.

In 1997 The Joint Council of Catholics and Muslims was established with a small and specific membership. Among many Muslim groups in Poland only the Tatars from the Religious Union of Muslims participate in the exchange of views and opinions. It is headed by two co-chairpersons: a Christian and a Muslim. According to the rule of the Joint Council only traditional Muslims can be members of the organisation. The Muslims from non-Tatar communities (e.g., Arabs, Shi’as and other) are not accepted there.

After World War II, Poland became one of the most religiously homogenous countries in Europe with more than 90% of the citizens declaring adherence to the Roman Catholic Church. Being a majority, Christians have a particular responsibility for bringing about a fresh, constructive relationship which can contribute to the well-being of the human family, and the peace of the world. Dialogue is the work of patient love and an expression of the ministry of reconciliation. It involves understanding, affirmation and sharing.
Conclusion

Tatars who for ages have inhabited the north-eastern region of Poland constitute a very important page not only of Polish history, but of history in general. The Polish Muslim Tatars community is a useful model of a Muslim community which belongs in Europe, retaining their own culture and identity, and that contributes positively to these wider communities. Polish Muslims might help in understanding the contemporary Islamic world’s questions about the process of acculturation: whether (and under what circumstances) intercultural integration can be applicable, and complete or successful, in the context of a multi-cultural and multi-religious society, such as in Poland.

The Christian-Muslim dialogue in Central and Eastern Europe, especially in Poland, is well developed. On the Christian side, the main partner is the Roman Catholic Church. On the other hand, the Muslim partners of modern dialogue represent a variety of Islamic movements and factions. The most distinctive forms of dialogue include the dialogue of life and dialogue of religious experience. The dialogue of life is expressed in Catholic help for Muslim refugees at 13 refugee centres. The Muslim refugees have entered Poland legally and illegally from Afghanistan, Chechnya, Pakistan, India and other regions in Asia. Catholic priests and young Catholic volunteers have regularly visited some of these centres.

There is a pragmatic need for better understanding and cooperation among followers of Christianity and Islam. Such a dialogue of life, which has been known in Poland for ages, involves the desire to promote understanding, stimulate communication, and work collaboratively on specific problems of mutual concern, and to facilitate testimony and cooperation.

Notes

* Father Krzysztof Koscielniak is a professor at the Jagiellonian University and Pontifical Academy of Theology in Krakow, Poland, and the author of the several scientific papers and books including: The influence of Biblical Demonology on the Koranic Concepts of Satan in the Context of the interaction of Ancient Religions (Kraków 1999), Muslim Tradition on the Background of Christian-Islamic Acculturation in the 7-10th Centuries. The Origin, History and Meaning of New Testament Borrowings in Hadith (Kraków 2001), Twenty Centuries of the Christianity in the Arabic Culture, vol. I (Kraków 2000), Jihad: “The Holy War” of Islam (Kraków 2002), Christentum und Islam. Perspektive und Probleme des Dialogs, (Kraków 2005), Greeks and Arabs. History of the Melchite Church in the Muslim Word (634-1516) (Kraków 2004), History of Central Asia (VI-XIIIth), History Africa (VI-XIIIth) in: World History vol. IV (Kraków 2005); Christianity in the Context of the World Religions (Kraków 2001); Sunna, Hadiths and Traditionists. Introduction to the Muslim Tradition (Kraków 2006); Thematic Concordance of the Koran (Kraków 2006). He is a member of the UEAI (L’Union Européenne des Arabisants et Islamisants), Committee of Oriental Studies of the Polish Academy of Sciences, Committee of Byzantine Studies of the Polish Academy of Sciences.

1. The total population of Europe is 727 million, of which about 49 million are Muslim (3% of the world Muslim population). See: H. Kettani, “Muslim Population in Europe: 1950 – 2020”, International Journal of Environmental Science and Development, 1 (2010), no. 2, 154-162; H.


5. According to the Hungarian 2001 census the total population this country was 10,198,315, out of which 3,201 or 0.03% were Muslims. See: H. Kettani, “Muslim Population in Europe”, 32.


16. Zdanie sprawy o Tatarach litewskich, 258; J. Bartoszewicz, Pogląd na stosunki Polski z Turecją i Tatarami na dzieje Tatarów w Polsce osiadłych, na przywileje im nadane, jako że wspomnienie o znakomitych Tatarach polskich, (Warszawa: Gebethner i Wolff ,1860); S. Kryczyński, Tatarzy litewscy,…, 8.
22. The Polish term “ulan” as a Kipchak form (Turkish “oğlan”) means a young man, brave, S. Kryczyński, Tatarzy litewscy, 74.


39. J. Johansen, Critical Perspectives, 142-143.


44. “Dialog – zadanie na nowy wiek”, II, 2.B.

45. J. Magonet, Talking to the Other: Jewish Interfaith Dialogue with Christians and Muslims, (London: I.B. Tauris 2003), VIII.

46. A. Nalborczyk, S. Gródź, Poland, 410.

SECURITY AND PEACE IN AFGHANISTAN:
BEFORE AND AFTER 2014

Abdul-Qayum Mohmand

Abstract: The military campaign of the forces of the United States, NATO and the International Security Assistance Force (ISAF) increases distance between the Afghan opposition, the Karzai government, and the international forces in Afghanistan. Along with this, the failure of the Karzai government to provide security and protect Afghans against the insurgency, provide basic public services, support day-to-day economic activities, and institute urgently needed programs that can provide tangible economic and social results, reduces chances for any foreseeable stability and peace. To overcome these challenges and enable the Afghans to live in peace, security, and prosperity, the invading forces must agree to negotiate with the resistance, towards political compromise and a negotiated settlement, with complete withdrawal of their forces from Afghanistan. Leaving behind even a small contingency of troops would in effect mean the continuation of war. Once negotiations have taken place and agreements have been reached, the United Nations Security Council should mandate the Organisation of Islamic Cooperation (OIC) to send their troops as monitors and peacekeepers to Afghanistan.

Introduction

The strong emphasis of the United States, NATO and ISAF on a military solution, the continuing use of heavy forces in military operations, and the indiscriminate bombardment of houses, villages, funeral processions, wedding ceremonies, and Jirga gatherings are leading to more civilian casualties, anger, and further alienation of the Afghan people. The lack of political and administrative reform, the defective political and unsustainable economic development, and the absence of social justice all gravely undermine the current regime and diminish the chances for peace. These factors create resistance and animosity towards the Karzai government and the Americans and their allies. These also help the Taliban become stronger as every day passes. To address these concerns, establish peace and security, implement political and economic reforms, and include the resistance, especially the Taliban, in the political process with mechanisms for power-sharing, the following needs to be done:

First, recognise that the war in Afghanistan cannot be won by military means. The war can only come to an end through political negotiations and peace settlements. The continued emphasis of the US on war strategy under the
delusion that the war in Afghanistan may be won by military means has failed for the past eleven years to deliver the desired peace. The United States has signed a strategic partnership agreement with Afghanistan, according to which the United States intends to leave unspecified numbers of American forces in Afghanistan. But to bring an end to the endless war in Afghanistan, the forces of the United States, NATO, and ISAF need to completely withdraw their troops without any preconditions. The presence of small numbers of forces in Afghanistan will be seen as continued occupation and result in the continuation of war.

Second, even though some of the allies of the United States have expressed their willingness to negotiate with the resistance, in the past eleven years no serious efforts have been taken to find venues for such negotiations. The United States hopes that with the passing of time the resistance will be weakened and eventually defeated. But the resistance has proven that it is able to withstand the military campaign of the United States, NATO, and ISAF. Therefore, to establish peace and security and to work toward a political compromise, serious negotiations must be started with the resistance, especially the Taliban, and sooner rather than later. The inclusion of the resistance will stop the bloodshed and enable Afghanistan to concentrate on social and economic development, providing venues for Afghans and international investors to invest in the society and the economy.

Third, the US-Afghanistan Enduring Strategic Partnership Agreement is of great concern to Afghanistan and the neighboring and regional countries. The Agreement is not clear about the United States’ objectives in Afghanistan. It does not provide any information about how the United States intends to finance its presence in Afghanistan and support the Afghan security forces and economic development. Countries in the region, along with Afghanistan, are concerned that the United States may launch operations in the region from their bases in Afghanistan. The agreement does not specify who will have the ultimate authority over the use and deployment of American troops and what laws will apply to the American forces in Afghanistan. The neighboring and regional countries are also concerned that the United States will monitor their military activities and development from Afghanistan. The starting point must be the withdrawal of foreign forces from Afghanistan.

**Continued Confrontation versus Withdrawal**

Throughout history, Afghanistan’s strategic location has attracted many expansionist and imperialist powers. Its geostrategic location made Afghanistan a crossroad of Asia and a battleground of “Great Games”. Afghanistan has seen many invasions over the past one hundred and fifty years of Afghanistan’s
history, namely by the Great Britain, the Soviet Union, and the United States and its allies. All occupiers tried to completely occupy the country, win their wars by military means, and subjugate the people, but they all failed. The fate of the current invaders will not be much different than from the previous ones. As David Isby states: “At the end of the day, outsiders - Soviet, British, Arabs, American - will go home or vanish in smoke and the Afghans will be left with what they have always had: their land, their faith, and each other.”

In the past eleven years the United States has reiterated that it will win the war and defeat the resistance. This mentality and the emphasis on warfare have forced the United States and its allies to use different war methods and strategies, including chemical weapons and depleted uranium, but they have remained unable to defeat the resistance or win the war. Not only is the war not won, but the security situation has deteriorated and the resistance has gained more ground. The United States, NATO and ISAF are running out of options to handle the current war and have no plan to deal with the war and the resistance after 2014: “It is unclear that the US and ISAF have effective plans to deal with the political nature of war they are fighting, or credible plans for developing the Afghan National Security Forces (ANSF)”.

The multi-dimensional efforts United States and its allies to win the war by military means and bring about stability and peace have failed. They are losing the war both on political and military fronts. On the political front, the United States and its allies have made various attempts to provide legitimacy to the Karzai government by using aid money and appointing advisors and through public relations and propaganda. They have tried to build the Afghan National Army (ANA) and Afghan National Police (ANP), reform the Karzai government, and strengthen the judiciary. Progress in these areas cannot be demonstrated in real terms, despite constant reports issued by the United States and the Karzai government about improving the security sectors, training the judiciary, and cleansing many towns and the countryside of Taliban control. According to the Obama administration’s strategy for Afghanistan and Pakistan, The Way Forward in Afghanistan and Pakistan, which was made public on 1 December 2009, the overarching goal of the United States is to disrupt, dismantle, and defeat al-Qaeda in Afghanistan and Pakistan, reverse the Taliban momentum, and deny them the ability to overthrow the Kabul regime. President Obama stated: “First, we will pursue a military strategy that will break the Taliban’s momentum and increase Afghanistan’s capacity over the next 18 months. Second, we will work with our partners, the United Nations, and the Afghan people to pursue a more effective civilian strategy, so that the government can take advantage of improved security.”
On-the-ground realities in Afghanistan reveal the opposite. The government remains corrupt, the judiciary is still not functioning, and the Taliban are stronger than ever before in many places, including areas the United States and the Karzai administration claim are fully under their control. The latest attacks on the US Base at the Jalalabad, Nangarhar Airport on 2 December 2012 and on Camp Bastion in Helmand on 14 September 2012 prove that the Taliban have the ability to strike at almost any target they desire. The resistance is intact and very much alive. Even American personnel have had doubts about the effectiveness of American warfare and their support of the Afghan government. Mr. Matthew Hoh, former US Senior Civilian Representative in the Zabul province, confirmed this point in his resignation letter to Ambassador Nancy J. Powell on 10 September 2009. He states: “Like the Soviets, we continue to secure and bolster a failing state, while encouraging an ideology and the system of government unknown and unwanted by its people. . . . The United States military presence in Afghanistan greatly contributes to the legitimacy and strategic message of the Pashtun insurgency. In a like manner our backing of the Afghan government in its current form continues to distance the government from the people.”

US and NATO troops forcefully enter people’s houses without warning and kill innocent people in the process. They imprison innocent people in the name of al-Qaeda and the Taliban. The abuses of the Americans and their allies and the corruption, extortion, and bribery of the ANA and ANP have added to the mistrust and animosity toward foreign troops and the Karzai government. In addition, both the ANA and the ANP disregard the importance of civil institutions and institutional structures, important elements of social progress. “The central government’s legitimacy has deteriorated. Sub-national government structure still lacks capacity. In their place, militia commanders and local mafia have filled the void, undermining local governance, democratic rights, and service delivery.”

All these have undermined efforts to consolidate democratic institutions and to create a pluralistic society.

There are some improvements in areas of education, health care and consumer commodities, but none are sustainable. The Afghans are still in shock and wait for the much-promised assistance from the United States, the Western countries and the international community, but they have lost hope. “There is no clear strategy for Transition in terms of concrete plans, credible resources, and meaningful measures of effectiveness. The US and its allies have failed to show that there is any meaningful path toward even a modest definition of lasting ‘victory’. The government is still run by corrupt politicians, warlords, and drug mafia who are only interested in filling their own pockets with the aid money Afghanistan receives to build the infrastructure, the society, and the economy. “The civil efforts lag far behind the military effort. While there have been some successes
in some aspects of Afghan governance and development, they are so limited and fragile they may well not survive beyond 2015.” As soon as the international aid has ended, the temporary and fragile improvements will likely collapse and disappear.

On the military front, the indiscriminate bombardment of towns and villages and the numerous massacres of innocent Afghans by foreign troops, especially by the Americans, in the past eleven years, have caused disarray, anger, and resentment. To name a few, urinating on Afghan dead bodies, the massacre of 65 innocent women and children in Konar, the killing and burning of children in Konar by the American war machines, the burning of the Qur’an in Bagram, and the latest massacre of 16 Afghan men, women and children in Panjwai add fuel to the conflict and undermine the US objective of winning “the hearts and minds” of the Afghan people. The United States and its allies are not seen as leverage towards peace, but elements adding to the exacerbation of violence and tension in Afghanistan.

After the Afghan people and Hamid Karzai expressed their outrage about the massacre of children in Konar and the subsequent allegations by General David H. Petraeus that the children were burned by their parents, on 2 March 2011, Petraeus accepted responsibility and apologised for the killing of innocent children which resulted from a dual helicopter assault that mistook a group of ten children for insurgents. One has to ask the question why these mistakes happen repeatedly, and whether this was really another mistake or the children were intentionally massacred. The two planes involved in the attack were Apache helicopters.

The Apache is designed to fight and survive during the day, night and in adverse weather throughout the world. . . . The Apache features a Target Acquisition Designation Sight (TADS) and a Pilot Night Vision Sensor (PNVS) which enables the crew to navigate and conduct precision attacks in day, night, and adverse weather conditions. . . . The Apache has state of the art optics that provide the capability to select from three different target acquisition sensors. These sensors are:

• Day TV. View images during day and low light levels, black and white.
• TADS FLIR. Views thermal images, real world and magnified, during day, night and adverse weather.
• DVO. Views real world, full color, and magnified images during daylight and dusk conditions.  

With the precision and sophistication of the Apache technology one is forced to question the “mistake”. The repetition of these incidents convinces the
observer that this may have been intentional killing rather than another mistake. The Afghans are aware of these acts of violence against the civilians and are not accepting them as mistakes and reject this culture of apology. They say that their families are killed first, and then an apology is offered later, but the responsible persons are never brought to justice. “We cannot tolerate this anymore. Our innocent men, women and children are killed every day and the government is not doing anything about it. If the government cannot protect us, we will turn somewhere else.” This way of doing business has created a far greater distance between the average Afghan and the occupying troops.

The ANA and ANP are not in better shape since the United States first began managing the situation in Afghanistan. Due to ethnic imbalance, both in the army and police structure, there is great tension between the different segments of the society. The ANA and ANP forces are not prepared to handle the security situation and are not capable of providing security for and creating harmony among the people. They are poorly trained and ill-equipped to deal with the resistance. If the matter is left to the Afghan army and Afghan police, the Afghans will have to wait for a long time to see peace and security in their war-torn country. In spite of the vacuous claims that came out of largely symbolic conferences in Chicago and Tokyo, there is no public evidence that the US and ISAF have really reversed insurgent momentum in Afghanistan or created conditions where tactical victories will have lasting strategic meaning. Afghanistan is still war-stricken and poor and lies in despair. Furthermore, building a state based solely on a security mechanism will not bring an end to the war. As Stephen Hadley argues: “A transition that focuses primarily on Afghan security force levels and capabilities cannot adequately address the flaws in governance that have alienated Afghans from Karzai administration and fueled the insurgency.”

The United States may be able to build a security state in Kabul, if not in the whole of Afghanistan, but this will bring no peace or stability.

As a last resource to win the war, the United States created new local and tribal militias, but these will pose a grave danger to the future security of Afghanistan. In the war against the resistance the United States still relies on second-hand information, which always leads to a large number of civilian casualties and enormous suffering of innocent people in each attack. The lack of information about the resistance and the mismanagement of the war against them “has led to an over-reliance upon destructive air strikes, leading to increased civilian casualties and lower level support for the Karzai government and the West’s presence in the country.”

The only solution remaining for the occupying forces is a complete and unconditional withdrawal of their troops from Afghanistan. The interminable war in Afghanistan needs to end. “The US cannot plan to defeat the Taliban and
other insurgent by 2014, or for Afghan government and forces to do so through 2020. . . . The present US and ISAF strategy has failed in its ability to secure the border areas, all critical Districts, and Districts of interest.” The latest reports on developments in the war in Afghanistan indicate that the United States, NATO, and ISAF military operations there are aimless and indecisive and the resistance is gaining more ground than it is losing.

Foreign troops need to stop their military offenses and begin their gradual withdrawal from Afghanistan. Before leaving, these countries need to make sure a viable government is left behind, a government not only representative of the Afghan interests and needs, but one that can provide security to the people. Otherwise the country will fall into civil war, with heavy losses of Afghan lives. An uncoordinated withdrawal will leave Afghanistan as a regional and global hotbed and the center of a new “great game”. Two steps are necessary, under the circumstances. First, direct and honest negotiations with the resistance to reach a political settlement. Second, the replacement of the US, NATO, and ISAF troops by OIC forces.

**Negotiating with the Resistance Movement**

Both the United States and the resistance are at a critical point in the conflict. The United States is facing economic challenges both at home and abroad and is under pressure to bring the troops home. The resistance on the other hand, especially the Taliban, is desperate to position itself as the dominant player in the political bargaining competition. This would be more feasible if the Taliban would seriously negotiate with the United States and agree on a political settlement, gaining thereby international recognition.

Despite the unprecedented amount of international financial aid and military support to the government of Afghanistan, the increase in the number of US military forces, and the various tactics of the US, NATO, and ISAF to defeat the resistance and establish peace, security, and the rule of law, the situation in Afghanistan has deteriorated and the resistance has grown. War, insurgency, and security in Afghanistan have moved to a new state of affairs. The resistance, especially the Taliban, has expanded attacks and gained territory in the north and the west of Afghanistan and become a countrywide movement. Therefore, there are three main reasons why the United States should negotiate with the Taliban.

First, there is a general perception in Afghanistan and in the Afghan Diaspora that the current war in Afghanistan is aimed at Pashtuns to reduce their numbers, their strength, their capacity, and their dignity. Therefore, the initial resistance and attacks by the Taliban alone moved the Afghans, especially the Pashtuns, to resist invading foreign powers. There are not only Pashtuns from Kandahar or Helmand
or Paktiya or Konar who are fighting foreign troops in Afghanistan, but Afghans and Pashtuns throughout the whole of Afghanistan. Matthew Hoh confirms this resistance by stating that “the Pashtun insurgency, which is composed of multiple, seemingly infinite, local groups, is fed by what is perceived by the Pashtun people as a continued and sustained assault, going back centuries, on Pashtun land, culture, tradition and religion by internal and external enemies. The US and NATO presence and operations in Pashtun valleys and villages, as well as Afghan army and police that are led and composed of non-Pashtun soldiers and police, provide an occupation force against which the insurgency is justified.” The degree of resistance, though, differs from province to province, with the south and east being the strongest, but resistance is expanding and has incorporated many areas throughout Afghanistan.

The thinking behind the policy of war against the Pashtuns is that if Pashtuns are reduced in numbers and their political and economic capacities are weakened and/or diminished, the resistance to the international occupying forces will also be weakened and will eventually diminish. The eleven years of war in Afghanistan have proven the opposite. The more that pressure is applied, pain inflicted, their houses and farms destroyed, and their men, women, and children killed, the more they become aware of their situation and lend a supporting hand to the resistance. Therefore, to bring an end to the war and to bring peace and security, the answer is not to prolong the war and weaken the Pashtun capacities. Instead, the United States and its allies need to bring an end to the fighting and agree to a political compromise with the resistance. They need to bring an end to the continuing political and social mischief and military aggression. The Americans and the international community need to embrace a deeper understanding of Afghanistan’s social values, economic needs, and political motivations. Failure to recognise these realities will lead to the demise of the US power in Afghanistan. Furthermore, such feelings and understandings of the war strategy in Afghanistan have added additional support for the Taliban. As a result, the Taliban are supported not only by their rank and file, but also by the common man in and outside Afghanistan, the intelligentsia in the country, and the expatriates.

War and resistance in Afghanistan have moved from fighting between the Taliban and the United States and its allies to one of survival, representation, and foreign occupation. Matthew Hoh affirms this again by stating that “the bulk of the insurgency fights not for the white banner of the Taliban, but rather against the presence of foreign soldiers and taxes imposed by an unrepresentative government in Kabul.” Furthermore, “the presence of foreign troops on Afghan soil is almost certainly driving the insurgency.” This policy of war will leave bad memories behind and may also lead to a future general objection to foreigners, especially to the Americans by the Afghans. It also has a positive impact on the
Taliban. It has changed the Taliban movement from a military fighting force to a politically conscious resistance and opposition movement. With this change, the Taliban has transformed from a purely religious militia group of former madrasa students and graduates obsessed with the strict interpretation, application, and understanding of the Shari‘a, and restoration of their power, to a group open to inclusion and pluralism, respect and protection of human rights, and acceptance of education for all genders. This is an important change which will influence the future political system of Afghanistan.

Second, the United States is facing great economic challenges both at home and abroad and there is tremendous political pressure on President Barack Obama to bring American men and women back home. The war and occupation of Afghanistan have cost the United States trillions of dollars and tens of thousands of American and Afghan lives. At home, the United States economy is in decline, unemployment is rising, the education system is deteriorating, and the national debt is skyrocketing.

On the political front there is a bipartisan consensus that the United States should end the war and withdraw its troops from Afghanistan sooner rather than later. “Senator Richard Lugar (IN), ranking member of the powerful Senate Foreign Relations Committee, has long expressed doubt about the possibility of success in Afghanistan. Senator John Kerry (MA), chair of the same committee, has questioned the war strategy in the context of how it all will end.”

On 10 February 2011 House Representative Woolsey Lynn of California introduced H.R. 651, United States-Afghanistan Status of Force Agreement (SOFA) Act of 2011, which was cosponsored by seventy members of the House. The bill prohibits the United States from having permanent bases and military presence in Afghanistan. Furthermore, it requires the United States government to redeploy American troops in a complete, safe and orderly manner within one year after the agreement is signed with Afghanistan.

On 30 November 2011, Senator Jeff Merkley from Oregon introduced an amendment which required President Barack Obama and the US government to develop plans to expedite the reduction of the US Armed Forces in Afghanistan. The amendment was cosponsored by twenty–eight other senators and passed by the Senate. It sent a clear and strong message to the president by stating that “it is time to bring our men and women home.”

On 7 March 2012, twenty-four US Senators sent a letter to President Barack Obama expressing their support for the transition of U.S. forces from a combat role to a training, advising, and assistance role. In the same letter they stated that “it is time to bring our troops home from Afghanistan . . . [and] end the large scale counterinsurgency efforts in Afghanistan . . . [W]e simply cannot afford more years of elevated troop levels in Afghanistan.”
On 20 September 2012, the Republican Senator John McCain from Arizona, who was a proponent of war and promoter of a surge of troops in Afghanistan, led some heavy charges against President Obama. He stated that the Obama administration has mishandled the war in Afghanistan and made the situation very dangerous for the American troops. Therefore, he recommended that the US should withdraw its troops sooner than 2014. He thinks that “all options ought to be considered, including whether . . . [the US] has to just withdraw early, rather than have a continued bloodletting that won’t succeed.”

The public is another element putting pressure on the United States government to end the war and bring the American troops home. The data released by the Rasmussen Report on 7 February 2012 shows that 67 per cent of Americans surveyed said that they would like to end the American combat military engagement in Afghanistan by the middle of next year, while 22 per cent of the respondents were opposed to the idea of ending the military mission. Another survey was conducted on 13 March 2012 by the USA Today/Gallup Poll. People were asked to respond to the question of whether they want to stick with the 2014 withdrawal plan or to have the troops withdrawn prior to 2014. Twenty-four per cent of the respondents stated that the US should stick to the 2014 timetable. Fifty per cent said that it should speed up the withdrawal, and 21 per cent said that the United States should leave its forces in Afghanistan until the goal is accomplished.

In answering a question in a The New York Times/CBS News Poll 50 per cent of the respondents said that the war in Afghanistan is not a success. Only 39 per cent of the people considered it successful. Under the joint direction of Anderson Robbins Research and Shaw & Company Research, Fox News, a conservative and pro-war news channel, conducted interviews between 22 April 2012 and 24 April 2012 to find out how many people in the United State still supported the war in Afghanistan. In responding to the question concerning the situation in Afghanistan, 31 per cent stated they were Extremely Concerned, 49 per cent said they were Very Concerned, 15 per cent said they were Not Very Concerned, 3 per cent said they were Not Concerned At All, and 1 per cent said they Don’t Know. When they were asked about the troop withdrawal from Afghanistan, 78 per cent of the people asked said they approve of the withdrawal plan, 16 percent disapproved, and 6 per cent said that they didn’t know.

Aside from political and public pressure, the US economy and educational system are in disarray. Gasoline prices have reached $5.00 per gallon. The price of food, especially wheat, has doubled in the last two years. Funds are diverted from schools, Social Security, and other public sector programs to finance the war. With unemployment at 7.8 per cent in September 2012, the US government does not have a valid reason to convince the American people to continue the
war. Many people have expressed concerns similar to those of Senator Jeff Merkley. “At times of high unemployment, a wave of foreclosures and growing debt, we need to concentrate on nation-building here at home.” The total cost of the war in Afghanistan since 2011 is between $2.3 trillion and $2.7 trillion and is still rising. The US total spending on the Afghan war is estimated at $1.26 trillion in 2012 and $967 billion in 2013. Considering that the US debt has reached $16.2 trillion and is estimated to be $20.539 trillion by the end of 2013, it will financially be almost impossible to support the war, unless more funds are diverted from education, Social Security, welfare, and other public programs in the United States.

The death toll is of far greater concern than the financial cost. From October 2001 to September 2012, there were 2,130 US military, 1,263 US contractors, 8,665 Afghan National Military and Police, 1,066 other allied troops, 17,400 civilians, 25,000 opposition force, 25 journalists and media workers, and 209 humanitarian/NGO workers killed in Afghanistan. Considering these facts one has to raise the question, should the war be continued?

Third, since the foreign troops were not able to establish a meaningful level of security and do not have any credible plans as to how to proceed with the war in Afghanistan, the United States and its allies need to recognise the realities and concentrate on real peace negotiations instead of the illusionary path on hand. Some of the coalition partners recognised the need for negotiations long time ago. British Foreign Secretary David Miliband urged political negotiations in his speech to the Massachusetts Institute of Technology in March 2010. He said, “The idea of political engagement with those who would directly or indirectly attack our troops is difficult, but dialogue is not appeasement, and political space is not the same as veto power or domination.” In May 2012 Australian Foreign Minister Bob Carr said that the “Taliban involvement in the coalition would be desirable,” and “would make a more sustainable post-2014 ethnic and regional balance in the country.” Peace negotiations are desired by the allies of the United States in the present state of affairs.

On the surface there is an ongoing discussion about negotiating with the Taliban, but no serious efforts have been undertaken. Initial and lower level discussions have failed, because both the Taliban and the United States view these negotiations with suspicion and are not sure of each other’s sincerity. Instead of hoping to reverse the Taliban momentum to secure a more favorable environment for negotiations, the US and its allies need to end the fighting now if they want peace to come to Afghanistan. Initiatives must be taken toward a political compromise and agreement. This is possible if the following questions can be answered and the practical steps taken.
1. Does the United States recognise the resistance, especially the Taliban, as a legitimate opposition force?
2. Is the United States willing to negotiate with the resistance, especially the Taliban, without any preconditions: Negotiate with them while they are armed and strong?
3. Are the United States and the Karzai government willing to share power with the resistance?
4. Are the Taliban willing to negotiate without demanding that the foreign troops leave before negotiations can take place?
5. Are the Taliban willing to consider accepting the Constitution subject to amendments and modifications?
6. Are the Taliban willing to hold back on their offensives and stop attacking military and civilian facilities?

If the answer to any of the above questions is no, then war will continue. But if the answer is yes, then these questions should be considered.

7. A mechanism of negotiations must be constructed. In order to create such a mechanism, an environment of trust must be created first, in which members of the resistance, especially the Taliban, can feel secure and take part in the negotiations. The Taliban must be given an address either within or outside Afghanistan, where they can be contacted. This will avoid mistakes such as inviting a shopkeeper instead of a Taliban member. The Taliban must feel secure that their participation in negotiations and revealing their identity will not lead to their harassment and arrest. Furthermore, once the scrutiny of the Taliban living in Kabul and other parts of the country ends, the Taliban who are fighting in the front line can be convinced that the United States is serious and honest about negotiations.

Once these conditions are realised, negotiations can take place in three stages. In the first stage, direct negotiations between the United States and the Taliban should take place based on the principles of reconciliation, where long term efforts are made to promote a sustained dialogue. The ultimate objective of this step of negotiations should be to improve relationships and create trust between the United States and the Taliban. In this stage both the US and its allies and the Taliban need to agree to a cease-fire and the US needs to release Taliban prisoners from Guantanamo, Bagram, and other prison facilities and detention centers and remove the names of the Taliban leaders from the blacklist, watch-list or any other lists. Once negotiations are completed, an agreement reached between the two sides, and the outcome approved by the Taliban leadership, especially Mullah Mohammad Omar, the rank and file will follow.
After the first stage is completed negotiations should move to the second stage, which should include the United States, the Taliban, the Afghan government, Gulbuddin Hekmatyar, and the Haqqani Group (if it is not included as part of the Taliban in the first stage). The fact that the US has formally designated Jalaluddin Haqqani’s group as a terrorist organisation, which officially means that the United States will not negotiate with the Haqqani’s network, needs to be resolved first. To have meaningful negotiations, both the Haqqani group and Gulbuddin Hekmatyar must be included in the peace negotiations, if not in the first stage, then definitely in the second stage. Since this stage includes negotiations among Afghans, a nonpartisan and independent peace negotiating team, which will arbitrate between the conflicting parties, needs to be put together to start the process of mediation. This team cannot include members of the government, the Taliban, Opposition, political parties affiliated with the government, Jihadi groups, and Jihadi commanders. The objective of this stage of negotiations is to create a process, which would create institutions for sharing power among the conflicting parties. This principle of sharing power would increase the prospects of enduring peace.

The third stage of negotiations should include all of the above mentioned groups plus the Opposition and civil society groups. We have to keep in mind that the first two stages of negotiations will likely be disrupted by certain groups or elements not included in the first two stages. Therefore strategies need to be drafted to reduce their influence and impact, induce them to the peace process, and integrate them in the third stage of negotiations. The international community can help to develop institutional foundations necessary for this process by drawing plans for political process development. This in turn can help the Afghans develop leadership capacities enabling them to work together and bridge the political divide.

The ultimate objectives of negotiations should not only be to settle the differences between the United States, the Taliban, the Afghan government, Hekmatyar, and the Opposition, but to resolve disputes, strengthen the capacities of the communities, develop trust, bring social cohesion, promote inter-group cooperation, and start inter-ethnic dialog. A structured mechanism and forum will need to be put in place to orchestrate and coordinate this type of comprehensive peace process. The definitive goal is to build public consensus around shared values and a shared future.

Once the US has agreed to negotiate with the resistance and negotiations have gone through the three suggested stages, the Organisation of Islamic Cooperation’s (OIC) peacekeeping forces could be deployed to Afghanistan. The OIC force shall not include countries that are involved in the current invasion or that were directly or indirectly involved in the political and military conflict in
Afghanistan since 1978. Even though the past history of OIC is not encouraging in solving conflicts, its presence in Afghanistan will not be perceived negatively, given that it is an entity comprised of Muslim countries. The OIC can play an important role in facilitating the withdrawal, guaranteeing non-interference, and replacing the current foreign troops in peacekeeping, observing and monitoring forces in Afghanistan. The OIC enforcement power can be effective only if its role is mandated by the UN Security Council. The OIC can be very instrumental in establishing peace, security, and the rule of law in Afghanistan, because the OIC forces will not be seen as foreign troops occupying the country or as undermining and challenging the socio-religious values of Afghanistan. If for some reason, there is disagreement among OIC states and the mandate is vetoed by OIC member state(s), it is recommended that the UN Security Council directly request that Indonesia, Malaysia, and Egypt replace the existing occupying force. Both Indonesia and Egypt have the largest armies in the Muslim world and have experience in conflict resolution. They were both involved either in conflict within their countries or in the region. Throughout history, both countries have had good relationships with Afghanistan. Malaysia on the other hand does not have a large number of armed forces, but it has successfully negotiated a peace agreement between the government of the Philippines and Moro Islamic Liberation front. Many Afghans perceive Malaysia as a model progressive Muslim country. A detailed plan, which is outside the scope of this paper, needs to be developed for implementing the obligations and responsibilities of OIC forces in Afghanistan. But in general the OIC should be mandated to support an Afghan-led and Afghan-owned peace process, maintain peace and security, and monitor political and economic developments.

Impact of the Strategic Partnership Agreement

A dedicated and intense study is required to understand all aspects and related consequences of the US-Afghanistan Enduring Strategic Partnership Agreement (hereafter referred to as the Agreement). It is not the scope of this paper to undertake such a study, but the research will concentrate on the points most critically relevant to the issue of security and prospects of peace. Afghanistan is a national security challenge for the United States and the neighboring and regional countries. The signing of the Agreement and the presence of American forces in Afghanistan after 2014 have complicated the existing political dimensions in Afghanistan and the region. The main purpose of the Agreement seems to be the protection of the enduring interests of the United States in the region.

With this Agreement the United States wants to maintain effective military control over Afghanistan and intends to monitor the region from Afghanistan.
The strategic location of Afghanistan would allow the United States to keep a close eye on the military activities and development of the countries in the region. Economically, the Agreement will allow the United States to control the region’s oil and gas production, transportation, and distribution, and to undermine the interest of Russia and Iran in developing these resources.

For Afghanistan, the Agreement is broad and general and does not provide specifics on the US financial and military engagement in Afghanistan. It is not clear how the United States wants to highlight and develop the economic and military relationship with Afghanistan without offering information on the amount of economic assistance and the number of military forces to be stationed after 2014. It also does not specify how many bases the Americans will continue to keep. Overall, the agreement does not reflect Afghanistan’s economic, political, and security priorities. Therefore, it is merely a maneuver by the United States to legalise its presence, after the other countries’ forces leave Afghanistan in 2014. Even though this was already happening since the 2001 invasion, with the signing of the Agreement, the United States has positioned itself as a nimble actor to exploit opportunities in the region and to adjust its policies to the changing economic, political and strategic realities of the region. To better understand the impacts of the Agreement, one needs to analyse it in both its domestic and regional contexts along with its implications.

In Section I of the Agreement it is stated that “Afghanistan and the United States commit to strengthen long-term strategic cooperation in areas of mutual interest including: advancing peace, security, and reconciliation.” In addition, Section III spells out that “the United States affirms that it shall regard with grave concern any external aggression against Afghanistan. The parties shall develop and implement appropriate response, including political, diplomatic, economic, or military measures.” Afghanistan was and still is under attack from Pakistan before and after the signing of the Agreement, but the United States does not deem it necessary to maintain peace and security in the eastern part of Afghanistan or respond in any way to the aforementioned conflict. Section I states that “respect for the sovereignty and equality of states constitutes the foundation of this partnership. Respect for the rule of law, as well as the sound and transparent adherence to Afghanistan’s Constitution and all other operative laws, reinforce its foundations. The parties reaffirm their strong commitment to the sovereignty, independence, territorial integrity and national unity of Afghanistan.” Afghanistan is invaded and occupied by the US and its allies. According to international norms, sovereignty and national integrity are diminished when a country is so occupied by forces of another country. When the United States attacks Pashtuns on the other side of the Durand Line, it undermines the territorial integrity of Afghanistan, unless the United States considers Khyber
Pakhtunkhwa and Balochistan as part of Afghanistan. In the past eleven years, the United States has not acted according to Afghan laws and there is no guarantee it will do so after 2014. Contrary to Afghan and international law, on a regular basis innocent Afghan people are killed or imprisoned by the American forces without any due process. None of the perpetrators from the U.S. military who have committed these crimes are brought to justice. Only Soviet-style staged court proceedings are arranged in the United States where usually the indicted persons are found not guilty. Some which had to be found guilty for political reasons got away with mild sentences.

Section II of the Agreement obligates Afghanistan to protect and promote human rights and democratic values, commit to inclusiveness and pluralism, and forbad Afghanistan from any form of discrimination. The Agreement in this section though fails to talk about US obligations regarding these issues. Section III of the agreement states that “the Parties reaffirm that the presence and operations of the US forces in Afghanistan since 2001 are aimed at defeating al-Qaeda and its affiliates.” As the United States and the world community know, the center of al-Qaeda is located in Pakistan and not in Afghanistan. Osama bin Laden was found and killed in Abbottabad, a military town close to the capital, Islamabad. Pakistan is still considered as a valuable ally in the War on Terrorism. It is not clear how the US intends to fight al-Qaeda and what degree of involvement its forces will have. It is only stated in the agreement that this is going to be decided by future agreements. Presumably the United States will be launching its offensive against al-Qaeda in Pakistan from Afghan soil. Afghanistan will be used as a base to launch an attack on another country, a concern expressed before.

Another conflicting issue in the Agreement is the conduct of the U.S military personnel in Afghanistan. The Agreement reads that “the conduct of ongoing military operations shall continue under existing frameworks.” Under the existing framework, US forces do not abide by any Afghan laws. Any conduct by the US armed forces is decided and executed unilaterally without any check by the Afghan government and armed forces. Since the US armed forces are not bound by Afghan laws, any action the United States takes in Afghanistan cannot be questioned or challenged under the existing frameworks. This contradicts the previous clause.

Financially, it is not clear how the necessary funds would be provided to maintain the Afghan security forces and develop the economy. In Section III it is stated that “beyond 2014, the United States shall seek funds, on a yearly basis, to support the training, equipping, advising, and sustaining the Afghan National Security Forces.” Similarly Section V promises to promote development and provide social and economic assistance without any concrete suggestions and
financial guarantees as to the approach to be taken. It merely states that “the United States shall seek on a yearly basis, funding for social and economic assistance to Afghanistan.” This indicates that there is no guarantee of funds. With the American economy in decline, resistance to the war in the US, and the funds subject to US Congressional approval, there is no certainty Afghanistan will even receive the 4.1 billion dollars needed to maintain the security forces. This will have dire consequences. Afghanistan’s current partial security and limited economic development in the area of consumer commodities are donor driven. If the human and natural resources of the country are not developed, the donor-driven and aid-based economy and the fragile political and security structure will likely collapse. The country will experience civil unrest and political and economic strife. The government will lose further support and will eventually collapse.

In the same section of the Agreement, it is stated that the security threats and defense requirements for Afghanistan will be codetermined by the United States. This section clearly challenges Afghanistan’s independence and national integrity. Furthermore, Afghanistan is obligated to provide the United States “continued access and use of Afghan facilities through 2014, and beyond . . . to combat al-Qaeda and its affiliates.” Since al-Qaeda’s offices, training centers, and operation facilities are located in Pakistan and the United States wants to destroy these, it would have to do so from Afghanistan, a clear breach of the Agreement.

Another critical element in the same section is the issue of the future presence and operations of the US armed forces in Afghanistan. It is stated that “the nature and scope of the future presence and operation of U.S. forces in Afghanistan, and the related obligations of Afghanistan and the United States, shall be addressed in the Bilateral Security Agreement.” Two issues arise from this point. First, this section is ambiguous and can be interpreted in any way and taken in any direction. Second, it is not clear what Bilateral Security Agreement the Americans have in mind and for what purposes. If the current Agreement is intended to provide security arrangements for Afghanistan, why is there a need for another agreement? Is there any behind-the-scene work to establish permanent bases in Afghanistan?

Regarding the agreement, neighboring and regional countries are asking many questions and are worried and eager to find out the future US strategy in Afghanistan and in the region. Considering the region’s strategic and energy importance, how does the United States envision its presence in Afghanistan? The regional countries have vested interests in Afghanistan and in the region, which are challenged by the future presence of the American forces. The exponential growth of the Asian market is transforming the Asian economies to the global center
of power in the twenty-first century of global competition. Population growth, economic development, industrialisation, and the demand for more resources are causing a power shift from the industrial West to the developing East. China and India have invested heavily and want to continue to invest in the region to have access to the raw material, minerals and transportation access between Central Asia and the Indian Ocean. Both countries are facing fuel shortages and scarcities in water and other needed resources to maintain their economic progress. Therefore, they are looking outward, especially to Afghanistan and Central Asia. The neighboring countries, along with strategic and economic interests, have ethnic ties and interests in Afghanistan, raising the prospects of proxy war. Similarly Russia and Turkey seek to improve their influence in Afghanistan and in the region. Iran and Pakistan as major suppliers of food products, gas and fuel to Afghanistan, and as major players in resources industries, and as trade and transportation network facilitators in Central Asia, are worried about losing access to Afghanistan. They will face challenges in controlling key access routes and other infrastructure to Central Asia. The Iranian and Pakistani presence is intended to expand their influence in Afghanistan, but the existence of American forces in Afghanistan after 2014 will reduce this influence and undermine Iranian and Pakistani access to resources and trade routes. In general, the agreement not only does not provide any measures of security for Afghanistan, but also raises concerns among the neighboring countries and countries in the region. This may lead to an arms-race, power competition, and domination of the region by regional and world powers.

**Conclusion**

The prospects of current and future peace in Afghanistan depend on how the United States, NATO, and ISAF forces conduct their military operations until 2014, and whether the US and its allies are willing to completely withdraw their forces. Leaving forces in place after 2014, even in small numbers, will mean the continuation of conflict and war in Afghanistan. Promised political reforms and economic development, the two most important prerequisites of peace and stability, are not going to take place within the existing government and state structure. The surge in forces and the continuing heavy combat have only intensified violence in Afghanistan, and peace and security are elusive. The US and its allies seem convinced that the military campaign will not defeat the resistance and establish peace, security, and the rule of law, but for political reasons, they continue to drag on with the war. To bring peace and stability to the country, peace negotiations need to take place with the resistance soon.
Notes

* Abdul-Qayum Mohmand is Professor of Political Science and Middle East Studies at the University of Utah, where he took his PhD in Middle East Studies and Political Science. His area research includes international security and conflict studies, political violence and terrorism, Middle East government and politics, and Islamic political thought.

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MINDANAO CONFLICT AND ISLAMIC REVIVALISM: THE MORO ISLAMIC LIBERATION FRONT’S APPROACH

Marjanie Salic Macasalong

Abstract: The Moros, or Muslims in the southern part of the Philippines, have struggled for self-determination since the 16th century, when Spanish colonial domination arrived in the islands that came to be known as the Philippines. Centuries later, when “the Philippines” gained complete independence from an imperial United States, the newly independent nation inherited long-standing grievances of the Moro people, who continued their armed-struggle to regain their right for self-determination, through long and drawn out warfare that involved the whole population of the Philippines. This conflict was never simply about the Manila government and Moro rebel groups, but was always a complex, deep-rooted and multifaceted one that began during Spanish colonisation. The Moro Islamic Liberation Front (MILF), is today a mass-based organisation in Mindanao, having organised millions of people from all walks of life through a powerful social justice program with an emphasis on Islam as the ultimate goal. It advocates liberating the Moro homeland through establishing Islamic Sharia in the region. The MILF’s revivalist and Islamisation programs have shored up the notion of self-reliance among the “Bangsamoro” people and planted an Islamic way of life in their communities and religious, social, economic, and military structures, through schools, madrasah, mosques, sharia courts, and multi-purpose cooperatives. The way forward today lies in the recognition of the legitimate rights of the Moros for self-determination and, from the Moros, respect for the territorial integrity of the Philippines.

Introduction

Desire for peace is common in every society, yet history has been marked with conflicts from time immemorial. Currently, the United Nations’ Charter promulgates the idea of self-determination with the aim of achieving peace if a particular nation is given the right to form a state and manage its own affairs without external interference. The Moros in the southern part of the Philippines have been fighting for self-determination and their identity for more than four hundred years. Beginning in the 16th century, when the Spanish colonial power first set foot in what is now known as the Philippines, the Moros fought to defend their legitimate rights as an independent nation.

When the Philippines gained complete independence from the United States, it inherited the long-standing grievances of the Moros. Never tiring of fighting
for their rights, the Moros employed armed struggle in order to regain their right to self-determination. This struggle, however, resulted in more vigorous fighting that involved the whole population of the Philippines. The conflict is not merely between the Manila government and Moro rebel groups; rather it is a complex, deep-rooted and multifaceted one that began during Spanish colonisation.

The Sultanate Era

Islam reached the inhabitants of the islands of the Philippines, introduced to the local populace by Muslim individuals, Arab traders and missionaries, and spread in a gradual manner. It was already flourishing in the Islands long before Spanish-backed Christianisation came in the middle of the 16th century. The Moros during that time were already active in both domestic and international trade. It was reported that, as early as the 10th century, “there is evidence that Arab ships, or rather, ships captained by Arabs, had reached China from some Island in the Philippines during the tenth century,”3 and that Moro boats carried trade goods as far as the Persian Gulf and New Guinea.4

The Islamisation of southern Philippines was part of the general spread of Islam throughout the Malay world. Islam came first to what are now known as Indonesia and Malaysia before reaching the Sulu and Mindanao islands. The earliest report of the adoption of Islam by local Southeast Asians, particularly in the area of Sumatra in Indonesia and Muslim principalities in Malay world, was that of Venetian traveller Marco Polo in the late 13th century.5 Since these areas are close to the Philippines, specifically Sulu, and because they were connected through trade, it is not unreasonable to assume that Arab traders and missionaries learned of Sulu around that time.

According to Majul’s authoritative book, Muslims in the Philippines, when various Arab missionaries came to Sulu during the last quarter of the 13th century, a Muslim community was already existing in Sulu.6 The account of Che Man went further to claim that the Chinese sources dating from Yuan Dynasty (1280-1368) recorded trade activities between China and Sulu because the latter was a commercial centre that even Arab, Thai, Indonesian, and Indian traders used to visit.7

However, the establishment of the Islamic Sultanate, the penetration of Islam to the coastal and mountainous areas and the establishment of organised religious institutions, were only evident during the middle of the 15th century,8 with the arrival of Muslim Malays from Sumatra. This stage saw the rise of Rajah Baginda, a prince from Sumatra who was widely credited for establishing the first Muslim dynasty in the island. He married a daughter of a Muslim tribal chief in Sulu that enabled him to easily consolidate power in the community.
This existence of a Muslim ruler guaranteed the preservation of the work of the previous missionaries and paved the way for other locals to embrace Islam.

In the specific area of Maguindanao, it was recorded in the written Maguindanao genealogy that a certain Sharif Awliya came to the area in the middle of the 15th century, married there, begot a daughter, and introduced Islam to the locals. However, Sarip Muhammad Sarip Kabungsuwan, the offspring of the princess of the Johor royal family and a direct descendant of the Prophet Muhammad, (pbuh), was widely credited with strengthening Islam in the area.9

In the area of Lanao, which is just adjacent to Maguindanao and where the Maranaos and Iranuns dwell, it was reported that Islam was introduced to the people through marriage alliances. The Iranun datus10 was reported to have intermarried with the Maguindanao datus. In the case of the Maranao datus, it was also reported that people of Butig intermarried with the people of Malabang, a place where Kabungsuwan had first landed and founded Islam.11 It is reasonable then to infer that Islam had been introduced to the Maranao datus through such marriage alliances, though other accounts suggest that Kabungsuwan himself had gone to the area and converted the locals.12 Subsequently, the Sultanate of Buayan and the Pat a Pangampong ko Ranao (Confederation of the Four Lake-based Emirates) in Lanao were established. Kabungsuan also spread Islam to the other parts of Maguindanao, from the coastal area of Sarangani Bay to the Gulf of Davao.

In the middle of 16th century, when the Spanish expedition had anchored in Manila Bay, Islam was also spreading elsewhere in the Philippines, including the biggest islands of Luzon and Visayas. The area of Manila, now the capital of the Philippines, was in the hands of three Muslim rajahs, namely Sulaiman, Matanda and Lakandula. Though the latter two rajahs submitted to Spanish conquest, Rajah Sulaiman continued to resist until his death in 1588.13 During the Spaniards’ invasion of Manila, Rajah Solaiman was quoted in his memorable speech saying that “he (Solaiman) was pleased to be the friend of the Spaniards; but that they should understand that he would not tolerate any abuse…; on the contrary, they would repay with death the least thing that touched their honour.”14

**Spanish Era**

The earliest coming of the Spaniards in the Islands was in 1521 when the Portuguese-born explorer Ferdinand Magellan led a Spanish expedition to the small islet in Leyte,15 called Limasawa, where they first celebrated Catholic Mass in the Islands.16 Soon after settling on the islet, the conquest and conversion of the local inhabitants began. However, Rajah Lapulapu on the island of Mactan17 resisted the conquest and conversion that led to the death of Magellan in the famous Battle of Mactan on 27 April 27 1521.18
In November 1564, King Philip II of Spain ordered another expedition to go back to the Islands and finally make them permanent colonies. Under Miguel Lopez de Legazpi, with the company of the scholar priest Fray Andres de Urdaneta, the expedition finally landed in Panay on 27 April 1565. The final colonisation of the Islands began from there with a series of attacks on the Muslim Sultanates. The motives behind Spain’s colonisation, as evident in its official policy, were to spread Faith (Christianity), acquire more territory and to monopolise trade in the so-called Spice Islands. Spain at that time was one of the world’s leading maritime powers and sought to discover more territories, acquire colonies, consolidate power, and open up trade across the Pacific Ocean.

Since Muslim sultanates were already established in the Islands and they were already active in trade, clashes between the two became inevitable. Historians have popularised the “Moro Wars” to refer to a three-century-war between the Spaniards and the Moros. In fact the former had spent almost all its time in the Philippines fighting the latter. Such a long war had no doubt engulfed hundreds of thousands of lives, burned countless houses, destroyed numerous farms and agricultural livelihoods, and squandered billions of pesos. Perennial antagonism between the Moros and the Christianised-Filipino people has been the pinnacle effect of this devastating war.

In fact, the name “Moro” was coined because of these series of wars. It was initially used by the Spaniards to refer to any individual or group of people who happened to have the same religious practices as the Moors, the Arabs who once occupied Spain for several centuries. This term was adopted by the Filipinos but only with negative connotations like savage, ignorant, stubborn, or piratical. For the Muslims, however, the name was a source of pride, distinguishing themselves religiously and culturally from the people who succumbed to Christianisation and colonisation. Therefore, the name “Moro” was a “tag chosen for him by his enemy, not by himself”, and came to underscore an idea of resistance and anti-colonialism. Since that time, Muslims in the Philippines have been known as “Moros”.

The first recorded battle between the Spaniards and the Moros was between Magellan and Rajah Lapulapu on 27 April 1521. When the Spaniards returned under the tutelage of Legazpi, the two forces fought again on 3 June 1571. Rajah Solaiman, the last Muslim ruler of Manila, led his people against the Spaniards in the famous battle of Bangkusay.

The Spaniards’ objectives to consolidate territories and convert the Moros to Christianity were clearly spelled out in its official policies towards the Moros. Peter Gowing, an American historian, quotes the instructions of Governor-General Francisco de Sande to Captain Esteban Rodriguez de Figueroa on the siege of Sulu in 1578 and Mindanao in 1596:
Get them to acknowledge Spanish sovereignty over their territory.
Promote trade with them while obliging them to limit their trade to the Philippine Islands; and discover the natural resources of Moroland with a view to their commercial exploitation.
Begin the Hispanisation and Christianisation of the Moros, in line with the pattern followed in respect to other Filipino groups.⁷⁷

One may notice the anti-Muslim sentiments of the Spaniards towards the Moros. This rancour was grounded in history from the time Muslims ruled Spain for about 800 years. Called by Muslims Andalusia, Spain was once considered one of the Muslim centres of civilisation with the Umayyad Dynasty in Cordova reaching its crowning glory in the 10th century. For the Spaniards in the Philippines, the teachings of Islam were a false and evil law, and the religion of the Christians alone was true, holy, and good.²⁸ Majul candidly argued that the Spaniards were angry towards the Borneans because they were “agents for the strengthening of Islam in the Philippines – a faith they had sworn to extirpate”.²⁹

Although the Spanish offensive war resulted in the destruction of the political and economic infrastructure of the Moros, and the loss of some principalities in Luzon and Visayas, the Moros in general succeeded in thwarting the colonial attempt to permanently subjugate and convert them.³⁰ Until its departure in the late 19th century, Spain never successfully held Mindanao in its grip.

**American Era**

The United States’ colonial presence in the Islands began in 1898 when Spain ceded the Philippines to the Americans through the Treaty of Paris. The Treaty was the outcome of the Spanish-American War that lasted for less than a year. Regent Queen Maria Cristina of Spain declared war against America on 23 April 1898,³¹ and US President William McKinley reciprocated it on 25 April 1898.³² Though the Treaty was signed on 10 December 1898,³³ it was only ratified and came into effect on 6 February 1899.³⁴

When Spain was about to lose the war, it negotiated terms with the American government regarding the future of its colonies. Among the terms, Philippines was ceded to the United States. Article III of the Treaty clearly stipulates that “Spain cedes to the United States the archipelago known as the Philippines Islands…” and Article V, Paragraph 2, states that “Spain will proceed to evacuate the Philippines upon the ratification of the Treaty”.³⁵ It also stipulated that the “United States will pay to Spain the sum of twenty million dollars” within three months after the ratification of the Treaty. That is, only $2 for every Filipino.³⁶

America came to the Philippines with a declared mission of spreading democracy and civilisation. Lewis Gould, the American professor who wrote
a commentary on McKinley’s “benevolent assimilation”, noticed the racial and ethnic overtones of the phrase. According to him, during the late nineteenth century, “Americans were convinced that their form of government was the best in the world. Asian, Latin American and African peoples were, in the popular mind of the day, not as advanced as were the Anglo-Saxon civilisations. It was the duty [of the Americans] to spread the blessings of civilisation to areas where backwardness persisted.” Therefore, McKinley, he continued, “believed that he had a mission to provide the blessings of good and stable government to the people of the Philippines.”

However, as far as the Moros in Mindanao were concerned, the realisation of those “benevolent” policies did not reflect the reality on the ground. Instead, chaos and bloodshed ensued over Mindanao. Both the American government and the Moros were claiming the right to sovereignty over Mindanao. The Moros insisted that Mindanao should never have been included in the Treaty as it had never been incorporated and annexed to the Philippine Islands. American sovereignty should be confined to the Northern part of the archipelago, namely the Luzon and Visayas, and the sovereignty over Mindanao should remain in the hands of the Moro leaders. Salah Jubair, the author of the celebrated book *Bangsamoro: A Nation Under Endless Tyranny*, wryly asked, “How on earth could a nation [Spain] sell a territory she never owned or conquered?"

As a sign of protest and resistance, the Moros prepared and built *cottas* (citadels) all over Mindanao to repel any American incursion into their areas. Subsequently, on 2 May 1902, the first battle between the Moros and the American forces took place in the area of Bayang. The US forces were composed of the 27th Infantry and 25th Mountain Battery with advanced weaponry. The Moros, on the other hand, numbered around 600, with only swords, arrows, axes, and a very few outdated rifles, ensconced behind bamboo-made forts. Only a day after, the forts were overrun with the death of around four hundred Moro fighters, including the Sultan of Bayang and the Sultan of Pandapatan. On the American side, only 10 soldiers died and 44 were wounded.

The inclusion of Mindanao in the soon-to-be independent Philippines was among the most prejudicial decisions that America had made. It should not be forgotten that the Filipino people in Luzon and Visayas were also revolting against the US Government for complete independence. To assuage the revolution, the American government enacted the Tydings-McDuffie Law, or Philippine Independence Act, to create the Commonwealth of the Philippines. This Act, authored by Senator Milliard Tydings and Representative John McDuffie, and signed into law by Franklin D. Roosevelt on 24 March 1934, provided for the complete independence of the Philippine Islands after a ten-year transitional period.
After the lapse of the transitional period, the Manila Treaty was signed on 4 July 1946. This provided the formal recognition of the independence of the Republic of the Philippines and the relinquishment of American sovereignty over the Philippine Islands. Article I clearly stipulates:

The United States of America agrees to withdraw, and surrender, and does withdraw and surrender, all right of possession, supervision, jurisdiction, control or sovereignty existing and exercised by the United States of America in and over the territory and the people of the Philippine Islands… The United States of America further agrees to recognise, and does hereby recognise, the independence of the Republic of the Philippines as a separate self-governing nation and to acknowledge, and does acknowledge, the authority and control over the same of the Government instituted by the people thereof, under the constitution of the Republic of the Philippines.43

In addition to that, Article VII of the same Act states:

The Republic of the Philippines agrees to assume all continuing obligations assumed by the United States of America under the Treaty of Peace between the United States of America and Spain concluded at Paris on the 10th day of December 1898, by which the Philippine Islands were ceded to the United States of America…44

Finally, the newly independent Republic of the Philippines was born, but the grievances of the Moros were also renewed. As shown in Article VII, the Republic of the Philippines would assume all obligations assumed by the United States of America under the Treaty of Peace, including the exercise of sovereignty over Mindanao. This was a matter of contention for the Moros, for they could not understand how they could be repeatedly included in a ceding agreement, first during the Treaty between Spain and America, and second, with the Treaty between America and the Filipino people, when in fact they should never have been included at all. Besides, the Moros were not even consulted over the inclusion of Mindanao in the Treaty. This again infuriated the Moros.

Post-Philippine Independence Era

The Spanish and American determination to subjugate Mindanao not only destroyed the infrastructure and the political and social institutions of the Moros, but it also planted the seeds of antagonism and enmity between the Filipinos and the Moros, with both sides ending up holding grudges and animosity towards each other.

Despite the long-drawn war waged by the invaders, the Moros were never entirely subdued. Colonial governments changed strategies, from direct military
suppression to changing the demography of Mindanao through mass population settlement. According to Abdulwahab Amerol, a senior Moro researcher, the American government thought of changing the demography of Mindanao in order to uproot the Moros from their ancestral and economic bases. The government promised the Northern Christians to resettle and give them spacious and cultivable lands in Mindanao, giving rise to the slogan “Mindanao: a Land of Promise”. The government enacted laws, such as the Land Acts and Commonwealth Act No. 441, to facilitate the settlement programs.

Land Acts

Land Acts were initially formulated during the American occupation of the Philippines. After Philippine independence, the new government decided to retain some of the Acts. For the Moros, the Land Acts were a threat to their own survival.

The Land Registration Act No. 496 of 1902 was the beginning of the series of Land Acts that provided a legal basis for the US government to dispose the lands all over Mindanao. This particular Act requires the registration and acquisition of land titles in the Philippines. Unregistered lands would then automatically become public domain and open for exploration, occupation and purchase by citizens of the Philippines and the United States. A homestead system was introduced to provide 24 hectares to any individual citizen of the Philippines and 100 hectares for corporations. Additionally, the Public Land Act of 1919 was enacted to supplement the Land Registration Act. It clearly stipulates that all “lands of the public domain … have reverted or become the property of the Philippine Government…”

For the Moros, these Acts were systematic and legalised land grabbing, negating and abolishing the traditional Moro ways for generations of distributing and inheriting land. As Che Man comments, “All Moro ancestral landholdings, which had been passed down from generation to generation as pusaka (inherited property), were no longer valid. Instead, the government reserved to itself the power to issue titles to public land, a possession of which became proof of ownership.” As a result, most of the Moros did not retain any proof of entitlement to their own ancestral land, and so appeared to have no land and to live on their own ancestral land as if squatters. In Che Man’s account, prior to 1912, the Moros owned most of the land in Mindanao, but it was reduced to 30 percent in 1972 and further reduced to 17 percent in 1982.

Settlement Projects

In addition to the laws enacted by the Americans, the Philippine government also legislated various Acts related to settlement projects. These are Commonwealth
Act No. 441 in 1939, the Act to Further Implement the Free Distribution of Agricultural Lands of the Public Domain in 1954, the Republic Act No. 1888 in 1957, and the creation of the Department of Agrarian Reform (DAR) in 1971. Commonwealth Act No. 441 created the National Land Settlement Administration (NLSA) in 1939. It was given enormous power and authority by the government to facilitate and accelerate the resettlement of Christians from Luzon and Visayas to Mindanao. Section 2 of the Act stipulates that the Administration shall serve as an agency of the government to “facilitate the acquisition, settlement and cultivation of lands”, and “to encourage migration to sparsely populated regions”.

This Administration was authorised to hold public agricultural lands for a renewable period of twenty-five years, and to establish credit agencies extending loans to settlers. Additionally, it was to establish and operate electricity and water supply plants, irrigation systems, trading stores or cooperatives and to essentially improve and promote the well being of the settlers. It could also act as an agent, broker, commission merchant, or representative of the settlers in marketing products raised or produced by settlers, and could borrow, issue bonds, or raise funds whenever deemed necessary in the interest of the settlers. The Administration was allocated a sum of twenty million pesos for direct and immediate expenses of the project.

During the time of President Manuel L. Quezon in 1944, the policy of settlements in Mindanao had become national policy. President Quezon’s speech during the first session of National Assembly partly reads:

The time has come when we should systematically proceed with and bring about colonisation and economic development of Mindanao. A vast territory with its untapped natural resources is a temptation to interfering nations that are looking for an outlet for their excess population.... If we resolved to conserve Mindanao for ourselves and our posterity, we must bend all efforts to occupy and develop it.

Government settlement programs intensified thereafter. In 1954, an Act to Further Implement the Free Distribution of Agricultural Lands of the Public Domain paved the way for the establishment of the National Resettlement and Rehabilitation Administration (NARRA). This Act was to “help speed up the free distribution of agricultural lands of the public domain to landless tenants and farm workers who are citizens of the Philippines and to encourage migration to sparsely populated regions...” NARRA was then given substantive power to carry out the settlement program:

To give land … to landless citizens of the Philippines who need, deserve and are capable of tilling the land; to facilitate the settlement, acquisition and cultivation of...
agricultural lands; to borrow money from any credit institution for any of the purposes
described herein; and to secure for the settlers from other government agencies
such assistance and facilities as may be necessary to accelerate development,
cultivation and electrification of settlements; construction of irrigation systems;
institution of credit facilities, enhancement of cottage industries; and establishment
of processing plants, warehouses and marketing facilities.\textsuperscript{54}

In addition, NARRA would “assist settlers in transporting themselves, their
belongings, work animals and farm equipment, if any, from the communities
from which they were migrating to the settlement areas reserved for the purpose,
and for subsistence necessary until credit can be provided . . . and these loans shall
be non-interest bearing…” Furthermore, NARRA was also “to assist the said
settlers in securing equipment, supplies and materials needed in the settlement
areas at the most advantageous prices or terms…”, and to “help provide housing
and other accommodations for the new settlers in the settlement areas upon
arrival by locating them in properly surveyed and subdivided lots… to help
organise community activities that the new settlers require upon arrival in the
new settlement …”\textsuperscript{55}

The 1954-1955 fiscal year allocated five million pesos to this Act, and a sum
of not less than eight million pesos for every fiscal year thereafter, for a period
ten years. The Agricultural Credit and Cooperative Financing Administration
(ACCFA) was also to “give loans or financial assistance to the settlers or
cooperative settlers to help establish themselves as independent farmers following
their arrival in the settlement areas.”\textsuperscript{56}

In 1971, President Ferdinand Marcos signed into law the Republic Act No.
6389 to create the Department of Agrarian Reform (DAR) and to “provide a
more vigorous and systematic land resettlement program and public land
distribution.”\textsuperscript{57} DAR would establish “an institution” to finance the acquisition
and distribution of agricultural land and “Bureau of Resettlement” that would be
responsible for “resettlement of displaced farmers, landless families, and urban
workers in the settlement projects of the Department, the construction of houses,
roads and other facilities …”\textsuperscript{58}

The DAR was given a Cabinet post in order for the president to maintain close
supervision, and the Land Bank of the Philippines, one of the leading banks in the
country, was designated as the financing arm of the department.

All of the above measures and policies facilitated resettlement in Mindanao.
For Christians all over the country, it was a “dream come true”. A vast stretch
of land in Mindanao was opened to large-scale migration from the northern and
central parts of the Philippines which would forever change the demography of
the region. In 1912, the first known settlers in Mindanao were Christian Cebuanos
from Visayas, numbering around a hundred families.\textsuperscript{59} In 1913, the American colonial government began implementing a policy of establishing agricultural colonies in the south to encourage farmers from both Luzon and the Visayas to resettle in Mindanao. From that year until 1917, seven agricultural colonies were opened in Mindanao. These were in Pikit, Silik, Paidu Pulangi, Pagalungam, Glan and Talitay in the former empire province of Cotabato, and Momungan in Lanao province.\textsuperscript{60}

From the year 1918-1939, there were 9,172 families, equivalent to 46,712 individuals, from Luzon and Visayas that had resettled in Mindanao.\textsuperscript{61} In 1939 alone, there were 200 Christian families who had been given twelve hectares of farmland and financial aid of up to P7.5 million each, assistance that made the settlers, according to Jubair, cry and kiss the ground in excitement.\textsuperscript{62} By 1960, as many as 3,200 migrants were arriving in Mindanao every week.\textsuperscript{63} In just a period of ten years, from 1960 to 1970, an estimated total of 362,000 people had migrated to Mindanao.\textsuperscript{64} In 1975 and early 1976, 49 settlement projects served 47,900 families, resettling roughly 1 per cent of the rural population of the Philippines\textsuperscript{65} in Mindanao under the administration of DAR. In 1977, the Ministry of Agrarian Reform (MAR), the successor of DAR, was administering a total of 44 settlement programs, with an aggregate area of 734,825 hectares and 49,898 families.\textsuperscript{66}

Table 1 shows that from 1950 to 1978, within just a span of 28 years, more than 700,000 hectares of Moro land were given to almost 50,000 Christian families. As a result, there are now three main clusters of population in Mindanao: the Moros, the Lumads (the native people of Mindanao who neither embraced Islam nor Christianity) and the Christian settlers.

\textit{Jabidah Massacre}

The Jabidah Massacre took place on 17 March 17 1968. Occasionally called the Corregidor Massacre, it involved the killing of 64 young Muslim trainees\textsuperscript{67} in the Philippine Army by their Christian superiors. It was the first major carnage directed towards the Moros after the independence of the Philippines. Muslims all over the country deplored the massacre, and Muslim students in Manila held a weeklong vigil in front of the Malacañang Palace, the president’s office, demanding justice for the victims.

Vitug and Gloria, the authors of the widely-quoted book \textit{Under the Crescent Moon: Rebellion in Mindanao}, explained that “Jabidah” was the name of the commando group involving hundreds of recruits under the pseudo code “Project Merdeka”.\textsuperscript{68} The hidden mission of this project was initially to destabilise Sabah\textsuperscript{69} and gradually take over the resource-rich island by invasion. According to the
lone survivor of the massacre, Jibin Arola, the Muslim trainees wanted to back out upon knowing that the real mission was to invade Sabah, not to fight the Communist insurgents as was said during recruitment.⁷⁰

Table 1  Christian Settlements in Mindanao from the year 1950 to 1978

<table>
<thead>
<tr>
<th>No.</th>
<th>Year</th>
<th>Settlement Project</th>
<th>Location (all in Mindanao)</th>
<th>Area (ha)</th>
<th>No. of Settler Families</th>
</tr>
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<tr>
<td>1.</td>
<td>1950</td>
<td>Bukidnon</td>
<td>Maramag-Pangantukan-Kalilanoan</td>
<td>35,399</td>
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<td>2.</td>
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<td>Lanao del Sur No. 1</td>
<td>Wao</td>
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<tr>
<td>3.</td>
<td>1953</td>
<td>Lanao del Norte No. 2 (Arevalo Edcor)</td>
<td>Sapad</td>
<td>3,000</td>
<td>139</td>
</tr>
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<td>4.</td>
<td>1953</td>
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<td>Alamada</td>
<td>28,380</td>
<td>899</td>
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<td>5.</td>
<td>1953</td>
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<td>Buldon</td>
<td>5,464</td>
<td>241</td>
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<tr>
<td>6.</td>
<td>1955</td>
<td>Tawi-Tawi</td>
<td>Balimbang-Bongao</td>
<td>15,340</td>
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<td>7.</td>
<td>1955</td>
<td>Davao del Norte No. 1</td>
<td>Sto. Tomas: Tibal-og – La Libertad</td>
<td>7,225</td>
<td>970</td>
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<td>8.</td>
<td>1956</td>
<td>North Cotabato No. 1</td>
<td>Carmen</td>
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<td>9.</td>
<td>1956</td>
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<td>Columbio-Tulunan</td>
<td>52,468</td>
<td>2,378</td>
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<tr>
<td>10.</td>
<td>1960</td>
<td>Lanao del Norte No. 1</td>
<td>Tangkal-Magsaysay</td>
<td>13,943</td>
<td>1,019</td>
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<tr>
<td>11.</td>
<td>1962</td>
<td>Zamboanga del Norte</td>
<td>Liloy-Salug-Sindangan</td>
<td>35,000</td>
<td>2,343</td>
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<tr>
<td>12.</td>
<td>1962</td>
<td>Agusan del Sur</td>
<td>Talcogon- Esperanza-Sindangan</td>
<td>35,000</td>
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<td>13.</td>
<td>1967</td>
<td>Maguindanao No. 1 (Barrira Edcor)</td>
<td>Barrira</td>
<td>33,000</td>
<td>375</td>
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<td>14.</td>
<td>1968</td>
<td>Sultan Kudarat No. 2</td>
<td>Isulan-Bagumbayan</td>
<td>30,000</td>
<td>1,497</td>
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<tr>
<td>15.</td>
<td>1970</td>
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<td>Asuncion</td>
<td>8,221</td>
<td>2,926</td>
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<td>16.</td>
<td>1973</td>
<td>Lanao del Sur No. 2</td>
<td>Lumba-a Bayabao-Bubong</td>
<td>6,939</td>
<td>246</td>
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<tr>
<td>17.</td>
<td>1975</td>
<td>Maguindanao No. 3</td>
<td>Upi-Dinaig</td>
<td>4,268</td>
<td>130</td>
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<tr>
<td>18.</td>
<td>1975</td>
<td>Lanao del Norte No. 3</td>
<td>Nunungan-Karomatan</td>
<td>19,674</td>
<td>337</td>
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<td>19.</td>
<td>1975</td>
<td>Lanao del Sur No. 3</td>
<td>Bayang-Binidayan-Pagayawan-Tuburan (Tatarican)</td>
<td>18,197</td>
<td>770</td>
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<td>20.</td>
<td>1976</td>
<td>Sulu</td>
<td>Panamao-Talipao-Patikol</td>
<td>7,146</td>
<td>219</td>
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<tr>
<td>21.</td>
<td>1976</td>
<td>Basilan</td>
<td>Lamitan-Sumisip-Maluso</td>
<td>15,000</td>
<td>460</td>
</tr>
<tr>
<td>22.</td>
<td>1978</td>
<td>Lanao del Sur No. 4</td>
<td>Kapai</td>
<td>5,500</td>
<td>-</td>
</tr>
<tr>
<td>23.</td>
<td>1978</td>
<td>South Cotabato</td>
<td>Sorollah</td>
<td>22,000</td>
<td>-</td>
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</tbody>
</table>

TOTAL 737,656 49,796

Source: Ministry of Agriculture, quoted in Uhlig, 27.
As testified by Arola, the trainees asked, how could they [we] attack the Malaysians when they are our brothers and we do not have any quarrel with them? Since the nature of the project was a top military and political secret, the military officers decided to kill all the trainees in order to prevent it from being disclosed to the public. The Army Chief subsequently was ordered to clean up the evidence by collecting all the charred flesh and bones, together with the bullet shells lying on the airstrip, and dumping them into the sea with heavy stones tied to them to make sure that nothing would float to the surface.

The massacre served as the turning point for the Moros in the Philippines. As Vitug and Gloria put it, “Muslim Mindanao was never the same again.” It served as a catalyst for the Moros to take up arms and fight against the oppressive neo-colonial government. Muslims in the international community, especially Malaysia and Libya, also voiced anger over the massacre:

This incident caused much furore in the country, with the members of the then political opposition using it in lambasting the Marcos administration. The Philippine press also denounced this horrible incident which caught the administration flat-footed. Internationally, the incident caused the Philippine government to earn the ire of several Muslim countries. Most outraged among them was Malaysia, who saw the incident as an indication of the strong determination of the Philippine government to annex the state of Sabah, over which Marcos’ predecessor ex-president Diosdado Macapagal filed a claim in 1962.

Two major implications of this incident are worth noting. First, since the apparent mission of the aborted Project Merdeka was to destabilise and ultimately invade Sabah, its Chief Minister Tun Mustapha retaliated by publicly declaring his support for the Moros. Tun Mustapha promised to give arms and military training, provide monetary and logistic support, and most importantly offer them sanctuary and safe haven. Second, since the government failed to give justice to the victims (all the 24 court-martialed officers and men were acquitted and no single person was held accountable), the Moros felt betrayed by the government. The idea of having an independent state was once again rekindled.

**ILAGA-related massacre**

The word *Ilaga* is a literal Visayan term for rat, a creature that greedily infests crops. Some Moros believe that the name was adopted to imply the determination of the Christian settlers – the perceived founder of the group – to devour further the livelihood, land and farms of the Moros. However, some accounts believe that the word is the acronym for the Ilonggo Land Grabbers’ Association, entailing the all-capital letters of ILAGA. In any case, the group was known for savagery and cruelty, possibly making it more notorious than the Jabidah Massacre.
group carried out numerous atrocities, such as massacres of civilians, ransacking villages, looting properties, and burning houses and mosques. Even worst, the group did not simply kill the Moros, but also mutilated the bodies, carving out ears, slashing nipples, plucking out eyes, and marking bodies with the cross.  

The Manili Massacre on 19 June 1971 was one of the most horrible massacres carried out by the group. Seventy Moros, including women and children, were mercilessly massacred in Barrio Manili, Carmen, North Cotabato. Teng Addie Nagli, one of the surviving victims of the massacre, and a seven-year old child at the time, has only the faintest memories of that fateful day. He recalls:

The community was called for a meeting inside the mosque at dawn by Philippine Constabulary (PC) Captain Langgan. He said men, women and children braved the rain and biting cold to be able to attend the meeting. We had no idea that the supposed-to-be peace and order meeting would snuff the lives of many of our relatives and neighbours. When all the people were inside the mosque, the armed men bolted the men’s entrance but kicked open the women’s entrance. Then the armed men ordered (my) father to go out and surrender his guns and other firearms, (but) we had no firearms so there was nothing to surrender. They brought my father to our house a few meters away from the mosque and then I heard shots. They killed my father at close range. Captain Langgan then told the people inside the mosque to call on their God and pray because they would all be killed. So they lobbed a grenade at the mosque and I felt myself lifted from the ground. Then I saw body parts stick to the ceiling of the mosque.

Nagli recalls that he was shielded by others nearer to the grenade. “All I can remember (was) the blood was so warm and bodies heaped all over me so the soldiers did not see me still alive.” He said that he could not forget the stench of the ankle-deep blood, which flooded the floor of the mosque. “I’ll never forget what I saw till the day I die. Even up to now when I think about it, my heart tightens. It makes me want to take revenge because the wounds of the incident are still here.”

The Manili Massacre was not an isolated incident. Jovi, one of the survivors of the similarly horrific Pagayawan Massacre, recalled the long and painful story of how they were ruthlessly struck by the ILAGA. According to him, it was two o’clock in the afternoon on Tuesday, 22 September 1972 when most of his relatives were killed and he himself almost died. He narrated that “most of the victims were not yet in their 20s. I was just around 13-year-old boy. The oldest among the casualties was 15 years old, while the youngest was just around 2 to 5 months, for those babies were just in their cradle when the ILAGA and uniformed soldiers struck.” He continued, “While the uniformed soldiers took the task of gunning us down, the ILAGA did the mutilation. Those babies inside the room
were brought out and thrown over to the ILAGA for mutilation and beheading.”

“Then when they thought that we were all dead,” he concluded, “they began
looting the house before they finally left. All in all, out of 28, eleven died while
others were maimed after sustaining multiple stabs.” When asked why most of
them were young and why they were so crowded in just one small house, he
emotionally recalled that most his uncles and cousins were already massacred
in the adjacent area of Dilabayan, Kauswagan. All in all, more than 200 of his
relatives were massacred by the ILAGA.

The Manili and Pagayawan Massacres were just two of the numerous massacres
that occurred from 1970 to 1972. Other massacres carried out by the ILAGA are
summarised in the following table.

Table 2   List of massacres committed by ILAGAS in Mindanao

<table>
<thead>
<tr>
<th>Municipality/Province</th>
<th>Year</th>
<th>Dead</th>
<th>Wounded</th>
<th>Burned-houses</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Upi, Cotabato</td>
<td>March 22, 1970</td>
<td>6</td>
<td>2</td>
<td>Ud</td>
</tr>
<tr>
<td>2. Upi, Cotabato</td>
<td>September 10, 1970</td>
<td>6</td>
<td>Uk</td>
<td>Uk</td>
</tr>
<tr>
<td>3. Polomolok, South Cotabato</td>
<td>August 10, 1970</td>
<td>8</td>
<td>Uk</td>
<td>Uk</td>
</tr>
<tr>
<td>4. Alamada, Cotabato</td>
<td>December 3, 1970</td>
<td>13</td>
<td>Uk</td>
<td>Uk</td>
</tr>
<tr>
<td>5. Midsayap, Cotabato</td>
<td>December 16, 1970</td>
<td>18</td>
<td>Uk</td>
<td>Uk</td>
</tr>
<tr>
<td>6. AHan, Datu Piang, Cotabato</td>
<td>December 21, 1970</td>
<td>7</td>
<td>Uk</td>
<td>147</td>
</tr>
<tr>
<td>7. Bagumbayan, Cotabato</td>
<td>January 1, 1971</td>
<td>12</td>
<td>Uk</td>
<td>Uk</td>
</tr>
<tr>
<td>8. Alamada, Cotabato</td>
<td>January 17, 1971</td>
<td>73</td>
<td>Uk</td>
<td>36</td>
</tr>
<tr>
<td>9. Carmen, Cotabato</td>
<td>April 6, 1971</td>
<td>18</td>
<td>25</td>
<td>Uk</td>
</tr>
<tr>
<td>10. Manili, Carmen, Cotabato</td>
<td>June 19, 1971</td>
<td>70</td>
<td>17</td>
<td>Uk</td>
</tr>
<tr>
<td>11. Wao, Lanao Sur</td>
<td>July 4, 1971</td>
<td>Ud</td>
<td>Uk</td>
<td>60</td>
</tr>
<tr>
<td>12. Buldon, Cotabato</td>
<td>August 5, 1971</td>
<td>14</td>
<td>Uk</td>
<td>Uk</td>
</tr>
<tr>
<td>13. Wao, Lanao Sur</td>
<td>August 5, 1971</td>
<td>36</td>
<td>Uk</td>
<td>Uk</td>
</tr>
<tr>
<td>14. Kauran, Ampatuan Cotabato</td>
<td>August 9, 1971</td>
<td>4</td>
<td>Uk</td>
<td>Uk</td>
</tr>
<tr>
<td>15. Buldon, Cotabato</td>
<td>August 9, 1971</td>
<td>60</td>
<td>Uk</td>
<td>Uk</td>
</tr>
<tr>
<td>16. Kisulon, Bukidnon</td>
<td>October 23, 1971</td>
<td>67</td>
<td>Uk</td>
<td>Uk</td>
</tr>
<tr>
<td>17. Magsaysay, Lanao del Norte</td>
<td>October 24, 1971</td>
<td>66</td>
<td>Uk</td>
<td>Uk</td>
</tr>
<tr>
<td>18. Tacub, Kauswagan, Lanao del Norte</td>
<td>November 22, 1971</td>
<td>40</td>
<td>140</td>
<td>Uk</td>
</tr>
<tr>
<td>19. Siay, Zamboanga del Sur</td>
<td>November, 1971</td>
<td>Uk</td>
<td>Uk</td>
<td>Uk</td>
</tr>
<tr>
<td>20. Ipil, Zamboanga del Sur</td>
<td>December, 1971</td>
<td>Ud</td>
<td>Uk</td>
<td>Uk</td>
</tr>
<tr>
<td>21. Palembang, Cotabato</td>
<td>January 21, 1972</td>
<td>Ud</td>
<td>Uk</td>
<td>Uk</td>
</tr>
</tbody>
</table>

Note: Uk= Unknown; Ud= Undetermined
Table 2 shows the intensity of the violence in almost every province of Mindanao. In less than two years, 21 massacres took place with more than 500 fatalities and 184 injuries. According to the government’s estimate, more than 1,000 civilians and about 2,000 armed Moros and Christians were killed, and more than half a million persons were displaced or rendered homeless. Another source puts the total number of casualties as high as 10,000 lives.

In perpetrating all these atrocities, the ILAGA was enjoying direct assistance from the government. They were provided with necessary information and sophisticated weapons. In some incidents, military personnel were themselves the prime culprits. In the case of the Manili Massacre, it was none other than Captain Langgan who cordoned the local residents into a mosque and ordered their killings. Another ILAGA leader, Feliciano Lucas, was reported to have given a red carpet reception at the Malacañang Palace in Manila when he “surrendered” to President Marcos. He was afterwards released to his hometown with military escort to protect him from being killed or arrested because of the warrants issued against him. Instead of being punished, the ILAGA leader was, according to the late Congressman Salipada Pendatun, knighted and “bade to go back to his kingdom to bear more arms and commit further depredations.”

In the wake of all these incidents, the Muslim leaders – senator, former senator, congressmen, government officials, heads of Muslim associations, religious and academic scholars and intellectuals, professionals and businessmen, as well as student leaders – met in a private house and pledged before the Qur’ān to set aside all political, personal and ethnic differences and to commit themselves to protect the Moros. Various factions and liberation groups were born, but Moro leaders and politicians were united in calling for independence. Among these was Ustaz Salamat Hashim who founded the Moro Islamic Liberation Front (MILF).

**Islamic Revivalism: The Approach of the MILF**

The MILF started as a breakaway group from the Moro National Liberation Front (MNLF). During the early period of the struggle, Salamat Hashim was the MNLF vice-chairman and the head of foreign affairs. The two leaders were working together very closely. Hashim even helped Misuari to get the post of chairmanship. However, because of differences of ideology and leadership style, the two leaders began to disagree on most issues. Hashim began challenging Misuari in cases he considered un-Islamic, while Misuari started to decide matters and convening major sessions without consulting Hashim. Nonetheless, all this wrangling had been confined only to the high-ranking members of the group.

On 21 September 1977, right after the collapse of the negotiations in Manila, the divisiveness became known to the public. The fifty-seven leading officers
of the Kutawato Revolutionary Committee (KRC), the biggest single unit in the entire MNLF in terms of numbers and territorial jurisdiction, signed a petition addressed to the OIC and the Muslim World League (MWL) calling for the ousting of Nur Misuari as Chairman and instead recognising Salamat Hashim as the new Chair.\textsuperscript{90} Many more petitions from Cotabato, Lanao, Zamboanga del Sur, and Davao were forwarded to the OIC and MWL.

Subsequently, Hashim announced his “Instrument of Takeover” on 24\textsuperscript{th} December 1977 to finally declare his chairmanship.\textsuperscript{91} Hashim justified his takeover by the following:

The MNLF leadership was being manipulated away from its Islamic basis, methodologies and objectives, and fast evolving towards a Marxist-Maoist orientation.

… The Central Committee has evolved into a mysterious, exclusive, secretive, and monolithic body whose policies, plans and decisions – political, financial, and/or strategic – became an exclusive preserve of Nur Misuari.

This mysterious, exclusive and arrogant nature of the MNLF leadership resulted in confusion, suspicion and disappointments among members and mujahideen in the field, resulting in the loss to the cause of a great number of freedom fighters.\textsuperscript{92}

However, Misuari refused to recognise the takeover and the allegations. He instead accused Hashim of treachery, incompetence and insubordination, stripped him of his MNLF posts and declared him persona non grata.\textsuperscript{93} The OIC and the MWL mediated between the two leaders in an attempt to settle the internal strife, but it was to no avail. Finally, the two leaders took their separate ways.

In March 1984, the MILF officially established itself as a separate organisation, emphasising Islam as a guiding principle in all its affairs and activities. Hashim declared in his widely-disseminated book, \textit{The Bangsamoro Mujahid: His Objectives and Responsibilities}, that the “ultimate aim of our Jihad is to make the Word of Allah supreme.”\textsuperscript{94} Muslims must subordinate every aspect of their worldly wishes and desires to the Word of Allah, including their political, economic, educational, and social systems. Making the Word of Allah Supreme entails the establishment of a true Muslim community, the establishment of a genuine Islamic system of government and the application of a real Islamic way of life.\textsuperscript{95}

Hashim was among the students who were granted scholarships by Egyptian government to study at al-Azhar University. Having spent ten years in Egypt, Hashim had become heavily influenced by Muslim revivalists, most notably Hassan al Banna and Syed Qutb. In fact, the latter’s \textit{Milestone} shaped Hashim’s Islamic outlook and political beliefs.\textsuperscript{96} Hashim’s contemporaries in Al-Azhar
included Burhanuddin Rabbani and Abdul Rasul Sayyaf, and both became the leaders of Afghanistan’s anti-Soviet mujāhideen. Hashim was thus widely viewed as an Islamist revolutionary leader who wanted to liberate the Moros from the yoke of oppression and establish Islam as a way of life. For his supporters, Hashim was a reformer who can be compared with popular reformers in the Muslim world, such as Omar bin Abdul Aziz, Imam Shafi’e and Ibn Taimiyyah.

Paramount to his vision was the establishment of an Islamic government, which he considered to be required for the perfection of the Muslim’s ʿibadāh (devotion) to Allāh. According to him, ʿibadāh is not only limited to the basic tenets of Islam, the five pillars, but also includes political affairs, business transactions, social relations, education, culture, and all other aspects of life. Everything in society must be according to Islamic teachings.

In realising his vision, Hashim outlined four-point programs with a time frame of 50 years. They are Islamsation of the Bangsamoro people; strengthening and improving the organisational and administrative capability; military build-up; and self-reliance.

**Islamisation**

The Islamisation program concerns primarily the Moro population, which tends to separate religion from the state, as is the case in the Western countries. Hashim wanted to reverse this trend and called on the Moros to follow Islam more faithfully and reform their lives, homes and society. As Joseph Chinyong Liow wrote:

Hashim proposed that it was through da’wah and jihad that the MILF Islamisation agenda, which comprised of the transformation of every Muslim in MILF into “a true and real Muslim whose belief… and his entire life is in conformity with the teachings of Islam derived from the Qur’an and Sunnah”, of every MILF home into “real Islamic homes where the teachings of the Qur’an and Sunnah prevail”, and of community into “a true Islamic one governed by the Shari’ah” would be realised.

Hashim reiterated the need of having God-fearing leaders in order for the community to be Islamised. He wanted to reinstate the practice during the time of the Prophet (pbuh) where the affairs of the government and faith were inseparable. As he declared, “Practicing Islam without governmental sanction is a truncated version of the faith and, therefore, un-Islamic. A government not founded on Islamic principles (Qur’ān and Sunnah) is unquestionably un-Islamic.” Hashim urged the Bangsamoro people not to limit their ʿibadāh to the performance of the five pillars of Islam, but to engage in the political, social, cultural, and economic affairs of society. He asserted that active involvement in and support of the Bangsamoro struggle is ʿibadāh or service to Allah (swt).
The MILF introduced programs to promote the awareness and practice of Islamic teachings, initially among MILF members who should serve as role models for the general public. Two large MILF camps, Camp Abubakar and Camp Bushra, have always been locally referred to as “Dārussalām” (abode of peace) and “Dārul Īmān” (abode of faith), reflecting their adherence to the Islamic way of life.

Before Camp Abubakar was captured by the government forces in 2000, observers would feel a marked difference from the outside community because of the prevalence of Islamic practices and injunctions. Aside from being the general headquarters of the MILF, Camp Abubakar also resembled a full community that has religious, economic and military structures. Also, schools, madrasah, mosques, Sharī‘ah courts, and multi-purpose cooperatives were also constructed inside the camp.

Similarly in Camp Bushra, the stronghold of the vice-chairman Aleem Abdul-Aziz Mimbantas, an Islamic ambiance could also be felt. A madrasah called Ma’had Palestine has been established since the foundation of the camp. Named as such to constantly remind the local residents and the mujāhideen about their obligations and supplications towards their Palestinian brethren, the main purpose is to give Islamic education to the locals, most especially the children and families of the mujāhideen. Mimbantas underscored that this madrasah is to “give an opportunity to the people who were deprived of basic education, either Islamic or Western, to at least learn how to read and write”. According to him, they ask their ‘ustāz (Arabic teacher) to teach those children. Most of them gave one day a week, but some devotedly gave their full time. As a result, the MILF have produced students who are really committed to the Islamic cause and to the organisation. In certain cases, the MILF has even managed to send a few students to study abroad.

The MILF’s Islamisation program also includes the setting up of Sharī‘ah court inside the camps. Moro scholars who had specialised in Islamic jurisprudence, Fiqh and Usūl al Fiqh were given the task of handling cases. Sharī‘ah lawyers were placed in charge of looking into the details of all cases submitted to the MILF’s court.

During the heyday of the MILF in Camp Abubakar, all kinds of criminal cases were submitted to its Sharī‘ah court, ranging from killing to stealing. Punishments were given based on the committed crimes and offences, including 100 lashes for fornication between unmarried man and woman, hard labour for those who steal to pay their debts, imprisonment for recidivists, and execution for murderers. The MILF claims that all such punishments are based upon the injunctions of the Qur’ān and Sunnah.
The last reported execution in Camp Abubakar was in 1985, but a more recent one in 1997 took place outside the MILF’s camp. According to Mimbantas, “we decided for the execution to take place outside Camp Bushra in order to show the growing influence of the MILF and to let as many people as possible witness the execution.” The main purpose of this was to serve as a deterrence for other people not to commit the same crime. In Islam, he added, “the aim is not really the execution, but to achieve peace and order in the community. It may be harsh in the eyes of the common people, but this is merely implementing what Allah has ordered us to do. The Qur’ān and Sunnah are very clear about this, so we should not doubt and compromise even a little.”

To this day, Şarī’ah court remains operational in some MILF-controlled areas. The MILF leadership recently approved the North Western Mindanao Front Mobile Şarī’ah Court to be under the command of Abdullah Macapaar, the commander in chief of the Front. Alias Commander Bravo, he has been given a mandate to continue operations against all anti-Islamic teachings and to put suspects into prison while waiting for the final verdicts. As Bravo explains, this kind of court is “just a branch of the MILF Şarī’ah Court that implements all Islamic injunctions. We search for people who have criminal records, who engage in unlawful sexual intercourse, who are involved in drugs or any kinds of gambling, who drink alcohol, and who do any other deceitful activities.” However, Bravo quickly pointed out that “we have to accept the reality that we are not yet completely independent, thus, our operations are only confined to some specific areas.”

The mobile Şarī’ah court is composed of twenty competent and learned people who are in charge of giving verdicts. “In every different case, we have to look back to the Qur’ān and Sunnah,” one of those twenty learned people affirmed. When it is not explicitly mentioned in the Qur’ān and Sunnah, the group is given full authority to come up with a verdict based on their own intellect and reason.

Other Islamic injunctions are also observed in the MILF-controlled areas. Inside the two camps, women are not allowed in public if they are not dressed decently. They must have clothes and veils that cover their bodies and heads. Furthermore, male-female contact between non-immediate relatives is strictly prohibited; business transactions are also regulated to make sure that ribā and other such transactions do not take place; prices in the market are monitored to avoid overpricing; weighing scales and tape measurements are checked to avoid cheating; and most importantly, foods and beverages are screened to avoid non-halāl foods and alcoholic drinks. The locals had always referred to Camp Abubakar as dārussalām and Camp Bushra as Dārul İmān because social justice and peace and order are seen inside the camps. While the series of punishments and executions required the locals to behave according to Islam, the MILF gained
credit for controlling the areas by providing the people with social justice.

The MILF Islamisation programs also targeted drug trafficking and gambling.\textsuperscript{110} When drug trafficking became rampant, and drug addiction among the Muslims reached an alarming level, the MILF mobilised its own special team to launch operations against drug lords. In the late 1990s, the MILF was reported to have been very active in drug-related operations in Marawi city, Lanao del Sur.

More recently in 2011, the MILF engaged once more in an operation that succeeded in capturing a few serial killers, prominent drug lords, people involved in various kinds of gambling (including cock-fighting), and eradicating venues of gambling and cock-fighting.\textsuperscript{111} Dubbed “Bismillah”, the most significant feature of this operation was that it was focused in the area of Masiu, the birthplace of the vice-chairman Mimbantas, in order to demonstrate the seriousness of the MILF leadership intention to curb drugs and gambling-related activities.\textsuperscript{112}

The MILF has constructed its own rehabilitation centres in Camp Abubakar and Camp Bushra for the prisoners to undergo rehabilitation and re-orientation programs through the \textit{da’wah} (Preaching Islam) and educational schemes. Reading the Qur’an with exegesis, fasting every Monday and Thursday, hour-long midnight prayers, and physical exercises are seen as part of the rehabilitation program.

**Strengthening the Organisation**

Unity is one of the basic requirements for any organisation to succeed, and much more for an Islamic call, as it is not an individual task, but a collective duty and obligation. History attests that during the time of the Prophet (saw), priority was given to strengthening the organisation. Emulating the Prophet (saw), Hashim maintained that an organisation must be founded on \textit{shūra} (consultation), justice and equality, for “justice is the natural consequence of \textit{shura} and equality is the natural consequence of justice. There will be no equality if there is no justice, and there will be no justice unless the affairs of men are conducted through consultation.”\textsuperscript{113}

Hashim wanted the MILF to be a mass-based organisation that could represent the various ethnic groups in Mindanao. He ensured that MILF’s Central Committee, responsible for the day-to-day affairs of the organisation, would be composed of different ethnic groups in Mindanao and sectors from professionals, businessmen, politicians, and youths.

The MILF maintained its mass base support from the areas of Maguindanao, Lanao del Sur, Lanao del Norte, North Cotabato, and Basilan.\textsuperscript{114} On 5-7 October 1986, MILF held a military consultative assembly which more than one million people from all over Mindanao attended, and almost eighty thousand of them were armed with various kinds of weapons.\textsuperscript{115} Additionally, in 2005, MILF
general consultation had managed to gather more than three million supporters, although the media put it as several hundred thousand. Even then, Joseph Liow was prompted to emphasise that “this was more than the MNLF could ever muster, making the MILF by far the largest and most powerful resistance group operating in southern Philippines today.” Lastly, another proof of the MILF’s mass appeal can be observed in the following remark:

The Armed Forces of the Philippines [AFP] faces serious difficulty in gathering information from the MILF controlled areas because most of the local population refuses to cooperate with them. The mass support enjoyed by MILF is largely due to its emphasis on Islamic symbols and substance of liberation movement.

Apart from those reasons mentioned above, the MILF ensures its stability by dividing the key executive positions between the two largest ethnic groups in Mindanao: the Maguindanaon and Maranao. While the chairmanship was given to Hashim, a Maguindanaon, one of the deputy positions was given to Abdul Aziz Mimbantas, a Maranao and an al-Azhar graduate who was in charge of implementing Qur’anic teachings in his own area of control. The unity of the MILF is reflected in the smooth succession of the chairmanship after Hashim’s sudden death. With three deputies, it would not have been uncommon to encounter a bumpy succession. In the event, however, Hashim’s successor al-Haj Murad was given the post wholeheartedly and without challenge from the other two deputies. As Mimbantas claims, “This is perhaps the only revolutionary organisation in the world that has had such a smooth succession. Instead of fighting as to who should succeed the chairmanship, the three deputies were all with the idea of putting someone to the post other than himself.”

Military Build-Up

MILF focuses equal attention on its military capacity. According to Hashim, military build-up is the main mechanism to implement the Islamisation programs and to repulse any aggression against Islam. Hashim strictly adhered to the Islamic principle that when a Muslim community is persecuted, oppressed or denied liberty and freedom to perform its duties to Allah, then armed struggle becomes an obligatory duty to each and every Muslim.

During his time, the MILF established its own military academy, the Abdulrahman Bedis Memorial Academy, for the new recruits to undertake physical and spiritual training before joining the ranks. While the physical training requires the trainees to master obstacle courses, march drills and fire several types of weapons, the spiritual training focuses on lectures regarding Islam and *jihād*. Benjie Midtimbang, one of the training directors, has stated:
We are not strict with educational background, only their loyalty to the faith, the cause, and their sincerity. We put more stress on Islamic spiritual training rather than on the physical and mental aspects. Fasting twice a week is optional for the trainees but hour-long midnight prayers are must.121

After the demise of Hashim, the new leadership decided to rename and relocate the military academy in his honour. The Salamat Hashim Islamic Memorial Military Academy (SHIMMA) is now located in Camp Bushra, where Hashim died, and is training the military forces of the Front.122 SHIMMA has three months of training, and admission criteria are stricter. In accordance with Hashim’s vision, spiritual or moral superiority is given more importance than physical or material strength in recruiting new members, because the former does not depend on the availability of the factors that sustain physical existence, such as food, clothing and other material needs.123 Spiritual strength draws its energy and force from a source invulnerable to physical destruction. “When an army is defeated militarily,” Hashim stressed, “it can still rebuild, reorganise and recoil into an even greater attack. But when an army is defeated morally and spiritually, all the material weapons at its command become useless pieces of hardware and it will be permanently subdued by the victor.”124 For Hashim, military defeat is only temporary while moral defeat is permanent.

Self-Reliance

The MILF has sought to promote socio-economic development and self-reliance among its members. According to Murad, “this concept is the first and foremost concept that we taught to our members. The ultimate reason for this is to become not solely dependent on the monetary help coming from outside, most especially the Arab World, as was the MNLF case.” Members of the organisation are encouraged to engage in some livelihood to sustain themselves and their organisational needs.

MILF’s military personnel are not permanently stationed in their various camps so as to give them ample time to maintain their livelihood. These livelihoods range from farming, fishing, and trading to teaching and running small and big businesses in the cities, including Manila. Some manage to get positions as teachers, security guards, policemen, or soldiers.

Financial self-reliance is being achieved to a great extent, most especially with the high-ranking officials of the MILF. The late chairman Hashim was reported to have various investments in the Philippines; the late vice-chairman Mimbantas was a missionary of Libya’s Islamic Call Society; the current chairman Murad has various businesses, such as rice mills, restaurants, taxi-lending, and lodgings; and Ghazali Jaafar, the vice-chairman for political affairs, has his own farm
and logging businesses. For the lower-ranking members, however, the concept is not that successful. Although most are involved in farming, fishing or small businesses, the rest still rely on donations. As Murad acknowledges, “only about 50% of our members have achieved the status of self-reliant. The rest are either supported by relatives and family members or relying on donations. Therefore, asking donations from abroad is not completely ruled out.” According to Jaafar:

We have not received funds from foreign countries with preconditions for military activity. We have been receiving contributions from people of the world, some people in Saudi Arabia and Middle East countries, but these moneys are given in sympathy for the Bangsamoro cause with no strings attached.\(^{125}\)

In addition to these donations, the MILF tries other avenues to generate more money. The most notable ones are the collection of Zakāh, Zakātul Fitr, Sadaqah, and remittances that come from the Moro Filipino overseas workers who are members of the United Overseas Bangsamoro.\(^{126}\) Reports reveal that MILF collects one million pesos monthly from about 27,000 Muslim overseas workers in the Middle East, and receives about 1.5 million pesos a month from sadaqah.\(^{127}\) Further, the Zakātul Fitr that the MILF receives at the end of Ramaḍān is also a considerable amount.

In addition to these various revenues and donations, MILF also makes use of the vast cultivable land inside its own territory. The area of Camp Abubakar, having almost 5,000 hectares, is good for various agricultural products. In 1998, a fruit nursery was initiated through the MILF-controlled cooperatives with the help of experts from the Central Mindanao Agriculture and Resources Research and Development consortium.\(^{128}\) Solar-powered water pumps are employed to help irrigate the farmlands and to cultivate the rice, fruit trees, and vegetables. Other hectares of the land serve as a nursery for seedlings of durian, lanzones, mangosteen, and rambutan.\(^{129}\) In Camp Bushra, several thousand hectares are also planted with banana, corn, cassava, coconut, and coffee. In some other camps, like Camp Abu Muthanna, the 114th Base Command of MILF Western Front Command in Basilan, it is none other than the base commander himself who plants various agricultural products, such as coconut, banana and durian. With a background in agricultural engineering,\(^{130}\) Musao Abubakar, alias Mujāhid, knows which plants and other agricultural products are suitable to their fertile land.

The MILF of Salamat Hashim is just one of the various groups in Mindanao that seeks justice and freedom from the Christian-dominated government of the Philippines. What is perhaps unique about the MILF is its approach, which is to revive Islam as a whole. MILF is not just an armed group, as it is understood by many, but an organisation that promotes and revives Islam all over Mindanao.
This distinctive approach became a significant instrument for the group to become the strongest and largest organisation in Mindanao. One obvious sign of approval from the people is the continuation of its appeal even after the demise of Hashim. The most significant effect of this Islamic revivalism is that Islam and jihād have been revived and planted in the heart of the Bangsamoro people. Shortly after Salamat Hashim’s death, he was quoted in a speech, In Memory of Salamat Hashim, delivered before the Muslim Youth Organisation by Soliman Santos who wrote the book, *The Moro Islamic Challenge*:131

This idea (Islamic state) might be viewed as idealistic but I don’t mind. What is important is that I believe in it and it is my duty to work for it and I have offered myself to die for it. Whether it is acceptable now or not does not matter. Because I believe a well-founded and deeply studied concept will not die. Only the proponents will die.

Salamat Hashim died without realising his vision, but his jihād and Islamisation programs continue to dwell in the heart of the Bangsamoro people, as is apparent in the approach of the current leadership of the MILF.

**Policy Recommendations**

The researcher recommends one policy to each side: the Philippine government should recognise the legitimate rights of the Moros for self-determination; and Muslim groups should also respect the territorial integrity of the country. The Moros in Mindanao have indicated that they will not stop fighting the government until they are given the freedom of self-determination. On the other hand, the government has also affirmed that it would never allow any group to seek complete independence from the Philippines. Therefore, both sides will have to compromise in order to have lasting peace in Mindanao.

**Notes**

* Marjanie S. Macasalong is from Mindanao, Philippines. He obtained his Master’s degree in Islamic and Other Civilizations at International Institute of Islamic Thought and Civilization (ISTAC), IIUM-Kuala Lumpur, where he is currently a PhD candidate. He holds a Bachelor degree in Political Science and his research interest is focused on the socio-political scenario in southern Philippines, Peace and War Studies, Conflict Resolution Studies, Islamic Revivalism, and Rise and Fall of Civilization.

1. Muslims in the Philippines.
2. The term “Philippines” did not exist before the Spaniards came because there was no unified state then in these Islands; only independent chiefdoms or sultanates. When the Spaniards effectively conquered some part of the Islands, they called it collectively the Phillipines in honour of the king of Spain, King Philip II.
10. Datu is the title for the local chief.
15. Leyte is a province of the Philippines located in the Eastern Visayas region.
17. Mactan is an island located a few kilometres from Cebu Island in the Philippines.
19. An island located in the western part of Visayas, Philippines.
22. A group of fertile, volcanic islands in East Indonesia between Celebes and New Guinea which are very close to the Philippines, most especially Sulu and Mindanao. These areas were the centre of the world spice trade around the 16th century.
36. T. J. S. George, 52.
38. Salah Jubair, 59.
44. Ibid.
45. Public lecture of Abdulwahab M. Amerol, titled *So Paninindeg o Bangsamoro [The Fight of the Bangsamoro]*, Marawi City, p.3.
46. Land Registration Act, 1902 (Act No. 496 of 1902).
47. The Public Land Act, 1919 (Act No. 2874 of 1919).
51. Ibid.
54. Ibid.
55. Ibid.
56. Ibid.
58. Ibid.
59. Rudy Rodil, “Numbers Can Hurt; Also Wrong Numbers, or No Numbers”, *MindaNews*, 1 May 2011, 5.
62. Salah Jubair, 104.
65. Ibid.
69. Sabah is one of the 13 member states of Malaysia and is its easternmost state. It is located on the northern portion of the island of Borneo.
71. Salah Jubair, 132.
72. Marites & Glenda, 2,
73. Ibid.
74. Macapado Abaton Muslim, *The Moro Armed Struggle in the Philippines: The Nonviolent Autonomy*
Alternative (Mindanao State University: University Press and Information Office, 1994), 93.
75. Marites & Glenda, 22.
76. Ibid., 3.
77. One of the major Filipino dialects in the Philippines.
80. Ibid.
81. Jovi, one of the victims of the ILAGA-related massacres, interview by the author, Camp Bushra, Butig, 29th January 2012.
82. Salah Jubair, 138-139.
83. Philippine Sunday Express, 24 September 1972, 17.
84. Salah Jubair, 139.
85. T. J. S. George, 149.
88. Salah Jubair, 154.
89. The two leaders have different educational background. Salamat Hashim finished his Islamic studies at Al-Azhar University, Egypt. This particular background shaped Hashim to become Islamic-oriented. Nur Misuari is usually referred to as secular-oriented for he finished his study in Political Science at the University of the Philippines. As shown from the discussion above, the two leaders have different goals should their organisation succeed. Nur Misuari’s goal is to liberate the Moroland from the yoke of oppression with a democratic type of governance. In some accounts, it was reported that Misuari had aligned himself with the communists in the country. For Hashim, it is not only to liberate the Moroland and have freedom; rather what is more important is to have an Islamic state where Sharia can be the rule. Thus these two leaders are identified based on their orientation and goal. As to leadership style, Misuari was said to have monopolized the decision-making in the MNLF, while Hashim was following a collective-type of decision-making in the MILF.
90. Salah Jubair, 154.
93. Salah Jubair, 155.
99. Francisco Cruz Jr., 7-8.
101. Salamat Hashim, 1.

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103. Islamic school
104. The meaning of Mujahideen in this article is “Muslim fighters”.
105. Aleem Abdul Aziz Mimbantas, Vice-Chairman for Military Affairs, Central Committee of the Moro Islamic Liberation Front, interview by the author, Camp Bushra, 28 January 2012.
107. Ibid.
108. Abdullah Macapaar, the Front Commander of North Western Mindanao Front, interview by the author, Wato, 1 February 2012.
109. Commonly defined as an interest-based transaction.
113. Francisco Cruz Jr., 8.
118. Salamat Hashim died on 13 July 2003 at Camp Bushra from sudden cardiac arrest. He was subsequently replaced by the current chairman, Al Haj Murad Ibrahim.
120. In this article, jihād refers to armed struggle.
121. Marites & Glenda, 110.
122. Oshama Bin Ali, Director General of Salamat Hashim Islamic Memorial Military Academy (SHIMMA), interview by the author, Dārul Imān, satellite camp of Camp Bushra, 29 January 2012.
123. Salamat Hashim, 41-42.
124. Ibid.
127. Francisco Cruz Jr., 10.
128. Marites & Gloria, 108.
129. Ibid.
130. Musao Abubakar, alias Mujahid, Commander of 114 Base Command of MILF Western Front, interview by the author, Camp Muthanna, Basilan, 2 February 2012.
131. Francisco Cruz, Jr., 13.
RISK SHARING, TRANSFER AND MANAGEMENT

Abdul Karim Abdullah (Leslie Terebessy)*

Abstract: Risk management is a complex discipline with claimed scientific underpinnings. Since 2008 these have been shaken by the global financial crisis, with the result that some of the key paradigmatic assumptions of risk management are now seriously questioned. Major casualties of the crisis have been the views that credit markets are efficient, and that the best way to manage risk is to transfer it to someone else. With these assumptions increasingly in doubt, the current flawed paradigm of risk management is ripe for a rehabilitation that might bring the world’s financial situation more in line with reality. The central question moving forward today is whether the right lessons will be drawn from the recent (2008) experience, and whether enough momentum can be generated to move to a new paradigm, one of risk sharing rather than risk transfer. This article explores the economic and financial dimensions of risk management and risk transfer, and then juxtaposes this review with a step-by-step survey of Islamic Finance’s teachings on the related - and paradigm setting - notion of risk sharing. Risk sharing ensures an efficient allocation of resources and a reduction of waste by providing investors with a powerful incentive—the risk of losses—to exercise due diligence. At the same time, by requiring a greater number of parties to share total risk, risk sharing enhances systemic stability. These constitute compelling reason for utilising risk-sharing contracts in preference to risk transfer modes of risk management.

Introduction

The reliability of any science depends, among other things, on the firmness of its foundations. The science of risk management, which has developed into a complex discipline, is no exception. The assumptions underlying conventional risk management are generally rarely questioned. The recent global financial crisis of 2008, however, has laid bare some problematic assumptions, not only in risk management, but also more generally in finance. The chief of these assumptions in risk management is that the best way to manage risk is by transferring it to someone else.

Thomas Kuhn noted some years ago that every scientific paradigm (worldview) is only as credible as its underlying assumptions. Sometimes, unwarranted assumptions may become incorporated into a given paradigm. Such assumptions constitute anomalies within a given paradigm. Weaknesses within a given paradigm, however, eventually cause it to fail. The paradigm fails in the sense that when tested in severe conditions, it is unable to explain new developments.
in a satisfactory way. This triggers the search for a new paradigm, or at least a rehabilitation of the old one.

The rehabilitation of a scientific paradigm requires first of all identifying all problematic assumptions and replacing them with alternative hypotheses, ones that are able to integrate new knowledge. If all goes well, a new paradigm emerges from the ashes of the old discredited one. In other words, every crisis presents an opportunity to rehabilitate a flawed paradigm and bring it in line with reality.

While Kuhn was referring to the “hard” sciences, a similar conclusion can be drawn about economics. Success, whether in business or any other walk of life, requires first of all an ethical foundation. Where this foundation is lacking, for whatever reasons, a crisis in one form or another can be expected to follow sooner or later.

The most recent example of such a crisis was the 2008 global financial crisis. This crisis was caused, first and foremost, by the way risk was managed and, more generally, in the way resources were allocated. Financing investment took place by way of lending at interest. Risk management was carried out mainly by means of risk transfer, inclusive of the sale of debt or the use of credit derivatives. Neither of these practices is notable for its conformity with ethical principles.

An early casualty of the 2008 crisis was the view that markets – at any rate, credit markets – are efficient. The fundamental inefficiency of credit markets in the sense in which this term is used in finance was confirmed by the dramatic collapse in the prices of derivative securities known as collateralised debt obligations (CDOs) that were at the heart of the crisis. However, as this paper attempts to show, the damage inflicted on the existing paradigm went beyond the demise of the efficient market hypothesis. Another major casualty of the recent 2008 financial crisis is the view that the best way to manage risk is to transfer it to someone else.

The central question ahead is whether the right lessons will be drawn from the recent (2008) experience, and whether enough momentum can be generated to move to a new paradigm, one of risk sharing rather than risk transfer. This would ensure not only better protection for investors (a microeconomic objective) but also a more efficient allocation of resources (a macroeconomic objective), not only in the credit markets but especially where it counts most, in the real sector markets.

Risk

Risk is the possibility of an adverse or disastrous outcome of a given action. Risk arises out of the fact that our knowledge, in particular our knowledge of the future, is limited. While the past may be relatively well known, the future is unknown. It is tempting to predict the future on the basis of the past, according to
the dictum “history repeats itself.” However, no single model takes into account all variables that may influence the outcome of a given act.

The existence of risk implies a limit on our ability to control our fate. Some contingencies may be unforeseen. While science attempts to control the environment, inclusive of future events, history has shown repeatedly that human control is always incomplete. Complete control rests only with God.

Risks arise in all walks of life. A person driving through a red light takes a risk of getting involved in an accident. A smoker takes the risk of developing cancer. A gambler takes the risk of losing money. There is a risk of fire, or the risk of becoming a victim of crime. There is a risk of being kidnapped, being mistaken for someone else, or the risk of becoming an innocent victim.

There is also the risk of physical or psychological injury, illness or an outbreak of epidemic, on a local or a global scale. Natural disasters, such as floods, earthquakes or tsunamis, also present risks. There is also a risk of war, civil war, or even a world war. There is a risk of political instability (rioting or a coup d’état). There is a risk of property loss or damage, or a risk of disgrace (damage to one’s reputation).

Everything from wearing protective clothing, starting a retirement fund, to spending on defence, is a different way of shielding oneself or one’s community from risk and the fundamental insecurity that characterises all human existence.

Risks can be divided into avoidable and unavoidable. Avoidable risks, such as the risk of loss arising from gambling (qimar), are self-imposed. In order to avoid such risks one merely needs to abstain from the activities that give rise to them. Other risks, such as the risk of losses in business, may be unavoidable. In principle, unavoidable risks are permitted, but avoidable are not. Hence, risk taking is permitted in business but not in gambling.

The fact that risk in business is unavoidable makes it fundamentally different from risks such as arise in gambling. In gambling, one party can win only if another loses. Gambling is thus a “win-lose” or “zero sum game.” By contrast, partners in business gain or suffer a loss together.

**Risks in Finance**

In finance, risks arise in both investment as well as lending. The main risk in investment is the risk of losses. The main risk in lending is the risk that borrowers may fail to repay their loans to creditors. This risk is known as credit risk, also known as the risk of default or more simply as counterparty risk.

A common method of protecting against credit risk is simply to withhold lending from all borrowers unable to post acceptable collateral. At the company level another method is for lenders to purchase credit derivatives such as credit default swaps (CDS), effectively a form of insurance on debt.
Another risk that arises in lending is *interest risk*. This is the risk that interest rates may change in an unfavourable direction. A common method of protection against interest risk is to enter into interest rate swap (IRS) contracts.

*Liquidity risk* arises in both lending and investment. This risk arises from the fact that it may become difficult if not impossible to liquidate securities, whether stocks or bonds, at a time of crisis. Liquidity crises commonly take place when investors wish to liquidate their assets at the same time. Selling pressure drives prices down and makes it impossible to liquidate securities at any but rock bottom prices.

This is essentially what transpired during the recent 2008 global financial crisis, when a large number of investors became unable to liquidate their holdings of CDOs (collateralised debt obligations), as they all wanted to sell at the same time. Protection against liquidity risk commonly takes the form of *portfolio diversification* to ensure that little correlation exists between various investments in the portfolio.

Another risk that arises in both lending and investment is known as *market risk*. This risk is also known as *systemic risk*. This is the risk that entire markets may become adversely affected, thus causing losses to both investors as well as to lenders. Market risk presents a greater threat to short term speculators than long-term investors. One example of market risk is the risk that prices of bonds will change as a result of a change in interest rates.

*Foreign exchange risk*, also known as *currency risk*, arises from the fact that exchange rates may change in an unfavourable direction. This risk faces exporters and importers, as well as investors in foreign countries. It also affects parties that borrow in foreign currencies. The risk is that the value of a foreign currency relative to the value of the local currency may appreciate, thus obliging the borrower to repay more (in terms of the local currency) than what he borrowed in foreign currency. A common method of protection against this risk is to enter into foreign exchange swaps.

### Risk Transfer

Risk transfer takes place when a party that takes a risk “transfers” the responsibility for adverse consequences (losses) of a risky action onto another party. Normally, risk is transferred for a fee. Thus, risk transfer in principle amounts to the “sale” of risk. Risk transfer takes place when the party that transfers a given risk has faced the risk to begin with, even if only for a short period of time.

Thus, collateralised lending does not constitute risk transfer, because the financial institution does not face any risk to begin with. It may be more accurate to say that secured lending is characterised by *risk aversion*. Nevertheless, in so far as lenders do not share business risks with borrowers (entrepreneurs),
collateralised lending in principle has the same effect as risk transfer: it burdens one of the counterparties (the entrepreneur) with the need to shoulder all of a given type of risk, in this case *business risk*. There are many ways to transfer risk, depending on the type of risk. A widely used method of risk transfer, in particular the risk of default, is to *sell* loans to other parties. Risk transfer in the form of the sale of debt was used extensively from 2000 to 2006, in the lead up to the global financial crisis of 2008.

First, originators transferred the risk of default on the loans they made (subprime mortgages) by selling them to investment banks. Investment banks subsequently transferred the same risks to other parties by selling the same loans (this time on a wholesale basis) to institutional investors. The institutional investors included pensions funds, insurance companies and hedge funds. The loans were sold in the form of collateralised debt obligations (CDOs). These are pools of mortgage backed securities (MBSs) or mortgage bonds. The sales of the CDOs were facilitated by the fact that rating agencies assigned “AAA” ratings to them.

Another way to transfer the risk of default is to purchase credit default swaps, effectively a form of insurance on debt. CDSs are typically issued (sold) by investment banks and insurance companies. Sellers (writers) of CDSs insure debt in exchange for a premium payment fixed in advance. CDSs oblige issuers (sellers) to compensate subscribers (buyers) to the extent of the latter’s loss, in case a borrower defaults or a credit event (such as a downgrading) takes place. Most of the time, issuers are able to honour their obligations. There is no guarantee, however, that the issuer of the CDS will be able to live up to his obligations in case of a systemic crisis.

CDOs and CDSs are known as credit derivatives. Under normal conditions, they transfer all of a given risk, in this case the risk of default. Other credit derivatives such as interest rate swaps (IRSs) transfer only a part (half) of a given risk, the risk that interest rates may rise or fall. IRSs are traded OTC (over the counter) and make up the great majority of derivatives, currently at $548 trillion.

The reason why counterparties enter IRS contracts is that they expect interest rates to change in opposite directions. An IRS contract requires counterparties to exchange (swap) interest payments. Normally, a fixed rate is exchanged for a floating rate. Both rates are applied to a notional amount. The floating rate is determined in relation to a reference rate such as LIBOR (London Interbank Offered Rate). The fixed rate is agreed upon in advance. Should market rates rise, the party paying the fixed rate will gain, as the party paying the floating rate will have to pay more than before. Should the rates fall, however, the party paying the floating rate will gain, as it will be obliged to pay less than before.

Parties that enter IRSs become exposed to an additional risk that may arise from fraud, in the form of “fixing” the reference interest rate, as happened
recently with LIBOR. This price fixing resulted in billions of dollars of losses on both sides of the Atlantic.\textsuperscript{13}

\textbf{Problems in Risk Transfer}

The chief of the problematic assumptions in conventional risk management approaches is the view that the best way to “manage” risk is to \textit{transfer} it to someone else, presumably someone who is willing and able to bear it. However, being willing to bear someone else’s risk is not the same as being able to bear it, especially at a time of a systemic crisis such as a liquidity crisis.\textsuperscript{14} Secondly, while under normal circumstances risk transfer may decrease or eliminate risk for individual counterparties, it is clear that this takes place only at the expense of magnifying systemic risk.

Should a crisis occurs, the systemic risk rises and conventional risk transfer methods fail because at a time of crisis even asset prices that were previously not correlated suddenly become correlated and portfolio diversification ceases to serve as an effective hedge against losses.\textsuperscript{15} The only recourse then appears to take the form of government bailouts.

The 2008 global financial crisis showed that a willingness to bear risk does not yet guarantee the ability to bear it. There were plenty of institutions “willing” to bear risk, notably investment banks Lehman Brothers, Bear Stearns, and insurance giant AIG, but few that have actually able to do so when they were called upon to do it.\textsuperscript{16} Thus, there is a need for a better way to manage risk than by transferring it.

Risk transfer effectively amounts to a sale of responsibility. This is problematic for a number of reasons. One, risk transfer severs the link between a given action and the need to take responsibility for it. In doing so, it not only undermines the principle of individual responsibility, but also causes injustice. Risk transfer causes injustice in that it imposes the responsibility for a given act on a party that did not perform it in the first place.

By transferring the responsibility for a given act to a person other than the one who carries it out, risk transfer provides an incentive for irresponsible or high-risk behaviour. In other words, risk transfer gives rise to a moral hazard. The fact that the party that accepts the risk does so voluntarily makes little difference. The injustice of a given act is not diminished by the fact that its victim voluntarily agrees to suffer it.

This is what in effect took place when subprime mortgage loan originators sold their loans to investment banks, which in turn bundled them together and sold them to institutional investors. The risk of default (credit risk) was first transferred to investment banks, which subsequently transferred it to institutional investors, with the help of overly optimistic, and in retrospect misleading, AAA ratings from rating agencies.\textsuperscript{17}
By providing investors with a false sense of security, risk transfer provided the incentive for many financial institutions to take progressively greater and greater risks with their shareholders’ and depositors’ funds. The sum of individual risks, however, collectively translated into a high degree of *systemic risk*.

A major weakness of risk transfer, accordingly, is that while it may work in ordinary times, it rarely works in extraordinary conditions. In extraordinary times, parties willing to take on risks from others often prove themselves unable to meet their obligations, giving rise to the spectre of a systemic collapse. Thus, risk transfer contracts fail to protect investors precisely at a time when they most need protection, a time of crisis.

This is what took place in the 2008 global financial crisis. The financial system nearly collapsed the way a ship may capsize when all its cargo is transferred from one side of the ship to the other. At a time of systemic crisis, even portfolio diversification no longer protects against asset price declines, as the prices of even unrelated assets tend to move (down) together.

At a time of crisis the counterparties in risk transfer contracts, like counterparties in risk sharing contracts, “sink or swim together.” The difference is that the utilisation of risk transfer contracts dramatically raises the likelihood of a systemic crisis. It does this by transferring risks that should ideally be borne by all, as in risk sharing contracts, to *only half* of the counterparties, those that feel “able” to take the risks.

A domino effect of systemic collapse was stemmed only by government intervention in the form of bailouts of troubled financial institutions, such as insurance giant AIG and investment banks that depended on it. However, the bailouts had the effect of transferring the risks to taxpayers.

Another problematic assumption in conventional risk management is the view that major catastrophes have a very low probability of taking place. According to conventional risk management models, the 1987 crash had “a negligible probability” of taking place, even over the entire lifetime of the universe. Another unwarranted assumption is the view that a very low or very high degree of probability can for all practical purposes be identified with certainty.

Another questionable assumption is the view that risk can be measured while uncertainty cannot. The difference between risk and uncertainty is, however, quite arbitrary. Risk by definition can never be accurately measured. This was confirmed by the fact that the latest risk-valuation models failed to value securities, in particular the collateralised debt obligations or CDOs, accurately.

An additional problem arises from the fact that the risk of mispricing derivatives is greater than the risk of mispricing a common share or a bond. The reason is that pricing of derivatives requires the pricing of two securities and not just one, as is the case with ordinary securities such as stocks. The underlying security has to be
priced accurately first. Then, the (derivative) security whose price depends on the performance of the underlying asset has to be valued separately. For this reason the error margin in the pricing of derivatives effectively doubles. It goes without saying that if the underlying security (such as a subprime loan) is mispriced, the price of the derivative security will also be inaccurate.

Another weakness in contemporary risk management is that intuition has been largely marginalised. Intuition takes into account, even if in an imprecise way, the presence of variables that may have been overlooked in purely mathematical models. Purely mathematical models by definition cannot account for any variables that do not lend themselves to quantification and therefore measurement. Managing risk by way of intuition simply means avoiding investments about which one may have a “bad feeling,” perhaps due to their inherent complexity and opaqueness, but cannot objectively articulate the source of the ill feeling.

Other problematic assumptions include the view that markets perform in the same way under normal conditions as in extraordinary circumstances, that credit markets operate fundamentally in the same way as other markets, and that trading (buying or selling) has essentially no effect on prices. The 2008 financial crisis showed, however, that trading, in particular trading under duress, can significantly impact prices even in a relatively short period of time.

Another disadvantage of risk transfer is that its utilisation drains large amounts of resources from the real sector and channels them into the largely unproductive credit sector. This process is known as “financialisation.” By drawing resources away from the real sector, financialisation reduces the aggregate demand for goods and services, and thus reduces real economic growth.

Moreover, unlike risk sharing, risk transfer establishes different relationships between counterparties. Whereas risk sharing, because it requires sharing, calls for a partnership relationship between counterparties, risk transfer establishes a win/lose relationship between counterparties. This type of relationship is at odds with the ethos of Islam, which emphasises brotherhood and sharing.

Because of the many weaknesses of risk transfer, a better way of managing risks needs to be found. Such a way is already available in Islamic finance. Islamic finance teaches that the best way to manage business risk is to share it.

Risk Sharing

Sharing is important in Islam. It takes place in many walks of life. Muslims share a common heritage and a common way of life. They also share many aspirations. Islam endorses sharing as the believers are but one brotherhood. Islam recognises the essential dignity of man, and calls for sharing one’s knowledge (through teaching and missionary activities).

The Qur’an calls for sharing of one’s wealth, through charitable donations
(zakāh and ṣadaqah) and endowments (awqāf). Man is viewed as a vicegerent (khalīfah) of God on the earth. Man enjoys property (al-māl) as a trust (amānah) from God. Islam requires taking responsibility for one’s actions. We are held accountable for our actions on Judgment Day and rewarded accordingly.

Islam permits business risk taking and encourages risk sharing. Risk sharing is consistent with the idea of taking responsibility for one’s actions. Islamic law proscribes bay al-dayn (the sale of debt), as it entails a transfer of risk that amounts to a moral hazard. Risk transfer by contrast obliges one party to bear the burdens (risks) of another. By doing so, it creates a moral hazard and may encourage recklessness. The need to share risk, on the other hand, restrains recklessness. Thus, risk sharing is fundamentally in accord with the teaching of Islam. Risk transfer is not.

Risk sharing in business is a way of taking collective responsibility for the outcome of a given investment. Risk sharing by partners in a business enterprise reduces the amount of risk faced by any one party. The greater the number of partners sharing the risk, the lower is the risk facing each partner. Partners can also offer advice to one another (naṣīḥah) on the most effective ways to reduce the risks facing their business enterprise. Consultation (shūrā) should in turn enhance the level of trust among the partners.

When an investor takes on a single equal partner, he reduces his risk by fifty per cent. When three parties share the risk equally, the risk is reduced by two thirds of what a single party would have to bear. The greater the number of parties sharing the risk, the lower will be the risk facing each party. The amount of risk decreases as the number of partners sharing it increases.

Risk is a powerful deterrent. Investors are motivated by a hope of profits and restrained by the risks of losses. Thus, sharing risks promotes a balanced approach to investment. The possibility (risk) of suffering losses acts as a powerful incentive to investors to allocate resources wisely. Where investors feel there is little or no risk, they are more likely to commit resources on a scale greater than what is justified by a more accurate assessment of risks and the prospects of returns. Risk constitutes an important incentive for exercising due diligence, a sine qua non of an efficient allocation of capital.

One consequence of the underutilisation of risk sharing during the 2008 global financial crisis was a misallocation of resources on a scale not seen before. This is evident in the millions of houses that were constructed in the US and financed by subprime mortgages. These houses have since been repossessed by financial institutions and are now being torn down due to dilapidation. Several trillion dollars have been wasted this way.

The need to face (share) risk filters out excessively risky investments. Ill-conceived projects are unlikely to attract funding. The fact that a given project is
unable to raise funds by way of risk sharing shows that it should not be financed in the first place. Risk transfer by contrast produces an illusion of safety (low risk) and therefore a moral hazard. As a result of a false sense of security, investors may grow complacent and take progressively higher risks, while becoming oblivious to the larger systemic risks. As a consequence, “white elephant” projects may be financed, representing a significant waste of resources that could have instead been used in socially useful ways.

**Benefits of Risk Sharing**

Risk sharing can be realised by entering partnership contracts.\(^{34}\) As partners, suppliers of capital share both risks and rewards with entrepreneurs.\(^{35}\) The terms on which capital providers supply investment funds to entrepreneurs depend on the type of partnerships they enter. A partnership can be active or passive. Where the investors actively participate in the running of the business, the partnership is known as a **musharakah**.

Partners share profits according to a pre-agreed ratio, but losses are shared in proportion to the capital invested. A partnership in which capital suppliers do not participate in the management of the business enterprise is known as **mudarabah** or profit sharing partnership. Risk can also be shared by participating in a joint stock company. Investors are effectively owners of the business enterprise, and they share both profits and losses.

Different types of partnership issue different types of securities in exchange for investment funds. **Musharakah** partnerships issue sukuk **musharakah**. **Mudarabah** partnerships issue sukuk **mudarabah**. Conventional partnerships (joint stock companies) issue common shares. Participation in companies on the basis of shareholding is permissible under the Shariah because it requires investors to share not only profits but also the risks of business enterprise.

Securities issued by partnerships are contracts between the providers of capital and its users, the entrepreneurs. The securities specify that in return for supplying investment funds, capital providers become co-owners, on a proportionate basis, of the profit generating assets or businesses. As co-owners, investors become entitled to a proportionate share of the profits generated by the assets or businesses. The first two types of partnerships are characteristically Islamic, while the third is used in both conventional and Islamic finance.

The activities of a **musharakah** partnership are governed by the **musharakah** agreement, which must include a detailed business plan.\(^{36}\) The agreement needs to be drawn up in such a way as to comply with the requirements of both the Shariah as well as the law of the country where the certificates are issued.\(^{37}\)

Sukuk **musharakah** are investment certificates that signify proportionate ownership in a pool of underlying assets and the entitlement of the sukuk holders.
to a proportionate share of the profits generated by those assets. Producing intoxicating substances or pork or providing services such as gambling are excluded.

Sukuk musharakah are similar to ordinary or common shares, except that the sukuk certificates are issued for a specific period of time, while shares are issued without a maturity date. Both common shares and sukuk musharakah can be traded in secondary markets.

The advantage of musharakah is that partners do not go into debt. Another advantage is that they face no risk of default. Another advantage is that musharakah partners are not obligated to pay dividends when no profits are earned. This is a major advantage of funding enterprise by musharakah.

The musharakah and the mudarabah partnership are both fiduciary contracts. In the case of the mudarabah, the capital provider (rabb al-māl) trusts another party, the manager (mudarib), with faithfully discharging his duties and managing the entrusted capital to the best of his ability for the purpose of earning a profit.

For his efforts, the mudarib gets a share of profits, according to a pre-agreed formula or ratio. This is his incentive for performing due diligence and investing wisely. The profit ratio is applied to profits earned rather than to the capital provided. When the enterprise earns no profits, the mudarib is not rewarded.

As long as he acts in good faith, the mudarib is not responsible for any losses. All losses are borne by the capital provider. In case of wilful negligence or fraud, however, the mudarib becomes liable.

The capital provider is expected to leave the decision-making up to the managing partner, the mudarib. The mudarabah is typically set up for a specific period of time. Terms and conditions of the mudarabah partnership are set out in the mudarabah agreement, which is similar to the musharakah agreement, with some differences, however.

The advantages of mudarabah are similar to those of musharakah. The entrepreneur need not go into debt. This arrangement is suitable for parties where a capital owner may have neither the time nor the expertise to manage wealth, while the party capable of managing wealth has no wealth of his own to manage.

Common shares, also known as equity shares, likewise constitute risk-sharing securities. Shareholders become co-owners of the company that generates their profits. Their profits are proportionate to their shareholdings. Owners of common shares are not guaranteed any profits in advance. Because profits are not guaranteed, investors face risk. Effectively, they “share” the risks of the business enterprise with all other shareholders. They are paid dividends only when their companies earn profits.

When a company makes profits, shareholders benefit from any dividend payments and/or the appreciation of the value of their shares. The price of their
shares, under normal conditions and over the longer term, generally reflects the addition of any retained profits to the assets of the company, thus increasing its net worth.\textsuperscript{44}

The total number of shares that a company is legally permitted to issue is known as “authorised capital.” The total amount of money that has been raised by selling shares to investors is known as “paid up capital.” In most jurisdictions, companies are legally permitted to issue new shares only in a way that does not dilute the value of other shareholders.\textsuperscript{45}

Shareholders elect the board of directors, which in turn appoints the executives of the company to manage the company’s day-to-day affairs. All publicly traded companies need to hold annual general meetings (AGMs) and file yearly reports or financial statements. Privately owned companies are exempted from this requirement. Shares of publicly traded companies are traded on stock exchanges.

Common stocks are also known as “voting shares” or “ordinary shares.” Each common share certificate represents one share of the net worth of the company.\textsuperscript{46}

The ownership of the productive assets entitles shareholders to a proportionate share of the company’s profits.\textsuperscript{47}

In contrast to risk transfer, risk sharing has many benefits. Chief among these is that a partnership relationship required by risk sharing is more in keeping with the ethos of Islam than a creditor debtor relationship that characterises all forms of lending. Where risk transfer undermines the spirit of brotherhood, risk sharing fosters it.

The fact that the payments of reward in risk sharing modes of financing depend on the performance (efficiency) of the enterprises being financed also results in a more efficient allocation of resources. It is also more in line with justice than a system where reward to investors is not linked in any meaningful way to the efficiency (profitability) of the enterprises they finance.

Partnership relationships do not introduce a win/lose relationship the way risk transfer strategies of risk management does. By spreading risk among a greater number of partners, another major advantage of risk sharing is that where risk transfer undermines systemic stability, risk sharing enhances it.

One reason why financial institutions hitherto may have shunned embracing profit and loss sharing partnerships more vigorously, apart from legal restrictions, may be the fact that the risks in financing business investment by risk sharing are perceived as simply too great. This is understandable. However, in light of the fact that current practice merely transforms individual risks into systemic risks, a way needs to be found that enables the participation of financial institutions in risk sharing and the protection of depositors’ funds at the same time.

A solution may be found in offering risk-free accounts to depositors in the form of transaction (current) accounts for parties with a high aversion to risk,
while offering a range of investment accounts to others who are willing to take risks in order to earn higher profits. Moreover, equity participation in industrial enterprise has been successfully practiced in some nations such as Germany, where financial institutions buy a stake in the very companies they finance with loans. This gives them the right to participate in the management of these companies, to the extent of their shareholding. It also gives them a powerful incentive to ensure that the businesses they finance become successful. Finally, few would dispute that financial institutions in Germany have proved themselves to be among the most stable in the world.

**Conclusions and Recommendations**

The dominant paradigm of risk management has been severely tested in the 2008 global financial crisis. It has shown itself to be wanting in many respects. Apart from magnifying systemic instability, it also caused a waste of resources on a scale not seen before.

The crisis of 2008 brought to light a number of anomalies, in the form of unwarranted assumptions. Of these, the view that the best way to manage risk is to transfer it to someone else, turned out to be perhaps the most damaging. Therefore it is necessary to adopt a new model or paradigm, one that is better equipped to meet the challenges presented by new developments, such as the increasing financialisation of economic activity. Such a model is available in the form of the risk-sharing paradigm. Thus there is a need for a paradigm shift, from risk transfer to risk sharing.

The greatest disadvantage of risk transfer is that it does not permit risk sharing to take place. The many benefits of risk sharing, among them notably a more efficient allocation of resources as well as greater systemic stability, are lost when risk transfer methods of managing risk are used in preference to risk sharing. Appropriate legislation needs to be passed to facilitate and reward the transition to risk sharing modes of financing and the corresponding phasing out of risk transfer.

Risk transfer reduces risks faced by some parties only by increasing them for everyone else, including taxpayers. The reason is that while risk transfer may reduce risks faced by some parties individually, it does so only by increasing the systemic risk all parties face collectively. In the case of a systemic crisis, even parties that might have been able to shoulder risks under normal circumstances are unlikely to do so under conditions of stress. When risk sharing is applied on a system-wide basis, the risk of a systemic collapse is reduced by the fact that a greater number of parties share the total risk. By obliging a greater number of parties to share risks, risk sharing disperses risks more widely than risk transfer.
From a social point of view, the most important benefits of financing investment by risk sharing comprise greater systemic stability and a better overall allocation of resources. Risk sharing ensures an efficient allocation of resources and a reduction of waste by providing investors with a powerful incentive—the risk of losses—to exercise due diligence. At the same time, by requiring a greater number of parties to share total risk, risk sharing enhances systemic stability. These constitute compelling reason for utilising risk-sharing contracts in preference to risk transfer modes of risk management.

- Banks and other financial institutions need to pay greater attention to systemic risks caused by risk transfer and apply risk sharing methods of financing more vigorously than has hitherto been the case.
- Inefficiencies in the allocation of resources caused by risk transfer also call for a reassessment of financing strategies.
- Financial securities need to be structured to share risk rather than to transfer it.
- A regulatory framework needs to be implemented that rewards and facilitates the issuance of securities that share risk rather than transfer it.
- Pilot projects could be organised to demonstrate the viability and benefits of risk sharing models.

Notes

* Abdul Karim Abdullah (Leslie Terebessy), Assistant Fellow at IAIS, earned his MA in political philosophy from the University of Toronto, Canada (1999) and a MEd (1986) from the University of Toronto’s Ontario Institute for Studies in Education (OISE). A former lecturer, editor, writer and coordinator of the English program at University Sains Islam Malaysia (USIM), his current projects involve research into the current financial crisis, critical thinking in Muslim societies, and Islamic Finance. He has edited *Islamic Studies at World Institutions of Higher Learning* (Kuala Lumpur: USIM 2004).

6. CDOs are bundles or pools of debt, mostly bonds. CLOs or collateralised loan obligations are similar to CDOs, except that the former are bundles of loans rather than bonds. de la Ignacio Torre, “The Role of Derivatives in the Credit Crisis,” 46, accessed 9 March 2013, <http://kantakji.com/fiqh/Files/Markets/B120.pdf>
7. Bond prices are inversely related to interest rates.
9. The standard practice is to hedge the sale of swaps by entering offsetting transactions (buying swaps or insurance) with other parties. This was the trading strategy employed by most investment banks, such as J.P. Morgan Chase. A trader would sell insurance on a given debt for say 5% per annum, and then buy offsetting insurance (CDS) from another party for 4.5%. The income to the investment bank would be the difference between what it earns (5%) and what it pays (4.5%). The 0.5% of income on a debt of $100 million would amount to $500,000 per annum.

10. A derivative is a security whose value depends on the value of an underlying asset, which can be a real asset such as a commodity, another security such as a bond, or an index such as an interest rate. Derivatives include credit default swaps, interest rate swaps, and futures as well as options.


12. Interest rate swaps trade in the unregulated “over the counter” (OTC) market, directly between counterparties.

13. There have been many well known cases where major losses were experienced by parties that entered the swap agreements, when to this is added the fact the LIBOR rates have been manipulated by financial institutions, the case for avoiding interest rate swaps becomes even stronger.

14. de la Ignacio Torre, “Role of Derivatives”.


16. Other investment banks that overextended themselves included Merrill Lynch and Goldman Sachs. These were either taken over by larger institutions, as Merrill Lynch was bought by Bank of America, or had to take other steps to ease their liquidity problems, as was the case with Goldman Sachs when it temporarily converted itself into a commercial bank in order to qualify for loans offered by the federal government to troubled institutions under TARP (Troubled Asset Relief Program).

17. Rating agencies have been court by many investors who felt that the CDOs they invested in, which were given triple A ratings by rating agencies, were inaccurately valued, thus causing investors’ losses.


19. As a result of their losses, a number of investors launched lawsuits against some of the rating agencies on the grounds that they wrongly assigned a triple “A” (investment grade) rating to the CDOs purchased by investors.


23. Davidson, 15.

24. Davidson, 18.


26. Potters, 32.


31. Qur’an, 2:30.
33. Kamali, Islamic Commercial Law, 209.
34. M. Umer Chapra, Towards a Just Monetary System (The Islamic Foundation, 1985) p. 69.
37. Khaleq and Crosby, 188.
38. Ibid., 191.
39. The musharakah agreement must identify the musharakah partners, record the agreement of the partners to enter into the musharakah contract, specify the respective contributions of capital by the partners, identify the nature of the musharakah venture, specify the manner of profit and loss sharing, and provide details as to the dissolution date of the musharakah. Additional rights and obligations of the partners may be included, such as the frequency of payments or the identity of the manager of the musharakah venture. N.a. The Islamic Securities (Sukuk) Market, Securities Commission Malaysia, LexisNexis, 2009, 23.
40. A. Khaleq and Crosby, 197.
41. Jobst, 6.
43. Jobst, “Derivatives”.
44. The mudarabah agreement needs to identify the parties of the mudarabah, the capital provider (rabb al mal) and the manager (mudarib). It must also record their agreement to enter into the mudarabah agreement. In addition, it needs to state the purpose of the mudarabah and specify its date of dissolution. Moreover, the amount contributed by the rabb al mal, and the agreed profit sharing ratio should also be clearly specified. The agreement may also include an undertaking to re-purchase the mudarabah assets. All assets, however, can be repurchased only at the prevailing market prices. The amount to be paid for the remaining assets of the mudarabah cannot be determined in advance, as this would once again impart to the transaction a significant characteristic of loans, a guarantee of capital. N.a. The Islamic Securities (Sukuk) Market, Securities Commission Malaysia, LexisNexis, 2009, 2127-128.
45. The net worth of the company is the difference between its total assets and its total liabilities.
46. Thus, executives would not be permitted to issues shares to themselves or other parties at a price that is lower than the weighted current average price of its shares. To issue such shares at a discount would be to dilute the value of the shares of the other shareholders.
47. The book value per common share is equal to the net worth of the company (total assets – total liabilities) divided by the total number of shares outstanding. This is not necessarily the same as the market price of the stock, which may be higher, lower, or equal to the book value of the stock, depending on market conditions and other factors.
48. Over time, common stocks perform better than preferred shares as well as bonds, by a margin of 6% to 9% in real terms.
The on-going campaign Malaysia is waging against corruption has gained momentum. Tunku Abdul Aziz called it an “All-Malaysian duty” in which everyone should take part regardless of political affiliation (NST, 5 January, 2013). I would also add that it is an all-Muslim duty and an appeal to the religious conscience of the Muslims of this country. Playing a proactive role in this campaign is a veritable ʿamal ṣāliḥ, the right moral action that the Qur’an repeatedly enjoins upon all Muslims. It is also an act with great societal benefit that elevates the standing of the ummah and Malaysia in the international community. Fighting bribery (rashwah) and corruption (fasād) is an integral part of the teachings of the Qur’an and hadith. The Qur’an prohibits “devouring/misappropriation of the property of others” (akl al-māl bi’l-bāṭil, Q 4:29 and 2:188), which is a broad concept that subsumes such other offences as fraud, hoarding, theft, and gambling. The text also condemns those in authority who spread corruption and mischief among people, bestowing favours on some and oppressing others (Q 28:4 and 89:10-12). The Prophet Muḥammad, pbuh, added his voice to say that all the parties to bribery, “the bribe-taker, the bribe-giver, and their go-between,” provoke Allah’s wrath and condemnation. It is further reported that the “Messenger of Allah cursed the donor of rashwah and its recipient in all matters that involve a judgement or ruling.” The renowned Companion Abdullah ibn Masud went on record to say: “When a man removes hardship form another and then receives a gift from him, large or small, he has taken something which is harām for him.”

The scope of rashwah is extended to financial transactions between members of the public and government officials which are manifestly favourable to the latter. In this way sale, lease, hire, and partnership that are so concluded fall under bribery. The second caliph ʿUmar b. al-Khattab (d. 644 CE) expropriated the properties some of his officials had accumulated due to favours they had received. The caliph divided the assets in question and surrendered a portion thereof to the public treasury. This was done in the case of prominent figures,
including Abu Hurayrah, ‘Amr ibn al-‘Aas, Nafi’ ibn ‘Amr, Saad ibn Abi Waqas, Khalid ibn al-Walid, and the governors respectively of Bahrain, Egypt, Makkah, Kufah and Shām. The practice was later institutionalised under the Abbasid caliph, Jaafar al-Mansure, when a department known as Diwan al-Musadirin was established for handling expropriation matters involving government officials, merchants, contractors and anyone who worked or conducted business with the government and accumulated disproportionate amounts of wealth. An interesting incident involved the two sons of the caliph ‘Umar al-Khattab, ‘Abdullah and ‘Ubaydullah, who accompanied an army contingent from Madinah to Iraq. In his eagerness to please his guests, the governor of Basrah, Abu Musa al-Ashaari, told them: “Here is some money which I was about to send to the Caliph. Maybe I can advance it to you to buy some goods in Iraq and sell them in Madinah. Give the capital to the treasury and keep the profit.” They did so, but when the Caliph learned of it, he asked: “Does he [al-Ashaari] give similar advances to everyone in the army?” His sons were present and were ordered to pay both the capital and the profit to the treasury.

The pious caliph ‘Umar b. Abd al-Aziz (d.724 CE) went on record to say: “I am of the view that the ruler should not indulge in trading. It is not lawful for an officer also to trade in the area of his office because when he engages in trade, he may misuse his office in his own interest even if he does not intend to do so.”

_Fasād_ is more general than _rashwah_ as it encompasses dishonesty, betrayal of trust, abuse of power, and deceit in both private and public dealings. _Rashwah_ refers to private gain from public office or seeking recompense for rendering duties ordinarily considered as non-compensatory.

Because of the numerous forms it can take, corruption escapes comprehensive definition. It knows no boundaries, applies to rich and poor, to individuals and communities, and tends to have a cultural dimension. Whereas conduct such as officials demanding bribes is considered corrupt in virtually all societies, attitudes vary as to gift giving and cronyism among countries and cultures.

It is forbidden for government officials to accept any kind of bribe from anyone, whether gift, donation or contribution, in the course of duty. This holds regardless of whether the gift is specified or unspecified and benefits the official directly or in some other way. Other forms of enrichment that materialise through misuse of public assets may amount to a breach of trust (_khīyānah_) and embezzlement (_ikhtilās_), which are also prohibited.

A gift that has not yet been received by the official should be returned to the donor, but if this cannot be done, it should be paid to the public treasury. If an official takes bribes or unjustly appropriates the property of another, the ruler is obliged to return the assets to its true owner and to punish the offender accordingly.
All bribery is presumed to distort justice and violate public interest. In a section of their book, *The Islamic Attack on Corruption*, Zafar Iqbal and Mervyn Lewis wrote: “On the moral plane, there is zero tolerance for bribery in Islam, and Islam rejects the idea that bribery serves as ‘the grease that oils the economic wheels.’” Further, there is no scope whatsoever for legalising corruption in various guises of commission, gift, donation, advances and soft loans. The touchstone of differentiation revolves around the question whether these payments and favours would accrue had the suspect been at home without official position or profile.

**Note**

* Mohammad Hashim Kamali, Founding Chairman and CEO of IAIS Malaysia, graduated from Kabul University, and took his PhD in Islamic and Middle Eastern Law at the University of London in 1969. Professor Dr M.H. Kamali served as Professor of Islamic Law and Jurisprudence at the International Islamic University Malaysia (IIUM, 1985–2007), then Dean of the International Institute of Islamic Thought and Civilization (ISTAC). He also held Visiting Professorships at McGill University’s Institute of Islamic Studies; Capital University, Ohio; and the Wissenschaftskolleg, Berlin. A member of the Constitution Review Commission of Afghanistan (2003), he has provided expert legal consultation to the new constitutions of Iraq, the Maldives and Somalia. Eminent authority on Islamic legal studies, he has published over 150 academic articles and 35 texts, including standard textbooks at universities worldwide.
In Search of a Suitable Model of Penal Code for Afghanistan

*Tun Abdul Hamid Mohamad*

**Historical Background**

During the Moghul rule of what now constitutes India, Pakistan, Bangladesh and Afghanistan, the courts there administered the Shariah to the exclusion of Hindu law. Islamic law gave way to English criminal law with the increase of British influence in the Indian sub-continent. Before 1860, English criminal law, as modified to suit local circumstances, was administered in the Presidency-Towns of Bombay, Calcutta and Madras. The draft of the Indian Penal Code was prepared by the First Law Commission, chaired by Thomas Babington Macaulay. Its basis is the law of England. Elements were also derived from the Napoleonic Code and from Edward Livingston’s Louisiana Civil Code of 1825. Finally, the Indian Penal Code was passed into law on 6 October 1860. The Code came into operation on 1 January 1862.

It is interesting to note that elements of the Napoleonic Code were also absorbed; if you read the introduction written by David Moussa Pidcock to “Napoleon and Islam”, the English translation of *Napoleon et l’Islam* by Christian Cherfils, published in 1914, you will find that that 96% of the Code Napoleon came from the rulings of Imam Malik. (If there is some merit to this claim, it may well have to do with Napoleon’s Egyptian campaign.)

After independence, the Indian Penal Code was inherited by Pakistan (now called Pakistan Penal Code) and (now) Bangladesh, formerly part of British India. It was also adopted wholesale by the British colonial authorities in Burma, Sri Lanka, Malaysia, Singapore and Brunei, and remains the basis of the criminal codes in those countries.

The adoption of the Penal Code transcended religion: Pakistan, Bangladesh, Brunei and Malaysia are not only Muslim-majority countries but also “Islamic” countries; Sri Lanka and Myanmar (formerly Burma) have Buddhism as their state religion, while Singapore is a modern cosmopolitan city-state.

Afghanistan defeated the British in the First Anglo-Afghan War (1839-1842). Even after the Second and the Third Anglo-Afghan Wars (1878-1880 and 1919, respectively) the British did not or could not succeed in colonising Afghanistan. Afghanistan escaped the introduction of Macaulay’s Penal Code for over a century!
Among the Islamic countries that inherited Macaulay’s Penal Code from the British rule, Malaysia, now widely known as the world’s most-advanced Islamic country and the leader in Islamic banking and finance, is happy to retain it as introduced save for unavoidable amendments necessitated by the variation in time and place. Bangladesh too seems to have made few changes to it. Brunei, in her quest to be Shariah-compliant, has been struggling for the past thirty years to “Islamise “the Penal Code with the help of a Pakistani former professor, but has yet to see the light at the end of the tunnel. On the other hand, Pakistan, where politics play a more powerful role than in Brunei, has gone further. It has Islamised the Penal Code.

Clearly, the aim was to replace the existing “un-Islamic law” or “law of the unbelievers” with the Shariah. One would think that the Penal Code would have been discarded and replaced with a totally new Islamic criminal law. That is the impression you get if you listen to the politicians and the preachers.

But if we look at the Pakistan Penal Code now, we note that Macaulay’s Penal Code remains entirely intact: the name, language, structure, style, and a large portion of the contents are unchanged. That means it is not contrary to Shariah.

New sections were added to provide for the introduction of the Shariah punishments such as *Qisas, Diyat, Arsh, Daman and Ta’zir* (Section 53). There are major amendments in Chapter XVI “Of Offences Affecting The Human Body” and very lengthy provisions on causing hurt and the numerous types of punishments provided for each type.

Rather than comment on these Shariah provisions or compare them with the original Macaulay draft, I look to them for a model which could be used as the basis for a penal code that could be introduced to Afghanistan.

Reasons in support of this are as follows:

1. Had the British succeeded in colonising Afghanistan as they did over the Indian Sub-continent, Burma, Malaysia, Singapore and Brunei, most likely Macaulay’s Penal Code would have been introduced into Afghanistan more than a century ago.

2. The Code has survived the test of time, most significantly in the Indian sub-continent which in many ways resembles Afghanistan. Though British India has since split into India, Pakistan, Bangladesh and Sri Lanka, the Code is still the law in those countries.

3. If Afghanistan is a predominantly Muslim country, so then are Pakistan, Bangladesh, Brunei and Malaysia.

4. If the majority of the people of Afghanistan now aspire to have the Shariah as their criminal law, Pakistan has enacted this within the Code itself while yet retaining the vast majority of the original provisions.
which certainly were seen to be “not contrary” to Shariah; otherwise they would have been repealed. Similar modifications may be made to suit circumstances in Afghanistan.

5. Afghanistan is closest to Pakistan, geographically, historically, demographically and culturally. The majority of the people of the two countries share not only the same religion but are also the followers of the same Hanafi school of Islamic jurisprudence. A large portion of the population of the two countries also shares the same language.

Thus there are sufficient reasons to use the Pakistan Code as the basis for the Afghan Penal Code, though it is necessary to find out what the Afghan people want, what the Afghan Government thinks necessary to effectively govern the country, and what lawyers think to be the provisions the Code should incorporate. If the Code still serves all the countries mentioned above, why not Afghanistan?

However, the following points should be taken into account:

1. First, the single most important factor to remember in making or adopting law is the attainment of justice. Law without justice is bad law and justice is universal. A law which turns a victim of rape into a criminal and requires punishment for adultery while the rapist goes free is an unjust law by any standard, whatever source is claimed for it.

2. Second, law is universal too. Whatever source is claimed, the net effect is mainly the same. Macaulay’s Penal Code is said to be based partly on English law and partly on the Napoleonic Code and Edward Livingston’s Louisiana Civil Code of 1825.

3. Third, any law, human or divine, so long as it is administered by men, may be abused and give way to injustice. There is a tendency among Muslims to assume that if they do something which they believe to be Islamic and in the name of Islam, everything will turn out fine: Allah s.a.w. will take care of everything. They forget that *sunnatullah* applies to all: you have to do the right thing to get the right result. They forget that even the Prophet and his troops lost the Battle of Uhud, not because of lack of piety or wavering faith, but because the archers deserted their positions and prematurely rushed for the spoils of war. It was a question of not following orders and lack of discipline. So, there have to be safeguards, wherever possible.

**Possible Resistance**

I believe that there will be groups who might resist the proposal on the ground that the Code comes from a non-Islamic source. But ask them to produce the
“Islamic Code” and they would not be able to do so. We had a similar experience in Malaysia in 1980s when we were drafting the criminal and civil procedure codes. In the end, we took the Criminal Procedure Code which was used in the civil court as the basis; the Criminal Procedure Code came from India, and the same countries that adopted Macaulay’s Penal Code also adopted the Criminal Procedure Code. Now this same Code with some modifications is known as the Shariah Criminal Procedure Act or Enactment. The same “non-Islamic” provisions have thus become Shariah. It was the same with the Civil Procedure law. We adopted the Subordinate Courts Rules used in the Subordinate Courts, made the necessary modifications, and now it is known as Shariah Civil Procedure Act or Enactment.

Even now, as Chairman of the Law Harmonization Committee, I do the same thing: identify the provisions which are not Shariah-compliant, ascertain the Shariah position and make the necessary amendment. The latest example is the provision regarding “interest after judgment” in the Rules of Court. We have added another provision which is Shariah-compliant and applicable to cases arising from transactions in accordance with Shariah, e.g. Islamic Banking transactions. The old provision continues to apply to all other cases.  

**Approach**

More than a decade ago, I was asked, “What is your definition of Islamic law?” My reply was “Any law that is not un-Islamic.” I believe that here too, the same approach should be taken. Pakistan has done the same when Islamising her Penal Code. Why not extend the methodology to Afghanistan? Most of what needs to be done has been done by Pakistan.

I also believe that a law may be completely new yet Islamic; a law may be different from that at the time of the Prophet yet it can also be more Islamic. In my Abd Razzaq Al-Sanhouri Lecture at Harvard University, for the first proposition I gave the example of Road Traffic Law and for the second, a law regarding slavery.

In adopting the Shariah, we should look for the principles, not the minute details and sub-divisions as the earlier jurists had done. For example, referring to the provisions regarding the offence of “hurt” (starting from section 332 until the end of Chapter XVI, in the Pakistan Penal Code), the Macaulay Penal Code divides “hurt” into two main categories: “hurt” and “grievous hurt”. The Shariah provisions also contain numerous divisions and sub-divisions, each with a specific name and punishment. I pity the magistrate or the judge, who, having made a finding of facts before him, tries to slot it in into one of the many pigeonholes to arrive at judgment. I do not think anyone would say that it is God’s injunction that it should be that way.
Two factors influenced the work of traditional jurists: first, their love for dividing and sub-dividing something into different categories and sub-categories and giving each one of them a specific name; second, the Shariah punishment combining criminal punishment and civil liability. Note that the Macaulay Penal Code confines itself to criminal punishment only.

I think it worthwhile to reduce the categories and sub-categories of the offences of hurt and their respective sentences to introduce the Shariah alternative of the offence of hurt.

**Hudud**

*Hudud* is a matter of policy for a country to decide. However, I would like to make a few points that should be considered in making the decision.

First, I do not subscribe to the view that *hudud* is central to Islam, or that you must implement *hudud* to be Islamic. Within two decades from the death of Prophet Muhammad (p.b.u.h.), the Second Caliph of Islam, Umar Ibn Khattab, suspended the implementation of *hudud* when there was famine. That decision was clearly based on his *ijtihad*. Has “the door of *ijtihad*” closed since then?5

In addition, I tend to believe that punishment is not the objective (*maqsid*) of a law. The objective of the law is the attainment of justice and the maintenance of law and order. Punishments are methods which may change according to circumstances. That has happened throughout human history.

Also, the experience in Pakistan regarding rape should serve as a lesson. The *hudud* offence of theft, for example, may not be the most serious of offences relating to property now. There is no way in which a thief could steal a bank together with all its branches and assets. But the whole bank could be bankrupted by criminal breach of trust, which is not a *hudud* offence. In such a case, is criminal breach of trust less serious than theft and the amputation of hand as punishment less serious than imprisonment?

I believe it is a myth to say, as we often hear, that if you introduce *hudud*, the crime rate will immediately fall due to the fear of the punishment and the country will become a safer place to live in. Why, even in the 21st century, is there a country that introduces *hudud* but does not allow a woman to drive or leave the home without being accompanied by a man and without covering herself from head to toe? Has that nothing to do with safety? Do you think it is safer for a young woman dressed casually to walk in any town in Pakistan, Sudan or Saudi Arabia than in Sweden or Japan? In those countries that have introduced *hudud*, what are the chances of a rape victim lodging a report? She could even be killed by her own relatives for what is known as “honour killing.”
Finally, there is the issue about witnesses, particularly the disparity between the evidence of male and female witnesses. In Malaysia and in Brunei, at one time, both the Attorney General and the Solicitor General were women. Are we saying that the evidence of the Attorney General and the Solicitor General put together is only equal to the evidence of their office boy alone?

**Conclusion**

To conclude, I think we can take the Macaulay Penal Code as the basis to work on. For that purpose we can use Pakistan Penal Code.

- First, remove those provisions which are peculiar to Pakistan and not relevant to Afghanistan.
- Second, I am quite sure Shariah-compliance will be an issue. Convince the objectors that the bulk of the provisions are already Shariah-compliant even though they do not use Arabic words: any law that is not un-Islamic is Islamic.
- Third, if Shariah provisions as in the Pakistan Penal Code and even *hudud* were to be included, then in adopting them, the points that I have mentioned above should be considered and taken into account.

**Notes**

* Tun Abdul Hamid Bin Haji Mohamad read law at the University of Singapore and graduated with LL.B (Hon) in 1969, then joined the Malay Judicial and Legal Service for twenty one years in numerous capacities until his appointment in 2007 as the Chief Justice of Malaysia. He retired on 18 October 2008. Tun has served as Judge in all the courts in the country, Civil as well as Shari’ah, writing a total of 567 judgments on all aspects of law for the Superior Courts. He delivered the Abdul Razaq Al-Sanhouri Lecture at Harvard University in November 2008. Still active as Chairman of the Law Harmonizing Committee of Bank Negara Malaysia, and a member of the Shari’ah Advisory Council of Bank Negara and the Securities Commission, he is also a member of the Judicial Appointments Commission. In 2011 Tun was awarded an Honorary degree of Doctor of Philosophy in Shari’ah and Judiciary by Universiti Sains Islam Malaysia (USIM). He can be contacted at tunabdulhamid@gmail.com and http://www.tunabdulhamid.my.

2. Such terms are popular among Islamist politicians and preachers even in Malaysia. I believe we can find such people in any country with a significant Muslim population.
3. See “Late payment charge on judgment debts in financial transactions in accordance with Shariah” – www.tunabdulhamid.my. See also “Harmonization of Common Law and Shariah in Malaysia: A Practical Approach” – www.tunabdulhamid.my
4. Ibid., “Harmonization”.
5. The difficulty in forwarding this kind of argument is that someone will say that the premise is not authentic. There is no way in which anyone can prove or disprove it. In the end it becomes a matter of opinion, whether to accept it as authentic or not. I am putting forward the argument only on the assumption that the premise is authentic. All these show that there had been differences of opinion throughout history and therefore, we too can form our own opinion over an issue.
How Interest Causes Unemployment

Abdul Karim Abdullah (Leslie Terebessy)*

A number of nations are currently mired in an economic recession. Conventional economic theory seems unable to point to a way out. Many households, individuals, firms and even governments are trapped in sizable levels of debt. Keynes argued in favour of overcoming the Great Depression by raising government spending in order to stimulate economic growth. This was to be financed by borrowing. This solution worked then but is unlikely to work now, as many governments are already deeply in debt.

One solution is to write off the debt (debt forgiveness), or at least the interest portion of it. But this is only a short-term solution. The longer-term solution requires abandoning the practice of financing spending and investment by borrowing, and replacing it with financing on the basis of profit and loss sharing. As all borrowed funds have to be repaid with interest, even if economic activity initially accelerates as a result of spending borrowed funds, economic growth is bound to slow down during the stage when debt has to be repaid with interest. Thus, what is required is phasing out financing on the basis of interest-based lending and replacing it with profit and loss sharing.

The problem with Keynes’ model is that it assumes that interest-based financing is indispensable. He did not see that profit as an incentive is in principle better suited for ensuring an efficient allocation of resources than interest. Not only did Keynes not see that interest hinders the efficient allocation of resources, he did not see interest as problematic even from an ethical point of view.

He did not see a problem with paying someone a reward (interest) without giving a tangible contribution to production in exchange. But all payments made without receiving a meaningful counter value in exchange constitute glaring evidence of inefficiency, if not also injustice. Moreover, Keynes did not see that the main cause of unemployment, inflation, as well as sluggish economic growth, came at a cost (interest). In particular he did not see that no economic system would reach full employment as long as capital came at a cost. He assumed that full employment could be reached if a sufficient amount of (government) spending took place.
Moreover, Keynes assumed, mistakenly, that interest rates are determined by market forces. Thus, his model of equilibrium in the money markets assumes that a positive equilibrium rate of interest is established by the demand for money (by businesses for investment purposes) and the supply of money (provided by savers).

But this is far from the case. In fact it is the central bank that determines the rates of interest through monetary policy, and open market operations in particular. Interest rates are fixed by central banks, which thus effectively control the “price” of credit. Capital coming at a price, and moreover at a price that is fixed, is the main source of inefficiency as well as instability throughout the financial and economic system.

Standard economic theory teaches that whenever a price is controlled at any level other than the equilibrium level, a shortage or a surplus will arise and persist as long as the price remains controlled. A (minimum) “price” of capital (interest rate) causes a surplus of funds to develop within the financial system (an excess of savings over investment), in the same way as any minimum price (such as a minimum wage), will cause a surplus of labour in the labour markets.

Like many who followed him, Keynes did not see that for the economy to operate at full employment, interest rates have to be zero, which is the true “equilibrium price” of capital, something that Milton Friedman recognised. However, for some reason Friedman did not follow up on this idea.

It is commonly recognised in conventional economic theory that when central banks raise interest rates, investment declines, economic growth slows down and unemployment rises. Conversely, when central banks lower interest rates, investment economic activity accelerates, and unemployment declines. However, as long as interest rates remain positive (are greater than zero), some unemployment remains even at a time of growth.

The existence of this unemployment has been accepted as an “unavoidable” fact of life. But in fact it is not inevitable. This unemployment comes at a cost, even if the cost (interest rates) appears to be relatively low, acting as a deterrent (disincentive) for investment. Of course, the higher the cost, the greater will be the reduction in investment.

Thus, unemployment can be eliminated by phasing out financing by lending at interest and replacing it with financing by way of profit and loss sharing. In financing investment by way of profit and loss sharing, funds can be obtained without the need to pay for them in the form of interest. Instead, investors are rewarded with profits, and even then only after it has been confirmed that profits have indeed been earned.

The chart below shows the relationship between interest rates and unemployment. The graph shows that unemployment is a function of interest
rates. The rate of unemployment depends directly on the rates of interest. The unemployment rate rises and falls with the interest rates.

The reason that the unemployment rate and the interest rates are positively correlated is that as the cost of (loan) capital rises, fewer and fewer businesses are able to afford to borrow at interest for the purpose of investment. Thus, whenever the cost of capital (the marginal cost of capital) exceeds their profit levels (marginal efficiency of capital), some firms will find borrowing unaffordable.

As businesses profits range from zero (break-even point) and up, whenever interest rates are greater than zero, some businesses will be unable to borrow. Thus, some resources, in particular human resources, will remain unemployed. The higher the cost of capital, the greater will be the quantity of unemployed resources.

Graph 1  Unemployment and interest rates

In the chart, the level of unemployment is plotted on the vertical axis (%) while interest rates are indicated on the horizontal axis. The graph shows that as interest rates increase, so does unemployment. For example, when (lending) interest rates are 2.5%, the unemployment rate is 5%. When the interest rates rise to 5%, unemployment also doubles to 10%. In other words, a direct relationship exists between the level of interest rates and unemployment. This means that unemployment decreases as interest rates decrease. Thus, only when the cost of capital reaches zero, in other words only when interest rates become zero, and the economy becomes interest-free, can full employment be reached.

Full employment of resources can be reached under conditions of financing on the basis of profit and loss sharing, constituting a powerful incentive for phasing out interest based on financing and replacing it with profit and loss sharing.
Thus, achieving full employment requires phasing out financing on the basis of interest-based lending and its replacement by profit and loss sharing. This will ensure a long-term full employment equilibrium that Keynes wanted but could not achieve because he assumed that interest-based financing had to be an integral part of the modern financial system.

Full employment cannot be reached in an interest-based system, because in such a system only those firms will obtain investment capital from financial institutions whose marginal efficiency of capital (profit rate) exceeds its marginal cost (interest rate).

Capital comes at a cost in preventing the economy from ever reaching full employment. The money that would have been paid to the unemployed in an interest-free system in exchange for productive activity is instead paid to lenders in exchange for unproductive activity: lending.

This perpetuates not only inefficiency but also injustice, as those who are willing to work in exchange for wages are unable to do so, while those who lend are paid for remaining idle, as lending at interest allows them to earn income without the need to work or even to take risk.

There is no reason to fear that reducing the cost of capital to zero will cause inflation, because in the absence of interest, businesses will no longer have any interest expenses to pass on to consumers in the form of higher prices. Moreover, more workers will produce more goods and services. The increase in the supply of goods and services will reduce pressure on prices to rise, and may even cause them to decline. Thus, with the phasing out of financing by lending at interest, all three major economic objectives, stronger growth, higher employment and more affordable prices, can be realised at the same time. The intractable problem presented by stagflation can likewise be overcome by utilising profit and loss sharing forms of financing in preference to financing by way of lending at interest.

Note

*Abdul Karim Abdullah* (Leslie Terebessy), Assistant Fellow at IAIS, earned his MA in political philosophy from the University of Toronto, Canada (1999) and a MEd (1986) from the University of Toronto’s Ontario Institute for Studies in Education (OISE). A former lecturer, editor, writer and coordinator of the English program at University Sains Islam Malaysia (USIM), his current projects involve research into the current financial crisis, critical thinking in Muslim societies, and Islamic Finance. He has edited *Islamic Studies at World Institutions of Higher Learning* (Kuala Lumpur: USIM 2004).
Religion and State in Saudi Arabia and the Role of the Wahabi Establishment in Governance

Michael K. Scott

From the report authored by Mahmoud Marouf and appearing in al-Quds al-Arabi (1 October, 2012), translated by IAIS-Malaysia Visiting Fellow Michael K. Scott, and covering the Center for Arab Unity Studies’ Conference on Religion and State in the Arab World that convened in Hammamat, Tunisia in October 2012:

The role of the religious establishment in governance in Saudi Arabia sparked heated discussion late last year in the “Religion and State in the Arab World” conference organised by the Center for Arab Unity Studies, with the participation of dozens of prominent Arab intellectuals and researchers.

Saudi Researcher Dr Tawfiq Alsaif in his presentation of “Religion and State in Saudi Arabia and the Role of the Wahabi Establishment in Governance” surveyed the Wahabi institutional trajectory and its interaction with the ruling Saudi Arabian regime. Dr Alsaif indicated that the Kingdom of Saudi Arabia constituted a unique case of the relationship between a governing authority and a religious establishment, since in Saudi Arabia the state did not create or establish the religious institution to suit its ends, nor did it inherit it ready-made, as has been the case in other Islamic nations. Rather the religious elite joined forces with the political leaders in the creation of the state itself, and in maintaining and protecting it, over a considerable stretch of time. This goes some way toward explaining the overlap and intermittence of religious and political discourse and the continuing rejection, on the part of the “men of religion” (the religious hierarchy), of some of the features that could be described as secular in the state apparatus, or in the lives and politics of its leading figures.

The Saudi researcher explained that the number of religious jobs or salaried positions that are subject to the control of the religious corps (“men of religion”) in the official religious administration has now topped a quarter of a million jobs, making up 25% of all government jobs in the year 2008. The Ministry of Awqaf (Religious Endowments) alone appointed 140,000 muezzins and masjid imams as full time employees in 2010, and the number of mosques supported by the
administration has now reached 72,000. The official government Authority for the Promotion of Virtue and Prohibition of Violence now administers 470 offices with a total of 4400 full time employees across the Kingdom.

In Dr Alsaif’s analysis, “the control of The Authority of this quantity of positions and salaried officials in a religious establishment that was created only in 1961 renders it a full and equal partner of the ruling family in the affairs of state and in policy-making. However, the religious establishment and the institutions of state together erred, in his view, in their belief that the problems they encountered were derived entirely from the particular individuals and decision-makers involved. They remained oblivious to the systemic changes that were sweeping the country and the region as a whole. This misapprehension of reality led to their reflex effort to retain control of girls’ education, proceeding from a traditionalist viewpoint that considers women to be a source of “sedition” or of trouble (fitna), who need to be confined to safe and trustworthy quarters and reliable keepers. A similar view colours the perspective on the judiciary: instead of seriously working towards its development in order to realise greater, or more effective, dispensation of justice, it focused only on the efforts of the “men of religion” to retain it under their control.

Dr Alsaif highlighted the widely-noted “Advisory Memorandum” of 1992, which represents the pinnacle of the ascendant politicised religious opposition, observing that it proposed the same remedies and followed the same approach: namely, diagnosing the country’s problems as being the outcome of the state and society’s having distanced themselves from the true religion. Consequently, the proposed remedy boils down to strengthening the supervision of the religious hierarchy over all sectors. The authors of the memorandum, the religious hierarchy – the “men of religion” – saw no problem in the state’s philosophy or administrative systems, only in the persons of the administrators themselves: they were not trustworthy since they were not of the religious establishment or hierarchy itself and were insufficiently subordinate to it. Consequently the authors lost much time and wasted their effort addressing many trivial issues, drowning in details and specifics and losing sight of the important guiding principles.

In Dr Alsaif’s analysis the relationship between the Wahabi establishment and the Saudi state has evolved through five stages beginning in 1961 with a transformation in the religious leadership from its old traditional character into a more organised and potent structure. A second transformation in 1979 gave rise to a new generation of rank and file and the transformation of politics into a daily concern and preoccupation with the succession of the Iranian revolution, the occupation of the Haram al-Sharif (by an insurgent self-proclaimed Mahdi – ed.), the Afghan Jihad and the impact of Arab nationalist activism. The range of debates around the legitimacy of the state had widened to include the state’s real
relationship to religion, its conformity or otherwise with the model of righteous
governance, and the significance of the expansion of salafi fundamentalist
currents beyond their original social confines in the central Najd, brought about
through recruitment in the urban areas of thousands of rural migrants.

With Iraq’s invasion of Kuwait in 1990 a third phase began, witnessing the
transformation of the previous issues of concern into pointed internal accusations
against the state and the Saudi elite, of complicity in a Western plot to control
Muslim societies, contributing to the emergence of a new generation of religious
hierarchy acting as formulators of public opinion, directing and guiding the public
on matters of policy while also playing the role of government spokesman. This
coincided with the appearance of the “Awakening” faction (tayar as-sahwa),
before their members were all incarcerated in 1994, ushering in a change in
character of the religious establishment from guardian of the state to critic of the
state and detractor of its legitimacy.

The fourth phase commenced with the attacks of 11 September, 2001, with
the most significant change being the state’s decision to break up the power-base
of the entire religious hierarchy, since the power base had all along enabled the
latter to play a mobilising political role. All of the various factions, groupings
and sub-groupings in the religious hierarchy felt the impact of this decision,
including the official state religious institutions themselves and the state’s very
own traditional aura of religiosity.

The features of the fifth phase coalesced with the outbreak of the Arab Spring
revolts in 2011, with the most prominent development being the surfacing of
the enlightenment faction which stood in open contradiction and opposition to
the traditional salafiyya movement and went so far as to adopt democracy as
the more appropriate approach to governance, calling for a shift from absolute
to constitutional monarchy, as per the communiqué that was issued, “Towards a
State of Rights and Institutions”. This stands out as a real milestone in the history
of calls for reform in the Kingdom.

Notes

* Michael K. Scott, since October 2012, is a Visiting Fellow at IAIS Malaysia. As an editorial team
member he contributes to the Institute’s publications and events with diverse research, editing,
Arabic-English translation, and original writing. Prior to starting work with IAIS he has worked in
teaching Arabic as a Foreign Language, ESL teaching, refugee policy advocacy, HIV/Aids preven-
tion, public health information, education and communication campaigns and international devel-
opment programme management at the community level (in Lebanon, Egypt, Yemen, Cyprus, Jordan,
Pakistan, Morocco and Afghanistan). He is a certified Arabic-English community interpreter in
the US State of Maryland and pursues Arabic literary translation in his spare time. Currently he is
translating a booklet for the Islamic Development Bank on the Islamic legal framework of “Build,
Operate and Transfer” contracts.

Studies in Tunisia (08/10/2012). “The Symposium also seeks to look into ...the ascendance of
Islamist parties to power in some Arab countries. Just as this relationship poses problematic questions at conceptual, judiciary and ideological levels, current Arab and Islamic reality provides State experiences where some countries describe itself, or are described, as Islamic states such as Saudi Arabia and Iran, while other countries, such as Turkey, offer what is now characterised secular Islam. Other countries have witnessed the emergence of institutions parallel to the State and based on religious and doctrinal grounds. The conference will focus on these central themes in an attempt to answer questions related to how can politics be exercised in the Arab world now and in the future in a way that deals with what seems to be the contradiction between State and Religion. Participants will debate and elaborate on these and other relevant issues with the aim of reaching an understanding that realises present realities and their variables and dynamics. This conference is an expression and a continuation of the ongoing critical study and academic work in which the Centre for Arab Unity Studies has been engaged since its establishment over three decades ago. The Centre believes …such intellectual gathering and debates play a vital role in consolidating the objectives of the Arab Renaissance Project that include: Arab unity, democracy, independent development, social justice Pan-Arab and national independence and civilisation renewal.”
Constitutional Law as Ethico-Political Discourse

Tengku Ahmad Hazri

Several scholars and commentators have argued that constitutional law is “one of the most under-developed areas of fiqh.” That this is so is hardly surprising: constitutional law as it has been conceived thus far developed in the context of the modern nation-state and is thus historically foreign to Islam. For the most part of history, the various caliphates, sultanates and governments which together constituted dar al-islam (territory of Islam) operated under unwritten constitutions, yet firmly under the purview of the Shari’ah, so that, according to Noah Feldman, “the arrival of written constitutionalism in the Muslim world marked the beginning of the end of the Islamic state.”

Nonetheless, constitutional law is the most basic and fundamental law of any legal system today, and it is this law that defines and shapes the nation and its legal order. Not a few commentators have censured the modern nation-state as divisive and sectarian, artificially segmentising the entire Muslim world into political units which forsake the common faith that unites all believers. We would propose a different way of thinking about this, namely that this phenomenon represents a challenge to accomplish fraternity and to forge bonds of brotherhood even with the most rudimentary of commonalities. Indeed, in many cases the “nation” was born out of nothing more than the urgency of different communities within a given territory to repel a common aggressor or oppressor (such as imperialist or colonialist power), despite vast differences in culture, custom, language and law. Thus the ability to live up to this challenge is the litmus test for the universalism of Islam.

An Islamic constitutional law, however nascent it is, must have this backdrop in mind, while being vigilantly conscious and cognisant of the evolving nature of constitutionalism and the global society. It must also be flexible enough so that new partnerships and co-operations are not stymied by an excessive obsession with the nation-state while compromising the broader prospect towards transnational alliances. A particularly telling example is contemporary West Asian states after the Arab Spring.
Despite having more than one commonality, such as sharing a common religion, language and culture, the Arab states were nevertheless drowned in constitutional quarrels of a domestic nature. In drafting the new constitution of Egypt, for instance, parties quibbled as to whether Shari’ah “rules” or “principles” should be the foundation of the constitution. When European states were devastated and wrecked economically and politically in the aftermath of the Second World War, the remedy proposed was greater European integration, beginning with the Treaty of Rome (1957) to establish a common market, i.e. the European Economic Community (EEC), the predecessor to the present European Union (EU). Yet a different scenario unfolded after the uprisings that swept the Arab world, and the Arab states are as divided as ever. Ironically, the Westphalian nation-state model which the Arab states constitutionally strive hard to accommodate has long since been transcended by the very region that produced it.

There is in fact a great prospect for a common constitutional framework for cooperation among the states in certain fields, for example, with regard to business, Islamic banking and finance, education and health care, which may all benefit from the evolving nature of constitutionalism.

Since we have understood the present constitutional challenge of the Muslim world as one of establishing ties and fraternities in all areas, it follows that the constitutional model that is adopted cannot stand in the way of such unions. The objective therefore has always to be to readjust, reconstitute and reconstruct the polity in a manner that it is favourable to the formation of such partnerships, in accordance with the needs, aspirations and resources of the people. Such an objective naturally falls outside the province of fiqh.

According to Tariq Ramadan, fiqh merely adapts to prevailing realities (which it takes for granted), an approach which has no doubt enabled “millions of Muslims . . . to remain faithful as possible to their religion” (fiqh al-aqaliyyat or jurisprudence of minorities as an example) but is severely limited when it comes to offering a long-term vision to transform and change society.

Take for instance, democracy. While democracy has been conventionally justified in fiqh on the ground of shura (consultation) as an indirect reference to democracy, albeit one with a Qur’anic basis, the richer and more direct discussions throughout Islamic intellectual history were carried out by the philosophers, who called democracy al-madinah al-jama’iyyah or siyasat-i jama’at in Arabic or Persian respectively, in both cases literally meaning “the city of the community”. In the works of such philosophers as Abu Nasr al-Farabi (870-950), Ibn Rushd (1126-1198) and Nasir al-Din al-Tusi (1201-1274), the formation of the various types of “cities” is the result of different combinations of individuals with different needs, such as for the common pursuit of honour (timocracy), wealth (oligarchy) or freedom (democracy). Nasir al-Din al-Tusi
counts democracy among the cities that fall short of the ideal Virtuous City, yet concedes that, owing to the rich diversity therein, “it is easier and closer to feasibility to create Virtuous Cities” out of democracies than other types of cities. Such insight goes well beyond a limited conception of democracy as mere consultative process but instead envisions strategies for the attainment of happiness (sa'adah) and consequently, perfection of the soul. Yet such resources are to be found in politics, as an extension of ethics (akhlaq) and a branch of practical philosophy (hikmat-i ‘amali), not fiqh, which thus makes the case for an understanding of constitutional law as an ethico-political discourse, and only secondarily as a legal one.

This is all the more plausible given that modern constitutional doctrines such as the rule of law, separation of powers and judicial independence developed out of political theories. This distinctive character of constitutional law is why the famous jurist John Austin denied it legal status, claiming that “constitutional law is positive morality merely”, and thus infringements of constitutional law are not called “illegal” but “unconstitutional”. Similarly, Friedrich Hayek argued that constitutional law is law merely in the formal, not material sense, for it is not a law among laws but a “superstructure erected to secure the maintenance of the law”. Hayek distinguished between rules of just conduct and rules of organisation, and claimed that constitutional law belongs to the latter: i.e., it maintains, indeed constitutes, the organisation itself (in this case, that political community which we call “state”). In cases of revolution resulting in the adoption of a new constitution, for example, while rules of just conduct, such as criminal law or property law, remain intact, constitutional law changes. And the nature of this change is what determines the direction of the nation as a whole.

Our retrieval of the ethico-political as the central domain of constitutional law calls for clarification on the nature of ethics and politics. If ethics is understood in the modern sense as “the systematic endeavour to understand moral concepts and justify moral principles and theories”\(^9\), then akhlaq does not fit this definition and hence cannot be conceived of as the equivalent of modern ethics. Al-Tusi’s definition of akhlaq makes this clear: it is “a science concerned with how the human soul can acquire a disposition such that all its acts, proceeding from it by its will, may be fair and praiseworthy”\(^10\).

Thus “the subject matter of this science is the human soul”\(^10\), not moral principles and concepts. By anchoring ethics in the human soul, a community can be conceived as the macrocosmic extension and reflection of the human individual so that this collective entity does not evolve into a body that overrides its human members as, for example, when the individual is made subservient to “corporate values” and “corporate interests”. Instead of organisations made to serve human ends, the matter becomes exactly reversed: human beings are
made subservient to corporate ends. In other words, it humanises rather than corporatises the collectivity, making “corporate values” subordinate to human virtues.

Conclusion and Recommendations

_Fiqh_ as it relates to constitutional law should be anchored to and developed with the over-arching ethical-political meta-narrative that functions as the _constitutional ethic_ of the nation or community.

- The said constitutional ethic should be vigilantly conscious and cognisant of both internal changes within the polity and external transformations that require adjustments to the constitutional framework, particularly when there are constitutional hindrances to the formation of new alliances, partnerships and other forms of organisation.

- At the same time, a _common constitutional framework_ between nations should be developed to address specific areas of cooperation especially with regard to institutional arrangements that may materialise into trans-national entities. The starting point should always be the plural heritage of the community which is shared outside its national borders.

- The imperative to adapt to prevailing realities should be balanced with a proactive and dynamic initiative towards making positive changes and transformations.

Notes

* Tengku Ahmad Hazri, an Analyst at IAIS–Malaysia, he obtained his LLB (Hons) from the University of London, then served at the International Movement for a Just World (JUST). He is pursuing post-graduate studies in Islamic thought at ISTAC in Kuala Lumpur; and is an active blogger on philosophical and contemporary issues, contributing his reviews to the Malaysian press, Amazon.com and other websites.


4. ‘An endless debate over religion’s role’, The Economist, October 6th 2012, 58

5. Tariq Ramadan, _Radical Reform: Islamic Ethics and Liberation_ (Oxford: Oxford University Press, 2009), 30-34. Ramadan distinguished between “adaptation reform” and “transformation reform”, arguing that fiqh needs to move from the former to the latter.


7. John Austin, _The Province of Jurisprudence Determined_ (Cambridge Texts in the History of


11. The use of the word “corporate” here is significant because the state is in a sense a corporate body, i.e., a type of corporation. In fact, the first modern state was the Catholic Church after the Gregorian Reforms (or Papal Revolution) in the 11th and 12th centuries during which the Church became a corporate entity by using the law of corporations modelled after Roman law to establish the Church as a legal personality, with the right to make transactions and own property, among others. The corporation law even functioned as the “constitutional law” of the Church. For discussion, see Harold J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, Massachusetts: Harvard University Press, 1985), 113-115, 205-224.
SIGNIFICANT EVENTS

Closed-door Roundtable Discussion on Human Rights and Islam
(Kuala Lumpur, 20 November 2012)

Karim D. Crow, IAIS Malaysia

A closed-door Roundtable exchange was held at IAIS Malaysia on 20 November 2012, presided over by Professor Dr Mohammad Hashim Kamali (Founding Chairman & CEO IAIS Malaysia) and Tan Sri Hasmy Agam (Chairman of Human Rights Commission of Malaysia (SUHAKAM)). Fifty participants contributed to the frank exchange of views, and the meaningful day-long discussion was moderated by Karim D. Crow (IAIS Malaysia).

This first collaborative effort between IAIS Malaysia and SUHAKAM had the following objectives: to identify pressing domestic human rights issues in Islam; to facilitate critical appreciation of such issues from the Islamic perspective and promote open discussion, analysis and research; and to explore appropriate mechanisms to intensify internal dialogue within Malaysia in a spirit of problem solving and continuing engagement. The morning session saw two major presentations: Professor Mohammad Hashim Kamali, “Maqasid al-Shari’ah and Human Rights in Islam”; and Professor Najibah Mohd Zain (Deputy Dean, Ahmad Ibrahim Kulliyyah of Law, IIUM), “Issues of Human Rights: Past, Present and Future Trends.” The afternoon session comprised two and one-half hours of honest consultative exchange of concerns among all participants, where specific issues relevant to human rights in Malaysia were treated from a variety of perspectives. These included the conception of and rationale for human rights from an Islamic perspective; gender specific topics and women and children disabilities; sexual minorities (LGBT); death penalty; and women’s rights, including Malaysia’s reservations to CEDAW.

The sincere, wide-ranging discussions were guided by the informed parameters of the two morning presentations. In particular Professor Mohammad Hashim Kamali explored the potential for developing new resources which the Maqasid al-Shari’ah offer for purpose-oriented rethinking of moribund positions among Muslims. Human dignity and justice have the potential to serve as the matrix for a new architecture of human rights in Islam. Dr Najibah Mohd Zain pointed out the Malaysia-specific constraints on reforming and enforcing human rights, and seeking uniformity of state laws. Tan Sri Hasmy Agam provided frank insights into SUHAKAM’s efforts for thirty years and the urgency for Malaysia to acquit itself properly in its international obligations. All these efforts are predicated upon increased engagement of the Muslim community and a transformed understanding of Islamic principles.
On 4 December 2012, IAIS Malaysia in collaboration with the Istanbul Foundation for Science and Culture (Turkey) and the Malaysian Turkish Dialogue Society organised the International Conference on the Role of Science and Arts in Islamic Civilisational Renewal, on the theme “Science and Culture as Key Dimensions of Civilisational Renewal: The Thoughts of Bediuzzaman Said Nursi”. Bediuzzaman (“Wonder of the Age”) Said Nursi (1877-1960) was a Turkish scholar during the twilight years of the Ottomans and the founding of the modern Republic of Turkey by Mustafa Kemal Ataturk. He is known largely for his intellectual-spiritual jihad in restoring the rational basis of religious truth and eliminating divisive tendencies between the religious and intellectual sciences.

The conference featured nine speakers with opening addresses by Professor Mohammad Hashim Kamali, Founding Chairman and CEO, IAIS Malaysia, and Professor Faris Kaya, President, Istanbul Foundation for Science and Culture. It was divided into three sessions: (1) “The Role and Place of Knowledge, Science, Faith and Morality for a Better Future of Humankind: Said Nursi’s Perspective”; (2) “Said Nursi’s Ideas on Science and Development”; and (3) “Said Nursi and Civilisational Renewal (tajdid hadari)”. The conference deliberated, among other topics, on Said Nursi’s project to integrate the religious and intellectual sciences, particularly modern science, at a time when the dominant ethos was one of conflict and confrontation between the two, taking European historical experience as the universal yardstick and barometer to measure scientific development and progress throughout the world. Consequently, religion is perceived to be the stumbling block to science. Nursi, however, disagreed. He distinguished between the accumulation of empirical data and the conceptual/philosophical framework used to organise the acquired data. According to Yunus Çengel (Yıldız Technical University, Turkey/University of Nevada, Reno, US), it is the latter that Nursi argued is infused with materialism. The pivot here is man as the conscious reader of the cosmic narrative; indeed for many, science faithfully reproduces the phenomena of the cosmos, but Nursi was critical enough to argue that modern science is but an interpretation of phenomena. The key to Nursi’s worldview, as explored by Colin Turner (Durham University, UK) in his paper, is the twin concepts of ma’nā-ye ismī (self-referential) and ma’nā-ye harfī (other-indicative), two modes of
hermeneutics that perceive, respectively, the physical cosmos either as exhausted by itself or as signs/indicators to ontologically higher levels of reality.

Nursi based his philosophical synthesis on solid theological ground. According to Betania Kartika Mufflih (University of Malaya), Nursi’s philosophy must be understood within the framework of *al-tawḥīd* (Divine Oneness), so that all that happens in the universe is seen as the product of universal wisdom and under the direct control of the Wise Lord. On this basis then, Nursi understood the sciences as stemming from the Divine Attributes, i.e., the religious and intellectual sciences stemming from the Divine Attribute of Speech (*kalām*) and Power (*qudra*) respectively. Ismail Latif Hacinieloglu (Suleyman Demirel University, Turkey) pointed out that both revelation and natural phenomena are “Books of God”, i.e. the *Kitab-i Hakim* and *Kitab-i Kebir-i Kainat* respectively. This provides the unity of sources by which the material and spiritual worlds are seen harmoniously, thus contributing towards a holistic approach to knowledge, which is evident in Nursi’s approach to the Qur’an.

His *Risale-i Nur* (Epistle of Light), a voluminous commentary (*tafsīr*) on the Qur’an, was written for the general audience despite its depth and intensity, for Nursi recognised that the Qur’an addressed both the mind and man’s inner spiritual faculties. The spiritual component of religion carries implications beyond the person to the collective level. According to Mohammed Farid Ali (IAIS Malaysia), Nursi’s exposition of self-contentment (*qanā’ah*) contrasts it with greed (*ḥirṣ*) and establishes the former as being crucial to the formation of personal character. This personal character connects to the rise and fall of civilisation because spiritual concepts like self-contentment and greed relate to the question of allocation and distribution of resources as well as waste management.

Nursi had taken his ideas beyond theory. By his own account, his life was divided into the “Old Said” and the “New Said” which focuses on study, contemplation and spiritual transformation. Fadhlullah Jamil (University of Science, Malaysia) placed Nursi alongside scholars and thinkers aspiring towards reform and renewal (*tajdīd*) in Islam, who censured blind imitation, superstition and deviant innovation. Nursi had even proposed to the Ottoman ruler Sultan Abdülhamid II the formation of a religious seminary (*madrasah*), called the Medresetü’z-Zehra, which would reflect the integrated curriculum that he envisaged. But the plan did not materialise as it was thwarted by the war, even though foundations had been laid for the project. When secularist dictatorship held sway in Turkey, according to Saim Kayadibi (International Islamic University Malaysia (IIUM)), Nursi’s opposition to it was predicated on the *maqṣid* of *ḥifẓ al-ʿird* (preservation of honor), echoed succinctly in his own words, “I can live without bread, but I cannot live without freedom.”
Seminar on Music Spirituality and Islam  
(Kuala Lumpur, 12 December 2012)

Tengku Ahmad Hazri, IAIS Malaysia

On 12 December 2012, IAIS Malaysia jointly organised the “Seminar on Music Spirituality and Islam” with the National University of Singapore’s Department of Malay Studies and the University Scholars Programme and the Department of Museum, Malaysia. The seminar carried two presentations, by Raja Zulkarnain Raja Mohd Yusof (The National Conservatory of Arts) and Professor Mohd Anis Md Nor (Cultural Centre, University of Malaya). It also featured two performances by Masoud Ariankhoo, who recited the Mathnavi, and Abdullah Shatri, who performed the taqsim al-‘ud.

Raja Zulkarnain’s presentation, “An Overview of the Maqams & Music of the Arabs”, introduced the concept of maqām (plural: maqāmāt) in a mainly pedagogic and descriptive manner, and presented the different types of religious and secular music among the Arabs. Examples of the former include the Qur’an recitation, adhān, mawlid, madih al-nabawi and dhikr. He also explained and demonstrated the eight principal maqams of Arabic music, namely, the Ajam, Nahawand, Rast, Bayati, Hijaz, Kurd, Saba and Sekah.

Professor Mohd Anis Md Nor’s presentation posed a question, “Zapin: Is it Dance, Music or Dhikr?” In answering this question, he analysed zapin at three levels: (1) macro-level (signifying Arabic-Islamic-Malayic representations); (2) meso-level (as a Malay performance tradition); and (3) micro-level (as dhikr, or remembrance of God).

According to Professor Anis, Malay zapin originated from the Hadrami zaffin, which was introduced in the Malay world by the Hadrami sayyids (descendants of the Prophet, pbuh) to propagate (da‘wah) Islam. But when zaffin was received in this part of the world, it interacted with various art forms and practices that were already indigenous. The result of this interaction was a new and original performative art, which we now call zapin. By comparing the Malay zapin and Hadrami zaffin, Professor Anis showed the distinctive traits of the former to show how it has actually been a hybrid and syncretistic indigenisation of the latter. Zapin is performed at special functions and ceremonies, such as weddings, circumcision and the Prophet’s birthday (mawlid al-rasūl).

Professor Anis stressed that zapin cannot be distilled and analysed into artificial constituent units such as “dance” or “music” without compromising its gestalt, for Zapin embraces dance, music and dhikr as a single performative entity. Zapin is thus “played” (main zapin), not “danced” (menari zapin). Zapin can also be seen as a cultural bridge, connecting the Hadrami Arabs with the
Malay society, while recognising the special role of the Hadrami sayyids in propagating Islam to this part of the world. At the local (or “meso”) level, *zapin* is cement for social cohesion and provides the community with a religious identity, providing an avenue to be religious in a creative and artistic way. When interiorised (the “micro” view as Professor Anis described it), *zapin* functions as *dhikr* (remembrance of God), particularly when performed and undertaken by devotees of Sufi orders (*tariqah*), with the *zapin* music seen as silent *dhikr*, while the rendition of *zapin* songs or *qaṣīdah* is seen as passionate praises to the Divine Names or to the Prophet (pbuh).

By the three-fold analyses he showed the multi-layered meaning and role of *zapin*: the macro view connects civilisations and humanity through cultural exchange and dialogue; the meso-view offers space and scope for the locals to indigenise what seems foreign to them while instilling a local sense of ownership; and the micro-view affords the transposition of sonoral forms and physical movements of *zapin* as exterior support for the inward mystical journey.

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**12th International Conference on Islamic Studies (Surabaya, Indonesia, 5-7 December 2012)**

*Karim D. Crow, IAIS Malaysia*

12th International Conference on Islamic Studies, 5-7 November 2012, Surabaya: "Islamic Studies Revisited: from theoretical to practical knowledge". Convened by the Directorate of Islamic Higher Education, Ministry of Religious Affairs, Republic of Indonesia; local host – State Islamic Institute (IAIN) Sunan Ampel.

This annual gathering of 360 leading university Islamic academics and graduate students from every corner of Indonesia held in the nation’s third largest city was an important occasion for Islamic higher education in the most populous Muslim nation. Plenary sessions interspersed with concurrent panels, some delivered in English, displayed the impressive diversity and competence of Muslim researchers and the contemporary interests of students. Major keynote addresses were delivered by Professor Dr H Dede Rosyada (Director, Islamic Higher Education) and Dr Karim D. Crow (IAIS). Visits to the famous mosque of Saint Sunan Ampel in the Arab quarter and to Madura Island were memorable.
Between Nonviolent Conflicts and Reconciliation: 
An International Workshop 
(Chiang Mai, Thailand, 19-20 January 2013)

Karim D. Crow, IAIS Malaysia

“Between Nonviolent Conflicts and Reconciliation: An International Workshop addressing deadly conflicts in Asia–Pacific” – Chiang Mai [North Thailand] 19-20 January 2013. Sponsors: TODA INSTITUTE FOR GLOBAL PEACE & POLICY RESEARCH (Honolulu); Peace Information Center, Thammasat University (Bangkok); and local host Department of Religious Studies, Payab University (Chiang Mai).

The two-day workshop brought together seventeen university researchers and activists from nine Asian countries to explore the transition from violence to reconciliation in conflicted societies. Prominent peace researchers present were Professors Kevin Clements (New Zealand) and Chaiwat Satha-Anand (Qadir Muhyi l-Din, Thammasat University), as well as Dr Asna Husin (IAIN-ArRaniry, Banda Aceh). Also attending were D. Satoko Takahashi (Director of Research, TODA INSTITUTE), and a four person delegation from Uganda’s northern region reporting on work of reconciliation after the brutal ravages of the notorious “Lord’s Army” – including two eminent religious leaders, the Anglican Bishop and the Maliki Mufti. Among the most striking and heart-rending presentations were by professors from Vietnam (suppression of coffee farmers and confiscation of lands), Nepal (difficult political transformation of Maoist rebels), and Sri Lanka (failed ethnic reconciliation seeding future violence). Significant theoretical reflections were provided by K. Clements and C. Satha-Anand, and the papers will appear in a volume published by the TODA INSTITUTE. The local hosts kindly arranged Jum‘ah prayers for Muslim participants in one of Chiang Mai’s seventeen mosques where the khutbah was delivered in Mandarin and Thai.
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.

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.

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