

## EDITORIAL

This issue of IAIS's flagship-journal *Islam and Civilisational Renewal* (ICR) features, for the most part, the contributions by participants of the International Conference on Religion, Law, and Governance in Southeast Asia held in Kuala Lumpur 29–31 January 2010. The event was hosted by IAIS Malaysia and the Faculty of Law of the University of Malaya and was jointly organised by IAIS Malaysia and three other international sponsors, namely the International Center for Law and Religion at Brigham Young University (United States), the International Consortium for Law and Religion Studies of the Università degli Studi at Milan (Italy), and the Institute of Advanced Legal Studies at Amity University (India).<sup>1</sup> The conference was officially opened with a speech by the Prime Minister of Malaysia Dato' Sri Najib Tun Razak<sup>2</sup> and featured 25 world-renowned speakers from 20 countries and 250 participants.

In this issue of ICR, we are pleased to present to our readers those of the conference papers which have a specific Southeast Asia-related content. We would, in the meantime, like to inform our readers about our forthcoming conference proceedings volume, which will also include additional papers of wider interest to the theme of the conference. Some of the contributions in this issue feature papers by leading scholars in their particular fields, while others are by local practitioners, even politicians, mainly in the form of an essay. This also accounts for the fact that the articles and essays in this volume are of uneven length, due mainly to the different approaches and backgrounds of our contributing authors.

The current issue of ICR starts with “The Legal Framework of Religion–State Relations in Southeast Asia”, an **overview** by **Tahir Mahmood** – the former Dean of the Delhi University Law Faculty, the current Chairman of the Institute of Advanced Legal Studies and Ambassador for Interfaith Harmony at Amity University, India, and an eminent legal scholar of that country. His paper expounds the main characteristics and interactive dimensions of law and religion in the Southeast Asian region.

Professor Mahmood's overview is followed by a good number of **articles with policy recommendations**: The first one, entitled “Constitutionalism and Democracy: An Islamic Perspective”, is by myself. In it, I develop the theme that Islamic government is essentially civilian rather than theocratic, notwithstanding the common misper-

ceptions to the contrary, by presenting a survey of the evidence in the Qur'ān and the *Sunnah* as well as views of scholars of a variety of adherences on the subject. I also explore issues over the freedom of religion and draw the following conclusions:

- that the normative teachings of the Qur'ān and *Sunnah* are more supportive of freedom of religion and pluralism than scholastic interpretations of the schools and scholars of the *sharī'ah*;
- that evidence shows Islam's substantive harmony with the principles of democracy;
- that Islam is affirmative on religious and intellectual pluralism;
- that there is substantive support in the theory and praxis of Islam for the democratic principle of separation of powers.

The next article, "The Ship and the Stranger: A Metaphorical Approach to Governance and Islam", is by **Chaiwat Satha-Anand**, a prominent Thai-Muslim scholar who is Professor of Political Science at Thammasat University, Bangkok, and Director of the Thai Peace Information Centre at the Foundation for Democracy and Development Studies. Professor Chaiwat's article addresses issues of governance from the Islamic perspective by applying the metaphors of 'the ship' and 'the stranger', arguing that both might be useful in illuminating the idea of 'soft governance' in Islam, which he sees as an attempt to "meaningfully connect a multiplicity of actors from different terrains with complex relationships among them in the process of governing with a much more pluralistic conceptualisation of power". Two of his major conclusions are:

- the two metaphors point to *highly limited* governance in Islam, especially in terms of the power to punish, due to the limits which come from the cautious approach to penalties and the circumstance of being human;
- 'soft governance' would influence a choice of punishment that would be judged within the limits of *human* reason and understanding, thereby opening up the possibility of a much larger space for the accused to redeem himself.

"Religion, Law, and Governance in Malaysia" is by **Abdul Aziz Bari**, Professor of Law at the International Islamic University Malaysia (IIUM). The author argues that the Malaysian experience could serve as an example of how a modern system of governance could coexist with traditional Islamic values and systems within the context of Malaysia's 'dual' legal system. Some of the points he makes may

be considered as preconditions toward achieving that harmony. Thus he proposes the following:

- In future, any kind of ‘Islamisation policies’ should proceed *within* the existing framework of the Malaysian Constitution.
- Malaysians in general – especially the non-Muslims – are more aware of their rights, particularly those enshrined in the Constitution. This should not be seen as a threat by the authorities and the Muslim community at large, but rather as a change for true nation-building.

“A Malaysian Perspective on Qur’ānic Governance: Family Autonomy vs. State Intervention”, by **Zaleha Kamaruddin**, Professor at the Kulliyah of Law at the International Islamic University Malaysia (IIUM), considers ‘good governance’ a crucial element for peace and development of societies. The main argument of her article is that the notion of ‘good governance’ is also of central importance to the family, which she sees as the nucleus of human civilisation. Within this line of thought, she explores the concept of ‘qur’ānic governance’ and its influence on the family institution. She argues that

- a proper understanding of the role of the *sharī‘ah*, its unique approach, and the ways in which statements of the *sharī‘ah* are codified into contemporary law, and how best courts interpret the law, would pose important questions requiring careful articulation.
- The state, therefore, must be extra careful when intervening in family matters since it has to ensure equilibrium and reasonable balance between the autonomy of the family and the state and also to understand the extent of the role that religion plays in public life.

“The Rule of Law and Legal Pluralism in Malaysia” is an article by **Constance Chevallier-Govers**, who is Associate Professor at the Faculty of Law in the University of Grenoble, France, as well as Associate Research Fellow at Asia-Europe Institute in the University of Malaya, Kuala Lumpur. It is the only article in this issue that has not been presented at our conference, but which we have, nevertheless, taken ‘on board’ due to its relevance. Dr Chevallier-Govers investigates some of the detailed issues of ‘legal pluralism’ in Malaysia and the extent to which such pluralism may pose a challenge to the supremacy of the Constitution. In order to address pressing current issues more effectively, she suggests

- the creation of a distribution body to allocate sensitive cases either to *sharī'ah* or to civil courts;
- the insertion of a basic structure provision in the Constitution;
- joining the International Covenant on Civil and Political Rights (ICCPR) (albeit with certain reservations concerning *sharī'ah* law);
- the adoption of a federal law on apostasy, taking as model Negeri Sembilan's Enactment that is currently in force.

"Islam, Corruption, Good Governance, and Civil Society: The Indonesian Experience" is by the renowned Indonesian scholar **Azyumardi Azra**, Professor of History and Director of the Graduate School at Jakarta's Syarif Hidayatullah State Islamic University and former Rector of that University. His article identifies corruption as one of the most serious problems faced by many Muslim countries, including Indonesia. He addresses the role of Islamic teachings against this vice and the recent experiences of Indonesia in this regard, especially the role of Islamic civil society. One of his salient recommendations is that

- Indonesia's KPK or 'Anti-Corruption Commission' should be strengthened, so that the efforts to combat corruption can be more effectively pursued.

"Islam and the State in the Indonesian Experience" is an article by **Bahtiar Effendy**, who is Professor of Politics at Syarif Hidayatullah State Islamic University in Indonesia's capital, Jakarta. Based on his observations, he states that not all Indonesian Muslims appear to support the politicisation of Islam. In his article, he tries to analyse the source and nature of Islam-state relations in contemporary Indonesia, while, at the same time, looking for solutions. He argues in favour of

- partial accommodation as a viable option for a more enduring relationship between Islam and the state;
- open articulation and expression of Muslim concerns, while safeguarding the construct of Indonesia as a nation-state.

"Filipino Muslims and Issues of Governance in the Philippines: Some Thoughts by a Local Practitioner" is an article by **Datu Michael O. Mastura**, an eminent Muslim lawyer and writer from the southern part of the Philippines, as well as a former member of Congress. The author takes up the general theme of governance to provide an institutional framework for law reform and constitutional regime in

the Philippines and the areas inhabited by Muslims in the south of that country. His two most important conclusions are:

- There are manifold reasons for continuing political ties with Manila.
- The transitive process leading toward autonomy should first and foremost lead to a stop to political violence. He argues that the interest in outright independence would be substantially lessened and could eventually bring about an end to the conflict through some form of perpetual autonomy or self-governance.

The last article in this issue, “Uniquely Singapore: The Management of Islam in a Small Island Republic” is by **Suzaina Kadir**, an award-winning Singaporean sociologist, who is Senior Lecturer at the Lee Kuan Yew School of Public Policy in Singapore. In her article, she explores the dynamics of Singapore’s administration and management of its minority Muslim population, while also tracing the evolution of the state’s administration of Islam in the island republic. In order to enhance relations between the Singaporean state and the Muslim minority, she recommends the following:

- The state should allow a new set of Muslim elites to emerge.
- Muslim politics in Singapore require a careful balance between the administration of Islam and allowing space for Islamic society to reform itself from within. This may entail lesser centralisation and more space for greater pluralism within Islam.

This time ICR also features **six viewpoints**, which cover a variety of topics – from Islamic affinities to new sciences and technology, to an Islamic perspective on leadership, to novel approaches towards Malaysia–European Union relations, and the significance of propagating *Islam Hadhari* (Civilisational Islam) in Japan.

This issue also presents **five book reviews** and **four event and significant development reports**, one of them reporting on an important opening between Islam and Buddhism marked by the publication of a book forwarded by the Dalai Lama, Prince Ghazi and myself. There is also a report by myself of a workshop that I attended in Djibouti on a proposed new constitution for Somalia. Another event report is presented by Osman Bakar on the Round Table of the Perdana Leadership Foundation and the New Club of Paris, which was staged recently in Kuala Lumpur.

In closing, I would like to express my gratitude to all of our distinguished contributors as well as the IAIS Malaysia editorial committee and staff for their efforts and I look forward to their continued support.

**Mohammad Hashim Kamali**

Editor-in-Chief

## Notes

1. See the brief conference report by Christoph Marcinkowski in *Islam and Civilisational Renewal* 1, no. 4 (July 2010).
2. Presented by Deputy Prime Minister Tan Sri Dato' Muhyiddin Mohd Yassin.

## Corrigendum

*Islam and Civilisational Renewal* published in its April 2010 issue an article entitled “Implementing Islamic Law within a Modern Constitutional Framework: Challenges and Problems in Contemporary Malaysia”, which mentioned erroneously Salah El-Sheikh as its author. The author, however, is Dr Ahmad Fauzi Abdul Hamid, whose article was anonymously sent for a review to ICR by Abdurrahman Salleh, editor of *Islamic Studies*, that featured Dr A. Fauzi’s article, as we subsequently learned, in one of its 2009 issues. We regret and apologise for the unfortunate error. Dr Fauzi’s article was not meant to be carried by ICR. Subsequently, it also came to our attention that an earlier version of this article had appeared in *Islamic Studies* (Islamabad, Pakistan) in 2009.