

Islam and Civilisational Renewal

**A journal devoted to contemporary issues
and policy research**

**Special Issue:
The Family Institution in the Twenty-First Century
– Ideals and Realities**

Selected Papers from an International Conference of December 2010
(held with the Cooperation of the Malaysian Ministry of
Women, Family and Community Development)

Volume 3 • Number 1 • October 2011

Produced and distributed by



ISSN 2041-871X (Print)

ISSN 2041-8728 (Online)

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

CONTRIBUTIONS AND EDITORIAL CORRESPONDENCE

Notes to contributors and details of submission can be found at: ICR.plutojournals.org
Comments and suggestions as well as requests to contact one of the contributing authors can be emailed to the Managing Editor at: journals@iais.org.my

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EDITORIAL

This Special Issue of *Islam and Civilisational Renewal* carries selected papers from the ‘International Conference on the Family Institution in the Twenty-First Century: Ideals and Realities’, held at IAIS Malaysia on 13–14 December 2010. The event was jointly organised by IAIS Malaysia, the Institute of Islamic Understanding Malaysia (IKIM), Yayasan Pendidikan Islam (YPI), Yayasan Ubaidi, the Journalists and Writers Foundation, Istanbul, Turkey, the International Institute of Islamic Thought (IIIT), and the Malaysian Turkish Dialogue Society, and officiated by Senator Dato’ Sri Sharizat Abdul Jalil, Malaysia’s Minister of Women, Family and Community Development.

The two-day international conference was a parallel event to an earlier three-day international conference entitled ‘Family as a Value in Religion, Tradition, and Modernity’, held in Antalya on 26–27 November 2010. The aim of the Antalya conference was to go back to the roots of the family institution and the family values that are common to *all* religious traditions and cultures. The Kuala Lumpur conference was more focused in the sense that it dealt only with some of the themes that were discussed in Antalya. Moreover, it concentrated on the family traditions in Southeast Asia and their common challenges and problems.

The family is universally acknowledged as the most fundamental social unit and institution. As such its state and condition is of paramount importance to the development and progress of society as a whole. IAIS Malaysia, the main convener of the Kuala Lumpur conference, has as its core, long-term agenda the active pursuit of civilisational renewal (*tajdīd haḍārī*) in the twenty-first century. The stabilisation of the family institution and the restoration of its health and societal dynamism following the progressive degradation of traditional family values in modern times are completely in line with the objectives of the Kuala Lumpur conference. There is an urgent need to stem the tide of degradation of traditional family values and the family institution through identification of all the factors responsible for it and by formulating policies and programmes that will address them in the most effective way.

As a think-tank concerned with contemporary policy-oriented issues, particularly from the Islamic perspective, IAIS’ interest in the conference was to pursue a

balanced approach to family issues that would place practical considerations on a sound conceptual and theoretical understanding of the issues.

The following points had been among the **objectives of the conference**:

1. to assess the state and condition of the contemporary family institution, especially in Malaysia and Southeast Asian countries;
2. to identify the major challenges and problems, both ideological and practical, confronting family values and the family institution that have brought about their degradation and decline;
3. to help formulate national and regional policies and programmes that would address the above identified challenges and problems most effectively;
4. to learn lessons from the various experiences of Southeast Asian communities in family life in blending tradition with modernity; and
5. to submit to the relevant authorities practical recommendations on how best to deal with the numerous issues and problems impacting the family institution in our times.

The present issue of *Islam and Civilisational Renewal* then features **eight articles** which had been selected from the conference presentations:

The ‘focus article’ of this Special Issue, “Family Values, the Family Institution, and the Challenges of the Twenty-First Century: An Islamic Perspective”, is by Professor **Osman Bakar**, the Deputy CEO of IAIS Malaysia and Emeritus Professor of Philosophy of Science, University of Malaya, Kuala Lumpur. He discusses the concept of family and its values and its place and role as a multi-dimensional institution from the Islamic perspective. Among the most valuable suggestions of Professor Bakar’s article are the following three:

- more studies and research need to be taken on contemporary challenges faced by the family institution;
- eventually, a national Malaysian research institute is needed that is dedicated to the pursuit of intensive research on Islam and family values and the family institution; and
- it is important that policy makers in all fields of community and national development should take cognisance of the importance of good household governance or home economics to a healthy family life.

“Islamic Family Law Reform: Problems and Prospects” has been written by myself. The main purpose of this contribution is to visualise the broader picture of qur’ānic dispensations and the manner they are manifested in the *sharī’ah* and to provide a

brief outline of the higher objectives (*maqāṣid*) on family welfare and reproductive health. I have also provided an overview of twentieth-century Islamic law reform and identified some of the more challenging issues that call for further reform efforts. From among the several proposals made I would like to highlight here only two, which are perhaps the most important ones:

- reform measures and adjustment of the existing rules of Islamic jurisprudence (*fiqh*) on family welfare and women should be based on the broader guidelines of Qur'ān and *Sunnah* on fairness, human dignity and justice;
- the principle of selection (*takhayyur*) and cross fertilisation of ideas among the existing schools of *fiqh* offer flexibility that merits greater attention in the reform efforts especially of the Islamic laws of inheritance and bequest.

Zainab Alwani, Program Director and Adjunct Professor of Arabic Language Studies at Northern Virginia Community College and Adjunct Professor of Arabic Studies at the School of Advanced International Studies, Johns Hopkins University, United States, is the author of “The Qur'ānic Model on Social Change: Family Structure as a Method of Social Reform”. Her article argues that Islamic teachings regarding the family structure are unique in providing theoretical and practical answers to modern challenges and have the ability to reform any deviation. The author suggests that

- there is a need to negotiate some aspects of the scholastic rules of Islamic jurisprudence in light of the broader qur'ānic guidelines; and that
- the existing laws of some Muslim countries such as that of Egypt which stop short of reforming its divorce laws should be revised.

“Dysfunctional Families and Crime: Righting Wrongs” is an article by **Zaleha Kamaruddin**, the Deputy Director-General of the Malaysian Institute of Islamic Understanding (IKIM), Kuala Lumpur. As a social scientist, the author feels disturbed by the rise of violent crimes committed by youths, especially in Malaysia. She argues that these concerns need to be addressed seriously and comprehensively. Among her various recommendations are:

- curbing crime requires combined and concerted efforts by all parties – from neighbours to government agencies – in promoting a multi-agency approach in addressing the problem. Religious leaders from *all* faiths should be included;
- within the religious communities themselves, specific long term solutions would be to build up the inner strength of the faithful by inculcating religious and moral values. One of the most effective ways to do so would be through life-long learning.

“Gender Relations in Singapore Malay Dual-Income Households: (Un)Changing Perceptions and Practices” is a contribution by **Suriani Suratman**, Senior Lecturer at the Department of Malay Studies of the National University of Singapore. Her article shows that there are existing cultural perceptions of Malays regarding the roles of women and men in the family. She concludes that

- there are changing practices in contemporary Malay dual-income households in Singapore in terms of household and child-caring tasks;
- there are *unchanging* perceptions pertaining to notions of women’s and men’s work such as in the unequal distribution of labour;
- it is therefore imperative to take into account these normative guidelines of appropriate gender behaviour in an attempt to explain the persistence of an unequal division of labour.

Ömer Çaha, a Professor in the Department of Public Administration at Fatih University, Istanbul, Turkey, is the author of “The ‘Islamic Women’s’ Movement: Transition from the Private Domain to the Public Sphere”. His article focuses on the development of the Muslim women’s movement in Turkey, tracing its historical roots as well as its evolution toward two different understandings of women. He concludes that

- the ‘Islamic women’s’ movement not only undermined the culture and social pillars of the centuries-old tradition; and that, in his view,
- the ‘Islamic women’s’ movement developed an alternative manner of existence and self-realisation through a different and subjective identity and a system of values.

“Filial Piety in Confucianism and Islam: A Comparative Literary Analysis of Qur’ān, *Ḥadīth*, and Four Chinese Classics” has three authors: **Osman bin Abdullah (Chuah Hock Leng)** and **Abdul Salam Muhamad Shukri**, Associate Professors in the Department of *Uṣūl al-Dīn* and Comparative Religion, Kulliyah of Islamic Revealed Knowledge and Human Sciences, International Islamic University Malaysia (IIUM), and **Normala Othman** who is an Assistant Professor in the Department of English Language and Literature at the same university. This contribution tries to compare the teachings of Confucius and Islam, specifically *The Four Books*, which are authoritative works on Confucius, and the original sources of Islam, Qur’ān and *Sunnah*. The authors conclude that

- Confucian and Islamic teachings have their own ways to develop the personality, establish the family, and maintain the rules of a peaceful society, a peaceful nation and an empire. However, although the means to achieve them differ, the objectives are the same.

“Analogical Reasoning (*Qiyās*) and the Commodification of Women: Applying Commercial Concepts to the Marital Relationship in Islamic Law” is a contribution by **Mohammad Omar Farooq**, the Head of the Center for Islamic Finance at the Bahrain Institute of Banking and Finance (BIBF). He argues that the present generation of Islamic scholars, with women as scholars and jurists needs to follow in the footsteps of the original scholars of Islam by disregarding their mistakes and building on their successes as theirs’ has been a vital contribution to the systemisation of the various Islamic codes and laws. He observes that

- a forward-looking approach and perspective, guided by the Qur’ān and the Prophetic legacy, and enriched by the learning of the past becomes the present and future imperative. An essential foundation of this forward-looking approach has to be steadfast acknowledgement of the fundamental human dignity;
- human beings *cannot* be commodified: women or men cannot be owned and cannot be traded (bought and sold) and their rights and duties *must not* be framed in commercial exchanges or buy–sale type contracts.

This time we carry **five viewpoints**:

“The Greeting of Peace-Security (*al-Salām*“ *‘alaykum*): Uncovering the Basis of Islamic Peace” is by IAIS Principal Research Fellow **Karim D. Crow**. His piece continues a series of viewpoints of this journal on ‘Peace, Security, and Islam’.

“The *Sharī‘ah*’s Stand on Abandoned Children” by myself reviews the perspective of Islamic law with reference especially to a general consensus that it is a collective obligation (*fard al-kifāyah*) of the Muslim community to save abandoned children.

“The Blame-Game: The Politicisation of Western and Muslim Sexual Vices” is presented by IAIS Principal Research Fellow and Co-Chair of Publications, **Christoph Marcinkowski**, and addresses the often prevailing double-standards when discussing the supposed ‘moral decadence’ of ‘the Other’ by referring to recent rather shocking developments in one of Malaysia’s most prestigious Islamic institutions of higher learning.

“Contemporary Malaysian Families: Evidence-Based Interventions” – a bit longer than our usual Viewpoints due to this volume being a Special Issue on the family – by the Director General of Malaysia’s National Population and Family Development Board (NPFDB), **Aminah Abdul Rahman**, argues that family friendly policies should continue to be the main focus on strengthening the marriage and family institution, especially in a multicultural society such as Malaysia.

“The Dilemma of Abandoned Babies Needs a Unified Approach” by **Zarina Nalla**, IAIS Malaysia’s Project Development Consultant, suggests several comprehensive long-term solutions toward the currently prevailing ‘baby-abandonment crisis’ in Malaysia.

This issue also carries **six book reviews**, **two event reports** (among them one with recommendations from presentations not included in this issue from the ‘International Conference on the Family Institution in the Twenty-First Century: Ideals and Realities’), and **one interview** with renowned Professor John O. Voll – Professor of Islamic history and Associate Director of the Prince Alwaleed bin Talal Center for Muslim–Christian Understanding at Georgetown University, Washington DC, United States – on the future of Islamic Studies.

Last, we carry one obituary which commemorates the passing of a great scholar of Islam: Ibrahim Abu-Rabi’.

In closing, I would like to thank our authors and the IAIS Editorial Committee for their contributions and dedication.

Mohammad Hashim Kamali
Editor-in-Chief

Errata

In the previous issue’s article “Contemporary *Fiqh* in Singapore: Some Observations” by Muhammad Haniff Hassan and Sharifah Thuraiya S.A. Alhabshi two printing mistakes have occurred. The correct wording of those two passages is as follows:

- p. 697: “Superficiality of academic activities among religious teachers (*asātidhah*) and the Islamic community, as a result of lack of proper academic environment.”
- p. 703: “Active efforts to elevate the academic profiles of religious teachers by enabling them to obtain MAs or PhDs through various incentives and support need to be alleviated for the sake of producing more experts in various aspects of *fiqh*.”

We apologise to the authors.

The Editors

IN FOCUS

FAMILY VALUES, THE FAMILY INSTITUTION, AND THE CHALLENGES OF THE TWENTY-FIRST CENTURY: AN ISLAMIC PERSPECTIVE¹

*Osman Bakar**

Abstract: The main aim of this article is to discuss the concept of family and its values and its place and role as a multi-dimensional institution from the Islamic perspective. The author seeks to show that the Islamic family institution as envisaged by the Qur'ān and as practised by Muslims throughout the history of Islam is at once a religious, an educational, and a socio-economic institution. The family is first of all a religious institution since it is based on the principle of sacred marriage and it exists to serve as an instrument to help man realise the twin goals of his existence in accordance with God's cosmic plan. The twin goals in question are of servitude (*'ubūdiyyah*) and vicegerency (*khilāfah*) and equivalently of man's perfect relationship with God (*ḥablun min Allāh*) and man's perfect relationship with fellow men (*ḥablun min al-nās*). The author then discusses the role of the family as an educational institution in the sense of it being the first school for its children-dependants where basic religious and 'secular' knowledge are both provided. Next to be discussed is the family's role as a socio-economic institution with particular emphasis on household governance and economic health. This article emphasises the view that societal health, particularly its economic dimension, presupposes family health. A crisis in the family institution can have grave consequences on the well-being of society as a whole. Finally, the author discusses the challenges faced by the family institution in the twenty-first century and presents several recommendations on what needs to be done in response to these challenges.

Definitions and Meanings of Family: A Comparative Discussion

It is appropriate and proper to begin this discussion of family values and the family institution with the definitions of 'family' and explanations of its meanings.

* Osman Bakar is the Deputy CEO of IAIS Malaysia and Emeritus Professor of Philosophy of Science, University of Malaya, Kuala Lumpur.

Since this article is written in the English language, it is obviously necessary to explain the usage of the word ‘family’ in this language. Moreover, since the ideas of ‘family’, ‘family values’, and ‘the family institution’ are largely viewed here from the perspectives of the religion of Islam, it would be even more appropriate to begin the discussion of these fundamental ideas in human social thought with their definitions and explanations. This is so because in the Islamic intellectual and scholarly tradition, definitions are viewed as necessary intellectual tools that would help to give clarity to the ideas, concepts, and issues under discussion.²

A popular English dictionary gives seven different meanings of the word ‘family’.³ All of these meanings are reproduced here so that we can appreciate the wide range of its meanings and equivalently the wide range of its usage. Out of these different meanings the most apt for the purpose of this article would then be chosen. These meanings are the following:

1. all the people living in the same house; household;
2. (a) a social unit consisting of parents and the children they rear;
(b) the children of the same parents;
(c) one’s husband (or wife) and children;
3. a group of people related by ancestry or marriage; relatives;
4. all those claiming descent from a common ancestor; tribe or clan; lineage;
5. a criminal syndicate under a single leader such as a Mafia *family*;
6. a commune living in one household, especially under one head;
7. a group of things having a common source or similar features (specifically referring to things studied by biology, chemistry, and mathematics).

These meanings taken together comprehend all the different types of family known to exist especially in modern and post-modern Western societies. What is also captured in these meanings is the evolution of the idea of ‘family’ in Western culture and its diverse societal manifestations. There are many adjectives used to describe the family just to show that in contemporary human society there exist many different types of family. The range of family types embraces the following: the immediate or the household family; the extended family; the nuclear family; the tribal family; the human family; the political family.

Obviously, for the purpose of this article, some of the meanings mentioned above have to be excluded from discussion. The seventh meaning is excluded because it refers to the non-human family. The fifth meaning refers specifically to a criminal syndicate such as the Mafia family and is therefore outside the concern of this article. The third meaning could involve too big a group of people to consider for practical and policy purposes related to the family institution. This is how many people concerned with family values would react today whenever the issue of the

extended family is brought up even when its members do not live in the same house. But then Islam is interested in all levels of human relationships with the view of promoting human bonds, brotherhood and solidarity. Islam's interest in them is all the stronger when the human relationship is defined by a common ancestry and by marriage. From the Islamic social perspective, the further the extension of the boundaries of familial relations and the wider the web of relatives, the better it would be for society.

The third meaning of family is therefore of interest to Islam, defined as it is by blood relations (common ancestry) and relations through marriage. What we call relatives refer precisely to the group of people who are connected to each other through blood and marriage relations. There are of course near relatives and distant relatives depending on how close or how far we want to confine the relationship. In the case of the near relatives, because of their importance to the family institution, they feature prominently in a number of verses of the Qur'ān.

In theory, Islam affirms both the religious and the societal values of these relations which it sees as effective means of cementing the human bonds of brotherhood and solidarity. Islam would like to see these relations strengthened and accordingly the Qur'ān reminds the believers of the rights of their near relatives (*al-aqrabūn*)⁴ and of their obligations to be good to them. The following verse refers to the moral obligation of the believers to be good and to serve what is good to the near relatives:

Serve God and join not any partners with Him; and do good (*ihsān*) to parents, kinsfolk (*dhī 'l-qurbā*), orphans, those in need, neighbours who are near, neighbours who are strangers, the companion by your side, the wayfarer (you meet), and what your right hands possess: for God does not love the arrogant, the vainglorious.⁵

As for an example of verses speaking of the rights of the near relatives, we cite the following:

It is prescribed, when death approaches any of you, if he leaves any goods, that he makes a bequest (*al-waṣīyyah*) to parents and next of kin (*al-aqrabīn*), according to reasonable usage; this is due from the God-fearing.⁶

The two verses are cited just to show that, in the perspective of the Qur'ān, the near relatives (*al-aqrabūn*) have an important role to play in the family institution and in the strengthening of the social structure. In practice, however, like all other traditional family institutions, the traditional Islamic family institution has been impacted by modernisation, secularisation, and globalisation in adverse ways in all of its aspects, including the place and role of the near relatives in the larger family institution. The impact is not uniform throughout Muslim societies in the world. There are variations and it is still possible to see in some Muslim countries a visible social-cultural role played in the traditional manner by the near relatives in

accordance with the teachings of Islam. Even in a country such as Malaysia that has experienced modernisation and globalisation to a much greater degree than many other Muslim countries many of the traditional Islamic elements in the religious and societal roles of the near relatives are still quite strong.

The fourth meaning of family, which is closely related to the third meaning, is also of interest to Islam. In fact, in many Muslim societies today the idea of tribe and clan as an organising principle of social grouping is very much in currency. Tribes and clans are highly visible social groups in these societies. The idea of lineage emphasised in the fourth meaning of family is definitely closely associated with the socio-cultural identities of clans and tribes. It is closely related to the third meaning of family because it is established through blood relations. In Muslim societies the lineage tradition is known as the family *silsilah*. The tradition of recording and preserving one's family lineage or *silsilah* to the furthest ancestor possible is still being observed among many Muslims including in Malaysia.

The rest of the meanings – the first, the second, and the sixth – are all concerned with the central idea of the household. The common idea in the three meanings is the fact that all the members of the 'family' live together in the same house or under the same roof. It is in this sense that they constitute a household or domestic unit. But the relations that bind the members of the household are not the same in the three cases. In the sixth meaning of family, the governing idea of the relations between the members of the household is the identity and character of a commune. Before we decide on the relative worth of this sixth meaning to our overall discussion of family values and the family institution there is a need to explain the meaning of commune.

The word *commune* in English is derived from the Latin 'to *commune*', itself from the old and medieval French *communer* meaning "to share" and "to render available to all".⁷ But the word has come over time to acquire a number of meanings, including a religious one. However, there seems to be only one modern meaning or sense of 'commune' that comes close to the sixth meaning of family. According to this particular meaning, 'commune' is "a small community whose members share common interests, work and income and often own property collectively".⁸ With reference to the social entity 'commune' mentioned in the sixth meaning of family it is more specific than the commune understood above. This more specific commune lives in a single household usually under one leader.

The nearest Muslim equivalent to this 'household commune' is known to exist in the Malay world and in some other Muslim societies and it is of two types. In the first type, the elder parents live together in the same big house with the families of their adult sons and daughters. They are known to share their means of livelihood and their incomes and also to share cultivated lands and other properties such as livestock. When the elder parents are still alive they provide the spiritual and moral

leadership for all the families living in the household. After their deaths it is usually the eldest son who will assume the role of leadership. This type of household then comprises several family units which are bonded together by the nearest blood relations. It is precisely an extended family living together in the same household. In other words, it is a commune of the closest relatives and its nature and characteristics are significantly influenced by Islamic teachings on the values of the extended family. We may also speak of this kind of commune or household as the Muslim version of the Iban longhouse in the Malaysian state of Sarawak, in Borneo. It is a type of commune that is fast disappearing although it has not yet died out completely.

The second type of the Muslim version of the same household commune is one in which the members of the household are bonded together not through blood relations but rather spiritual relations. The Sufi communes are the best example of this type of single household commune that is partitioned into living cells for its members. But it is rare to find Sufi communes that would resemble a modern apartment block in its space organisation if not in appearance. The normal feature of the Sufi communes is not the single household type but rather a small community of members of the Sufi Order in question and their families living together with its spiritual leader but in different houses. The commune lives in a plot of land large enough to be inhabited by hundreds of its members and that is equipped with such facilities as a prayer-cum-spiritual activities hall, a school, a clinic, and a grocery. The neo-Sufi commune of the *Darul Arqam* group located in the Kuala Lumpur suburb of Sungai Penchala which flourished in the 1970s but which was later disbanded by the authorities on charges of deviationist religious teachings was precisely such a kind of spiritual commune.

Sufi communes have their ups and downs in the history of Islam and their tides tend to go parallel with the rise and decline of Sufism. So it would be difficult to predict the future fate of the Sufi communes. Right now, Sufi communes flourish in many Western countries with their members consisting mainly of white men and women as more Westerners embrace Islam through Sufism. Many members of these communes also raise families, and there is no doubt that their views of family values are very much influenced by Sufi teachings. But what can be said generally is that Sufi teachings and the social institution of Sufi communes have played their roles in the past in influencing various aspects of the Islamic family institution. Notwithstanding the importance of these past roles of the Sufi communes this article will not discuss any further the significance of the Sufi communes to the larger Muslim community.

The foregoing discussion leaves us with two more meanings of family to be considered, namely the first and the second. But then in the context of this article these two meanings constitute the most important of them all. If we may recall, the first meaning of family refers to a household comprising all the people living in the

same house. This is the commonest type of family but it has sub-types. Relations between the members of the family could vary from one household to another and these different relations give rise to different sub-types. In most cases in this type of household, its members consist of biological parents and their children whom they rear and educate until they are married and have jobs of their own. This so-called 'nuclear family' may have a servant as part of the household. In much fewer cases the household members may include the near relatives particularly grandparents on both maternal and paternal sides. This sort of household would then refer to what is normally called an extended family. In some other cases, some or all of the dependent children are either adopted or foster children.

Yet another sub-type that fits the description of the first meaning of family is the single-parent family. The household comprises either the father or the mother as the sole parent and the children regardless of whether the children are the offspring of the parent or otherwise. The single-parent family is on the rise mainly because of the increase in divorces and broken marriages. In explaining these various sub-types of the family household in which all of its members live in the same house we see that there is an overlap between the first and second meanings of family. The three sub-types of the second meaning are easily seen as included among the sub-types of the first meaning.

In viewing from the Islamic perspective the whole range of family types and sub-types that have been discussed it could be said that, except for the usage of the word family to Mafia-style criminal syndicates as indicated in the fifth meaning, none of them is objectionable if only the shape and form of the family type is being considered. What could be an issue is the nature of the relationships that exist between the members of each family unit or household type. Islam would insist that these relationships be governed by the ethical-legal principles embodied in the Islamic law (*sharī'ah*). Central to these manifold-relationships is the issue of whether or not the parents are legally married according to Islamic law.

There are related family issues that are of concern to the *sharī'ah*. These pertain among others to the biological status of the relationship between the parent(s) and the children whom they rear, which impinge on the issues of possible adoption and fosterage. The issue of this status will in turn have implications for the rights of inheritance. Marriage, biological parents or otherwise to the children they rear, adopted children, fosterage, and parental responsibilities are all important family issues especially of our times and they are all of concern to Islamic law.

The issue of the extended family type, by virtue of its traditional significance to the family institution, deserves a separate discussion. In Malaysia nowadays, for example, fewer and fewer of the children's grandparents, if they are still alive, live with the family even in the rural areas. The social phenomenon of more and more grandparents living alone by themselves a distance away from their children and

grandchildren is growing. Although many families try to keep the family bonds strong through exchanges of social visits between the family and the grandparents, the opportunities for which religion and culture in fact provide in abundance, the traditional bonds are gradually weakening under the strong pressure of modern life. The traditional role of grandparents in helping to maintain and even enhance family and thus social cohesion is declining. With this traditional role declining, the positive family values associated with that role are also corroding.

Unfortunately, modern society has not come up till now with any new meaningful role mechanism to strengthen family cohesion to replace the traditional role of grandparents, if indeed it is prepared to accept its disappearance from the social scene altogether. But the Qur'ān seeks to put in place a social structure in which grandparents – as parents of the husband and wife or the father and mother who are the heads of the family in view – could still have a role to play in the ageing or the senior citizen phase of their life in helping to preserve and enhance family values and the family institution. One of the ways prescribed by the Qur'ān to ensure such a social structure is to institutionalise the societal value of grandparents through the immediate family's moral and material obligations. One verse refers to the believer's personal moral obligation to treat parents and kindred kindly:

And remember We took a covenant from the children of Israel (to this effect): worship none but God; treat with kindness your parents and kindred, and orphans and those in need; speak fair to the people; be steadfast in prayer; and practice regular charity.⁹

Another verse refers to the believer's personal moral obligation to spend part of one's earnings for the near relatives:

It is not righteousness that you turn your faces towards the East or West; but it is righteousness to believe in God 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, and for the ransom of slaves; to be steadfast in prayer, and practice regular charity; to fulfil the contracts which you have made; and to be firm and patient, in pain (or suffering) and adversity, and throughout all periods of panic. Such are the people of truth and the God-fearing.¹⁰

The two verses quoted above clearly show that of all acts of kindness and charity it is one's kindness and respect to parents and kindred that merit the highest praise in the sight of God and that are therefore considered as the most excellent charitable acts. In the first verse, treating parents and kindred with kindness is mentioned ahead of all the good acts and comes only next to the practice of *tawhīd*, i.e. the worship of God alone. Similarly, in the second verse the act of spending of one's substance for one's kin comes immediately after belief in five of the six articles of faith to head the list of virtuous and righteous acts cherished by all religions, particularly Islam.

In both verses, the moral calling to the believers to treat parents and kindred with love, respect, kindness and dignity, if heeded, would greatly benefit both the grandparents and the family in question. If the spirit of each verse is observed, grandparents would benefit from the parents of the family by virtue of their being parents to them. They would also benefit from the children in the family by virtue of their being kindred to them. As for the household family members, their ability to treat and serve grandparents well will only serve to strengthen the family institution and society not to mention they themselves. One can only truly appreciate the wisdom and the virtues inherent in the structural familial relations interconnecting the three generations – the children, the parents, and the grandparents – if one actually sees these relations in their practical shapes as demonstrated in the daily family life.

Apart from the role of grandparents, there was the invaluable role of the nearest relatives such as uncles and aunties and first and even more distant cousins. Traditionally, the family according to the first meaning used to live close to the near relatives who often provide informal educational advice and moral support especially in times of real need such as when family problems and disputes arise. The Qur'ān recognises the role that near relatives can play in cementing family bonds when it refers to the settling of marriage disputes with their help:

If you fear a breach between the two [i.e. husband and wife in dispute] appoint arbiters, one from his family, and the other from hers; if they wish for peace, God will cause their reconciliation: for God has full knowledge, and is acquainted with all things.¹¹

Responding to this qur'ānic sanction of the traditional way of settling family disputes, a modern commentator on the Qur'ān emphasises the following:

An excellent plan for settling family disputes, without too much publicity or mud-throwing, or resort to the chicaneries of the law. The Latin countries recognise this plan in their legal systems. It is a pity that Muslims do not resort to it universally, as they should. The arbiters from each family would know the idiosyncrasies of both parties, and would be able, with God's help to effect a real reconciliation.¹²

Given the family and societal values embedded in the traditional roles of grandparents and the near relatives, it is important to redress the problems arising from the loss of the traditional physical nearness in the relations between the family and near relatives by looking for some forms of compensation for this loss that modern life and its facilities could provide. It is a difficult problem to solve, but finding a replacement for the loss in question is worth trying since the family institution and therefore society as well have suffered a great deal from the consequences of this loss.

Family: Islamic Terminological Usage

Thus far, our discussion of the meanings of family is based on its Western notion and social experience and on the usage of the word ‘family’ in the English language. However, in the course of the discussion, wherever and whenever appropriate, we have tried to provide an Islamic view of the thing or issue under consideration. This Islamic response or critique is necessary because the idea of family and the words used in various human languages to denote it are usually understood and applied in different philosophical and cultural contexts of human relationships. The discussion in the previous section has highlighted some aspects of the human relationships that ought to shape and characterise family values and the family institution as seen from the Islamic perspective.

In Arabic and other languages of the Muslim peoples there are many words used to convey the meanings of family, familial relations, and family values. A detailed study of linguistic testimonies to the richness of ideas and concepts in the centuries-long Islamic discourses on family values and the family institution is beyond the scope of this article. Suffice for us to refer to the words used in the Qur’ān for family. One of these words is *ahl* which like the English word family has many meanings, both specific and general. According to classical Arabic lexicologists, the word has undergone evolution in its meanings thereby acquiring its present wide range of meanings.¹³

The word *ahl* originally conveyed the basic idea and meaning of ‘the people of a house or dwelling’ (*ahl al-bayt*), and ‘people’ are understood to mean man’s cohabitants of the particular dwelling in question. The word is then extended in meaning to embrace the ideas of larger dwellings. Since a dwelling can be a house, a town, or a country, the word *ahl* may refer to the people or inhabitants of any of these dwellings: *ahl al-bayt* (‘people of the house’); *ahl al-qurā* (‘people of the town’); and *ahl al-balad* (‘people of the country’).¹⁴ The idea of *ahl al-bayt* was extended to include also relations, particularly near relatives, who did not necessarily live in the same house. Thus the pre-Islamic usage of the term covered the meaning of not only the nearest relatives but also of one’s clan.

It should be pointed out, however, that the Qur’ān uses the same term *ahl* to refer to different concentric family circles with their respective degrees of nearness to the ‘immediate family’ as the context of the verse in question would tell us. In our efforts to arrive at the precise meaning of *ahl* as used in the verse in question it is therefore important that we understand the context of its usage. This particular feature of the qur’ānic usage of the term *ahl* is now illustrated with references to just two of the relevant verses. In the following verse, it is the specific and limited meaning of *ahl* that is sought to be emphasised:

O you who believe! Save yourselves and your families (*ahlikum*) from a fire whose fuel is men and stones, over which are (appointed) angels stern (and) severe, who flinch not (from executing) the commands they receive from God, but do (precisely) what they are commanded.¹⁵

This verse reminds the believers that it is their religious duty to save their respective families from hell fire. Although the term *ahl* can take more general meanings to denote also people who share similarities such as one's larger family circles (*al-aqrabūn*), one's race, religion, and occupation as well as "dependants" in the most comprehensive sense of the word, as pointed out by many classical commentators of the Qur'ān,¹⁶ it is the believer's immediate family that this verse seeks to emphasise. Salvation of the dependants from hell fire would generally demand from their guardians the kind of guidance and educational care that could only be provided in an environment of relationships such as the one existing between guardians and dependants in a close family. This particular interpretation of *ahl* in the verse does not imply in any way limiting the believer's spiritual duty in providing guidance in the path of salvation to the immediate family alone for that would be contrary to the inclusive spirit of Islam.

However, in another verse (4:35) in which the term *ahl* occurs and which was earlier quoted in connection with the appointment of arbiters to help peacefully resolve marriage disputes – a family member from each of the husband's and the wife's sides – it is the wider family of near relatives that the verse has in mind.

In particular reference to the term *ahl al-bayt*, the Qur'ān mentions it only twice and in each case it is referring to a specific family. In other words, it does not use the term in the general sense of any family household. In one verse it clearly refers to the Prophet Muḥammad's family.¹⁷ But in another, it refers to just the Prophet Abraham and his wife, Sarah¹⁸ who although still childless at the point of time in question were given the good news that she was going to be a mother.¹⁹ Since *ahl al-bayt* is primarily understood as referring to the household or the nearest family, the qur'ānic reference to Abraham and Sarah as *ahl al-bayt* means that the minimum number of family members is two.

In light of the discussion on 'people of the household' in the foregoing pages, the term *ahl al-bayt* may therefore be understood at three different levels of meaning. First, the term refers to the 'people of the house' understood generally, that is, the idea of family household with its members related to each other in a number of ways. Second, as a particular case of the first, the term refers to the 'immediate' family by which is meant the smallest social unit to be governed by marriage and close blood relationship. In other words, the immediate family comprises at least the legally married couple or more generally, they and their dependent children who are usually their offspring but sometimes include the adopted or fosters and

also servants. And third, the term refers specifically to the Prophet's family as the Muslims, both the Sunnis and the Shiites alike, generally would whenever they use the term.

However, the scope of membership of the Prophet's *ahl al-bayt* is in dispute. The mainstream Sunni interpretation of it includes his wives, his daughter, Fāṭimah, his cousin and Fāṭimah's husband, 'Ali and their children, al-Ḥasan and al-Ḥusayn. Many Sunnis extend the membership of *ahl al-bayt* to all descendants of the Prophet. The general Shiite interpretation, on the other hand, favours a more exclusive *ahl al-bayt* limiting its members to the above names except the Prophet's wives and to the *Imāms* who were Fāṭimah's descendants. It does not serve the purpose of this article to delve into these inter- as well as intra-*madhhab* disputes especially when in these disputes intricate issues of membership are raised. Suffice to say that there are many points of agreement between the Sunnis and the Shiites regarding the membership and the merits of the *ahl al-bayt*.

All Muslims agree that the Prophet's household occupies a very special and unique place in Islamic history. Moreover, from the point of view of the Qur'ān as made clear in a verse earlier quoted, God Himself has honoured the Prophet's household (*ahl al-bayt*) by "purifying them". Historically, his descendants played a central role in the spread of the religion of Islam to the four corners of the globe and in providing both spiritual and political leaderships to the various branches of the Muslim *ummah*. In discussing family values and the family institution in Islam, it is their virtues, their spiritual and moral qualities, and their family role models that should be of supreme interest and utmost concern to the contemporary Muslim *ummah*.

The Qur'ān also uses the word *ahl* in connection with town dwellers. It relates many stories about the collective fates of the inhabitants of towns in the distant past, especially in connection with their persistent wrongdoings that were to inevitably lead to the destruction of their community. In most of these references, the Qur'ān does not explicitly use the composite term *ahl al-qurā* but nonetheless there are verses in which both the terms *ahl* and *al-qurā* are mentioned together though separately, to signify "the people of the town". The following verse is an example:

And so it is that your Lord would never destroy a town (*al-qurā*) for its wrongdoing while its people (*ahluhā*) are still unaware [of the meaning of right and wrong].²⁰

The meanings of *ahl* became wider as the usage of the term was later extended to include references to the fellow-members of one race, of one religion, and of one craft or art or profession. Thus, we have, for example, the term *ahl al-islām* meaning those who follow the religion of Islam, the term *ahl al-qur'ān* ('those who believe in the Qur'ān and practise its teachings'), and the term *ahl al-kitāb* ('people of the scriptures'). The first two terms are not found in the Qur'ān but the last term

occurs in it many times in varying contexts. One of the most often quoted verses concerning the *ahl al-kitāb* is the following:

Say: "O People of the Book (*ahl al-kitāb*)! Come to common terms as between us and you: that we worship none but God; and that we shall not ascribe divinity to aught beside Him; and that we shall not take human beings for our lords and patrons beside God." And if they turn away, then say: "Bear witness that it is we who have surrendered ourselves unto Him."²¹

This verse has become exceptionally well-known in recent years among the Christians and the Muslims following the so-called "Common Word" dialogue between the leading representatives of the two major religious communities of the world on the basis of its message of mutual understanding, common spiritual duties and responsibilities, and the common good extended to the People of the Book, of whom the global Christian community is the largest component.²²

In yet another of its usages, the term *ahl* signifies the possessors or owners of property and titles of respect or those who are entitled to be duly regarded or to be given the trust and responsibility:²³ for example, the terms *ahl al-‘ilm* ('possessors of knowledge'); *ahl al-taqwā wa ahl al-maghfirah* as mentioned in the Qur'ān in reference to God as the Lord of righteousness and the Lord of forgiveness;²⁴ and *ahl al-dhimmah* ('non-Muslim possessors of covenants or compacts with the Muslims').

On the basis of our discussion of the term *ahl* in this section, it is quite clear that both this term and the English term *family* convey many similar ideas and meanings. But it is also clear that from the Islamic point of view, the term *ahl* possesses a wider significance for our discussion of family values and the family institution. The significance lies in the fact that the term *ahl* occurs many times in the Qur'ān with different meanings and in different contexts in such ways as to convey a comprehensive and coherent social philosophy. An examination of the term's usages in the Qur'ān shows that these pertain to all kinds of human social groups and collectivities with the corresponding human relationships that bind their respective fellow-members. In particular, the qur'ānic *ahl* conveys the idea of familial relationships at various levels on the basis of blood relations as implied, for example, by the term *ahl al-bayt*, and its semantic field centred on this idea is then expanded to embrace social groups with 'familial relations' based on non-blood relations, particularly the ideological and the religious as implied by the term *ahl al-kitāb*. The term *ahl al-bayt* may be viewed as the presiding social idea that generates all other ideas related to the wider family circles, familial relations, and family institutions.

If semantically speaking, the idea of family household plays the central role as the generator of ideas and meanings of family and familial relations at all levels and in all their aspects and dimensions, then this consideration alone would be enough

of a basis to justify the claim that, socially and institutionally speaking, the family household is the most fundamental human social institution to ensure order and stability in society.

Another Arabic term for family is *āl*. In the Qur'ān, there is, for example, reference to the family of 'Imrān (*āl 'Imrān*) which is in fact the title of one of its chapters.²⁵ Some classical Arabic lexicologists tried to distinguish between the meanings of *ahl* and *āl* both in reference to family in the following way: while *ahl* refers to blood relations in general, *āl* refers specifically to blood relations that have followers.²⁶ The qur'ānic usage of the term *āl* in its reference to the family of 'Imrān (*āl 'Imrān*)²⁷ and the family of Abraham (*āl Ibrāhīm*),²⁸ is therefore in line with the above distinction made by the lexicologists. We know very well from the Qur'ān itself that each immediate family has members and relations and their respective descendants that have many followers.²⁹ In fact, from the two families have come all the prophets that were common to the Jewish–Christian–Muslim religious traditions.

The use of the term *āl* in reference to the Prophet Muḥammad's household (*āl al-bayt*), apart from the term *ahl al-bayt*, is also to be understood and appreciated in the sense just defined. The Prophet's household has descendants who are known in their capacities as spiritual and political leaders to have many followers among mankind. He has also close relatives with some of their descendants emerging as leaders in various parts of the Islamic world.

The term *āl* is thus of special significance to our discussion on family values and the family institution when seen from the point of view of the role of divinely chosen families in the spiritual and religious history of mankind. Another term for family, *usrah*, does not occur in the Qur'ān but it finds wider usage in modern Arabic. In classical Arabic lexicology, the term conveys the specific meaning of "a man's nearer, or nearest relations on his father's side" and the slightly wider meaning of "a man's near kinsmen."³⁰ Modern and contemporary Arabic retains the term *usrah* in its second classical meaning when referring to the immediate household family. Meaning-wise, *usrah* may therefore be viewed as a sub-relation of the qur'ānic *ahl*.

Interestingly, in modern times the word *usrah* has found a new usage to mean a family-style religious study group or circle that is especially popular among the Islamic movements. With these movements such as the Muslim Brotherhood (*al-Ikhwān al-Muslimūn*) that is influential in the Arab world each *usrah* unit is not simply a study group that seeks to deepen the understanding of Islam among its members. It is also a social unit that models after the household family in terms of the inculcation of familial relations such as nearness in mutual love and mutual help, interdependence, and brotherhood except that in its case the relations that bind its members together are not by blood but are ideological in nature as defined by the social teachings of Islam. It seeks to serve as a kind of living spiritual cell of the

movement in question which in tandem with other cells will not only strengthen the movement's body but also help to create the nucleus of the Islamic social order-to-be as envisaged by the movement's leaders.

In Malaysia, among the Malay-Muslim community, the word *usrah* is generally understood to mean a religious study group with its members coming either from a close neighbourhood or a particular organisation or a close circle of friends. But inasmuch as the *usrah* is viewed as a religious activity and a religious network that seeks inspiration from the traditional Islamic family values and the family institution as well as from Islam's social teachings, there is increasing recognition in the Muslim community that this new religious-social phenomenon has helped to strengthen the family institution.

The Family Institution: Its Historical Origin and Developments

According to Islamic and many other religious traditions, the origin of the human family can be traced back to the first man, the first female who was his wife, and their children. The first human couple, known in the Abrahamic religious traditions as Adam and Eve,³¹ were bonded in a sacred marriage as husband and wife and they bore and raised children.³² They were the earliest members of the human species and they constituted the first human family of whom all human beings are their descendants.³³ God has created Adam and Eve to be the ancestors of the human species. We may therefore assert that, from the qur'ānic point of view, the family institution is of divine origin.

The first human family comprised Adam the father and Eve the mother as the parents and their children. This 'Adamic family' is the prototype of the traditional human family. Developmental-wise, the traditional family institution anchored on the principle of sacred marriage and parents-dependants relationships prescribed by religion has been sustained over the ages by a series of divine revelations to the different branches of humanity, of which the divine law is an essential component. The preservation of the traditional family institution is one of the higher objectives of all divinely revealed laws of which the Islamic law (*sharī'ah*) is only the last. As an established social institution, the traditional family has emerged as the product of a combination of divine guidance and human efforts.

The traditional household has evolved from the nomadic type (*badawī*) to the settled urban type (*haḍārī*). History has shown that the rise and fall of civilisations is not independent of the development of the family institution. On the contrary, the healthy state of the family institution and its stability are known to be a significant contributory factor to the rise of various human civilisations. The opposite is also true: the decline and corruption of the family institution in a civilisation has

significantly contributed to the fall of that civilisation. This close interdependence between the fates of the two entities is not surprising given the universal acknowledgement that the family unit constitutes the most fundamental social institution in any society.

The family institution has faced challenges many times before in human history. The first major crisis in familial relations in history inflicted the first human family itself when Adam's elder son, Cain murdered his younger brother, Abel. The Qur'ān devoted a long passage to the story of the murder with the view of sending home a universal moral message to humanity on the meaning and consequences of taking an innocent human life.³⁴ But as can be seen in a later section, it is perhaps in the modern and contemporary world that the family institution has suffered its worst crisis in history. Many factors contributed to this crisis but at this point we just wish to highlight the fact that the acute crisis in the family institution of modern times happens not only because of the widespread failures in society to observe family values but also because modern man has a radically different view about his origin and who he is, which stands opposed to the traditional religious view. The new view has the effect of undermining the traditional family values and relationships on which the family institution greatly depends.

It is important to keep in view this ideological challenge to the traditional family institution if we wish to understand why the institution is in acute crisis in modern times. There are modern theories of the origin of the family that are largely based on the perspectives of modern science. In these theories, the origin of the human family is viewed as a philosophical-scientific issue that is conceptually closely related to the issue of the origin of the first man and the first woman. The issue of both the origin of the first man and the origin of the first family is a problematic one and, objectively speaking, we do not think that it has been explained in a satisfactory and convincing manner. In contrast to Islamic philosophical and scientific perspectives which take into account divinely revealed data, modern science tries to explain both the origins by appealing to physical and cultural evolutions of human life without recourse to divine roles. These so-called explanations are more apt to be described as beliefs or conjectures on the basis of scanty evidence rather than as true scientific facts that stand on solid arguments.

But since their inceptions in the nineteenth century the modern theories of biological and cultural evolutions have developed with a devastating impact on the modern man's attitudes towards family values and the family institution as taught by the traditional religions. In the eyes of many people in the modern world these modern theories have devalued the traditional family institution. The traditional family values and the nature and characteristics of the family institution that embody these values are explained in the following section.

The Family as a Religious Institution

From the perspective of the Qur'ān the family institution is divinely sanctioned. It is a multi-dimensional institution and yet a unitary and holistic one in conformity with the principle of *al-tawhīd* (principle of unity), which is Islam's core teaching. It is at once a religious, a socio-economic, and an educational institution. But, without doubt, the family is viewed in Islam first and foremost as a religious institution provided of course that we understand the word 'religious' in a broad sense as indeed stipulated by the Qur'ān. In the Islamic understanding, the essential components of the family institution are sacred marriage, parenting and parenthood, parents–children relationship, and inter-siblings relationship. The Qur'ān also prescribes obligations of the family household towards the near relatives and the Muslim *ummah* and the society at large. The duties and responsibilities of the household towards the near relatives have been discussed briefly earlier.

A religiously sanctioned marriage between the parents represents the most important component and dimension of the family. The Qur'ān makes clear the divine role in the institutionalisation of marriage and family and the ultimate purpose of these so-called social institutions. The ultimate purpose of marriage is a spiritual one. Marriage is an integral part of God's plan to populate the planet earth with the human species with the view of fulfilling the purpose of human life in this world as a preparation for the posthumous life. The Qur'ān says:

O mankind! Reverence your Guardian-Lord who created you from a single person, created, of like nature, his mate, and out of the two scattered a multitude of men and women; and reverence God through whom you demand your mutual [rights] and [reverence] the wombs [that bore you]. Verily, God is ever watchful over you.³⁵

Apart from telling us about the general purpose of the creation of males and females with a similar human nature to produce offspring that will populate the planet earth, this verse also informs us about the need of husbands and wives to demand their mutual rights through God, meaning through His revealed religion, and by extension the mutual rights of guardian-parents and the dependent children. The verse further reminds us human beings to respect the female wombs that bore us. This reminder is of particular significance to our present times given the widespread wrongful practice of abortions on the premise popularised by Western – and increasingly also Malaysian and other Asian, one should like to add – feminists that “I can do whatever I like to *my* body.”³⁶ From the Islamic point of view, this feminist claim is of course unacceptable since the human body has its rights and duties.³⁷ Moreover, metaphysically speaking our body is not totally ours: it is given to us as a trust from God.

In another verse the Qur'ān speaks of the creation of males and females with natures that are conducive to the cultivation of inner peace and love between husband and wife and their marriage relationship results in them having children upon whom they pray for God's blessing:

It is He who created you from a single person, and made his mate of like nature, in order that he might dwell with her [in love]. When they are united, she bears a light burden and carries it about [unnoticed]. When she grows heavy, they both pray to God their Lord [saying]: "If You give us a goodly child, we vow we shall [ever] be grateful."³⁸

It is a common practice among Muslim couples to pray to God that they be blessed with good and pious children and thus with a good family. The married couple is to play the roles of husband and wife and of parents-to-be, that is, as a father-to-be and as a mother-to-be. Islam provides abundant teachings and guidelines for the newly married couples to learn about these roles and to execute them effectively as the need arises. Traditional marriage is one that is realised between the opposite sexes, that is, between males and females. A very important point to be emphasised here is the sacredness of marriage. Marriage is viewed by religion as sacred because it is a multi-faceted relationship that is mutually accepted and realised by the married couple in the Name of God and His religion.

The husband–wife couple and subsequently the father–mother parents have mutual rights and responsibilities and complementary roles to play,³⁹ the most fundamental of which are stipulated in Islamic law (*sharī'ah*). As previously emphasised, one of the main purposes of marriage, according to the Qur'ān, is to produce children and therefore to produce a family. The family serves as a social agent to sustain progeny within a spiritual and religious framework: the protection of progeny (*hifẓ al-nasl*) is generally considered by Muslim scholars as one of the higher objectives of Islamic law (*maqāṣid al-sharī'ah*).

Not only has God ordained marriage but He has also created favourable conditions and revealed adequate guidance for the realisation of a stable and healthy marriage.⁴⁰ He established relationships of lineage (*nasab*) and marriage.⁴¹ Moreover, He wants marriage to be one of His signs, particularly of His wisdom and power, and this sign is to be displayed through the attainment of rest and tranquillity (*sakīnah*) and love and mercy (*mawaddah wa raḥmah*) in the relationship between husband and wife.⁴² Islamic social teachings in general and its spiritual psychology in particular seem to emphasise the idea that inner peace and love, rest and tranquillity are usually found in the normal relations of a father and a mother living together and bringing up a family. A special kind of love and tenderness exists between married man and women not found in other forms of relationships.⁴³

Same-gender sexual relationship, which is becoming more prevalent in our times, is viewed by Islamic (as well as Christian and Jewish) religious teachings

as abnormal. As such it cannot be a norm for the organisation of a healthy human society. Marriage in the traditional Islamic sense is to regulate human sexual life with the view of attaining success and prosperity in this societal life and in posthumous life.⁴⁴ The role of marriage in religious and spiritual life is singularly emphasised by the Prophet Muḥammad when he uttered the famous phrase that ‘marriage is half of religion’.

From the Islamic point of view, the place and role of the family as both a religious and a social institution could be strengthened with the help of extended familial relationships. Thus the Qur’ān gives due recognition to the positive role of the near relatives (*dhī ’l-qurbā*) in helping to cement marriage and family relationships.⁴⁵ It emphasises the teaching that blood relations among people have closer personal ties in the decree of Allah than the brotherhood of believers and the emigrants (*al-muhājirūn*).⁴⁶

The fundamental religious role of the family is to create a human environment conducive to spiritual and moral education for self-improvement and for both individual and collective success in society. Family members are to help each other in the attainment of salvation (both societal and posthumous) through living an individual and a collective life in accordance with Islamic spiritual and ethical-moral teachings.

The family is also seen in Islam as a kind of divine instrument. It exists to serve as an instrument to help each of its members to realise the twin goals of their existence in accordance with God’s cosmic plan. The twin goals of man’s existence are his servitude to God (‘*ubūdiyyah*) and the fulfilment of his cosmic and societal roles as God’s representative (*khalīfah*) on earth. Equivalently, these are the twin goals of realising man’s perfect relationship with God (*ḥablū min Allāh*) and realising man’s perfect relationship with fellow men (*ḥablū min al-nās*). These roles apply to all families. But the Qur’ān also explicitly refers to the instrumental roles of what we may call divinely ‘chosen families’ in human history. This is the Islamic idea of the ‘chosen family’ as a divine instrument in the spread and practical realisation of His messages. Already referred to, are the roles of the family of Prophet Abraham, the family of ‘Imrān, and the family of Prophet Muḥammad in human history.

The Family as a Socio-Economic Institution

It is universally acknowledged that the family easily stands as the most fundamental social unit and institution. The family is certainly absolutely necessary insofar as the human pursuit of the twin goals of man’s existence is concerned. The family is needed to ensure a sustained societal health and well-being. Societal health presupposes family health. The relation of the family to society is analogous to the relation of each biological cell to the whole body of which it is a part. The

family health is comprised of three fundamental components: the religious, the educational, and the economic. The Qur'ān's instruction to the believers to protect their respective families from hell-fire alluded to earlier, means that it is the duty of the parents to ensure that religious health prevails in family life. The parents themselves must have the obligatory (*farḍ al-'ayn*) knowledge that would enable them to discharge their religious duties as a Muslim and as parents. Although parents can provide basic religious education to their dependants through the help of others outside the family, it would be better that they themselves provide the religious guidance since parental examples in moral conduct would have a better impact on the children.

After religious health it is perhaps educational health that would be next in importance to the overall family health. The religious and educational dimensions of family health are closely intertwined. The children's early education at home is basically religious in nature. But parental guidance has also to be provided to the growing up children so as to prepare themselves for the various levels of schooling in pursuit of 'secular' knowledge and the challenges from their exposures to societal life. In a sense, we may speak of three levels of schooling through which every child has to undergo: the home as the first school with parents as teachers; the 'official school' as the second school with its official teachers; and the community or society as the open school without designated teachers. How children fare themselves in the last two levels of schooling, especially morally speaking, would depend very much on the effectiveness of their religious education at the home school. This underscores the great importance of parental guidance in home religious education which is very much lacking in many of today's Muslim families.

As for economic health, it is important to the family's well-being and it results from good household governance (*tadbīr al-manzil*). It is maintained in traditional Islamic social philosophy that household governance (*tadbīr al-manzil*), which is primarily economic-financial in nature, is a major contributor to a society's economic well-being. It is of much significance in this connection that in traditional Islamic thought economic science has been referred to as '*ilm tadbīr al-manzil* (science of household governance). The implication of this terminology is that the family has an important social role to play in helping society to attain economic health.⁴⁷ The converse is equally true and this truth is not lost to modern societies where studies have shown that whenever there is a major national economic or financial crisis the average family's economic well-being is bound to be adversely affected resulting in domestic conflicts and sometimes even marriage breakups.

The Qur'ān provides important regulations and guidelines for the family to lead a healthy lifestyle and to conduct its economic activities in a way that would guarantee its economic health. Well built into the Islamic teachings on and the practice of healthy family way of life and lifestyle are the qur'ānic-based ideas of a lawful

(*ḥalāl^{an}*) and healthy and clean (*tayyib^{an}*) income,⁴⁸ self-sufficiency, moderation in spending,⁴⁹ charitableness,⁵⁰ and abhorrence of waste.⁵¹ To be avoided by the household in its consumption or economic activities is waste, extravagant spending, and hoarding of essential goods.⁵² These ideas are the key ingredients in the Islamic concept of good household governance. If every household practises this kind of home economic ethics then it will be for sure that the community at large will enjoy a better economic health.

Islam provides further avenues to mutual material and spiritual growth for both the family and the community through its faith-based economic institution, namely the *zakāh* institution. This institution is said to be a faith-based socio-economic institution since it is based on the fourth pillar of the religion of Islam which requires Muslims to pay two types of taxes: the compulsory personal alms tax (*zakāt al-fīṭr*) obligatory on every Muslim, male and female, young and old, including the newly born; and the income-property tax at a rate fixed by Islamic law to be paid by individuals who meet the necessary requirements for such a tax. The word *zakāh* conveys the basic idea of growth and purity and this is what *zakāh* as a religious duty and as a socio-economic institution is all about.⁵³ The practice of *zakāh* provides an excellent opportunity for the material and spiritual growth of the Muslim individual, the Muslim family, and the Muslim community. Since it is the head of the family that is responsible for the payment of both types of *zakāh* we can see how important the household governance is to the development of the community.

The Family Institution in Crisis: the Needed Responses

According to a still prevailing and widely held claim in many parts of the world, the “traditional family” is a saviour of human society and human civilisation. Were the traditional family values and institution to be weakened and destroyed the future survival of human civilisation would be at stake.

But what we see throughout the world today is precisely a weakening of the traditional family including in Muslim societies. The contemporary challenge to this ancient institution is mounting. The traditional idea of the family and its institutional role as a foundational pillar of human society is under assault from all directions. It is being aggressively and continuously undermined and weakened both at the level of ideas and at the level of practices.

At the level of ideas and beliefs, there is the onslaught of many modern ideologies and philosophies of life on traditional family values and institution. Newer and more powerful media technology makes it more and more difficult to halt or at least to slow down the onslaught. These various anti-family ideologies and philosophies of life are in collusion to discredit the traditional family in particular and to portray it as “out of date”.

At the level of practices, the threat comes mainly from the many anti-traditional modern practices and life styles. Various societal forces and life styles are at work in undermining the traditional family. Particularly important are threats and challenges from many aspects of modern economic and business culture, especially in relation to working conditions and practices for women. As a result of all these threats and challenges, the traditional family is facing its worst crisis in the history of human civilisation

Clearly, at each level, the nature of the challenge to the traditional family is different. It is only proper that we come up with responses that are appropriate to each case. The challenge at the level of ideas is philosophical and intellectual in nature. This means that the response needed would also be at the level of ideas. The response has to necessarily take the form of a defence of the traditional family by way of laying bare its wisdom in all its depths and breadths as well as by way of offering a profound critique of ideologies and philosophies of life opposed and detrimental to the traditional family both as a social value and as a social institution.

The challenge at the level of practices is attitudinal and behavioural in nature. It has to do with having to make right practical choices and preferences on how best to organise and regulate communal and societal life. It is about competing social systems, organisations, and life styles. Consequently, the response has to take the form of practical measures that would seek to protect and strengthen traditional family values and institutions and that would seek at the same time to minimise negative external influences which can have the effect of weakening traditional family values.

There are various major factors deemed responsible for the current crisis in the traditional family institution. I want to mention now some of the important signs and indicators of this crisis. These include the alarming rise in divorces, which implies that the number of failed marriages has reached an unacceptable level. Similarly, the number of children born out of wedlock and the number of 'unnecessary' abortion cases are on the increase.

Other signs are the increasing numbers of unmarried couples bringing up children who in many cases are not biologically their own. These are the modern-day 'artificial' families. More worrying from the point of view of traditional marriage and traditional family values are same-sex marriages which are on the increase and becoming more tolerated as acceptable practices in society.

In response to these various anti-traditional family social manifestations there is an urgent need to reassert the wisdom and the contemporary relevance of traditional family values and institution that have been highlighted in this article. The perennial relevance of traditional family values to the survival of human civilisation and to the sustainable development of society needs to be articulated and emphasised. At the practical level, there should be a broad coalition of all groups dedicated to

the preservation of traditional family values and the family institution, particularly the religious groups, striving together to devise ways and means and to chart out strategies on how best to respond to the challenges confronting the traditional family institution. This coalition may be formed at all levels – local, national, regional, and global.

Conclusion and Recommendations

It is not easy to predict the future of anything, not even the future of the traditional family. But we do know at least one thing. The strongest defenders of the traditional family are known to come from among the faithful followers of the traditional religions. We can therefore say that the future of the traditional family will depend to a large extent on the strengths of the traditional religions. The responses to the threats and challenges to the traditional family will be the more powerful and thus the more effective if the followers of the different religions were to work together in confronting those threats and challenges.

But for a more concrete approach to these challenges, the following recommendations are made for the attention of all those concerned with finding solutions to the various issues and problems confronting the family institution:

- The qur'ānic-based teachings on family values and the family institution need to be better understood and practised by the Muslim community.
- The weakening of the extended family institution and its various consequences need to be addressed with the view of finding new societal mechanisms that could compensate for the loss of the positive contributions the traditional family has traditionally made to the family institution as a whole.
- More studies and research need to be taken on contemporary challenges faced by the family institution; a national research institute is perhaps needed that is dedicated to the pursuit of intensive research on Islam and family values and the family institution.
- Socio-economic policy makers need to be more sensitive to the safeguard of family values and the virtues of the family institution in their pursuit of socio-economic development.
- Since family health and household governance are closely interdependent, it is important that policy makers in all fields of community and national developments should take cognisance of the importance of good household governance or home economics to a healthy family life.
- Muslim groups need to conduct more dialogues with non-Muslim groups on the common challenges confronting family values and the family institution with the view of finding common and better solutions to these problems.

Notes

1. This article is primarily based on a conference paper first presented at the International Conference on *Family as a Value in Religion, Tradition and Modernity* in Antalya, Turkey on 26–27 November 2010, organised by the Journalists and Writers Foundation, Turkey, and later at the International Conference on *Family Values and the Family Institution in the Twenty-First Century* in Kuala Lumpur, organised by IAIS Malaysia on 13–14 December 2010.
2. The Qur'ān itself seems to justify the idea of the necessity of definitions as conceptual tools for explanation when right in its first or opening chapter, *Sūrat al-fāṭihah*, of just seven verses it is already displaying its love for definitions. There, the entity it seeks to define is 'the straight path' (*ṣirāṭ al-mustaqīm*) mentioned in verse 1:4. The Qur'ān gives both its essential definition (*hadd*) and its descriptive definition (*rasm*) in the sense these two words are used and understood in traditional Islamic logic. The essential definition of "the straight path" is the "worship of God the One alone" (1:5–6). Its descriptive definition is "the path of those on whom You have bestowed Your grace, not of those upon whom is Your wrath, and not of those who go astray" (1:7). The essential definition is made even more explicit in Qur'ān 36:61.
3. See Michael Agnes, ed., *Webster's New World College Dictionary* (New York: Macmillan USA, 1997), 512.
4. There are several verses in the Qur'ān referring to the near relatives, two of which are cited below. The words in the Qur'ān for the near relatives, *dhī 'l-qurbā* and *aqrabūn*, come from the same root word which means to be near. Nearness may be defined in several ways. There are several types of nearness but Islamic law (*sharī'ah*) gives priority to nearness through blood relations over other types of nearness. This is essentially because the *sharī'ah* is based on the nature of things and in the case of human relations blood relations are the most natural of them all.
5. Qur'ān 4:36.
6. *Ibid.*, 2:180.
7. See Eric Partridge, *Origins: A Short Etymological Dictionary of Modern English* (New York: Greenwich House, 1983), 112.
8. According to the *Webster's New World College Dictionary* (Foster City CA: Webster's New World, 1999, 4th ed.), the meaning quoted is one of the five meanings of 'commune'; see p. 295.
9. Qur'ān 2:83.
10. *Ibid.*, 2:177.
11. *Ibid.*, 4:35.
12. See Abdullah Yusuf Ali, *The Meaning of the Holy Qur'an* (Beltsville MD: Amana Publications, 2008, 8th ed.), 163, n. 549.
13. For a discussion of the evolution of the meanings of the word *ahl* and for references to the wide range of its usage, see Edward William Lane, *Arabic-English Lexicon* (Cambridge: Islamic Texts Society, 1984), 1:121.
14. *Ibid.*, 1:121.
15. Qur'ān 66:6.
16. Muhammad Asad, *The Message of the Qur'an* (Gibraltar: Dar Al-Andalus, 1980), 876.
17. The Qur'ān (33:33) states: "For God only wishes to remove from you all that might be loathsome, O you members of the [Prophet's] household (*ahl al-bayt*), and to purify you to utmost purity."
18. *Ibid.*, 11:73: They [i.e. the angel messengers to Abraham] said: "Do you wonder at God's decree? The grace of God and His blessings on you, O you people of the house (*ahl al-bayt*)! For He is indeed worthy of all praise, full of all glory!"
19. *Ibid.*, 11:71–2. In verse 71, Sarah was told by the visiting angels that she was going to have a son named Isaac and later, through Isaac, a grandson named Jacob. In verse 72, she expressed skepticism she would have a child considering the fact that both she and Abraham were a very old couple.
20. *Ibid.*, 6:131.
21. *Ibid.*, 3:64.

22. The document entitled *A Common Word between Us and You* is an open letter signed by over 138 prominent Muslim scholars, leaders and intellectuals from around the world addressed to Christian clergy and scholars of all denominations with the view of affirming the common ground between Islam and Christianity as well as the belief that the best foundation for interfaith dialogue and understanding is 'Love of God and Love of thy Neighbor'. The document was born out of an initiative by the Royal Aal al-Bayt Institute for Islamic Thought in Amman, Jordan, and it was officially dated 13 October 2007. The first major response to the document from the Christian side came in the form of the Yale Statement, a full-page advertisement in *The New York Times* featuring a 300-strong list of endorsements in support of the Muslim initiative. For details on the subsequent developments of the *Common Word* agenda see its official website at www.acommonword.com.
23. This particular meaning of *ahl* is found in the following verse of the Qur'ān: "God commands you to deliver all that you have been entrusted with to those who are entitled thereto" (4:58).
24. *Ibid.*, 74:49.
25. *Ibid.*, chapter 3.
26. Lane, *Arabic-English Lexicon*, 1:121.
27. Apart from appearing in the title of the third chapter of the Qur'ān, the term *āl 'Imrān* is found in 3:33.
28. *Ibid.*
29. For example, according to Islam, 'Imrān was the father of Mary, the mother of Jesus. Mary's cousin was Elizabeth, the mother of Yahyā (John the Baptist). John and Jesus were therefore cousins by blood. All of them have followers with Jesus by far having the greatest number of them. In the case of Abraham, he was the father of Ishmael and Isaac, both of whom became prophets. The Arabs of whom the Prophet Muḥammad was their most famous son and the Jews claim their ancestries respectively to Ishmael and Isaac. For more information in the Qur'ān on the family of 'Imrān see 3:33–54.
30. Lane, *Arabic-English Lexicon*, 1:58.
31. The Qur'ān refers in a long passage to the creation of Adam as the first man and his wife as the first woman without naming her. Adam was also God's first representative and trustee (*khalīfah*) on the planet earth. Since he began his earthly life with divine guidance he was also the first prophet of God. Adam and Eve were told that the planet earth would be their temporary home (*mustaqarr*) with more than enough provisions for them and their progeny until the end of the world (*matā' 'um ilā hīn*); see Qur'ān, 2:30–9.
32. The Qur'ān relates the story of the two sons of Adam in connection with the murder of the younger brother, Hābīl (the Bible's Abel) by the elder (the biblical Cain), Qābīl, out of the latter's jealousy. Their names are not mentioned in the Qur'ān but they appeared in the Islamic religious tradition. For the qur'ānic story, see 5:27–34.
33. For the Qur'ān's references to the human species as Adam's descendants or the 'Adamic' species, see 7:172–3; 19:58.
34. *Ibid.*, 27:34.
35. *Ibid.*, 4:1.
36. Addressed as it is to the whole of mankind, this verse may be viewed as Islam's invitation to the rest of the human family to join it in taking up the issues of conflicting gender rights and the widespread mistreatment of the female body as themes of a global intercultural dialogue. For a discussion of the implied qur'ānic call for a global dialogue on these two themes, see Osman Bakar, *The Qur'an on Interfaith and Inter-Civilisational Dialogue: Interpreting a Divine Message for Twenty-First Century Humanity* (Kuala Lumpur: IIIT Malaysia and ISUGU, 2006), 13–14.
37. For a detailed discussion of the Islamic conception of the human body including its rights and duties, see Osman Bakar, *Tawhid and Science: Islamic Perspectives on Religion and Science* (Shah Alam [Malaysia]: ARAH Publications, 2008), chapter 9, 171–97.
38. Qur'ān 7:189.
39. *Ibid.*, 4:1. The mutual rights and duties are explained in details in Islamic jurisprudence on marriage and familial relationships.

40. See for examples, *ibid.*, 2:221; 4:1; 4:3–4; 4:20–5; 4:34–5; and 24:32.
41. *Ibid.*, 25:54.
42. *Ibid.*, 30:21.
43. *Ibid.*, 30:21.
44. *Ibid.*, 23:6.
45. *Ibid.*, 4:36.
46. *Ibid.*, 33:6. The emigrants are in reference to the first Muslims who migrated to Medina.
47. On the significance of economics as the science of household governance as viewed in Islamic social thought and on the role of the traditional family institution in economic life see Osman Bakar, “Economics as a Science: Insights from Classical Muslim Classifications of the Sciences”, *Islam and Civilisational Renewal* 1, no. 3 (April 2010), 425–44.
48. Qur’ān, 2:168; 2:172.
49. The Qur’ān (3:133–4) says: “[...] the righteous [are] those who spend [freely], whether in prosperity, or in adversity”. But the spending should be moderate as emphasised in another verse (25:67): “those who, when they spend, are not extravagant and not niggardly, but hold a just balance between the extremes”.
50. By charitableness is meant the personal habit or the inclination to do practical deeds of charity out of love for God and love for fellow-men. On the need for this excellent human virtue which God equates with righteousness (*al-birr*) see Qur’ān, 2:177. But the word charity (*al-zakāh*) occurs in the Qur’ān more than forty times.
51. Says the Qur’ān (6:141): “[...] waste not by excess: for God does not love the wasters”.
52. The Qur’ān (9:34) says: “[...] and there are those who bury gold and silver and do not spend it in the way of God: announce unto them a most grievous penalty”.
53. The word *zakāt al-fīṭr* may be translated as ‘the purification of one’s personal nature’ or ‘personal growth’. Since this *zakāt* is for the benefits of the needy and the disadvantaged in society each Muslim individual contributes through its payment to both his and the community’s growth. The income-property *zakāt* may in turn be viewed as a means of purifying both the tax payer and the taxed property.

ARTICLES

ISLAMIC FAMILY LAW REFORM: PROBLEMS AND PROSPECTS

*Mohammad Hashim Kamali**

Abstract: This article features with a general characterisation of the Qur’ān with reference to family law and gender equity. Its main purpose is to visualise the broader picture of qur’ānic dispensations and the manner they are manifested in the *sharī’ah*. A brief outline of the higher objectives (*maqāṣid*) on family welfare and reproductive health is also discussed.

Introductory Remarks

The *fiqh* discourse on women and family is more often focused on specific rules and formulations rather than the broader objectives of Islamic law. Due to historical reasons and the fact that the higher objectives (*maqāṣid*) as a branch of the *sharī’ah* developed long after the *fiqh* of the leading schools, one often notes that this subject is expressive also of the concern that contemporary *ijtihād* in conjunction with outstanding and unresolved issues should manifest the interests of both continuity and change – such that the law moves abreast with the realities of social change without compromise on basic values.

We should naturally value the learned contributions of the past ‘*ulamā*’ without, however, indulging in indiscriminate imitation (*taqlīd*) of their views. Furthermore, when turning to Qur’ān and *Sunnah* for guidance, one should remember that this ought to be a meaningful recourse and not simply one of reading the broader guidelines of the scripture under the influence again of scholastic opinion – as is often wittingly or unwittingly done. I may quote here the insightful observation of Shaykh Yūsuf al-Qaradāwī who wrote in an essay he authored on moderation versus extremism with reference to women: “It is an obligation of the *ummah* to protect women from the excesses of the Muslim juristic legacy of the past and those of the modern West, both of which strip women of their essential humanity.”¹ This only shows that the twentieth-century legislative reform of Islamic family law that

* Mohammad Hashim Kamali is the Chairman and CEO of IAIS Malaysia.

corrected some of the imbalances of the traditional *fiqh* was well-conceived and marked a move in the right direction. Yet it may be added here that some of the reform measures so introduced were more comprehensive than others in as much as not all Muslim countries cannot be placed under one and the same category.

Prevailing conditions of gender justice and family welfare tend to vary widely from one country to another. Some Muslim countries, including Malaysia, have taken strident steps towards reforming the Islamic family law more widely compared to other Muslim countries. Yet challenges still remain and the general picture in many countries of Asia and Africa is marred by the tenacious hold of prejudicial customs of tribal origin, and the resistance also of conservative opinion to reform. Whereas some aspects of the family law have undergone healthy adjustment, others are still wanting of fresh scrutiny and *ijtihad*-oriented solutions. There were a few instances also in some countries, including Malaysia, of negative reform which, due to the renewed strength of conservative opinion in society, the ruling party and government, some of the more egalitarian provisions of the law on gender equity were revised and replaced by more restrictive measures.

The Qur'ānic Outlook: An Overview

The Qur'ān is supportive of the moral autonomy of the individual and makes it a responsibility, both of the individual and community, to strive for improvement when they see the prospects of securing it; for "God will not change their condition unless they decide to change it themselves" (13:11). The latter portion of this verse can also be read to mean 'unless they change what is within themselves', an inner transformation, in other words, through enlightenment and reform is needed in the first place. The Qur'ān also portrays an essentially positive outlook on life in this world that can be improved and enriched through correct guidance (*hidāyah*), self-discipline and refinement (*tazkiyah*) that ultimately lead to felicitation and success (*falāh*). The text altogether conveys a success-oriented outlook, transformation and reward for those who seek to achieve them. Islamic theology and jurisprudence have internalised these guidelines in their respective concepts of renewal (*tajdīd*), reform (*iṣlāh*) and *ijtihad*.

Among the salient ethical norms of Islam that merit attention in the planning of a reform agenda for family law, one is 'the urging of what is recognised and approved and the restraining from that which is rejected' – *al-amr bi 'l-ma'rūf wa 'l-nahy 'an al-munkar*. This is a qur'ānic principle of universal import and application to almost all aspects of family life, social relations, law and governance, and should naturally provide a basic frame of reference for family law reform.

The moral essence of qur'ānic laws is broadly reflected in their guidelines on permissibility and prohibition (*halāl*, *ḥarām*), recommended (*mandūb*) and

reprehensible (*makrūh*) as well as its conceptions of justice, fairness and being good to others (*‘adl*, *qisṭ* and *iḥsān*). There is much emphasis on compassion (*raḥmah*) and moderation (*wasatīyyah*, *i’tidāl*) that shuns extremism and excess and pays attention to the ways and means that attain moderation and justice in almost all aspects of human conduct. The cosmological outlook of the Qur’ān on human equality should naturally be reflected in the legal rulings of the *sharī‘ah* on gender equality, marital relations and family life, civil transactions, crimes and punishments and so on. The Qur’ān often provides room for fresh insight and interpretation as a great deal of its textual rulings consist of general (*‘āmm*) declarations, and principles that are amenable to particularisation, as opposed to the specific (*khāṣṣ*) of self-contained variety that may require no interpretation and *ijtihād*. Without wishing to enter technical details, I draw attention only to two qur’ānic verses that accommodate a degree of latitude and selection which has, however, been almost totally ignored in the conventional theory of *ijtihād*. The first of these refers to situations where the Qur’ān enables its readers to select between its differential rulings, or indeed select one out of a plurality of available interpretations of one and the same text for purposes of implementation and *ijtihād*:

And give good tidings to those of My servants who listen to the word (*qawl*) and follow the best of it (*aḥsanahu*). Those are the ones God has guided and endowed with understanding. (Qur’ān 39:18)

Qawl could here refer to the word of God, namely the Qur’ān, or any other speech, but since it occurs in the form of a general declaration (*‘āmm*) we retain the same to say that it subsumes all speech, including God’s own illustrious speech. Muslim jurists and commentators have given this verse an interpretation, however, which pays little attention to the element of selection that is quite obvious in its import and wording. The verse clearly tells us that we listen to the word but follow the best of it. The question the jurists have posed here is whether one can distinguish between the words of God which are best (*aḥsan*), as opposed to those which are merely good (*ḥasan*), and the answer given is in the negative. Some commentators have suggested that the reference here is only to conduct and how one acts on or implements the textual guidance, especially when different options can be visualised, such as between punishment and forgiveness and the like.² In such circumstances, the judge and the learned scholar (*mujtahid*) should choose the best meaning or course of action, but beyond that we do not have the flexibility to determine what is the best or second best, as it were, in the speech of God. My own reservation about this line of analysis is that it leaves out the obvious message of the verse, which is that when different verses or dispensations are found in the Qur’ān that could guide a certain course of conduct, interpretation and *ijtihād*, one should be able to select that which secures justice and people’s welfare in the best possible

way. I am not here engaging into the specifics of the rules of interpretation found in the science of the sources (i.e., the *uṣūl al-fiqh*) but merely to say that one ought to be able to take advantage of the elements of flexibility and selection the Qur'ān has openly authorised in full cognisance of God's *ḥikmah* and wisdom, without necessarily engaging in restrictive questioning and interpretations that the text itself may not even sustain.

The second passage I discuss here concerns the cosmological outlook of the Qur'ān and its vision of human equality. The passage in question opens the fourth *sūrah* (*al-Nisā'*) and provides in a general address to the people:

O mankind, keep your duty (*ittaqu*) to your Lord, Who created you from a single soul (*min nafsⁱⁿ wāḥidatⁱⁿ*) from which He created its mate and from them countless men and women; keep your duty to your Lord through Whom you demand your mutual (rights), and keep your duty to the wombs (that bore you): for Allah ever watches over you. (4:1)

It is significant to note that in the key phrase (*min nafsⁱⁿ wāḥidatⁱⁿ*), the word *nafs* (soul) is a feminine word. This phrase also occurs *in toto* elsewhere in the Qur'ān (39:6) and both verses convey the message that human beings originate in *nafsⁱⁿ wāḥidatⁱⁿ*, the single feminine soul. And then the twin or mate that ensues from that soul is referred to as *zawj*, which is a masculine word suffixed by a feminine pronoun (*zawjahā*). The origin of human creation from a female and a male so expounded in the Qur'ān contemplates human equality and fraternity, but also reproductive continuity through the womb and marriage. The goal and purpose of God's creation in that order is indicated in another verse, which recapitulates the shared lineage of *homo sapiens* but adds: "It is He Who created you from a single soul and made out of it its mate that he might dwell with her (in love; Qur'ān 7:189)." Love and tranquillity thus signify the higher purposes of marriage within the larger continuum of human equality.³

It is noteworthy also that absolute human equality opens the chapter about women, *al-Nisā'*, and that the chapter then proceeds to expound most of the detailed rulings concerning marriage. Marriage regulations should, in other words, be guided by the principle of human equality.

Law in Islam is a carrier, for the most part, of its ethical norms and although certain lines of distinction are recognised between morality and law for purposes of adjudication and enforcement, essential harmony between the legal and ethical norms is necessary to ensure continuity of values and better prospects of public acceptance and enforcement. When the nexus between the law and ethics is broken, or when obvious discrepancies set in to disturb the desired equilibrium between them, measures should be taken to restore the balance. Some of the specific rulings of *fiqh* are often exposed to questions as to whether they stand in a state of tension with the broader guidelines of Islam on equity and justice. The decline of *ijtihād*

over a longer stretch of history, and the influence of entrenched patriarchal customs are responsible for many of the unresolved issues of Islamic family law. It is now widely seen that some of the *fiqh* rulings that bear the vestiges of medieval society values have yet to be scrutinised through systematic *ijtihād* to restore the correct balance of values to them.

An adequate coverage of gender justice issues would fall beyond the scope of this article, and what is presented here is, in any case, based on my own synoptic responses to some of the issues raised. I may begin by saying that Islamic family law has encountered obstacles in penetrating entrenched tribal custom prejudicial to women. Some of the factors that come into the picture are not even peculiar to Islamic law and society but constitute challenges of civilisational concern on a global scale. The patriarchal character of human society has generally meant that male dominance infiltrated law and religion as it did the custom and culture of societies in all parts of the globe. In Muslim societies factors such as poverty, low levels of female education and employment, and prevalence of tribalism still constitute formidable challenges to gender equality and family welfare at the dawn of the twenty-first century.

Many Muslim countries have introduced egalitarian laws and constitutions in the post-colonial period, which have had, however, a limited effect on curbing entrenched prejudicial practices concerning women. The problems so encountered often need to be read in the context of their own set of conditions in every country and region. Law reform on women's rights in Southeast Asia and North Africa has been relatively more successful than other regions of the Muslim world. Then there are more specific problems that have adversely affected the healthy growth of Islamic law including, for example, indiscriminate imitation (*taqlīd*) and the consequent decline of original thinking (*ijtihād*) to keep the *sharī'ah* abreast with social reality. These problems have been with us for centuries and the clarion call by Jamal al-Din al-Afghani (d. 1898), his disciple, Muḥammad 'Abduh (d. 1905), and Muḥammad Rashīd Riḍā (d. 1935) at the dawn of the twentieth century for the revival of innovative *ijtihād* helped to raise awareness of the challenges but has on the whole generated limited results on the revival of *ijtihād*. Muslim jurists continued to a large extent to look back for solutions to current problems in the hallowed works of the imams and jurists of the past. Entrenched patriarchal custom in many parts of Asia, Africa and the Middle East retarded the scope and in many instances hindered the reform of Islamic matrimonial law and inheritance. The '*ulamā*'s attitude to issues of gender justice also wavered between partial admission and outright denial which only made things more difficult. One can hardly speak of reform to one who denies that gender equality is an issue in the *sharī'ah* and that the challenge is only imaginary and non-existent.

I have elsewhere addressed some of the more detailed juridical issues of gender equality and my purpose here is not to dwell on details but merely to develop a perspective over issues and voice my own views on the challenges before us. This I have presented in the following paragraphs.

What Are the Issues?

(1) It is submitted that issues of equality and justice for women should be addressed from within the tradition and the prevailing conditions of each society. One should avoid the temptation of putting an Islamic veneer on some foreign ideas which may be altogether unfamiliar to the Muslim law and culture. Muslims should also find their own realistic solutions and not allow the real challenges to get entangled in the heated exchanges of secularist, religious and ultra-conservative debates. To correct the imbalances of history naturally takes time and reflection over the newly emerging issues. Gender equality is also a long term engagement. Windows of opportunity present themselves from time to time and prudent government leaders should be alert to utilise them for society's benefit. Juridical issues of concern to *shari'ah* should be addressed, as far as possible, through imaginative *ijtihad* that takes a holistic approach to the understanding of scriptural guidelines. Scholastic jurisprudence on gender issues has not been immune to medieval society values that also found their way into the Qur'an hermeneutics and the *ijtihad* of some of the leading schools and scholars. To say, for example, that the *diyyah* (blood money for manslaughter) for a woman is half that of a man simply overturns broader qur'anic principles on the sanctity of life, on just retaliation (*qisas*), and the unqualified and gender blind proclamations on human dignity.

(2) With regard to women's participation in government, one can maintain equality for the most part, with the exception, perhaps, of cases where equality may not be advisable on grounds of judicious policy (*siyāsah shar'iyyah*), such as police and military duties in a male dominated environment, or going against the prevailing culture and custom of society. While observance of dominant culture is prudent, yet cultural constraints should be viewed as ad hoc and temporary and be included in the long term campaign for gender justice. My observation on this point is informed by my personal experience of involvement in family law reform in Afghanistan since 2003 and the advice of caution I take is not to risk provocation and protest that can be overwhelming in its negative sweep and can easily render the purpose one fights for even more remote. Gender equality issues should be approached in the true spirit of moderation (*wasatiyyah*), itself a qur'anic designation and assignment of the *ummah*, and seek solutions that strike the middle ground between idealism and reality and between traditional and modern society values. It may be necessary under

certain conditions to design a two, or even three-phased, approach to equality issues, beginning with the least challenging and proceed toward the more sensitive areas of reform. What is important is follow-up effort and measurable implementation over time. One should avoid the temptation of introducing prescriptive reforms that remain largely unimplemented. I may add further that even in Afghanistan, probably one of the most conservative of all Muslim countries on gender equality matters, I note a growing awareness and support for female education and the importance of women's participation in government and also support for the human rights principles. Such may be the windows of opportunity that prudent political leaders can utilise for people's benefit. What I have said of Afghanistan may not be as relevant for other countries that may have already gone through their own experiences and can afford to aspire to higher levels of refinement.

The only exception of note with regard to women's participation in government concerns the position of the head of state, which is reserved for men based on a presumptive consensus (*ijmā'*), there being no clear authority in the sources to prevent equality even at this level. Our conclusions on this should also be informed by such developments as the prevalence of constitutional checks and balances and separation of powers in modern constitutions, which have altogether altered the material attributes of leadership. Whereas Islamic jurisprudence justified its ruling on this by reference to the position in earlier times of the head of state as leader in *jihād* it is doubtful whether the logic of that conclusion can be sustained now due to material changes in the nature of leadership and warfare. It would seem patently inadvisable now for the head of state to lead the army into the battlefield under the present circumstances.⁴ The rules of Islamic jurisprudence also hold that a substantial change in the effective cause and rationale (*'illah*) of a ruling should be followed by a corresponding change and a suitable ruling (*hukm*) through *ijtihād*.

(3) With regard to women's qualification for appointment to judicial posts, the correct interpretation on this is that of the Qur'ān-commentator Ibn Jarīr al-Ṭabarī (d. 923) who held, contrary to the prevailing position of the majority, that women are fully qualified for employment to judicial posts. Except for the Ḥanafī school which qualified women to be judges in all disputes outside the prescribed penalties and retaliation cases (*hudūd* and *qiṣās*), the majority of the leading schools passed negative judgments on this based on a specious analogy drawn with the position of the head of state. Al-Ṭabarī was right to call this a discrepant analogy (*qiyās ma' al-fāriq*) and say that women judges do not necessarily lead the *jihād*. The principal task of a judge is to comprehend and implement the *sharī'ah* and men and women stand on the same footing in this regard.⁵

My recent experience of developments in Afghanistan shows that women themselves can significantly promote their position once they are granted the

opportunity to do so. In the case of Afghanistan, affirmative action measures that were taken under the 2004 Constitution brought about a significant change. Articles (83 and 84) of this constitution imposed a quota system in favour of women's election to Parliament by stipulating that at least two Members of Parliament in the Lower House (*Wolesi Jirga*) from each of the 34 provinces must be women. A similar quota was imposed regarding the Upper House (*Meshrano Jirga*) such that reserved election and appointment of about one-sixth of its total membership for women. These quotas were followed in the September 2005 elections which brought a significant number of women to Parliament.⁶ To compare their presence now (68 and 23 in each of two Houses respectively) with the mere five women that found their way into Parliament in the 1965 election (the last Afghanistan had before the turn of the century) is a milestone of change for the prospects of women empowerment in that country. I am of the view that similar quotas should be followed in the executive and judicial organs of the state. Yet the realities of that country are so compelling that President Karzai, himself a pro-equality figure by his track record, reduced the number of female Cabinet members from three to just one after his victory in the September 2004 elections. There is no female Supreme Court Judge among the nine Judges the President appointed in July/August 2006.

(4) With regard to women's partial disability to act as witnesses in the courts of justice, my enquiry into this led me to the conclusion that there is no clear textual mandate on this in the Qur'ān or authentic *aḥādīth*.⁷ In view of the unwavering commitment these sources provide on the advocacy of truth and justice, it would be only natural to proceed from this position and say that all avenues that vindicate truth and serve the cause of justice must be left open. If allowing women to give credible testimony in the quest for justice, especially in critical situations where a woman holds vital testimony, one sees no reason why one should impose a prior restriction on her ability to give it. The qur'ānic provision on this occurs in the context of commercial transactions and was informed by the conditions of women in Arabian society at the time. Space does not permit elaboration but when one reads the fuller version of the relevant qur'ānic verse on this subject (2:283), the text itself encourages witnesses to come forth and not to withhold testimony in the cause of justice.

(5) Women enjoy equal rights in the *sharī'ah* in respect of ownership, management of financial affairs, civil transactions and contracts. The Ḥanafī school has extended this position to the contract of marriage, although the majority of other schools have considered marriage an exception and require its solemnisation by the legal guardian (*walī*) even of an adult woman. Since Islamic jurisprudence permits selection (*takhayyur*, or *takhyīr*) among the leading schools, a position which has

been utilised in the twentieth-century legislation of many Muslim countries, then there is basically no *sharī'ah*-issue of concern in this area. Yet patriarchal customary practices, especially among the tribes, present obstacles to women's enjoyment of their civil and financial rights. The problem here is essentially not juridical but one of prejudicial custom and male dominated society. To give an example, the Qur'ān unequivocally entitles female relatives to specified shares in the inheritance, which is, however, widely denied to them by their male relatives. Statutory enactments in many Muslim countries that banned such practices on pain of imprisonment and fines have not succeeded in curbing entrenched customary positions. The lesson one learns here is that prescriptive law reform needs to be followed by wider campaigns on awareness raising, education and policy initiatives. Muslim women in rural Asia and Africa are not well aware of their rights either under the *sharī'ah* or statutory law. Legislation should naturally be encouraged and continue to lead the way in the campaign for economic empowerment of women. In some particularly difficult situations, recourse may be had to affirmative action legislation and/or a quota system, for example, in admission to schools and employment centres, on a temporary basis at least, to promote the objectives of equal rights for all citizens.

(6) Some progress has admittedly been made as a result of the Islamic family law reform movement in the latter part of the twentieth century, which brought many *ijtihād*-oriented changes to aspects of matrimonial law in Muslim countries of the Middle East, Asia and Africa. New civil codes and personal status laws were introduced in the 1950s and 1960s and thereafter which reformed the Islamic law provisions in several areas including the marriage contract, marriageable age limits, polygamy, child custody, divorce, and inheritance. The actual reform measures introduced varied from country to country. Broadly speaking, adult boys and girls were enabled, through the introduction of statutory marriageable age, to contract their own marriage without the intervention of their legal guardian. Polygamy and divorce that had remained as prerogatives only of the male spouse under the *fiqh* provisions were now both subjected to statutory restrictions and made dependent on obtaining a judicial order. Measures were also introduced on registration formalities as well as the admissible means of proof in matrimonial disputes that were on the whole favourable to women. This phase of family law reform was a marked improvement on the ones earlier incorporated in the Ottoman *Mejelle* (1876) and Ottoman Family Rights law of 1917.

Whereas the *Mejelle* legislation was based almost entirely on the Ḥanafī school of law, subsequent reformist legislation envisaged cross fertilisation of ideas and selection (*takhayyur*) within and among the leading schools of Islamic jurisprudence. The Ḥanafī law of marriage that entitled adult women to conclude their own marriage contract was thus adopted in non-Ḥanafī countries, and the Mālikī law of

divorce which allowed greater space for arbitration and validated judicial divorce was similarly adopted in non-Mālikī countries. Some Sunni Muslim countries even adopted provisions of the Shi'ite inheritance law that were favourable to female relatives, and opened also the prospects of law reform of the traditional *fiqh* provisions on bequests in an attempt apparently to ameliorate occasional imbalances in the allocation of shares that occasionally resulted from strict enforcement of the qur'ānic laws of inheritance. The husband power of unilateral *ṭalāq* was subjected to court order and divorce became in almost all cases subject to court proceedings. Measures were also taken to extend the *sharī'ah* provisions on *khul'* divorce that could not be initiated by the wife without the husband's agreement, as was the case under traditional law, but could now be initiated and concluded even without the consent of the husband. The Mālikī law provisions on *khul'* divorce that were more conducive to women's rights were generally adopted even in non-Mālikī jurisdictions. The reform measures so introduced in some cases vested the final authority on *khul'* divorce also in the court of justice. Statutory restrictions on polygamy and divorce actually went beyond the scholastic framework and were based on novel interpretations of relevant passages of the Qur'ān. Muslim jurists across the centuries have also devised additional formulas that can be used to remove possible computational rigidities that can arise in particular combination of circumstances in the administration of estate.

Due to customary and attitudinal constraints that still prevail among Muslim masses, a piecemeal approach to reform of the matrimonial law and inheritance may be preferable to sweeping changes that pose difficulties of implementation. The prospects of a backlash and conservative reaction need to be taken into account even if it means a slow pace for law reform. Democratic and consultative methods, civil society engagement and persuasive media involvement would evidently be needed to ensure receptivity and enforcement.

(7) With regard to the *sharī'ah* law of inheritance, the pace and scope of reform varied from country to country, and significant as they were, they were minimal in the sphere of inheritance and bequest due mainly to the sensitivity of the subject and the qur'ānic mandates on specific quantities of shares to a number of relatives (mainly of allocation of shares to female relatives: eight out of the total of twelve relatives in the qur'ānic scheme are female). Seen in its historical context, the qur'ānic law of succession significantly strengthened the position of women. Prescribing half share for the female was a forward step in a context when inheritance was only for adult males who were able to fight. Male children and all females were excluded. The early community and Arabian custom did not really appreciate including children and females in the scheme of inheritance. Yet the strong ethico-spiritual bond that the Qur'ān created among the *ummah* can be seen, perhaps, as a pointer to further

reform that marks a shift from *‘aṣabiyyah* as a criterion of entitlement to the ethico-spiritual bond of human equality in the *ummah*.

The conventional argument given in support of the larger share that men get in inheritance compared to women – namely that men are responsible for providing women with dower, and maintenance both before and after marriage, as well some remedial financial provisions that may help the divorced women – still holds good for the vast majority of women in areas and countries where employment and education opportunities are severely limited for women. The picture is also not always a negative one as Muslim men in many countries and cultures of the Muslim world tend to be on the whole protective of women in the family. We may, nevertheless, draw attention to one or two points on the subject of inheritance as follows:

Bequest can be used, as earlier noted, as a means of adjusting the share allocations in inheritance especially in anomalous situations of inequitable distribution that may be caused by unusual combinations of share allocation. Some instances of computational rigidities under the qur’ānic laws of inheritance have been recorded in the *fiqh* literature – as also illustrated below in the renowned case of *al-Mushtarakah*. In such circumstances, the testator enjoys some flexibility with regard to making a bequest and how he or she may choose to use it as a corrective to the possible anomalies of inheritance law. Under the Sunni law of succession, the testator is entitled to make a bequest of up to one third of his or her estate in favour of an outsider, or even a legal heir as under the Shi’ite law. Sunni law also permits making bequest to a legal heir with the consent of the other surviving heirs, which the Shi’ite law allows even without such consent, provided it does not exceed the limit of one-third. This may be used to address the individual circumstances of a disadvantaged relative, or an outsider for that matter, and thus help to meet the needs of particular situations of real or anticipated imbalance in the distribution of shares. Statutory law in some Muslim countries (Egypt and Tunisia for example) goes as far as to stipulate the obligatory bequest (*waṣiyyah wājibah*) provision for certain predictable situations where, for instance, orphaned grandchildren, male or female, are precluded from inheritance by the presence of an uncle, who may be a son. What this means is that even in the absence of a bequest by the testator, a bequest will automatically be presumed to have been made in order to address the stipulated circumstances as and when they arise.

Some instances of obvious imbalance in the distribution of inheritance can also be addressed by recourse to the principle of *istiḥsān* (equity, juristic preference) especially in cases where strict enforcement of the existing law leads to unfair results. In such situations, *istiḥsān* authorises the judge and the jurist to find an alternative and a preferable solution to the case before them that would address considerations of equity and fairness. Notwithstanding the existence of valid precedent on this, as reviewed below, Muslim jurists and judges have not made an effective use of the

resources of *istihsān*. Without wishing to enter details, I may refer here briefly to the renowned case of *al-Mushtarakah* (the apportioned) which was decided by the caliph ‘Umar b. al-Khaṭṭāb. In this case, a woman was survived by her husband, mother, two germane and two uterine brothers. The qur’ānic rules of inheritance were applied but the result was such that the two half brothers received one-third of the estate and the two full brothers were totally excluded. The full brothers complained to the caliph and he decided, after a month of deliberation over the issue with the leading Companions, as the reports indicate, and decided to entitle all the brothers to share equally in the one-third. This is now the standard law.

Unfair results of a similar type can occasionally arise, sometimes due to technical reasons, which could be addressed by recourse to *istihsān*, and the judges should not hesitate to do so when *istihsān* can be invoked to serve the ideals of equitable distribution.⁸ To give an example, suppose that a deceased person is survived by a son and a daughter. During the lifetime of his father the son had bad relations with his father and did not bother to seek his forgiveness even during the months of his last illness, while the daughter took responsibility and spent much of her hard-earned income on her father’s medical bills before he died. When this happened the son was quick to claim double the share of his sister in inheritance. This would be the kind of case, in my view, where *istihsān* can be invoked to remedy the unfair outcome that is anticipated from a strict conformity to the normal rules of inheritance. Yet to the best of my knowledge, Muslim countries have not introduced enabling legislation that would authorise the judge to apply *istihsān* as a remedial measure – in a manner that would resemble considerations of equity in western jurisprudence. *Istihsān* admittedly does not seek to introduce new law. It is rather designed so as to address case by case situations where strict implementation of the existing law may lead to unfair results. *Istihsān* in this way offers some potential to vindicate the cause of equity and fairness when these present a compelling case for reconsideration and review.

Furthermore, some aspects of the Shi‘ite law of inheritance that are favourable to female relatives can also be adopted by Sunni jurisdictions under the principle of selection (*takhayyur*) as discussed above. Some Muslim countries of Sunni persuasions have already done so as a part of the law reform measures they have introduced. To the best of my knowledge, the Shi‘ite law principles on enhancing women’s entitlements in certain specified circumstances stand on sound foundations and merit such that offers an *ijtihād*-oriented option under the principle of *takhayyur*.

(8) The subject of veiling, or *hijāb*, has invoked more attention as of late than it merits and has evidently far exceeded its strictly juristic framework. It has become a cultural symbol and a mark of identity, even of protest, for Muslim women living

in Europe, against the mostly unwarranted demands they have faced for conformity and assimilation to the dominant culture. The situation took a turning for the worse following the former British Foreign Secretary, Jack Straw's comments on the veil in September 2006 and those of the Dutch Immigration Minister, Rita Verdonk, later in November that year to ban the wearing of the *burka* and face veil in public. More recently in 2010 France introduced a legal ban on the *burka*, and similar measures are being considered in the Netherlands and elsewhere in Europe. These demands are simply indicative of an over-reaction that goes against Europe's own expressed values so much so that they smack of oppression, but I do not propose to engage into issues. I might add, however, that in Muslim countries too veiling is not always practised for pious reasons but also for conformity to male domination, protection against fundamentalist aggression, even protest against western values.

There is no mandate on veiling (*ḥijāb*) and face cover (*nijāb*) in the Qur'ān and *Sunnah*. The available evidence in these sources shows that during the Prophet's time, women participated in public life, and most of the women Companions did not practise the *ḥijāb*, except for the wives of the Prophet, who began to practise it after the revelation of the qur'ānic verse (33:59) concerning them. Even after this event, other female Companions did not practise the *ḥijāb*, as they knew that the qur'ānic directive was addressed to the Prophet's wives only. Women's participation in the life of the community during this time was dignified and social encounters took place at the initiative of men and women as and when the occasion arose. Women were also allowed to take part in congregational prayers and attend the mosques without restrictions.

The Qur'ān advocates modesty and decorum and cautions against provocative behaviour especially in the context of interaction and encounter between the opposite sexes (cf., 7:26, 7:31, 24:30, 24:60, and 33:53). This is the basic message but the text does not specify exactly how modesty is achieved. Modesty is important for the upkeep of moral standards in society, and the Qur'ān has addressed it without any quantitative specifications of the kind that subsequently preoccupied the jurists and cultural trend setters in different times and places. The Qur'ān reminds the believers, men and women alike, to lower their gaze and avoid 'temptatious' behaviour. Covering the body parts during worship and social encounter is treated in the *fiqh* writings on '*awrah*', on which the leading schools have also recorded differential rulings and interpretations over details. Yet suitable coverage of body parts for purposes of worship and mosque attendance is generally accepted by all the *fiqh* schools.

Notwithstanding variable customary practices on the uses of *ḥijāb* and *nijāb*, these were apparently in use in Iran's Sassanid society prior to the advent of Islam, and segregation of the sexes was in evidence in the Christian Middle East

and Mediterranean regions at the time of the rise of Islam. During the Prophet's lifetime, as earlier noted, his wives were the only Muslim women required to veil. After his demise and following the Muslim conquests of the adjoining territories, where upper-class women veiled, the veil became a commonplace item of clothing among upper-class Muslim women "by a process of assimilation that no one has yet ascertained in much detail".⁹ 'Abd al-Ḥalīm Abū Shaqqah's encyclopaedic six-volume work¹⁰ remains the most exhaustive and acclaimed work on this subject to date. The author entitles his monumental work by the self-explanatory title, *Tahrīr al-mar'ah fī 'aṣr al-risālah* (liberation of women during the Prophet's era). He has noted that women's participation in public life is established by no less than 300 *ḥadīths*, and it becomes, as such, an approved *Sunnah* of the Prophet.

The practice of the largely custom-driven phenomenon of veiling in many parts of the Muslim world has become a tool of continued male domination so much so that in some cases a woman is not to be seen outside her marital home; she is not even free to enjoy her recognised rights under the *sharī'ah*. While the *fiqh* rules entitle married women to leave their homes to visit close relatives, to seek advice from a learned person as well as for reasons of health and safety, emergency situations and the like, none of these are granted without permission from the husband and male guardian. Islam entitles women to education and dignified work, which are also denied to them, even in parts of the affluent Arab world where opportunities are available. The law in many Muslim countries has yet to address the power of guardianship (*wilāyah*), which the *fiqh* texts mainly entrust in male relatives without their being convincing evidence in the sources. Only the Moroccan civil code of 2004, known as the *Mudawwanāt al-Uṣrah*, has introduced egalitarian reform on the subject of *wilāyah* which has taken away the unilateral guardianship powers of the husband over his wife and both are made to stand on equal footing on this. This is because in the language of the Qur'ān *wilāyah* means mutual friendship and support, just as the Qur'ān also advises that family matters should be determined through consultation and mutual advice. In most other Muslim countries, however, *wilāyah* not only raises issues over guardianship of minors and decision-making regarding their schooling and place of residence, especially in the event of strained relations between their parents or divorce, but also issues of nationality and citizenship under the statutory law. A woman can hardly pass on her identity under the present law to her minor child, which can in certain situations mean that the child remains stateless with no recognised status under the law.¹¹ Some of the challenges of gender equality within the Muslim family thus remain unmet and a shared responsibility exists to respond to them in line with a balanced reading of the normative guidelines of the Qur'ān and *Sunnah*, and the prevailing conditions of contemporary society.

Recommendations

In closing, I propose the following by way of policy-relevant recommendations:

- Reform measures and adjustment of the existing *fiqh* rules pertaining to family welfare and women should take their cue from the broader guidelines of the Qur’ān and *Sunnah* on fairness, human dignity and justice. These and other principles of broader import should not be overshadowed by technical details, customary and historical constraints.
- The principle of selection (*takhayyur*) and cross fertilisation of ideas among the existing schools of Islamic jurisprudence offer flexibility that merits greater attention in the reform efforts especially of the Islamic laws of inheritance and bequest.
- The principle of *istihsān* provides much potential in the quest for equitable solutions to instances of technicality and unfair results that arise from the application of the existing law especially in judicial decision-making and particular case scenarios. Notwithstanding reservations over the acceptance of *istihsān* as a principle of equity expressed by some jurists, especially of the Shāfi‘ī schools, and Imām al-Shāfi‘ī himself, a regulated approach that may now be guided by empowering legislation should encourage the uses of *istihsān* in our quest for better solutions to family law issues.
- Addressing entrenched tribal and customary practices prejudicial to women and family require more than prescriptive legislation and *fiqh*-based *ijtihād*. Civil society involvement, action-oriented campaigns and follow-up efforts to realise the fruits of legal reform are equally important.
- Law reform on subjects and areas of family law regulated by the textual ruling of Qur’ān and *ḥadīth* should only be attempted through sound interpretation and *ijtihād*, and not through modernist legislation that falls short of negotiating the scriptural dispensations.

Notes

1. Yūsuf al-Qaradāwī, “Min al-ghuluww wa ‘l-inḥilāl ilā ‘l-wasaṭiyyah wa ‘l-i‘tidāl”, in: Mu’assasat Āl al-Bayt (ed.), *Mustaqbal al-Islām fī ‘l-qarn al-hijrī al-khāmis al-‘ashar* (Amman: n.p., 1425 AH/2005), 334.
2. See for details Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 1991; reprint Kuala Lumpur, 1998), 250.
3. See for a discussion Mohammad Hashim Kamali, *The Dignity of Man: An Islamic Perspective* (Cambridge: Islamic Texts Society, 2002), 5f.
4. For a discussion of the source evidence on reserving the position of the head of state for men see Mohammad Hashim Kamali, *Freedom, Equality and Justice in Islam* (Cambridge: Islamic Texts Society, 2002), 63–5.

5. For details on al-Ṭabarī's view see Kamali, *Freedom*, 66–70.
6. The *Wolesi Jirga* currently consists of a total of 269 members and the *Meshrano Jirga* of 102 Senators. For details on developments in Afghanistan see Mohammad Hashim Kamali, "Islam and Its Shari'a in the Afghan Constitution 2004 with Special Reference to Personal Law", in: Nadjma Yassari (ed.), *The Shari'a in the Constitutions of Afghanistan, Iran and Egypt: Implication for Private Law* (Tübingen: Mohr Siebeck, 2005), 23–43; idem, "References to Islam and Women in the Afghan Constitution", *Arab Law Quarterly* 22 (2008), 270–306.
7. Cf., Kamali, *Freedom*, 66–9.
8. For further details on the various application of *istihsān* see Mohammad Hashim Kamali, *Equity and Fairness in Islam* (Cambridge: Islamic Texts Society, 2005), 44f.
9. Cf., Leila Ahmed, *Women and Gender in Islam: Historical Roots of a Modern Debate* (New Haven and London: Yale University Press, 1992), 5.
10. 'Abd al-Ḥalīm Abū Shaqqah, *Taḥrīr al-mar'ah fī 'aṣr al-risālah: Dirāsāt jāmi'ah li-nuṣūṣ al-Qur'ān al-Karīm wa Ṣaḥīḥay al-Bukhārī wa Muslim* (Kuwait, 1410AH/1990).
11. For a discussion of the source evidence in the Qur'ān and *ḥadīth* on *wilāyah* (guardianship) see Mohammad Hashim Kamali, *Islamic Law in Malaysia: Issues and Developments* (Kuala Lumpur: Ilmiah Publishers, 2000), Chapter VI: "Issues over Custody and Guardianship", 105–28.

THE QUR'ĀNIC MODEL ON SOCIAL CHANGE: FAMILY STRUCTURE AS A METHOD OF SOCIAL REFORM

*Zainab Alwani**

Abstract: Islam emphasises the belief that the family is the cornerstone of human civilisation. This article explains that Islamic teachings regarding family structure are unique in providing theoretical and practical answers to modern challenges and have the ability to reform any deviation. Furthermore, it constructs, from the study of the Qur'ān and the prophetic applications, a model for gender equality and harmonious family relations. The methodology of this article is based on conducting a textual analysis of relevant qur'ānic concepts and Prophetic applications. It is my hope that having this understanding may show the way towards realising the significance of enforcing gender equity in order to establish healthy and peaceful human relations, especially among family members, which in turn will lead to generating a peaceful human culture and society in our modern time.

Core Values

The essence of the qur'ānic model is rooted in *tawḥīd* – the Oneness and Uniqueness of God. From the doctrinal standpoint, the greatest injustice that one can do to oneself is to deny God, or more pointedly, to associate others with God. The concept of *tawḥīd* secures humanity against its own excesses and deviations which constitutes the essence of *ẓulm* injustice and oppression. “The concept of *ẓulm* is a rich and flexible one as it includes the idea that injustice is not just a category which applies to inter-human relations, but that it also applies to abuse of oneself, willful and knowing or otherwise. This is the category of *ẓulm al-naḥs* (self-wronging), a category which pre-eminently invokes a human moral responsibility of the first order.”¹

The Qur'ān emphasises that God created human beings – men and women – to worship and serve Him as *khulafā'* (pl. of *khalīfah*), representatives or trustees of God.

* Zainab Alwani is the Program Director and an Adjunct Professor of Arabic Language Studies at Northern Virginia Community College and an Adjunct Professor of Arabic Studies at the School of Advanced International Studies, Johns Hopkins University, United States.

Behold! Thy Lord said to the angels: "I will create a vicegerent (trustee) on earth." (2:30)

It is essential to understand the relationship between God and each individual before engaging in a discussion on the relationship between human beings. Each human being, whether female or male, is directly accountable to God for his or her behaviour. In order to fulfil the mission of vicegerency (*khilāfah*), people must engage in an ongoing process of self-purification (*tazkiyah*²). This process involves sorting through the myriad of emotional impulses that may plague human beings and lead to internal conflict and struggle regarding the actions one should pursue.

O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that you may know each other (not that you may despise each other). Verily, the most honored of you in the sight of God is the most righteous of you [...]. (Qur'ān 49:13)³

In this case, the only aspect by which one person is deemed better than another in the sight of God is that of piety.

Therefore, *taqwā* (piety or God consciousness) is an essential concept in understanding the depth and degree to which the religion of Islam impacts the daily life of each Muslim. Maintaining an awareness of God's presence and His will shapes the thought processes and behaviours in the individual, familial, societal and spiritual domains. It serves to determine priorities, direct decision-making, regulate interactions with others, and monitor one's relationship with the Creator. It is often described in the Qur'ān as 'moral perfection' (*ihsān*) that protects the person from harming others. As the Qur'ān states:

Those who have *taqwā*, when a thought of evil from Satan assaults them, bring God to remembrance, whereupon they begin to see clearly. (8:2)

The Qur'ān teaches that God has given people the freedom to choose which path to take in every decision of life. He has also outlined the consequences of these choices.⁴ On the Day of Judgment, every person will be held accountable for choices made during his/her life. This concept of accountability is central to the Islamic paradigm in general, and has particular relevance to the prevention and treatment of injustice in general, and more specifically, within the family.

In order to maintain justice, balance and transparency of the Islamic legal and social framework, Islam presents a comprehensive system of rights where the rights align with responsibilities. It is inspired by its law, the *sharī'ah*.⁵ It became part of a social contract or covenant between humans and their Creator and among themselves. It emphasises that every right (*haqq*) thus has a reciprocal obligation. This framework of the rights-responsibilities system creates just and peaceful human relations instead of conflict and imbalance. Women and men begin asking about

their roles instead of their rights. It becomes clear that the husband's responsibility is the wife's right in this relationship, and the parents' responsibilities are the children's rights.

Islam emphasises the significance of *qiyām* (ethics, virtues, and values). Therefore, instead of just relying on technical and material dictations of relationships, Islam promotes a social moral conscience that begins with *ma'rūf* (forgiveness, goodness, and sincerity) and ends with *ma'rūf*. *Ma'rūf* has a broad meaning – kindness and what is known as 'good behaviour', according to social norms and does not go against the *sharī'ah*. This causes rights and responsibilities in Islam to be a space or arena for competing for the betterment of humanity. This is exemplified in the relationship between husband and wife, that each spouse forgives the other for his/her shortcomings and encourages the other to do better. God has provided a mechanism to regulate and balance human relationships by prescribing behaviours that benefit relationships and prohibiting those that damage relationships. For example, God describes spying, mockery, and back-biting as prohibited behaviours that can destroy relationships,⁶ while being honest, trustworthy, truthful, just, and forgiving maintains and strengthens relationships.

The Qur'ānic Model on Gender Relations

Since the Qur'ān clearly explains the mission of humankind on Earth as vicegerents of God, gender roles and relations are well defined. To establish an effective vicegerency, the Qur'ān acknowledges *taqwā* as the only distinction among men and women. Qur'ānic teachings broadly outline gender roles and relations through concepts such as *zawjiyyah* (pairing), *wilāyah* (partnership, alliance and guardianship), and *qiwamah* (male financial, emotional, and physical responsibility toward his family). The first two concepts apply to gender relations in both the private and public sphere, while *qiwamah* is more related to private family relations. Therefore, this part of the study deals with women's position in the public sphere, while *qiwamah* will be studied within the family structure.

The Qur'ānic concept of *zawjiyyah* is the original and widely used expression to describe female–male relationship.⁷ Amani Salih explains the concept of *zawjiyyah* in her article "Pairing and Impairing: Re-Conceptualizing Gender through the Qur'an", and suggests that the meaning is a universal concept:

Grounding in a universal cosmogony, *zawjiya* is poised to compass and encompass a dynamic axiology. It declares the meaning of a deep rooted unity and similarity, human equality, interdependence, functional integrity, a fair and balanced system of reciprocities, a right-duty distribution, and a basic social equity between both sexes where merit and due recompense are required and not accredited [...]. With this in view, the Qur'an

unequivocally denies the inevitability of a confrontation between the sexes and dislodges traditional male-bounded authoritarian theories on the gender question.⁸

Therefore, *zawjiyyah* is very important concept in terms of understanding gender relation in Islam.

The second concept, *wilāyah*, the Qur'ān outlines as the relationship between men and women as partners (*awliyā'*) of one another in establishing a healthy family and just society. The Qur'ān says:

Believing Men and believing women are protectors of one another: They enjoin what is just, and forbid what is wrong, they observe regular prayers, practise regular charity and obey Allah and his messenger on them will Allah pour his mercy for Allah is exalted in power, wise. (9:71)

The verse outlines the foundation of gender relations as *wilāyah* in both the private and public sphere. This relationship is committed to a lifetime of striving in the way of God to enjoin what is good and forbid what is wrong, altogether, to fulfil the purpose of humankind's creation as *khalīfah*. It further expands that concept to give each person (female and male) equal responsibility for their actions and fulfilment of religious duties.

The Qur'ānic Position on Women and the Public Sphere

Since the beginning of the revelation of the Qur'ān, women were involved in the establishment of the first community along with the men. This article provides six points that are derived from the Qur'ān. They indicate God's encouragement for women to contribute publicly to society.

1. The divine reward/punishment system is based on deeds of each individual that reflect righteousness and piety; it is not based on gender, class, colour, ethnicity or wealth: "O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that you may know each other (not that you may despise each other). Verily, the most honoured of you in the sight of God is the most righteous of you [...]" (49:13).
2. It is not gender, ethnicity, or race that would determine the type of work people choose in the public sphere. Indeed, each individual has special qualities and talent that better enable him/her to perform a certain societal role; when that role is fulfilled, then society functions more effectively. The Qur'ān says, "And do not wish for that by which God has made some of you exceed others. For men is a share for what they have earned, and for women is a share for what have earned. And ask God for His bounty. Indeed God has full knowledge of

all things” (4:32).⁹ In verse 3:195, the Qur’ān explains clearly that there is no exclusive type of work for each gender. Islamic law has given women the right to own and dispose of their wealth and assets without any guardianship over her, so that she could be a full legal person possessing the full right to manage her wealth. Islam provides her with specific sources to acquire wealth like dowry, inheritance, gifts and all other lawful means for gaining wealth. Furthermore, the Qur’ān presents socio-economic and legal reforms through the ruling of “female testimony”¹⁰ and other laws, especially during the time of the revelation in Arabia, where the norm was women had no access to possess or own anything. According to the holistic reading of the Qur’ān, this verse on female testimony is a permission and preparation for the women to get involved in financial transaction, trade, and business. The Divine ruling allowed women to participate in this field; at the same time it protects her with a backup plan. Today, business backup plans are created to prevent chaos from occurring when business is having a financial, legal, or social crisis. The Qur’ān in this case offers a safety plan to protect the woman from any kind of future legal, social or financial harm that may occur in various situations and under any circumstances.

3. The Qur’ān continues its guidance on setting the highest expectations of people performance.¹¹ There are many verses that emphasise this meaning, for example, “And say: work (righteousness) soon will Allah observe your work, and His messenger, and the believers: soon will you be brought back to the Knower of what is hidden and what is open, then He will show you the truth of all that you did” (9:105). The Qur’ān emphasises, “To all are degrees (or ranks) according to their deeds. For thy Lord is not unmindful of anything that they do” (6:132).
4. The concept of *wilāyah* reflects teamwork that is based on universal values and ethics. *Wilāyah* means when men and women work together toward the ultimate goal of building human civilisation that is based on ethics and higher values. The Qur’ān says, “Believing men and believing women are protectors of one another: They enjoin what is just, and forbid what is wrong, they observe regular prayers, practise regular charity and obey Allah and his messenger on them will Allah pour his mercy for Allah is exalted in power, wise” (9:71).
5. The Qur’ān introduces general guidelines for people to be able to develop accurate systems and mechanisms that enable them to create a safe, healthy and productive work environment. Those guidelines are mentioned throughout the Qur’ān.¹²
6. *Shūrā* (mutual consultation) is an important and practical principle, which is essentially a decision-making process among equals. It infers a level of equality among those consulting and being consulted in order to reach a collective decision. Core values, modesty/the dress code for both men and women, increase the focus on the value of one’s work instead of the physical attraction.

Sūrah 24 is the detailed chapter in regard to gender interaction. Women's dress code or *ḥijāb* in this case becomes Divine encouragement for women to be involved in the public sphere. The focus of gender interaction should be on the intellectual, spiritual, and social contribution of the individual to the community and humanity at large instead of her physical attraction.

Women were among the earliest converts to the faith, and among the first to sacrifice and be persecuted in the cause (the first martyr was a woman) and significantly, they participated in all the formative community experiences, including specifically the acquisition and transmission of knowledge, which was the source of identity and power in the new community. Women were encouraged to partake in societal duties; even in the war zone. For example, Nusaybah bint Ka'b was a soldier who was entrusted with the task of protecting the life of the Prophet and his most beloved companions in the Battle of Uhud. She was on the battlefield, sword in hand, battling the Meccan enemy side by side with male companions. Therefore, it is deduced that early Islamic society did not restrict or constrain professions based on gender, but rather, focused on personal qualifications and skills.¹³

Muslim women understood their crucial responsibility to seek education and to empower others through knowledge. They realised that the mosque is a place for spiritual and intellectual growth and development for all Muslims. The presence of women at the Prophet's Mosque was apparent. Women were active and regularly attended the prayers at the mosque at all times, including *fajr* and *ishā'* (the dawn and night prayers, respectively) during the time of the Prophet. The mosque was for them a place where their spirits were nurtured, their intellects satisfied, and their skills and contributions appreciated and utilised.¹⁴ Furthermore, the believing women during the time of the Prophet observed and suffered from many pagan customs and traditions in society. For example, Khawlah bint Tha'labah, was dignified by God in the Qur'ān (58:1) with the title *al-mujādilah*, 'the woman who disputes'. She earned this title because she complained to the Prophet regarding the pagan custom of *ḡihār*: This was held by pagan custom to imply a divorce and freed the husband from any responsibility for conjugal duties, but did not allow the wife to leave the husband's house or to contract a second marriage. Khawlah understood the Islamic paradigm was based on justice and mercy, therefore, she complained to the Prophet. Soon, the revelation came, and God confirmed Khawlah's conviction that what had been done to her was unjust and was henceforth to be prohibited by law. The Qur'ān confirmed Khawlah's concern and names the *sūrah* as *al-Mujādilah* (58). Her example can be considered as an indication to encourage people to identify their challenges and construct their questions effectively in order to facilitate change.

Since Islam's earliest days, women had been taking a prominent part in the preservation and cultivation of the main sources of knowledge, Qur'ān and *Sunnah*,

and this function continued through the centuries. It is so unfortunate that the *ḥadīth* literature in particular is used to suppress and deny the role, rights and status of women. Therefore, the distinguished work of the contemporary researcher ‘Abd al-Ḥalīm Abū Shaqqah on his six-volume encyclopaedia *Tahrīr al-mar’ah fī ‘aṣr al-risālah* (Liberation of women during the Prophet’s era) attempted to illustrate the role of women in the society of Medina during the time of the Prophet.¹⁵ His methodology was based on a holistic reading of the Prophetic society that was based on authentic data and critical analysis.¹⁶ He included only the authentic *aḥādīth* that were narrated by al-Bukhārī and Muslim. The conclusion of the book highlights collaboration, mutual respect and successful teamwork among men and women as the perfect component of the model society. As a result, he proved that the fragmental reading of the *aḥādīth* led to committing injustice against women for centuries and that influenced the family as well.

Gender Relations: Between Culture and Religion

It is important to distinguish between Islamic sources, primarily the Qur’ān and *Sunnah*, and Muslim cultural norms (*‘urf*), which have developed over centuries of integrating Islamic teachings with cultural and traditional practices in different parts of the world. Culture and religion may interact in many ways, leading to a wide range of responses in Muslim families.¹⁷

The Qur’ān recognises that historically, in many human societies, men had power over women. In pre-Islamic Arab society, for example, many women had very little or no property, status, and/or rights. Afaf Lutfi al-Sayyid Marsot attempted to present an explanation that is based on a socio-economic analysis:

Anthropologists explain how the economic status impacts the role of men and women. In the societies that sustained themselves through hunting, men were the dominant partners because they do the hunting. When such societies evolved into agricultural societies, those societies where the hoe was used treated men and women equally because either gender could handle a hoe; but in societies where the plough was in use, men became the dominant partner [...]. In nomadic societies, such as those of the Arabian Peninsula where transhumance was a way of life, men were dominant because they had to resort to violence to stave off attacks from rival tribes. Yet, some tribes were matriarchal, where the man joined his wife’s tribe; others were patriarchal, where the women joined her spouse’s tribe [...].

However, the status of individuals in society depends on the mode of production within the society, an economic determinant. She further continued:

The economic determinant is sustained by a political determinant where in all societies men undertook the function of protecting their society from outside aggression and as

warriors enjoyed a superior status. Consequently, they also developed control of the political functions of society. The third determinant within society is moral cum legal determinant, for which we can read ethics, religion, et cetera.¹⁸

Therefore, the Qur'ān as the final, universal divine message, warns men (fathers, brothers, husbands, or guardians) against hurting or taking advantage of women. In times of conflict or discord, the reminder of being God-conscious in making choices and decisions was repeated over and over.¹⁹ These reminders emphasise the spiritual relationship between God and each individual, which helps guide every other human relationship.²⁰ Religion sets out guidelines for society to follow. How society applies and interprets these guidelines is a function not only of religion but of economics, politics, social behaviour and circumstances, demographics, and culture; for these elements determined the interpretations derived from the Qur'ān. Thus, religion is only one determinant among many that guide a society.²¹ Throughout the 15 centuries of Islamic history, diversity and plurality have been the main characteristics of Islamic culture and society. Muslim societies throughout history were not static; they, in fact, were very dynamic as was the status of Muslim women.

After delving into the breadth of historical references, it is obvious that the historical concentration and focus was more geared towards political, diplomatic, and governmental events, rather than social, cultural, and familial constructions. However, with the limited and confined historical reference towards societal composition, some modern historians were still able to extract and extrapolate the contribution and reverence of women. The sources that illustrate women's status in society vary between the *aḥādīth* of the Prophet, his biography (*sīrah*), the biographies of the '*ulamā'*' (*ṭabaqāt*),²² the *fiqh* legacy including the great collections of *fatwās*,²³ the judicial precedents (*qaḍā*),²⁴ and finally Arabic poetry and literature.²⁵ However, there is still a great need to review and analyse effectively the vast historical collections in order to shed light on women's roles and status, the family structure, and the social foundation through different times.²⁶

It is difficult to determine the exact reasons for the decline of women's involvement in the public sphere in Muslim societies. However, there are some important indications that may enable us to draw a timetable in some locations. Less than three decades after the Prophet's death, new concepts and ideals were introduced. Islamic values were tested due to the counter-offensive of tribal and authoritarian forces. The tribal and patriarchal system quickly regained strength. This influenced the political process and the social structure as well.²⁷ Forefront in the casualties was the then emergent concept of the 'new woman' fully responsible, actively engaged and committed, within the family and the *ummah* at large. It gave way to an older, deep-rooted counterpart of women as inferior subjects. With this understanding women gradually lost the public roles and strength they had gained

under the Prophet and his successors, the four Rightly-Guided Caliphs (*al-khulafā' al-rāshidūn*).²⁸ This latent separation and isolation for women was far removed from the outlook and culture that the Prophet promoted and encouraged.

Furthermore, frequent and continuous wars were another important factor affecting the role of women in Muslim societies.²⁹ Men became more protective of women, and keeping them at home was one mechanism used by men to control dangerous situations, until it eventually became a norm and tradition in its own right.³⁰

This attitude and practice of secluding, sheltering, and isolating women in order to protect the honour and prestige of society was not present in the early Islamic period of Mecca and Medina. In contrast, women in the early Islamic period were encouraged to partake in social endeavours for the betterment of society. However, the large influx of Christians into Umayyad society and government opened the door for other traditions to bring doubt and suspicion on to the traditionally active Muslim women. In her book *Women in the Qur'an: Traditions and Interpretation*, Barbara Stowasser, a respected Western researcher, explained the influence of the conquered territories as an important reason for the decline in Muslim women's status:

Even though the Islamic conquests had established Islam's message in the conquered territories outside of the Arabian Peninsula where it largely superseded the older, antecedent religions (mainly Zoroastrianism in Iran and Orthodox Christianity in the Byzantine provinces), indigenous culture, customs, and institutions in these areas, in turn, left their imprint on the emerging medieval Islamic civilisation, including much that had to do with the women's status questions.³¹

Moreover, Karen Armstrong explained the issue of the decline of Muslim women's status in her book *The Gospel According to Women: Christianity's Creation of the Sex War in the West*. She argues that before the arrival of Islam in the seventh century, upper-class women in Byzantine and Sassanid societies and women of the royal harem wore the veil as a mark of their high status. This custom was adopted by elite women in early Islamic society in the same region. Many nomadic women, however, maintained their traditional freedom of movement and less restrictive dress codes even after conversion to Islam.³²

Barbara Stowasser elucidated further how the inclusion of *isrā'iliyyāt* and Bible-related traditions in Islamic exegetic literature truly turned the traditional Islamic societal outlook of women upside down. Bible-related traditions such as, "symbolic images of the female's defective nature" and furthermore, the themes of "woman's weakness" and "woman as threat to the male and society" were all integrated into Islamic theologian commentaries and interpretations.³³ These biblical traditions transformed Islamic socio-perceptions about women, causing society to look at women as devious, unchaste, and deceitful, which is in total opposition to the early Islamic perception of women. This new-found observation

of women, according to Stowasser, was the cunning influence of Christians and biblical traditions on the Umayyad society.

For example, the Israelite legacy and paradigm was integrated within the exegetical literature. Al-Ṭabarī, for example, narrated the story of the creation of Eve according to the Israelite story,³⁴ even though he explains clearly his opinion regarding the authenticity of the narration,³⁵ but still, the other commentators who came after him continued to narrate the same story according to al-Ṭabarī. To a large part, this must be related to the fact that medieval Islamic society was patriarchal to a far higher degree than had been the early Islamic community in Mecca and Medina, first recipient of the qur'ānic revelations.³⁶

To summarise, Muslim countries and cultures are a mixture of many factors. Different circumstances created different social attitudes within the Muslim world and among other societies over centuries. Therefore, the classical Islamic methodology signifies diversity of opinion in classical jurisprudence and accepts the effort of any qualified individual to carry out *ijtihād*.³⁷ The flexibility of applying the law is considered a positive factor that maintains social stability at any time of drastic change.³⁸ While some religious scholars in ninth- and tenth-century Iraq were prescribing more restrictive roles for women, elite women in Muslim Spain were sometimes able to bend these rules and mix quite freely with men.³⁹ Moreover, during the Mamluk period in Egypt, working-class women played an active part in economic life; it was proven by their contribution under the endowment system. However, it is true, men who led the army also led the polity and the judicial power; and in modern times, women lead the polity, as in Bangladesh and Pakistan and they have judicial powers, as in Indonesia and Sudan.

Yet, the unique role as a 'mother' is the essence of both nature and nurture, and nature and culture. The etymology of *u-m-m* points to being a 'source and well-spring', in this case, of life. Therefore, it is not surprising that the term *ummah* has an affinity with *umm* (mother), given the realisation that the living world is intrinsically rooted in a community of mothers. Psychologists emphasise that the one who teaches the child from birth, and the few years after, has the greatest influence on that child. It is women who teach children social, religious, and ethical values, thus, it is women who help abolish any discriminatory practices a society might have. Although women in many areas of the Muslim world have plugged into a patriarchal system, they still have the power of teaching their offspring to break away from such a system and create the twin-mate of the qur'ānic model.⁴⁰

Family Structure and Social Development

The Islamic marriage: A method of social and economic development. Marriage in Islam is noble and universally necessary because it brings tranquillity, progeny, and

continuation of life with purity and responsibility. Marriage provides a legitimate intimate relationship between a man and a woman, and most importantly, it provides a vehicle for the fulfilment of humankind's divine purpose as God's vicegerents through procreation and human relations.⁴¹ "Marriage is the root which facilitates human procreation and spreads the notion of kinship (*qarābah*), including both descendants (*furū'*) and ascendants (*uṣūl*). This also requires the regulation of the in-law relationship (*ṣihr*), which manifests its crucial significance for the formation of extended family, clan, tribes, and nations."⁴² In order to protect the human race and society, same-sex relations, fornication, and adultery, in all their forms, are prohibited in Islam. Even celibacy, though honourable in intention, is forbidden due to the biological nature of human beings and their need for human companionship.

Therefore, the foundation of the Islamic marriage and its purpose are described in the following verse from the Qur'ān:

And among His signs is this: that He created for you mates from among yourselves, that you may dwell in tranquillity with them, and He has put love and mercy between your (hearts). Verily in that are signs for those who reflect. (30:21)

This verse refers to the main objective of the *sharī'ah* for marriage, which is to establish *sakīnah* (roughly translated as 'tranquillity'). To further enrich this concept of tranquillity, God speaks of another of His favours that He put in the hearts of spouses: compassion and mercy for each other. This verse further specifies the purpose of marriage and characterises the union in which each spouse is responsible for bringing tranquillity into the marriage. It is a reminder that each spouse is inherently equal, and that the union between them is a peaceful and compassionate one.⁴³ God further describes the nature of marriage in the following qur'ānic verse:

They are your *libās* (garments) and you are their garments. (2:187)

As argued by this writer elsewhere,

a garment protects one from the dirt and grime of the outside world. Garments are the closest to our bodies, wrapping us in comfort. Being naturally conscious of appearance, people take time to choose the style, colour, and texture of their clothing, as they take time to clean, iron, and generally maintain it. When the various meanings of *libās* are translated into the context of a relationship, the parallels are obvious. Men and women are mutual garments for each other. They cover each other's weaknesses, serve as a protection and comfort from the harsh elements of reality, and safeguard the precious intimacy and secrets shared between them.⁴⁴

When two individuals decide to unite in marriage, they are bound by a "solemn covenant".⁴⁵ It is important to understand the significance of the marriage contract and it is an obligation to fulfil all the conditions of the contract from both parties.

Both man and woman have the right to sign any conditions as long as they do not violate the divine teachings. The objective of the *sharī'ah* is to consider the family as the foundational institute of human society. In order to build stability in the family, the man and woman should enter marriage with the intention of seeking a permanent relationship.

Therefore, choosing the right spouse is crucial. There are many issues on which the Qur'ān provides a comprehensive vision, one of which is for the role of the guardian, *walī*, as it is explained in 9:71–2. Men and women are guardians of one another, they enjoin what is good and forbid what is evil; this is significant in the early stages of marriage for many reasons. First, the *wilāyyah* in marriage, according to Islam, is a great responsibility that requires justice, mercy, and wisdom. Second, the role of the *walī* in a marriage contract is to represent the woman; therefore, he must consult with her throughout the process and ensure all her rights are preserved and protected. Nevertheless, one of the most widespread legal schools, the Ḥanafī legal school, allows an adult woman to marry without the permission of her *walī*. Third, the concept of *walī* declares the approval and full support of the family and the society to the young couple in this crucial stage of their life.⁴⁶ The challenge is what if the *walī* does not represent the interests of the woman; what recourse does she have? Women have the right to refuse the man for a valid reason. For instance, Islam provides guidelines concerning the social equality of partners with regard to piety, wealth, *nasīb* (blood ties), profession, education, and even age. It is important for a successful marriage to be established with complete agreement and compatibility between the couple. One can find greater equality among spouses where the spouses have the same or close age, the same degree of wealth, and the same degree of education.⁴⁷ Next, if all the parties agreed with attendance of two witnesses, then the fulfilment of the contract becomes an obligation.⁴⁸ Then, the publicity of the marriage becomes essential. Keeping marriage a secret brings it closer to adultery and preventing people from honouring and protecting this institution. The publicity of marriage aims to achieve the objective of protecting and honouring the rights of all the members of the new family.⁴⁹ Therefore, when we understand the *wilāyyah* in light of the Qur'ān, it changes from being a dry legal issue to being a qur'ānic moral component.

Islam ensures women's financial rights by instituting a number of laws, including the obligatory *mahr* (marital gift). The Qur'ān explains it clearly: "And give unto women their marriage portions in the spirit of a gift, but if they, of their own accord, give up unto you aught thereof, then enjoy it with pleasure and good cheer."⁵⁰

The qur'ānic term *niḥlah*⁵¹ signifies the 'giving of something willingly', of one's own accord, without expecting a return for it.⁵² It is a gift from the groom to the bride and it reflects his serious commitment to his wife. *Mahr* can vary greatly in terms of value and type, but should conform to what is customary in the couple's

cultural and socio-economic context.⁵³ The father or any other male figure in her family has no right to take it. It is her financial right, as the Qur'ān and the *Sunnah* of the Prophet explained. Moreover, the inheritance system in Islam is another avenue for empowering women financially. The Qur'ān encourages women to get involved in the economic growth of the family and the society through the system of *zakāt*, charity, and endowments (*awāqf*).

Qiwāmah as Responsibility Allocation

Men are *qawwāmūn*⁵⁴ over women, because God has given the one more (strength) than the other, and because of the sustenance they provide from their own means. Therefore, the righteous women (*al-ṣāliḥāt*) are devoutly obedient to God (*qānītūt*), and guard what God would have them guard (*ḥāfiẓāt^{un} li 'l-ghayb*) [...] (Qur'ān 4:34–5).

The word *qawwāmūn* was mentioned in only three verses in the entire Qur'ān; two of them call upon believing men and women to establish justice as an ultimate goal in any situation.⁵⁵

O you who believe stand out firmly for Justice as witnesses to God even as against your parents, or your kin, or whether it be against rich or poor. Follow not the lusts (of your heart) [...]. (4:135)

The second verse states,

O you who believe! Stand out firmly for God as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart you from justice. Be just: that is next to piety. And fear God. For God is well-acquainted with all that you do. (5:8)

Therefore, *qawwāmūn* in verse 4:34 refers to men's responsibility toward women to be fair and compassionate, as Prophet Muḥammad exemplified through his sayings and actions.

Men are responsible for providing a broad range of needs, including financial, spiritual, emotional, and educational needs. Without this divine law, some men may not fulfil their financial responsibility towards their family. Unfortunately, nowadays criticism has been made on the issue of *nafaqah* (the man's financial responsibility toward his family) to either deprive women of their rights or to make them feel bad about it. Having the man responsible for the financial expenses of his family does not mean women cannot work outside and contribute to their family. Since the time of the Prophet, women were encouraged to be greatly engaged and effectively contribute to their families and society in connection with their qualifications, talents, and circumstances. During the time of the Prophet, some of the women chose to work outside along with their husbands; others decided otherwise.⁵⁶ The Islamic

definition of work goes beyond the modern literal meaning in which it focuses on the value of the contribution, rather than the location of the work. In many cases, men are the breadwinners in their family either temporarily or permanently. In case of death, illness, studying, divorce, or similar circumstances, women take over the burden of financial responsibility in addition to their other responsibilities. Islam encourages women always to be educated and trained so they will be able to support themselves and others in case of an emergency. Therefore, Islam highly respects and trusts women and their abilities to handle multiple tasks, by giving them freedom to choose when it comes to financial support of their families.

Men and women are partners in the endeavour of maintaining a healthy family unit in which children are raised to be God-conscious members of society. The comprehensive system of *nafaqah* (financial assistance), inheritance, and ‘taboos’ (*maḥārim*)⁵⁷ in Islam reflect the miraculous design of internal and unspoken contract among the family’s members.⁵⁸ The clear crafting of the policy of the rights and obligations in the family reveals the magnitude of this contract in every family relation. It leaves no person without a network that he/she relies on in the time of prosperity or depression. The philosophy of the extended family system in Islam plays the role of preserving and maintaining the welfare of every individual as a member of that family. Amazingly, for instance, in the case of a child who was born as a result of wrongdoing (adultery) and no one claims to be his father, the mother’s family immediately becomes the official guardian and responsible for his/her well-being. That is why the family’s name is significant in Islam because it exemplifies the commitment of the unspoken contract. For example, in the case of adoption or marriage, the child and the woman should keep their family’s name due to that contract.⁵⁹

The fact that a husband and wife have different roles to play in the family does not in any way suggest that men are better than women, or that they have God-given power over them. God clearly highlights that the most honoured among humankind are those who are righteous.⁶⁰ Furthermore, the roles of men and women are not mutually exclusive. Both parents must be involved in raising the children. Although each may participate in different aspects of the child’s upbringing, both are equally responsible for the overall welfare of the child. The concept of *shūrā*, as essentially a decision-making process among equals, infers a level of equality among those consulting and being consulted, in order to reach a collective decision.⁶¹ The success of the family is dependent on the joint participation and consultation of both parents. Children can be included in the process of *shūrā* regarding any matter that is age-appropriate. In this way, children learn the inclusive decision-making process of Islam, which they can carry with them when they are with their peers and when they become active members of the society. Through this process, they also learn

skills such as cooperation, communication skills (including listening), and tolerance, all of which are necessary tools for living within a dynamic and diverse society.

Islamic Divorce: A Peaceful Solution⁶²

Islam constructed a detailed legal system regarding divorce. This article will not discuss the legal arguments and laws of divorce; rather, it will illustrate the general Islamic values and principles that are related to divorce.⁶³ The qur'ānic and the Prophetic teachings outline the meaning of marriage as an agreement between two parties that have decided to establish a successful institution in which both parties adhere to God's teachings and abide by His boundaries (*hudūd Allāh*). Yet if the parties fail to fulfil the conditions of the agreement, then divorce will be the final solution. However, the divorce prescribed by Islam is to preserve the harmony of the family relations and dissolve marriage peacefully with lesser harm; unlike the cruel, ruthless, and humiliating divorce that we see today in some cases. Nowadays, we see spouses dragging each other through the court system in order to drain and degrade the other. Islamic teachings illustrate that when you seek marriage you get married *bi 'l-ma'rūf* and you divorce *bi-iḥsān* by remembering the good times⁶⁴ that you had together.⁶⁵ Therefore, the objective of the *sharī'ah* regarding divorce is to end the marriage peacefully, in order to preserve the human relationship of *ṣihr*. All the qur'ānic verses related to this issue emphasise the fulfilment of this objective.

Divorce is allowed in Islam as a last resort when all other efforts at resolving conflict have been used. It is permitted under a wide variety of circumstances, but is especially acceptable when there is any cruelty involved.⁶⁶ It can be initiated by either party, individually or by mutual agreement, but the procedure and process varies depending on who initiates the divorce, and the circumstances around the divorce. It should be noted that there are different schools of thought in Islam; therefore, some leaders may be more conservative than others in the matter of divorce. Many Muslims may not be knowledgeable about the Islamic legal process related to divorce, and they may have some misconceptions about procedural details, as well as the rights of each party in the event of a divorce.⁶⁷

The Qur'ān devotes an entire chapter to the details of divorce.⁶⁸ Emphasis is placed on ensuring spousal and children's rights, acknowledging that these rights are often abused. The Qur'ān holds not only each spouse accountable for making sure these rights are not violated, but also warns the entire community of being punished if these rights are not upheld.⁶⁹ Although there may be hurt feelings on both sides, the Qur'ān advises decision-making from a compassionate stance, encouraging the couple to remember anything good that they shared.

The psychological state of those impacted by divorce is also addressed in the Qur'an. The theme of forgiveness is tied to being conscious of God and is linked to the healing process.

Strategies leading to forgiveness include: focusing on the positive aspects that existed in the relationship in order to prevent hatred and anger from taking over, controlling one's anger to avoid acting unjustly, and increasing one's prayers. Furthermore, the awareness that God is aware of everything that happens, and that He will ultimately ensure justice, facilitates the process of forgiveness and may reduce any impulses to seek revenge.⁷⁰

Despite the permissibility of divorce, today in some cultures that are predominantly Muslim, divorced women may be stigmatised even if they have been mistreated by their husbands. These women may also experience difficulty obtaining a divorce from the court. The laws of some countries deny women their God-given right to divorce. These countries are often contradicting qur'ānic teachings and the *Sunnah* of the Prophet by doing so. Therefore, they are not applying Islamic law even when they claim to be doing so.⁷¹ The historian Amira El Azhary Sonbol presented this issue clearly in her article "Law and Gender Violence in Ottoman and Modern Egypt" by comparing the modern state legal system to the Ottoman court system in Egypt.⁷² She intended to prove that whenever the Islamic principles and teachings are considered in a system, it will effectively lead to implement justice for all.⁷³ Necva B. Kazimov argued almost on the same line as Sonbol in her article "Egypt's Reservations to the United Nations Convention on the Elimination of Discrimination against Women and Women's Rights in Egypt":

Thus after decades of struggle and resistance, it is a sad irony that Egypt's present divorce law fails to guarantee as many rights as some schools of classical Islamic law did, such as *khul'* (divorce by mutual agreement or settlement), the most liberal form of divorce accepted by all classical jurists. Indeed, under some schools of classical Islamic law, a woman would not have to forfeit any of her financial rights to maintenance.⁷⁴

It is important to distinguish between the divine law and the human understanding and implications of the law.

The challenge for modern reform movements is to retrieve the prophetic legacy in the context of changed conditions in modern times. Striving for methodological transparency becomes a necessity. It should be based on drawing clear distinctions between the main sources of Islam; the Qur'ān and the authentic *Sunnah* of the Prophet. This methodology requires true and authentic engagement with the Qur'ān; beginning with the Qur'ān will bring advancement to Islamic studies, social sciences, and socio-cultural reform.

Conclusion and Recommendations

The family has been used in this study as a model for the implementation of various Islamic values and principles as the means for achieving tranquillity and peace,

in seeding conciliation and minimising violence. The union between spouses must be based on the qur'ānic concepts of *tawhīd* (oneness of God) and *istikhlāf* (vicegerency). The family, as the basic constructive unit on which the rest of society is built, must be the environment in which the values of the larger society are developed and strengthened.

The Qur'ān, in its comprehensive teachings, provides the most detail for issues concerning the family, and the *Sunnah* has provided explanations and examples for implementation. By examining these teachings, it is obvious that the goal is to build and preserve this crucial family unit. The reading of these teachings must be done in a holistic manner, not by partitioning them into individual components, because reading any verse out of context can lead to confusion and misunderstanding.

That is because the *sharī'ah*'s general role is based on ease and mercy; it is meant to be easily adaptable to any society, so that when circumstances change, attitudes can be modified to fit existing situations. Various cultural patterns actively influence the interpretation of the text. The Qur'ān will continue to be open to individual interpretations and readings, as long as its value system and its general rules are preserved and followed.

We may propose the following by way of policy-relevant recommendations:

- The Qur'ān provides comprehensive guidelines for family law reform but the Qur'ān should be read in context and in conformity with its broader objectives and outlook of mercy to all human beings. There is a need to negotiate some aspects of the scholastic *fiqh* rules in light of the broader Qur'ān guidelines.
- History and culture of Muslim societies have influenced the development of *fiqh* as well as the Qur'ān commentaries. Our efforts to improve the conditions of women should be informed by the need to recapture the original impulses of Islam and the exemplary proxies and teachings of the Prophet's lifetime when women were a part of public life and played important societal roles.
- The existing laws of some Muslim countries such as those of Egypt which stop short of reforming its divorce laws on *khul'* should be revised. "Release them in equity and kindness" is the qur'ānic guideline on divorce which should inform court practice and legislation on divorce.

Notes

1. Mona Abu Fadl, "Muslim Women Scholars on Women in Islam" (Chicago, Chicago Theological Seminary), 7 November 1990, available online at <http://www.muslimwomenstudies.com/English.htm> (accessed on 16 April 2011).
2. See Qur'ān 91:7–10: "And by the soul and proportioned it, and inspired it (with discernment of) its wickedness and its righteousness, He has succeeded who purifies it, and he has failed who instills it (with corruption)."

3. The Qur'ān was revealed in Arabic, and the Arabic text is believed by Muslims to have been preserved in its original form. The Qur'ān has been translated into most of the world's languages, yet only the original text is accepted by Muslims as of divine origin. The present study relies on Abdullah Yusuf Ali's translation unless otherwise noted; see Abdullah Yusuf Ali (tr.), *The Holy Quran* (Brentwood MD: Amana Corporation, 1993).
4. See Qur'ān 18:29–31: "Say, the truth is from your Lord. Let him who will, believe, and let him who will, reject (it): For the wrongdoers We have prepared a fire whose smoke and flames, like the walls and roof of a tent, will hem them in [...]. As to those who believe and work righteousness [...] for them will be gardens of Eternity, beneath them rivers will flow [...]."
5. See the chapter "The Concept of Reality and Freedom in Islam and Islamic Civilisation", in: Seyyed Hossein Nasr, *Islamic Life and Thought* (Albany NY: SUNY Press, 1981).
6. See Qur'ān 49:11: "O ye who believe! Let not some men among you laugh at others. It may be that the (latter) are better than the (former): nor let some women laugh at others: it may be that the (latter) are better than the (former): nor defame nor be sarcastic to each other, nor call each other by (offensive) nicknames: ill-seeming is a name connoting wickedness, (to be used by one) after he has believed: and those who do not desist are (indeed) committing injustice."
7. Zainab Alwani, "The Quranic Model to Harmony in Family Relations", in: Maha B. Alkhateeb and Salma Elkadi Abugideiri (eds), *Change from Within: Diverse Perspectives on Domestic Violence in Muslim Communities* (Great Falls VA: Peaceful Families Project, 2007), 40–1.
8. Amani Salih, "Pairing and Impairing: Re-Conceptualizing Gender through the Qur'an", *Women and Civilisation* 3 (2002), 17–53.
9. M.A.S. Abdel Haleem, *The Qur'an: A New Translation* (New York: Oxford World Classics, 2008).
10. It is one of the controversial issues on women's rights in Islam; see Qur'ān 2:282–3.
11. See Qur'ān 4:135: "O you who believe! Stand out firmly for justice, as witnesses to God, even as against yourselves, or your parents, or your kin, and whether it be (against) rich or poor: for God can protect you both. Follow not the lusts (of your hearts); lest you swerve and if you distort (justice) or decline to do justice, verily God is well-acquainted with all that you do."
12. See Qur'ān, *sūrahs* 2, 3, 16, 24, 27, 28, and *passim*.
13. See 'Abd al-Ḥalīm Abū Shaqqah, *Tahrīr al-mar'ah fī 'aṣr al-risālah: Dirāsāt jāmi'ah li-nuṣūṣ al-Qur'ān al-Karīm wa Ṣaḥīḥay al-Bukhārī wa Muslim* (Kuwait, 1410AH/1990), 2: 53; Ibn Sa'd, *Kitāb al-Ṭabaqāt al-kabīr*, ed. Carl Brockelmann (Leiden: Brill, 1904), 8:415; al-Imām Muslim, *al-Jāmi' al-ṣaḥīḥ*, "Kitāb al-jihād", 5:179–96.
14. 'Ā'ishah 'Abd al-Raḥmān Bint al-Shāfi', *Tarājim sayyidāt bayt al-nubuwwah* (Beirut: Dār al-Kitāb al-'Arabī, 1984).
15. Abū Shaqqah, *Tahrīr*.
16. Some works have referred to the contribution of Muslim women throughout history, but most of them have focused on the mere gathering of data. Perhaps the best example of a traditional work is Ibn Sa'd's *Kitāb al-Ṭabaqāt* (vol. 8); a contemporary example is 'Umar Riḍā Kaḥālāh, *A'lām al-nisā'* (Beirut: Mu'assasat al-Risālah, 1984). These books are beneficial for the researcher at the stage of collecting data. However, Abū Shaqqah's *Tahrīr* on tracing the gender-relations and its impact on the society in different times and locations through the history of Muslim *ummah* is vital.
17. See Anne Sofie Roald's *Women in Islam: The Western Experience* (New York and London: Routledge, 2001) for a more detailed discussion of the integration between religion and culture.
18. Afaf Lutfi al-Sayyid Marsot, "Women and Modernisation: A Re-Evaluation", in: Amira El Zahary Sonbol (ed.), *Women, the Family, and Divorce Laws in Islamic History* (Syracuse NY: Syracuse University Press, 1996), 39–51.
19. See Qur'ān 65:1–12 for details concerning separation, divorce, reconciliation, punishment for transgressors and reward for those who obey God's laws.
20. Salma Abugideiri, and Z. Alwani, *What Islam Says About Domestic Violence* (Herndon VA: Faith, 2003).
21. Al-Sayyid Marsot, "Women", 39–44.

22. Among the works of Muslim historiography which have documented and gathered vast amounts of data regarding events, stories of different people, battles, wars, cities are Muḥammad b. Jarīr al-Ṭabarī, Ibn al-Athīr, al-Khaṭīb al-Baghdādī, Ibn al-Jawzī, al-Mas'ūdī, al-Dhahhabī, Ibn Kathīr, Ibn Sa'd, and Ibn Khaldūn, to name only some of the most prominent ones. Muslim historians recorded the biographies of the jurists and scholars since the second century AH/eighth century CE. Some of them were restricted to a specific school of thought such as *Ṭabaqāt al-shāfi'iyyah al-kubrā* and its author al-Subkī and many other books written in this area. It was noted that female jurists throughout the centuries featured rarely in these books. Therefore, it is important to use a variety of sources in order to illustrate the role and status of women throughout Islamic history.
23. Such as Aḥmad Ibn Taymiyyah's *Majmū' al-fatāwā al-kubrā* and others.
24. There are many works on this issue published by Western universities such as Georgetown, Harvard, Princeton and several others. Certainly, the methodology, the objectives, and the outcome of each study vary. See for example the important debate regarding the issue of the qualified woman being a judge or any political position in Abū Shaqqah, *Tahrīr*, 2:367–73.
25. Arabic literature, poetry, and storytelling – whether based on false or true stories – played a good role in reflecting and illustrating the role of women in society. See, for instance, Aḥmad Ibn Abī Ṭāhir Tayfūr, *Balaghāt al-nisā'* (Cairo: 1326AH/1908); Shawqī 'Abd al-Ḥakīm, *Mawsu'āt al-fulkūr wa 'l-'asāfīr al-'arabiyyah* (Beirut: Dār al-'Awdah, 1982), and the famous *Arabian Nights*. See also Fedwa Malti Douglas, *Woman's Body, Woman's Word: Gender and Discourse in Arabo-Islamic Writing* (Cairo: The American University in Cairo Press, 1991); Muḥammad 'Anānī, *al-Mukhtār min ash-'ā'r al-mar'ah al-'arabiyyah* (Cairo: Al-Hay'ah al-Miṣriyyah al-'Āmmah li 'l-Kitāb, 1997); Muḥammad Ḥasan 'Abd-Allāh, *Ṣūrat al-mar'ah al-'arabiyyah fī 'l-shi'r al-umawī* (Kuwait: Manshūrāt Dhāt al-Salāsīl, 1987).
26. Many of the contemporary thinkers and historians were able to realise the need of developing a new methodology on reviewing, studying and analysing the Islamic history. The works of history, which were written in different times and for different purposes and objectives, are in need of new reading and analysis. The call for a new methodology on studying this rich legacy is thus valid. Among those who pioneered in this field is Imād al-Dīn Khalīl. See also the monumental twelve volumes project on "International Relations through Islamic History" under the leadership of Nadiyah Mahmoud Mustafa (Cairo: The International Institute of Islamic Thought, 1996). See furthermore 'Abd al-'Azīz al-Dūrī, *Dirāsāt fī 'l-'uṣūr al-'abbāsiyyah al-muta'akkhkirah* (Beirut: Markaz Dirāsāt al-Waḥdah al-'Arabiyyah, 2007); 'Abd al-'Alīm 'Abd al-Raḥmān Khidr, *al-Muslimūn wa-kitabāt al-ta'rīkh* (Herndon VA: the International Institute of Islamic Thought, 1993).
27. This was reflected in the works of literature, poetry, and history. See 'Abd al-Raḥmān Ibn Khaldūn, *The Muqaddimah: Introduction to History*, tr. F. Rosenthal, ed. N.J. Dawood (Princeton NJ: Princeton University Press, 1967).
28. See Mona M. Abul-Fadl's editorial column to the journal *Women and Civilisation* 2, (2001). Available online at www.muslimwomenstudies.com (accessed on 14 April 2011).
29. The Qur'ān describes the negative consequences of war in verse 27:34. Muslim societies continue to face ongoing wars and destruction to this day and more research is needed to analyse the impact of wars on women and children.
30. Mazen Hashem, "A Perspective of Islamic Reforming Regarding Women's Issues", paper presented at the American Center for Civilization and Intercultural Studies, 1993. See also Roald, *Women*, 160.
31. Barbara Freyer Stowasser, *Women in the Qur'an: Traditions, and Interpretation* (Oxford and New York: Oxford University Press, 1994), 23.
32. Karen Armstrong, *The Gospel According to Women: Christianity's Creation of the Sex War in the West* (London: Tree Books, 1986); Amr Abdalla, "Principles of Islamic Interpersonal Conflict Intervention: A Search Within Islam and Western Literature", *Journal of Law and Religion*, 15, no. 1–2 (2000), 151–84; Bernard Lewis, *Islam from the Prophet Muhammad to the Capture of Constantinople* (London: Macmillan, 1976).
33. See Stowasser's analysis on the issue of *isrā'iliyyāt*, *Women*, 23–5.

34. al-Ṭabarī, *Ta'riḫ al-rusul wa 'l-mulūk*, ed., Muḥammad Abū 'al-Faḍl Ibrāhīm (Cairo: Dār al-Ma'ārif, 1960–69), 8:144; al-Mas'ūdī, *Akhbār al-zamān* (Beirut: Dār al-Andalus, 1980).
35. 'Imād al-Dīn Khalīl in his analysis of al-Ṭabarī's methodology explained that the major goal for him and the other historians is to make sure that all the information he had acquired is written and documented especially in his book of history (*Ta'riḫ al-rusul wa 'l-mulūk*) regardless of the authenticity of the source. This methodology of collecting and preserving the information was also well-known among other Muslim historians, such as al-Mas'ūdī. See 'Imād al-Dīn Khalīl, *Ḥawla i'ādat kitābat al-ta'riḫ al-islāmī* (Qatar: Dār al-Thaqāfah, 1986) and idem, *al-Tafsīr al-islāmī li 'l-ta'riḫ* (Beirut: Dār al-'Ilm li 'l-Malāyīn).
36. Khalīl, *Ḥawl*, 23.
37. John L. Esposito, *Women in Muslim Family Law* (New York: Syracuse University Press, 2001), 51; Norman Daniel, *Islam and the West: The Making of an Image* (Edinburgh: Oneworld, 1960).
38. Necva B. Kazimov, "Egypt's Reservations to the United Nations Convention on the Elimination of Discrimination Against Women and Women's Rights in Egypt", *American Journal of Islamic Social Sciences* 20 (2003), 36–7.
39. See, for instance, Ibn Khaldūn, *The Muqaddimah*, tr. F. Rosenthal, ed. N.J. Dawood, *passim*.
40. Abu Fadl, "Muslim Women"; L. Al-Faruqi, *Women, Muslim Society, and Islam* (Plainfield IL: American Trust Publications, 1988); Al-Sayyid Marsot, "Women", 39–44.
41. Ismail Al-Faruqi, *Al-Tawhīd: Its Implications for Thought and Life* (Herndon VA: International Institute of Islamic Thought, 1991), 130–3.
42. Muḥammad Ṭāhir Ibn 'Āshūr, *Maqāsid al-sharī'ah* (Tunis: Tunisian Library for Publication, 1970), English tr. *Treatise on Maqasid al-Shariah*, tr. Mohamed El-Tahir El-Mesawi (London, Washington: The International Institute of Islamic Thought, 2006), 247. See also Ibn 'Āshūr's *al-Taḥrīr wa 'l-tanwīr* (Tunis: House of Tunisian Publications, 1984); Ibn Taymiyyah, *Majmū' fatāwī al-nikāḥ wa-aḥkāmihī* (Cairo: Dār al-Lubnāniyyah al-Miṣriyyah, 1992).
43. Alwani, "The Quranic Model", 51.
44. Ibid.
45. Qur'ān 4:21.
46. 'Abd al-Ghānī al-Maydānī, *al-Lubāb fī sharḥ al-kitāb* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1400AH/1980), 3:8.
47. Al-Sayyid Marsot, "Women", 40.
48. See Qur'ān 5:1. There are different opinions among the schools of thought on the issue of *al-wālī*. However, this study attempts to broaden the meaning of *wālī* in its qur'ānic concept that was mentioned in Qur'ān 9:71–2. At the same time this writer understands this concept in the light of the objectives of the *sharī'ah* for the family.
49. This issue was discussed among the jurists throughout the history of this *ummah*. Some of them allowed the marriage with the minimum conditions without publicity. This refers to the agreement between the husband and the wife, the *mahr* and the two witnesses. However, the objective of publicity is to protect the welfare of the family. This issue was discussed among all Muslim schools of thought; see 'Abd al-Karīm Zaydān, *Al-Muḥṣal fī aḥkām al-mar'* (Beirut: Al-Risālah, 1993).
50. Qur'ān, 4:4 Muḥammad Asad, *The Message of the Qur'an* (Gibraltar: Dar Al-Andulus, 1984), 102; Jār-Allāh Maḥmūd b. 'Umar al-Zamakhsharī, *al-Kashshāf 'an ḥaqā'iq al-tanzīl wa-'uyūn al-aqāwīl fī wujūh al-ta'wīl* (Cairo: Mustafa al-Bāb al-Ḥalabī, 1385AH/1966); Abū 'Abd-Allāh Muḥammad b. Aḥmad al-Ansari al-Qurtubi, *al-Jāmi' li-aḥkām al-Qur'ān* (Cairo: Dār al-Kitāb al-'Arabī, 1387AH/1967); Ibn Kathīr, *Tafsīr* (Beirut: Dar al-Fikr, 1389AH/1970).
51. The term *niḥlah* is translated as 'free gift', based on Yusuf Ali's translation: "And give the women in marriage their dowry as free gift; but if they, of their own good pleasure, remit any part of it to you, take it and enjoy it with right good cheer." The qur'ānic expression for 'dower' is *niḥlah*. It signifies the 'giving of something willingly', of one's own accord, without expecting a return for it. The exact amount of the marriage-gift, *mahr*, which the groom has to give to the bride has not been specified by the law. It depends entirely on the agreement of the two parties and may consist with anything, even a mere token (see Asad, *The Message*, 102). Many cultures and legal systems

- apply the dowry system such as Hindu law. One must distinguish decisively between the meaning, the objectives, and the structure of the dowry system. For a detailed sociological discussion of the issue of dower and its meaning in Islam see Hammudah Abd al-Ati, *The Family Structure in Islam* (Indianapolis IN: American Trust Publication, 1977), 62–70. See also Al-Sayyid Marsot, “Women”, 43.
52. Asad, *The Message*, 102.
 53. Abd al-Ati, *The Family Structure*, 62–70; al-Zamakhsharī, *al-Kashshāf*.
 54. Asad (*The Message*, 109) explains the word *qawwām* as following: “The expression *qawwām* is an intensive form of *qā'im* (one who is responsible for or – takes care of – a thing or a person. Thus *qāma* ‘alā ‘l-mar’ah signifies ‘he undertook the maintenance of the woman’ or ‘he maintained her’. The grammatical form *qawwām* is more comprehensive than *qā'im*, and combines the concepts of physical maintenance and protection as well as of moral responsibility.”
 55. See the commentaries by Muḥammad b. Jarīr al-Tabarī, *Jāmi' al-bayān 'an ta'wīl ay al-Qur'an*, ed. Muḥammad Muḥammad Shākir and Aḥmad Muḥammad Shākir (Cairo: Dār al-Ma'ārif, 1950–69); Muḥammad 'Abduh and Muḥammad Rashīd Riḍā', *Tafsīr al-Qur'an al-ḥakīm (Tafsīr al-Manār)* (Beirut: Dār al-Ma'rifāh, second printing, n.d.); Sayyid Quṭub, *Fī Zilāl al-Qur'an* (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, 1391AH/1971); Sayyid Abul Ala Mawdudi, *Towards Understanding the Qur'an*, tr. Zafar Ishaq Ansari (London: Islamic Foundation, 1988); idem, “Introduction”, in: idem (ed.), *Qur'ānic Concepts of the Human Psyche* (Lahore, Pakistan: International Institute of Islamic Thought, 1992), 1–14.
 56. Abū Shaqqah, *Taḥrīr*, vol. 2.
 57. See Qur'an 4:23 and 24:31.
 58. Yūsuf Ibrāhīm Yūsuf, *Istrāṭijiyāt wa taktīk al-tanmiyyah al-iqtisādiyyah fī 'l-islām* (Cairo: Al-Ittiḥād al-Dawī li 'l-Bunūk al-Islāmiyyah, 1981); idem, *Al-nafaqāt al-'āmmah fī 'l-islām: Dirāsah muqāranah* (Doha: Dār al-Thaqāfah, 1988, 2nd ed.).
 59. See Qur'an 4:21.
 60. Ibid. 49:13 “O humankind! We created you from a single (pair) of male and female, and made you into nations and tribes that you may know each other (not that you may despise each other). Verily the most honored of you in the sight of Allah is the most righteous of you. And Allah has full knowledge and is well-acquainted (with all things).”
 61. See Qur'an 2:233 and 42:38.
 62. Asad, *The Message*; al-Zamakhsharī, *al-Kashshāf*; al-Qurṭubī, *al-Jāmi'*; Ibn Kathīr, *Tafsīr*.
 63. Many of the contemporary interpreters have discussed the issue of divorce in the light of the modern societal changes. Ibn 'Āshūr was among the reformers who analysed Islamic family law according to the main objectives of the *sharī'ah* and he considered divorce as a peaceful solution for a failed marriage; see Ibn 'Āshūr, *Tafsīr* and idem, *Maqāsid*. Furthermore see Sayyid Quṭub, *Fī Zilāl*. The issue of divorce was extensively discussed in all the Muslim schools of thought from the legal perspective. Ibn Taymiyah too thoroughly discussed this issue in his *Fatāwā* from the legal and social perspectives; see 'Abd al-Raḥmān b. al-Qāsim (ed.), *Ibn Taymiyyah: A Great Compilation of Fatwa* (Saudi Arabia: 1966–69).
 64. Qur'an 2:237.
 65. Ibid. 2:227–42 and 65:1–12.
 66. Alwani, “The Quranic Model”, 33–6.
 67. Ibid.
 68. Chapter 65 entitled “The Divorce” in Ibn 'Āshūr, *Tafsīr*; Sayyid Quṭb, *In the Shade of the Qur'an* (Leicester [UK]: The Islamic Foundation, 2002).
 69. Qur'an 65:8: “How many populations that insolently opposed the command of their Lord and of His messengers did We not then call to severe account? And We imposed on them an exemplary punishment?”
 70. Alwani, “The Quranic Model”, 44. See also Abd al Ati, *The Family Structure in Islam*.
 71. The long complicated development and changes that were encountered by the Muslims – especially modernisation – had a significant impact on their legal system and social tradition. For an intellectual

and critical analysis of these developments in the legal, political, and social institution in the Muslim world see the contributions by Tāriq al-Bishrī, ‘Abd al-Wahhāb al-Miṣrī and others in ‘Abd al-Wahhāb al-Miṣrī (ed.), *Doctrine of Bias* (Herndon VA: International Institute of Islamic Thought, 1997) (in Arabic). See also Amira Sonbol, “Adults and Minors in Ottoman Shari’a Law and Modern Law”, in eadem (ed.), *Women*, 236–56; Al-Sayyid Marsot, “Women”, in eadem (ed.), *Women*, 277–90.

72. Amira El Azhary Sonbol, “Law and Gender Violence in Ottoman and Modern Egypt”, in eadem (ed.), *Women*, 277–90.
73. Ibid.
74. Kazimov, “Egypt’s Reservations”, 36–7.

DYSFUNCTIONAL FAMILIES AND CRIME: RIGHTING WRONGS

*Zaleha Kamaruddin**

Abstract: The number of youths involved in crime and who show disregard for law and order is on the rise. What is more disturbing is the rise of violent crimes committed by them. The author argues that these concerns need to be addressed seriously. Pertinent questions need to be answered to understand the underlying reasons. This article is divided into three parts: the first part defines dysfunctional families and their relationship with crime and some home-truths relating to them. The second emphasises the importance of knowledge and the inculcation of good values to individuals through the family. In the final part some recommendations are made.

Introduction

Tan Sri Lee Lam Thye the Vice-Chairman of the Malaysian Crime Prevention Foundation and Malaysia's Inspector General of Police, Tan Sri Ismail Omar both raised their concern about the recent increases of crime among youths.¹

Many community leaders from all over the world have raised their worry and concern as well. These concerns need to be addressed seriously. Pertinent questions need to be answered to understand reasons behind the phenomenon. Why are our youths behaving this way? Why are they putting their future in jeopardy? How can we make these wrongs right?

This article attempts to shed some light on these questions. It attempts to synthesise whatever limited knowledge that exists on this subject. It does not claim to present a complete and comprehensive understanding of the various types of dysfunctional families which exist in certain contexts in different cultures and countries. Rather, it focuses on the importance of inculcating values which is the missing factor in dysfunctional families. It is also important to note that the basis for this factor is that values are very important and are considered as one of the most effective means to regulate society. This is because the approach used is more of changing

* Zaleha Kamaruddin is the Deputy Director-General of the Malaysian Institute of Islamic Understanding (IKIM), Kuala Lumpur.

from within, i.e. 'inside-out', compared to for example using law which is more of an 'outside-in' approach. It is well-documented² that the arms of the law are far too short to solve all crimes and this failure will be more prominent without proper and adequate enforcement.

Dysfunctional Families and Crime: Some 'Home-Truths'

A review of empirical evidence in the professional literature of the social sciences leads us to a common factor in answering the above questions; i.e. the family.

The *first home-truth*: the rise in crime and violent crime parallels the rise in dysfunctional families.³ Families are considered dysfunctional when conflict, misbehaviour, and often abuse on the part of individual members occur continually and regularly, and are leading other family members to accommodate such actions. Children sometimes grow up in such families with the understanding that such an arrangement is normal. Dysfunctional families are primarily a result of co-dependent adults, and may also be affected by addictions, such as substance abuse (alcohol, drugs, etc.). Others also include untreated mental illness and parents emulating or over-correcting their own dysfunctional parents.

A common misperception of dysfunctional families is the mistaken belief that the parents are on the verge of separation and divorce. While this is true in a few cases, often the marriage bond is very strong as the parents' faults actually complement each other. In short, they have nowhere else to go. However, this does not necessarily mean the family's situation is stable. Any major stressor, such as relocation, unemployment, illness, natural disaster, inflation, etc. can cause existing conflicts affecting the children to become much worse.⁴

The *second home-truth*: crime and youth criminal behaviour has its roots in habitual deprivation of parental love and affection going back to early infancy. Similarly, sexual abuse in childhood often leads these victims to become sexual predators as adults.⁵ Delinquents have a chaotic, disintegrating family life. This frequently leads to aggression and hostility toward others outside the family. Many inmates on death row have histories of some kind of severe abuse. The neglect and abuse of children often progresses through several generations. The cycle of abuse and crime keeps repeating itself. The cycle of violence concept, based on the quality of early life relationships, has its positive counterpart. Supportive and loving parents who respond to the basic needs of their child instil self-confidence and an interest in social environments. These children are generally well-adjusted in relating to others and are far less likely to commit crime.

By the late twentieth century, the general public had not accepted that criminal behaviour is a psychological disorder but rather a wilful action. The public cry for more prisons and tougher sentences outweighed rehabilitation and the treatment

of criminals. Researchers in the twenty-first century, however, continued to look at psychological stress as a driving force behind some crimes. Only in recent decades has the dysfunctional family been taken seriously by professionals (therapists, social workers, teachers, counsellors, clergy, etc.), especially among the middle and upper classes. Any intervention before that would have been seen as violating the sanctity of marriage and increasing the probability of divorce. Children were expected to obey their parents (ultimately the father), and cope with the situation alone.⁶

Third home-truth: most delinquents are children who have been abandoned by their fathers. They are often deprived of love and affection. Many fathers abandoned their families, when the responsibilities of life and parenting become too much for them. Reasons that caused these men to leave include: their own abandonment issues from childhood, problems with the children's mothers, addictions, an inability to handle parental responsibilities at the time, and not wanting a child.

Fourth home-truth: inconsistent parenting, family turmoil, and multiple other stressors compound the rejection of these children by parents. Findings from research conducted by Kevin Wright confirm that children raised in supportive, affectionate, and accepting homes are less likely to become deviant.⁷ Scholarly evidence suggests that at the heart of the sudden increase in crime is the loss of the capacity of fathers and mothers to be responsible in caring for the children they bring into the world. This loss of love and guidance at the intimate levels of marriage and family has broad social consequences for children and for the wider community. Empirical evidence also shows that too many young men and women from dysfunctional families tend to have a much weaker sense of connection with their community and are prone to exploit its members to satisfy their unmet needs or desires. This contributes to a loss of a sense of community and to the disintegration of societies into social chaos and violent crime. If policymakers are to deal seriously with the root causes of crime, they must first strengthen the family institution.⁸

Fifth home-truth: conforming to Merton's sociological theories,⁹ a survey of inmates in state prisons in the US (late 1990s) showed very low education levels. Many could not read or write above elementary school levels, if at all. The most common crimes committed by these inmates were robbery, burglary, automobile theft, drug trafficking, and shoplifting. Because of their poor educational backgrounds, their employment histories consisted of mostly low wage jobs with frequent periods of unemployment. Employment at minimum wage or below living wage does not help deter criminal activity. Even with government social services, such as public housing, food stamps, and medical care, the income of a minimum wage household still falls short of providing basic needs. People must make a choice between continued long-term low income and the prospect of profitable crime. Gaining further education, of course, is another option, but classes can be expensive

and time consuming. While education can provide the chance to get a better job, it does not always overcome the effects of parental abuse, or other limiting factors.

Strengthening the Family through Islamic Education

Al-Ghazālī (d. 1111) in his *Book of Knowledge* wonders how one who sought no knowledge can be moved to any noble deed. One of his wise men also said that “Verily, I pity no one as I pity the man who seeks knowledge but understands not and him who understands and seeks it not.”¹⁰ The root for this according to al-Ghazālī is that knowledge is one of the most fundamental features of Islam. In its various derivations, it is one of the most frequently occurring terms in the Qur’ān; besides Allah and *Rabb* (the Creator and Sustainer). The Prophet himself emphasised the significance of knowledge at every prospect and commended those who are learned and those who are in search of knowledge. On top of that the pursuit of knowledge was made a religious obligation for every believer. For the Muslims of the classical period, Islam was synonymous with knowledge; without such knowledge, an Islamic civilisation was inconceivable.

In his Preface to al-Ghazālī’s *Book of Knowledge*, Ziauddin Sardar points out that

[i]n classical Muslim civilisation, advices from the scholars were not only eagerly sought after but also seriously acted upon. Indeed, the flourishing classical Muslim civilisation was totally obsessed with knowledge: with seeking it, acquiring it, talking and arguing about it, defining it, building institutions for dispensing it, writing about it, reading about it, collating it, and disseminating it.¹¹

The main question in the context of this article is what kind of knowledge are we imparting to our children to ensure that Islamic civilisation persists? Indeed, with the rise in crime rate in our society, there is definitely something wrong with our present education system and our family institution. Social problems are one of the indicators of a sick society and something serious must be done. To improve quality, productivity and performance of Islamic education in the context of the family in the Muslim world, a plan of action must be put into place by including these factors; focusing on the individual in the family by illuminating knowledge and re-educating the Muslim intellectuals and educators, helping the vulnerable families and enhancing the role of religious leaders.

Focus Group: The Intellectuals

The roles of intellectuals in Muslim societies are important because reformist ideas must focus on the demands of the real world. Without a firm grasp of contemporary reality – in the context of this article, i.e. crime – Muslims will be marginalised in the modern world. ‘Islamic knowledge’ will be seen as outdated because the

intellectuals could not make any interconnection and diversify which is a basic prerequisite for survival.

In his article “Reformist Ideas and the Muslim Intellectuals”, Ziauddin Sardar calls for the emergence of a new breed of Muslim intellectuals who are

interested in abstract ideas as well as specifics, the real world demands both. Unlike Socrates, they are not interested in ideas for ideas' sake. They search for ideas that lead to reform, but like Socrates they seek propagation of thought, criticism and questioning attitude, a goal for which they would eagerly lay down their lives [...]. They do not have acquisitive and analytical minds only, but also critical, imaginative and creative minds. They engage and transform.¹²

Focus on the Individual in the Family

With the current challenges to the family institution, how do we develop responsible individuals who can stand against the odds? Finding answers to this question is not easy. Although there are a range of approaches to this complex situation, a reliance on qur'ānic-based theory holds a number of advantages.

A logical basis would be developing the potential of that individual through his family. This would form the basis of the distribution of power and resources within the family which will shape those of the larger community. The family serves as one of society's primary sources of moral education. It is acknowledged that it is in the family that we first encounter issues involving power and justice. Because of the primacy of family life as the determinant of social structure, individual values are crucial to lessen if not eradicate crime.

This article finds strong support in ideas formulated by Ibn 'Āshūr in his treatise *Maqāsid al-sharī'ah*, where he states that this scenario is evidenced by not only the *sharī'ah*, but other different systems of law which emphasise the founding principle of the family unit, namely the association between woman and man through a valid marriage. This bond is the root from which stems human procreation and that spreads the notion of kinship (*qarābah*). The marriage gave rise to motherhood (*umūmah*), fatherhood (*ubuwwah*), and filiations (*bunuwwah*), and later the relationship of brotherhood (*ukhuwwah*) and other more distant kinship ties.¹³

It is an acknowledged fact that the *sharī'ah* has given marriage an important position and considers it as the fountainhead of all virtues. It is a basis of responsibilities and implementation of them. This is clearly indicated in the qur'ānic verse which emphasises the need for humans to marry: “And among His signs is this: He created for you from amongst yourselves, so that you might live in tranquillity with them, and put love and kindness in your hearts. All those are signs for people who reflect.”¹⁴

It is also proposed that an individual's actions must be based on *tawhīd*. *Tawhīd* requires mankind to adhere to the concept of oneness of God and obey Him. The values of *tawhīd* will ensure that every individual follows the laws prescribed by Allah. The theory of vicegerency (*khilāfah*) affirmed that God's creation is deliberate and not accidental. Family, being the most important institution, should be the first to actualise man's vicegerency to Allah and it is therein that man has his first training in the real meaning of *khilāfah*.¹⁵

It is important for man to be educated and aware of his role as *khalīfah*. The Islamic education (informal and formal) should focus on man as *khalīfah* and the purpose of his creation because it would lead to a deepened consciousness on the responsibility of man in this world. In the context of this article, since family is the basis of society, it is pertinent to evaluate the roles and responsibilities of each member of the family from the familial aspect first.

Evaluation on the roles and responsibilities of man would eradicate crime in the society. One, because in the Islamic conception of man (which is based on the principle of *al-insān kāmil*), man is considered perfect (*kāmil*) in the sense that he has been endowed with the necessary reason and understanding, intuition, and all the necessary prerequisites for him to perform his duty as *khalīfah*. This is evidenced through Qur'an 51:56 where Allah gives the purpose of His creation; i.e. He created the *jinn* and mankind that they might worship and pay devotions to Him alone.

In Qur'an 2:31–4, Allah specifically mentions reasons for man to be appointed as *khalīfah*, i.e. only man has been given the necessary intelligence, strength and divine guidance.

The philosophical understanding of the nature of man and the purpose of creation is to be emphasised in our education to our children because without these, man will not be able to realise his role effectively. Ibrahim Zein has pointed out that as *khalīfah*, they are supposed to have acquired better judgement and self-control to understand Divine guidance. He highlighted the concept of trust (*amānah*) which determines the individual's relationship with the family, society, state, government, and humanity at large. Man is said to be attached to these institutions both materially and spiritually.¹⁶

He further elaborates that *amānah* establishes man's responsibility toward his kin, other human beings and socio-political institutions. This concept resolves the issues pertaining to the rights and responsibilities of individuals in every facet of his life starting with his family. The basis of man's humanity is responsibility (*taklīf*). He summed it up as "*someone's right is someone's responsibility*".¹⁷ In this context, Abdullah Yusuf Ali has rightly commented that the age of marriage is the age when they reach their maturity, regardless of whether that is before or after 18 years.¹⁸

Applying the same concept as stated by the Qur'an on *amānah* as the cornerstone to the establishment of institutions to govern society, the family as the smallest unit

of the society would be the first institution to practice it. This idea is founded on the fact that the fourth *sūrah* of the Qur'ān, *al-Nisā'*, which deals with issues on good governance, describes the idea of absolute human equality in the context of the family. In the family the legally married man and wife are entrusted with the *amānah* of raising their children by providing maintenance, care, and education. The Qur'ān reminds us that when *amānah* are fulfilled, it will bring good to us.

The concept of *amānah* is important because it determines the individual's relationship with family, society, state, and humanity at large. It also establishes man's responsibility towards his kin, other human beings and socio-political institutions. In other words, this concept resolves the issues pertaining to the rights and responsibilities of the individual in every aspect of life.

The concept of *khilāfah* which is governance at an individual level encompasses the concept of trust (*amānah*), sincerity (*ikhlaṣ*), truthfulness (*ṣidq*), competence and justness (*adālah*) as the essence of qur'ānic guidance on good governance. The essence of *amānah* is the sense of accountability. In Qur'ān 8:27, Allah reminds us not to betray the truth of God and the Prophet, nor misappropriate knowingly things entrusted upon us.

In dealings with other people, justice should be implemented no matter what. The *khilāfah* needs to honour *amānah* and implement justice. Justice as one of the important principles of governance guides mankind as *khilāfah* in order to ascertain social justice. In *Sūrah Al-Nisā'* verse 58, Allah has commanded man to deliver trusts to those whom they are due, and whenever they judge between people, they must judge with justice. In delivering these trusts, man is guided as indicated by verse 4:59, to follow God, follow the Prophet, and those from among man who have been entrusted with authority.

Another important component that has been highlighted by various scholars is *shūrā*. The Qur'ān emphasises this in various issues on governance. It is a democratic decision-making process in solving problems and making decisions. At the same time, it actually restricts absolute power by leaders through the involvement of stakeholders which implies transparency, freedom of expression, and acceptance of different views.

In the context of family, *shūrā* underlines the participation of all members of the family which instils in the family members a sense of belonging. This would indirectly create a spirit of cooperation which would motivate commitment. *Ṭā'ah* (obedience) is considered one of the elements that is important and is considered not just a moral but also a legal responsibility of the Muslim wife. However, the concept of *ṭā'ah* should be differentiated from 'blind obedience'.¹⁹

Through the *shūrā*-process, relationships between members of the family can be further enhanced. The man as head of the household has a contract with his

family through the trust given to him by his family members to fulfil that trust. This responsibility is heavy and would necessitate cooperation from his family members through *shūrā*. The community as a whole also becomes responsible for the accomplishment of the trust. However, no meaningful, extensive and long lasting cooperation is possible without any effective governance. All these traits can be effectively transmitted through ‘leadership by example’ in the family setting.

Figure 1 shows this relationship and its connectivity to qur’ānic guidance. For effective family governance, three component parts of the society play major roles. The players are the individual, family, and the state. Basically, family governance starts with educating the individuals (informally and formally). An individual is the basis and the point around which the family’s virtues revolve. An individual is a representative (*khalīfah*) of God on earth and this ultimately puts God at the centre. A *khalīfah* has basic responsibilities as commanded by God: to perfect himself, the society and the physical world. As expected, an individual as *khalīfah* must comply with the instructions of God – to be just, obey Allah’s commandments, abstain from the prohibitions. All these can only be done if one is knowledgeable. When an individual complies with these instructions (injunctions of Allah), it is certain that he will perform his responsibilities and accord the deserved rights to his family members. Then man would be said to have fulfilled God’s *amānah* and as such perfect himself.

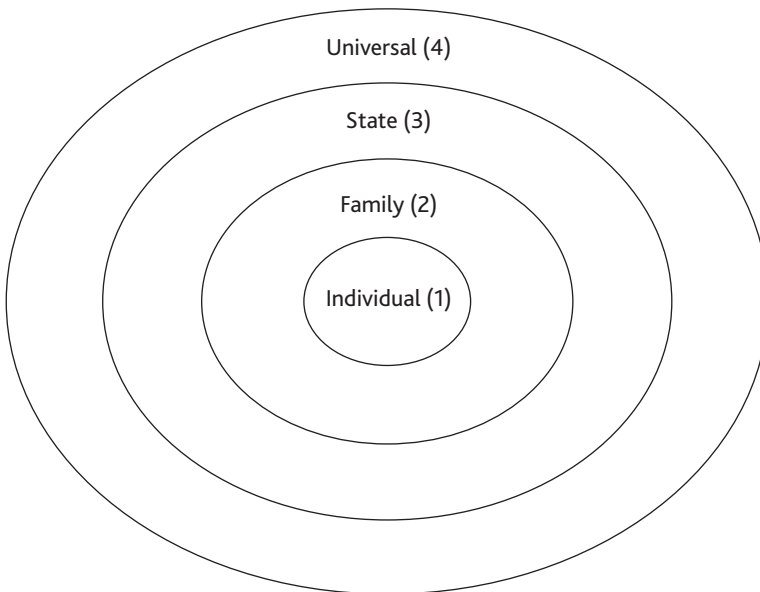


Figure 1 Qur’ānic Guidance on the Family

The baton moves from there to the family. The family is a social institution responsible for the shaping of the larger society. An individual who is an integral part of the family must lead by example for the members of the family to emulate. As *amānah* must be fulfilled by the individual so also must *amānah* be fulfilled by the family. This is better done by inculcating the discipline and culture of good virtues on the members of the family, particularly the offspring. The children must be taught their role as the *khalīfah* of Allah, all members of the family must be just to one another and a family must be just to its neighbours – other families. In other words, each member of the family should see himself/herself as *khalīfah* to the entire family. In turn, each family must see itself as *khalīfah* to other families.

The natural consequence of this is that a just and prosperous society (state) will be built. To uphold this virtue, the state must be well constituted by consultation (*shūrā*) among members of the just families or among the members of the community. As the state expands, so does the consultation involve private, public, men, women, and non-Muslims living under Islamic jurisdiction in order to fulfil the trust as members of the society. This does not only reiterate the concept of democracy but also the principle of fairness and justice in the administration of the state-*amānah*.

The sincere administration of *amānah* would deliver a number of basic elements of good family governance, such as the participation of the people in the public affairs, general consensus on major issues, quick response to the societal needs, rule of law, transparency, accountability, equity and efficiency. Hence, the society will be free of all vices. This, the Prophet founded in Medina in the seventh century.

A fair and equitable state will be just and equitable to its neighbouring states. And where all states discharge their responsibilities and fulfil their *amānah*, the whole universe will be better for it. Hence, an individual who sees himself as *khalīfah*, who carries out his duties and responsibilities, and who is just through self-discipline and good governance perfects himself. This is planted in his family and further transplanted into the state and by so doing perfects the society.

The perfection of the society leads to perfection of the physical world – the universe. That is the totality of man's responsibility in life. Thus, God who is at the centre bestows man with some of His qualities. The qualities are expected to be exhibited by an individual to himself, then to his family and family to the state and ultimately to the entire universe.

In this context, the role of the state is important in ensuring that family is stable and secured. Several mechanisms could be used to achieve this purpose, which includes the legal mechanism guided by relevant policies relating to the family. However, the extent or justification of state intervention in family matters must not go beyond the individual's rights.

Focus Group: Educators

There are many reasons why educators must become involved in the detection, treatment, and prevention of crimes amongst their pupils. In addition to professional and moral responsibility, school personnel have a unique opportunity to advocate for children in a way that no other adults except parents can. If the parent is also involved in crime, this need for advocacy on the part of the school becomes even more imperative.

Educators, as *murabbūn* though vital to the whole intervention picture, must be supported by other community members and agencies. As leaders in communities, educators are in an ideal position to initiate this type of teamwork. As educators, the primary goal is to enhance the learning of children and to remove barriers that make learning difficult. Educators should be trained to recognise and intervene when children are not able to fully benefit from their educational opportunities. This training makes them uniquely qualified to detect cues that may indicate that children are being maltreated. Schools are the only places in which children are seen daily. Therefore, educators have a chance to see changes in their appearance and behaviour.

At the heart of the question of the involvement of educators in any social problems may well be the ethical basis of the profession itself. Some of the strongest reasons for involvement come from professional responsibilities, basic principles of justice, and personal commitment of educators to the wellbeing of the children and families they serve. Educators have a keen sense of professional responsibility to the children in their care. They are concerned about these children, about their mental health, safety, and happiness. Educators are aware that they themselves are models and examples for the children they teach, and that they are the only readily available source of support, concern, and caring for many children. Educators want to do what is best for the children in their care because their professional standards require it. Educators are urged to teach coping strategies, how to read social cues and how to interpret social behaviour amongst their pupils. For example, kindergarten and primary school teachers could be engaged in identifying children coming from severely dysfunctional families, because the type of aggression and hostility demonstrated by a future criminal is often foreshadowed in unusual aggressiveness as early as age five or six. Enlisting the help of professionals to nip the problem in the bud is easier than when these children have turned into monsters.

Focus Group: Vulnerable Families

Traditionally, most interventions have relied on specialist or professional input to children, parents or families. Increasingly strategies are being used to strengthen the help and advice available to families informally, whether from their kin, neighbour

and friendship networks or through linking families with a volunteer. Such help may be less expert than professional services, but it is often more acceptable, more flexible and more available. As widely known, Islam stresses neighbours' rights and responsibilities which form the basis of a community.

Gilligan and others have argued that children's social and community networks are of vital importance when considering the development of effective interventions. This is no doubt true, but for very young children it is somewhat difficult to do.²⁰

Parents should be taught to be kind to their children and provide them with love and warmth. Researchers have found that the most effective way to buffer our children from crime is for mothers to bond with their children through love. The mother's strong affectionate attachment to her child is the child's best buffer against a life of crime.

Fathers are equally important because his authority and involvement in raising his children will ensure that they will become good citizens. The dominant role of fathers in preventing delinquency is well-established and this phenomenon was highlighted in studies by Sheldon and Eleanor Glueck of Harvard University which sums up father's dominance as what many children often hear their mothers say; "Wait till your father gets home!"²¹

In this context it is largely the networks of parents that need to be considered, though these do then impact on young children's own social networks. Support networks can provide and educate parents with the buffers from stress, access to information and boost their confidence in ways that would allow them to parent more effectively.

It is therefore important for professionals involved with vulnerable families to be aware of the importance of these networks and provide interventions that will complement them. Gilligan identifies several ways that professionals can assist young people in keeping contact with existing social networks.²² Briefly they include:

- mapping the network by establishing who it incorporates;
- validating the network by pointing out to all involved the significance of the network;
- gathering relevant information from members of the network;
- negotiating and mediating between the focal member and other members of the network, especially if communications break down;
- negotiation and mediation between the focal member and other professionals;
- co-ordination of meetings and information sharing between focal member and other network members; and
- helping to reinforce the identity of the network through arranging celebrations and outings for special occasions.

A Social Network Model of Intervention for Dysfunctional Families

A more common approach to expanding the informal resources available to families, especially in the United Kingdom, has been the development of volunteer befriending schemes. One such example is Home Start. This is a voluntary organisation in which trained volunteers offer regular support, friendship and practical help to young families under stress in their own homes, helping to prevent family crisis and breakdown. Home Start provides a range of practical help, advice and support. A wide range of referrals are accepted, but most common are depressed or isolated young mothers. The aim of Home Start is to build on the existing resources of families and the communities they live in.²³

Research has shown that volunteers help families with quite similar needs and risks to those in touch with social services. Parents were significantly more satisfied with the help from their volunteers than were social workers' clients with their more formal 'help'. Part of the explanation appears to be the greater time that volunteers can spend with the family, though their independence from statutory agencies doubtless contributes too.

The New Parent Infant Network (NEWPIN) provides another example of a community support programme based on befriending, but also giving access to a wider range of services. The initial programme was based in London, although it has now expanded to other areas. It is specifically targeted at vulnerable mothers where there is a danger of family breakdown. More specifically it is aimed at mothers suffering depression, social isolation and poverty.²⁴ The majority of referrals come from health and social work, although a few are self-referrals. Most of the work is done through therapy, training and social involvement with a peer group who provide added support. Initially mothers are matched with a befriender who is an established NEWPIN user. In addition there is also the opportunity to attend a drop-in centre with crèche, and participate in training such as a personal development programme.

It is therefore not disputed that personal and community networks can provide assistance to parents in ways that more formal support cannot. However, some appear to be inappropriate in view of low take-up or high drop-out rates.

Focus Group: Religious Leaders

Why religious leaders? First, the escalating number of violent crimes has been highlighted as an undesirable phenomenon of modern-day stressful living. It is one of the indicators that our traditional values are being eroded. The government's aim to prosper without sacrificing the values we grew up with and to share them with our children is noble and should not be overlooked.

Religious leaders' moral authority and their vast constituencies make them uniquely powerful allies for a peaceful society. Engaging religious leaders who

are used to the “inside out” approach can be strengthened to assist the current mechanism. Religious groups should unite around this common cause. We should engage religious leaders because empirical evidence has shown that neighbourhoods with a high degree of religious practice are generally not high-crime neighbourhoods. Religious leaders’ roles in instilling good values to individuals who in turn will be leaders of their own families are in urgent need.²⁵ It is relevant in the context of serious commitment made by religious leaders in ensuring propagation of values in all spheres of life. Religious communities are uniquely positioned to apply their areas of strength to confront and prevent crime from escalating. These areas include consciousness raising, the empowerment of children, and inter- and intra-faith actions. For example, religious communities, working with adults, can promote and strengthen non-violent approaches to parenting.

Conclusions and Recommendations

There is a dire need now to strengthen family values, as the present progress in the Malaysian context has created influences which threaten the foundations within a family:

- Crime is a ‘cancer’ eating into our society. Unless and until we deal with the root problem, i.e. the primary cause of it, the numbers will keep escalating.
- Actions taken must not attack these crimes through secondary or tertiary level intervention.
- It is already accepted that to create an angelic society is impossible. However, actions should be taken to lessen crime or at least to move toward damage control.
- It has been widely accepted that curbing crime requires a combined effort. Concerted effort by all parties, from neighbours to government agencies, in promoting a multi-agency approach in addressing the problem has been well placed. However, religious leaders have been left out. To be part of the team, multi-agency training for religious leaders should be organised first to ensure things move fast. Manpower at various levels of this group should also be increased.
- Within the religious communities themselves, a specific long-term solution targeted by these religious leaders would be to build up the people’s inner strength by inculcating religious and moral values. One of the most effective ways would be through life-long learning.
- Couples wanting to marry should have pre-marriage counselling and periodic marriage counselling conducted by religious leaders in the course of their married life. This should be made available within the community. Religious

groups have a part to play in organising workshops and training sessions on topics related to parenting, and to be held within the community. These sensitisation programmes should go beyond Friday sermons. They should play a more proactive role by using the new media because it covers a wide range of society and is easily accessible to the IT-savvy community. They should assist in initiating more creative television programmes in order to increase public awareness from their religious perspective. As leaders of influence, it is important to educate the people.

To conclude, the alternative to revitalising knowledge in contemporary societies to eradicate crime was spelled out by al-Ghazālī some 900 years ago. “Would not the sick die if he is given no food or drink or medicine”, one of his wise men inquires. “Yes,” says the assembled gathering, to which the wise man replies, “Similarly the heart will perish if it is cut off from wisdom and knowledge for three days.” And al-Ghazālī adds, “whosoever lacks the love of knowledge has an ailing heart and his death is certain.” It is the death of real knowledge that initiates the birth of crime.

Notes

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GENDER RELATIONS IN SINGAPORE MALAY DUAL-INCOME HOUSEHOLDS: (UN)CHANGING VIEWS AND PRACTICES

*Suriani Suratman**

Abstract: Over the last four decades the labour-force participation rate of women in Southeast Asia has been steadily increasing. While gender relations are changing in the public sphere as more women play dominant roles in the employment sector, whether gender relations in the domestic sphere are changing is rather ambiguous. In this article, the author looks at gender relations in Singapore Malay dual-income households. She shows that there are existing cultural perceptions of Malays regarding the roles of women and men in the family: i.e. women see to care-giving and men see to breadwinning. She also argues that parallels of this perception can be found at the state level as well. The Singapore government too is of the view that the primary caregiver in the family is the woman. The author illustrates this by using the example of the discourse on the 'supermom' in Singapore to show the government's expectations of women's role as mother. There is external support which makes Malay women affirm their maternal role. In conclusion, the author suggests that Malay women's and men's decisions around the division of labour must be conceived within the wider framework of society. Explanations for persistence of unequal division of labour in Malay dual-income households must take into account state views of gender roles.

Introduction

For quite some time, the labour force participation rate of women in Southeast Asia including Singapore, has been steadily increasing. Women are making the choice to stay employed after marriage and childbirth.¹ Malay women in Singapore too are making the choice to be employed. Consequently, the labour force participation rate of Malay women is steadily increasing. While there are Malay women who are leaving the work force after getting married, about 46%² continue to stay employed. Studies on employed women in the United States, Australia and Europe show that

* Suriani Suratman is Senior Lecturer at the Department of Malay Studies, National University of Singapore (NUS).

apart from having to fulfil demands at their workplace, women are also responsible for work at home.³ Furthermore, findings from these studies show that women see to the bulk of the household work. The view that women are the primary caregiver remains.

Findings from my study show that Malay women in Singapore are seeing to the bulk of household work.⁴ Nevertheless, Malay men are assisting their wives in carrying out household work. There seems to be some change in practices of sharing out work in Malay households. This change however depends on three factors: women's time constraints, notions of skills in carrying out tasks, and availability of partners to carry out tasks.⁵ I also found that the women in my study are the ones who decide what tasks can be transferred and to whom these tasks can be delegated to.⁶ As such Malay women's notions of women's and men's work matter in defining what her husband can or cannot do. It appears that Malay women's maternal gate-keeping is inhibiting Malay men's involvement in household tasks and therefore determining more equal household division of labour.

In this article, I show that there are existing cultural perceptions of Malays regarding the roles of women and men in the family: i.e. women see to care-giving and men see to breadwinning. Malay women who are employed do not relinquish care-giving tasks. More importantly I argue that parallels of this perception can be found at the state level. The Singapore government too is of the view that the primary caregiver in the family is the woman. I illustrate this by using the example of the discourse on the 'supermom' in Singapore to show the government's expectations of women's role as mother. Indeed as Allen and Hawkins⁷ also point out, there is external support which makes Malay women affirm their maternal role. In conclusion, I suggest that Malay women's and men's decisions around division of labour must be conceived in a wider framework of society. Explanations for persistence of unequal division of labour in Malay dual-income households must take into account the state's views of gender roles.

Malay Women's Participation in the Labour Force

Industrialisation and Female Labour Force Participation

When the Singapore government embarked on its industrialisation journey soon after independence in 1965, women were highly encouraged to participate in its labour force. Rapid industrialisation in this period had caused a labour shortage to the extent that foreign workers had to be employed.⁸ The concern of the government then was how to increase the country's supply of labour. The focus was directed at young women who were described by the then Prime Minister Lee Kwan Yew as "underutilised".⁹

Women were drawn into the labour force – albeit in the low income jobs. The female work force was predominantly in the labour-intensive manufacturing industries such as electronics and textiles.¹⁰ This was followed by commerce and trade sector where women worked as secretaries, clerks, saleswomen or service personnel and finally in the professional and technical sector as teachers and nurses.¹¹

Judging from the statistical data, the Singapore government's policies regarding the increase of the female labour force participation was a success. Since the 1970s the rate has been steadily increasing. Not only is there an increase in female labour force participation, the participation rate of married women in the labour force is also rising. This can be seen in Table 1. The General Household Survey 2005 reported that the growth rate of labour force participation was higher for females than males.¹²

Table 1 Labour Force Participation Rate in Singapore

	1970	1980	1990	2000	2010
Total labour force participation	55.3	63.2	63.2	63.2	66.2
Female labour force participation	28.2	44.3	48.8	50.2	56.5
Married women participation rate	14.7	29.8	45.6	49.2	58.4

Source: Department of Statistics Singapore – Time series on Labour Force Participation Rate, 2011 (<http://www.singstat.gov.sg/stats/themes/economy/hist/labour.html>), Report on Labour Force in Singapore (2010), Department of Statistics Singapore – Singapore Population (2001), Singapore Census of Population 1990 Economic Characteristics, Census of Population Singapore 1980 Economic Characteristics.

A breakdown according to ethnic groups shows that even though the Malay female labour force participation rate is lower than for other groups, nevertheless, Malay female labour force participation has been steadily increasing since 1970 (see Table 2). The 2000 figures show a decrease in the participation rate of both Malay and Indian women. However, the General Household Survey 2005 shows that while there are Malay women who are leaving the labour force after getting married, 46% continue to stay employed.

Table 2 Female Labour Force Participation Rates, by Ethnic Group

	1970	1980	1990	2000
Malay	14.3	44.6	45.0	40.8
Chinese	27	44.5	49.4	52.0
Indian	16	44.1	50.9	46.9
Others	23.9	34.7	42.0	45.7

Source: Statistics Singapore – Key stats (<http://www.singstat.gov.sg>) Census of Population 1980 Singapore Release No. 4 Economic Characteristics, Singapore Census of Population 1990 Economic Characteristics.

Trend Toward Dual-Income Couples

The increase in the participation rate of married women in the labour force contributed to the trend toward dual-income couples.¹³ Over the last two decades the number of dual income couples in Singapore has been gradually increasing. Indeed by 1990 the number of dual career couples was 40% of the total married couples compared to 27% in 1980.¹⁴ In a labour force survey in Singapore it was found that the number of dual income households was 45% among married couples in 2001.¹⁵

Taking a closer look at women's participation in the labour force, the rate of participation corresponds with the level of educational attainment of women. Women with tertiary education are the majority of female labour force in Singapore.¹⁶ There is a close relation between women's educational qualification and their participation in the labour force.

The increasing number of women in the labour force must also be seen in terms of occupational opportunities for women. The government's development strategy of import-substitution industrialisation since Singapore's independence in 1965 has indeed created opportunities for women to work. In its efforts to restructure Singapore's economy in the late 1970s the government's emphasis on human resource development has increased its demand for labour even more. Singapore's Economic Development Plan for the 1980s, announced in Parliament, conveyed the government's commitment to "optimise scarce manpower by encouraging more women [...] to work".¹⁷

The trend toward dual-income couples is also tied to rising standards of living. In a report of the national survey on married women in 1983, it was found that "about half of the married women indicated income as their main motive for working".¹⁸ Furthermore, as pointed out by Yuen and Lim, the extra income from working women allows families "to afford the many 'luxuries' which have become part and parcel of 'modern living'".¹⁹ This has also been highlighted by Lee et al.²⁰ Data from the Department of Statistics show that the income of working women "has boosted the financial situation of married couples".²¹ In addition, the average percentage of a woman's earnings to the dual-income has increased from 36% in 1980 to 41% in 1990.²²

Women's contribution to the household income has become increasingly significant.²³ It is thus important to note the combination of factors that explain the trend toward dual-income couples. Together with the push from the government for women to participate in the labour force and the increasing need for an extra income this new form of family structure comprised of working parents is increasingly familiar in the lives of Singaporeans.

Division of Labour in Dual Income Households

Division of Household Labour and Gender Equality

Studies have shown that household work is women's work.²⁴ As such when women have paid work through employment, they are doubly burdened in having to do their 'second shift' of having to see to household work.²⁵ While studies show that men do carry out household and child-caring work, women still see to the bulk of household work.²⁶

In this body of literature on household division of labour, there are also those who argue that there are couples who "shared it all", i.e. housework, childcare and financial responsibility.²⁷ Goodnow and Bowes²⁸ in their study of 50 couples from different socio-economic backgrounds in Sydney, Australia elaborated on how "sharing" is worked out. The findings of their study show that couples moved away from the conventional distinctions between 'men's work' and 'women's work' by dividing work on the basis of fairness, practicality or likes and dislikes.

These studies very often show that household and child-caring work is divided between wives and husbands (and sometimes children). There can be another solution, i.e. allocating tasks to yet another person such as a live-in helper. This option is available to couples in Singapore. This opens up questions as to whether such households are more or less equal.

Division of Labour in Malay Households in Singapore

In her ethnographic work on Malay households in Singapore in the late 1950s, Judith Djamour²⁹ described the clear division of responsibilities between women and men in Malay households. The head of the household is the chief wage earner and is usually a man. Women see to housework and caring for small children. Because of the lack of other studies on Malay households at that time Djamour's ethnography is indeed valuable and important in providing details of practices in Malay households. It nevertheless is vital to take note, as I have pointed out elsewhere, that Djamour's work tends "to subscribe to the notion of the ideal-type family or household".³⁰

Studying Malays in Singapore, Tania Li³¹ outlined the principle by which a Malay household is managed. She pointed out that the husband's obligation is "to provide adequate food, housing and clothing for his wife"³² and the wife's obligation is to "provide domestic services for her husband and children".³³ Li, however, argued that there are internal negotiations. Nevertheless, her findings indicated the persistence of the principle that the Malay man has to provide financially for his wife and children and the Malay wife provides domestic services for her husband and children. So in cases where women are employed, they are seen to be going beyond their obligation. Furthermore, the idea of the husband's role to provide can be seen to operate in

the household's budget where the husband's wage is used for "essentials" and the wife's income is used for items perceived as "supplementary".³⁴

In her study, Li emphasised what she thought was the common situation, i.e. one in which the wife was not working and the husband was the sole wage earner.³⁵ Given that Li herself noted that Malay women were not forgoing the opportunity to have employed work, there is a need to take into account what the practices of management in Malay dual-income households are and to ask if the principle which Li cited continues to operate in such households.

Practices of Division of Labour in Malay Dual-Income Households

My research on Malay dual-income households carried out between 2002 and 2006 looked at how young Malay couples manage child-caring as working parents. The use of the term 'young' here is derived from the study by Wong,³⁶ which divides family according to its life cycles – that is, beginning family, young family, mature family and ageing family. A young family is a nuclear family with young pre-primary and primary school children. Couples whose family life cycle is at the young stage face the need for childcare management and would need to work out the different tasks in child caring. A total of ten dual-income couples who are professionals were interviewed (see Appendix 1 for profile of couples). I conducted in-depth semi-structured interviews. Each interview lasted between two to three hours. There were cases when follow-up interviews had to be conducted. While the focus was on child caring, the research also encompassed how working couples combine family and work in general. In the research household tasks include both caring for children and seeing to housework. The delineation between child-caring and housework tasks is crucial especially to discern Malay men's contribution to household tasks.

The biggest challenge in the research was the time factor. It was not easy to accommodate the work schedules and family time of both informants and me. Some of the interviews had to be conducted within sandwiched time during lunch hours or after work before returning home. The time constraints faced by dual income couples because of their work hours and family commitments is very evident.

Already at the beginning of my research I sensed that informants, both female and male, assume that women are responsible for child caring. This was reflected by an unwillingness of some male informants to be interviewed. These men explicitly said that their wives deal with anything to do with their children. Some of them agreed when I pressed to interview them while others were not keen to be interviewed. Five out of the ten men agreed to be interviewed (Couples E, F, H, I and J). Out of the five who did not want to be interviewed, one (Couple G) could not fit in time because of his tight work schedule. The wife of another (Couple B) decided that

it would not be necessary for me to interview her husband. It was not possible to persuade the husbands of the remaining three (Couples A, C and D) for an interview.

Distribution of Child-Caring by Young Malay Dual-Income Couples in Singapore

The concern for working parents is how to combine family and work responsibilities. The most immediate dilemma for young dual-income couples is how to see to the caring of their young children while they are at work. I have dealt with the kinds of childcare arrangement options which young Malay dual-income couples decide on.³⁷

In this article I emphasise how Malay working parents handle child-caring. Child caring involves many tasks. The child has to be bathed, dressed and fed for the babysitter, kindergarten or school. The child has to be brought to and from the child minder be it a member of the family or a childcare centre. There is need to put aside time for leisure with the child and for helping her/him to adjust and deal with kindergarten or school. When the child is sick, special attention and care must be given. In a family context of working mothers and fathers the caring for children has to be carefully thought over; requiring working out and carrying out tasks and always being prepared for the unexpected. One of my concerns in my research is how child-caring tasks are divided in Malay dual-income households.

Allocating daily child-caring tasks

In my interviews, informants were given a list of childcare tasks, which they could expand on. They were asked to indicate who carries out these daily tasks (see Appendix 2). The tasks include bathing, dressing, changing diapers, meal preparation, feeding, ferrying children, playing, reading, supervising homework, and putting children to sleep.

The kinds of task depend on the ages of the children. Thus for example babies and toddlers would need to be bathed, dressed, fed, have their diapers changed and put to sleep whereas schoolchildren would need supervision for their homework. Similarly the need to see to particular tasks varies with age. For couples with schoolchildren the frequency of ferrying their children to school and other school-related activities is very high. Some couples send their children to special classes or tuition and therefore ferrying children is again high.

Child-caring tasks in Malay dual-income households are divided between the couples sometimes shared out with their parents and in several cases allocated to live-in helpers.³⁸

From the findings it is clear that in Malay dual-income households, wives carry out the bulk of the daily child-caring tasks particularly the preparation of meals. They rely on grandmothers and helpers to carry out some tasks such as bathing, dressing, changing diapers, meal preparation, feeding and playing. Other than ferrying the

children men do not predominate in any of the other child-caring tasks. For these other tasks men share the workload with women.

Seeing to unpredictable childcare demands and other special requirements

Apart from the daily childcare tasks there are also childcare demands that are unpredictable.³⁹ In particular when children are sick special attention and care may be required. The task demarcations include taking the child to the doctor, caring for the sick child and administering medication.

Who takes the child to the doctor depends on the seriousness of the child's illness. If the child's situation does not require the attention of doctors immediately, most couples would take their sick child to the doctor together. This is often after their working hours, i.e. in the evenings or on a weekend. In a situation where the child is very sick and needs to be seen by the doctor immediately, who takes the child to the doctor would depend on who has the most flexible work hours.

It's easier for me to call my office and tell them I have an emergency and need to take my daughter to the clinic. It's not so easy for my husband because of his class schedule.
(Wife of Couple C)

Similarly in the case of Couple H where the husband has more flexibility at work:

It's easier for me to take off from work than my wife. Besides, I have the car. (Husband of Couple H)

Only one couple (Couple B) occasionally turns to the grandparents to take their sick child to the clinic. In this case the grandparents take care of the two children while the couple is at work.

Couples do not usually take leave from work to be with the sick child. They rely on their respective child minders to look after the sick child, i.e. grandmothers or maids. However in situations where the child is seriously ill some of the women took leave from work to be at home with the sick child (Couples C and G). These women take advantage of the five days unrecorded leave per year granted to female civil servants for each child below six years old. Only one man (Couple E) took leave from work to take his sick child to the clinic and stay home with his child. In this case his wife is not a civil servant. Both parents and child minders, depending on who is available at the time the child needs to take her/his medicine, share administering of medication to the sick child.

School holidays create a situation where schoolchildren will need to be taken care of during the time they would otherwise be in school. In my study there are six couples with schoolchildren. Very often the children will be taken care of by the respective child minders. However couples do make special arrangements for children to have activities during the school holidays. These special arrangements

would involve extra ferrying of children or taking leave from work. As one woman relates:

My children get bored and that is when they start irritating each other. They will call me or my husband and start complaining. My husband and I will tell them what they can do for the day [...] but it is boring for them to be at home the whole day. Sometimes we take them to their cousins' house for them to spend the day or my sister will send her children over to our place [...] or they'll spend the day with their grandparents. This means that one of us will have to send them and pick them up. We take leave to go for a holiday together. The school holidays are long but I don't have that many leave days. Sometimes my husband takes the afternoon off from work when he doesn't have too much work. I try and make sure I come home early. (Wife of Couple G)

Two other couples (Couples F and J) arrange for their children to take part in holiday programmes offered by private organisations or by schools. No ferrying is involved, as the children are old enough to take public transport:

My son is in the school band. The school has extra music practices during the school holidays because they are preparing for a music tour. We let him participate because he likes music and he has something to do during the holidays. Otherwise he will just be at home [...]. He goes to school by bus with a friend who lives nearby. It's not far [...] just a few bus stops. (Wife of Couple J)

Since the husband of Couple C is a school teacher, he is able to spend time with their two daughters during the school holidays. On the days when he has to be in school for a meeting, the live-in helper will look after the children. The wife will also take leave from work to spend time with the children during the school holidays.

Three out of four of the children of Couple D are old enough to organise their own programme during the school holidays. Nevertheless both husband and wife do take leave to go for a holiday with the children.

There appears to be more sharing out between husbands and wives for unpredictable childcare demands and special requirements during school holidays. The common point in the narrations of informants, both women and men, are the time constraints because work conditions require them to be present at the workplace and therefore they are prevented from being present at home when their children are sick or when they have school holidays.

Division of Housework in Singapore Malay Dual-Income Households

Six of the ten couples in my study have live-in helpers.⁴⁰ The main reason for these couples to have a live-in helper is to have someone mind their young children while they are at work. The added advantage of having a live-in helper is that housework can be transferred to the helper.

Except for cooking, all couples who have live-in helpers transfer most housework tasks to their live-in helpers. In the case of two couples (Couples C, F) the women do the cooking for dinner although the helpers will be asked to prepare the ingredients for the dishes. For these women, the reason is because they prefer their own cooking to the cooking of the helper. The wife of Couple G occasionally cooks and the wife of Couple C sometimes cooks on weekends.

There are differences in the practices of couples who do not have live-in helpers. The wife of Couple A sees to all the household tasks:

I do everything. It's manageable – we don't have a big flat. I get up early to do the washing and hanging up of the clothes. And mopping I do before I go to bed. And ironing, when I am back from work. He will look after our daughter when I am doing the housework. He helps [...] like changing the cushions and curtains for Hari Raya. (Wife of Couple A)

For Couples B, I and J there is some sharing of household tasks although the bulk is seen to by the women. The tasks which men tend to see to include vacuuming, cleaning the bathroom and toilet.

The housework task allocation in Couple I is based on whether the house space is seen to 'belong' to either of them. For example, the kitchen is the wife's space so she sees to the cleaning of the kitchen. There are two toilets in the apartment; one claimed by the wife, the other by the husband. They clean their respective toilets. Similarly they have their own work spaces and each is responsible to clean her/his space. The cleaning of the shared spaces like the bedroom and living room is however the responsibility of the wife:

That's because she wants it in a certain way. (Husband of Couple I)

[...] Yah, I like it cleaned in a certain way [...] we just do it differently and I like it my way. (Wife of Couple I)

Going to market is one task which most couples share irrespective of whether they have live-in helpers or not. The sharing varies from couples going to the market together (Couple B, C and H) or the husband driving the wife to the market and waiting for her to complete the purchases (Couple A), or the wife sees to shopping in the wet market and the husband going to the supermarket (Couple G) or, the market shopping is done by whoever has the time (Couple E, F and I). The wife of Couple D sees to the shopping and the husband of Couple J sees to the shopping.

I have always done it [...]. I like to go to the market. Anyway she [wife] doesn't like to go to the market. (Husband of Couple J)

Housework is clearly a woman's responsibility in the Malay dual-income households of my study. In accordance with the findings of other studies on the contributions

of women and men to household tasks, Malay women continue to do the bulk of the work even when they are employed.⁴¹

Living in Singapore allows for the hiring of live-in helpers – an option that is not always available in other countries. With a live-in helper household tasks which would have been done by women are transferred to another woman, i.e. the live-in helper. However, Malay women also see to training the live-in helper when they are newly employed. Those women in my study who have live-in helpers take charge in supervising their respective helpers with regards to the housework. If the work is not done satisfactorily, it is the woman who sees to it that the helper is told. As such, even when women are not directly carrying out housework tasks, they take full responsibility in ensuring that the tasks are carried out well by the respective helpers.

Task-Sharing in Malay Dual-Income Households

Changing Practices

From the preceding section we can notice some changes in the division of labour in Malay dual-income households. While Malay women are managers of the household and continue to be responsible for the bulk of household work, there are changes in Malay women's practices of managing household work. This is especially so for women who have live-in helpers. Although some women had reservations about transferring the task of cooking to their helpers, most no longer directly perform the housework tasks. Clearly, the women in my study with live-in helpers have no problems transferring housework tasks to live-in helpers despite some women's occasional dissatisfaction with the quality of performance of their helpers. This is somewhat contrary to the findings of Inserto who found that even though the majority of the women in her study had live-in helpers, they relied on the helpers only to see to the cleaning of the house, doing the laundry and minimal cooking.⁴² Inserto also pointed out that the women in her study had anxieties about losing their spouses because of "perceived role changes".⁴³

The women in my study were more selective when transferring child-caring tasks to helpers. Women rarely transfer child-caring tasks to helpers when they are at home. They would rather do these tasks themselves while the live-in helpers are made to carry out housework tasks. Some of the women feel that transferring tasks to live-in helpers gives them 'quality time' with the children:

My maid prepares dinner so when I come home I have some time with my children before dinner. I take them to the playground or the swimming pool at our place. (Wife of Couple G)

There are specific tasks which the women think their helpers are not capable of. This includes spending playtime with children or reading to children. Live-in helpers are delegated all other child-caring tasks. As such, the women in my study do not have uncertainties about transferring most of the child-caring tasks to their helpers unlike the women in Inserto's study.⁴⁴

Women are turning to their husbands to assist them. As pointed out, the delegation of housework tasks to men depends on whether or not couples have live-in helpers. In the absence of live-in helpers women rely on husbands to see to some housework tasks. However, even with helpers they do depend on their husbands for assistance in some child-caring tasks.

Malay fathers, like their counterparts in America⁴⁵ and Britain,⁴⁶ do carry out some child-caring tasks. Nevertheless, the Malay men in my study mostly perform these tasks as helpers, i.e. taking instructions from their wives. This applies even to the task of ferrying children which the Malay men in my study predominantly carry out. Brannen and Moss, in their study on constraints that women in Britain face in combining employed work and motherhood, found that the men also carry out tasks "in the role of assistant, helping out with children [...] rather than the role of equal participant".⁴⁷ In his study on American men's involvement in family work, Coltrane also found that men are generally "helper husbands".⁴⁸

There are differences in the amount of Malay men's contributions to housework. Men in households with live-in helpers do less housework tasks than those men in households without live-in helpers. While the decision to hire live-in helpers is to mind young children while parents are at work, helpers are made to do the bulk of housework tasks. There is therefore no change for the men in such households where housework division of labour is concerned. However, men in households without live-in helpers are helping out in some housework tasks.

Indeed findings from my study show that there are small changes taking place in Malay dual-income households. There is some sharing of child-caring and housework tasks between husbands and wives of the households. All men in my study do carry out some household work. This echoes the study by Coltrane and Adams⁴⁹ who found that men in dual-income households in America participate in both child-caring and housework tasks.

Like Sullivan⁵⁰ I stress the importance of recognising such small changes. There has indeed been a transformation within Malay households when we look back to earlier studies on household division of labour which show that there was hardly sharing of household work between Malay women and men.⁵¹

Determinants for Sharing Household Work

The sharing of household work, however, cannot be assumed. Taking a closer look at the nuances of the sharing of household work, there are factors which determine

when sharing occurs between husbands and wives. Here, it is significant to note that Malay women are managers of the household. As managers they are the ones who decide what tasks are to be delegated to someone else as well as to whom the tasks should be delegated to.

Women's time constraints

Clearly employed women cannot fully see to all household tasks because of their work responsibilities. The normal eight working hours, not inclusive of travel time to and from work, means that mothers need to manage their time.

Not having enough time is a concern shared by the mothers in my study. They say that they “do not have enough time” (*tak ada masa*) for the tasks they have to do. But it is only when the time constraint is acute that women will transfer tasks. Prior to having a live-in helper Couple E had to share out the housework task:

Both of us had to do the housework [...] we come home late. I can't do everything on my own. I clean the house. He ironed the clothes. (Wife of Couple E)

Weekends [...], sometimes at night [...]. (Husband of Couple E)

Women also transfer child-caring tasks to their husband:

It's always a rush in the mornings. The maid will see to breakfast. The children will have to be woken up. I will wake the older children. My husband will wake our youngest up and get him ready. I can't do everything. I need help. The children won't be ready on time for the school bus [...]. (Wife of Couple G)

Sometimes I ask my husband to take them to the doctor when they are sick especially when I have to work on Saturday and he doesn't. I tell him [...] how can I go? I have to work so he has to take them. (Wife of Couple D)

Time constraints faced by women are clearly a result of work demands where women have very little space to negotiate their time. Their concern here is that someone else other than them has to see to the task.

Notions of skills in carrying out tasks

Women say that they transfer tasks according to the ability (or inability) of the husband:

I prepare the dinner while my husband minds the children. It's not that he can't cook. He can cook [...] simple dishes. But he takes too long. I can cook better and faster than him. (Wife of Couple C)

My husband doesn't bathe her [daughter] or change nappies. He cannot do these things [...], he doesn't know [...], he's not used to doing this [*tak biasa*]. So I do everything. (Wife of Couple A)

This also applies to housework tasks:

I don't expect my husband to do housework. It's not saying anything bad about him. He can do other things but housework [...]. I don't think he can. (Wife of Couple D)

Goodnow and Bowes⁵² highlighted competence of partners as a contributing but not a decisive factor for sharing out household work. The couples in their study say that competence is not a 'real reason' and may be challenged.⁵³ The narrations above show some women excusing their husband for incompetence or setting their standards to judge their respective husbands' level of competence. However, not all women in my study excuse or judge their husband's skills in carrying out household work. Interestingly husbands of those who do, tend to refuse to be interviewed.

Availability of partners to carry out tasks

Some couples declared that their particular allocation of child-caring tasks is for practical reasons. The partners' work schedules or other responsibilities either make them available or not available to carry out child-caring tasks. The husband of a couple did say that he actually could cook better than his wife. His wife agrees but he still does not see to daily meal preparation:

He [husband] can cook very well [...] better than me. If we invite family and friends he will cook but he doesn't cook every day. No time [...] he's so busy. He has to visit his sick father every evening after work. So I cook. (Wife of Couple E)

In the case of Couple J, for example, the wife sees to the caring needs of their son because she works from home whereas her husband is away at work. Differing as well as flexible working hours of couples also means that a task has to be assigned to the partner who is available.

He [husband] starts work very early and his working hours are fixed whereas mine are flexible and erratic sometimes. I can go in late but I also get back home late. So I get the children ready, give them breakfast and take them to the childcare centre by taxi. He has the car and picks them up from the centre and sees to their dinner. Sometimes he will pick me up from work and we'll go out for dinner. (Wife of Couple I)

Similarly when a partner is not available because of long working hours then the other has to see to the child-caring tasks. There were two couples (F, G) where the male partners have longer working hours and therefore their wives carry out child-caring tasks or allocate them to live-in helpers:

He [husband] comes home late because he has meetings with clients. So, most of the time I spend the evenings with the children. He is just not there. (Wife of Couple G)

That men are less available for child-caring and housework tasks because they work longer hours is familiar in the literature.⁵⁴ Availability as a factor affecting the way in which household tasks are arranged has also been pointed out by Goodnow and Bowes.⁵⁵

Malay Women and Maternal Gate-Keeping

In their study of women from dual-income households in America, Allen and Hawkins⁵⁶ argue that “maternal gatekeeping”, i.e. the idea that only women can see to certain tasks in the household, inhibits greater involvement of men in household and child-caring work. Allen and Hawkins outlined three dimensions of maternal gate-keeping: “mothers’ reluctance to relinquish responsibility over family matters by setting rigid standards, external validation of a mothering identity, and differentiated conceptions of family roles”.⁵⁷

My study provides findings that there are Malay women who ‘gate-keep’. This is exemplified in the way that Malay women as managers of households, decide what tasks husbands can or cannot do. To this extent, very much depends on what she defines as women’s work and men’s work. Women in my study determine the ability or inability, efficiency or inefficiency of their husbands in performing household and child-caring tasks and decide whether or not a task should be assigned to their respective husbands. While all the women with live-in helpers express the need to train their helpers (especially the new ones), none have expressed the need to teach their husbands skills to carry out tasks. It is also important to note that the men, who were willing to be interviewed, do not refuse the tasks that are allocated to them by their wives. It appears that Malay women’s maternal gate-keeping is excluding more opportunities for collaborative arrangements for family work.

I would however exercise some caution in that gate-keeping is not restricted to mothers. Fathers too can carry out paternal gate-keeping in various domains pertaining to roles within family life. One indication of this is the way that most of the men in my study very often initially questioned the necessity to be interviewed in this study because “child caring is my wife’s department”. As pointed out by Coltrane,⁵⁸ the belief of separate spheres and distinct roles for mothers and fathers are not confined to women alone. He argues that men’s willingness to be involved in family work is very much tied with their view about women’s and men’s roles.

Views on Gendered Roles – Beyond Households

Views about gendered roles are not confined to the households. In this section of the article, I show the prevalence of the view of gendered roles outside of the households.

My concern here is with regards to “maternal identity confirmation” which Allen and Hawkins⁵⁹ delineate as a dimension of gate-keeping. They emphasise “the impact that the internalisation of cultural expectations of mothering has on attitudes about maternal and paternal involvement in family work”.⁶⁰ In this regard, I demonstrate the occurrence of such external validation in the Singapore context. I first of all look at Malay cultural expectations of “the ideal Malay woman”. I then present the discourse of the ‘supermom’ to show the Singapore government’s expectations of woman’s role as mother.

Singapore Malay Cultural Perceptions of Roles of Women and Men

To reiterate, studies by Li,⁶¹ Zarinah⁶² and Inserto⁶³ indicate that there are prevailing Malay cultural perceptions regarding roles of women and men. In her study on how Malay women manage their multiple roles as worker, mother and wife Inserto points out that while the preference of the women in her study is for an egalitarian relationship whereby husbands will help out, there is nevertheless an underlying view that “the husband’s main responsibility is to provide for the family, and the wife’s duty is to take care of the family”.⁶⁴

Such perceptions are reproduced in different sites. Nurhaizatul for example critically analysed portrayals of Malay women in the *Berita Harian*, the local Malay newspaper. Covering the period between the 1970s and 2009 she uncovered the constructions of “the ideal Malay woman” that among others include articles which reminded Malay women of her “important duty” to “organise the household effectively”.⁶⁵

Indeed within the context of Malay women’s increasing involvement in the labour market, their roles as mothers and wives become crucial elements in which these perceptions of gendered roles surface. This is visible in public talks on topics pertaining to the family organised by Malay organisations and mosques.⁶⁶ The emphasis in these talks is always on the gendered role of men and women, i.e. the responsibility of the father is to provide and the responsibility of the mother is to take care of children. An example can be seen in a public forum organised by the Malay Activity Executive Community (MAEC) of the Clementi Community Centre on the theme of ‘Harmonious Family’ (*Keluarga Harmoni*) in September 2003. Local and regional religious experts were invited to talk at the forum. In this forum both speakers are of the opinion that a harmonious family is achieved when all family members perform their respective roles accordingly. The role of the father is to provide and lead while the role of the mother is expressed in terms of the mother’s responsibility to give love and care (*beri kasih sayang*). Citing verses from the Qur’ān these religious experts reiterate that such roles are backed by the tenets of Islam. In a Friday prayers sermon,⁶⁷ the Muslim congregation is reminded that “[h]usbands have a heavy responsibility. He is a leader. He is responsible for

leading the family, for controlling it and for protecting each member in it. [...] Wives also have a role to play. They give birth to a new generation of Muslims. They raise children who contribute to the community.” That expectations of Malay women’s role are very much informed by religion is clearly illustrated by Nurhaizatul’s study on Singapore Malay women’s embodied agency. She showed how duties of a mother and wife are perceived as religious contributions (Arab. *‘ibādah*). As such, all household tasks are acts of piety.⁶⁸

Malay organisations also repeat the perceptions of gendered roles of Malay women and men. This is discernible in the efforts of MUIS (*Majlis Ugama Islam Singapura*) or the Islamic Religious Council of Singapore to remind Muslim parents of their responsibilities. In August 2000, MUIS launched its Family Development Department TAQWA Family Values campaign following the recommendations made by the Muslim Divorce Committee to look into rising divorce rates. Focusing on the need to build “strong and cohesive families”, the campaign carried out talks promoting the idea of TAQWA family. An aspect of such a family is the need for parents to fulfil their responsibilities (*tanggung jawab*) as fathers and mothers – i.e. to see to the provisions to children and to see to caring for children, respectively.

Such views recur in marriage preparation courses which Malay couples have to attend prior to solemnising their marriage. These courses are offered by private companies that are endorsed by the Registry of Muslim Marriages in Singapore. Stretching over two days the course prepares couples with “the knowledge and skills for marriage, financial management, relation communication skills and managing the responsibilities, pressures and expectations of married life”.⁶⁹ *Bersama Mu* (Together with you) Marriage Preparation Course for example offers couples an interactive 14-hour session designed by marriage counsellors. A range of topics are covered including roles and responsibilities of husband and wife. Shared responsibilities are discussed. However the underlying understanding remains of the provider role of the men and the care giver role of the women.

It can be seen that existing Malay cultural expectations of women’s role predominantly stress appropriate behaviour of mothers as care givers. Indeed, from the narrations of the women in my study, Malay women who are employed do not willingly relinquish care-giving tasks. These women refer to these normative guidelines that spell how they should behave. It can be inferred that while the Malay women in my study are increasingly pursuing education and career their role as mothers remain vital to them.

The Discourse on the ‘Supermom’: The Government’s Perceptions on the Woman’s Role as Mother

In the earlier efforts to promote women to participate in the work force, it was assumed that women would continue to fulfil their role as wives and mothers. How

this role is to be fulfilled was very much left to individual women to work out. So while the government wants a change of attitude and to “break barriers that keep women at home” it has left it to the woman “to choose her role”.⁷⁰

The kinds of answers that women gave when they chose to work reflected the tie between the roles of women as mothers. Wong points out that women turned to “the services of close kin and relatives living in the same household” but when these services were not available women “schedule their work activities in such a manner as to enable them to shoulder the burden of childcare and other household duties at the same time”.⁷¹ Women were expected to take up the dual roles of mother and employee and see to mothering and work responsibilities. It was not until trends showing that women stopped work when they married and had children that the government began to concern itself with provisions for child-caring services.⁷² In this section I present the discourse on the ‘supermom’ and thereby tease out the Singapore government’s perceptions on woman’s role as mother.

The attempts by the government to entice women to join and stay in the work force via a number of incentives and provisions since the early 1980s opened up debates in various directions pertaining to employment conditions and gender inequalities at work, woman’s employment and child development as well as the suitable minding arrangements for children. These debates unveil the very notion of woman’s role as mother. As such, when she is employed she therefore has to somehow juggle responsibilities at work and in the family.

In line with its need for female labour force participation the image of the “working mother” became a prominent feature. The positive outcome of employment for women and children became an argument and that “a woman can be a better mother if she is also a good worker”.⁷³ Anticipating guilt conscience and concern about the mother–child relationship, experts in the form of psychologists, educationists and family counsellors provided assurance that “the ill effects of maternal employment are not always evident”.⁷⁴ Advice to women who were feeling guilty came from female readers of the local newspaper. The letters pointed to quality childcare in terms of time management: “efficiently using whatever time she is able to spend with the child” or “The mother can indeed organise her time efficiently, in accordance to the maturity of the child.”⁷⁵

Indeed to be good mothers women must “know how to divide your time”.⁷⁶ In the local newspaper, stories of how women juggle family and work are presented. The answers range from having a husband who cooperates and does his share of housework to making child-minding arrangements, to juggling a full time career and managing family with a live-in helper.⁷⁷ These stories end with a note of how “career and motherhood need not be mutually exclusive”⁷⁸ and that women must learn how to do a “balancing act.”⁷⁹ Being a mother therefore is the ability to

balance family and work. When women are able to do this they become ‘quality mums’ or ‘supermoms’.⁸⁰

The government is not unaware that married women who decide to continue to work are facing problems in managing this ‘balancing act’. Part of the problem is in the home. As a study by the Singapore Council of Women’s Organisations found, “there was hardly any difference in the amount of housework done by the woman who goes out to work and one who stays at home”.⁸¹ That a coordinated national policy was needed to help women play “dual roles of being a mother and a working person” was spelled out.⁸² This need was later reiterated at a United Nations forum on women in terms of improving women’s lives.⁸³ The answers are formulated in terms of subsidy provisions and increasing numbers of childcare centres as well as improving their quality. This reinforces the government’s push for women to be employed and for childcare centres as substitutes while mothers are at work.

Voices that called for men to change their attitudes and contribute to domestic chores and child caring did surface in the parliament, in letters from the public, as well as through support of a woman’s non-government organisation, AWARE.⁸⁴ This call was reiterated as a national survey found that “husbands are chief cause of problem”.⁸⁵

Over the following decades the government’s stand continued to push women to balance family and work but while the emphasis in the 1970s and 1980s was to shift the weight from the family to employment, the emphasis from the 1990s was to push the weight to family:

Working women need to strike a balance between their career goals and family responsibilities so as not to neglect their children, especially when they are young, said Labour Minister Lee Boon Yang yesterday.⁸⁶

While the idea of ‘part time motherhood’ of the 1980s lingers on, women are now asked to spend more time with their children.⁸⁷ There were calls that more help is needed for “working mums”.⁸⁸ Nevertheless what prevails is the image of the ‘supermom’ who succeeds in climbing up the career ladder and being ‘number one person’ to her children.⁸⁹

Even as the government recognises the need to help parents have a “work-life balance”⁹⁰ through its Marriage and Parenthood Packages of 2001, 2004 and 2008, these packages are based on the assumption that child caring remains to be the responsibility of women. This can be seen for example, in the number of leave days apportioned to mothers and fathers. Women have 16 weeks as compared to three to six days of paternity leave. Official responses to questions as to why paternity leave is still minimal were quick to cite studies from Scandinavian countries which show that “most men don’t take paternity leave.”⁹¹ Interestingly findings from a survey

conducted by AWARE on parenting leave in Singapore show that when paternity leave is available 75% of the men in their study utilise it.

More recently, in his Chinese New Year Message in February 2010 Prime Minister Lee Hsien Loong expressed his hopes that fathers will help working women to balance work and family:

Husbands can do many things to help their wives look after the children, including changing the nappies [...].⁹²

Here, while the dual roles of women are taken for granted the dual roles of men as employees and fathers did not surface. Statements pertain to men having to assist. To this extent, what is being re-produced is women's role as mothers despite being involved in employed work and men's primary role remains as economic provider.

Conclusions and Recommendations

What emerges from the findings of my study is that:

- there are changing practices in contemporary Malay dual-income households in Singapore in terms of household and child-caring tasks.
- However, there are unchanging perceptions pertaining to notions of women's and men's work such that there is unequal distribution of labour. It seems that Malay women's maternal gate-keeping limits the Malay men's involvement in household and child-caring work.
- As I have also indicated, men's paternal 'gate-keeping', although not the focus of my study, can also act as barriers toward a more equal division of household labour. These gendered notions of family work, however, are not confined to Malay women and men in the household.
- I have demonstrated that there are existing Malay cultural expectations as well as the Singapore government's perceptions that validate gendered division of labour in the household.
- It is therefore imperative to take into account these normative guidelines of appropriate gender behaviour in an attempt to explain the persistence of an unequal division of labour.

Notes

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7. Sarah M. Allen and Alan J. Hawkins, "Maternal Gatekeeping: Mothers' Beliefs and Behaviours That Inhibit Greater Father Involvement in Family Work", *Journal of Marriage and Family* 61, no. 1 (1999), 199–212.
8. Aline K. Wong, *Women in Modern Singapore* (Singapore: University Education Press, 1975), 31.
9. See *ibid.*, 31, for the Prime Minister's remark in his appeal to the Singapore Employer's Federation.
10. Lai Ah Eng and Yeoh Lam Keong, *Economic Restructuring, Female Labour Participation and Female Skills Formation in Singapore: 1976–1984* (Singapore: Asian Pacific Development Centre, 1984); Jean Lee, Kathleen Campbell and Audrey Chia, *The Three Paradoxes: Working Women in Singapore* (Singapore: Association of Women for Action and Research, 1999).
11. Lee, Campbell and Chia, *The Three Paradoxes*, 14.
12. Singapore Department of Statistics, *General Household Survey 2005*, 21.
13. I use the term dual-income couples and not dual-career couples in a similar manner as Lewis et al. have used the term dual-earner family. Dual-earner family applies to all families in which both spouses are employed. Dual-career families refer to "more elite groups of middle-class couples in high-status occupations with an opportunity structure, who may or may not be more highly committed to their jobs than the dual-earners" (Suzan Lewis, Dafna N. Izraeli and Helen Hootsmans, *Dual-Earner Families: International Perspectives* (London: Sage Publications, 1992), 3.
14. Singapore Department of Statistics, "Dual-Career Couples in Singapore", *Occasional Paper on Social Statistics* (Singapore: Department of Statistics, 1994), 3.
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18. Ministry of Social Affairs, *Public Forum 'Married Women in the Workforce', Organised by the Ministry of Social Affairs on 25 November 1983*, Regional English Language Centre, Singapore (Singapore: Ministry of Social Affairs, 1983).
19. E.C. Yuen and V. Lim, "Dual-Earner Families in Singapore: Issues and Challenges", in: Lewis, Izraeli and Hootsmans, *Dual-Earner Families*, 64.

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21. Singapore Department of Statistics, "Dual-Career Couples in Singapore", 9.
22. Ibid., 10.
23. Such a case is also found in other Asian countries for example, India where "two incomes are essential for the vast majority of the middle class wishing to maintain a comfortable standard of living (Uma Sekaran, "Middle-Class Dual-Earner Families and their Support Systems in Urban India", in: Lewis, Izraeli and Hootsmans, *Dual-Earner Families*, 47). In other cases such as in Sweden, the contribution of a woman's income is crucial where "two incomes are necessary to remain above the poverty line" (Karin Sandqvist, "Sweden's Sex-Role Scheme and Commitment to Gender Equality", in: Lewis, Izraeli and Hootsmans, *Dual-Earner Families*, 83).
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25. Hochschild, *The Second Shift*; Suzanne M. Bianchi, "Setting the Stage: Work and Family Lives of Americans", in: Eileen Appelbaum (ed.), *Balancing Acts: Easing the Burdens and Improving the Options for Working Families. A Conference Volume* (Washington DC: Economic Policy Institute, 2000), 13–24.
26. Hochschild, *The Second Shift*; Brannen and Moss, *Managing Mothers*.
27. Linda Haas, "Determinants of Role-Sharing Behaviour: A Study of Egalitarian Couples", *Sex Roles* 8 (1982), 747–60; Gayle Kimball, *50-50 Parenting: Sharing Family Rewards and Responsibilities* (Toronto: Lexington Books, 1988).
28. Goodnow and Bowes, *Men*.
29. Judith Djamour, *Malay Kinship and Marriage in Singapore* (London: Athlone Press, 1959).
30. Suriani Suratman, "Studies on Malay Families and Households in Singapore: A Critical Assessment", *NUS Seminar Papers No.35* (2002) [National University of Singapore, Department of Malay Studies].
31. Tania Li, *Malays in Singapore: Culture. Economy and Ideology* (New York and Singapore: Oxford University Press, 1989).
32. Ibid., 18.
33. Ibid., 19.
34. Ibid., 18.
35. Ibid., 20.
36. Aline Wong, "Sex Roles, Lifecycle Stages, Social Networks and Community Development in Singapore", in: Shirley Ardener (ed.), *Persons and Powers of Women in Diverse Cultures: Essays in Commemoration of Audrey I. Richards, Phyllis Kaberry and Barbara E. Ward* (New York: Berg Publishers Limited, 1992).
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38. Eadem, "Old Problems".
39. Eadem, "Looking for Help".
40. Eadem, "He Has a Career". Couples C, D, E, F, G and H have live-in helpers (see Appendix 1).
41. Brannen and Moss, *Managing Mothers*; Scott Coltrane, *Family Man: Fatherhood, Housework and Gender Equity* (New York, Oxford: Oxford University Press, 1996).
42. Fathiah Edrus Inserto, *Choice, Social Structure and Serendipity: A Study of Multiple Roles Among 20 Malay Women in Singapore* (Ann Arbor MI: University Microfilms International, 1997), 116.
43. Ibid., 136.
44. Ibid., 135.
45. Coltrane, *Family Man*.
46. Brannen and Moss, *Managing Mothers*.
47. Ibid., 191.
48. Coltrane, *Family Man*, 74.

49. Idem and Michele Adams, "Men's Family Work: Child-Centered Fathering and the Sharing of Domestic Labour", in: Rosanna Hertz and Nancy L. Marshall (eds), *Working Families: The Transformation of the American Home* (Berkeley CA: University of California Press, 2001).
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52. Goodnow and Bowes, *Men*.
53. Ibid., 144.
54. E.g. Brannen and Moss, *Managing Mothers*; Shelton, *Women*.
55. Goodnow and Bowes, *Men*.
56. Allen and Hawkins, "Maternal Gatekeeping".
57. Ibid., 199.
58. Coltrane, *Family Man*.
59. Allen and Hawkins, "Maternal Gatekeeping".
60. Ibid., 204.
61. Li, *Malays*.
62. Zarinah Mohamed, "Parenting in Singapore: Father's Attitudes Towards Involvement in Childcare", academic exercise, National University of Singapore, Department of Sociology, 1990.
63. Inserto, *Choice*.
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65. Nurhaizatul Jamila Jamil, "Perempuan, Isteri, dan ... Embodied Agency and the Malay Women of Contemporary Singapore", MA thesis, National University of Singapore, Department of Sociology, 2009. 20–1.
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Appendix 1: Profile of Couples

Couples	Educational qualifications	Occupation	Combined household income (approx)	Number of children	Ages of children	Current childcare arrangement	Cost
A	Sec. 4 (wife) Sec. 4 (husband)	Management Officer Foreman	S\$3,400	1	2	Grandparents	S\$500
B	M.A. (wife) PSLE/VITB (husband)	Legal Officer Storekeeper	S\$7,200	2	8, 2	Grandparents	S\$600
C	B.A. (wife) College (husband)	Admin. Officer Teacher (primary)	S\$5,000	2	7, 3	Live-in helper	S\$575*
D	Sec. 4 (wife) Sec. 4/Malay stream (husband)	Management Officer Technician	S\$4,600	4	19, 15, 11, 7	Live-in helper	S\$605*
E	Sec. 4 (wife) Sec. 2/VITB (husband)	Clerical officer Security officer	S\$3,700	2	1½, 6 mths	Live-in helper	S\$575*
F	PhD. (wife) M.Sc. (husband)	Lecturer Librarian	S\$11,500	2	10, 2	Live-in helper	S\$645*
G	M.Ed. (wife) M.Sc. (husband)	Lecturer Engineer	S\$10,500	4	12, 10, 8, 6	Live-in helper	S\$595*
H	M.A. (wife) PhD. (husband)	Teacher (primary) Lecturer	S\$10,000	3	7, 5, 3	Live-in helper/Childcare centre	S\$595* / S\$710†
I	B.A. (wife) M.A. (husband)	Feature writer Teacher (college)	S\$8,000	2	5, 3	Grandparents/Childcare centre	S\$500 / \$475†
J	Sec. 4 (wife) Sec. 4 (husband)	Own business Real estate agent	S\$4,500	1	13	Own	-

* Includes Foreign Maid Levy of S\$345. This amount however does not include the six monthly medical expenses required by the government and any other extra expenses such as food consumption, clothing etc.

† This is the total amount for all children after the subsidy of S\$150 (full-day care) or S\$75 (half-day care).

THE 'ISLAMIC WOMEN'S' MOVEMENT: TRANSITION FROM THE PRIVATE DOMAIN TO THE PUBLIC SPHERE

*Ömer Çaha**

Abstract: This article emphasises the development of the Muslim women's movement in Turkey. It traces the historical roots of this movement as well as its evolution towards two different understandings of women. It is clearly seen that there exist two main approaches to the role of women among Islamic groups: while the traditional Islamic understanding strives to maintain women's traditional roles notwithstanding that it advocates the right to benefit from modern education, another understanding challenges this and tries to ensure women's existence on a 'womanly' base in the public life. The author attempts also to depict the story of how Muslim women have attempted to be articulated in the public sphere, their 50-year struggle to achieve that goal, as well as the discourses, values and symbols that have generally been centred on the 'headscarf debates'.

Introduction

This article emphasises the development of the Muslim women's movement in Turkey. It traces the historical roots of this movement as well as its evolution towards two different understandings of women. It is clearly seen that there exist two main approaches to the role of women among Islamic groups: while the traditional Islamic understanding strives to maintain women's traditional role notwithstanding that it advocates the right to benefit from modern education, another understanding challenges this and tries to ensure women's existence on a 'womanly' base in the public life. In this article, I depict how 'Islamic women' attempted to express themselves in the public sphere, over 50 years, as well as the discourses, values and symbols that have generally been centred on the headscarf debates, and how the 'women's movement' developed on the basis of this issue.

* Ömer Çaha is a Professor in the Department of Public Administration at Fatih University, Istanbul, Turkey.

The Rise of Democratic Public Life and 'Islamic Women'

It is generally accepted that in the early decades of the Turkish republican regime, established after 1923, women started to serve the regime not only in public institutions individually, but also through various organisations. During the single party regime, which continued until 1950, women were directed to serve the regime mostly under the banner of the Republican People's Party (CHP). In the 1950s, when multiparty life started, we observe that the political and ideological separation which emerged in Turkey also triggered women. Islamic groups that got rid of oppression through liberal policies pursued by the Democratic Party gradually started to be a part of public life and interested in politics. The attendance in modern educational institutions and their interest in politics would lay the foundations of the separation between the 'cultural' Islam and the 'political' Islam in the following years. The importance of 'science', or 'wisdom' as it is used in the Islamic literature, has been emphasised in both groups and the idea that "science is a religious obligation for men and women" has rapidly become popular among them.¹ In particular, the translation of Islamic sources like the Qur'ān, the *aḥādīth* of the Prophet, and works on Islamic jurisprudence (*fiqh*) into Turkish has enabled Muslim groups to get acquainted with the essential religious resources, and to further comprehend the importance of science and education by benefiting more from Islamic resources.

The religious atmosphere ascending in the country has expectedly found some women in the public sphere and modern institutions. The headscarf was first seen at university in the early 1950s.² Fevziye Nuroğlu, who started to wear the headscarf at university in the early 1960s, recounts that in total there were four students with headscarves attending Turkish educational institutions in those days.³ Nuroğlu states that modern educational institutions and the well-developed districts of modern cities like Istanbul were not yet familiar, at that time, with the headscarf and did not show tolerance towards students like her. Until then, headscarf and traditional dress had been considered as symbols identified with peasantry, backwardness and ignorance. Although no regulation was made about women's dress during the single-party period, the struggle against the traditional veil such as *çarşaf* (a traditional dress covering a woman's whole body) laid the foundations of an elitist attitude and perspective. Women in schools and public institutions and even those working in the tobacco, soap, and textile industries were 'modern looking' women freed from traditional dress. While women employed in public institutions as officials were required to dress up 'modern', other women working as cleaners or tea servants were asked to cover their heads.⁴ The message delivered through this policy was that the women working in white-collar jobs had been modernised by getting rid of their veils while women doing errands remained traditional.

Veiled female students in modern institutions were perceived to be a challenge to the elitist official policy of the state and were punished harshly. For instance, Gülsen Ataseven graduated from a faculty of medicine as the top student in 1964. However, because she was wearing a headscarf, her degree was taken away and given to the second best student. Although there was a big difference between the two students' scores, the university management did not deem Gülsen Ataseven to be the 'appropriate' top student. Later, veiled women in various institutions came to be punished in similar ways. The punitive attitude of the state towards the headscarf naturally created a reaction among traditional conservative groups.

The incident that made this reaction visible in the public sphere took place in Ankara University Faculty of Divinity. In 1968, the dismissal of Hatice Babacan, a student in the Faculty of Divinity, brought a strong reaction from Islamic groups. Hatice Babacan immediately became the symbol of Islamic groups. The issue was covered by the publications of these groups, a boycott campaign started in front of the Faculty of Divinity and the boycott became a current issue in parliament. The dean, Neşat Çağatay, was obliged to resign from his office as a result of the slogans "resign, dean".⁵ The next case involved the lawyer Emine Aykenar in 1972. After she declared that she would not uncover her head as a 'requirement of her faith' in a trial in the Council of State she was dismissed from her profession by the Head of the Ankara Bar Association. In brief, the harsh punishment for religious veiling among individuals during the 1960s by the state created a social interest in – and even a resistance to – such politics.

The 1960s were the years when Şule Yüksel Şenler occupied the stage among Islamic circles and initiated the process of a radical break from the 'official' way of dressing. Şenler, who had been a modern townswoman and a columnist for the *Yeni İstiklal* newspaper since the mid-1960s, started to wear the veil by developing a 'stylish' and 'elegant' dressing style. She began a struggle to popularise veiling through five years of nationwide conferences in which she spoke of her cause and the importance of veiling to women. The headscarf, which Şenler tried to popularise, created a strong reaction in the ruling elite and the secular media. The 'stylish' and 'elegant' style of headscarf, to be distinguished from the traditional style, was talked down by being named as *şulebaşı* (head of Şule). This naming would be transformed into *turban* by the same groups in the 1980s.

Şenler's beliefs left an indelible impression on young girls and religious women, and the headscarf rapidly became popular in the streets. This trend became so notable that the then President of the Republic, Cevdet Sunay, stated that "the pioneers of veiled women in the streets will get their deserts".⁶ Şenler tried to popularise her cause through her book *The Tranquil Street (Huzur sokağı)* which has become one of the most-read novels not only by women but also by men after the 1970s. Şenler is a notable figure whose achievement was to put the 'issue of the woman' on the

agenda of Islamic groups in the 1960s and 70s.⁷ In addition, interest in the 'issue of the woman' has increased among theologians since the mid-1960s and various publications have appeared on the subject. Hayrettin Karaman's book *Woman and Family in Islam (İslam'da kadın ve aile)* and Bekir Topaloğlu's *Woman in Islam (İslam'da kadın)* were intended as a response to the West and other civilisations and to prove how 'perfect' Islam is supposed to be and what 'rights' it provides women with. These books cover the necessity of women to be 'protected' through values such as veil, modesty, chastity, and morality, and the importance of this protection for the social order.⁸

In the 1970s, the issues of veiled woman and woman's education became of interest to ordinary citizens of various religious communities and political Islamic groups. Şule Yüksel Şenler set a significant example on this issue with her identity of 'educated woman'. On the other hand, conservative fathers acquired the opportunity to school their daughters when girls' classrooms were launched in *imam hatip* schools (government-run religious schools). The Qur'ân classes and *imam hatip* schools were important instruments for the schooling of daughters of conservative families in the 1970s.⁹

It was after the 1980s that real momentum was experienced among Islamic circles about the 'issue' of women. The mentality-change experienced by Turkey after 1980 in many fields was naturally reflected in the social values. As a consequence of liberal politics initiated by then Prime Minister Turgut Özal, Turkish society made a rapid transition towards modernisation. The blasting point of the social modernisation was and still is observed in the rising interest in getting modern education. After the 1980s, education started to be perceived as an important necessity by all parts of society. The policy to spread English-based education opportunities to the remotest corners of Anatolia through Anatolian High Schools (*Anadolu Liseleri*) naturally created the consequence that the demand for modern education took rural people into its circle. Conservative fathers, who had sent their daughters to Qur'ân classes and *imam hatip* schools in the 1970s, started to send their daughters to high schools and universities offering modern education. Especially with the dissemination of university preparatory courses throughout the country, it has become possible for students from small towns to get into universities. In this respect, it can be argued that university preparatory courses served for a very important social mobilisation. As a consequence of all these factors, a hitherto unobserved number of veiled young women started to appear in educational institutions, streets, and workplaces.

The modernisation policies in the country, on the other hand, paved the way for what has been referred to as 'Islamic Calvinism'.¹⁰ The flow of capital to the periphery and to the grassroots, the opening of Turkey to the world markets, Özal's encouragement of Anatolian businessmen to enter the global markets, and the emerging business opportunities due to the collapse of the Soviet Union all played

important roles in the emergence of an Islamic bourgeoisie or a Muslim middle class. Religious values and symbols, which had been popular among the lower classes until the 1960s, were increasingly embraced by people from middle and even high classes. The 'headscarf' as a religious symbol used by women started to be visible in modern cities, modern neighbourhoods, holiday resorts, and even on podiums. Veiling fashion shows, staged in Turkey from time to time, demonstrate that an economic market had emerged on headscarf and veiling.¹¹

While the conservative-religious woman tries to be involved in modern institutions, she pursues the goal of preserving her veil as a traditional religious value. She carries out the modern practice of life oriented towards education, trade, holiday and entertainment in traditional dresses with modern patterns. In other words, the religious woman experiences modern values *within* traditional forms. The *turban*, which is more stylish compared to *çarşaf* and the traditional headscarf, has become a symbol of the synthesis of "the traditional and the modern".¹² Similarly, she carries out swimming and vacationing, which are parts of a modern lifestyle, with *haşema* (a full body suit designed to let women and men swim without having to uncover the parts of their bodies which are religiously prohibited from being seen by strangers). In this respect, it would not be wrong to argue that the understanding of modernisation through 'Western values', which has been prevalent in Turkey for about 200 years, has undergone a transformation in terms of form and content through 'Islamic women'.¹³

From the mid-1980s, Islamic groups started to attach special importance to the issue of woman. After the feminist women's movement took to the streets, the 'issue of woman' left its mark on the country's agenda and became the hottest discussion topic in Turkey. The religious woman, who started to take a greater part in social life, naturally started to constitute a new problem area in the Islamic part of society, beyond the headscarf problem in universities. In order to deal with this problem, various magazines were published by Islamic groups. Among the first were *Mektup* (Letter), which started in 1985, and then *Kadın ve aile* (Woman and Family), and they reached circulation levels of hundreds of thousands. It is estimated that there were a total of 27 magazines published by Muslim women in the 1990s.¹⁴

Through these magazines, each Islamic group developed its own understanding of womanhood. Based on the themes covered in these magazines it could be argued that mainly two stances have been developed on the role of women among Islamic groups. The first one attempts to limit women to familial roles, does not lean towards their employment, and considers the quests for women's rights to be unnecessary and even harmful. The other one, on the other hand, tries to present a political and somehow existentialist understanding of women, believing in the self-realisation of women through participation in public life.

The Transformation of the 'Islamic Woman's' Role

It is correct to state that the headscarf is a tool to participate in public life and a way of 'existence' for 'Islamic women'. The Kemalist reaction against the headscarf has caused religious groups to unite and to gain dynamism. This dynamism has also brought about several women and groups in the 'Islamic women's' movement to question the *traditional* role of the Muslim woman. The Muslim woman in the traditional understanding of Islam is a woman whose prominent characteristics are her commitment to her house, her obedience to her husband and her maternity. The woman, in a sense, is surrounded and protected by the man. However, the process of taking part in public life has brought about the chance for women to cease being the passive object beneath or behind a man. The headscarf struggle has rendered the woman the comrade of the man and given her a new role that is embodied in the concept of 'political sister'. It can be argued that the political sisterhood, which denotes positioning beside – not behind – men, constitutes the first step of the path leading to the 'individual woman'.

The individualisation process for 'Islamic women' developed within the struggle against the prohibitive attitude of the state towards the headscarf in the 1980s. Individual cases in the 1960s and 1970s had not yet been able to render the issue a 'nationwide' problem that the state would be interested in. The headscarf issue gained real prominence in the eyes of Islamic groups and the state at the national level following the decision of the Council of Higher Education (*Yüksek Öğretim Kurumu*, YÖK) in 1982 that prohibited veiled students from attending classes. The headscarf, which then turned into the *turban* with this decision, started to occupy the agenda of both politics and the media. Although the severity of the decision was moderated following the reactions of students, student demonstrations erupted after entrance to universities was banned in 1984. These demonstrations started in Ankara University's Faculty of Divinity, as was the case in 1968. As the headscarf ban spread to other universities, protests naturally became widespread. Attempts by the political authorities under Turgut Özal to solve the problem through laws were halted by the Council of State, the Constitutional Court, the President or central left parties of the time and the issue became vague. On the other hand, in parallel with the liberalisation in the 1980s, approval and tolerance toward the headscarf became widespread throughout the country. The ambiguous situation on the issue of *turban* and attitudes differing from one university to another continued until the '28 February period'.¹⁵

The '28 February process' became a serious starting point, and in some sense the breakaway point, for this issue. The '28 February period' rendered the headscarf a national problem toward which the state developed a singular attitude. The total war started by the state against the headscarf under the leadership of the YÖK

administration paved the way for 'Islamic women' to form a movement around this symbol. One of the epicentres of this movement was Istanbul University, which was selected as a model by YÖK. The headscarf ban came to be applied in all departments of Istanbul University in 1998 and female students were enjoined to shed their headscarves through the 'persuasion rooms' set up at the entrance of the university campus. The reaction was swift. The Beyazıt Campus of Istanbul University became the centre of the 'headscarf demonstrations'. Female students were at the forefront of most of these demonstrations. However, as with other protest demonstrations, male students, some feminist women, leftist student unions and a number of politicians were present. Support for the demonstrations, which lasted for months with concerts and other activities, increased daily and the attention of the entire country was attracted to the issue. Headscarf demonstrations were not limited to the Beyazıt Campus of Istanbul University. Similar protests erupted in almost all cities with universities. 1998, when the '28 February' decisions came into effect, is the year in which 'headscarf demonstrations' took place throughout the country. The protests in some cities were considered by the state as an 'uprising' against the political order and were harshly quelled.¹⁶

One of the demonstrations initiated at the national level which attracted the attention of the entire country, was launched by medical faculty students in June 1998. About 60 veiled medical students initiated a march from the Cerrahpaşa Faculty of Medicine towards Ankara under the name of the 'White March', with the aim of travelling through the entire country. The demonstrators walked up to Ankara with enormous support from the people living *en route*.¹⁷ Following this demonstration, another large-scale protest was staged which attracted the highest popular support throughout the history of the republic. On 11 October 1998, pioneered by various NGOs, the protest aimed at forming a countrywide human chain under the motto 'hand-in-hand for freedom of belief and thought' (*inanca saygı, düşünceye özgürlük için el ele*). The human chain started in front of the Cerrahpaşa Faculty of Medicine and continued up to the town of Bolu – stretching over nearly 250 km! Although the chain was blocked in Bolu by a military unit, it succeeded in reaching up to Van in the east and Hopa in the north of the country. It was the first time in Turkey that millions of people from different locations were gathered simultaneously and formed a human chain of more than 1,000 km without causing any disorder.¹⁸ This demonstration created a shocking impact on the government, especially on YÖK, and participating officials have subsequently been subjected to legal investigations and prosecutions.¹⁹

However, despite these large-scale demonstrations and increasing social awareness, the headscarf issue continued to be a critical problem occupying the country's agenda. After the February 28 period, the application initiated in Istanbul University was disseminated into all universities in Turkey and transformed into a

national politics controlled by YÖK. Students, unable to get the results they expected from street demonstrations and the judicial authorities in Turkey, resorted to the European Court of Human Rights at Strasbourg. Leyla Şahin, who was expelled from Istanbul University Faculty of Medicine due to her headscarf in 1998, also took the issue to Strasbourg. However, the Court decided to justify the practice. While this decision created a shock among Islamic groups, it strengthened the hand of Turkey's Kemalist elites.

It can be said that the headscarf constituted the main focus of the struggle during the '28 February' period. The obdurate stance of the state against the headscarf did not remain limited to universities and was exported to other fields. Schools controlled by the Ministry of National Education have been among the places where the ban was executed harshly. Numerous veiled teachers working in schools were eventually dismissed from their jobs. The ban was even attempted to be disseminated into private training centres (*dersane*). The actors of '28 February' have rendered the veil of women an existential issue for the regime. Merve Kavakci who was elected as a member of parliament (wearing a headscarf) stepped on the toe of this hyper-active group. As a result, a 'hunt' was organised. The most dramatic scene of this 'hunt' was the midnight bust by the Chief Public Prosecutor Nusret Demiral, accompanied by a police group and an army of reporters to her house. Kavakci's membership in the parliament was soon terminated and the Virtue Party (*Fazilet Partisi*, FP), mediating her election as deputy, was closed down by the Constitutional Court.²⁰ The constitutional amendment of 2008 made by the currently ruling Justice and Development Party (*Adalet ve Kalkınma Partisi*, AKP) to make the wearing of the headscarf permissible in universities has made this political party even more popular. The constitutional amendment was invalidated by the Constitutional Court. The Court also punished AKP by ruling to deprive the party of financial assistance from the Treasury.

What kind of impacts does the headscarf issue – occupying the country's agenda for about 50 years, resulting in the hard-line stance of the state – have on Muslim women? Undoubtedly, these impacts have psychological, sociological and political dimensions. It would not be wrong to argue that the political atmosphere that emerged around the headscarf has paved the way for a significant transformation among Muslim women as well as creating traumas. The most significant dimension of this transformation is the fact that women have developed a 'women's movement around the headscarf'. While this women's movement formed by Muslim women strives to overcome the state and its uniform modernisation policy on the one hand, it continuously questions the traditional roles of women, on the other. It should be noted that there exist various lines within the 'Islamic women's' movement, and the end of one of these lines reaches up to feminism. 'Islamic women' who strive to take part in public life turn upside down the traditional religious roles expected

of them. As Sibel Eraslan puts it, “whereas men want to seclude them and demand from them to be beautiful wives and mothers, they dare to poke their noses into the life”.²¹ The awareness and the feelings of self-reliance in women stirred by the struggle to take part in public life have eventually directed them to question their traditional roles.

It is noteworthy to claim that street demonstrations have had multidimensional consequences on Muslim women who tried to be insistent followers of their own decisions. Above all, young girls have been politicised through street protests and built political identities on this foundation. As Sibel Eraslan, who became prominent when she was the head of the Welfare Party’s (*Refah Partisi*, RP) Istanbul Women’s Branches, stated: “the organisational daring of the ‘Islamic women’ in the 90s has become a journey from being sisters and wives to being citizens”.²² Considering that the ‘headscarf demonstrations’ required not only a multidimensional background preparation but also courage, it becomes clear how transformative this was for women. This, indeed, points to a revolutionary transformation for the religious women who were expected to become socialised with such characteristics as ‘solemnity’, ‘silence’ and ‘obedience to men’. Women who took part in the headscarf struggle have directed their interests from housework, obedience to the husband and childcare to the state, political participation, demonstrations, protests, knowledge, information, and so forth. Some have likened this interest to the 1968 generation of leftist movements. Sibel Eraslan stunningly depicts how a new generation, which can be called the ‘98 Generation’, has emerged among Muslim women in Turkey:

March 1998: Thousands of youths were protesting in front of the university behind a large red banner on which, written in yellow, were the words “students arm-in-arm, to a general boycott” (*öğrenciler kol kola genel boykota*). These were the colours not hitherto used in ‘Islamic women’s’ protests. Some metal and rock bands accompanied them with music. Environmentalist youths were also among the groups supporting the girls. Headscarf demonstrations would go down in the history of the Republic as the women’s demonstrations, which attracted large and different groups but remained inconclusive. Veiled women were shouting a slogan, which we had been used to hearing from leftists; “don’t be silent! If you do, you will be the next!” (*susma sıra sana gelecek*). What has changed from 68 to 98? How come these proper little girls (*hanım hanımick*) continuously resembled to the image of other militant women?²³

Street demonstrations have at the same time provided young girls with a personality and a sense of self-realisation. Young girls, who had matured in such protests, have become able to show the courage and self-reliance to continue their educations in various universities in Europe and America alone. It would not be wrong to claim that women who entered into an intense struggle on the headscarf issue have fought for an “identity”, “personality” and “existence”.²⁴ It would not

be an exaggeration to say that the Muslim woman, by maturing in this struggle, has realised the role of the woman (as characterised in Atif Yilmaz movies), a woman who is able to exist and pursue her own choices without needing her husband's or father's or another man's support. The following expressions strikingly demonstrate how the headscarf ban has rendered an ordinary young girl a militant:

I was unable to associate myself with shouting at the top of my voice in protests. Moreover, I used not to consider marching on streets to be wise. Yet, I no longer had a class to go, or a course to study for [...]. I was at loose end, feeling quite empty, I felt myself dwindling. So dwindled that I felt prey to the wind and suddenly found myself among my friends in Beyazit. At that very moment, little Ayşe began to grow up. Her tears were not sorrowful anymore, they were the tears scattering lights of hope. I was both shouting slogans and marching towards the school I had been expelled from.²⁵

The struggle over the headscarf has provided women with maturity, change and transformation; as well as paving the way for great feelings of defeat, disappointment, hatred and anger.²⁶ There are many groups towards which such feelings are directed. The most prominent of them is undoubtedly those people acting under the name of Kemalism. It is thought-provoking that Kemalism, which had developed as a modernising and civilising project in the first half of the twentieth century, turned against some women at the end of the second half of it with a narrowed vision and mind. This vision has also become the source of a strong hatred among women involved in Turkey's Islamic movements. The following expressions strikingly reveal what Kemalism is identified with in the eyes of these women:

January 1998: Female students attending universities with headscarves started to be blacklisted by secretaries at doors. The letter 'T' was put in the place of or near the names of these students. [...] Women were marked only, simply and shortly with the letter 'T'. I liken the letter 'T' attached to my name to the Zion badge that Anne Frank was obliged to carry. And of course I liken those who attached it to the Nazis [...].²⁷

We can say that the feeling of aversion and hatred found in these sentences contains multidimensional and deep traumas. The 'Nazi' is a figure that constitutes the indelible subconscious of Jewish people today. Kemalism, on the other hand, has become an entity which is considered equal to Nazism at least in the eyes of some people living in Turkey (a group of substantial size, however, when considering the size of the social base) – a comparison which is certainly a bit too farfetched. Nevertheless, it is unfortunate for a society moving towards modernisation that Kemalism, which had constituted an important reference to the salvation and emancipation of women in the first quarter of the twentieth century, has turned into an ideology, an oppressive policy, which is identified with Nazism in the eyes of some other women at the extremist fringe.

It is observed that many Muslim women involved in Islamic movements are largely disappointed with secular women. Although some feminist women and leftist groups supported them, the deafness of most secular women to the issue has created a deep resentment among them. The feelings expressed by a medical student who had been expelled from the Hacettepe Faculty of Medicine are thought-provoking in this sense:

My elder sisters are not veiled and all of us have acquaintances who are not veiled. Due to the prejudiced attitude I experienced in the school, I became timid with all people who are not veiled. I still feel uneasy when I meet somebody. We took up new phobias due to their discriminatory attitudes towards us.²⁸

It would not be inaccurate to argue that this attitude has paved the way among 'Islamic women' for a common trauma. Mualla Gülnaz, known as a 'Muslim feminist', states it in the following way: "the women who fought the headscarf struggle feel that they are left alone. They no longer trust the state, nor politicians, nor their families and nor the men they share the same faiths with".²⁹ Many women who really suffered from the headscarf issue bear these feelings.

The struggle over the headscarf ban has functioned as a bridge between women from the Islamic movements and some women from other sectors of Turkish society. Some feminist and leftist groups have taken sides from the very beginning with the women who were fighting against the headscarf ban. It would not be wrong to argue that a mutual empathy and an interaction emerged in this process. While some feminists and leftist women supported the headscarf by considering it to be a right and a different way of existence, it can be argued that a sympathy and an interest in their ideas, and a feminist discourse, have gradually emerged among 'Islamic women'. Sibel Eraslan depicts this change and transformation: "The opportunity to know and talk to other women means a more feminine colour and voice among 'Islamic women'".³⁰ One can thus argue that the movement called 'Islamic feminism' has flourished on the ground created by this interaction.

Flirting with Feminism or the Advent of 'Islamic Feminism'?

The concept of 'Islamic feminism' was developed in the 1990s by various Iranian and Arabic academics and writers.³¹ Academics and writers like Asaneh Najmabadeh, Haleh Afshar and Mai Yamani have used this concept in their studies, but the concept eventually started to be used by other academics and writers in various countries. One of them is the Egyptian author Aziza M. Karam. According to her, everyone who thinks that women occupy a secondary position due to their sex/gender and who make efforts to develop egalitarian and fair gender relationships are feminists.

Karam, departing from this common feminist definition, draws attention to the difference between 'secular feminism' and 'Islamic feminism' in Egypt.³²

Those who advocate 'Islamic feminism' centre all of their claims on the Qur'ān. Their main thesis is as follows: the Qur'ān used the symbols and language of the patriarchal Arabic culture. The messages in the Qur'ān are naturally expressed within the form of this language. Only the Prophet can grasp the *real* spirit of the Qur'ān, which is a universal and eternal source. If the message and cause of the Qur'ān is universal, then we should not read it as a given text with a uniform definition. Naturally, the Qur'ān could be perceived differently in different historical circumstances, different social environments and different languages and cultures. In this respect, the spirit and message of the Qur'ān can be interpreted in different ways within a certain context.³³

Does 'Islamic feminism' have an equivalent in Turkey? Or how do the groups of women who drive the women's movement in Turkey approach 'Islamic feminism'? Prominent researchers and writers in the 'Islamic women's' movement like Cihan Aktaş, Yıldız Ramazanoğlu, Nazife Şişman, Mualla Gülnaz, Hidayet Ş. Tuksal, Fatma K. Barbarosoğlu, Sibel Eraslan, Ayşe Böhürler and Nihal Bengisu Karaca prefer to stand aloof from the identity of 'feminism'.³⁴ It can be argued that the main reason lying behind the distant stance of 'Islamic women' from the feminist identity is the belief that feminism is identified with enmity against man, unlimited sexual freedom and a movement that attacks the family. A woman, in an article for *Aksiyon* magazine wrote the following, articulating the common concern of numerous 'Islamic women':

The author of the following sentences is very anxious while writing that they would contain the word 'feminism' abundantly; "worst than the nightmares in dark nights having being labelled with a feminist identity [...]." Who can say that we are possessed by an unjustifiable anxiety while feminism means enmity to man, deviation, shrewdness, spinsterhood and even ugliness? Today, most veiled bluestocking women who define themselves as 'pious' approach the word 'feminism' with the same hesitation. While some get all tuckered out trying to get rid of this intrusive trouble, some others challenge the use of the term as a method of punishment; "I am a feminist, so what!"³⁵

The perception of women in the Islamic movements of feminism is not limited to this. The fact that the majority of women in the feminist movement did *not* support 'headscarf victims' and that they even did not support the headscarf as a women's right has paved the way for the feminist movement to be viewed by 'Islamic women' as a Kemalist/elitist movement. *Yenişafak* newspaper columnist Özlem Albayrak labelled feminism as "a movement in the monopoly of a few modern and brand-loyal women of *Nisantaşı*".³⁶ Albayrak, in the same interview, stated "if I believed in the objectivity and truthfulness of the feminism in Turkey, I'd become a feminist".³⁷ The

number of those women who are sympathetic to feminism but avoid being identified with it is very high among 'Islamic women'. The reason lying behind this is not only the abovementioned image of feminism but also the fact that 'Islamic women' see the problems of women from a perspective different from that of feminists. Ayşe Böhürler articulates the common opinion of many 'Islamic women' writers as follows: "I define myself as a person who advocates women's rights but who is not a feminist."³⁸

Some Muslim women are of the opinion that the concept of Islamic feminism is intentionally imposed from outside and it is a part of the project of creating a moderate understanding of Islam. Nazife Şişman, who translated Amina Wadud Muhsin's book *Qur'an and Woman*³⁹ and who became notorious for the mixed-gender Friday prayers she led, indicates that she considers the idea of 'reinterpretation' that she used to appreciate to be dangerous for today. Şişman states that she views the re-interpretation of Islam "both as an outcome of an imposition and as an attempt to destroy the religious base that is the basic foundation of the Islamic world".⁴⁰ Based on this understanding, Şişman wrote a book entitled *Globalisation's Grip, Islam's Veil* and argues that orientalism imposes a new understanding on the Islamic world through women. According to Şişman, the modernisation or reformation in religion that includes the reinterpretation of Islam from the perspective of women has occurred within a hegemonic relationship with the West from its very beginning.⁴¹

In a similar fashion, Sibel Eraslan, who argues that the terms Islam and feminism are in contradiction with each other, asserts that the conception of 'Islamic feminism' is a part of the attempts to modernise the third world countries through women's bodies.⁴² Yıldız Ramazanoğlu, who is notable among 'Islamic women' with her works in literature, shares this opinion but she points to another problem that the attempts of the West to reconcile Islam and feminism will generate: the risk of Muslims to avoid advancing toward the problems experienced by Muslim women so as not to be subjected to accusations of 'they serve the purposes of the West'. It seems that most 'Islamic women' pay special attention to stay away from feminism due to the fear of appearing to be serving for the West. When one considers the facts that the Islamic subconscious in Turkey is anti-Western in character, then one sees how difficult it is for these women to be identified with a feminism originated in the West.

The group that has frequently been shown as an authority in debates on Islamic feminism in Turkey is Ankara Capital City Women's Platform. One of the founders of the Platform, Zehra Reçber, gives the message that they do not fully reject feminism by stating "our feminism is a self-appointed feminism, we do not believe that we have to accept the entire feminist discourse".⁴³ Similarly, the Safiye Özdemir says, "we criticise the male-dominated discourse and structure, we question gender roles. But religion is important for us. Our view of family and sexuality is different

from that of feminism. I define myself as a pious defender of women's rights."⁴⁴ As is seen in these expressions, the point that detaches both the Capital City Women's Platform and many 'Islamic women' from feminism is centred on the issue of the view of family and sexuality. Although they defend women's rights on the basis of equality by criticising the traditional religious values, women who are defined as 'Islamic feminists' attach a great deal of importance to the family and they advocate the idea that women should experience their sexuality within the limits defined by Islam. Hidayet Ş. Tuksal, whose name has been identified with 'Islamic feminism' *per se*, explains the distance between them and feminism in an interview as follows:

I have a feminine perspective when considered in terms of the basics of feminism; because I have read a lot, and once you get that perspective it becomes very difficult to unlearn it. However, there emerged a discourse within feminism that is discriminatory, that excludes and ignores men, and even aims to create a separate world free from men. I do not consider this attitude reasonable. We have to live with our fathers, husbands and sons anyway. But I believe that it is necessary to have a feminine perspective in order to be able to correctly understand the existing systems, practices and the religion. In brief, I am a person who aims to interpret what is going on from the point of view of a woman.⁴⁵

It would not be wrong to assert that 'Islamic women' could not resist the gravitational field of feminism, even though they carefully point to their distance from feminism and to points of differentiation. It is observed that they ever-increasingly use the jargon, language, concepts and even the perspectives used by feminists. It should not be forgotten that the "interpretation from the point of view of a woman" underlined above by Tuksal is a feminist jargon. This jargon is today used by many 'Islamic women'. The use of the feminist jargon by 'Islamic women' is not limited only to female writers whose names have been identified with feminism. Numerous Islamic organisations use the language brought by feminism to Turkey in either this or that way. The slogan "we are women, we exist and we are strong" (*kadımız, varız, güçlüyüz*) used in a booklet prepared by the Women's Branch of FP can be given as a clear example of this.⁴⁶ The name *Woman's Identity* (*Kadın Kimliği*) given to a magazine by Islamic groups is also meaningful in that sense.

It is noteworthy to state that many concepts increasingly being used among 'Islamic women', such as woman's identity, consciousness-raising, the woman problem, women's rights, women's human rights, women's point of view, the oppression of women and womanly existence, have been borrowed from feminists. Fatma K. Barbarosoğlu, who is notable amongst 'Islamic women' writers for her successful works in the field of story writing and novels, states that this is a "conscious/deliberate borrowing".⁴⁷ In fact, the meanings attributed to these concepts by 'Islamic women' suggest that this is not a simple borrowing but it points to much deeper ties of influence. 'Islamic women', in truth, were timid of

feminism when it first appeared. This stemmed mainly from the above-mentioned widespread prejudices/stereotypes about feminism. However, as feminist concern has turned towards the real problems experienced in Turkish society, the walls between these two groups are pulled down and ‘Islamic women’ have become more familiar with the women’s studies literature. One can say that this eventually paves the way for ‘Islamic women’ to comprehend feminism and even develop deep interactions with it.

Conclusion

As a concluding remark, it may be observed that the understanding of modernisation through ‘Western values’, which has been prevalent in Turkey since the establishment of the republican regime in 1923, has undergone a transformation in terms of form and content through ‘Islamic women’ who started to be visible in the public sphere.

- The ‘Islamic women’s’ movement not only undermined the culture and social pillars of centuries-old tradition but also caused Kemalism, which had been one of the most modernising movements at the turn of the twentieth century, to increasingly assume a conservative and reactionary character based on the idea of a single truth.
- The ‘Islamic women’s’ movement continues to develop an alternative manner of existence and self-realisation through a different and subjective identity and a system of values, against a standardising, assimilative understanding of Kemalist modernisation.

Notes

1. The duties that must be fulfilled in Islam are divided into two: *farḍ al-‘ayn* and *farḍ al-kifāyah*. While *farḍ al-‘ayn* is the individual duty of everybody, *farḍ al-kifāyah* is not incumbent upon everybody and is deemed to be fulfilled if *some* people perform it in a neighbourhood. Studying science is accepted as *farḍ al-‘ayn* for men and women.
2. Fatma Karabıyık Barbarosoğlu, “Başörtülülerin tarihine küçük bir katkı”, *Yenişafak*, 9 February 2001.
3. Fatma Kutluoğlu, “Fevziye Nuroğlu ‘Yürüyen Hayrat’” [Interview Fatma Kutluoğlu], *Umrân* 129 (2005), 72.
4. For example, *İş Bank* pursued this policy in its employment decisions; see Ufuk Özdemir, “Türkiye’de kadın kıyafetinde modernleşme süreci ve medyanın etkisi”, available online at <http://www.enfal.de/tes17.htm> (accessed on 23 June 2011).
5. Enis Berberoğlu, “Türbanın 30 yıllık yükselişi”, *Hürriyet*, 10 May 1999.
6. Following President Sunay’s statement, Şule Yüksel Şenler sent him a letter stating that “the President should apologise to God and society!” As a result, she was sentenced to nine months in prison. Despite Sunay remitting her after two months, she did not accept it and stayed in prison for the full nine months; see Emre Aköz and Nevzat Atal, “Said Nursi’den Fethullah Gülen’e Nur

- Cemaati”, *Sabah*, 22 December 2004. This event made Şule Yüksel Şenler a hero in the eyes of Islamic circles.
7. See Demet Tezcan, *Bir çığır öyküsü: Şule Yüksel Şenler* (Istanbul: Timaş, 2007).
 8. These two books are still read in Islamic circles; see Hayrettin Karaman, *İslam'da kadın ve aile* (Istanbul: Ensar Neşriyat, 1995) and Bekir Topaloğlu, *İslam'da kadın* (Istanbul: Rağbet Yayınları, 2001).
 9. Despite all barriers, *imam hatip* schools still have a significant function in the schooling of girls. For the report prepared by TESEV see Ruşen Çakır, İrfan Bozan and Balkan Talu, “İmam hatip liseleri: Efsaneler ve gerçekler”, TESEV, June 2004, available online at http://www.tesev.org.tr/UD_OBJS/IH%20Efsaneler-Gercekler.pdf (accessed on 23 June 2011).
 10. European Stability Initiative (ESI) in Berlin published its report on Kayseri in 2005 under the title *Islamic Calvinists: Challenge and Conservatism in Central Anatolia* and pointed to how a city in Anatolia was included in the process of modernisation through religious-conservative values. The report is available online at http://www.esiweb.org/index.php?lang=en&id=156&document_ID=69 (accessed on 23 June 2011).
 11. Some Islamic writers go against veiling fashion shows by arguing that privacy becomes a show material. For a discussion on the issue see Fatma Karabıyık Barbarosoğlu, *Şov ve mahrem* (Istanbul: Timaş, 2006, 2nd ed.), 125–30.
 12. See Nilüfer Göle, *Modern mahrem: Medeniyet ve örtünme* (Istanbul: Metis, 2004, 8th ed.).
 13. Nilüfer Göle views the ‘Islamic women’s’ movement as a quest for a modernisation alternative to the standardising understanding of modernisation based on assimilation; see Nilüfer Göle, “Islamism, Feminism and Post-modernism: Women’s Movements in Islamic Countries”, *New Perspectives on Turkey* (Fall 1998), 53–70.
 14. Sibel Eraslan, “Uğultular... Silüetler”, in: Aksu Bora and Asena Güldal (eds), *90’larda Türkiye’de Feminizm* (Istanbul: İletişim, 2002), 252.
 15. The ‘28 February’ process refers to the intervention of the military into civilian politics through a National Security Council composed of civilian politicians and militaries in 1997. Since its military members were dominant in this structure they mostly pressed their stamp on the decisions taken by the Council. A clear example of this was the decision it took against the *imam hatip* schools and the headscarf in universities, a decision which eventually give way to the resignation of the religious conservative government under Necmettin Erbakan.
 16. One of such protests was made in Malatya but it was harshly penalised and many people were jailed. Ruşen Çakır, *Direniş ve itaat: İki iktidar arasında islamcı kadın* (Istanbul: Metis, 2000), 84.
 17. One of the protesters, a student of the Cerrahpaşa Faculty of Medicine named M.A., told how the local people greeted them with enthusiasm as follows: “We came to Gebze from Tuzla. Again, an enthusiastic crowd welcomed us. They were asking ‘Can we hug you?’ This time, I was ashamed. I did not think how Anatolia would greet us when I set off. We were heroes in their eyes. I later noticed this and then I was proud of them” (quoted from Nazife Şişman, *Başörtüsü mağdurlarından anlatılmamış öyküler* (Istanbul: İz Yayıncılık, 2004, 4th ed.), 120–1).
 18. According to estimates, around 3 million people supported the demonstration. For detailed information on the demonstration, see *Ak-der bülten. Beyaz yürüyüş* (Istanbul: Ak-Der, n.d.).
 19. One of them was Professor Dursun Odabaş, the Dean of the Faculty of Medicine at Van Yüzüncü Yıl University. He was both dismissed from his job at the university and his professor title was taken away for participation in the demonstration. The court later reversed this decision.
 20. Merve Kavakci tells her experiences in detail in her book *Başörtüsüz demokrasi: Tarih içinde tarih* (Istanbul: Timaş Yayınları, 2004).
 21. Eraslan, “Uğultular... Silüetler”, 260.
 22. Ibid., 255–6.
 23. Ibid., 261.
 24. For a discussion on the issue, see Nilüfer Göle, “Islam in Public: New Visibilities and New Imaginaries”, *Public Culture* 14, no. 1 (2002), 173–90.

25. A.Y., a junior student at Cerrahpaşa Faculty of Medicine; quoted by Şişman, *Başörtüsü*, 67–8.
26. For a book that angrily and execrably tells of the treatment that the author was subjected to when she was a student at Middle East Technical University due to her headscarf, see Zekiye Oğuzhan Demir, *Bir başörtüsü günlüğü* (İstanbul: İz Yayıncılık, 1998).
27. Eraslan, “Uğultular... Silüetler”, 261.
28. Quoted by Yeter Şahin, *Bütün Yönleriyle Başörtüsü Sorunu* (İstanbul: Mazlum-Der, 1998, extended 2nd ed.), 226–7.
29. Ruşen Çakır, *Direnış ve itaat: İki iktidar arasında islamcı kadın* (İstanbul: Metis, 2000), 52.
30. Eraslan, “Uğultular... Silüetler”, 256.
31. For a study on the issue see Valentine M. Moghadam, “Islamic Feminism and its Discontents: Toward a Resolution of the Debate”, *Signs: Journal of Women in Culture and Society* 27 (2002), 1135–71.
32. Aziza M. Karam, *Women, Islamisms, and the State: Contemporary Feminisms in Egypt* (London: Macmillan Press; New York: St Martin’s Press, 1998). Another similar classification was made by Margot Badran, see her “Between Secular and Islamic Feminism/s: Reflections on the Middle East and Beyond”, *Journal of Middle East Women’s Studies* 1, no. 1 (Winter 2005), 6–28.
33. For an original and detailed study on how the Qur’ân shapes the image of women through the language it uses, see Hafsa Fidan, *Kur’anda kadın imgesi* (Ankara: Vadi Yayınları, 2006).
34. Along with these names appearing frequently in the media, numerous other female researchers and writers have emerged in Islamic circles.
35. Ülkü Özel Akagündüz, “İslami feminizm: Adı var kendi yok”, *Aksiyon* 587 (March 2006), 24.
36. Nişantaşı is known as the centre of upper-class and high-society Istanbul.
37. Metin Sever, *Türban ve kariyer* (İstanbul: Timaş, 2004), 37 (interview).
38. Ibid., 152.
39. See Amine Vedud-Muhsin, *Kur’an ve kadın*, transl. Nazife Şişman (İstanbul: İz Yayıncılık, 1997, 2nd ed.).
40. Nazife Şişman, *Küreselleşmenin pençesi islam’ın peçesi* (İstanbul: Küre Yayınları, 2005), 94.
41. Ibid., 93–4.
42. Akagündüz, “İslami feminizm”, 25.
43. Fadime Özkan, “Muhafazakar kesimde kadınlar artık hareketli” (interview).
44. Ibid.
45. Çakır, *Direnış*, 28 (interview).
46. Şişman, *Kamusal alanda başörtülüler* (İstanbul: Timaş, 2004), 162.
47. Ibid., 151.

FILIAL PIETY IN CONFUCIANISM AND ISLAM: A COMPARATIVE LITERARY ANALYSIS OF QUR'ĀN, ḤADĪTH, AND FOUR CHINESE CLASSICS

*Osman bin Abdullah (Chuah Hock Leng),
Abdul Salam Muhamad Shukri, and Normala Othman**

Abstract: This article is an attempt to compare the teachings of Confucius and Islam, specifically *The Four Books*, which are authoritative works on Confucius, and the original sources of Islam, Qur'ān and *Sunnah*. *The Four Books* are the most quoted sources of Confucius' thought, namely *The Great Learning* (*Da Xue* 大学), *The Doctrine of the Mean* (*Zhong Yong* 中庸), *The Confucian Analects* (*Lun Yu* 论) and *The Works of Mencius* (*Mengzi* 孟子). The focus shall be on the concept of family and filial piety as found in Confucianism and Qur'ān and *Sunnah*. Both the teachings of Confucius and Islam emphasise the importance of virtues, ties and order in the family system, for example, the husband is the head of the family and responsible for the family's existence and security. Islam and Confucianism are both patriarchal, and the husband and men are protectors of the family and deserve much respect. Young members of the family must respect and obey the elders and *vice versa*. To Confucius, these virtues are the heavenly way and must be cultivated and developed accordingly as *li* (礼) or good manners from an early age. The young and old must be treated according to their age. Similar values are also upheld in Islam. However, there are also differences between the two approaches which shall be highlighted as well.

Introduction

Confucius was born in Shandong (山东), China, in 551 BCE, but his teachings, ethics, and influence have widely spread not only in China, but also Korea, Japan,

* Osman bin Abdullah (Chuah Hock Leng) and Abdul Salam Muhamad Shukri are Associate Professors in the Department of *Uṣūl al-Dīn* and Comparative Religion, Kulliyah of Islamic Revealed Knowledge and Human Sciences, International Islamic University Malaysia (IIUM); Normala Othman is an Assistant Professor in the Department of English Language and Literature, IIUM.

Vietnam, Singapore and other regions in both East and West, and attracted nearly one-fifth of the world's population. The Prophet Muḥammad was born in 572 from the Hashemite tribe in Mecca and brought Islam to the people as a 'comprehensive way of life'. Islam has since the time of Muḥammad spread from Mecca to the rest of the Arabian Peninsula, then to the Middle East, Africa, Asia, Europe, the Americas and the rest of the world. Nearly one-fifth of the world population is Muslim. Due to the widespread practices of the two beliefs within the cultures of mankind, the present research was initiated to compare the concepts, similarities, and contrasts of the ubiquitous family institutions of mankind within Confucianism and Islam. It is naturally worthwhile to study the teachings and ways of lives of these two great teachers, their similarities and differences, due to the following reasons:

- both Confucius and the Prophet Muḥammad are accepted by many as two of the greatest teachers in the history of mankind;
- the progressively massive numbers of followers in each belief;
- both expound the significance of the family upon the individual, and
- while Confucianism stresses on the goodness of life on earth, Islam stresses on this aspect as well and adds to it the goodness of life on earth for the sake of a good result in the hereafter.

The Methodologies of this Research

The sources of references for Confucianism are *The Analects* (*Lun Yu*, 论语), *The Works of Mencius* (*Mengzi* 孟子), *The Great Learning* (*Da Xue* 大学), *The Doctrine of the Mean* (*Zhong Yong* 中庸), *The Book of Changes* (*Yi Ching* 易经), and also *Xiao Jing* (孝经), *Xunzi* (荀子). These are among the most reliable references, with the first four being *The Four Books* of Confucianism.¹ *The Four Books* were the syllabus of the imperial examinations held in China since 206 BCE, a period which ended in the early twentieth century in the Qing dynasty. Thus was the place of Confucian thought in the various dynasties of China, and *The Four Books* have remained important as sources and references in China, particularly in Chinese studies of Confucianism. A description of *The Four Books* of Confucianism is provided in the following. In the comparative analysis extreme care was exercised when writing down the words of the original texts of these classical texts and the Qur'ān and ḥadīth, and their respective translations, and other Islamic sources.

Philosopher Cheng says, "*The Great Learning* is a book left by Confucius and forms the gate by which the first learner enters into virtue. That we can now perceive the order in which the ancients pursued their learning is solely owing to the presentation of the work. *The Confucian Analects* and *Mengzi* come later. Learners must commence their course with this and then it may be hoped they will be kept

from error.” Thus for Cheng *The Great Learning* is a book of virtues as it describes comprehensively the sincerity of the heart, self-cultivation, the establishment of the family, the management of a good and just nation, and the spread of a happy and peaceful empire.

The second book is *The Doctrine of the Mean*, with the original version entitled *Zhong* (中). *Yong* (庸) denotes ‘the correct course under heaven’ (*tian* 天). This work contains all the thoughts handed down from one to another in the Confucian school. Zisi (子思), the grandson of Confucius, was a student of Philosopher Cheng, who in turn was a student of Confucius. Zisi was afraid of errors in the book that might have been committed during the course of learning. That is why the terms were combined as *The Doctrine of the Mean* in writing and delivered to Mencius. *The Doctrine of the Mean* is thus a very important authoritative book on Confucius. It specifically mentions the path that should not be abandoned once we engage with it and if so, then, it is not the truth.

The Confucian Analects, on the other hand, are a record of the discourse, words and acts of ancient Chinese thinkers, namely Confucius and his disciples. These are discussions that were held annually in the spring and autumn² from 479 BCE to several dynasties after 221 BCE. The book is the most representative work of Confucianism and continues to be a tremendous influence on Chinese values and thought. *The Confucian Analects* constitutes a comprehensive collection of philosophy, political and economical thought, and educational works. It also contains narrations of the life and difficulties of Confucius and their solutions.

Mengzi or the *Works of Mencius* was written by Mencius, born either in 371 or 372 BCE. He is the disciple of the grandson of Confucius, Zisi. *Mengzi* consists of seven parts and offers treatments of the proper regulation of human conducts from the points of society and state.³ Mencius was born 479 years after Confucius. His personal name was Ke and courtesy name Ziyu (子輿). His era was more anarchic than the Confucius era. He travelled from place to place and taught in the states of Liang (梁) and Qi (齐) and was an invited consultant and minister by the King Huan (King Qi Xuan 齐宣王) of the latter state. He offered very sharp opinions on the ruling of a state. For instance, in one of his arguments with the king, he said: “There is no difference if you kill a person by a knife or a stick, if the ruling party has very thick meat in the kitchen, fat horse in the garden, fish jumping in his pond but at the same time, the common people are dying of hunger in the jungle seeking for food. What is the difference between the cruel ruler who let the common people die of hunger and the thief killing people with a knife or a stick?” He used to give the same types of opinion to King Huan, which fell upon deaf ears. Finally, he resigned and travelled and then retired to write books. He developed the perception of the benevolent (*ren* 仁), a key component of benevolent government, as he was against one big power taking other smaller states by force or war.

His discourses with the king were recorded in *Mengzi*, yet there are various opinions on the authority of the book. One source indicates that it was written by him with the assistance of his disciples, chief of whom were Wan Zhang (万章) and Gongsun Chou (公孙丑). Another source states that it is simply a collection of Mencius' sayings compiled after his death. The book consists of theories and thoughts in politics, education, philosophy and ethics. It is an important document for the study of Confucianism and its development and is essential reading for an understanding of Confucius and his doctrines.⁴

As far as Islamic sources are concerned, the Qur'ān and *ḥadīth* are the main sources of reference in this article. The Qur'ān is a compilation of revelations, from Allah, whereas the *ḥadīth* consists of the recorded sayings, actions and tacit approvals of Prophet Muḥammad. The Qur'ān is the primary source of Islam, with the *ḥadīth* further supporting and illustrating and clarifying concepts of the Qur'ān. Combined, both are seen as the primary sources of Islam, as the *ḥadīth* does not contradict the word of Allah. Other than these two sources, the consensus of scholars and *ijtihād* (independent reasoning) and *qiyās* (analogical reasoning) are included in our analysis of the comparison between Confucianism and Islam.

Particular sources that were utilised included the works of Abdur Rahman I. Doi entitled *Shari'ah: The Islamic Law*⁵ which depicts the concept of family in Islam, and Abdullah Yusuf Ali's widely accepted translation of the Qur'ān, as they present very rich sources of Islamic spiritualism.⁶ The seminal work by the Malaysian scholar Syed Muhammad Naquib al-Attas, entitled *Islam and Secularism*, was also employed in the research.⁷

In addition, two other books also provided crucial references, by two scholars who are not only knowledgeable in Islam, but also extremely familiar with Confucianism. The first is Omar Min Ke Din's work entitled "Ethical Values of Islam and Confucianism: A Comparative Study".⁸ Omar Min, a Malaysian Chinese, is a scholar who, after graduating in Confucianism and Islam has been teaching in this very field since 2003. The second reference is a book entitled *Traditional Chinese and Islamic Thought* by Ibrahim Ma.⁹ Ibrahim Ma, also a Malaysian Chinese, is a graduate from a French university and one of the former Vice Presidents of the Malaysian Muslim Welfare Organisation. He has spent his whole life so far researching and writing on Confucianism and Islam in Malaysia.

We also took into consideration the works of many scholars from the past and present in both Confucianism and Islam. For example, from Confucianism, we adopted the concept of *ren* (仁) and *li* (礼) discussed by Wei-Ming in his article "The Creative Tension between *ren* and *li*".¹⁰

Since the analysis involved the Qur'ān and doctrines of Confucianism, care was taken in preserving their authenticity. Excerpts from the classical sources were extracted *verbatim*, with exact transliterations, and then translations given for each of

them. Textual analyses were carried out on the texts to further extract the finer points that became data in the comparative analysis. In forming any conclusions, precaution was duly exercised to avoid any forms of unwarranted generalisations, which might cause error on the part of the authors. Similar attention was paid to the original texts of the classic four books and their translations. On top of this, the transliterated, translated and interpreted texts of the Qur'ān and *ḥadīth* were continuously reviewed by another author/specialist to ensure accuracy and prevent erroneous interpretations and generalisations. From the analysis we were able to extract valuable information which are presented and discussed in the following sections.

The Concept of Family in Confucianism and Islam

The teachings of both Confucianism and Islam emphasise the understanding and knowledge of individual members in a given situation. It is not easy for all members of a family to practise virtues and live harmoniously as a functional unit which plays a central role both in Confucianism and Islam. Both Confucianism and Islam, as great teachings, present deep insights, virtues, rights, and duties of the family members and the complex relationships among them. The various and often difficult ties of different family members require knowledge and skill to deal with, for those who live under the same roof. It is also essential for the individual to understand human wants, needs and desires and their nature and destiny in the family as a factor in maintaining the balance and harmony of the family.

In the Chinese tradition, with which Confucianism is synonymous, the most frequently used word for the concept of family is *Jia* (家). It refers to a home with a roof over everyone so that they may live together, and also the presence of several domesticated animals such as poultry and goats. Family members living together are recognised as a distinctive unit. According to *Mengzi*,¹¹ if the house consists of several members – a grandparent, husband, wife and children and others – the chief requirement is that the head must “take care of parents” and support the “wife and children”. Older people must be given priority and treated respectfully and the young must be loved accordingly. In this respect, Islam shares the same view, respect and care for the elders, while giving utmost attention and love to the children.

Confucianism and Islam also show similarities in a number of other features. The family is a place where traditions, teachings and practices, both religious and ethical, are maintained and implemented. The young nurtured and the old respected are the embodiment of traditional values. In terms of wealth and material, the family is the means by which family members of different generations support each other. In Islam, the family is also the place where faith in Allah is maintained and consolidated. These various practices customise the respective faiths. The virtues of Islam – such as the five daily prayers, annual fasting during the month

of Ramaḍān and the recitation of the Qur'ān, the *Sunnah*, and their value systems – are all studied and practised at home, within the family. Children's respect of their parents and other elders and elders' love towards the young are nurtured at home within the family. There are not many differences between individual and communal practices in Islam. For example, the option to carry out the five daily prayers alone or together with others in a communal prayer, both signify acts of submission to God. In Islam, everyone is expected to obey God by following *al-dīn* (the 'correct' religion, i.e. Islam).

In contrast, Confucianism focuses on the man's role to support the family and the young to respect their elders. This is the heavenly way (*tian* 天) as expounded in Confucianism. Both Confucianism and Islam are patriarchal where the husbands are very important. Incomplete families such as a single-parent family or childless family or orphans are not highly valued in Confucianism. Old men without wives, old people without children, young people without parents are considered destitute and categorised as those who should be helped at some points.¹² Similarly, Islam also asks its adherents to love, care and feed the orphans and the destitute; thus if all is carried out, no one should be destitute in Islam.

A large part of Confucian thought falls on the proper orderly running and maintaining of the family. It is concerned with the family and its filial relationships. Confucianism insists on a special order within the family, which is crucial for family prosperity and harmony. The core of the family is that members must understand and maintain the heavenly (*tian* 天) order. The relationship between husband and wife is the foundation of the order and must be established and maintained correctly. As for the relationship between parents and children, there is the principle of hierarchy and patriarchy, the most senior male, who is the husband, must be obeyed and the junior and female members of the family must follow the words of their elders and the male members.¹³ Parents are the authoritative rulers. Every member of the family has his or her duties and rights and only when all are in their right positions and perform the respective virtues and duties, is the family said to be in the right order. This is mentioned in *Yi Ching*: "when the family is in order, all the social relationships of the society will be in order".¹⁴ Thus, the family is the nucleus of the entire community, with each family being a piece of the puzzle that would find its exact space in the bigger picture of the community.

Further, in Confucianism the maintaining of the family depends on the proper cultivation of the personality of a person, especially the husband. Cultivating of the personality of a man depends on rectifying the mind. If a person is clouded by feelings of passion, terror, fondness, sorrow and distress, he would not be able to conduct himself correctly. If we are under the influence of our feelings and emotions, our minds would not be 'present'. We see but we do not perceive, we hear but we do not understand, we eat but we do not taste. This is why the cultivation of

our personality is viewed as rectifying our minds.¹⁵ Thus, controlling feelings and emotions is the key to developing proper benevolence (*ren* 仁) and good external behaviour (*li* 礼), to produce a good person in society. Having attained this, a man can automatically establish a good family. He can regulate and manage the family. If one is in fear or in love and cannot control his senses, he cannot behave well and so cannot manage the family.

Islam too emphasises the order of the family. Abdur Rahman I. Doi mentioned that Islam desires to produce a model nation.¹⁶ To do this, maximum attention must be given to strengthen the family. If the foundation of the family is strong, then, the foundation of a nation will be strong. Islam provides an orderly system for the family. It has put every member of the family in their rightful place and charges all individuals – husband, wife, children – to carry out their responsibilities with *taqwā* (God-Mindfulness). The Qur’ān (4:34) states:

Men are protectors and maintainers of women, because Allah has given one more strength than the other and because they support them from their means. Therefore, the righteous women are devoutly obedient and guard in the husband’s absence what Allah would have guarded.

The Qur’ān asks Muslims to perform the five daily prayers, to fast in the month of Ramaḍān, pay the compulsory alms tax (*zakāh*) and, when possible, go on pilgrimage to Mecca at least once in one’s life (*ḥajj*). All of these would inevitably cultivate in Muslims love towards Allah and the Prophet Muḥammad. All love and hatred towards others must be proper and limited. Love is subject to Allah and Prophet Muḥammad’s teaching and should be within the limits set by Allah. Love should not blind Muslims to do things forbidden in Islam.

The above qur’ānic verse shows that Islam shares similar ideologies with Confucianism in terms of the patriarchal role of the family, the male playing a key role in the family. Parents have more life experience and knowledge than children. A husband has the advantage of physical strength and spiritual power over his wife. For Islam, all humans are creations of Allah, and they are the most honoured of all creations. A point of difference between Islam and Confucianism, as the latter does not profess the Creator God and does not see nature as God’s creation. Nonetheless, both Islamic and Confucianism teachings place a very high value on the family, and desire all family members to fulfil their moral virtues and duties within the family, according to their power and strength.

Parents and Children

Both Confucian and Islamic teachings provide clear guidance in matters pertaining to parents and children. Confucianism, particularly, emphasises the cultivation

of the self as a way of life. To follow the right path, believers must cultivate the individual character, which includes serving their parents and understanding others. However, whether they can fulfil their moral duty successfully would depend on their understanding of the will of heaven (*tian* 天), as *The Doctrine of the Mean* explains, “A noble person cannot but cultivate his person. As he thinks about cultivating his person, he cannot but serve his parents. As he thinks about serving his parents, he cannot but know about human beings; as he thinks about human beings, he cannot but know heaven (*tian* 天).”¹⁷

In Confucianism, a good son is important. A good son is defined as one who follows the way of his parents and continues to do so after their death. Traditionally, families were hierarchical and the relationship between parents and children was fulfilled primarily through the latter performing duties for their parents. The hierarchical order of Confucianism reflected the social reality and moral requirements of the time. The proper order between parents and children is part of the heavenly (*tian* 天) order and is essential for social and political peace and harmony. Parents must take the lead in educating and cultivating their children. Children must understand the pains of birth and subsequent sacrifices of their upbringing by the parents. Confucianism stresses the order of heaven (*tian* 天) and the relationship between parents and children as a hierarchical order of heaven and earth. This is mentioned in a later Confucian text: “The way of parents and child is rooted in the heavenly (*tian* 天) moral nature [...]. Parents give one life; no bond could be greater.”¹⁸

Confucius asked the people to remember their parents, be they alive or dead. Once, he reproached a pupil for suggesting that the three year mourning rites be abolished. He argued that the three years of mourning were a means to repay the pains and love of the parents to the children since birth.¹⁹

In the Confucian tradition, the dire consequence of not fulfilling one’s duty as children was also mentioned in *Xunzi* 5:3, “to be young and yet unwilling to serve the elders, misfortune will follow”.

Confucius’ disciple Zi Xia (子夏) said that a cultured man must exert his service to his parents properly. He demanded that in serving the parents, the children must act in accordance with the properties of *li* (礼).²⁰ *Li* in Chinese means proper manners, attitude and behaviour. This simply means one must not only love and respect one’s parents, but also observe good attitude and behaviour in treating them. Thus whatsoever we do, speak, stand or sit, especially with older people, our manners and postures must indicate reverence towards the elders and not to ever degrade them because of their age or senility.

Mencius considered serving parents as the most important virtue of mankind.²¹ He also lists five categories which renders a son undutiful and notes that negligence towards parents will bring harm, shame and humility to them:

First, the neglect of parent through laziness of the limbs without attending to the nourishment of the parents, second, the laziness through the game of *bo yi* (不義 ungrateful and not trustworthy) like fondness of drinking wine, gambling and playing chess. Third, the negligence through miserliness in money and other goods or material matter. Fourth, the negligence through the indulgence of sensual pleasure to the shame of parents. Fifth, being quarrelsome and fighting in blind bravery with others until it jeopardises the safety of the parents and family.²²

Islam is in line with Mencius regarding the above view. Alcohol is forbidden in Islam. So is gambling and illicit sex. A Muslim is asked to work hard to earn an honest living, as Prophet Muḥammad said, “The Prophet David earned a living as a carpenter. This is a good way of living.” The Prophet Muḥammad also encourages Muslims not to beg but to give charity saying “the hand above is better than the hand below”. Where wealth is concerned, Islam tells us that it is merely a trust from Allah. We are born without anything and when we die, we cannot bring anything along with us. A Muslim who owns wealth must pay *zakāh* and is encouraged to contribute to the causes of charity. Islam also asks us to speak only the right thing and when doing so, we must not be rude to our parents and elders.

Both Confucianism and Islam emphasise love in the family. The children owe their existence to their parents, and this includes the provisions of food, clothing and accommodation by their parents.²³ Confucianism stresses the importance of the concept of filial piety or filial love and this has become the backbone of many Chinese families.

Similarly, the Qur’ān also speaks of the love in the family and asks children to always pray for their parents, living and dead. This shows that there are not many differences between Confucianism and Islam in terms of the concept of love in a family. However, from an Islamic perspective, men are the creation of Allah; children are indoctrinated to love and look after their parents. To infringe upon this is a violation and a sin. The role of the mother is also crucial, as she is the caregiver of the children and so deserves gentle words and respect from the children as well. They too must not hurt their mother, and thus respect and love are mandatory for them, as confirmed in the following *ḥadīth*:

Heaven is at the feet of mothers.

This clearly means that the way to paradise for children is via obedience and love for the mother. On the other hand, if children disobey and hurt their parents, the doors of paradise will be closed to them.

Thus, there are practices that overlap in Confucianism and Islam. First, children must support and help the parents. A wise son should bring joy to the parents, and not shame. Second, the children must respect and please their parents. This is the concept

of filial piety, which is highly valued by Confucius.²⁴ Mencius even mentions that “when one cannot please the parents, one cannot be a human; when one cannot obey the parents, one cannot be a son”.²⁵ For Xunzi, the goodness of the son is nothing other than respecting and obeying the parents. Only when this happens will you be considered a good son.²⁶ Filial piety is the main theme of Confucianism. Zengzi, a disciple of Confucius said in *The Book of Rites* (礼记), “there are three kinds of filial piety, first, to respect parents; second, not to bring shame to them; third, to support them with food and clothes and others”.

In Islam, when speaking to parents the children must lower their voice and show utmost respect, as mentioned in the following verses of the Qur’ān:

Your Lord has decreed that you worship none but Him and that you be kind to your parents, whether one or both of them attain old age in your life. Say not a word of contempt, nor repel them but address them in terms of honour, and out of kindness, lower to them the wing of humility and say ‘My Lord bestow on them Your Mercy even as they cherished me in childhood.’ (17:23–4)

We have enjoined on men kindness to parents, but if they strive (force) you to worship me with associate which you have no knowledge, obey them not, you have to return to Me and I will tell you the truth of all you did. (29:8)

We have enjoined on man, kindness to his parents, in pain did his mother bear him and in pain did she give birth, the carrying of the child. To his weaning is (a period of) 30 months. At length, when he reaches the age of full strength and attains forty years, he says, “Oh my Lord, grant me that I may be grateful for thy favour which Thou has bestowed upon me and upon both my parents and that I may work righteousness such as You approve and be gracious to me in my issue. Truly I have turned to you, truly do I bow in Islam.” Such are they from whom We shall accept the best of their deeds and pass by their ill-deed. They shall be the companions of the Garden: a promise of truth, which was made to them but (there is one) who says to his parents “Fie to you, Do you hold out the promise to me that I shall be raised up, even though the generations have passed before me (without rising again)?” And they seek God’s aid (and rebuke the son), “Woe to you, have faith! The promise of God is true.” But he says, “This is nothing but the tales of the ancients.” (46:15–17)

In Confucianism, even when the parents have erred, the children’s proper attitudes and ways of dealing with their parents are explicitly mentioned. In this case, Confucius promoted “dissuading with respect as a way to deal with this problem”. This is indicated from the *Analects*, as follows: “In serving your father and mother, you ought to dissuade them in the gentlest way from doing wrong. If you see your advice being ignored, you should not become disobedient but remain reverent. You should not complain even if in so doing you wear out.”²⁷

In Islam, as stated in the Qur'ān, the general principle when seeking to change someone and to right the wrong is that one must persuade the errant person with wisdom. Respect for the person is utmost and the use of gentle words to avoid hurting the listener unnecessarily. This is mentioned in 16:125: "Calling to the way of the Lord with Wisdom and beautiful preaching [...]."

However, there are also differences between Confucianism and Islam with regards to parents and children. Confucianism regards children's disobedience of their parents as going against the nature of heaven (*tian* 天) and earth. Filial piety is a natural rule from heaven that must be cultivated and developed into one's personality. For Islam, everything is divine and derived from Revelation, and Allah takes charge of the whole universe. He also defines all relationships, including that between children and parents. Disobeying the orders of Allah is a great sin.

There is also the reward and punishment of the afterlife in Islam for those who obey the order and those who do not, respectively, particularly relating to parents and children. This notion is conspicuously absent in the theological teachings and rulings of Confucian thoughts. In Islam, the stress is on the righteous son, that is, faith in the Lord of Creation and proper practices. Thus, the Qur'ān maintains that it is Allah, the Supreme Lord, whose order is that parents must educate their children to be on the righteous path. Children, in turn, should obey their parents as this is the command of Allah. However, if the parents command or guide their children away from Allah, then children have the right to disobey. Confucianism is silent on the belief in an omnipotent god. Confucianism also does not have the concepts of heaven and hell, rewards and punishments by God in the afterlife, and the rising up of the dead in order to make them accountable for all their earthly deeds.

Thus, faith and proper practices are important in Islam. Confucius did not mention faith in an omnipotent god and rewards of hell and heaven after death. However, he does indicate similar ideas in the mention of heaven after death and the emphasis of the way of heaven and earth, as we have discussed earlier.

Below is a verse from the Qur'ān, showing the importance of faith and proper practices. Thus, whether a father or son worships Allah, the way of Allah or Islam is most important, and faith in Allah is crucial as well. They are part and parcel of Islam; a Muslim father and son must be accountable to Allah. Says the Qur'ān (31:13–14):

Behold, Luqmān said to his son by way of instruction: "Oh my son, join not others in worshipping (other) with Allah for false worship is indeed the greatest wrong doing. And we have enjoined on man to be good to his parents. In travail upon travail, did his mother bear him and in years twain was his weaning: Hear the command, show gratitude to Me and to your parents. To Me is the final goal."

Husband and Wife in Confucian and Islamic Teachings

Confucianism and Islam traditionally provide for the blissful living of a man and woman based on the marital tie of husband and wife. It is a foundation upon which a family thrives and propagates by having children. The relationship between husband and wife is the pillar supporting an orderly life. In the Old Testament,²⁸ the union of Adam and Eve, the first pair of human beings, gave rise to the birth of Cain and Abel. The Qur'ān also mentions the creation of man as a vicegerent of God (*khalīfat Allāh*) and the tie between Adam and Eve. This is the Islamic perception of family.

The view of man as a creation of Allah is absent from Confucianism, but its perception of the family is based on heavenly order. There is some degree of similarity as well as difference, in the concept of family between Islam and Confucianism. In the family order of Confucianism, the sequence of hexagrams in *The Book of Changes* shows that the relationship between a husband and wife is the basis of family. The union between a husband and wife is extended to children, and therefore, the way of union of a husband and wife must not be other than long lasting.²⁹ Xunzi goes further in arguing that the relationship between a husband and wife is the source of good, familial and social relations. The way or orderly relationship between a husband and wife cannot be incorrect, for it is the relationship between lord and minister, father and son.³⁰ If the husband and wife are not on the right track or their relationship is disrupted, it will certainly cause chaos in the family and society: then father and son will distrust each other, the ruler and the ruled will be in conflict and divided, and invasions by other stronger nations and disasters might follow.³¹

Islam also emphasises that the peaceful family is essential for a peaceful society. Islam asks the people to uphold virtues and prevent evil (*munkar*) as the major objectives of life. By the term *munkar* actions are meant which are disapproved by Allah, such as children disobeying, hurting, and betraying their parents. A society is necessarily made up of a great number of families. If these families do not administer themselves according to *al-dīn* (i.e. the religion of Islam), naturally, there will be no peace in society, and subsequently in the nation and greater mankind.

Both Confucianism and Islam have the wisdom of requiring the maintenance of family order. The tie between husband and wife involves the roles, duties and limits of the husband and wife. Both parties must exhibit mutual understanding and respect for each other. The Qur'ān (49:13) emphasises mutual understanding of gender differences and division of duties between a husband and wife, as follows:

[...] We have created tribes and nations, male and females for you to understand each other [...].

From the above verse, the husband's and wife's understanding of their respective strengths, weaknesses, and limits in terms of their differences sets the foundation of the family, community, and nation. Within the smallest unit, i.e. the family, the husband's understanding of the wife is the key so as not to burden her too much in the family. Similarly, the wife should also understand the limits of her husband.

On the whole, both Confucian and Islamic families are patriarchal. Since men are physically and mentally stronger than women, the husband is the leader of the family and the leader of the administration of the family, the bread earner, while the wife is the administrator of the home and other domestic affairs. Thus, the wisdom of women is seen in the management of the household and performing duties for other members of the family, and her demonstration of virtues towards other family members. In Islam, if this is properly fulfilled, there would be spiritual equality between the husband and wife which would lead to a harmonious family life. The Prophet Muḥammad said, "If a wife performs the five daily obligatory prayers, and looks after the trust of the family and the wealth of her husband, her reward is equal compared with the toil of the husband." The duties and responsibilities of a husband and wife are thus different but equal.

In Confucianism, as in Islam, family harmony and prosperity are the result of family orderliness. In *The Book of Changes*, the relationship between husband and wife is the vital foundation of the family, just as stated in Islam. The wife's loyalty and perseverance are defined as the tie that holds the family together.³² The tie between a husband and wife is regarded as the union of heaven and earth; they are two opposites, and when they unite, they should strive for harmony for their union. Mengzi also mentions that husband and wife is the most important relationship.³³

According to the Confucian model of heaven and earth, the relationship of husband and wife shows the dominant nature of the husband in the family, whereas the wife's role would be "obedience and docility" toward the husband.³⁴ However, their roles are parallel in nature in the sense that the husband is not authoritative, but firm and different.³⁵ Thus, this is similar to the Muslim family – the husband is the bread earner, whereas the wife takes charge of household matters, as discussed previously, which includes looking after the children and their education, and preparing the family's food and clothing. Xunzi, however, said that the different roles and duties of a husband and wife are ordered and set unlike animals. For animals, there is no proper separation of sexes and duties.³⁶

The division of duties between a husband and wife is not only evident in Confucianism, as Islam teaches the same thing. Both teachings indicate that the home is a life union of two people of opposite sex. The wife's responsibility is the home and the husband is to work to earn their living. The wife's role is confined to household matters, while the husband works for the home and performs other community work. In contrast, in ancient times, there could be no system of union

between man and woman. Men live similar to animals without division of duties, but with the development of time, and with revelation and guidance from Allah, particularly in Islam, men gradually developed proper rules regulating marriage and division of duties, defining and emphasising the relationship between husband and wife in the family. Men eventually abandoned the way of non-division of duties of the sexes. Xunzi said that if there were no governing virtues for the union of man and woman, “[p]eople would suffer the grief of losing any means to marital union and the calamity of the contention of sex”.³⁷

From an Islamic perspective, Allah created men and women so that they can find their partners and provide companionship to one another, love one another, have children and live in peace and tranquillity according to His commands and guidance.

Among his signs is this, that he has created for you mates from among yourselves that you may dwell in tranquillity with them and He has put love and mercy between your hearts, and in that are signs for you to reflect. (Qur’ān 30:21)

And God has made for you mates of your own nature. And made for you, out of them, sons and daughters and grandchildren and provided grandchildren. And provide for you sustenance of the best: will they believe in vain things and be ungrateful for God’s favours. (Qur’ān 16:72)

Since Islam propagates an ordered and virtuous way of life, the family system is well defined. Celibacy is not a virtue in Islam or a means of getting closer to God, as practised in other religions. This is confirmed in the following *ḥadīth*:

The Prophet Muḥammad said, “O you young men, whosoever is able to marry, should marry for that helps him to lower his gaze and guard his modesty.” (al-Bukhārī)

The Prophet Muḥammad also said, “Modesty is part of *īmān* (faith).” (al-Bukhārī)

He further said, “marriage is my tradition, whosoever keeps away from it, is not of my followers”. (al-Bukhārī)

From the above verses of Qur’ān and traditions of Prophet Muḥammad, there do not seem to be major differences in terms of the practices of the family as a way of living compared with Confucianism. However, the contrast exists in which infringements of the family code are against the ways of Heaven (*tian* 天) and Earth for Confucianism. For Islam, they would be against the code of Allah and invite punishment in the hereafter. As for Confucianism, the faith does not mention anything regarding life after death.

Marriage also makes a difference for man and woman in both Confucian and Islamic teachings. A man and woman without any union have to observe many norms or restrictions in their social interaction and contacts. Unmarried men and women

should not mix unnecessarily and break the codes of the respective faiths. These codes are strict even in the pre-Confucius era in China, and were widely accepted as the norm. In *The Book of Mengzi* it is written: “In giving and receiving, men and women should not touch each other.”³⁸ In the book of Xunzi,³⁹ it is mentioned that the separation between men and women is said to be one of the criteria which differentiate human beings from animals. That means free mixing of the sexes is only an attribute of animals. Islam certainly supports this as it requires Muslim men and women to dress properly and avoid the traps of falling into undesirable interactions between them.

In marriage, the roles of the husband and wife become mutually supplementary. The emotional needs of the husband and wife for each other can be met, and they may also rejoice in each other’s companionship.⁴⁰ Xunzi, however, states that rejoicing must be guarded against slipping into promiscuity and prevent the proper relationship between man and woman from flourishing.⁴¹ There is a list of duties a wife must follow and her attitudes, words and behaviours must reflect herself as a respectful woman and an obedient wife.⁴² These virtues are further explained in *The Book of Rites* (礼) such as listening to (*ting* 听, or listening) the husband, being faithful or chaste (*xin* 信), and showing obedience (*cong* 从, or serve) to her husband and in-laws.⁴³

Mengzi also mentioned that it is the wish of all parents to get their children married, something that is necessary to control sexual desires according to proper rites. Thus, those who bore holes to peep at others, climb over the walls to meet someone of the opposite sex in their lust, and those who cannot wait for the consent of both parents and negotiations of a middle man (go between) are condemned by the parents and others in society.⁴⁴

Confucius was also cautious of the attraction between the opposite sexes in unmarried relationships. He criticised men for submitting to beauty or being more attracted to appearances than to the good characters of the opposite sex. This could lead to undesirable events, even disasters. He equated a woman to “*Xiao Ren*” (小人) or low men (base person or villains) and difficult to deal with.⁴⁵ Confucius stressed that he had not yet met a man who was fond of virtue as much as he was attracted by the beauty of women⁴⁶ and he called on men to guard themselves against the attraction of feminine beauty.⁴⁷

Islam also condemns sexual behaviours or encounters between unmarried couples, and prohibits free mixing of the sexes to prevent adultery. This religion always asks us to keep our sexual desires under control by fasting as one of the means to do so. The Qur’ān also asks us to lower our gaze so that we will not be susceptible to the beauty of the opposite sex, as discussed earlier, and thus avoid lustful thoughts. Women should also not expose their bodies as described in Islam or attract men by

her ornaments, except to her husband or close relatives. This is mandated in Islam, as mentioned in the Qur'ān 24:30–1:

Say to the believing men, that they should lower their gaze and guard their modesty, they will make for greater purity for them and Allah is well acquainted with all that they do. And say to the believing women that they should lower their gaze and guard their modesty; that they should not display their beauty and ornaments except what appears thereof; that they should draw their veil over their bosom and not display their beauty except to their husbands, their fathers, their husband's fathers, their sons, their husband's sons, their brothers and brothers' sons.

According to Abdullah Yusuf Ali, “guard here means to distance from illicit sex. The rule of modesty applies to men and women. A brazen stare by a man to a woman is a breach of refined manners. When sex is concerned, modesty is a good form. It is not only to safeguard against the weaker sex but also to guard the spiritual good of the stronger sex. The requirement of modesty is the same for the female, due to differentiation of the different sexes in nature, temperaments and a social life, a greater amount of privacy is required for women than men, especially in matters of dress and covering the bosom.”⁷⁴⁸

Islam also commands us not to go close to any woman or be involved in any situations which can lead to adultery. We are also asked not to be alone with a person of the opposite sex in a room or any isolated place without a third person. The Qur'ān 17:32 says:

Nor come nigh to adultery: for it is a shameful deed and an evil, opening the road to other evil.

Abdullah Yusuf Ali mentions that adultery is evil, and is a means of other evils prohibited in Islam. Thus, the Qur'ān asks us not to go near any situations that may lead to adultery. Naturally, this means Islam frowns upon the free mixing of both sexes as this could potentially lead to promiscuity. It is also forbidden for an unmarried man and woman to be together in a room or in an isolated area, as mentioned earlier, because it can lead to adultery by means of the ample opportunity at hand for the couple. Adultery is not only a shameful thing in a Muslim community, but it also causes the loss of self-respect and respect of others. It opens the road to many other evils, as proposed by A. Yusuf Ali. Worse, it could shake or even destroy the foundations of the family. It works against the interest of the illicit child that might be born. It may cause feuds, loss of reputation and property and even murders. This grave sin must not only be avoided, but any approach or temptation to it must also be refrained.

The Prophet Muḥammad said as reported by ‘Abd-Allāh b. Mas‘ud: I asked the Prophet “O Allah’s Apostle, which is the biggest sin? He replied: To set up rivals with Allah by worshipping others, though He alone has created you.” I asked, “What is next?” He said, “To kill your child lest it should share your food.” I asked, “What is next?” He said, “To commit illegal sexual intercourse with the wife of your neighbour.” (al-Bukhārī)

Thus, we can see very clearly, the similarities of the two teachings against the free mixing of the sexes. In this matter, both Islamic and Confucian teachings ask their followers to guard the right order, virtues, and duties of all members in the family.

Conclusions: Commonalities and Differences

In brief, Confucian and Islamic teachings have their own distinctive ways to develop the personality, establish the family, and maintain the rules of a peaceful society, a peaceful nation and an empire. Although the means to achieve them differ, the objectives are the same. The Muslim foundation lies in the faith in Allah and recognises Him as the Lord, and the rewards and punishment in the hereafter, whereas, Confucianism takes good personality, establishing a family and building a nation as the ways to heaven (*tian* 天). It is very difficult to define *tian* as Confucius’ teachings have not provided a detailed one for the term. Confucius said if you go against *tian*, there is no way to pray for salvation. Further, there are no concepts of heaven and hell as reward and punishment, respectively, in Confucianism. Thus, Confucianism is rather a secular faith that emphasises life on earth.

There is another difference in Confucian teaching compared to Islam, that is, Islam is a revealed religion and the originality of the teaching has been preserved from the outset. The five daily prayers, fasting in the month of Ramaḍān, and going for pilgrimage have remained, passed on to later generations of Muslims beginning from the Prophet Muḥammad. The Qur’ān is still the same as it was in the time of Muḥammad, from its oral form to the written. Islam is still represented by the Qur’ān and supported by the *ḥadīth*.

Confucianism has been very much influenced by Buddhism, Taoism and even Western thoughts, as opposed to Islam, whose teaching and origin are strictly preserved by the never changing Qur’ān despite the varying cultures of its adherents all over the world. Scholars of Confucianism like Han Yu (韩愈, 768–824) attempted to defend the teachings of Confucius but unsuccessfully. In fact, now, Confucianism has absorbed plenty of new ideas from Buddhism and Taoism, which are prevalent in China, specifically, as it is the birth place of Confucius and Confucianism.

Islam and Confucianism share many similarities in the concept of family and cultivation of personality of all members of the family as their objectives. The acceptable way of relationship between family members in Confucianism is known

as the 'Heavenly Way' (*tian* 天). Confucianism advocates for a patriarchal system of family with the husband as the leader of the family. There is also the division of duties among members in the family and virtues expected of each of them. The wife must obey the husband and children must respect their parents. All good behaviours, respect and love within the family must be cultivated into the personalities of the 'way of heaven'. The husband must also work hard to support and sustain a harmonious living for the family. Intimacy and physical contacts are only allowed for married couples, between a husband and wife. If people of the opposite sex mix freely without marital bonds, it is the way of animals for both Islam and Confucianism. It is similar to the division of duties of the husband and wife within a family with the man having the leadership role.

Islam demands from its followers to perform the five daily prayers, to fast in the month of Ramaḍān, pay alms (*zakāt*), go on pilgrimage (*hajj*), among others, and to develop a good Muslim personality. Confucianism also advocates the development of good personality in mankind but by other means. *The instilling of a good personality is a common point between the two teachings, requiring man to possess great virtues.* However, the difference lies in the meanings of the term 'heavenly (*tian* 天) order' in Confucianism. In Islam, the children must obey the parents and the wife must listen to her husband, and both husband and wife must shoulder their respective duties.

In Islam, the division of duties between the husband and wife of the family can be implemented smoothly if all submit to the Will of Allah. In Islam, however, there is no such heavenly (*tian* 天) order as in Confucianism, but obedience to Allah will cause all members of the family to submit to Islam, and thus setting the family harmony in order.

For Muslims, believing in Allah and fulfilling their respective duties within the family is synonymous. There is reward and punishment from God in the Hereafter, and this automatically keeps undesirable behaviours in check and thus the family is preserved.

In Confucianism, failure to be responsible for the heavenly order will only invite punishment in *this* life, as Xunzi said that to be young and not serve the elders will invite misfortunes. There is also the suggestion, as described earlier, that if the family is not strong, even the nation might be invaded, as the family is the basic unit of the nation. When the family weakens, the heavenly order will be affected, weakening the nation.

In contrast, there is the concept of *tawḥīd* in Islam or the concept of the uniqueness of Allah that further defines and establishes family order. This is not present in Confucianism. In other words, Confucianism does not have the ideas of life or creation of birth and death by God. The concepts of orderliness of Heaven (*tian* 天) and Earth too are rather vague and open to interpretations. However, the cultivation

of personalities of Confucianism in a family whether as a responsible wife and virtuous children is upheld and similar to the objectives of life in this world. Islam not only has this objective but extends it to the afterlife, contrary to Confucianism which emphasises human life on earth. In other words, the goal is the same in both Islam and Confucianism except there is no concept of the hereafter in Confucianism.

Confucianism and Islam also follow different ways of cultivation of the personality. Followers of Confucianism cultivate their personalities by following good manners or *li* (禮). *Li* refers to the performance of good manners towards one another until they become habitual or norms in daily life.

A verse from the Qur'ān (17:25) says:

Your lord knows best what is in your hearts: If you do deeds of righteousness, he will be most forgiving to those who turn to Him again and again (in true penitence).

As the concept of God does not exist in Confucianism, there are also no concepts of repentance or asking for the forgiveness and salvation of God. However, according to Confucius,⁴⁹ it is hard to deal with a woman and a mean man.

The verse above seems to degrade women since it criticises them as difficult to live with, comparable to living with a mean man. Since the time of Confucius about 2,500 years ago, women were not treated well in society. It went to such an extent that not having the women educated was a virtue. In fact, the situation has changed only recently. A survey conducted in Malaysia indicates that most of the grandmothers in Chinese society did not have any formal education. Besides, Chinese women in the past used to bind their feet tightly, as it was commonly taken as a virtue for women to have small feet. Nobody protested against this. This is not due to Confucius or his teachings but to the weakness of women in the feudal society.

Even Mencius, the second most authoritative person after Confucius, had a great mother. She moved several times so that Mencius could live near a school, the most suitable environment for learning. When Mencius came home one day attending only half a school day, his mother who had been weaving by hand for half a day, immediately took a pair of scissors and ripped the cloth that she had been weaving into two. Mencius asked, "Mother why did you do that?" The mother answered, "You go to school and come back half a day and did not complete the school day. There is no difference, if I had weaved the cloth and cut it off and abandon it as you going to school and coming back after half a day." Such is the great mother who cared for her son and taught him to be a good person.

In Islam, there is no degrading of women:

O mankind, we created man and woman, tribes and nation in order for you to understand each other; surely the most honoured of you in the sight of Allah is the most righteous of you. (Qur'ān 49:13)

In this verse, Allah declares that all men and women, tribes and nations should try to understand each other, since they are equal, and the most pious are those closest to Allah regardless of age or gender.

Islam, however, seeks to develop virtuous human personalities by having them follow the Qur'an and the *Sunnah* of the Prophet Muḥammad. In terms of faith, the Muslims believe in Allah, Messengers of Allah of whom Muḥammad is the last, the angels, the divinely revealed Books, the Qur'an as the last book, life in the hereafter, and divine predestination. This makes a faithful Muslim family different from the secular Confucian family.

Notes

1. See James Legge (transl.), *Hua ying tui chao Ssu shu: Ta hsueh, chung yung, lun yu, meng tzu. The Four Books: The Great Learning; The Doctrine of the Mean; Confucian Analects; The works of Mencius* (Taipei: Wen hua tu shu kung Ssu, 1962).
2. 春秋时期
3. James Legge, *The Work of Mencius. Chinese Classics* (London: Trübner, 1861).
4. *A Selected Collection of Mencius* (Beijing: Sinolingua, 2006), 3–5.
5. Abdur Rahman I Doi, *Shari'ah: The Islamic Law* (Kuala Lumpur: A.S. Noordeen, 1984).
6. Abdullah Yusuf Ali (transl.), *The Meaning of the Holy Qur'an* (Beltsville MD: Amana Corporation, 1991).
7. Syed Muhammad Naquib al-Attas, *Islam and Secularism* (Kuala Lumpur: ISTAC, 1993).
8. Omar Min Ke Din, "Ethical Values of Islam and Confucianism: A Comparative Study", unpublished MA thesis (Kuala Lumpur: Akademi Islam, University of Malaya 2002).
9. Ibrahim Ma, *Traditional Chinese and Islamic Thoughts* (Brunei: Da'wah Islamic Centre, 1999).
10. *Philosophy East and West* 18, nos 1–2 (January–April 1968), 29–39.
11. *Mengzi* 1.7: 老吾老，以及人之老；幼吾幼，以及人之幼...不推恩无以保妻子。
12. *Ibid.*, 1B: 5.
13. Hexagram 37, *The Book of Changes*, known as *Yi Ching* 易经.
14. *Yi Ching* 易经, text 37; see *The Book of Changes*, transl. Richard Wilhelm (London: Arkana, 1967), 143–4.
15. James Legge, *The Chinese/English Four Books* (Changsha [China]: Hunan Publishing House, 1994), 11, Chapter Seven of *Da Xue*, 大学.
16. Doi, *Shari'ah*, 129.
17. 故君子不可以不修身；思修身，不可以不事亲；思事亲，不可以不知；思知人，不可以不知天. Chapter 20, *Zhongyong* (中庸), 30, quoted in William Theodore de Barry and Irene Bloom (eds), *Sources of Chinese Tradition: From Earliest Times to 1600* (New York: Columbia University Press, 1999, 2nd ed.), 1: 336.
18. *The Book of Filial Piety*, *Xiao Jing* (孝经) Chapter 9, in: de Barry and Irene Bloom (eds), *Sources*, 1:326.
19. *Analects* 17:21 “三年之丧，期已久矣...予也有三年之爱于其父母乎？”
20. See *ibid.*, 1:7 “贤贤易色；事父母，能竭其力...吾必谓之学矣。”
21. *Mengzi* 7:19 “事孰为大？事亲为大...事亲若曾子者，可也。”
22. *Ibid.*, 8:30. 孟子曰：“世俗所谓不孝者五，惰其四支，不顾父母之养，一不孝也...好勇斗狠，以危父母，五不孝也”
23. *Analects* 1:7; 2:5, 7 子夏曰：“贤贤易色...吾必谓之学矣。”；孟懿子问孝。子曰：“无违。”.....祭之以礼；子游问孝。子曰：“今之孝者...何以别乎？”
24. *Ibid.*, 2:7 子游问孝。子曰：“今之孝者...何以别乎？”

25. *Mengzi* 7:28 “...不得乎亲，不可以为人；不顺乎亲，不可以为子。...”
26. *Xunzi* 2:12.
27. *Analects* 4:18 “事父母几谏，见志不从，又敬不违，劳而不怨。”
28. *Genesis* 4:1–2.
29. *Yi-Ching* 易经 or *The Book of Changes*, 540–5.
30. *Xunzi* 27:40.
31. *Ibid.*, 17:7.
32. 易经 *Yi-Ching*, hexagram no. 38.
33. *Mengzi* 5A: 2.
34. *Ibid.*, 3B: 2.
35. *Ibid.*, 5A; 4.
36. *Xunzi* 5:9.
37. *Ibid.*, 10–1.
38. *Mengzi* 7:17 淳于髡曰：“男女授受不亲，礼乎？”孟子曰：“礼也。”
39. 5:10 礼义不修，内外无别，男女淫乱... 而日切磋而不 舍也。
40. Huan: *Xunzi*, 10:6.
41. *Yin Luan* 淫乱, *Xunzi* 17:7.
42. *Mengzi*, 孟子 3B: 2.
43. Sun Xidan, *Liji Jijie* (Beijing: Zhonghua Shuju, 1989), 2:607, 707, 709.
44. *Mengzi* 3B: 3.
45. *Analects* 17:25 “唯女子与小人为难养也，近之则不孙，远之则怨”
46. *Ibid.*, 15:13 “已矣乎！吾未见好德如好色者也。”
47. *Ibid.*, 16:17.
48. Ali (transl.), *The Meaning*, 904–5.
49. *Analects* 17:25 “唯女人与小人为难养也，近之则不孙，远之则怨。”

ANALOGICAL REASONING (QIYĀS) AND THE COMMODIFICATION OF WOMEN: APPLYING COMMERCIAL CONCEPTS TO THE MARITAL RELATIONSHIP IN ISLAMIC LAW

*Mohammad Omar Farooq**

Abstract: Analogical reasoning (*qiyās*) is one of the four sources of Islamic jurisprudence. It is recognised that the outcomes of *qiyās* are generally speculative in nature. However, a vast portion of the corpus of Islamic law is derived based on *qiyās*. One such area is marital relationship and mutual rights of the spouses. In several areas of marital relationship and mutual rights, the Islamic jurists have applied concepts and tools that are related to commerce or business (*tijārah*). Such terminologies include *bay'* (exchange/buy/sale) and *ijārah* (lease). This article examines such employment of business-related framework in the area of marital relationship and mutual rights. Based on both classical and post-classical legal sources, the author analyses the legalistic tendency underlying the legacy of the traditional Islamic law, as exemplified in using business-related framework in an overreaching manner. This article also offers an explanation of how the traditional Islamic view on slavery might be closely connected to this commodified view. Furthermore, it sheds light on how such commodification can impact on family as a central social institution.

Introduction

Everywhere in the Muslim world there is an ongoing tension between the forces of rigid conservatism and those of modernity and reform. At the core of this tension is the corpus of Islamic law (*fiqh*). Many conscientious Muslims admit that much of the bulk of the corpus has become asynchronous with the spirit and vision of Islam on one hand and the contemporary challenges and realities on the other.¹ Those countries proclaiming themselves to be 'Islamic' by instituting and implementing the traditional body of Islamic laws have found that even the common Muslim

* Mohammad Omar Farooq is the Head of the Center for Islamic Finance at the Bahrain Institute of Banking and Finance (BIBF).

masses – otherwise deeply endeared to Islam – are experiencing difficulty coping with the laws' load of detail which is so often built on rigid or literal interpretation.

Accordingly, the Hudood Ordinance of Pakistan as part of the country's implementation of *sharī'ah* (Islamic law, in a narrow sense) had profoundly negative and unjust impact on many women.² The Muslim women of India, on the other hand, have become so fed up with the All India Muslim Personal Law Board, an all male institution, that some ladies have taken the bold initiative of establishing their own All-India Muslim Women Personal Law Board.³ Meanwhile, Afghan society is just recovering from the Taliban regime that created a quite different, but still more profound, nightmare by, for example, obliging men to maintain their beards and women to completely shroud themselves in the traditional *burqa*, remain secluded at home and be deprived of any opportunity for serious work or study in the outside world.⁴

While such extremes cannot be generally attributed to the work of the noble jurisprudents and scholars from the classical period it must be recognised that by the time the various legal schools (*madhhab*) were formed and orthodoxy took shape within the first three to four centuries of its history⁵ Islam gradually fell victim to the effects of excessive legalism and literalism.

What is now commonly identified or understood to be representative of the *sharī'ah*, and which is commonly presented as something divinely sanctioned, is actually mostly composed of the interpretations of fallible human beings. This is so even though the human enterprise involved has been informed by the two primary Islamic sources, the Qur'ān and *Sunnah* – the Qur'ān constituting the direct, uncorrupted and infallible revelation of God, the *Sunnah* constituting the Prophetic *ḥadīth* narrations relied upon to deduce much of the detail of the law and its codes. Although the scholars of *ḥadīth* have performed a most invaluable service by establishing the *ḥadīth* collections and developing methods for their authentication, individual *aḥādīth* in themselves are generally neither divine nor infallible. Still more removed from a divine origin are the other two sources of Islamic law: *ijmā'* (consensus) and *qiyās* (analogical reasoning).

Muslim jurisprudence (*fiqh*), for the systematic deduction of law, developed a methodology of its own to interpret and make deductions in line with the *sharī'ah*, for example, *qiyās* (analogy), *ijmā'* (consensus). [...] The basic '*uṣūl*' are four: Qur'ān, *Sunnah*, *ijmā'* and *qiyās*. The various schools of Muslim jurisprudence differ on the number of '*uṣūl*' to be used or emphasised, although all of them include the Qur'ān and the *Sunnah*.⁶

The tendency to exaggerate the divine dimension of these secondary sources is rather entrenched. To increase the stature of each of these sources before the believers, the infallibility is often invoked directly or indirectly.

The Qur'ān is the primary source of law. The other three sources, i.e., the *Sunnah*, *ijmā'* and *qiyās* have been stamped with the revelatory character. [...] *Qiyās* derives its value from these sources; hence it is indirectly infallible.⁷

Ijmā' has been the most important integrative tool used to establish the sanctity of the Islamic laws and codes, including those based on *qiyās*. However, there is precious little related to the doctrine of *ijmā'* about which a consensus exists, which has been dealt with in detail in a separate work by this author.⁸ The focus of this article, however, is *qiyās*, the fourth source of Islamic *fiqh*.

Muslims desire to follow Islamic law because the corpus of law and its codes represent to them (they are told and taught this) the correct Islamic guidance for the entire spectrum of life. However, even though they want to follow Islam and the laws that are presented to them as constituting Islam, very few of them either know how these are arrived at or discern the justice and problem-solving capabilities this guidance embodies. Many Muslims now give the traditional body of Islamic law the cold shoulder and there are others who even like to disavow many aspects of it. The source of the bulk of the problem appears to be linked to the application of *qiyās*, as this otherwise neutral tool if applied with a legalistic bent of mind, without the desired sensitivity to the relevant issues at human level, can aggrandise human opinions to be wrongly perceived as divine rules.

The formalism and frequent use of *qiyās* in law generated hatred towards this principle. There was a widespread disagreement among the jurists, especially among the Iraqis, as a result of the use of *ra'y* [opinions] and *qiyās*.⁹

In many cases, when our Jurists confronted new situations, they successfully and effectively applied *qiyās* to seek new solutions. Muslims benefit from their precious and noble contributions in this regard. However, *qiyās* has been a mixed blessing. This article is focused on one particular example of misapplication of *qiyās*: applying commercial concepts to the marital relationship. This is illustrative of some of the key excesses arising from the application of *qiyās* when applied in a legalistic and literalist manner, delinked from the goals (*maqāṣid*) and values of Islam. This is relevant not merely from the perspective of polemics or law, but particularly from the perspective of family as the central social institution. While Muslims are prone to criticise the condition of family in the West, and there are good reasons and foundations to do so, Muslims would be much better served to be self-critical and focus on the condition of family in Muslim societies so that the social tensions within can be identified and addressed and the institution can be upheld on the foundation of the pristine and balanced Islamic values. From a self-critical perspective,¹⁰ of especial importance are those legal views and positions that have not only shaped the orthodox Islamic laws but also the mindset. The issues related to family and

gender relationship have become a major source of tension in the Muslim societies to the extent that this has exacerbated the religious vs. secular conflict and is pushing the younger generation in general and many women in particular to view Islam in an adverse way, when the problem might be in legal views and positions that are constructs of fallible human beings.

Some Pertinent Basics of *Qiyās*

Far from constituting a compendium of laws and codes, only a very small portion of the Qur'ān relates to specific guidance establishing what is permissible and what is prohibited. Beyond establishing some basic principles, norms and parameters the commonly accepted position of Islamic *fiqh* is that except what is categorically prohibited the default guidance of the Qur'ān is permissibility.¹¹

As the Prophet's life, reflected in his words and actions, is a model, Muslims turn to the *Sunnah* (authenticated by *ḥadīth*) for detailed guidance. Yet, neither the Qur'ān nor the *Sunnah/ḥadīth* covers every situation that its adherents might encounter. This is where *qiyās* or analogical reasoning – where “the root meaning of the word [...] ‘measuring’, ‘accord’, and ‘equality’”¹² – makes an appearance.

Qiyās was meant to seek similarity between new situations and early practices, especially those of the Prophet.¹³

[...] no one at all should [give an opinion] on a specific matter by merely saying: It is permitted or prohibited, unless he is certain of [legal] knowledge, and this knowledge must be based on the Qur'ān and the *Sunnah*, or [derived] from *ijmā'* (consensus) and *qiyās* (analogy).¹⁴

Gradually, *qiyās* gained greater importance and assumed a more central role:

Qiyās was recognised as a fourth source of law along with the other three sources. By and by, people began to depend on it extensively. Ultimately it overreached the Qur'ān and the *Sunnah*.¹⁵

Some people suggest while others claim that there was an *ijmā'* among the companions about the validity of *qiyās* as part of the Muslims' toolkit to arrive at or deduce solutions involving situations that are not covered by the other primary sources, i.e., the Qur'ān and the *Sunnah*.

The companions were unanimously in agreement concerning the application of analogy.¹⁶

However, those reasonably familiar with *ijmā'* as a doctrine and a method,¹⁷ know that this claim of companions' consensus concerning *qiyās* is simply untenable. It can be argued that many of the companions applied what they knew to situations that were unknown yet similar to prior established positions, and thus in this way

what they practised amounted to *qiyās*. However, to claim that the companions of the Prophet knew this constituted *qiyās*, deliberated accordingly and reached a consensus thereafter is difficult to find evidence for.

Indeed, those who want to establish the validity of everything using a text-oriented or text-bound¹⁸ approach, through the identification and proffering of textual evidence, have tried to provide the relevant evidence from the Qur'ān and *Sunnah* as the basis for *qiyās* as one of the sources of Islamic *fiqh*.¹⁹ There is no verse in the Qur'ān that the scholars have been able to agree upon which can be clearly discerned as acting as the basis of *qiyās*. Furthermore, the *Sunnah*, through the *Hadith* collections, has been offered to establish additional textual justification for *qiyās*. Once again, there is no agreed-upon basis even though plenty of different examples abound which have been offered by different scholars.

Some Muslim scholars and groups, one such represented by the Zāhirī school and its main protagonist Ibn Ḥazm (d. 1064), have rejected *qiyās* altogether. Ibn Ḥazm's Zāhirī approach is based on literalism and development of the explicit meaning of the textual evidences while shunning *qiyās*. Nevertheless, there have been repeated attempts to justify *qiyās* as being part of *ijtihad*, an often-quoted *ḥadīth* is narrated by Mu'adh b. Jabal, who was sent to Yemen by the Prophet. According to the *ḥadīth*, when the Prophet asked Mu'adh how he would judge a situation that was not directly addressed in the Qur'ān or *Sunnah*, he replied: "I shall do my best to form an opinion and I shall spare no effort."²⁰ Ibn Zāhirī, as well as some scholars from other persuasions, dispute this *ḥadīth*.²¹

Careful readers might be surprised when they stumble upon the chapter headings in none other than *Sahih al-Bukhari* which state: "What is said against judging (in religion) made on the basis of one's own opinion (i.e., *ra'y*) or by *qiyās*" or "Whenever the Prophet was asked about something regarding which no verse was revealed, he would either say, 'I don't know' or give no reply, but he never gave a verdict based on opinion or on *qiyās*."²² In actual fact, at one stage, the opposition to *ra'y* or *qiyās* was so strong that the chapter headings reflected Imām al-Bukhārī's juristic view on this issue.²³

Regardless of the opposition and disagreement among themselves the four traditional schools, representing the mainstream, helped *qiyās* to emerge and serve as one of the predominant and most commonly employed tools of Islamic jurisprudence.

The relationship between *ijmā'* and *qiyās* is a close one. While *ijtihad* ensures that Islamic jurisprudence is dynamic, it is the institution of *qiyās* that has brought discipline to the general application of human reasoning to determine what is islamically acceptable as opposed to what is not concerning things or situations that have not already been covered by the other three sources. However, for the result of an analogical deduction (*qiyās*) to be broadly accepted, it also has to be

validated by *ijmāʿ*. When validated, most Muslim scholars have placed a high value on *qiyās* as a methodology.

- The procedure of analogy is devised to eliminate the free use of reason and independent value judgments;²⁴
- there is an acute controversy among the classical jurists over the validity of *ijmāʿ* on questions based on analogy (*qiyās*) and individual interpretation (*ijtihād*);²⁵
- *ijmāʿ* has the authority to decide whether a certain opinion of the Jurist or a decision of a Judge is right or wrong. No *qiyās* can attain the status of law unless it is authenticated by *ijmāʿ*.²⁶

Diversity of Views about Qiyās

Even though those who follow the four main Sunni schools of thought generally accept *qiyās* as one of the four sources of Islamic jurisprudence there is considerable disagreement about what *qiyās* constitutes, its scope, the method of its validation and so on.

After the Companions, jurists differed over the extent to which analogy could be relied upon. [...] The question of analogy has caused a good deal of controversy.²⁷

As per many aspects of Islamic jurisprudence little consensus exists concerning *qiyās*. Each school prefers its own definition, possessing its own special emphasis or nuance.²⁸

The common denominator in all these cases involves identifying the '*illah*' (effective cause of the law; *ratio decidendi*). "It appears that the term '*illah*' (effective cause) did not come into use in juristic reasoning up to the time of al-Shāfi'ī (d. 820). It is not also traceable in the writings of the early schools of law. Al-Shāfi'ī terms the common factor sometimes *ma'nā* (idea) and at other times *aṣl* (basis). The term '*illah*' must have been employed in the post-Shāfi'ī period."²⁹ Important differences in this regard are also notable. For al-Shāfi'ī, *qiyās* and *ijtihād* are synonymous, while for other scholars this is not the case.

Just as the consensus that *qiyās* constitutes a valid methodology of Islamic jurisprudence does not exist, so there are similar problems concerning the consensus over what constitutes an '*illah*', how it is derived, and even how it is validated.³⁰

In reaching conclusions about the unknown starting from the known, extending the frontiers of human knowledge and understanding to new situations, or in the derivation of solutions to problems not encountered previously, analogy is the most commonly employed tool of man's reasoning.³¹

Analogical reasoning has been quite useful in many scientific discoveries.³² It is no surprise that the use of analogical reasoning is widespread in modern education and the GRE test for graduate admission in the United States includes problems based on analogy.³³

Thus, the fascination with and the extensive use of *qiyās* by Muslim scholars is easily understandable and only natural. In a religious context though, an otherwise common tool of human reasoning takes on a sacred character. Regardless, it is important to bear in mind that *qiyās* is essentially *speculative* (*ẓannī*).³⁴

The problem with *qiyās* as a source methodology and authority in Islamic jurisprudence is that it is seriously compounded by a lack of agreement concerning the relationship between the *aṣl* (the original case) and the validity of *qiyās*-based rules so derived.³⁵

Essentially then, *qiyās* constitutes a *speculative* proof as it is based on fallible human reasoning. However, when infallible divine sources and fallible temporal sources become part of a single toolkit, unless an appropriate level of conscious humility regarding human fallibility is taken into due consideration and *explicitly* acknowledged, excesses can occur. In the following sections, examples are dealt with whereby reputable Muslim scholars and jurisprudents have become carried away in the literal and legalistic application of *qiyās*.

Before delving into our substantive analysis of *qiyās*, let us begin with a frivolous example of general deductions. Alauya is an Islamic jurisconsult in the Philippines and a member of the country's *Shari'ah* Bar. In explaining *'ibārah*, one of the methods of deducing argument (*istidlāl*) from the Qur'ān, he writes in his book *Fundamentals of Islamic Jurisprudence*:

Ibara, or the plain sentence. Example "Mothers, after they are divorced, shall give suck unto their children for two whole years, if the father desires to complete the term, who is obliged to maintain and cloth them according to that which is reasonable" (Qur'an 2:233). From this verse, two deductions are made. First, the mothers are entitled to support, while breastfeeding children even though they are divorced. Second, the duty of supporting the breastfeeding mother is incumbent upon the father. This shows that the relationship of the child is closer with the father than with the mother.³⁶

The second deduction earns some critical comments. If the father supports the mother is the basis for deducing that the child is closer to the father then whenever poor people (fathers or mothers with children) are supported by a government welfare programme, it could also be argued that the government is closer to the child than either the mother or the father. Does that make sense?

In analysing these problematic matters, it is not to be inferred that the Muslim scholars and jurists had a negative intent, merely that, as they were pious, conscientious, and brilliant, they were also fallible. They developed many of the

details concerning Islamic *fiqh* and offered their reasoning with an obvious zeal such that they became carried away, not stopping to consider or anticipate possible future ramifications of their pronouncements. Many acted as trailblazers during their own time, never hesitating to cast as critical an eye as possible at the corpus of Islamic law that preceded them in order to improve it in whatever way they could. This does not mean, however, that they always succeeded in doing so.

Some Problematic Issues in Application of Qiyās

Since *qiyās* was one of the most commonly employed tools of Islamic jurisprudence, finding relevant examples whereby the scholars and jurists have become carried away is not difficult. However, in this article our focus is on commodification of women that has occurred in traditional Islamic *fiqh* through application of commercial concepts to marital relationships.

Marriage, Contract and Sale

Marriage is the core of all social institutions. In some societies and religions, such as Christianity, marriage is a sacrament (i.e. “a rite which removes the taboo on sexual intercourse between a man and a woman, while at the same time imposing a lifelong taboo on the intercourse of either of them with a third party”)³⁷ by which it is made so sacred that traditionally it could not be dissolved. This is why the Roman Catholic Church considers divorce as one of the greatest sins and as such, effectively, prohibited. On the other hand, in many modern, secular societies, marriage represents no more than a contract, and thus no permanence or sanctity is attached to it. Indeed, the direction of these societies is such that even marriage is not legally required for the union of two people. Living together without marriage, having children out of wedlock, even marriage within the same sex, are all being accommodated or legalised in the present secular times. Marriage in Islam is neither sacramental nor is it merely a contract.

The distinction between sacred and secular was never explicit in Islam. Any action or transaction has religious implications. Legitimate sex is not defined as evil. Women, at least in doctrine, are not held inferior to men on the spiritual level, since they are not thought of as ‘guilty’ of any offenses from which men were, or are, free and immune. Moreover, marriage in Islam was not conditional on officiation by a priest because, strictly speaking, there was no such office. Neither was religious benediction, though highly recommended for the occasion, a necessary requisite for the validity of the marriage.... [Thus] ‘marriage is a contract, but it is also a covenant.’³⁸

However, it appears that legalistic tendencies, which have become dominant in the general practice of Islamic law, have caused marriage to be viewed with

an overwhelming bias toward the contractual dimensions involved. From the dowry to maintenance, from marital obligations to the conditions of divorce and its procedures, the emphasis is focused on contractual aspects rendering marriage a totally formalistic experience.

In Muslim societies, marriage is not so much a sacrament as a contract regulated by a code of law rooted in religious precepts – in the *shari'a*. [...] It is based on a strong patriarchal ethos imbued with religious ideas and ethics. This ethos defines marriage as a contract of exchange, whose prime purpose is to render sexual relations between a man and women licit. Any sexual contact outside this contract constitutes the crime of *zina*, and is subject to punishment. The marriage contract is patterned after the contract of sale and its essential elements are (i) the offer (*ijab*), [...] (ii) its acceptance (*qabul*), [...] and (iii) the payment of dower (*mahr*), which is a sum of money or any valuable that the husband pays or pledges to pay the wife [...] The contract establishes neither the commonality in matrimonial resources nor equality in rights and obligations between spouses.³⁹

The idea of a dowry (from the bridegroom to the bride) is not unique to Islam. Indeed, in various societies and cultures, and throughout history, it has been present. Al-Ati provides a detailed exposition of various economic and other modern theories to explain the custom surrounding the dowry. However, his analysis shows that none of these concepts help explain and render an understanding of the Islamic position concerning the subject.⁴⁰

While Islam has mandated the provision of a *mahr* it has not set any minimum or maximum and neither has it specified its exact form. This is an important notion to grasp when attempting to understand the inability of most theories to explain the Islamic position concerning the *mahr*.⁴¹

The theory that the dowry is compensation to the father or his substitute for the loss of the girl's economic service is inapplicable for the primary reason that the dowry can be such a nominal value that it would hardly be considered proper compensation to the guardian concerned. In addition, Islam mandates that the *mahr* belongs exclusively to the bride. The dowry cannot be claimed or usurped by anyone else, including the bride's parents or any other guardians.⁴²

There are also theories that the dowry (from bridegroom to bride) serves "as an obstacle to the dissolution of the union for frivolous reason" or that "it worked as a deterrent to polygamy".⁴³ However, these theories do not hold for most marriages in Muslim societies, where a dowry is not really significant enough to serve the said purpose.

What of the religious explanations by the Muslim scholars and jurists then?

Muslim jurists of later centuries have held the technical view that dowry is enjoined in return for the man's right, at least potentially, to have legitimate access to cohabitation

with the woman in question. She is entitled to dowry because she has consented to marriage and made herself accessible. Much discussion among the jurists has centered on this issue. But the exponents of this view appear to assume or to infer that women have no sexual desires and needs of their own, that gratification is not reciprocal, that sex is a cheap commodity in view of the permissibility of nominal dowries, and that marriage is little more than a *commercial transaction*. That list of assumptions and inferences may be extended. Yet, these seem contrary to the bio-psychological facts and to the very idea of marriage which is depicted in the Qur'an (e.g., 30:21) as a shelter of peace and comfort, and as a means of mutual love and mercy.⁴⁴

There are no established data concerning the number of Muslims who contract their marriage where the marrying parties think they are involved in a commercial transaction: the bridegroom thinking that he is involved in a *purchase* and the bride believing that she is involved in a *sale*. Even without the information gathered from scientific surveys or more extensive study of the subject it can be safely assumed that most women would be nauseated and repulsed at the thought of marriage constituting their sale and purchase. Moreover, men too would consider the idea of any kind of commercial transaction regarding marriage quite repugnant.

Unfortunately, on reading the legalistic works and positions of the Muslim jurists one cannot but be left with the distinct impression that they have indeed reduced marriage to a commercial transaction. Let's first take the viewpoint from Hanafi sources.

A woman may refuse to admit her husband to a carnal connection until she has received her dower⁴⁵ of him, so as that her right may be maintained to the return, in the same manner as that of her husband to the object for which the return is given, *as in sale*.⁴⁶

What is here advanced proceeds upon a supposition of the whole dower, or a certain portion of it, being Moajil, or prompt; but if the whole be Mowjil, or deferred, the woman is not at liberty to refuse the embraces of her husband, as she has dropped her right by agreeing to make her dower Mowjil, – *the same as in the case of sale*, where, if the price of the article sold be made deferrable, the seller is not at liberty to detain the article sold on account of the price.⁴⁷

It is proper to observe, that where the woman refuses to admit the husband to a repetition of the carnal act, as above stated, yet she has, nevertheless, (according to Haneefa) a claim to her subsistence, as her refusal does not, in any case, proceed from any stubbornness or disobedience, since it is not exerted in resistance to a right, but rather in maintenance of one. – The two disciples hold that she is not entitled to any subsistence; – and their argument on this occasion is, that the sole object of the contract has been duly delivered to the husband, either by the single carnal act, or by the single complete retirement,

as aforesaid; on which account it is that her right to her whole dower is confirmed and established, and consequently no right of further detention of her person remains with her; *as in a case of sale*, where the seller having delivered the article sold to the purchaser, before receiving the price, has no further right over it.⁴⁸

If a man marries two women by one contract, one of whom is lawful to him, and the other prohibited, his marriage with the one who is lawful holds good, but that with the other is void, because in that only a cause of nullity is found: contrary to where a man puts together a freeman and a slave, and *sells them by one agreement, as such sale is null with respect to both, because sale is rendered null by invalid condition*, and the consent to the contract of sale is required with respect to the free person, in order to the legality of it with respect to slaves.⁴⁹

In applying commercial concepts to marital relationship, other schools are remarkably similar. The Mālikī position is articulated even more vividly in one of the most authoritative compendia of Mālikī law. Under the general section of “Sickness” and sub-section “Serious illness precludes marriage, but the dowry is paid from the third”, it is mentioned:

It is not permitted for a man with a very serious illness to get married but if he does get married and consummates the marriage, then his bride’s dowry is the first thing to be paid from the third of his wealth he is permitted to leave as he wills. [Or for a sick woman which may prove fatal. *That is because he is restricted in respect of his property and it is connected to all who has a lien on it absolutely...*]⁵⁰

Competition between Suitors

No one should propose marriage to a woman if another proposal has already been accepted, nor should anyone try to outbid his brother, if an agreement has already been reached. [According to what al-Fakhani said, “The expression means a prohibition.” This is to propose when there is an outstanding proposal and to bid when there is an outstanding bid provided an agreement has been reached between the couple of the parties to the bid. In respect of marriage, this means that the couple incline to one another so that only the offer and its acceptance remain. *In the sale it is a precondition that the money be weighed, for instance, and the goods free of faults. If he sees a fault, he can return it.*]⁵¹

Marriage contracts containing uncertainty as is any marriage involving uncertainty (*gharar*) in either the terms of the contract or the amount of the dowry or any marriage in which the dowry *includes anything whose sale is forbidden*.⁵²

The following excerpt, taken from one of the most authoritative compendia of *Shāfi‘ī fiqh* should give a clear idea about the Shāfi‘ī school.

The Integrals of a Marriage Agreement [...]: The Spoken Form:

The first integral is the explicitly stated spoken form (O: comprising a spoken offer by the guardian and its acceptance by the groom, like other, nonmarital transactions. *Its necessary conditions are the same as those of valid sale.*⁵³

The Ḥanbalī view is reflected in the following:

Al-Khiraqī's three principles on *khul'* are repeated verbatim in the post-classical Sunni corpus of the erudite Hanbali legist, Muwaffaq al-Din Ibn Qudama (d. 1223), with further specification that "separation (*khul'*) does not require action by a judge: this is the position of Ahmad [b. Hanbal, school founder, d. 840],... and also that of Malik, Al-Shafi'i and the party of opinion (*ahlal-ra'y*; the Hanafis) [...] Since it is a transaction (exchange; *mu'awada*), similar to a sale or a marriage contract, it does not require a judge, and also because it is dissolution of contract by mutual consent (*qat 'aqd bil taradī*)."⁵⁴

This article has generally focused on Sunni schools of jurisprudence. However, Shia jurisprudence, somewhat ambivalent about *qiyās*,⁵⁵ might not be much different, or even worse, in this regard, especially in light of their vigorous defence of *mut'a* (temporary marriage), which is modelled after *bai'* (sale/purchase).

Unlike a permanent marriage, which has several other objectives, the sole objective of *mut'a* marriage is *istinta'* (enjoyment), Tusi argues. According to him, temporary marriage (*mut'a*) is contract for a specific purpose, in which remuneration (*ajr*) is paid; hence, there is no *mahr* or inheritance. Marriage ends at the appointed term; no *talaq* is pronounced. *Mut'a* is modeled on a sale contract in which the payment of consideration money and specification of the duration of time are essential conditions.⁵⁶

So, how precisely did the jurists draw this connection between marriage and 'sale'? The answer lies with *qiyās*. Marriage is a form of contract, as is sale and purchase (commercial transactions or exchanges). Therefore, in enforcing the right of the husband to have his wife in his bed, in denying maintenance to her when she refuses to share it with him, or in determining the conditions pursuant to a lawful/valid and unlawful/invalid marriage, the jurists have identified a tremendous analogical parallel between marriage and commercial transactions.

It is interesting to note that the term *mahr* (bride price), which usually connotes commercialisation of marriage, is not used in the Qur'an at all. It occurs very infrequently in the Traditions of the Prophet; when it does, it is usually accompanied by other terms such as *faridah* (God-given right), or *sadaq* (which is connected with a root word meaning marriage-gift, charity, friendship, fidelity, truth, etc.). The jurists have used these terms interchangeably as denoting the God-given right of dowry. But it is not certain whether in these interchangeable usages the traditional connotations of the term *mahr* were sublimated to the moral and charitable denotations of terms like *sadaq*, *faridah*, and so

on; or whether these terms themselves took on the traditional connotations of *mahr*. A review of the classical legal texts would seem to indicate that where it occurs, the term *mahr* is used in a sublime moral sense indistinguishable from the meaning of *sadaq*, *faridah*, and similar terms. But the law books and usages of subsequent centuries seem to use *mahr* and other alternate terms in a sense very much akin to the traditional meaning of bride-price. This reversal of meaning was apparently correlated with a decline in juristic creativity and the status of women and also with a misconception of the idea of marriage.⁵⁷

Neither the theories offered by social scientists nor the ones underlying the views of the Muslim jurists help in providing a proper understanding and appreciation of the role of the *mahr* in Islam. Acknowledging the need for further exploration, Al-Ati offers some suggestions that are quite relevant and meaningful:

Dowry is probably a symbolic expression of the groom's cognizance of the economic responsibilities of marriage and of his readiness to discharge all such responsibilities subsequent to marriage. It may be thought of as a manifest assurance on his part that the bride's economic security and rights will be maintained. It is a symbolic acknowledgment that he does or will dissociate the purpose of marriage from the designs of economic exploitations. For 'instinctive' or cultural reasons, it is usually the women who need reassurance of the man's intentions and interest. This reassurance may require more than verbal expressions of love and seriousness on the man's part, and dowry may be the tangible symbol of such love and seriousness. To the bride, it is a token of the groom's desire to enter into a union with her. To her family, it is a gesture of mutual friendship and solidarity, an assurance that their daughter will be secure and in good hands. However, there may be other symbolic meanings of dowry, as has been mentioned earlier. Nor is it to be overlooked that what is being suggested here is conceptualised in terms of the religious and moral ideals which may or may not be in fact fully implemented. There is no sufficient ground to assume that the actual has always coincided with the ideal in this case.⁵⁸

Marriage, Contract, and Lease

The focus of the preceding section was to demonstrate how, under the influence of legalism and literalism, the scholars sometimes became carried away in their application of *qiyās*. Inferring an analogical connection between contracts and sales and then applying it to marriage is hardly appropriate. However, there are other related issues that are also worth mentioning.

Certain aspects of Islamic law are simply impractical while others are unfair. For example, the traditional schools require that as part of the marriage the wife be entitled to her own, exclusive dwelling.

It is incumbent upon a husband to provide a separate apartment for his wife's habitation, to be solely and exclusively appropriated to her use, so as that none of the husband's family, or others, may enter without her permission and desire, because this is essentially necessary to her, and is therefore her due the same as maintenance, the word of God appoints her a dwelling house as well as a subsistence: and as it is incumbent upon a husband to provide a habitation for his wife, so he is not at liberty to admit any person to a share in it, as this would be injurious to her, by endangering her property, and obstructing her enjoyment of his society...⁵⁹

A wife is entitled to lodging in a house unoccupied by members of the husband's family.⁶⁰

Thank God the scholars did not explicitly require every Muslim to be rich or at the very least, well-to-do, because the economic condition of the Muslim world is such that the vast majority survives merely with just one roof over the entire family instead of inhabiting separate rooms, let alone an exclusive room just for the wife. Interestingly, women hardly know about this grand right of theirs and, understandably, there is little effort on the part of the Muslim scholars to educate them about this privilege and of the requirement of men to honour it. It is notable that there is no authentic or explicit textual evidence to offer the specified right to an exclusive dwelling for the wife, even though it can be safely asserted that Muslim wives would be deeply gratified by having this right honoured.

However, lest Muslim women get carried away after learning and then insisting on exercising such a valuable right, legalism and literalism have pervaded many of the laws derived in the name of Islam and there are bound to be plenty of other surprises in store for them as well. Assigning an exclusive dwelling does not mean that the wife owns it. In actual practice, the husband has far-reaching control over the situation.

A husband is at liberty to prevent his wife's parents, or other relations, or her children by former marriage, from coming in to her, as her apartment or habitation is *his* property, which he may lawfully prevent any person from entering; but he cannot prevent them from seeing and conversing with her whenever they please... Some have said that he cannot prohibit them from coming in to her, any more from conversing with or seeing her.⁶¹

Just as the assignment of an exclusive dwelling for the wife is a pleasant surprise to most women (and is possibly shocking to most men), there are also some unpleasant surprises for women too. According to Islamic law, wives are entitled to certain maintenance (*nafaqah*). But what precisely does this consist of?

When a woman surrenders herself into the custody of her husband, it is incumbent upon him thenceforth to supply her with *food, clothing, and lodging*, whether she be a Muslim or an infidel, because such is the precept both in the Koran and in the traditions [...].⁶²

Nafaqa literally means that which a man spends over his children; in law it means feeding, clothing and lodging; in common use it signifies food.⁶³

What if the wife becomes sick, especially on a long-term or even permanent basis? In this eventuality, the *law* is very clear; the wife is legally entitled only to food, clothing and lodging. Conspicuously, there is no specific or detailed textual evidence to support so narrow a definition of maintenance. Most Muslim men and women might be shocked to learn that Islamic law does not *stipulate* that the husband should take care of his sick wife and that she is not entitled to maintenance (food, clothing, lodging), especially when she cannot fulfil the primary basis of the marriage contract: to be able to carnally satisfy the husband.

If a woman falls sick in her husband's house, she is still entitled to a maintenance. This is upon a principle of benevolence, as *analogy* would suggest that *she is not entitled* to maintenance, where she falls sick so far as to be incapable of admitting her husband to the conjugal embrace, since in this case she cannot be deemed in custody for the purpose of enjoyment.⁶⁴

Even though there are contrary opinions, this is not simply another example of the misapplication of *qiyās*, but the complete marginalisation of the fundamental values of Islam. Once again this demonstrates the legalistic and literalist propensity to which the law has fallen victim. In a section "Maintenance in Sickness", Al-Ati further elaborates:

The Qur'an and the Sunnah have enjoined care for and kindness to the wife. Yet the application of this general principle to the case of a sick wife has stimulated curious arguments, differences of opinion, and legal niceties. According to some jurists, a sick wife who, on account of her failing health, is unable to discharge her marital duties has no legal right to maintenance by the husband.⁶⁵

The problem of maintenance of a sick wife is provocative, although it seems more apparent than real, that is, more of an academic exercise than a practical issue. It probably indicates that the later in time, the farther some jurists drifted away from the spirit of the law and its ethical foundations. It is curious that neither the Qur'an nor the Sunnah raised the problem in any way that can be likened to the approach of those jurists. Moreover, none of the disputants produces any authoritative evidence in support of his argument against the adversaries.⁶⁶

Al-Ati writes that this tendency is not confined to maintenance only, according to the majority of jurists, sick wives are not entitled to the cost of their medical care as well. So, on what basis do the jurists, generally speaking, deny the medical costs and maintenance due to a husband's wife? The answer lies, once again, with *qiyās*.

Related to the problem of a sick wife's maintenance is the cost of her medical care. The formal consensus, not the unanimous opinion, of the majority of the jurists is that the husband is not legally responsible for the cost of medicine, the physician's fee, etc. Some jurists, however, maintain that if the husband is financially comfortable and the cost of medical care is modest, he is responsible for it. Others argue that even if he is not *legally* responsible for the cost, it is still his *religious* duty to bear the responsibility out of compassion, courtesy, or in conformity with the social norms. Those who exempt the husband from the responsibility do not consider the cost of medical care to be part of the obligatory maintenance. *They draw an analogy between wifedom and leased property*; tenants are not responsible for the repairs and improvement of the premises. Their obligation is to pay only the rent; the rest is the owner's charge. Like a tenant, a husband is not responsible for the cost of any treatment his wife may undergo to restore or improve her health.⁶⁷

The culprit here is clearly the overzealous application of *qiyās*. The qur'ānic commandment to abstain from all activities when the call for the Friday prayer has been made demonstrates one example of how *qiyās* has been extended to cover all aspects of marital life.

Sale of goods, or conducting business, during the time of the Friday congregational prayer is prohibited by the following verse of the Qur'an: "O you who believe! When the call is proclaimed to prayer on Friday, hasten earnestly to the remembrance of God, and leave off sales transactions." The '*illah*' of this prohibition is that which, from the transaction of sale, detains one from proceeding to the Friday prayer and the potentiality of alienating one from the Friday prayer. This '*illah*' has been deemed to be present in the transactions of lease, of mortgage, and of marriage. Therefore, the *hukm* upon these transactions during the Friday prayer is the same as that of sale.⁶⁸

That many women are turning against these types of 'orthodox' Islamic laws, while they still feel attached to the Islam that is embodied in the Qur'ān and the *Sunnah*, is an established phenomenon. Many Muslim men also find much of the detail of the law in question, especially those aspects derived using the all too fallible methodology of human reasoning (*qiyās*), asynchronous with Islam itself. Contemporary Muslim scholars, especially those not trained and indoctrinated in the orthodox tradition, are also challenging this legalism.

[C]ontemporary Muslim scholars are impatient with these formalistic interpretations of the law which, on the one hand, enjoin the husband to furnish with maids – an obvious luxury – but, on the other, exempt him from the responsibility for her medical care. For these scholars, this is plain mockery, casuistry, and abuse of the purposes of the law.

Moreover, such formal interpretations contain no authoritative evidence. Nor do they seem compatible with the ordinances of the Qur'an and the *Sunnah*, which unequivocally

call for kindness, compassion, and consideration. Here again, the question arises: were these jurists fighting windmills or tackling a real problem? How could they overlook the strong directives of the Qur'an and the Sunnah, and focus, instead on such a formalistic approach?

The view that a husband may be exempted from the obligation of maintenance and payment for an indisposed wife's medical care cannot be explained in terms of any authoritative text from the Qur'an or the Traditions. Not only is there no such possible explanation, but also the very view is perhaps one of the clearest instances of 'deviation' from the orientation of the basic sources of Islamic law.⁶⁹

It is important to understand that the misapplication of *qiyās* is not an isolated occurrence. Al-Ati offers some insight into the direction that juristic works have taken over the centuries:

Aside from the possibility of intellectualistic riddles or formal casuistries, this view, together with the accompanying analogy between wifedom and 'leased property' was probably a reflection of certain social and intellectual trends....

The demographic composition of the Muslim population was growing diverse as well as complex. An urban life style on a new large scale, with the concomitant relative anonymity and individuality, was increasingly in vogue. Under such circumstances, marital bonds would be regarded not so much as alliances of families, clans, or tribes or as "companionship" ties as individual 'contracts' largely oriented to specific formal exchanges of service. *Women, as a rule, became increasingly secluded in the background and excluded from the world of men....* With the traditional mother role so depreciated, and with the companion role so contested by other rivals, probably little was left for the normal housewife other than being an object of sexuality. Even that role was not confined to her exclusively.⁷⁰

The legal treatises reflect the tendency toward the "seclusion of women" from active life in their works. When marrying, does the wife regard and the husband expect that she should 'surrender' to the "custody" of her spouse? Or, is there any woman who expects that marriage basically entails her embracing a life of 'confinement' and 'seclusion'? This, unfortunately, is the way the jurists understood marriage and how they presented it in their legal interpretations.

When a woman *surrenders* herself into the *custody* of her husband, it is incumbent upon him thenceforth to supply her with food, clothing, and lodging, whether she be a Muslim or an infidel, because such is the precept both in the Koran and in the traditions; and also, because maintenance is a recompense for the *matrimonial restraint*.⁷¹

The pertinent Arabic word is *ahbas*, derived from *habasa* (meaning: to block, detain, imprison).⁷² This characterisation, in the translation of Haskafi's *Durr al-mukhtār*, is still more explicit and vivid:

[M]aintenance is compensation for her *confinement*.⁷³

Contrary to the legacy of the Prophetic period, as women became secluded in society and as they became 'confined' by juristic opinion Islamic legal discourse became isolated from and mired in legalism and literalism.

Exploring Some Relevant Aspects of the Jurists' Resorting to Sales Contract

Was Invoking Sales Contracts in Case of Marriage Contracts Necessary?

A relevant question in this context is whether there was any compelling or suitable reason for resorting to sales contracts for marital relationship. To understand this question, it is important to note that while the theory of contract (*'aqd*) in Islamic jurisprudence covers broad aspects of life, including commerce and marriage, essentially there is no separate framework for marriage contracts that is distinct from commercial contracts.

The Islamic marriage contract is a variant of Islamic contracts.... Unfortunately, little attention has been given to the study of Islamic contract theory, *which arose originally in the commercial context*.⁷⁴

For apart from particulars concerning the subject matter, there is not a great deal of difference among marriage contracts, agreements creating partnerships, claims for debts, or deeds of sale [...] It should be pointed out, in fact, that sale is usually considered the typical contract in Islamic law, after which other contracts are patterned. Islamic law never developed a general theory of contracts.⁷⁵

Lacking a separate or distinctive framework, and for a very special reason, which is discussed below, the jurists did not feel it necessary to consider the need for a separate or sub-theory of contract for marital relationship.

However, while they should not have framed the marriage contracts on the basis of sales contracts, the fact of the matter is that they did not really need to do so either. The marriage contract as a subset of contract has some distinct parameters (discussed below) that makes it distinct from sales or commercial contracts. The rights and responsibilities in the context of a relationship that is not merely contractual but also covenantal could have been independently developed or identified on the basis of reciprocity and promise/commitment without any reference to commercial or sales contract.

Why Did the Jurists Resort to Sales Contracts that Ended Up Commodifying Women?

Invoking sales contract may not have been necessary (and, of course, it was undesirable), it is worth exploring why the noble scholars of Islam felt comfortable framing the women's rights and responsibilities in the marital context in terms of *bay'* (sales). One possible explanation is that this becomes a non-issue, once human beings are commodified. There have been scholars who could not think about women except in terms of 'commodity'. Interestingly, in a *ḥadīth*, the Prophet Muḥammad said: "*al-dunya mata' wa khairu mata'id dunya al-mar'atu as-salihah*".⁷⁶

The Arabic word *mata'* has a broad range of meaning: enjoyment, pleasure, delight, gratification; object of delight; necessities of life; chattel, possession, property; goods, wares, commodities, merchandise; furniture; implements, utensils, baggage, luggage, equipment, etc.⁷⁷ However, just because all these words are covered by the original word in Arabic, it does not mean that we can arbitrarily or randomly choose any word as an appropriate equivalent in English. Interestingly, while many scholars have translated and understood *mata'* as delight or provision, some scholars have not hesitated to translate it as "commodity": "The world, the whole of it, is a commodity and the best of the commodities of the world is a virtuous wife."⁷⁸ Others have translated it as 'provision'.⁷⁹

Why does anyone then choose commodity in this context, where there are other relevant and more nuanced meanings available? There might be a deeper cause.

In pre-Islamic [i.e. pagan] Arab societies, women were bought and sold as commodity. Islam by giving women the right to decide who to marry, and have a part in the marriage contract, elevated her status from that of a commodity to that of an equal partner in the marriage institution.⁸⁰

Well, this should be true about Islam, but unfortunately Muslims did not quite give up the notion of women as commodity, because Muslim scholars did not reject and abandon the idea of the human being as a commodity. How can that be?

A pertinent question here is: what is common between marriage and a sale? *Qiyās* is based on '*illah* (*ratio decidendi* or underlying criteria) being contractual agreement involving two parties. This is correct. However, what is the difference between marriage and sale? It is in determining, establishing and recognising a fundamental difference between the two, in my humble submission, that the orthodox position has failed to properly draw the boundary of *qiyās* in this context. As a renowned, contemporary scholar of Islamic jurisprudence, Mohammad Hashim Kamali, has aptly articulated:

Marriage differs from other transactions; business transactions are personal matters but marriage concerns the family and the social status of the parents and guardians. Hence an analogy between marriage and other transactions is unjustified.⁸¹

The ramifications may be better explained in terms of the concept of commodity. A commodity is “an article of trade or commerce”,⁸² “an exchangeable unit of economic wealth, esp. a primary product or raw material”,⁸³ “a class of economic good”,⁸⁴ or “an economic good”.⁸⁵ Does ‘commodity’ include other generic meaning, such as something of value, usefulness or benefit? Yes, these meanings are also listed in all the dictionaries. However, those generic ones are neither primary nor contextually relevant, because when invoking the sale analogy, the sense in which it is used is obvious.

Invoking sale analogy is invariably assigning the notion of commodity to women in this context of marital relationship. There is a related notion, property, which makes it even more problematic. A property is: “something owned or possessed”, “the exclusive right to possess, enjoy, and dispose of a thing”,⁸⁶ “that which a person owns; the possession or possessions of a particular owner”, “goods, land, etc., considered as possessions”.⁸⁷

The notions of commodity and property are related because while all properties are not necessarily commodities, but all the commodities can be properties, and thus, owned. Once again, invoking sale cannot be separate from treating something as commodity and property that can be owned. By applying the sales contracts as the basis for *qiyās* to marriage contracts, essentially the women are commodified, i.e., reduced to commodities that can be owned and traded.

Yet, how in the world could the Muslim scholars gloss over this aspect that through such application of commercial concepts they were commodifying women? To understand this issue, one has to probe a little deeper to the human level. In reality, the orthodox or traditional scholars have not commodified just the women, but also have commodified the human being in general through their view about slavery.

The orthodox position is that Islam did not prohibit slavery, which is contrary to the essential Islamic view about fundamental human dignity.⁸⁸ Slavery means treating some human beings as property that can be owned and as a commodity that can be traded, even on a contractual basis. Once anyone is reconciled with the permissibility or acceptability of slavery, it is not a far-fetched leap to commodify women and then resort to frame their rights in analogical reference to sales contracts. Given the otherwise noble, conscientious and sensitive character of the Muslim scholars, it would be unfair to argue that they were consciously overextending these *qiyās*-based rulings. But the reality is that they did overextend such applications and, lacking other potential explanations, due to this factor that they did uphold the permissibility of slavery – meaning, human beings can be owned and traded

and sales contracts can be applied to them – the extension of the *qiyās* to marriage contract as analogical equivalent of sales contract was an easy gloss-over.

It needs to be noted, however, that human beings must be excluded from the scope of property – things that can be owned – and of the scope of commodity – that can be traded or bought and sold. Once this is recognised, the problem with the scholars' misapplication of *qiyās* becomes obvious. The burden of this misapplication, however, should not be placed on Islam, because Islam does uphold the fundamental human dignity and if we believe in and affirm that, then human beings cannot be owned like property and traded like a commodity.

What Else Could Have Prevented this Commodification?

As slavery and concubinage continued to be in practice, commodification was a reality. However, in the sphere of law or legal discourse, this potentially could have been prevented or at least challenged, had it not been that the Islamic legal discourse and the resulting corpus of Islamic law were developed and shaped by the exclusive domain of the male.

It is noteworthy that the qur'ānic message in regard to genders is highly egalitarian. During the time of the Prophet Muḥammad as well as the Rightly-Guided Caliphs (*al-khulafā' al-rāshidūn*), women played a role in the society that could not be significantly distinguished from men's. There were several women personalities, such as Ayesha, who served as jurists of the highest stature and were acknowledged during that time as highly capable and leading experts in legal and religious matters. Gradually women's roles were marginalised, until, except a few areas like *ḥadīth*-scholarship,⁸⁹ they disappeared from the public view. The juristic or legal discourse then became a male-exclusive domain.

The absence of women, contrary to the experience of the earliest generations of and since the era of the Prophet Muḥammad, in itself is a serious question to be addressed. However, even though the male scholars in general cannot be judged or blamed for any misogynistic bias or prejudice, quite undoubtedly qualified female input to that discourse was lacking. During the early periods since the time of the Prophet there were capable and vigilant women who corrected their male counterparts, whenever they saw anti-women biases. That voice was and generally still is absent from the Islamic legal discourse.

In general, men and women should be equal participants in the Islamic legal discourse and their presence could have then and can now prevent such commodification, whether that is an innocent gloss over or it is rooted in misogyny. The Prophet himself involved his community – male and female – in deciding the strategy to follow during the Battle of Uḥud and despite the less than favourable outcome for the Muslims the consequences of the decision cannot be held to mitigate against the need to institute a process of consultation and representation nevertheless. Earlier,

Muslim women happened to be among the participants who swore the Allegiance of Ridwān to the Prophet; this is reason enough not to tolerate the absence of Muslim women in juristic and *sharī'ah*-related matters, particularly in those deliberations that affect them.

Of course, women should be part of juristic discourse at all levels, including at the very highest level of *ijtihād*. Muslims should find the absence of women a serious violation of the qur'ānic view about women being men's mutual *awliyā'* (guardians). And any juristic position that deviates from this position should be regarded as deficient. In other words, any juristic view, position, opinion or *fatwā* involving women which emanates solely from an exclusively male club of jurists should be considered deficient by default unless proven otherwise and incontrovertibly. As far as the general juristic discourse occurs in the present that one half of the mutual *awliyā'* is absent must be acknowledged. Some effort needs to be effected to remove this imbalance and deficiency gradually but surely, not out of some benevolent generosity to women, but for the benefit and wholeness of society. The revered generation of companions who accompanied the Prophet was not complete without 'Ā'ishah, Umm Salamah, and other women who acted as mentors, guides, teachers and jurists. This state of affairs should be true for all time, where, for a balanced community, let alone the notion of buying and selling each other, men and women must play their role as mutual *awliyā'* (guardian, protector, friend)⁹⁰ of each other.

Conclusions and Recommendations

Analogical reasoning, *qiyās*, is one of the most common methods human beings employ in all areas of knowledge. The Islamic scholars and jurists have also utilised it extensively, and in many cases it has been practised brilliantly and effectively. However, in certain cases, especially when carried away by legalistic and literalistic tendencies, *qiyās* has led to conclusions and rulings that are inconsistent with the Islamic precepts, leading to its illegitimate application. This does not mean that there is a general problem with *qiyās* as a methodology; it remains a valid component of the jurist's toolkit to formulate laws and codes. However, it is important to note that scholars need to be humble enough to disclose and disclaim the product of such exercises as fallible. They also need to practise extreme caution in not becoming carried away when employing these tools of human reasoning. Furthermore, the discussion about *qiyās* is also pertinent in the context of the discourse concerning the *sharī'ah* in general, where it is presented as divine and immutable. *Qiyās*, in particular, is illustrative of the fact that there is hardly any element that is divine about it. This is so because it is an essentially human exercise in reasoning; many aspects of the *sharī'ah* relying on the practice of *qiyās*.

AbuSulayman makes another important point about the micro-level application of *qiyās* to piecemeal issues without assuming a more holistic or systematic approach or perspective.

Qiyas can no longer be partial or call for an issue-by-issue approach. It has to be systematic, conceptual, abstract, and comprehensive.⁹¹

The overuse or inappropriate exercise of *qiyās*, especially in the search for the ‘*illah*’, delinked from *ḥikmah* (rationale or wisdom) and lacking a systematic perspective, has contributed toward the current rigidity, legalism and dysfunctional behaviour of the Muslim world. *Qiyās*, or analogical reasoning, will remain a valuable part of the Islamic methodology of jurisprudence come what may. However, the authoritativeness attributed toward the method and toward its products has to be brought back down to a realistically defensible level.

Once again, a law does not become Islamic because of an exercise in *qiyās*, which is speculative application, yielding non-definitive outcomes. Instead, a law becomes Islamic when it meets all of the following conditions:

- the formulation of the law must be rooted in the foundational sources of Islam;
- it is derived with explicit attention to the *maqāṣid* and values of Islam, and
- the adoption and enactment of the law by the society occurs through *shūrā* (consultation and representation).

Kamali, an eminent contemporary scholar of Islamic jurisprudence, remarks:

Wisdom and application of ‘good sense’, rather than a mechanical or fixed set of logical rules, is recommended in the determination of *ratio decidendi*. [...] But the rigidity that the Muslim jurist tried to avoid in this instance was visited upon him through the imposition of burdensome technicalities on *qiyās*. The correct advice in both instances is surely to avoid rigid conformity to precedent at the expense of losing sight of the broad purpose and objective of the law.⁹²

The present generation of scholars, with women as scholars and jurists present at the table of the relevant discourse, needs to follow in the footsteps of the original scholars of Islam by disregarding their mistakes and building on their successes – theirs has been a vital contribution to the systemisation of the various Islamic codes and laws, after all. The original scholars in every epoch have approached their pertinent field of interest with the highest regard to the past generations and the contributions they made to Islamic knowledge. By the same token, they also never wavered in identifying mistakes, whenever applicable, and in turning to the Qur’ān and the legacy of the Prophet, as well as resorting to human reasoning and conscience, to offer newer or improved perspectives and articulation.

And so is this approach applicable here. The vast treasure of knowledge and wisdom left behind by the earlier generations of brilliant and noble scholars must be respected, learned and applied, but in a forward-looking manner. The new generation of scholars must correctly discern the issues affecting the current period and endeavour to shape the future not merely through the lens of the past generation of scholars and their works, but through the lens of the Qur'ān and the Prophetic legacy. By doing so, the Muslim forebears will neither be disrespected nor will their work be discarded. Instead, following their lead is the way to ensure that they remain endeared and paid homage to. Thus, a forward-looking approach and perspective, guided by the Qur'ān and the Prophetic legacy, and enriched by the learning of the past becomes the present and future imperative. An essential foundation of this forward-looking approach has to be steadfast acknowledgement of the fundamental human dignity, which also means that human beings cannot be commodified: women or men cannot be owned and cannot be traded (bought and sold) and their rights and duties must not be framed in commercial exchanges or buy–sale type contracts.

Notes

1. Mohammad Hashim Kamali, *Shariah Law: An Introduction* (Oxford: Oneworld, 2008); M.N. Siddiqi, “Relevance and Need for Understanding the Essence of Religious Traditions in the Contemporary World”, paper presented at the International Seminar on Inter-Civilisational Dialogue in a Globalising World, Institute of Objective Studies, New Delhi, 8–10 April 2005, available online at http://www.siddiqi.com/mns/Relevance_April2005_Delhi.htm (accessed on 8 May 2006).
2. For pertinent information and analysis of this un-Islamic and inhuman experience, see Mohammad Omar Farooq, “Rape and Hudood Ordinance: Perversions of Justice in the Name of Islam”, available online at <http://www.islamicity.com/articles/Articles.asp?ref=IC0612-3179> (accessed on 21 June 2007), and A. Quraishi, “Her Honor: An Islamic Critique of the Rape Laws of Pakistan from a Woman-Sensitive Perspective”, *Michigan Journal of International Law* 18 (1997), 287–320.
3. M. Hasan, “Women’s Personal Law Board”, *Milli Gazette* [New Delhi], 16–28 February 2005; “Muslim Women Form Their Own Personal Law Board”, *Deccan Herald* [Bangalore, India], 3 February 2005.
4. This highly critical view about the Taliban perspective of Islam should in no way be interpreted as an endorsement of any invading and occupying external force in Afghanistan.
5. There is no consensus about specifically demarcating various periods in the history of the development of Islamic law. However, there is little disagreement about the fact that by the third/fourth *hijri* century orthodoxy had taken shape. See Wael Hallaq, *The Origins and Evolution of Islamic Law* (Cambridge: Cambridge University Press, 2005), 1.
6. A. AbuSulayman, *The Islamic Theory of International Relations: New Directions for Islamic Methodology and Thought* (Herndon VA: International Institute of Islamic Thought, 1987), 2. Unless mentioned otherwise, all emphases are from the author of this article.
7. A. Hasan, *The Doctrine of Ijma: A Study of the Juridical Principle of Consensus* (New Delhi: Kitab Bhavan, 2003), 21.
8. Mohammad Omar Farooq, *Toward Our Reformation: From Legalism to Value-Oriented Islamic Law and Jurisprudence* (Herndon VA: International Institute of Islamic Thought, 2011, forthcoming).

9. A. Hasan, *Analogical Reasoning in Islamic Jurisprudence: A Study of the Juridical Principle of Qiyas* (Islamabad: Islamic Research Institute, 1986), 424.
10. Being self-critical generally means being critical of oneself. However, the sense in which self-critical perspective is used here refers to a positive approach where before shifting blames to others or adopting fault-finding attitude focused on others, one should begin any scrutiny with oneself and continuously be on guard about one's own weakness or shortcoming. This does not mean always finding or trying to find fault with oneself. Even when we are conscious about the possibility that we can err or have shortcoming is part of a self-critical approach.
11. Yusuf al-Qaradawi, "The Lawful and the Prohibited in Islam", undated, available online at http://www.witness-pioneer.org/vil/Books/Q_LP/Int.htm (accessed 17 May 2007), 14–15.
12. M. Muslehuddin, *Philosophy of Islamic Law and the Orientalists* (New Delhi: Taj Company, 1986), 140.
13. AbuSulayman, *The Islamic Theory*, 66.
14. Majid Khadduri (tr. with introduction and notes), *Al-Shafi'i's Risala: Treatise on the Foundations of Islamic Jurisprudence* (Cambridge, England: Islamic Texts Society, 1987, 2nd ed.), 78.
15. Hasan, *Analogical Reasoning*, 425, quoting Ibn Qutaybah, *Ta'wil mukhtalif al-hadith* (Cairo: Maṭba'ah Kurdistān al-'Ilmiyyah, 1326AH/1908), 65.
16. Muslehuddin, *Philosophy*, 136.
17. Farooq, *Toward*.
18. Kamali, *Shariah Law*, 128.
19. Hasan, *Analogical Reasoning*, Chapter Three.
20. A. Hasan (tr.), *Sunan Abū Dawūd*, 3 vols (New Delhi: Kitab Bhavan, 1990), vol. 3, no. 3,585.
21. Hasan, *Analogical Reasoning*, 454, referring to Ibn Ḥazm's *Mulakhkhaṣ ibtāl al-qiyās wa'l-ra'y* (Cairo: Maṭba'ah Jāmi'ah Dimashq, 1960), 14.
22. M.M. Khan (tr.), *Saḥīḥ al-Bukhārī*, 9 vols (Medina: Mediana University, n.d.), "Book of Holding Fast to the Qur'an and Sunnah", Chapter 7, "Bāb mā yudhkaru min dhamm al-ra'y wa takalluf al-qiyās", 9:305, and Chapter 8, "Wa lam yaqul bi ra'y wa lā bi-qiyās", 9:307.
23. "It has been aptly argued that the headings of the various chapters of the *Saḥīḥ* constitutes the *fiqh* of al-Bukhārī" (M.Z. Siddiqi, *Hadith Literature: Its Origin, Development and Special Features* (Cambridge, England: Islamic Texts Society, 1993), 57). An alternative view is that the chapter titles in al-Bukhārī are not necessarily his own personal opinion but what he regarded as the prevalent view.
24. Muslehuddin, *Philosophy*, 137.
25. Hasan, *The Doctrine*, 130.
26. Muslehuddin, *Philosophy*, 148.
27. *Ibid.*, 137.
28. *Ibid.*, 140.
29. Hasan, *Analogical Reasoning*, 12.
30. N. Shehaby, "'Illa and Qiyas in Early Islamic Legal Theory", *Journal of the American Oriental Society* 102, no. 1 (January–March 1982), 27–46; M. Fadel, book review of *Analytical Reasoning in Islamic Jurisprudence: A Study of Juridical Principle of Qiyas* by Ahmad Hasan, in: *The Journal of Law and Religion* 15, no. 1–2 (2000–01), 359–62.
31. K. Dunbar, "Analogy", undated, available online at <http://www.diplomacy.edu/Language/Analogies/default.htm> (accessed on 11 March 2007).
32. Stella Vosniadou and Andrew Ortony, "Similarity and Analogical Reasoning: A Synthesis", in: Vosniadou and Andrew Ortony (eds), *Similarity and Analogical Reasoning* (Cambridge: Cambridge University Press, 1989), 1.
33. B. Mistler, "Masters of Analogies: The GRE Is to the MAT as Freud Is to James", undated, available online at <http://old.apa.org/apags/edtrain/gre.html> (accessed on 5 May 2007).
34. Kamali, *Shariah Law*, 265–6; Shehaby, "'Illa and Qiyas", 42; U. Moghul, "Approximating Certainty in Ratiocination: How to Ascertain the 'Illah (Effective Cause) in the Islamic Legal System and How to Determine the *Ratio Decidendi* in the Anglo-American Common Law", *Journal of Islamic*

- Law 4* (Fall–Winter 1999), 19; Hasan, *Analogical Reasoning*, 2, referring to al-Ghazālī, *Maqāṣid al-falāsifah*.
35. Hasan, *Analogical Reasoning*, 128. The dates in this quote were given in AH. For the sake of consistency throughout this article those have been substituted with CE.
 36. S. Alauya, *Fundamentals of Islamic Jurisprudence* (Manila: Rex Book Store, 1999), 37.
 37. H.A. Al-Ati, *The Family Structure in Islam* (Indianapolis IN: American Trust Publications, 1977), 56.
 38. *Ibid.*, 59–63.
 39. Ziba Mir-Hossini, “Tamkin: Stories from a Family Court in Iran”, in: Donna Bowen and Evelyn Early (eds), *Everyday Life in the Muslim Middle East* (Bloomington IN: Indiana University Press, 2002), 137.
 40. Al-Ati, *The Family*, 64–5.
 41. *Ibid.*, 67.
 42. *Ibid.*, 68–9.
 43. *Ibid.*, 68.
 44. *Ibid.*
 45. Meaning, dowry (*mahr*).
 46. C. Hamilton (tr. with introduction and notes), *Al-Hedayah* by Al-Marghinani (Karachi: n.p., 1989, 2nd ed.), 150.
 47. *Ibid.*
 48. *Ibid.*, 151.
 49. *Ibid.*, 92.
 50. Al-Qayrawānī (d. 996 CE), Section 31.13a.
 51. *Ibid.*, Section 32.3.
 52. *Ibid.*, Section 32.4e.
 53. Ibn Al-Naqīb, *Reliance of the Traveller: The Classic Manual of Islamic Sacred Law (Umdat Al-Salik)*, tr. Nuh Ha Mim Keller (Beltsville MD: Amana Publications, 1997), m3.2.
 54. Ibn Qudāmāh, 8:173–6, quoted in Oussama Arabi, *Studies in Modern Islamic Law and Jurisprudence* (Leiden: Brill, 2001), 181.
 55. “Refutations of the validity of *qiyas* are to be found in Imami Shi’i collections of reports (*akhbar*), all available Shi’i works of *usul al-fiqh*, polemics against Sunni thought and not infrequently in works of *furu’ al-fiqh*” (Robert Gleave, “Imami Shi’i Refutations of Qiyas”, in: Bernard Weiss (ed.), *Studies in Islamic Legal Theory* (Leiden: Brill, 2002), 267). Apparently, the *uṣūlīs*, the now dominant group of the Twelver Shi’ites, do accept the validity of *qiyās*. “In contrast to most scholars of the rival camp, the *usuli* jurists practiced *ijtihād* by employing analogical deduction (*qiyas*) in order to infer opinions from the text of the Qur’an and the hadith” (Abbas Amanat, “From *ijtihād* to *wilayat-i-faqih*: The Evolution of the Shiite Legal Authority to Political Power”, in: Abbas Amanat and Frank Griffel (eds), *Shari’a: Islamic Law in the Contemporary Context* (Palo Alto CA: Stanford University Press, 2007), 124).
 56. Muhammad Khalid Masud, “The Award of *Mata’* in the Early Muslim Courts”, in: Muhammad Khalid Masud, R. Peters and David Powers (eds), *Dispensing Justice in Islam: Qadis and their Judgments* (Leiden: Brill, 2006), 360.
 57. Al-Ati, *The Family*, 69.
 58. *Ibid.*, 70.
 59. Hamilton (tr.), *Al-Hedayah*, 401–2.
 60. B.M. Dayal (tr. with introduction and notes), *Durr-ul-Mukhtar by Al-Haskafi* (New Delhi: Kitāb Bhavan, 1992), 322.
 61. Hamilton (tr.), *Al-Hedayah*, 402.
 62. *Ibid.*, 392.
 63. Dayal (tr.), *Durr-ul-Mukhtar*, 316.
 64. Hamilton (tr.), *Al-Hedayah*, 396.
 65. Al-Ati, *The Family*, 151.

66. Ibid., 152.
67. Ibid.
68. Moghul, "Approximating", 15–16.
69. Al-Ati, *The Family*, 155.
70. Ibid., 154–5.
71. Hamilton (tr.), *Al-Hedayah*, 392.
72. J. Cowan (ed.), *Arabic–English Dictionary: The Hans Wehr Dictionary of Modern Written Arabic* (Ithaca NY: Spoken Language Services, Inc., 1976), 153.
73. Dayal (tr.), *Durr-ul-Mukhtar*, 316.
74. Azizah Al-Hibri, "The Nature of Islamic Marriage: Sacramental, Covenantal, or Contractual?" in: John Witte and Eliza Ellison (eds), *Covenant Marriage in Comparative Perspective* (Wm. B. Eerdmans Publishing, 2005), 185.
75. Ahmad ibn Muhammad Tahawi, *Functions of Documents in Islamic Law: The Chapters on Sales from Tahawi's Kitab al-Shurut al-Kabir*, tr., ed. Jeanette Wakin (Albany NY: SUNY Press, 1972), 38.
76. A.H. Siddiqi (tr. with introduction and notes), *Ṣaḥīḥ Muslim*, 4 vols (Lahore: Sh. Muhammad Ashraf, 1982), no. 3,465.
77. Cowan (ed.), *Arabic–English Dictionary*, 890.
78. Abdur Rahman I. Doi, "Women in the Qur'an and the Sunnah", undated, available online at http://islamic-world.net/sister/in_the_quran.htm (accessed on 6 October 2010).
79. Siddiqi (tr.), *Ṣaḥīḥ Muslim*, #3,465.
80. Sangh Mittra and Bachchan Kumar, *Encyclopaedia of Women in South Asia: Afghanistan* (Delhi: Kalpaz Publishing, 2004), 99.
81. Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 2003, 3rd ed.), 188.
82. <http://www.Dictionary.com>
83. World English Dictionary, <http://dictionary.reference.com/browse/commodity>
84. Legal Dictionary, <http://dictionary.reference.com/browse/commodity>
85. <http://www.merriam-webster.com/dictionary/>
86. Ibid.
87. <http://www.Dictionary.com>
88. Mohammad Omar Farooq, "Fundamental Human Dignity and The Mathematics of Slavery", available online at http://www.globalwebpost.com/farooqm/writings/islamic/slavery_math.html (accessed on 21 June 2007).
89. Idem, "Women Scholars of Islam: They Must Bloom Again", *Message International* 28, no. 8–9 (August–September 2003), 27–33.
90. Qur'an 9:71.
91. AbuSulayman, *The Islamic Theory*, 84.
92. Kamali, *Principles*, 301.

VIEWPOINTS

The Greeting of Peace-Security (*al-Salām* ‘*alaykum*): Uncovering the Basis of Islamic Peace

Karim D. Crow*

A distinctive characteristic of Muslims is the exchange of greetings saluting one another with *al-salām* ‘*alaykum*! – along with the response ...*wa ‘alaykum al-salām*! This is usually translated as “peace be upon you!” and “and upon you peace!” (This is a shortened form of the fuller phrase; see below.) Here *salām* is normally understood today as ‘peace’, while its sense might better be rendered: ‘greetings of security-peace’. This greeting is known as *taḥiyyat al-islām*, ‘the salutation of Islam’, and conveys wishing for the other person that God grant them a long successful life of peace secure from harm. When the Prophet’s paternal cousin Ja‘far b. Abī Ṭālib in 615 (seven years before the migration of the Prophet to Medina in 622) described the essence of Islamic guidance to the Ethiopian Emperor, the ‘Negus’ (*al-Najāshī*) of Islamic literature, at his court in Axum, Ja‘far emphasised this ‘salutation of Islam’ as a new practice specific to their religion. A closer examination of this important phrase frequently expressed on the lips of Muslims, discloses how inseparable the conceptions of security and peace truly are in Islamic experience.

Greetings in Prayer

A parallel use of this famous greeting occurs at the very conclusion of Islam’s ritual prayer with the double salutation of *taslīm*, first to one’s right and then to the left, marking the completion of the formal *ṣalāt*. The act of *taslīm* involves dual repetition of the full phrase: *al-salām* ‘*alaykum wa raḥmat Allāh*’ *wa barakātuh*’, “Peace-Security be upon you, and God’s Mercy and His Blessing”. This word *taslīm* derives from the Arabic verbal stem II *sallama* (‘to make or render salutations of peace-security’), as in the formula of praise and blessing invariably invoked upon mentioning the Prophet Muḥammad – see Qur’ān 33:56, “God and His angels make blessings upon the Prophet; O you who believe, do you also bless him and

* Karim D. Crow is Principal Research Fellow at IAIS Malaysia.

render him salutations of peace-security” ([...] *ṣallū ‘alayhi wa sallimū taslīman*).¹ The frequently uttered eulogy praising God’s Messenger Muḥammad – “May God bless him and give him peace” (*ṣallā llāhū ‘alayhi wa sallam*) – conveys sincere benedictions and hopes that the Prophet enjoy the highest reward and beatitude in the Hereafter, namely in Paradise. We should recall that the phrase *dār al-salām*, ‘The Abode of Peace-Security’, refers to Paradise. Qur’ān 10:25 states: “God invites to the Abode of Peace-Security and He guides whom He wills upon a straight path” (*wa ‘llāhū yad ‘ū ilā dārī ‘l-salāmi wa yahdī man yashā ‘ū ilā ṣīrāṭin mustaqīmīn*). The faithful who gain entry to Paradise by working good deeds attain to friendship with God, as Qur’ān 6:127 states: “For them is the Abode of Peace with their Lord, and He is their Friend on account of what they performed.”

The *taslīm* is always preceded by the ‘benediction of salutations’ (*al-taḥiyyāt*)² forming an integral part of the ritual prayers, in which greetings and praises are pronounced upon God, while ‘salutations of peace’ are declared upon the Prophet and upon the righteous worshippers of God. In its fullest form at the end of the cycle of prostrations (two at dawn; three at sunset; or four at noon, mid-afternoon and eve),³ it includes the portion of benedictions termed *al-tashahhud* – where the witnessing to God’s Oneness and His Messenger is declared. It is significant that the *taḥiyyāt* voices ‘salutations of peace’ (*al-salām* ‘*alayk*’, and *al-salām* ‘*alaynā*’) upon the Prophet and one’s fellow worshippers – but not specifically to God.

There remains another frequently repeated utterance closely associated with the *taslīm* which completes the daily prayers, namely the supplication offered by the individual upon consummating each of the five daily prayers, affirming God as the ultimate source and origin of all peace. This beautiful invocation is not obligatory yet highly recommended, being known in Islamic tradition as the personal practice of God’s Messenger and recorded in authoritative *ḥadīth*:

O God, You are Peace-Security (*al-Salām*), You are the Source of Peace, and Peace properly belongs to You.⁴ So greet us Lord with the salutation ‘Peace!’ (*fa-ḥayyinā rabbanā bi ‘l-salām*), and admit us into the Paradise Garden the Abode of Peace. Blessed and Exalted are You our Lord, Possessor of Splendour and Reverence. (reported by al-Tirmidhī and al-Nasā’ī)

The Muslim aspiration for peaceful security in this world and ultimate salvation and security in the Hereafter is echoed in this prophetic supplication. This confirms the reality that peace and security together involve both material and spiritual factors in the most inclusive sense. We may observe that here again, ‘salutations of peace’ are not uttered specifically upon God, although the word *salām* occurs five times. Here the phrase “so Greet us Lord with the salutation ‘Peace!’” (*ḥayyinā [...] bi ‘l-salām*) has the meaning of our beseeching God to include us among the

faithful admitted to Paradise, and to whom He extends His glorious salutation of ‘Peace-Security’.

Such a meaning is clearly established by several verses in the Qur’ān affirming that the greatest boon the inhabitants of Paradise may receive from God is His saluting them by the salutation of ‘Peace!’: 36:58 “[They will be greeted with:] ‘Peace!’ – a word (of greeting) from the Merciful Lord”; and 10:9–10 portrays the faithful who perform good works as guided by God to Paradise, where: “[...] Their supplication therein shall be, ‘Glory be to Thee O God!’ and their salute to one another therein shall be ‘Peace!’” The highest degree of the faithful in Paradise are ‘the Foremost’ (*al-sābiqūn*), who merit the outstanding grace described in 56:25–6 whereby “They will hear therein no vain or sinful speech, only the word of salutation – ‘Peace, Peace!’” The highest hope and aspiration of Muslims should be to reach the place where only the greetings and declarations of peace are uttered. Thus, they must strive to achieve peace, just as they implore God to grant them peace.

Safety and Resignation

The fact that ‘greetings of peace-security’ are daily repeated by Muslims in their prayers and social interaction reinforces the essential relevance of *al-salām* for the religion which named itself *Islām*. Arabic linguistic sources emphasise that the name *al-islām* for the religious polity established by the Prophet Muḥammad is etymologically derived from *al-salāmah* – ‘safety-security from harm-evil’ or ‘avoidance of defects-vices’.⁵ This conjunction with *al-salāmah* coincides with the notion of providing assurance of safety and security from harm or evil through guarantee of peaceful intent conveyed by the greeting *salām* ‘salutations of security-peace’. The authoritative philologist Abū ‘Abd al-Raḥmān al-Khalīl b. Aḥmad al-Farāhīdī (d. c. 791), who authored the first etymological dictionary in Arabic, made clear the connection with the greeting *al-salām* “*alaykum* instituted by Islam:

The term *al-salām* conveys the meaning of *al-salāmah*, so the saying by the people “*al-salāmu ‘alaykum*” denotes “*al-salāmah* from God be upon you”. It is further stated that *al-Salām* is a name among God’s Names; and it is said that (*al-Salām*) is God.⁶ Thus if one says “*al-salāmu ‘alaykum*” it may mean ‘God is above you’. [...] The term *al-islām* denotes ‘seeking-conformity (*al-istislām*) to the command of God’, denoting submission to His obedience and acceptance of His bidding (*al-inqiyād li-ṭā’atihī wa ‘l-qabūl li-amrihī*).

The verb *inqāda* used here denotes ‘to follow-obey, yield, submit’. Khalīl was one of the earliest authorities to employ the idea of ‘self-resignation’ or ‘submission’ (*inqiyād*) as a main synonym for *al-islām*, something frequently repeated until the present day.

In fact, verbal stems II *sallama* ('render salutations of peace-security'; or to make *taslīm*), as well as IV *aslama* ('to deliver oneself up, surrender oneself up to') may both also signify *inqāda* ('to follow-obey, resign oneself to'). Verbal stem *sallama* – as in the phrase *sallam^a amrah^u ilā 'llāh*, 'to resign oneself [one's cause or affair] to God', as well as verbal stem *aslama* – as in *aslam^a nafsah^u [or amrah^u] ilā llāh*, 'to commit oneself, resign oneself to God's bidding', came by extension to signify 'to enter into *al-Islām*' or 'to enter into peace-security' (*al-silm*). Also recall that the qur'ānic nouns *silm* as well as *salm* (from base form *salima*) were understood to be homonyms for *islām* – the salvational religious polity originated by God's Messenger Muḥammad.⁷

Why God is *al-Salām*

The early linguistic analysis tracing the name of the faith *Islām* to the notion *al-salāmah* 'safety-security from harm-evil', and taken as synonymous with *al-salām* 'salutations of security-peace', was indirectly supported by the exegetes of the Qur'ān who often asserted that God Himself is named *al-Salām* on account of His being free of defects and faults (*al-salāmah min al-sū' wa l-ikhtilāl*).⁸ They observed that in the tongue of revelation God is not denominated *salīm* nor *sālīm*, but only *al-Salām*. Nevertheless, a cogent critique of this established linguistic and exegetical consensus was offered by the twelfth-century Andalusian scholar Sīdī Abū 'l-Qāsim 'Abd al-Raḥmān b. 'Abd-Allāh al-Suhaylī (d. 1185), in his *al-Rawḍ al-ʿunf* regarding the *taḥiyyah*, 'salutation of safety-security' (or *tashahhud*), and the divine name *al-Salām*.⁹ Al-Suhaylī bases his interpretation squarely upon utterances of the majority of Companions and early Muslim authorities, pointing out an alternative understanding overlooked in most contemporary discussions about the understanding of peace in Islam.

Al-Suhaylī asserts: "*al-salām* denotes one from whom others are safe-secure (*man sulim^a minh^u*), while *al-sālīm* denotes one who is safe-secure from others (*man salim^a min ghayrihⁱ*)". He argues that the qur'ānic commentators have displaced the former with the latter's meaning, contradicting the utterances of the pious forebears (*salaf*) who taught that *al-salāmah* is one quality among the characteristic-traits of *al-salām*. The presence of the *tā' marbūṭah* (ة) on *salāmah* points to a greater conceptual difference endowing this term with far more encompassing significance (just as e.g. with terms *al-jalāl* and *al-jalālah*).

Therefore, in the famous Prophetic supplication uttered after the closing *taslīm* of ritual prayer (given above), one does not say: *al-salām^a 'alā 'llāhi min 'ibādihⁱ* – "salutations of safety-security upon God from His servants". Rather, *al-salām* is sought for and beseeched *from* God by His servants, as petition through prayer and gratitude for bounty. Al-Suhaylī reminds us that the form of this term in the

Prophetic supplication which man renders towards God, is cast in the construction: [...] *wa minh*“ ‘*l-salām* – “and from Him (we seek bounty of) safety-security.”

Now al-Suhaylī invokes an interesting proof-text to support his view: the report in Ibn Hishām’s *Sīrah* regarding the very early incident of the Prophet’s revelation when Gabriel, the angel of revelation, instructed God’s Messenger Muḥammad to convey to his wife Khadījah the salute or greeting from God: *al-salām*“ *min rabbihā*, “salutations of peace-security from her Lord”.¹⁰

The Prophet said: “O Khadījah, this is Gabriel, he extends salutations-of-peace from your Lord!” So Khadījah said: “God is Peace – and from Him comes ‘peace-security’ – and salutations of safety-security be upon Gabriel (*Allāh*“ ‘*l-Salām*, *wa minh*“ ‘*l-salām*, *wa ‘alā jibrīl*‘ *l-salām*).”

As al-Suhaylī observes,¹¹ Khadījah rightly uttered: “God is ‘Peace-Security (*al-Salām*)”, because the term *al-salām* on the tongue of the creature is a petition for safety-security from the *source* of all security and safety; such a petition cannot be an assertion of God’s need for security from any harm.

Therefore, states al-Suhaylī, “the meaning of her utterance ‘God is *al-salām*’ was her thinking: ‘How can I respond to the divine salutation by my saying: “Upon Him peace/may security-safety be upon God (‘*alayh*‘ ‘*l-salām*)]”?’ because security-safety *comes from Him*, and is *beseached of Him*, and it is *bestowed by Him*?! But upon Gabriel may there be security-safety.” Indeed, al-Suhaylī strongly emphasises that God as *al-Salām* must not be burdened with any defect, or any fear of harm or injury, nor any variation or shortcoming. Rather, God bestows His care enclosing the entire creation (all creatures) within safety and security from harm or defect, due to His providential wise order. Therefore, God may truly be called ‘Peace’ on account of His being the ultimate source and goal of safety-security.

Conclusion

We conclude by observing that essentially *islām* connotes self-resignation and security (*al-inqiyād* or *al-salm*), for it mediates the fundamental idea of ‘affording security from harm-injury to another’, as well as ‘resignation affording safety and peace-security to oneself’. This conclusion could be tested by examining further statements employing forms of verb stem IV *aslama* attested in the Letters of God’s Messenger. We hope to do so at another time.

Notes

1. But in Qur’ān 4:65: [...] *wa yusallimū taslīm*“, here the verb *sallama* connotes ‘granting satisfaction-security by the ruling’.

2. Singular *taḥīyyah* (verbal-noun of stem II *ḥayyā* or *ḥayyiya*) denotes ‘salutation, greeting’ (i.e. *salām*^{am} ‘*alayka*’); as well as ‘security from death and evils’, or ‘everlasting existence’. Note the familiar salute *ḥayyākā llāhu*, ‘May God make you secure from harm-evil’ – or simply ‘May God prolong your life’.
3. The *al-taḥīyyāt* are uttered in short form after every second prostration, and in prolonged complete form (*tashahhud*) after the third or the fourth cycle of prostrations; except of course for the dawn prayer which consists of only two cycles.
4. *Allāhumma anta 'l-salām wa minkā 'l-salām wa ilayka ya'ūdū 'l-salām...*
5. For the etymological data on verb *s-l-m* consult the standard Arabic linguistic sources, beginning with al-Khalīl b. Aḥmad’s *Kitāb al-‘ayn* and al-Jawharī’s *Ṣiḥāḥ al-lughah*; compare Qur’ān 21:69, *kūnī bardan wa salāmam*, ‘Be cool and safe-from-harm!’; c.f. Qur’ān 97:5.
6. See the eulogy of divine names in Qur’ān 59:23: “[...] *al-Malik* ‘*l-Quddūs*’ ‘*l-Salām*’ ‘*l-Mu’mīn*’”, ‘the Sovereign, the Sanctified, the Source-of-Peace, Bestower-of-Security’. Recall the close association of *salm* with *amānah*, ‘security’ – and thus with *īmān*, ‘faith’. (It makes little sense to conceive of God as *mu’mīn* – ‘believing’ in something other than Himself.)
7. Consult my “Peace and Security: The Islamic Understanding”, *Islam and Civilisational Renewal* 2, no. 4 (July 2011), 708–13.
8. See the treatment of the Divine name *al-Salām* in the genre of writings on God’s Most Beautiful Names (*asmā’ Allāh al-ḥusnā*).
9. Abū ‘l-Qāsim ‘Abd al-Raḥmān b. ‘Abd-Allāh al-Suhaylī, *al-Rawḍ al-‘unf*, ed. Majdī b. Maṣṣūr b. Sayyid al-Shūrā (Beirut: Dār al-Kutub al-‘Ilmiyyah, n.d.), 1:418–19. *Al-Rawḍ* is an important commentary upon the Prophet’s biography, the *Sīrah*, compiled by Ibn Hishām (d. 833), who drew upon the famous eighth-century work by Ibn Ishāq (d. 761 or 767).
10. Cited by Ibn Hishām on an unnamed authority; this *ḥadīth* on the phrase *Allāh* ‘*l-Salām*’ is also cited by al-Bukhārī in his *Ṣaḥīḥ*, and in Muslim, *Faḍā’il al-ṣaḥābah* §91 (via ‘Ā’ishah).
11. Al-Suhaylī, *al-Rawḍ al-‘unf*, 1:419–20.

The *Shari'ah's* Stand on Abandoned Children

Mohammad Hashim Kamali*

Muslim jurists have addressed the issue of an abandoned child (*laqīṭ*) from different angles beginning with the existence of a basic obligation to save its life. There is general consensus that it is a collective obligation (*farḍ al-kifāyah*) of the community to save the abandoned child, and it is an obligation in the first place of the individual who finds it. That obligation is elevated to an emphatic personal duty (*farḍ al-ʿayn*) of the finder in the event of imminent fear over the death and injury of the child. This is due to the explicit qurʾānic emphasis on the sanctity of life contained in the injunction that “one who saves one life is as if he has saved the whole of humankind”. It is accordingly regarded as an act of great merit and service to humanity for the one who actually saves a life.

Other issues that have been discussed are over the parental and religious identity of the child, responsibility for its maintenance and care, and criminal acts. All of the discussion assumes the abandoned child is of unknown identity and parentage, with the central question being the saving of its life. Questions over the causes and circumstances of its birth are secondary.

The one question that is not explicitly addressed in the juristic discourse on *laqīṭ* is when the mother or father is known or identified, presumably because of an unequivocal obligation in the *shari'ah* over parental responsibility for the safety and upbringing of the offspring. Should there be desperate poverty or disability in meeting this obligation, responsibility falls on the community and state to help out. If it becomes known that the parents of the *laqīṭ* abandoned it deliberately and the person who finds it incurs expenditure for its upkeep, the latter is entitled to reimbursement if the parents happen to be affluent. Otherwise, the expenditure so incurred is considered as charity. Muslim jurists have differed as to whether the one who finds the *laqīṭ* should call for a witness before he picks the child up so as to protect against loss of identity and false claims, especially when it is found together with money and other assets. This is the position of the Shāfiʿī school with the proviso that witnessing is not a requirement if the finder is trustworthy and has a reputation for uprightness.

If the person who finds the *laqīṭ* is upright, financially capable and willing to keep it and undertake responsibility for its care, he has a priority entitlement to do so with the approval of the authorities. It is regarded an act of merit for the finder to do so just as it is also deemed to be of benefit for the *laqīṭ*. According to

* Mohammad Hashim Kamali is the Chairman and CEO of IAIS Malaysia. An earlier version appeared on 7 August 2010 in *The New Straits Times* (Kuala Lumpur).

a variant opinion, a mere claim or confession is not enough to establish a priority right and the issue of identity and descent still warrant further investigation. In the absence of a volunteer or claimant, the *laqīṭ* is taken away and placed under the care and responsibility of the state to meet all its needs from the public treasury. The judge is, in this case, the guardian of the *laqīṭ* and makes most of the important decisions concerning its upbringing, and is authorised also to appoint someone else as caretaker of the child. The state's responsibility in this regard is a focal point of juristic debate due mainly to the directive of a *ḥadīth* that "the ruler is the guardian of one who has no guardian". The only exception is when the *laqīṭ* is found with money and assets, or when it turns out to be entitled to inheritance, in which case necessary expenditures are met out of those assets. The state is also considered to be the legal heir of the *laqīṭ* in the event of his or her death.

As for the religious identity of the *laqīṭ*, the leading schools of Islamic law have differed somewhat but most say that when it is found in a Muslim country, or a Muslim neighbourhood and also the person who finds it is a Muslim, the *laqīṭ* is presumed to be a Muslim. Even when a non-Muslim finds the child in a Muslim neighbourhood, a presumption exists that the child is a Muslim. However, if it is found in a non-Muslim country or neighbourhood, a church or a temple, the child's religious identity is determined accordingly. If a Muslim happens to find the *laqīṭ* in a church or non-Muslim neighbourhood, it is presumed to be a non-Muslim. Locality and religious identity of the finder are thus the two most important indicators of identity but most consider locality to carry greater weight. A Muslim neighbourhood in a non-Muslim country would also give rise to a presumption of the *laqīṭ* being a Muslim. As for the personal identity and descent of the *laqīṭ*, it is considered to be of unknown descent (*majhūl al-nasab*) unless there is evidence to suggest otherwise. Anyone who claims the *laqīṭ* to be his child or relative is granted a hearing and the claim is granted if supported by evidence. If more than one person claims the descent of the child, and there is no other sign or evidence, facial characteristics (*qiyāfah*) and racial indicators may be considered. Early juristic discourse on this runs into some length, but now that DNA and other scientific methods have become available, such evidence has been resorted to. In the event when the *laqīṭ* suffers injury or death due to error, it is deemed as unintentional homicide and liable to the payment of blood money (*diyyah*), which is payable to the public treasury in the absence, that is, of any other legal heir. In the event of intentional criminality and murder, the head of state, in his capacity as guardian (*walī*) may claim just retaliation (*qisās*) or settle for a *diyyah* as the Qur'ān grants a certain flexibility for the *walī* to make an appropriate decision. In the event of a deliberate injury on the *laqīṭ* that does not cause death, the court may determine a suitable punishment.

The Blame-Game: The Politicisation of Western and Muslim Sexual Vices

*Christoph Marcinkowski**

In 2005, the Research Centre of Malaysia's International Islamic University (IIUM) published a study entitled *Sexual Identity: Effeminacy among University Students*¹ which features a shocking documentation of male Malay Muslim youths openly engaging in 'cross-gender' dressing and other 'immoral' acts with fellow (male) students on the campus of IIUM – Malaysia's prime institution of Islamic higher education. The following addresses this serious issue which is also closely related to the topic of the present issue of this journal – the present-day ideals and realities of the family institution.

In their introduction, the authors stated (quite appropriately, one would think) that "[h]umans are divided into two sexes: males and females. This dichotomy motivates humans to seek cooperation from each other and develop interdependence. Sex is a 'system of binary oppositions' biologically determined and invariant. The qualities of sex are manifested in one or the other way in human behaviour. The most accepted view is that it originated from instinctual characteristics and [is] supplemented with personal qualities of individuals."² They continue by arguing that "Islam [and by extension, as this writer would like to add, Christianity and Judaism] recognizes only *two* sexes: male and female, and condemns effeminacy and castration, by which an individual does not belong to either sex."³ To such a condemnation homosexual activities could be added.

Based on the authors' in-depth study one arrives at the conclusion that effeminacy and homosexuality in Malaysia are mainly a Malay affair – and to a somewhat lesser degree an ethnic Chinese and Indian issue. To the mind of this writer, however, what is even more shocking than this already disturbing scenario are the recommendations given by the authors: apart from the usual (and outdated) 're-education schemes', they would like to inculcate 'Islamic values' into the individual concerned. In the view of this writer though such an approach seems to be rather strange as one wonders how those individuals had been admitted at a religious institution of higher learning in the first place and as one would have expected a somewhat more selective approach by the authorities involved. Instead 'softies' (a term constantly and in a quite played-down fashion used by the authors for those students who are yet 'unsure' about their gender) seem to have been treated even in a rather

* Christoph Marcinkowski is Principal Research Fellow and Co-Chair of Publications at IAIS Malaysia.

accommodating manner by providing them with separate lodging on campus⁴ when one would have expected a different course of action.

Such a rather disturbing setting appears to come within an even more dreadful scenario. Within the last decade or so, Malaysia's capital city Kuala Lumpur appears to have developed into one of Southeast Asia's 'premier' travel destinations for mainly male Middle Eastern and Western 'sex tourists' of any inclination. Anyone visiting Kuala Lumpur's downtown Bukit Bintang or Central Market districts or the ground level of the capital's KLCC Petronas Twin Towers, for instance, will come across (mainly Malay-Muslim) youths annoyingly 'offering' their 'services' to often unsuspecting local and foreign shoppers and visitors. Moreover, in terms of openly operating gay and lesbian venues such as bars and discos, Malaysia seems about to outdo certain other countries in the region which are usually associated with such activities.⁵

Those who nurture fond feelings for Malaysia (like this writer who has been in the country for quite some time) are left in doubt as to how this would reflect on the country's image. Moreover, readers of this journal might also rightly ask how this would blend with the former 'Asian values' agenda or with the circumstance that not too long ago Malaysia has been one of the Muslim world's main critics of 'the West' for the latter's supposed 'immorality' and 'decadence'.

At the same time, we are on an almost daily basis bombarded with 'news' on the supposed 'moral corruption' of 'the West', such as the fact that many Western countries do allow male and female homosexuals to enter into civil law-like marriage arrangements and alike. Indeed, to many practising Muslims (and Christians) this is unacceptable. Moreover, amid all this 'West-bashing' and often politicised 'blame-game' Muslim critics tend often to forget that many westerners themselves do *not* agree with such a setting and that male homosexual prostitution in Western Europe, for instance, is firmly in the hands of gangs of Arab, Turkish, and other Middle Eastern migrant youths. In addition, what also remains often untold is the circumstance that in the West there exists something known as 'completely straight men', i.e. men who are not interested in any bisexual 'covered operations' – 'operations' which are usually associated, rightly or wrongly, by wider strata in the West with certain other non-western, 'oriental' cultures.

We are thus faced here with a projection of one's own vices into the culture of 'the Other'. What also has become clear is the blatant degree of ignorance and even misinformation of each other's culture. Especially politicians – the 'ultra Right' in the West and certain extremists or populists among the Muslims in the East – tend to use those information deficiencies to mobilise their respective constituencies prior to general elections or in times of internal crises. As, however, has hopefully also become clear just now, 'sexual vices' aren't necessarily something which is peculiar to one particular culture or civilisation.

Conclusions and Recommendations

Where are we to go from here? What is perhaps needed is a closer look at one's *own* ongoing concerns before pointing the finger at 'the Other'. As we have seen above, Malaysia, for instance, is currently facing rather serious issues:

- In general, a somewhat less nonchalant attitude toward social vices and disorders which are unacceptable to both Christianity and Islam would be in place.
- However, both Islam as well as Christianity reject inquisitorial means or activities by vigilantes. Homosexuality and effeminacy should only be seen as a social issue once they start to interfere with traditional values of a nation. No one should be singled out or spied upon.⁶
- What the abovementioned IIUM-study seems also to have revealed is that Malays are less able to cope with modernity and some of the less fortunate influences brought by globalisation. Contrary to the views of the authors, however, this appears not to be due to a supposed lack of religious education – Malaysia is already featuring to the mind of some observers *too many* disconnected Islamic educational institutions – but because of the narrow perspective of the provided teaching.
- Homosexuality and effeminacy in Malaysia are not something which has been inherited from the 'decadent West' and brought into the country by the 'evil white man' but appear to be rather 'home-grown'. Moreover, those two phenomena have also been quite frequent in the Arab, Persianate, and Turkic literatures throughout the last thousand years or so.⁷ Not every 'beloved' mentioned on the pages of Persian poetry, for instance, is necessarily to be identified with God – especially if that 'beloved' is described with all the trappings of an adolescent male.
- The initially referred to IIUM study has merely *described* a growing problem but has not offered any practical solutions, especially in terms of the issue why homosexuality and effeminacy appear to be a problem that is mainly faced by Malay-Muslim youths. The Malaysian government is therefore urged to commission more *comprehensive* studies into the issue – preferably carried out also (but not only) by academics from *outside* the country in order to ensure objectivity.
- The reasons behind the comparatively high divorce-rate among the Malays too need to be investigated more thoroughly, in particular within this context. The research should also emphasise the 'home-grown' origin of the issue in order to come up with *realistic and practicable solutions* – solutions that go perhaps beyond the usual one-size-fits-all advice of "do your prayers" and "don't watch

too much HBO". A good beginning would be a closer investigation into the notorious 'dorm culture' of local universities and colleges.

- Supposed or real 'sexual vices' then should not be politicised as the fault of 'the Other' – as we have just seen, such an approach could easily backfire.
- And finally, perhaps it would be time to review Malaysia's 'Islam policies' of the past decades which appear to have focused on mere externals.

Notes

1. Noraini Mohd Noor, Jamil Farooqi, Ahmad Abd. Al-Rahim Nasr, Haziran bin Mod Noon, and Shukran Abdul Rahman, *Sexual Identity: Effeminacy among University Students* (Kuala Lumpur: International Islamic University Malaysia, 2005).
2. Ibid., 1.
3. Ibid., 7 (emphasis added).
4. Information provided to the author by IAIS Assistant Research Fellow Abdul Karim Abdullah (Leslie Terebessy).
5. For an update on what is currently *really* going on in the country in this regard see Jerome Kugan and Pang Khoo Teik (eds), *Body 2 Body: A Malaysian Queer Anthology* (Petaling Jaya [Malaysia]: Matahari Books, 2009, 2nd ed.).
6. See, for instance, Qur'ān 49:12: "O ye who believe! Avoid suspicion as much (as possible): for suspicion in some cases is a sin: And spy not on each other behind their backs. Would any of you like to eat the flesh of his dead brother? Nay, ye would abhor it [...]. But fear Allah. For Allah is Oft-Returning, Most Merciful."
7. See, for instance, Stephen Murray and Will Roscoe (eds), *Islamic Homosexualities: Culture, History, and Literature* (New York: New York University Press, 1997); Samar Habib (ed.), *Islam and Homosexuality*, 2 vols (New York: Praeger, 2009); and Brian Whitaker, *Unspeakable Love: Gay and Lesbian Life in the Middle East* (Berkeley CA: University of California Press, 2006).

Contemporary Malaysian Families: Evidence-Based Interventions

*Aminah Abdul Rahman**

Malaysian families today are facing numerous challenges related to changing family values and structures, pressures of complex family responsibilities and inadequate support systems. Some of these key challenges include increase in divorce, family dysfunction, child abuse, abandoned babies, domestic violence, drug addiction, HIV/AIDS and family related matters such as family economic instability. At the same time, the impact of globalisation has led to new values being accepted by the young people. Indeed, the challenges that Malaysian families will be facing in the future will be tremendous. Despite changes in their structure, families remain the most basic unit of society. Today's families need support to build resilience to meet life's challenges. The success or failure of each family unit to meet the challenges of the various tasks during the course of development, will determine the future of Malaysian families. Hence, the Ministry of Women, Family and Community Development (MWFCD) and the National Population and Family Development Board (NPFDB) as a lead agency in family matters has spearheaded the national agenda on family which includes policy, research and development as well as intervention programmes.

A family is a living, evolving institution, affected by socio-economic factors as well as by the changes that shape the social environment in which it functions. More often, the changes and transformations have brought both gains and losses to the family institution. Hence, the challenge today is to embody positive changes and secure those in the new environment, and at the same time, to mitigate the negative consequences of changes, without dampening the momentum for positive evolution.

Strong family systems can provide the support for successfully meeting these demands and for encouraging the healthy emotional and physical growth of their individual members. Although families vary in size, structure, organisation, and across cultures, all families are faced with the challenge of making their family the 'no. 1 priority'.

When families break down and fail to provide support for their members, the effects reverberate across society. Therefore, it is important for the entire community to support the formation and strengthening of families. When the government and community work together to create an environment that is conducive to marriage, families and raising children – by shaping values, attitudes and life choices – it is

* Aminah Abdul Rahman is the Director General of Malaysia's National Population and Family Development Board (NPFDB).

because *family matters*! Recognising the need to strengthen families towards the realisation of a caring society, quality population and a progressive nation, efforts are being undertaken by the Malaysian Government to ensure that the family institution is strong and resilient.

Trends, Challenges, and Interventions

Currently, Malaysia has a population of 28.3 million, with a growth rate of 2.5% per annum. Data from the Population Census 2000 shows that young adults tend to marry at a later age. Consequently, the proportion of never married (single) persons aged 20–34 years continued to increase between 1991 and 2000 from 43.2% to 48.1%. Among females aged 20–24 years, 68.5% were single in 2000 compared to only 60.2% in 1991. Similar patterns were also observed for females in the 25–34 age group, as well as among males. The mean age at first marriage has been rising for men and women. Between 1980 and 2000, the mean age at first marriage for men increased from 26.6 years to 28.6 years. For women, the mean age at first marriage increased from 23.5 years to 25.1 years.

The number of households has increased at a higher rate than population growth (3.8% per annum compared to 2.5% per annum). Hence, from 4.8 million households in 2000, there are almost 7 million households or families in 2010. About 66% are nuclear compared to 60% during the 1991 Census. There was also a slight increase in other types of families, such as single households and unrelated-persons households.

The average household size has dropped from 4.8 persons in 1991 to 4.6 persons in 2000. Family size has declined due to many reasons. Many women are seeking tertiary education, participating in the labour force and also delaying age at first marriage. Furthermore, more couples are delaying the birth of their child until they are well established professionally and secure economically. The Total Fertility Rate has declined for all age groups, from a high of 6.0 children per woman in 1960 to 2.8 in 2004 and currently around 2.2 children per woman, partly the consequence of increasing age at first marriage. Women are also entering childbearing later and are stopping at a younger age. Malaysia is projected to reach replacement level by the year 2015.

In Malaysia, data on population, households and family are primarily collected by the Department of Statistics, the MWFCDB and the NPFDB. To complement population census counts, the NPFDB conducts nationwide sample surveys in between the census years. Some of the population and family surveys were the Malaysian Fertility and Family Survey (1974), Malaysian Population and Family Survey Two (1984), Malaysian Population and Family Survey Three (1994) and Malaysian Population and Family Survey Four (2004). Small scale surveys such as opinion polls, case studies and secondary analysis are also conducted to elicit more in-depth information and data on families.

Family stress and problems within the family are common issues that confront families. The important question is how to cope with them, i.e., exhibit family resilience in situations of stress, crisis or adversity. Stressful events and issues can bring families closer together or they can divide and shatter them. Based on the available data, the main challenges confronting Malaysian families are:

- finance
- parenting of adolescent children
- changing values
- work-life balance
- gender issues.

The NPFDB's Malaysian Population and Family Survey Four (MPFS 4) conducted in 2004 indicated that finance was the major problem confronted by families. The survey further revealed that, in order to cope with such problems, most of the respondents tended to solve the problems on their own. This financial challenge was also revealed in a study conducted by the NPFDB in July 2008 on the effects of inflation on the family. The study found that many families were willing to change their lifestyles to suit the current economic downturn. Many resorted to cutting back on non-essential household expenses such as vacations and utilising public transportation. As a measure to address rising food and fuel prices, 38% of mothers were prepared to join the work force to boost the family income. Although some indications of increase in family conflict were evident in the above study, the ability of families to adjust their lifestyles and spending habits bode well for the average Malaysian family.

Contemporary Malaysian families also encounter challenges in parenting their adolescent children (MPFS, 2004). Data from various agencies regarding social problems have also identified this factor. Of late, social problems relating to adolescent sexuality and pregnancy have been highlighted in the media. The newspapers reported that there are 81,000 illegitimate births, and that as many as 257,000 birth certificates issued from 2000 until July 2008 did not record the name of father.¹ Based on reports filed with police, an average of 100 babies were abandoned each year, but the actual number could be much higher. A recent study relating to 'baby abandonment' indicated that the 'mother' is invariably 'young and unmarried'; the 'father' is not responsible and has 'scooted off'. Rape and other forms of violence against adolescent girls have also been reported. High risk behaviour among adolescents has resulted in STDs, unwanted pregnancy and abortion, as many have little knowledge on contraception, STDs and HIV transmission. The 2004 MPFS findings and media reports have heightened the need to address adolescent sexual and reproductive health (ASRH) more comprehensively.

Evidence-Based Interventions

The Government is concerned with emerging issues that threaten our family and social structure as families struggle to cope with the fast tempo of development. To address these issues, there is a need for a comprehensive policy that addresses prevention, intervention and rehabilitation strategies. Towards this end, the MWFCDB is responsible for planning, monitoring, implementing and evaluating programmes for core target groups such as families, the elderly, children, women and the disabled in collaboration with civil society and NGOs.

In order to maintain the centrality of the family perspective in social development, a National Family Policy (NFP) has been finalised and is expected to be approved by the Government in the near future. The policy, among others, aims towards the realisation of a caring, strong and resilient family system as enshrined under Vision 2020. A plan of action that accompanies the policy will provide guidelines for all sectors to prioritise issues and actions pertaining to family within various social domains.

The NFP is a policy that urges all stakeholders to consistently have a ‘family perspective’ in all endeavours. It also emphasises the holistic development of families. The NFP will ensure that all citizens can live in a conducive environment to achieve those values so much needed for family well-being and the development of a resilient nation. It also provides a framework for the implementation of measures designed to better meet the changing needs of Malaysian families through the six domains that have been identified to ensure the well-being of families and improve their quality of life. The six domains are:

- strengthening of core family values
- making the family a corporate value
- strengthening of the institution of marriage
- meeting of parenting needs of families
- building of strong foundations for teenagers
- family support services.

The MWFCDB and NPFDB had spearheaded the country’s policies and programmes related to sexual and reproductive health. A National Reproductive Health and Social Education Policy was initiated by the Ministry and adopted in 2010. The strategies under this policy and its plan of action include advocacy and multi-sectoral cooperation, and constant evaluation and monitoring. The policy is aimed at producing individuals that are knowledgeable and imbued with positive attitudes. The objectives of this policy are:

- to increase the awareness of members of the society on reproductive health and social education;
- to develop expertise in reproductive health and social education;
- to enhance research and development; and
- to improve the effectiveness of the implementation of reproductive health and social policy.

To address the issue on adolescent sexual and reproductive health (ASRH) and HIV/AIDS, the MWFC and NPFDB are focusing on educating the young through a special project named “Improved existing RH package under kafe@TEEN programme for Up-scaling with Involvement from Key Stakeholders”. Five adolescent and youth centres known as kafe@TEEN have been established to provide information, knowledge and skills on adolescent sexuality and reproductive health, as well as ASRH and counselling services for the adolescents. Under the Up-scaling kafe@TEEN programme, the ‘I’m In Control Module’ for adolescents and young people was developed in 2008 and pilot tested in 2009 at five schools and kafe@TEEN centres in five states in Peninsular Malaysia – Wilayah Persekutuan Kuala Lumpur, Selangor, Pahang, Kelantan and Penang. In 2010, workshops based on this module were conducted at the same five schools and kafe@TEEN centres. It has also been implemented by various NGOs as well as under the ‘LPPKN@Komuniti’ programme for adolescents from low income household families. A module for parents has also been developed under this project to provide the right information on ASRH and skills on dealing with ASRH issues.

Although findings from the MPFS 4 (2004) survey revealed that almost 99% of husbands and wives perceived their family relationships to be strong and cohesive, the need to address the increasing incidence of divorce resulted in the Government taking affirmative action to further strengthen the marriage institution and promote strong resilient families. The SMARTSTART pre-marriage course conducted for couples intending to get married and those married for less than five years aims to provide them with the relevant information, knowledge and skills to equip them to face challenges in married life. Grants are given to NGOs to conduct this course in four main languages – Malay, English, Tamil and Mandarin – to cater to the diverse ethnic backgrounds of Malaysians.

Recognising the increasing participation of women in the labour force and the subsequent increase in dual career families, actions have been taken to create awareness and provide knowledge to parents on the importance and need to balance work and family. Therefore, the Parenting@Work programme was launched in 2007 to provide guidance on parenting skills, ensure stable and resilient family units and to equip families to face modern-day challenges and work–life balance issues. To date, 350 programmes have been conducted at Government Ministries and agencies

from the Federal and State level. The programme has also been expanded to the private sector. Since 2007, almost 15,000 participants from the government and private sector have attended this programme. A strategic collaboration with local non-government organisations (NGOs) was initiated early in 2010 to ensure the programme is implemented at the community and grass root level. Based on the feedback from 10,000 participants (2008–10), more than 90% said after attending this programme that they acquired new knowledge, ideas and skills on dealing with issues and challenges of work–life integration.

Acknowledging the need for a family financial programme, NPFDB introduced a financial management programme called ‘SMARTBelanja@LPPKN’ in 2009 to educate family members, especially the young families, to prepare them for good family financial management. One of the main focus points of this programme is to guide and teach participants to differentiate between ‘needs’ and ‘wants’. The knowledge and skills gained from the interactive workshop will enable them to better manage their financial resources.

In tandem with the Government Transformation Programme and National Key Result Area or NKRA for Low Income households, NPFDB has initiated an outreach programme called ‘LPPKN@Komuniti’. This NKRA programme was launched by the Government in April 2009 and the MWFCB was given the responsibility to lead the NKRA on eradicating hard core poverty by the end of December 2010 and reducing the poverty rate from 3.6% in 2007 to 2.8% in 2010. The low income households identified under the NKRA, have been equipped with knowledge and skills on parenting, financial management and reproductive health education as well as counselling services, under this ‘LPPKN@Komuniti’ programme which aims at raising the quality of life and improving the status of families, particularly rural families.

The goal of family resilience is to ensure that families are able to cope with any kind of challenge. In Malaysia, various initiatives, programmes and services to support families are already in place as a preventive measure to assist those experiencing difficulty in coping with current challenges.

As a way forward, the Government will continue its effort to enhance the safety and resiliency of families. To this end, integrated family centres are being established at the state level and another 55 centres will be in operation at the district level under the Ministry and NPFDB. These integrated family centres serve as “one stop centres” that conduct educational and training programmes on family development as well as providing services such as counselling and reproductive health clinical services. The aim of the centres is to facilitate and accelerate the realisation of individuals and families which are resilient, ethical, healthy, knowledgeable and harmonious through effective, friendly and quality delivery services. To ensure the services

provided are accessible to the community at the grass root level, currently six mobile family centres are available but it will be increased to 15 in the near future.

In order to describe, monitor and track the well-being of the family as a whole in coping with current changes and their impact on the Malaysian society and families, the NPFDB is currently embarking on a project to build a set of indicators on family well-being to serve as baseline information. As there is no one indicator that can capture the full dimension of the domain on family, a group of Malaysian experts are in the midst of discussing and reaching agreement on the concept of family and family well-being as well as identifying the indicators that can be used to measure family well-being. The indicators identified will be tested and a field study to measure family well-being will be carried out in 2011. In addition, the 2010 Population Census will be able to provide the latest demographic trends and assist policy planners in developing family-centred programmes and services.

In addition to this, research on the current and emerging population and family related issues including the needs of special groups such as the elderly, single parents and adolescents needs to be undertaken. Results of these research activities will contribute towards the formulation of relevant social policies and intervention programmes especially in strengthening the family unit. A strengths-based approach centred on the premise that every family has inherent strengths and resources will be able to empower families to cope with challenges without their being dependent solely on external assistance.

Conclusions and Recommendations

A strong family unity inculcated with positive family values, shared responsibilities among family members and a strong marriage institution will continue to be a priority of the Government's development agenda.

- Families are the cornerstone of a healthy, dynamic and productive nation and are essential in fulfilling the emotional and physical needs of individuals, which are necessary for the achievement of good economic and social outcomes.
- Therefore, the 10th Malaysia Plan (2011–15) places emphasis on programmes that instil character-building and family values to promote greater resilience, integrity, solidarity and well-being of the family institution.
- Family friendly policies, services and programmes should continue to be the main focus on strengthening marriage and the family institution.

Note

1. Archives, 30 June 2010, and *Utusan Malaysia* [Kuala Lumpur], 2 July 2010.

The Dilemma of Abandoned Babies Needs a Unified Approach

Zarina Nalla*

The abandoning of babies has reached new heights in Malaysia. According to the police in Kuala Lumpur, in January 2011 alone 19 babies were abandoned nationwide of which, fortunately, 13 survived. Since 2005, the total figure is 517, of which 287 babies did not survive. During this period, 37 people have been apprehended for this crime and the police have charged 22 women and five men. Lack of information is the greatest hurdle faced by the police.

It is not possible to say conclusively that the majority of these abandoned babies belonged to Muslim Malays. This is because Indonesians, Nepalese and Burmese often look similar. A separate investigation by the police revealed that the majority of abandoned baby cases were committed by teenagers or women who gave birth out of wedlock. Again, if only 37 out of 517 were apprehended, this fact may not be conclusive.

To date, this writer has listened to and read many responses to this social dilemma that arise from different perspectives and individuals: doctors, pro-abortion activists, atheists, religious groups and their scholars, as well as politicians, who inadvertently colour their opinions with their own value systems, occupations, disciplines, prejudices, childhood socialisations etc.

Is Abstinence 'Old School'?

Most adherents of major religions such as Christianity, Islam, Buddhism, and Hinduism – and even non-religious persons who embrace their own values and codes of conduct – would feel that sexual relations should (ideally) take place *within* a marriage situation.

Perhaps, if a survey were to be conducted the result would be that many would think that abstinence (or late sexual debut) is the way to go. Similarly, Malaysians are supposed to uphold principles enshrined in their *Rukun Negara* (Malay for 'National Principles') – such as rule of law, the supremacy of the Constitution, courtesy and morality. As imperfect beings we are taught to always strive for the ideal knowing that if we aim for a perfect 100% mark we may achieve 80 or 90%, but if we aim for 50% we may achieve 40 or 30%.

In 2007, a non-governmental organisation in Malaysia led 250 students from five secondary schools on the Youth Abstinence Walk led by a female ethnic Chinese Member of Parliament. On 13 February 2011, the State of Selangor carried out the

* Zarina Nalla is Policy and Project Development Consultant with IAIS Malaysia.

third series of the ‘Anti-Zina’¹ campaign aimed at educating the Muslim community. Critics, however, voiced their concern that preaching abstinence is limiting and futile; society should not stigmatise sexual activity outside marriage but come to terms with such reality, respect the right of the individual, and teach safe sex instead.

This writer holds a different view.

Individuals – married or single – at a suitable age need to be educated about their reproductive systems within the *context of values* that cherish abstinence, marriage and family institutions, planned pregnancy, and family planning. Protected sex is naturally part of this curriculum, if you like, because people need to be responsible for their own bodies and need to guard themselves from diseases and unwanted pregnancies. *It is thus important to contextualise safe sex.* The ultimate decision whether to be sexually active, at what age, and with whom is a choice made by the individual concerned.

Hence in a perfect world, Malaysia would never have to deal with abandoned babies because every baby born to its parents would be a *wanted* child, legitimate or illegitimate. However, we all know this is not happening.

Policies that will bear fruit in the long-term demand that *all* educators, schools, parents, religious leaders, as well as public activists, teach (and keep teaching) in an inspiring non-forceful manner the values that one aspires to see in Malaysian society. We need to teach our young (and also adults) to be honest, stay loyal, value one’s body, recognise sexual needs as something natural, understand how to satisfy them responsibly within the parameters of the value-system you subscribe to.

Avoiding Unwanted Pregnancies: Educators Can Help

At numerous forums one hears representatives from the authorities reiterating that the focus should be on avoiding unwanted pregnancies and not facilitating abortions after the fact. This is perfectly understandable, but it is not well accepted by pro-choice activists who feel strongly that women are custodians of their own bodies and should be in a position to abort if they choose to.

A conference once attended by this writer demonstrated how easy it is to abort in the comfort of your own home with a tablet under your tongue; there is no need to involve clinicians – just be in charge of your body!

Sounds all very well, but this writer’s vote is ‘yes, be in-charge of your own body and stay “baby-free” unless you *want* the baby’. It is unarguable that undergoing an abortion is far from pleasant and can physically (and psychologically) harm a young woman. Hence the need for *safe* abortions – a separate subject, which cannot be dealt with here.

However, an unplanned pregnancy can happen and the idea of carrying the unwanted child to full term and not knowing what to do with the baby is the worst option for the mother. In such cases, what are the options presented to the woman?

Men are as much to be blamed or, in some cases, more so than women who have unfortunately been victimised. Moreover, there are marriages where the wife is dissuaded from taking protection, and the husband too does not take any effort to protect her from unwanted pregnancies, or the mother of, say, three or four who is not agreeable to having more kids is being coerced into having another baby by her husband. Men need to be educated so they don't become bullies, and women need to assert their rights using whatever 'tools' work for them: involving an elder or relative, or a *penghulu kampong* (Malay for 'village head'), or arranging for a doctor to speak to the husband. This writer, for instance, knows of a case where the gynaecologist called the husband and chastised him.

Religious leaders: Muslim clerics or Catholic priests, for instance, telling their students or congregations that taking protection is a sin also contribute to the current dilemma. This contributor, as a Muslim (and again based on her own interpretation and understanding) is aware of the fact that family planning is allowed in Islam and that contraceptives are not *haram* or forbidden.

Unwanted Pregnancies: Medical Professionals and NGOs Can Help

We all – as members of society – have collectively failed to stop Individual A from having an unwanted pregnancy: she is now expecting in her first trimester and she does not want to carry the child to full term. Where can she go for help and advice? There are teenage pregnancies due to carelessness, ignorance, rape, or even incest. Can she go to a government hospital and see if she qualifies for an abortion, perhaps explaining how she became pregnant and be advised as to the next course of action? *There is thus a need for doctors and nurses to act professionally and not morally police their patients.*

A pregnant woman deserves support and the child she is carrying represents a life that we cherish and want to save as much as possible. We are told that the medical fraternity is unwilling to carry out abortions when the reason calling for it falls under the 'mental' category, for instance rape victims. There is also a stigma and the tendency to judge the women.² The solutions will vary from situation to situation; there is no 'one size that fits all'.

In a separate situation, take the scenario of a young girl who is expecting and for whatever reason will deliver the baby but does not want to care for it. She is desperate.

This writer's investigations into the matter have shown that babies at government orphanages have a sad fate; administrative inefficiency does not facilitate their quick

adoption despite the fact that the waiting list of childless couples is long. Moreover, these centres are not well-advertised because it is a taboo.

If the baby was left in a safe place and there are signs that the person who placed him there *wanted the baby to be found* – for instance at a train station, in a basket with a bottle of milk, a note or with some cash – there is something less tragic about these cases. There was a recent case of a young girl who asked someone to hold her baby while she went to the bathroom and she never returned. She abandoned her baby but did *not* neglect the child.

When babies are found – on the brink of death – in rubbish dumps in deserted areas or flushed down the toilet then the intent may be different and the police may need to investigate further before punishing those responsible.

Conclusion and Recommendations

One appreciates the need to not condone behaviours that we feel are wrong but there is also an equally important need to *not judge* because that truly is solely the right of God – and God alone. There is also an *obligation* to help someone in need. Cultural taboos and stigmatising the young woman who is in need has already cost too many lives.

This contributor has arrived at a *multi-faceted solution*, one that puts into action all of the following *simultaneously*:

- use all tools at hand to encourage abstinence;
- teach safe sex so that unwanted pregnancies are avoided within or outside a marriage ('be responsible for your own body');
- make abortion a *real* option, but *only* for cases that qualify for it (young girls deemed mentally unprepared to undergo the pregnancy such as rape victims);
- provide *real* options for young mothers with unwanted babies (women who want to give up their babies but need a 'safe place' to go to) free from persecution and judgment.

The first action item above is a *long-term* solution that will only give results over some period of years, but as it takes effect the other more short-terms solutions may be redundant over time. However, to arrest the current crisis that we are currently facing, making known safe houses and encouraging safe sex may be the way to go.

Hence the baby-abandonment crisis requires a *holistic* approach from the different response centres in Malaysian society:

- NGOs, healthcare professionals, educators (parents and teachers), religious leaders, the media and – the government;

- *choices* must be made available to girls and women in Malaysian society;
- teenagers, married women, migrant workers, refugees in detention centres, and prison inmates deserve our collective attention and support;
- all stakeholders and members of society need to do what they can within their own parameters or jurisdictions – without, however, imposing on others their values;
- we can only discuss and negotiate politely. Politicians can do so much manoeuvring – but doctors should behave like doctors, educators should teach. We should agree on the common ground and synchronise all efforts. This may be the best way to help ease this difficult and heart-wrenching situation in multicultural Malaysia.

Notes

1. *Zinā* is the Arabic term for extra- or premarital sex.
2. Malaysia's Abortion Act of 1967 was amended in 1989. The criterion for permitting abortion is when there is "risk of injury to the *mental* or physical health" of the pregnant woman. This is identical to the United Kingdom's amendment in 1967 where abortion is generally provided on request if the doctors are sympathetic to the woman's plight.

BOOK REVIEWS

Christoph Marcinkowski (ed.), *The Islamic World and the West: Managing Religious and Cultural Identities in the Age of Globalisation*

Freiburg Studies in Social Anthropology 24 (Berlin: LIT Verlag, 2009), 314 pp.
ISBN 978-3-643-80001-5. €29.90

Eric Winkel *International Institute of Advanced Islamic Studies (IAIS) Malaysia*

Perhaps the most important service academic writing can serve is to make us challenge our conceptions and assumptions. And then, if possible, to help us construct other conceptions that may serve us better. The collected work *The Islamic World and the West* does both of these services admirably.

Assumptions about ‘Europe’, the *Abendland* (lit. ‘evening land’, i.e. the land where the sun sets), and the ‘Orient’ tend to seem commonsensical. And yet, the construction of the concept of Europe is actually built on a foundation of what it is *not*. The bold idea of the contributor Christian Giordano (“Independent Diversities: Self-Representations, Historical Regions, and Global Challenges in Europe”) is that Europe discovers its ‘self’ via the ‘other’ (p. 43). Using the terminology of depth psychology, one may posit that precisely those characteristics that one is ashamed of or cannot cope with, one projects onto the other. And any relationship founded on sublimation and projection is doomed to fail – the Muslims, in this case, cannot help but be rejected and refused.

Inciting concepts such as ‘Eurabia’ then serve to affirm the superiority of the European over the other and confirm the political and physical exclusion of the other. A part of Christoph Marcinkowski’s contribution is the deconstruction of ‘Eurabia’. There are similarities between the concepts of ‘Eurabia’ and Christian Zionism in the United States. They are both radical right ideas that have succeeded in permeating almost the entire spectrum of political discourse. In a healthy political society, the ideas would be fringe at best.

Christoph Marcinkowski’s nuanced and considered examination of Turkey and the EU, “Between ‘Turkish Delights’ and ‘Eurabia’: The Islamic World and Europe at the Crossroads”, is very welcome. I know of no other scholar who explains the situation as well, as he speaks (literally and figuratively) the languages of Europe and the Middle East. The situation, of course, is highly contentious. To pick just one issue: in Germany, the state collects a religious tax for Rome under the *Reichskonkordat*, and Turkey is “an example of a movement in the opposite

direction – towards limiting religion to the private sphere” (p. 20). One watches the purported reasons for Turkey’s exclusion become unmasked one by one.

While the idea of ‘Europe’ as distinct from the ‘Orient’, or Muslims or Islam, seems commonsensical, the authors perform a careful deconstruction that forces us to re-examine our assumptions. One of the ways this is done is by showing how supposedly foreign elements are as close to the Europeans as their languages. Hans Daiber comments in his contribution, “Islamic Roots of Knowledge in Europe”, that new techniques of irrigation and new plants made their way to Europe via Muslims. In fact, “apricots, artichokes, aubergines, cotton, lemons, oranges, rice and sugar-cane” (p. 67) all have their origin in Arabic. When a European denounces the Muslim ‘other’, he does so in a language that betrays more same-ness than other-ness. In fact, when Europeans fear ‘hordes’ of Muslim immigrants, they may not realise that the word itself comes from the East, via the name of the national language of Pakistan, Urdu, and ultimately from the Turkic-Mongol world of Central Asia.

Ataullah Kopanski’s contribution, “Muslim Communities of the European North-Eastern Frontiers: Islam in the Former Polish-Lithuanian Commonwealth”, continues the deconstruction of assumptions of a clearly delineated Europe. But as mentioned, this book not only deconstructs, it helps us re-build our conceptions in a better way. Hans Daiber’s view of the Islamic intellectual tradition is that it is relevant today. The Islamic intellectual tradition grew from an open encounter with new knowledge. Dogma and doctrinal blinders were not nearly as present as they were with Christian theologians, and as a result, the intellectual tradition was a part of the universal history of ideas, hinting “at the coherence of philosophy and sciences” (p. 79). Building on this idea, Osman Bakar, in his article “Muslim Intellectual Responses to Modern Western Science and Technology: Between Ottoman Westernisation and Post-Colonial Islamisation”, examines the interaction of modern scientific thought with the Ottomans and then in Islamisation. With the advent of what is elsewhere called ‘the new sciences’, Osman Bakar sees that “Islam can once again play its providential universal role of providing the essential ingredients for these new paradigms” (p. 151).

After the reader accepts the failure of ‘West vs East’ as a concept, one is ready for a new way of seeing. Karim Crow (“Muslims and Resources for Peace in Islam”) speaks of a middle realm, “geographically bridging East and West – a ‘mid-most community’ – partaking in varying degree of the same roots as the West, while simultaneously open to the East, being in ideological and spiritual terms ‘neither eastern nor western.’ Both these, it should be noted, are qur’ānic terms” (p. 293).

As with ‘Eurabia’ in Europe, another strange phenomenon is occurring in the United States; an effort to officially ban *sharī‘ah*! One wonders what ‘the *sharī‘ah*’ means to these proponents. Still, the idea that the *sharī‘ah* is a reifiable entity distinct

from common law or other law systems comes from the colonial period. In fact, the *sharī'ah* is a process rather than a code, and Mohammad Hashim Kamali ("Law, Commerce and Ethics: A Comparison Between *Sharī'ah* and Common Law") is at the forefront of efforts to integrate legal systems so that Muslims may once again have the process of *sharī'ah* and not simply the name, and that relegated to the tiniest spheres of jurisdiction. In the area of Islamic banking and finance, the *sharī'ah* is often seen by non-Muslims as a process to be revived (p. 258).

The present work, published in the highly regarded *Freiburg Studies in Social Anthropology* series, is more far-ranging than can be appreciated from this review. In an age of divisions, reflected as well in academia, this work is remarkable for its scope, depth, and range of academic and intellectual perspective.

Ibrahim Ahmad Aliyu, *Protection of Women's Rights Under the Shari'ah* (Petaling Jaya [Malaysia]: Dakwah Corner, 2010), xvi+144 pp. incl. Glossary and Bibliography. ISBN 978-967-5699-02-3. MYR75.00

Karim D. Crow *International Institute of Advanced Islamic Studies (IAIS) Malaysia*

This relatively brief work of 135 pages is the translation of a revision of the author's book published in 2007, apparently written at the Centre for Islamic Legal Studies at Ahmadu Bello University (Zaria, Nigeria). Aliyu had completed his doctoral dissertation, entitled "Termination of Marriage and Its Legal Consequences under Islamic Law", at this Centre in 1996.

The scope of Aliyu's present work addresses the main topics of controversy over gender equality, inheritance, legal testimony, maintenance (*nafaqah*), women's seclusion, and political leadership. These issues feature prominently in criticisms levelled by non-Muslims concerning women's rights in Islam. The author states the aim of his book is to present a catalogue of rights which *sharī'ah* law affords Muslim women. He undertakes to provide a clear defence of how Islamic law guarantees and protects the rights of women, and contrasts these with rights as understood from the Western perspective. The 'Publisher's Note' prefaced to this book (p. iii) alerts us to the significance of the content: "[...] Islam is not a sexist religion, do [*sic*] not believe in oppressing women, and most importantly, Islam preserves the right of women [*sic*]."

The 'Foreword' by M. Sadiq Al-Kafawy (Director, Centre for Islamic Legal Studies) refers to the critique raised in recent decades by non-Muslims which he portrays as "an outright misunderstanding of Islamic tenants [*sic*] mischievously created in the minds of many Muslims, especially our sisters, by the West [...] that has unfortunately found listening ears". Al-Kafawy observes that the author takes

the offensive by portraying women in the West as being “The most imprisoned, the most enslaved and the most ravaged economically [...] she is being short-changed in virtually all her transactions” (p. vii). The author himself makes the main motive for his work plain from the start:

The issue have become controversial, among the Muslims today due to two reasons: the impact of and influence of foreign culture, especially the Western influence as well as the fact that, many of the women’s rights accorded to them by Islam have been and are being violated and neglected by Muslim societies due to cultural practices or ignorance or both. And the non-compliance with Islamic principles regarding women’s right has been capitalized on by the enemies of Islam, especially the West through some local and international agents so that the Muslims will be deculturalised and become more subservient and mentally enslaved to the West, perpetually. (p. xii, exact citation)

Among these local agents of the enemies of Islam singled out by the author are “the feminists and several NGOs” (p. 129), who are “blind followers” of the Western system.¹ Indeed, many contemporary Muslims subscribe to this conspiracy-theory attitude of alien encroachment and (westernised Muslim) feminist subversion.

Aliyu refers to several classic Arabic legal compendia of the *ahkām al-qur’ān* and *ahkām al-sharī‘ah* genres (al-Jassās; Ibn Ḥazm’s *al-Iḥkām*), al- Shawkānī’s *Nayl al-awṭār*; Ibn Ḥazm’s great compendia *al-Muḥallā*; Ibn Qudāmah’s *al-Mughnī*; and *tafsīr* works by al-Rāzī and Rashīd Riḍā. His references to classical legal works are frequently done through citations made in works of twentieth-century writers. He makes use of several books by the noted contemporary jurist Yūsuf al-Qaraḍāwī including his *Markaz al-mar’ah fī ‘l-ḥayāt al-islāmiyyah* (2006), and by Z.-D. Sha’bān, *al-Aḥkām al-sharī‘iyyah li ‘l-aḥwāl al-shakhṣiyyah* (1981). More extensive are his English language sources, including five works by A.A. Maududi, Jamal Badawi’s *Gender Equity in Islam*, and A.U. al-Faruq’s *The Making of a Successful Polygamy* (Lagos, 2006). Thus the approach and contents of Aliyu’s book provides insight into the thinking of conservative defenders of the traditional Muslim legal perspective towards status and treatment of women.

Whether the majority of traditionalist Muslims would agree with Aliyu regarding “the non-compliance with Islamic principles regarding women’s right”, is beyond the compass of this review. Nor is the painful question of whether “cultural practices or ignorance” contributing to rights “being violated and neglected” is merely a recent phenomenon, or has deep roots stemming from Islam’s early period when Muslim jurists privileged an overbearing patriarchal interpretation of the Qur’ān and certain Prophetic utterances. The majority of contemporary Muslim religious authorities and thinkers privilege the Islamic *sharī‘ah* discourse – with its legal framing of issues marking the juridical boundaries of thought and imagination – to be the most significant normative form of Islamic thought and speech. Paying

attention to current discussions projecting traditional legal perspectives is clearly important for comprehending the centre of gravity of Muslim concerns.

Aliyu's book consists of five chapters, and here is a bare description of their contents and approach:

1. *Equality and Differences between Men and Women*. The very term 'gender equality' should be freed from civilisational assumptions the dominant Western perception invests it with. The true equality granted by the *sharī'ah* refers to spiritual and salvational equity, which admits incontrovertible biological differences confirming role-differentiation and complementarity. While spiritually equal with regard to moral responsibility, Women and Men are biologically and socially distinct with regard to occupation, social roles, and legal status.

2. *Woman's General Rights*. The "Basic human rights" of Woman conferred in the sources of the *sharī'ah* (i.e. Qur'ān and *Sunnah*) include: (a) the right to life, (b) to property, (c) to basic life necessities, (d) to honour, (e) to privacy, (f) to freedom of expression, (g) the right to "a separate identity and individuality" (pp. 19–20), (h) to freedom of religion (where Aliyu digresses on topics of *jihād* and apostasy), (i) to freedom of association (including "formation of women's separate organizations"), (j) to justice and equality before the law, (k) to free education, (l) and the right to choose a marital partner (although a virgin ward cannot be wed without consent from her guardian or father, along with her mother's consultation).

Aliyu's approach is well exemplified when discussing her "right to individuality". He specifies that the *sharī'ah* envisages a separate identity for a Muslim woman from that of a man, evidenced in her entitlement to inherit from her husband's estate while also retaining inheritance rights in her parental family. He links this with the injunction in the Qur'ān that wives should remain secluded indoors (citing 33:33: "stay in your homes [...]";² which he understands to mean not seeking an independent life apart from her husband and family. Aliyu asserts: "It is in order to preserve and protect this individuality that women are told, in 33:33 to, as a general rule, remain indoors with dignity (and being provided for by man). [...] Staying indoors by a woman is not only considered a mark of dignity in her but a sure way of thwarting all attempts of exploiting women so long as they are properly provided for by the husbands" (pp. 19–20). It is indicative of the author's intent that at this point he resorts to quoting from *Total Woman* by the American Marabel Morgan, who advises her fellow women on successful marital life: "Be nice to your husband, stop nagging him and understand his needs."³ It is unlikely that many Muslim women today view home seclusion as a valued right which preserves and protects their distinct individuality – though we might be mistaken in our view.

3. *Woman's Special Rights*. "Due to some peculiarities and social characteristics of woman, the *sharī'ah* has granted her some special rights" and "has imposed upon her certain special obligations" (p. 42). Aliyu divides these special rights into

financial: provision of bridal dower (*ṣadāq, niḥlah*), and of maintenance (*naḥqah*: feeding, clothing, shelter) by her husband; and into *non-material*: kind lenient treatment (as mother, wife, sister, daughter...especially with maternal relatives), sexual satisfaction from her husband (reciprocally mutual), and respecting women's chastity and modesty.

4. *Differences Between the Respective Rights of the Two Sexes*. This longest chapter (pp. 61–129) treats the most controversial issues relating to gender equity in Islamic legal tradition: inheritance, giving testimony, compensation for homicide or injury (*diyyah*, where he favourably mentions al-Qaraḍāwī's view in favour of equal compensation, against the majority of jurists), divorce (where he emphatically rebuts the view that a wife may contract a marriage empowering her to end the marriage at will), polygamy (asserting that "multiple wives of man is in accordance with the law of nature and man's temperament"), disciplining the recalcitrant wife, male guardianship over the female (*al-qawāmah*), political leadership, serving as a judge, prohibition of wedding non-Muslim men, compulsory wearing of head scarf or *ḥijāb*, prohibition of shaking hands with men, and discouraging attendance in the congregational prayer.

Generally, Aliyu stresses in this chapter that legal differences in the treatment of women enforced by the *sharī'ah* arise "due to differences in needs and capabilities, because the two sexes differ in functions due to their natural differences" (pp. 61–2). God created the human as 'pairs', while Qur'ān 3:36 states, "[...] the male is not like the female". Therefore, "a Muslim must believe in and accept all the physiological and psychological differences between men and women. And that it is not lawful for either of the sexes to hope to have what is naturally specific for the other or even to believe that these differences are socially created and not naturally made by the Creator." Parallel with this general principle, Aliyu strikes out at "so-called modernist Muslims in their imitation syndrome" who object to institutionalising polygamy, and he invokes many reasons why this practice is wise and practical (see pp. 82–92). Addressing these modernists "in their own craze to imitate the Westerners", Aliyu avers that "[...] they have no right to say that polygamy is not allowed, because they do not know better than Allah and his Prophet and they are not more authoritative than them" (p. 92).

5. *Protection of Women's Rights*. In this short chapter Aliyu describes three obstacles for protection of women's rights. One point "is the failure to see the numerous positive aspects in Muslim societies, such as family stability and cohesiveness, the respect for mothers, and sense of self fulfilment of women who are not frequently seen in public, painting a stereotypical picture of Muslim women as ignorant, submissive, oppressed and almost totally enslaved by women hating chauvinist men" (p. 131). Aliyu here makes a valid point, although the central role of the Muslim family in society is now under tremendous pressure and losing ground.

His chief complaint regarding NGOs, international bodies and women's rights organisations is that "whenever they proffer solutions to the problem of the violation of women's rights [...] they arrogantly portray that there are no provisions in Islam regarding these rights or even if there are, they are disregarded for being outdated or unimplementable or unenforceable for not going with the so-called modern time" (p. 132). For Aliyu, such criticisms are a form of "cultural imperialism" seeking to marginalise and undermine the

supremacy of the Divine Revelation, the Qur'an and the *Sunnah* and sovereignty of Allah and that He is the only actual Law-giver. [...]he injunctions and guidance of the Qur'an and the *Sunnah*, to Muslims, are not subject to any man-made legislation, editing, voting or modification. (p. 133)

This defensive attitude is perhaps balanced by Aliyu's brief criticism of how *sharī'ah*-principles are distorted or disregarded in many Muslim societies today. He describes the underlying problem to consist of

trying to justify the injustices done to most Muslim women and the violation of some of their rights by religiously flavoured arguments and the assumption that the traditional and cultural practices and attitudes which are commonly used in the violation of the rights are correct and are usually followed by a selective search for endorsement in the primary sources of the *Shari'ah*. (p. 131)

But Aliyu carefully omits any mention of which cultural practices and attitudes result in violation of some rights, leaving it to the imagination of the reader. Is this omission because such violations are so well known? Or is it an instinctive protective reaction – in order not to draw attention to the fact that abuses or injustices affecting "most Muslim women" are wrongly excused by unfounded appeals to the authority of the *sharī'ah*? This is a delicate point, given that a major criticism of Aliyu's book and his effort to ostensibly 'protect' women's rights, is his presentation of an idealised harmonising description of *sharī'ah*-rules protective of women's rights – rules accepted by traditionalist Muslims as completely beyond questioning or criticism, yet which clash with the needs and aims of modernising societies.

The worst groups among the Muslims on whom Aliyu heaps contempt (p. 120) are the "modernists who want the Muslim world to become part of the global modernity", and the "secularists, who want the Muslim world to accept a division of religion and state in the manner of Western industrial democracies, with religion relegated to the private sphere". Faced with simplistic confusions where a glorified ideal of a perfect unchanging *sharī'ah* is arrayed against the treachery of Muslims promoting 'secular modernity', one should perhaps refrain from stating the obvious: that modernity and secularity are transforming our global reality. The *real* task

Muslim thinkers must address is to reawaken the deeper understanding of the ‘higher aims’ of the *sharī‘ah*, bringing these *maqāṣid* into meaningful and more adequate relation with the social reality in which Muslims exist. This creative task lies at the heart of the ‘civilisational renewal’ of Islam, ably exemplified by authorities like Professor Mohammad Hashim Kamali.

The author ends with a very short *Conclusion: The Solution* (pp. 134–5) wherein he pleads for the “sense of accountability” flowing from “the concept of trusteeship, according to which everything in this world actually belongs to Allah and those who hold it are regarded as mere trustees who are responsible in accordance with the extent of their responsibility”. Aliyu urges educating the Muslims concerning these rights at the basis of safeguards guaranteeing “not only women’s rights but human rights generally”. This must be accompanied by the “very important safeguard” of the “duty of promoting good virtues and forbidding and fighting vices instilled in every Muslim”. Now, how should this duty best be accomplished? Aliyu states that this duty “has made the Muslim to keep constant vigil on anyone who violates the limits of Allah even if it is the state” (p. 135).

One hopes that by such vigilance the author does not condone self-appointed guardians of morality exercising coercive external intervention which violates the right to privacy – so easily yielding excessive abuses of the kind well-known in certain Muslim societies. Truly, the challenge of educating faithful male Muslims and motivating them to behave responsibly with compassionate understanding towards the other half of humanity, demands far more than merely asserting a rosy idealised portrait confirming the traditional legalist discourse. It requires an interior renovation of the heart and awakening of conscience, transforming literalist legalism by means of a compassionately human spiritual Ethic.

The English translation of this work might indicate the author’s hope that westernising Muslims could benefit from his work. Yet his *real* intended audience appears to be traditional Muslims who may be (wrongly) persuaded by modernist critiques of women’s unequal treatment in Islamic legal tradition. Thus his stress on the *sharī‘ah* affording ‘protection’ to women may be understood as a sincere attempt to inoculate Muslims from contamination by inexorable global forces.

Notes

1. Aliyu states: “That female circumcision should totally be banned as being agitated by those who claim to be protecting women’s rights, especially the feminists and several NGOs, this cannot be accepted and that there is no ground for its prohibition, from the point of view of the *Shari‘ah*.” Once (p. 127) the author names the American scholar-activist Amina Wadud – when treating why it is preferable for women to pray in their homes rather than attend congregational prayer in the mosque, whereas men are required to attend such prayer in the mosque.

2. For Qur'ān 33:33 and female seclusion in the home, see the orientation by Barbara F. Stowasser, *Women in the Qur'an, Traditions, and Interpretation* (Oxford and New York: Oxford University Press, 1994), 97–9 and 172 n.79.
3. Aliyu (p. 20) cites *Total Woman* via a book by M. Wahiduddin Khan, *Women Between Islam and Western Society* (Karachi: Darul Ishaat, 2001), 77. This attitude is reminiscent of the polygamy-advocating 'Obedient Wives Club' which captured headlines in Malaysia in June 2011.

Reinhard Cardinal Marx, *Das Kapital: Ein Plädoyer für den Menschen* [Capital: a plea for the human being]

(Munich: Pattloch-Verlag, 2008; 1st ed.), 320 pp. ISBN: 978-3629021557.
€19.95

Christoph Marcinkowski *International Institute of Advanced Islamic Studies (IAIS) Malaysia*

The recent worldwide financial crisis¹ has initiated a global fundamental debate and raised questions about the capacity of contemporary economies to ensure the welfare of the world. In October 2008, Reinhard Marx launched *Das Kapital: Ein Plädoyer für den Menschen* with intentional reference to the work by his namesake Karl Marx – *Das Kapital: Kritik der politischen Ökonomie* – an extensive treatise on political economy, edited in part by Friedrich Engels, which critiques capitalism.

Reinhard Marx, the German author of the book under review, currently serves as the Catholic archbishop of Munich and Freising and very recently (in November 2010) was elevated to the cardinalate by Pope Benedict XVI, who himself had been at the head of that archdiocese (1977–81) before his own departure for Rome. As a matter of fact, Marx (b. 1953) is now the youngest member of the College of Cardinals. Before his call to Munich in 2007, Marx served as the bishop of Trier, Germany's oldest diocese whose origins date back to the Roman period when the city was one of the imperial residences – and the birthplace of his namesake Karl Marx (to whom he is not related).

Cardinal Marx is considered to be rather conservative in matters of Church discipline, but also a social scientist and whiz with the media. He is the head of the Committee for Social Issues at the German Bishop's Conference and, since 2010, also a member of the Pontifical Council for Justice and Peace. Described as 'outspoken' and a 'larger-than-life' character who has shown a flair for mixing it up in Germany's political and media circles, the sociologist-by-training – and longtime head of the episcopate's social justice efforts – Marx had largely been viewed as in line for the archbishopric of Berlin. After an unusually protracted yearlong vacancy, however, his dispatch instead to Pope Benedict's home archdiocese places an even more pointed stamp of papal approval on Marx. Marx is now even 'traded' by some observers as potentially *papabile* ('popeable'), an unofficial Italian term

used to describe a cardinal of whom it is thought likely or possible that he will be elected pope.

The conclusion of the work under review appears already on the cover: “A capitalism without humanity, solidarity, and justice has no morality and no future.” In spite of all this, however, Marx is not a tough critic of capitalism. On the contrary, more than once he breaks a lance for the responsible entrepreneurs and the capitalists. In the introduction, an ‘open letter’ to his (long dead) namesake, Karl Marx, he even asks himself whether capitalism in itself will perish: “I say it frankly: I hope not!”

Marx presents a book that is able to influence the political debate in Germany and beyond. Written just before the large global financial crisis which brought capitalism into serious disrepute, its publication coincided almost exactly with this crisis. His book aims on the one hand at the public, but even more it is an appeal to the Church to again turn to the social question and thus to rediscover a forgotten old tradition of Christianity.

Marx stresses the difference between ‘capitalism’ and ‘social market economy’. Capitalism is oriented on the ‘capital interests’ (this too we could observe and has cost small savers everywhere in the world their pensions), while ‘market economy’ considers wider issues: the various market participants, the marketplace, and the conditions of the market. But, according to Cardinal Marx, neither of them constitutes a ‘social order’. They are rather instruments which they should remain to be – instruments which had been discovered, developed, and proved as answers to the questions of how a maximum number of people could pursue their life aspirations by their own work, through training, and participation in social life. *Man must be at the centre* – but not only as mere participant of the market in order to make money with him but as a human being with all his strengths and weaknesses, its diseases, his disabilities, his aging and his death, his hope for a better, a successful, and ultimately *meaningful* life.

In the final chapter in particular it is clear that the author was able to include at least briefly the disastrous crash of the financial markets and comes because of that to the following conclusion: “I am writing to you [Karl Marx], because in recent times the question leaves me no rest whether at the end of the twentieth century it would not be too soon to break the final bar over you and your economic theories.” According to the author, even the current net of globalisation was already anticipated by Marx. Karl Marx even saw the situation of poverty within the context of rights and liberties which would be available only on paper if the economy prevents their implementation. From the perspective of the Christian view of man, Reinhard Marx emphasises an option in favour of the poor and opposes the economisation of all areas of life. The concept of the ‘invisible hand of the market’ (Adam Smith) is to be understood metaphorically whereas the term ‘homo economicus’ produces,

from the Christian point of view, a distortion. Again and again, it is clear that even globally there can be no economy without some kind of regulation or the guidelines of a legal system. In this context, he corrects the concept of ‘liberalism’ which is currently applied ideologically.

It is especially important that Reinhard Marx does not argue theoretically. He rather refers to numerous examples, such as the hedge funds which are based on financing by credit. Time and again and in different ways, Marx directs the attention on the phenomenon of poverty, which does not describe any social fringe group or lower-class, but a phenomenon right in the centre of society, which can hit everyone, for example by sudden job loss or personal crises. He takes up the need for comprehensive education and refers to it as “staple food” (*Grundnahrungsmittel*). He describes the achievement of entrepreneurship in its role to engage socially. However, in this context and with intended reference to Karl Marx, he criticises the priority orientation in capital – especially joint-stock companies – and highlights the precedence of work *before* capital.

The author holds that an intervention in the market on the part of the state is required if man is not anymore in the centre but only the capital as an end in itself. Before it happens that profits become ‘privatised’ and losses ‘socialised’ a regulation of the markets on the part of governments is needed. The state almost has the *duty* to carry this responsibility. Subsidising is one side, regulating the other. Only if the state limits – as currently the case in Germany, the United States, and other countries – predator mentality in business and finance at all costs and protects personal liberties and property, only then will communism *à la* Karl Marx have no chance in the future. Reinhard Marx pleads with all emphasis that this chance remains denied to communism in the long term when he finally writes: “We are facing a truly momentous task that challenges especially Europe. If we don’t become truly just, then – I am deeply convinced – Karl Marx will meet us again as a revenant of history. But he shouldn’t do so – for the sake of the people! He should rather rest in peace.”

In the context of the current economic system – and based on his namesake – Reinhard Marx questions the supremacy of merely capital-oriented thinking in the economy from the perspective of the Christian view of the inalienable dignity of man in front of God. This God-centred approach, however, could thus also be of value to people of other faiths. Moreover, Marx’s book also shows that the topic of ‘civilisational renewal’ is also of concern to leading figures in Europe. Perhaps the only thing one can bring forward against this book is that it develops no *concrete* political programme but describes merely problems.

In closing, however, Cardinal Marx’s book urgently warrants an English translation which would make this important contribution also available to adherents of other

faiths world-wide where it could have an impact on intercivilisational dialogue. Reinhard Marx will certainly be a man to keep an eye on in the years to come.

Note

1. In early 2010, a Special Issue of this journal – vol. 1, no. 2 (January 2010) – dealt with the then prevailing global financial and economic crisis under the title “The Global Financial Crisis: Economic Challenges and Prospects for Islamic Finance”.

Peter Watson, *The German Genius: Europe's Third Renaissance, the Second Scientific Revolution, and the Twentieth Century*

(New York: HarperCollins, 2010; 1st ed.), 992 pp. ISBN: 978-0060760229.

US\$23.10

Christoph Marcinkowski *International Institute of Advanced Islamic Studies (IAIS) Malaysia*

Before Hitler, Nobel Prize ceremonies were in large part a German affair. For over a century Germany led the world through its scientific, educational and cultural achievements. *The German Genius* reminds English-speaking readers that the world we live in today in so many ways is a creation of German technology and culture. While, on a purely geopolitical level, the Germans failed to become dominant they succeeded in virtually every other sphere.

The author, Peter Watson, who has published 13 books so far, is a British intellectual historian and former journalist and now perhaps best known for his work in the history of ideas and art. Watson was for four years a member of the *Insight* team of *The Sunday Times*. He was also New York correspondent of *The Times*. Since 1998, he has been a Research Associate at the McDonald Institute for Archaeological Research, at the University of Cambridge.

Watson's colossal volume is a vast chronicle of ideas, humanists, scientists, and artists: Bach, Lessing, Herder and Winckelmann, Goethe, Kant and Schiller, Haydn, Mozart and Beethoven, Hegel, Schopenhauer, and Gauss, and many more. Examining the contributions of literally hundreds of German thinkers and mapping the conceptual connections between them, the author demonstrates the breadth, volume, and influence of the German output in philosophy, science, industry, art, literature, and all forms of scholarly activity.

Without any attempt to minimise, dismiss, or overlook the evil of the Nazis and the Holocaust (for which Germany and her people *in toto* have been stigmatised), the narrative offers a reminder of great achievements that were not accidental, but rather a result of German culture and society. Quite correctly, there is nothing in

this book that would be considered sympathetic to Nazi Germany. Given that it has been written by a British author and journalist who in his introduction discusses Britain's relationship to Germany and some of his motivations for writing the book, Watson's book is a remarkable attempt at a corrective to this distorted and one-sided view of history, and it should be applauded in so far as it succeeds.

The narrative begins toward the end of Bach's life (1685–1750), well prior to a united German nation having been achieved (1871), and continues beyond the events of 1989 and the subsequent reunification of what we recall as East and West Germany. The seventeenth and eighteenth centuries witnessed within Prussian Lutheranism a revivalist movement known as 'Pietism' whose main purpose was to convince its adherents that they should devote themselves to improving life on earth through education. However, Peter Watson breaks new ground in his account of the founding of the University of Berlin in 1810, from which he dates the rise of the educated middle class as the basis of unprecedented prosperity. The humiliating and crushing defeat of Prussia by Napoleon in 1806 led to the reforms of the administrative, legal, and educational sectors. The aim of the Prussian reformers was revolutionary: to introduce scientific methods (*Wissenschaft*) into *all* branches of learning from the study of antiquity to the observation of nature. Creativity and innovativeness became some of the hallmarks of German intellectual and scientific culture. The Unification of Germany and the establishment of the German Empire under the leadership of Prussia in 1871 made Germany the most powerful and technologically most advanced nation in Europe.

As described by Watson quite accurately, Germany actually invented the modern university, a university in which professors are expected to *discover*, not just *teach*, knowledge, and students learn to *reason*, not just *memorise*, combining teaching with research in both humanities and science – at a time when Harvard and Oxford were conservative and theology-centred. Watson makes the salient point that books were more popular in Germany and the German-speaking countries than elsewhere, which had a profound effect on the German psyche.

On a negative note, however, one could lament Watson's selective approach in his choice of subjects; in particular the important role of German women not only in science and thought but also as promoters of women's rights could have been made more apparent. Moreover, although he did so to a certain extent, the role of the Jewish Emancipation and its relation to emerging German nationalism should have been made one of the focal points as it would be important for a comprehensive understanding of German history in the nineteenth and twentieth century.

Also, to the mind of this reviewer, Watson could have elaborated more on the particular characteristics of what he refers to in his subtitle as 'Europe's Third Renaissance'. We already know, for instance, that the renaissance of the twelfth century was a period of many changes which included social, political, and

economic transformations, and an intellectual revitalisation of Western Europe with strong philosophical and scientific roots, changes which paved the way to later achievements. The period saw the increased contact with the Islamic world in Spain and Sicily, the *Reconquista*, as well as increased contact with Byzantium, allowing the translation of texts from other cultures, especially ancient Greek works.

The Italian Renaissance of the fifteenth century in turn – the ‘Second Renaissance’ in Watson’s reckoning – marking the transition between medieval and early modern Europe, began a movement that was confined largely to the literate culture of intellectual endeavour and patronage and is best known for the renewed interest in the culture of classical antiquity, but was concentrated in the elite whereas and for the vast majority of the population life was little changed from the Middle Ages.

What was it then that was ‘reborn’ in Watson’s ‘Third Renaissance’, epitomised by nineteenth-century Germany? From a purely Western perspective, one could answer that the idea of doubt, that humans are self-directed, not God directed, emerged as a movement in the late eighteenth century, a circumstance which made the West what it is today. This writer, however, would argue that the German ‘Third Renaissance’ consists above all in its creativity and inventions in the field of natural science, technology, and political philosophy – in short in something what is called in German *Forschergeist* or ‘spirit of research’.

Moreover, Watson, in examining Germany’s scientific and social discoveries and the advances in education and exploration, ignores something which made the phenomenon of a ‘German genius’ a matter of global significance, namely the emigration of millions of Germans from the fatherland in the nineteenth century, which could well have been made a focal point of his work.

In addition, topics and personalities appear in Watson’s book at times disconnected from each other and arranged rather dictionary-like, which can make it difficult for those who are confronted for the first time with things German to follow the thread. There are also countless wrong spellings of German terms, which are certainly the result of a careless editorial process – quite surprising for a publisher of the standing of HarperCollins – and which, unfortunately, casts some doubt about the extent of the German-language skills of the author.

In sum, however, *The German Genius* is a remarkable achievement as it offers non-Germans perhaps for the first time an opportunity to have an objective view at the German cultural achievements – after decades of ‘histories’ and ‘assessments’ of things German written by authors hailing from (and writing from the perspective of) the victors of two world wars.

Finally, the book should also be of considerable interest to readers of this journal, as Germany was perhaps the only major country in Europe, which, in sum, can look back to a more or less positive relationship with the world of Islam.¹ A closer reading of Watson’s book teaches in particular readers in the contemporary Muslim

world that there existed always also ‘another West’. It also teaches them a lot about the spirit of resilience, perseverance, creativity and innovation, providing them with a wider and more comprehensive and holistic attitude toward Western civilisation.

Note

1. Christoph Marcinkowski, “Germany and the Muslim World”, *Islam and Civilisational Renewal* 1, no. 3 (April 2010), 519–22. See also idem, “Toward ‘Prussian Virtues’: Transforming the Civil Service in Muslim Countries into a Factor of Political Stability”, *Islam and Civilisational Renewal* 2, no. 4 (July 2011), pp. 717–22.

In May 2010, IAIS Malaysia and the German Embassy in Malaysia hosted an *International Seminar on Germany and Islamic Culture*, which was co-organised by this reviewer and where he delivered a lecture entitled “Germany and Islam: A Pictorial Journey Through Time”.

Mehran Kamrava (ed.), *Innovation in Islam: Traditions and Contributions* (Berkeley, Los Angeles, and London: University of California Press, 2011), xii+251 pp. ISBN: 978-0-520-26695-7. US\$24.95

Tauseef Ahmad Parray *Aligarh Muslim University, Aligarh, India*

Innovation in Islam – consisting of twelve chapters, eleven essays by a multi-disciplinary group of leading scholars from across the world and a descriptive introductory chapter by the editor – offers in-depth analyses of the history, meaning and context, causes, consequences, and obstacles to innovation in Islam. Focusing on the ways and means through which the teachings of Islam have been produced and perpetuated over time, the contributors investigate such areas as the hermeneutics and epistemology, the arts and letters, jurisprudence, personal status, and Muslims’ perceptions of the self in the modern world. *Innovation in Islam* illuminates a debate that extends beyond semantics into everyday politics and society – and one that has ramifications around the world.

The overriding objective of the book is to demonstrate that Islam, both as a worldview and as a comprehensive system of social and political organisation, is fundamentally ‘adaptable’, and therefore fundamentally ‘applicable and relevant’ to today’s modern world. As the contributors demonstrate, writes Kamrava, it is not Islam *per se* that needs to change in order for it to once again become a leading source of – or at least context for – innovative change and progress in fields such as scientific and intellectual production and social and political organisation. For Kamrava, it is not in Islam itself that we must seek the answer to Bernard Lewis’s rhetorical question *What Went Wrong?*¹ Instead, the answer lies in the larger context within which Islam has historically found itself: in the ways in which knowledge about Islam has been acquired, accepted, and internalised, in perceptions about

Islam that have developed and have become ingrained among both believers as well as non-Muslims, and in the reactive postures thus assumed worldwide in relation to Islam (see pp. 10–11).

Consisting of twelve chapters, the book is divided into three parts, viz. Part I: “The Intellectual Process” (chapters 2–4), Part II: “The Arts and Letters” (chapters 5–9), and Part III: “Islam in the Modern World” (chapters 10–12). Part I looks at the question of how knowledge of Islam is produced, accumulated, and given shape and direction, and what the current and future directions of Islamic thought, among both Sunni and Shi’ite thinkers, are likely to be. In a nutshell, it examines the intellectual processes involved in formulating knowledge of Islam and moving it forward. Part II concerns innovation in the literary and visual arts of Islam, while Part III expands on the context and institutions through which innovation in Islam has been made possible, and the reactions to and consequences of the interplay between and Islam and the modern world.

Chapter 1, “Contextualizing Innovation in Islam” (pp. 1–20) by Mehran Kamrava, spans over two main themes: The meaning and context of *bid’a* and obstacles to innovation. The literal Arabic translation for ‘innovation’ is *bid’ah*, a concept that over time has come to acquire a highly negative connotation. After discussing the relationship between innovation and *bid’ah*, and how the latter has come to acquire a negative, even dreaded connotation, this chapter shows that innovation in Islam is neither new nor novel; nor, indeed, has it been that rare. For Kamrava, the notion of *bid’ah*, though rarely mentioned in the Qur’ān, became prevalent soon after the death of the Prophet Muḥammad to refer to “a belief or a practice for which there is no precedence in the time of Prophet” (p. 2).

In chapter 2, “Knowledge and Hermeneutics in Islam Today: Which Reform?” (pp. 23–38), Tariq Ramadan offers a critical examination of the ways in which Islamic knowledge and hermeneutics are accumulated today. Focusing specifically on the ways in which knowledge about and within Islam has been produced, accumulated, and transmitted, Ramadan also looks at those aspects of the religion’s understanding and practice where reforms are needed. He rejects the proposition that the Qur’ān itself needs to be reformed, a proposition that, he claims, is becoming increasingly prevalent among certain academic circles in the West. Instead, he maintains, it is the hermeneutics of Islam and, more specifically, the historical operationalisation of certain key concepts – especially *tajdīd* and *iṣlāḥ* (renewal and reform), and *al-thābit* and *al-mutaghayyir* (the immutable and the changing) – that need to be rethought and reformulated.

Mohammed Arkoun, in chapter 3, “Deconstructing *Epistēmē(s)*” (pp. 39–57) – taking Ramadan’s arguments one step further – maintains that historically scholars have focused on the intellectual processes involved in the historical development of ‘Islam’. We need to understand ‘Islam’ as the intellectual productions of Islamic

thought, he argues. Western scholarship on Islam has considered the history of Islamic thought in the cognitive frame of a linear history of ideas and schools of thinking in each discipline, focusing mainly on the major texts of the formative and classical periods.

In chapter 4, “Iranian Shi‘ism at the Gates of Historic Change” (pp. 58–81), Mehran Kamrava focuses more specifically on the innovations that are currently taking place within Iranian Shi’a doctrine and jurisprudence. He chronicles the direction of Iranian Shi’ism after the country’s 1978/79 revolution and the debates within it that have come to constitute what he labels as a “reformist religious discourse” or “religious reformist discourse” (see pp. 60, 63, 65, 66), particularly articulated by four of the country’s most renowned religious intellectuals, namely, former president Muhammad Khatami, Mohammad Mojtahed Shabestari, Abdulkarim Soroush, and Mohsen Kadivar – each having different background, different approach, and concentration on different aspects of Twelver Shi’ite jurisprudence (p. 60).

Part II concerns innovation in the literary and visual arts of Islam, beginning with chapter 5, “History from Below, Dictionary from Below” (pp. 85–97) by Nelly Hanna, in which an examination of Yūsuf al-Maghribī’s *Raf‘ al-‘iṣr fī kalām ahl Miṣr* – an early seventeenth-century dictionary of the “colloquial speech of [Arabic language] of Cairo” – is made (p. 86), which is innovative because the author is more concerned with practice and words as they were used, rather than with the correct, or strict, dictionary meaning. Hanna concludes that al-Maghribī’s work can be considered both “innovative for its period of treatment of colloquial Arabic” as worthy of scientific study; as well as a work that looked to the future in relation to the “cultural developments in the language” (p. 96).

In chapter 6, “The Translation of the Qur’an: An Impossible Task – The Classical Linguistic-Theological Roots of the Debate” (pp. 98–110), Naṣr Abū-Zayd tackles the question of translation of the Qur’ān and the daily prayer (*ṣalāh*). This is a topic to which he has paid considerable scholarly attention over the years and one that has caused him much controversy.² Here in this essay, he poses a simple but central question: is the prayer understood to be the word of God itself, or is it meant to represent the meaning of God’s word? Put differently, can the Qur’ān be read and understood in languages other than Arabic, especially in today’s world, when a majority of Muslims around the globe happen to be non-Arabs? Abū-Zayd reaches the conclusion that since the Qur’ān is the supreme Arabic text, translation is not only “impossible but forbidden” and “What is allowed is translations of the ‘meanings’ for the sake of knowing and learning about Islam”, but for “praying and performing religious duties, no translation is permitted” (p. 108).

Adonis (the pseudonym of the Syrian poet ‘Alī Aḥmad Sa‘īd Asbar), one of the Arab world’s most celebrated contemporary poets, through examining the broader relationship between poetry and innovation in Islam, offers a frontal secularist

assault on ossified conceptions of Islam, in his paper “Toward a New Understanding of Renewal in Islam” (ch. 7, pp. 111–24). As the embodiment of perfection, he argues, Islam saw no need for literary and poetic innovation, instead associating poets with the supernatural *jinn*. He argues that what Islam lacks sorely, and what it needs urgently, is “renewal” (*tajaddud*). He concludes that there is “no renewal, modernity, or poetry in the revelations”, because modernity and poetry are the work of those Muslims who allowed “life and reality to triumph over text” (p. 123).

Focusing more specifically on Sufi poetry, Patrick Laude in chapter 8, “Creation, Originality, and Innovation in Sufi Poetry” (pp. 125–42), explores the spiritual function of poetry in Sufism as a paradoxical, ever-shifting mediation between presence and absence. Beginning with a consideration of the qur’ānic understanding of poetry as a problematic human activity that may give rise to pretension and hypocrisy, he proceeds to define the requirements of what he considers to be “an authentically Islamic” poetry. Laude maintains that Sufi poetry is not only the epitome of Islamic poetry, but is “innovative by espousing and suggesting the renewed creation of the instant, finding therein, without seeking it, the pristine originality of the Real” (p. 139).

Walter B. Denny in chapter 9, “Innovation in the Visual Arts of Islam” (pp. 143–63), focuses on innovation in Islamic visual arts. According to Denny, as “innovation does not exist without tradition” (p. 143), so innovation within tradition has been encouraged, respected, admired, and emulated from the first centuries of Islam, when a distinctive Islamic style emerged in art and architecture, down to the present day. What makes innovation in the Islamic artistic traditions distinctive, Denny argues, is the peculiar nature of interplay between innovation and tradition in different places and epochs. To examine how this interplay affects the creative process, Denny examines a number of specific cases: Islamic ceramics and the relationship between technical and artistic innovation; Islamic architecture and the relationship between engineering and spatial innovation; and the art of the Islamic carpet, deeply embedded in all social and economic levels of certain Islamic cultures, and often stereotyped as the most traditional of Islamic art forms. Denny reaches to three main conclusions (see p. 162).

Part III expands on the context and institutions through which innovation in Islam has been made possible, and the reactions to and consequences of the interplay between Islam and the modern world. Perceptions of Islam, its role and place in modernity, and particularly its relationship with the generic ‘West’ have been especially problematic in the post-9/11 world. Drawing readers’ attention to the contemporary era and to realities as they currently affect Islam and Muslims in the West in general and in the United States in particular, Sherman A. Jackson in chapter 10, “Liberal/Progressive, Modern, and Modernized Islam: Muslim Americans and the American State” (pp. 167–89) looks at some of the most pressing issues related

to perceptions, identity, and the self that Muslims in America face today. According to Jackson, even in the most learned circles of non-Muslim scholars and observers of Islam in the West, the notion that Muslims can fully indigenise their religion without compromising its fundamental constitution is challenged, if not rejected outright. There is, Jackson argues, the ever-present danger that “predatory reason and rationality” will continue to perpetuate the gap between Muslims and non-Muslims in America. And there is no reason to seek a “monolithic expression of Islam in America today”; nor is there “any need” to pursue a “monolithic expression of what it means to be ‘American’” (p. 185).

In chapter 11, “Hijab and Choice: Between Politics and Theology” (pp. 190–212), Ziba Mir-Hosseini draws attention to the issue of *ḥijāb* – the covering of a Muslim woman’s head or face – and the politics and theology of this most visible Islamic mandate in Islamic *fiqh* (jurisprudence). She examines, from a critical feminist perspective, the evolution of the debates and juristic positions on *ḥijāb* in Islamic legal tradition. Focusing on the assumptions that underlie the rulings on *ḥijāb* in classical jurisprudence, she then proceeds to show, with special reference to Iran, how these assumptions have been “reproduced, challenged, and redefined in contemporary legal discourse” (p. 191). She discusses *ḥijāb* as ‘protection’, as ‘protest’, as ‘imposition’, and *ḥijāb* as ‘choice’.

In the book’s final chapter, “Modern Movements in Islam” (pp. 213–38), John O. Voll examines “Muslim movements in the modern era”, which provide important examples of “innovation in Islamic history” (p. 213). The broader patterns of the development of these movements reflect the dynamism of the interactions between Islam and modernity, argues Voll, and it is important to look at the broader historical dynamics of these developments as well as to examine the specific movements within their own unique contexts. Over the past two centuries, according to Voll, a wide range of innovative adaptations have taken place in the nature of both Islamic movements and also in modernity itself. Beginning from Jamāl al-Dīn Afghānī (d. 1897) to the present day, he captures the history of Islamic movements in just 22 pages, but very comprehensively, constructively, and in an innovative style. This chapter reminds us of the importance of context for the extent to which adaptability and innovation may permeate Islam at a given time or place or, alternatively, may be divorced and distanced from it.

However, this writer feels that the book as a whole could have been strengthened in certain respects.

The book could have done with a conclusion, to match its strong, comprehensive, and innovative and informative introduction (which, for me, is a book in itself). This significant omission deprived Kamrava, the editor, of the opportunity to tie up loose ends and reinforce the main points made in the chapters (although every chapter has its own concluding remarks). It also denied the book a fitting climax. Moreover, the

book has a useful bibliography and a well-organised index, but it lacks a glossary of key terms, which many laymen, and even most non-Muslim undergraduate and postgraduate students of Islam, would find to be an invaluable resource.

Collectively, the chapters in this book give us insights into the complexity of the issues surrounding the notion and manifestations of innovation in Islam. In this book, it becomes evident that ‘innovation’ and all that it implies remains deeply contested in Islam in the fields of literature and the arts, hermeneutics and *epistēmē*, gender and race relations and representations, perceptions of ‘the other’, and Islam’s place in the modern world. These chapters provide definitive answers to various questions that have long preoccupied observers and believers alike insofar as change and innovation within Islam are concerned.

In sum, this splendid collection of provocative essays – addressing the issues from several different perspectives and in various contexts – provides a broad introduction to the topic of innovation in Islam. There are many chapters that are actually ‘must reads’ for everyone interested in modern trends in Islamic thought.

Notes

1. Bernard Lewis, *What Went Wrong? The Clash Between Islam and Modernity in the Middle East* (Oxford: Oxford University Press, 2002).
2. Naṣr Abū Zayd (an Egyptian Muslim thinker and one of the leading liberal theologians, famous for his project of a ‘humanistic qur’ānic hermeneutics’) has written various works on this theme both in Arabic and English; for example: *Rationalism in Exegesis: A Study of the Problem of Metaphor in the Writing of the Mutazilites* (Beirut and Casablanca, 1982); *The Concept of the Text: A Study of the Qur’ānic Sciences* (Beirut and Cairo, 1991); *The Problematic of Reading and the Method of Interpretation* (Beirut and Casablanca, 1995); *Rethinking the Qur’an: Towards a Humanistic Hermeneutics* (Utrecht, 2004). He has also written various articles and essays on the same theme, among them “Linguistic Exposition of God in the Qur’ān”, “The Textuality of the Koran”, and “Divine Attributes in the Qur’an: Some Poetic Aspects”.

Alwi Shihab, *Examining Islam in the West: Addressing Accusations and Correcting Misconceptions*

(Jakarta: PT Gramedia Putaka Utama Publishing, 2011), 258 pp.

ISBN: 978-979-22-6771-6. Rp77,900

Zarina Nalla *International Institute of Advanced Islamic Studies (IAIS) Malaysia*

This book is no doubt an eye-opener and reflects the thoughts of an individual who is unique: an academician with a passion for inter-religious understanding who was a former foreign minister of Indonesia and a graduate of two diametric worlds of education: the Middle East and the United States of America.

Alwi Shihab earned a doctorate in Islamic studies from Ain Shams University in Cairo and a second doctorate, in 1996, from Harvard University's Center for the Study of World Religions. Currently he is the Indonesian president's special envoy to the Middle East and the Organization of the Islamic Conference (OIC). His years of interaction with the different communities in diverse environments – academia, business, and politics – have led him to publish his understanding and analysis of Christian–Muslim relations and prescriptions on how to ease conflict in this book, which was launched in April 2011 in the Indonesian capital Jakarta.

This recent publication is in fact the English version of an earlier Indonesian volume, published in 2004 under the title *Membedah Islam di Barat* (Dissecting Islam in the West). The English translation was completed by Dr Ralph B. Brown from Brigham Young University in the United States and Mrs Rumtini from Indonesia.

The author emphasises that the differences between the three major religions – Christianity, Islam, and Judaism – can be traced back to misunderstandings on each side of the divide of their *own* religion and of 'the other'. It is thus imperative that Jews, Christians and Muslims celebrate their *common* spiritual roots and hopes without prejudice. This book is an attempt to do just that. His core motivation to write this book came from the internet discussions he had with his students in the United States – the majority of whom were non-Muslims – during his years lecturing at Temple University, the Hartford Seminary, and the Harvard Divinity School. Shihab opened an online listserv which served as an important platform for his students to challenge him and provide feedback. When he approached the scholars at Temple University with his idea, the project received wholehearted support and he was advised to write his book in English so that it could serve as a source of reference for religious instructors at universities.

The author reiterates the importance of teaching religions without the value-judgments of the various faiths. In his own words: "I try only to explain the teachings of the religion, its history, and its contribution toward humanity and civilization without making judgments as to whether a particular religion's values and perspectives are better than another's, more correct than another's or more apt to bring salvation than another's." This is an instructional method which departments of religion and religious studies at Western universities adopt and which should also be practised, according to Shihab, by others as he opines that greater harmony can be created.

The author advocated this approach in his home-country Indonesia, and it is currently being applied at Gajah Mada University in Yogyakarta at the Master's programme. It is critical to teach students to not only understand intimately their *own* religion, but also to appreciate and respect the positive aspects of the religions of *others*.

The need for this becomes even more acute when ethnicity and religion become politicised and the media fails to play a unifying role in some countries. Says Shihab: "If in the academic world a friend can be added every day, in the world of politics, an enemy is born every minute [...]. Those who are engaged in the world of politics are in great need of frequent ethical and moral reminders." The university campus then becomes the last bastion of hope, if you like to set the record straight.

There are three forewords to the book, namely from Dr Franz Maginis-Suseno (a Roman Catholic priest), Dr Nurcholish Madjid (d. 2005) from Pramadina University, who was in his homeland affectionately known as 'Cak Nur', a prominent Indonesian Muslim intellectual, and Boyd K. Packer, the current president of the Quorum of the Twelve Apostles of the Church of Jesus Christ of Latter-Day Saints in the United States.

Shihab traces America's religious history and identifies several paradoxes: for instance, while the United States is identified as a secular and materialistic country and is the first nation to constitutionally separate the church and state, "Americans typically consider themselves more religious than all other nations, since for them, this separation of church and state only demonstrates how important the role of religion remains in the development of their national culture, independent of government coercion." History also demonstrates that no other country has recognised as many religions as the United States. Shihab describes that nation as the "world's only microcosm of world religions". According to Shihab, it is also ironical that religious leaders and government agencies in the United States would mutually support and protect each other. While rallying for national goals, religious leaders would simultaneously also point out how the churches and their doctrines are unable to fulfil the needs of their followers. The concept that 'God is dead' which originated in Europe is alien to Americans, although religious leaders would rally for national goals.

This overt cooperation between church and state is rarely found in Europe, making the religious environment there very different from that in the United States. The author then delves into some historical roots and causes: the French Revolution, the rise of anticlerical and anti-religious feelings together with the flourishing of 'institutional secularism'. This is compared with the United States where its religious history and patterns obstruct the type of secularism and modernism that exist in Europe. Instead there is an inclination to liberalism in religion. He illustrates this with the American attitude towards the *hijāb* issue which is juxtaposed to the current French treatment of the same matter.

The author devotes one full chapter to explaining the turbulent relationship that exists between Islam and Christianity, which he feels is important as a background. He falls back on history greatly to make readers understand the sources of the conflict that arose between the two great religions. According to him, the early

history of Islam demonstrates the closeness between the Muslim and Christian communities. However, all of this supposedly changed when with the territorial expansion of Islam following the death of Muḥammad, Islam was then seen by many of the conquered as a 'religion of the sword'. Says Shihab: "It can be said that there has never been an objective and non-prejudiced view of Islam from the Christian world since the death of the Prophet until the beginning of the twentieth century", although one might argue that this judgment seems to be a little bit one-sided. In Shihab's view, the deep hostility towards Islam can be traced to the Christian Middle Ages, although, he argues, the level of intensity is easing today.

His years of teaching led him to conclude that the majority of students have a negative perception of Islam and think that it is a superficial religion. However, the consolation was that a large number of students wanted to understand Islam *first-hand* and were willing to change their outlook of the religion. Hence they kept an open mind which then gave the instructor a chance to reach out and share. One of the most commonly asked questions was one revolving around mixed marriages between Muslims and non-Muslims. He was also asked how about whether Jesus in Islam is seen as a Muslim, and it took him an hour just to address this one question alone. American students were especially curious about Sufism or Islamic mysticism, and hence the author dedicated a chapter to this issue to address the overwhelming number of questions he received on this subject. In sum, one could well say that Muslim intellectuals have a challenging road ahead but must rise to this occasion.

In closing, Alwi Shihab's *Examining Islam in the West* is an inspiring book as it deals with serious issues in a light and informative way.

EVENTS AND SIGNIFICANT DEVELOPMENTS

International Conference on the Family Institution in the Twenty-First Century: Ideals and Realities Conference Recommendations (13–14 December 2010, IAIS Malaysia)¹

Zarina Nalla, IAIS Malaysia

What follows is a compilation of policy-recommendations that were extracted from individual papers presented at the ‘International Conference on the Family Institution in the Twenty-First Century: Ideals and Realities’.

Government Policies

➤ *National Family Policy received cabinet approval in 2010:*

Malaysia’s National Family Policy urges all stakeholders to consistently have a ‘family perspective’ in all endeavours. It also provides a framework for the implementation of measures designed to better meet the changing needs of Malaysian families through the six domains that have been identified to ensure the well-being of families and improve their quality of life. The six domains are:

- strengthen core family values
- make family a corporate value
- strengthen the institution of marriage
- meet parenting needs of families
- build strong foundations for teenagers, and
- family support services.

➤ *Intervention programmes already in place:*

These are evidence-based interventions initiated by Malaysia’s Ministry of Women, Family and Community Development and the National Population and Family Development Board (NPFDB) as a lead agency in family matters in line with the Government Transformation Programme and Five Year Development Plans. They include the following: five adolescent and youth knowledge and youth centres have already been established to provide information, knowledge, and skills on

adolescent sexuality and reproductive health; the state offers *pre-marriage courses and parenting courses*.

➤ *On-going initiatives:*

Integrated family centres:

Integrated family centres are currently being established. They serve as ‘one-stop centres’ which conduct educational and training programmes on family development as well as providing services such as counselling and reproductive health clinical services. Currently, there are six mobile family centres, but this will be increased to 15 in the near future. There needs to be an increase of family-friendly policies, services, and programmes.

Monitoring and tracking the Malaysian family:

NPFDB is currently embarking on a project to build a set of indicators on family well-being to serve as baseline information. The indicators identified will be tested and a field-study to measure family well-being will be carried out in 2011.

➤ *Research activities are necessary to formulate social policies and intervention programmes.*

The following are broad-based policy-recommendations or prescriptions to revitalise the family institution/guidelines or principles on which policies should be based on:

Broad Themes

- *There is an urgent need to revive the contemporary relevance of traditional family values and institutions:*
 - *There should be a broad coalition of all groups dedicated to the preservation of traditional family values and the family institution, especially religious groups. This umbrella-group needs to strategise and embark upon plans that will respond effectively to the modern-day challenges confronting the traditional family institution. This coalition may be formed at all levels – local, national, regional, and global (emphasised greatly by most presenters).*
 - *Strengthen traditional religious values* (rationale: the strongest defenders of the traditional family will come from the traditional religions) *(emphasised greatly by most presenters).*
 - *Revive the extended family structure* to encourage a sense of responsibility to not only the nuclear family members but also to close relatives on both sides of the couple.
 - *Raise awareness that all processes and circumstances of family life should be God-centric and based on universal human values.*

- *Embark on an Awareness Campaign* to create awareness of the issues confronting families through the clever use of media and the web. For instance: the in-flight airing of a 90 seconds commentary for three months could reach millions, *Have you hugged your child today?* car-stickers, encouraging family fun-time through treasure-hunts, games, and adventure camps, the promotion of abstinence in the form of campaigns. These have already been conducted in government schools and colleges.
- *Provide wholesome and practical resources to the community*, for example resource-centres that showcase reading materials.
- *Use educational and training tools to assist families* to gain practical skills and support; and to equip and strengthen their relationships, for instance: *Family Parenting Seminars* designed to give parents the opportunity to share experiences of being parents and to learn from and support one another. *Bonding Programmes*: father and son, father and daughter, mother and daughter, mother and son.
- *Provide Quality Family Support Services* for individuals and families through counselling. Provide guidance and support for both personal and relationship problems. Counselling to be provided through phone, email or personal meetings. Couple check-up programmes: assessment tools for marriage counselling and relationship from pre-marriage to old age.
- *Put in place Workplace Programmes*: the private sector must be empowered to address the needs of their staff especially those arising from the interaction between work and family. Organise *Work-Life Balance Talks*.
- *Teachers and parents must build strong partnerships*.

➤ *Pursue gender equality and equity:*

- Women's participation in government should be encouraged, but *one should consider the prevailing culture and customs of that particular society carefully to ensure the success of campaigns*. Risking provocation and protest can sometimes thwart all good effort. The case of family law reform in Afghanistan was quoted as an example to illustrate the point.
- When it comes to divorce for Muslims generally and the American Muslim community in particular, challenges remain when it comes to understanding how to apply qur'ānic and Prophetic guidance to contemporary lived realities. In many cultures that are predominantly Muslim, women may experience difficulty obtaining a divorce from the court, and face tremendous pressure from the culture even if she is abused. In Western Muslim communities, *justice can be achieved if the religious leadership makes a conscious effort*

to educate the Muslims to better understand Islamic guidelines and the local civil law regarding marriage and divorce.

- *Curtail the 'Supermom' syndrome* by contesting public views that the primary care giver is the women. This is problematic because even in dual-income households women are still seeing to the bulk of the household and childcare tasks.
- *Restore the balance in terms of family responsibility* between father and mother. Define the complementary roles.

Issue-Specific Approaches

Tackling Dysfunctional Families and Social Ills

➤ *Combating Crime:*

The role of civil society:

- *Strategise to make available informal help* for vulnerable families through networks of friends and volunteers. Such help may not be classified as professional but is often more acceptable, flexible, and available.
- *Set up a social network model of intervention for dysfunctional families.*
- *Develop volunteer befriending schemes:* trained volunteers (as opposed to social workers) offer regular support, friendship and practical help to young families. Research shows that volunteers help families with needs that are met by social services. Apparently parents were more contented with help received from volunteers than those who were assisted by social workers. This is because volunteers had more time to spend and they did not belong to a statutory agency. One example is the UK-based *Home Start* and also the *New Parent Infant Network (NEWPIN)*.
- *Professionals assisting vulnerable families must keep abreast of informal support networks* available so parents can be linked to them.

The role of the state:

- The state has an obligation to ensure that families are stable and secure. A legal mechanism guided by relevant policies relating to the family must be adhered to.
- State intervention in family matters must not, however, transgress individual rights.

The role of educators:

Educators have the professional responsibility to serve the well-being of the children. Schools are the only places that children are seen daily. Educators can observe appearances and behaviours of children and can detect changes.

- *Educators should be trained to recognise and intervene* when children are not able to fully benefit from their educational opportunities.
- *Educators must be taught to read social cues* and interpret social behaviour amongst their pupils. Kindergarten and primary school teachers should be able to identify children coming from dysfunctional families because otherwise they might become future criminals.

The role of religious leaders:

Evidence shows that neighbourhoods with a high degree of religious practice are not high-crime neighbourhoods. Curbing crime requires efforts by all parties, from neighbours to government agencies. Religious leaders must not be left out from this multi-agency approach.

- *Develop religious leaders and increase their influence to reduce social ills. They need to be aware of the nature of the current problems and equipped to deal with these problems.*
- *Religious leaders must build the inner strength of people* by inculcating religious and moral values.
- *Encourage life-long learning:* make available pre-marriage counselling and periodic marriage counselling by religious leaders in the course of married life until the stage where couples are menopausing, parenting classes.
- *Sensitisation programmes should go beyond Friday sermons.*
- *Religious authorities should use the media and IT more creatively* to educate the masses and raise public awareness.
- *Religious groups of various faiths should unite around this common cause.* Faith-based movements should unite to promote non-violent parenting, consciousness raising and the empowerment of children, to prevent crime.

➤ *Addressing Domestic Violence:*

- *Religion is a powerful tool that must be used to curb domestic violence.* It can arouse the conscience of the community to take a stand and speak against family violence.

➤ *Addressing the Abandoned-Babies Dilemma:*

Short-term approaches include:

- According to most of the speakers, abortion should be a real option at public hospitals for those deemed unfit to undergo child-birth such as rape victims.
- Abortion needs to be regulated so that clients do not become desperate and are exploited.

- Shelters or ‘baby-hatches’ need to be made known to be effective.
- State authorities like the Welfare Department, religious authorities (e.g. JAKIM in Malaysia), and hospitals must have a more humane ‘face’ and not be policing patients or clients.
- Increase the number of schools for pregnant teens.

Long-term approaches include:

- All partners work together to revitalise the family institution and they include: public campaigns, schools, religious bodies, parent education programmes, the private sector (corporate social responsibility) and non-governmental organisations.

What ought to be done with abandoned babies?

- State orphanages should expedite the adoption of these babies, especially since there is a list of childless couples waiting to adopt.
- These babies should be given full citizenship-status by the state.
- The state should use funds to provide for expenses, even after the baby has been adopted.
- The state should ensure that the abandoned baby is given life opportunities equal or better than the place he was found.

Note

1. Aside from her own piece, the writer went through the presentations of the following presenters: Aminah Abdul Rahman, Ali Hassan, Rajabally, Karim D. Crow, Mohammad Hashim Kamali, Osman Bakar, Trias Setiawati, Zaleha Kamaruddin, Lee Wee Min, Zainab Alwani, and Eric Winkel. Many papers were not explicit in terms of policy-recommendations while some others were descriptive.

**Closed-Door Lecture by Professor Volker Nienhaus on
“Islamic Capital Markets and the Public Interest (*Maṣlahah*)”,
organised by the Malaysian Securities Commission
and the University of Malaya
(Kuala Lumpur, 9 June 2011)**

Sheila Aion Yussof, LAIS Malaysia

In his closed-door lecture at the Malaysian Securities Commission, renowned senior German economist Professor Volker Nienhaus highlighted the problems in using the *efficiency model* as a point of reference to measure the performance of the Islamic financial industry globally. This was due to critics perceiving it to be too capitalist or conventional. The alternative model will be to view it from the

public interest (maṣlaḥah) perspective which he regards to be a more acceptable benchmark. It was opined that *maṣlaḥah* itself suffers from a too generalised statement and various juristic permutations in its meaning. The challenge to the industry is to achieve consensus on a broader definition of public interest. This will depend on the cooperation of Islamic jurists and Islamic economists to come up with a substantive and applicable modern concept of *maṣlaḥah* which can be further translated into policies by policy makers to enhance transparency, conscious risk sharing and informed choices through capital market products. Dr Nienhaus distinguished the relative ‘Islamicity’ of capital market instruments from banking products in that the former better reflects basic principles and claims of Islamic finance (risk-sharing, financing the real economy) than opaque banking products. Where systemic efficiency (at macro level) is a concern of Islamic market regulators this can be justified by public interest arguments. Dr Nienhaus also raised the need for the Securities Commission in Malaysia to make a paradigm shift from a *sharī‘ah*-compliant approach to a *sharī‘ah*-based approach, or alternatively from a micro-legalistic to a macro-systemic perspective where contractual engineering will give way to financial innovation. The importance of this shift is to nurture an Islamic entrepreneurial culture of taking on a higher level of risk tolerance and acceptance of the longer gestation arising from participation in business ventures with more direct linkages between risk and returns.

The speaker, Professor Nienhaus, is currently a Visiting Professor at the ICMA Centre, Henley Business School, University of Reading, United Kingdom. Previously, he was Professor of Economics at the German universities of Trier and Bochum (1989–2004) and President of the University of Marburg (2004–10). He holds an honorary professorship at the faculty of economics and business administration of the University of Bochum since 2004, is a member of several academic advisory committees and boards, including the Governing Council of the International Centre for Education in Islamic Finance (INCEIF) in Kuala Lumpur and the International Advisory Board of the Forschungsgesellschaft für Wettbewerb und Unternehmensorganisation mbH (FWU, Research Institute for Competitive and Corporate Organisation, Munich and Dubai). He is also a consultant to the Islamic Financial Services Board (IFSB) in Kuala Lumpur and was a Visiting Scholar at Kuala Lumpur’s University of Malaya (under the Malaysian Securities Commission’s Islamic Capital Market programme).

From the audience, Professor Mohammad Hashim Kamali, the CEO of IAIS Malaysia, made several observations that brought into the picture the definition and relevant characteristics of *maṣlaḥah* from the perspective of Islamic jurisprudence.

Interview with Professor John O. Voll on the Future of Islamic Studies

Zarina Nalla*

ZN: What, in your opinion, is the future of Islamic Studies in Southeast Asia?

JV: Islamic Studies in Southeast Asia has become much more cosmopolitan than it has been over the years. Ten years ago, I was at a conference in Pattani (in southern Thailand) which was looking at the future of Islamic studies in Southeast Asia. Islamic studies, as opposed to traditional *dirāsah ‘ulūm islāmiyyah* as an academic discipline was just beginning then. There were scholars like Nurcholish Madjid, who was keen to study Islam *as a subject rather than an advocacy thing*. But much of what was being done was built by people who were primarily identified with western institutions for their education. I think that people who had PhDs from Temple University or the University of Chicago were important pioneers.

However, I would say *now* that one of the most significant developments in Islamic studies in Southeast Asia is the students of these people who have been studying here. Those who have graduated from *local* institutions who are engaging in a developed programme of Islamic scholarship – we can call it the *indigenisation of Islamic studies in Southeast Asia*. One of the significant aspects of that development is that – in contrast to the Middle East, say in Cairo or Damascus – this *new* mode of academic scholarship in Islamic studies has not been in battle or conflict with the *traditional* studies, or representatives of traditional studies, in the way that sometimes took place in the Middle East. In the last ten or fifteen years or so, scholars from this region are becoming more globally known compared to before for the kinds of contribution that they are making.

ZN: Would you be able to name some of these scholars from Southeast Asia who have become globally known?

JV: The people that come to mind are scholars like Azyumardi Azra from Indonesia. He may be an administrator but operates effectively as a scholar. It is this type of person who can be a scholar here *and* in Europe and North America. These are transitional people. Also, people like Osman Bakar from Malaysia who can operate

* Zarina Nalla is a Policy and Project Development Consultant with IAIS Malaysia; John O. Voll is Professor of Islamic history and Associate Director of the Prince Alwaleed bin Talal Center for Muslim-Christian Understanding at Georgetown University in the United States. The interview was conducted on 6 January 2011 in Jogjakarta, Indonesia. Professor Voll visited IAIS on 30 October 2008, where he delivered a lecture on “Dialogue Between Islam and the West: Where Are We and Where Are We Going”, which has been published by the Institute as no. 2 in its Occasional Paper Series.

in *both* worlds, as well as people who have degrees from the International Islamic University Malaysia (IIUM) in Kuala Lumpur; they are doing more by participating in conferences elsewhere.

For instance, as we speak, younger scholars from Kuala Lumpur are working with scholars from the United States to put together a panel for a World History Association conference planned for June 2011 in Beijing. They are all together in Islamic studies content, and we have a panel that has an American product of Islamic studies from the United States, two Malaysian scholars, and a Chinese scholar. What is emerging as important is not that Southeast Asian scholars in Islamic studies are individually identifiable so much but that they are increasingly becoming integrated into the network of scholars which is important for the *global* development of Islamic studies.

ZN: How do you then account for individuals like Hamza Yusuf – an American convert to Islam and one of the signatories of ‘A Common Word Between Us and You’, an open letter by Islamic scholars to Christian leaders, calling for peace and understanding – or graduates from *Dār al-Muṣṭafā* in Yemen, for instance? Are the likes of them to be considered as ‘scholars’ in your view?

JV: Someone like Hamza Yusuf is a committed public intellectual. This is an important distinction to make – even though the real definition is very vague. There are two categories of activities, and some people engage in both: the document-research type of study *and* the public-intellectual type of study. People like John Eposito are both; some people are just one or the other. Hamza Yusuf’s knowledge and presentation is based on scholarship, but his primary goal in making those presentations and enlightening is not to get writings published in scholarly journals but to be an actor in the public arena. In Southeast Asian terms, a good example of such a person who excels in both those areas of activities would be Nurcholish Madjid. He was as much a published academic scholar as he was a public intellectual. His public intellectual legitimacy was based on his scholarship, but he was not always displaying his academic scholarship when he was being public. It is not mutually exclusive, but it takes a peculiar personality to be able to do both. For instance, Fazlur Rahman was a publicly known scholar but strictly kept to his position of being an analytical hard-nosed scholar. He may have given a controversial speech but not a rousing one, hence in that sense he was not really a public intellectual but a publicly known scholar.

Here is a growing number of cosmopolitan scholars of Islam who are Muslims and who are forming an interesting global network. Some of them are recognisable ‘*ulamā*’. For example Ali Gomaa in Egypt or Mustafa Cerić; they travel all over the world, they are publicly visible Muslim scholars who are ‘*ulamā*’. On the other

hand, we have non-‘*ulamā*’ but Islamic-studies trained individuals like Azyumardi who can also go to any part of the world and who are also in this kind of network. Important scholars with global visibility depend very much on their being scholars and their being Muslim.

ZN: Islam is taught differently in Malaysia if compared with, say, Indonesia, or even the West. For example, students of Islam in Indonesia are exposed to other strains of thought, if you like, such as Shi’ism, unlike Malaysia. Do you think Malaysia is in a position to produce *credible* Islamic scholars who can make an impact?

JV: The problem is with terminology. There are ‘Islamic scholars’ or ‘scholars of Islam’ who happen to be Muslims. This is an important distinction but not a problematic one that is unique to Islamic studies. In the last century, there has been a broad evolution of religious studies in the United States. It has only been in the last thirty years or so that religious studies have shifted from being an essentially advocacy study to a balanced study. Fifty years ago, if any research university were to offer a course on the ‘Protestant Reformation’, it was unthinkable to have a Catholic teach Protestant Reformation. That kind of advocacy teaching was important and continues in some ways to be important as an issue in professional religious studies in the United States. One can go to the American Academy of Religion meetings and you will see two types of scholars: people who teach their religious faiths in a university context; and there are those who are religious-studies scholars who teach about a religious faith that may or may not be their own.

I had a very interesting experience in this regard: a couple of years ago, I spent a couple of weeks in Kosovo, and the Grand Mufti there – a young man and a good sociology-of-religion person – and I did a series of lectures for the Islamic faculty for the University of Prishtina. This was meant to help the development of the curriculum in newly independent Kosovo. As I was giving the lectures, I had this feeling that I was missing something in terms of the questions that I was being asked, until it dawned on me that many of these people that I was speaking to, who were part of the Islamic faculty, are people whose training had been in an atheistic graduate programme during the communist era.

These intellectuals were Muslims who had been trained in atheistic methods of social science but are now post-atheist in both methodology and faith. However, in teaching about Islam in a state university in Kosovo, they must avoid appearing to be proselytising because this could cause the Serbian Orthodox Christian minority to feel pressured and subject to discrimination. This situation emphasises the importance of the balanced, non-advocacy approach to the study of religion.

All around in the believing world you have these questions: how do you academically teach or teach in a scholarly way religious traditions? In India, for instance, there is a huge problem with the Hindu nationalist parties complaining about text books trying to be balanced rather than advocating Hindu positions. So, in general terms this relationship between advocacy, faith presentations, and research analysis offers alternatives that are really shaping the future religious studies industry in general – not just in Islamic studies.

ZN: Do you think that the ideal situation is that the academic instructor who teaches the Christian faith should ideally be Christian and this applies to the other major religions as well?

JV: There is no such thing as an ‘objective’ set of scholarship; every position is a constructed position, and the building-materials for the constructed position are the preconceptions of the person who is doing it. It does not matter if your building-materials for your construction start off being a Muslim or Christian or atheist or whatever. If you are in a classroom and you build a building of analysis it has to be open to training the students in that classroom to construct their own buildings, using the carpenter skills that have been given to them by the professor. If the building that the students construct looks identical to the building of the professor, then I think that the teacher has failed. The teacher must make it possible for students to come to their own conclusions. Good carpenter-teachers construct approaches that make it possible for students then to make their own constructions. Doctrinaire teaching is simply advocacy and proselytisation. Moreover, proselytisation is also a danger for those people who think that religion does not count. Secular subjectivity is as prejudicial as religious subjectivity unless the people recognise their own subjectivity and that everything is a construct.

ZN: I have read that in a classroom-setting in America religious studies professors would ask their students – Muslims or non-Muslims – provocative questions such as ‘did the Prophet Muḥammad really exist?’ What do you think of such exercises? Would you recommend that we do that here in Malaysia?

JV: Yes, why not. Historical and analytical questions should be asked in the classroom just like ‘Did Abraham really exist?’ or ‘Did Jesus really exist?’ A good amount of Christian scholarship has been spent on the ‘search for the historical Jesus’. Some have said, in the middle of the twentieth century, that Jesus never existed and insisted that it was nothing more than allegory or a metaphor. It is similarly an important question to ask if King Arthur ever existed. If you cannot ask these questions then you are blocking off yourself from a body of knowledge. I would say ‘seek knowledge till China’ (in reference to a well-known *ḥadīth*) is not

just geography but go wherever you can go to seek knowledge. And one location to go is to ask a critical historical question.

ZN: Finally, how is Turkey developing its Islamic studies sector *vis-à-vis* Southeast Asia? Can you draw a comparison?

JV: Most Turkish scholars in Islamic studies these days are willing to go to great lengths in terms of ideas. They explore new frontiers that other Muslim scholars are not willing to go yet. I think right now scholars of Islamic Studies in Turkey are involved in debates that are not yet taking place in other parts of the Muslim world. Turkish intellectuals are engaged in major debates about the nature of modern Turkish national identity. This modern Turkish identity had been initially defined by Kemal Atatürk and involved viewing ‘secularism’ as an important part of that identity. In recent years, however, many Turks have resisted this rather belligerent secularism, and scholars in Islamic Studies have been involved in redefining the relationships between religion and secularism in Turkish state and society. In Southeast Asia, early nationalists like Sukarno and Tun Razak were not as belligerently secularist as the Kemalists in Turkey, so discussions there about religion and state have had a different character from those discussions in Turkey.

ZN: Thank you, Professor Voll.

NOTES ON THE CONTRIBUTORS

Abdul Salam Muhamad Shukri is an Associate Professor in the Department of *Uṣūl al-Dīn* and Comparative Religion in the Kulliyah of Islamic Revealed Knowledge and Human Sciences, International Islamic University Malaysia (IIUM). He received his MA and PhD degrees from the University of St Andrews, United Kingdom. Among his works are *Panduan Mengajar Akidah Kepada Kanak-Kanak* (2003), *Dimensi Pemikiran Shah Wali Allah al-Dihlawi dan Pengaruhnya di Malaysia* (2007) and *Muslim Converts in Malaysia* (2008). He has also published a number of articles in journals which cater to the interests and needs of the Muslim community such as *Islamic Quarterly*, *Hamdard Islamicus*, *IKIM Journal of Islam* and others.

Zainab Alwani received her PhD (2009) in Islamic Law from the International Islamic University Malaysia with a dissertation on the implementation of *maqāṣid al-sharī'ah* in relation to family issues in American-Muslim families. She is currently the Program Director and an Adjunct Professor of Arabic Language Studies at Northern Virginia Community College and an Adjunct Professor of Arabic Studies at the School of Advanced International Studies, Johns Hopkins University. She has developed courses in Islamic studies that focus on constructing qur'ānic models on various aspects of Islamic thought. She has co-authored a number of books, including "The Qur'ānic Model for Harmony in Family Relations", in: Salma Elkadi Abugideiri and Maha B. Alkhateeb (eds), *Change from Within: Diverse Perspectives on Domestic Violence in Muslim Communities* (Great Falls VA: Peaceful Families Project, 2007), and *What Islam Says about Domestic Violence* (Herndon VA: FAITH, 2003).

Aminah Abdul Rahman has been the Director General of Malaysia's National Population and Family Development Board since September 2007. She obtained her Masters in Demography from the Australian National University (ANU) and her first degree in Sociology from the Malaysian Science University (USM) in Penang. She has served the Board for 31 years, beginning as a sociologist and later had experiences at the State and Planning Division. She has actively participated in numerous local and international seminars and conferences.

Osman Bakar is the Deputy CEO of IAIS Malaysia and Emeritus Professor of Philosophy of Science at Kuala Lumpur's University of Malaya. He received an

undergraduate degree and an MSc in Mathematics from the University of London. He then graduated from Temple University with an MA in Comparative Religion and a PhD in Philosophy of Science and Islamic Philosophy. Bakar is currently Professor of Islamic Thought at the International Institute of Islamic Thought and Civilisation (ISTAC) in the International Islamic University Malaysia (IIUM) as well as Senior Fellow at the Prince Alwaleed Center for Muslim–Christian Understanding, Georgetown University, Washington DC. He was also the holder of the Malaysia Chair of Islam in Southeast Asia at Georgetown University. Previously, Bakar was also Deputy Vice-Chancellor of the University of Malaya. He is the author of 15 books and nearly 200 articles.

Ömer Çaha graduated from the Department of Sociology of the Middle East Technical University, Ankara, Turkey. He received both his MA and PhD (Political Sciences) from Bilkent University, Ankara. He continued as a research assistant at the same department and between the years 1994 and 1999 he served as a lecturer at Kirikkale University, Istanbul. Subsequently, he was the Dean of the Faculty of Economics and Administrative Sciences at Istanbul’s Fatih University (2004–08) where he is also a teaching professor. Dr Çaha is the author of many articles and books on religion and politics, democratisation, political behaviour, Islam and politics, civil society, women’s movement, Turkish politics etc, both in English and in Turkish.

Karim D. Crow, an American Muslim scholar who was born and raised in Beirut, is Principal Research Fellow at IAIS Malaysia. Previously, he was Associate Professor in Contemporary Islam at the S. Rajaratnam School of International Studies, Nanyang Technological University, Singapore. He took his university education in Beirut and Cairo, and his doctorate from the Institute of Islamic Studies at McGill University, Montreal, Canada. He also taught Islamic Studies and Arabic Language and Literature at Columbia University, New York University, Fordham University, the University of Virginia, and the University of Maryland. He also served as Professor of Islamic thought at the International Institute of Islamic Thought and Civilization (ISTAC) in Kuala Lumpur. Among his publications is (ed. with Ahmad Kazemi-Moussavi), *Facing One Qiblah: Legal and Doctrinal Aspects of Sunni and Shi’a Muslims* (Singapore: PN, 2005). Currently, he is working on an historical survey of Islam and rationality, a book on the wisdom of the Prophet Muḥammad, and a monograph on the life and thought of Imām Ja‘far al-Ṣādiq (d. 765).

Mohammad Omar Farooq is the Head of the Center for Islamic Finance at the Bahrain Institute of Banking and Finance (BIBF). Before joining BIBF, he was an Associate Professor and Dean of the Faculty of Business and Financial Sciences

at the Royal University for Women, Bahrain. Before that, he taught economics and finance for 20 years in the United States. He received his PhD in economics from the University of Tennessee, Knoxville, in 1988 and was a Ciriacy-Wantrup post-doctoral research fellow at the University of California at Berkeley during 1988–89. His teaching experience and interest span economics and finance in general and Islamic economics, finance and banking as well as Islamic law and jurisprudence in particular. In April 2008, he presented a paper at the Harvard Islamic Finance Forum. He is also one of the prolific contributors to IBFNet, the leading online forum on Islamic Banking and Finance, and a founding moderator of IEF-Review, the online forum ‘Review of Islam and Economy/Finance’. Among his forthcoming publications is *Toward Our Reformation: From Legalism to Value-oriented Islamic Law and Jurisprudence* (Herndon VA: IIIT).

Mohammad Hashim Kamali is the Founding Chairman and CEO of IAIS Malaysia. He graduated from Kabul University, before going on to complete an LLM in Comparative Law and a PhD in Islamic and Middle Eastern Law in the University of London from 1969 to 1979. Kamali was a Professor of Islamic Law and Jurisprudence at the International Islamic University Malaysia (IIUM) (1985–2007) and also Dean of the International Institute of Islamic Thought and Civilization (ISTAC). He has taught at the Institute of Islamic Studies, McGill University, and has also held Visiting Professorships at Capital University, Ohio, and at the *Wissenschaftskolleg*, Berlin. Professor Kamali was a signatory of the international ‘Common Word’ document between Christians and Muslims and was a member of the Constitution Review Commission of Afghanistan (2003) and he also served as an expert on the new constitutions of Iraq, the Maldives and Iraq. He has published about 140 academic articles and 20 books, many of which are standard textbooks at English-speaking universities worldwide.

Christoph Marcinkowski, award-winning German scholar of Islamic and Middle Eastern, as well as Southeast Asian and Security Studies, is Principal Research Fellow and Co-Chair (Publications) at IAIS Malaysia. He holds an MA in Iranian Studies, Islamic Studies, and Political Science from the Freie Universität Berlin, Germany, and a PhD in Islamic Civilisation from ISTAC, where he served also as Professor of Islamic History. He has held numerous distinguished fellowships, such as at New York’s Columbia University, Switzerland’s University of Fribourg, Singapore’s Institute of Defence and Strategic Studies at Nanyang Technological University, the Asia Research Institute at the National University of Singapore, and the Asia-Europe Institute of Kuala Lumpur’s University of Malaya. Professor Marcinkowski has published numerous books, among them *Religion and Politics in Iraq* (Singapore: PN, 2004), *The Islamic World and the West* (Berlin: LIT, 2009),

Shi'ite Identities (Berlin: LIT, 2010), *Islam in Europe* (Kuala Lumpur: IAIS, 2011), and *Malaysia and the European Union* (Berlin: LIT, 2011), as well as more than 100 articles, commissioned book chapters, and encyclopaedia entries such as for *Oxford Islamic Studies Online*, *The Oxford History of Historical Writing*, and Columbia University's *Encyclopaedia Iranica*. He is currently working with Christian Giordano and Khoo Salma Nasution on a new book on the Malaysian State of Penang (Berlin: LIT, 2012, forthcoming).

Zarina Nalla is currently a Policy and Project Development Consultant with IAIS Malaysia. She holds a BA (First Class Honours, 1994) in Islamic Studies and Political Science from the International Islamic University Malaysia (IIUM), an MA (1996) in Economics and International Relations from the School of Oriental and African Studies (SOAS), University of London, and an MBA (2002) from the University of Birmingham, United Kingdom. She was a Researcher at the Institute of Strategic and International Studies Malaysia (ISIS), attached to then CEO and Chairman of ISIS, Dr Noordin Sopiee. In 2007, she assisted Professor Mohammad Hashim Kamali in the establishment of IAIS Malaysia and served as its Chief Operating Officer until 2010. She helped organise and lead IAIS' study on what is known in Malaysia as the 'conversion issue' – the debut project of the Islam and Policy Unit (IPU).

Normala Othman obtained her PhD from Boston University in the United States. Presently, she is an Assistant Professor in Linguistics at the Department of English Language and Literature at the International Islamic University Malaysia (IIUM). She has extensive teaching experience in ESL and Linguistics in Malaysia and the United States. Currently, she teaches a variety of linguistic courses to undergraduate and graduate students at the department, as well as trains primary school teachers pursuing degrees in ESL. Her current research interests are in the area of interactional linguistics, such as Pragmatics, Sociolinguistics and Discourse Analysis. Dr Normala is also the Director (Special Interest Group) of the Malaysian English Language Teaching Association.

Osman bin Abdullah (Chuah Hock Leng), a Malaysian Chinese convert to Islam, obtained a BA in Economics in 1987 and an MA in Islamic Revealed Knowledge in 1992, both from the International Islamic University Malaysia (IIUM). In 1999 he received his PhD from the University of Malaya for his study of minority ethnic problems specialising on Chinese Muslims in Malaysia. He has written many articles and books, including one recent article on the Malay-Muslim minority issue in Southern Thailand and is published by the *Journal of Religion, Conflict, and Peace*, United States. Among his books are *Chinese Muslims in Malaysia* and *The*

Problems of Cultural Adjustment, Muslim Converts in Malaysia and also *Preaching to the non-Muslim Chinese in Malaysia*. He is now an Associate Professor in the Department of *Uṣūl al-Dīn* and Comparative Religion at IIUM.

Suriani Suratman is Senior Lecturer at the Department of Malay Studies, National University of Singapore. She is trained as a social anthropologist. She received her MA from Monash University, Australia, and her PhD in Sociology of Development from the University of Bielefeld, Germany. Her teaching covers areas on Malay culture and society, Malay ethnicity and identity, and Malay families and households. She has conducted research in Singapore, Malaysia, and the Philippines. Her research focuses on Malay ethnic identity and the (re)production of portrayals of Malays and gender relations and the issue of (in)equalities in Malay families and households. Her current research is on Malay women's identity, focusing on the embodiment of Malay women through the veil and women's expressions of their selfhood. Her paper "'Tudung Girls': Unveiling Muslim Women's Identity in Singapore" is a chapter in the book *Melayu: The Politics, Poetics and Paradoxes of Ethnicity* (ed. Maznah Mohamed and Syed Muhd Khairudin, NUS Press, 2011). Other publications include a co-authored book entitled *Villagers in Transition: Case Studies from Sabah* (1999), *Studies on Malay Families and Households in Singapore: A Critical Assessment* (2002), and *'Problematic Singapore Malays': Sustaining a Portrayal* (2010).

John O. Voll – PhD (1969) Harvard University, History and Middle Eastern Studies; MA (1960) Harvard University, Middle Eastern Studies; BA (1958) Dartmouth College, History (Senior Fellow) – is Professor of Islamic history and Associate Director of the Prince Alwaleed bin Talal Center for Muslim-Christian Understanding at Georgetown University, Washington DC, United States. He taught Middle Eastern, Islamic, and World History at the University of New Hampshire for 30 years before moving to Georgetown in 1995. He graduated from Dartmouth College and received his PhD degree from Harvard University. He has lived in Cairo, Beirut, and Sudan and has travelled widely in the Muslim world. The second edition of his book *Islam: Continuity and Change in the Modern World* appeared in 1994. He is co-author, with John L. Esposito, of *Islam and Democracy* and *Makers of Contemporary Islam*, and is the editor, author, or co-author of six additional books. Professor Voll is a past president of the Middle East Studies Association (MESA) and also of the New England Historical Association. He has served on the boards of directors of the American Council of Learned Societies, the New Hampshire Humanities Council, the New Hampshire Council on World Affairs, and the Sudan Studies Association. He has published numerous articles and book chapters on contemporary Islamic thought and history as well as on Sudanese history.

Zaleha Kamaruddin is Professor at the Kulliyyah of Law at the International Islamic University Malaysia (IIUM). She has authored or edited 17 books and advocates extensively in the area of comparative family law and international women's rights. As an academic administrator at the university for over 20 years, she participates actively in various academic networks. Currently, she is a member of the editorial board of the *International Journal of Muslim Unity*. At the state level, she contributes to the Selangor State Council of Religious Affairs. At the federal level, she is a member of the proactive Technical Committee on *Shari'ah* and Civil Laws in the Department of Islamic Religious Affairs and also of the National Religious Council. She is also a member of the Malaysian Investigating Tribunal Panel, the Advocates and Solicitors' Disciplinary Board Committee, the National Women Advisory Council, as well as the Technical Committee member for the Non-Aligned Movement (NAM) Institute for the Empowerment of Women. She is also Deputy Director General of Malaysia's Institute for Islamic Understanding Malaysia (IKIM).

AIMS OF THE JOURNAL

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

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

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

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ICR invites contributions on the following topics:

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

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Form

- Articles should not have been published elsewhere or sent for publication. Articles that have been a part of a dissertation can be considered if there is a major modification and adjustment.
- Articles should be between 6,000 and 8,000 words. Authors should also include a 100 to 150 word abstract, outlining the aims, scope and conclusions but not containing sentences from the article. Book reviews should not exceed 1,200 words, and Viewpoints 1,500 words.
- All submissions must include a separate page with the author's name and current affiliation as they should appear in the journal and contact information (e-mail address, phone and fax numbers, and mailing address: all to remain confidential).
- Contributors will receive a free copy of the Journal issue in which their article appears.
- Authors are requested to extract actionable policy recommendations from their research – preferably in brief bullet point format in the conclusion.
- Languages based on Arabic script should be transliterated following the system applied in the *Journal of Islamic Studies*, Oxford (see Transliteration Table). In terms of capitalisation in languages other than English in bibliographical references, authors are encouraged to consult the *Chicago Manual of Style* (ch. 10).

Content

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

TRANSLITERATION TABLE

Consonants

Ar = Arabic, Pr = Persian, OT = Ottoman Turkish, Ur = Urdu

Ar		Pr	OT	Ur	Ar		Pr	OT	Ur	Ar		Pr	OT	Ur
ء	,	,	,	,	ز	z	z	z	z	گ	-	g	g	g
ب	b	b	b	b	ر	-	-	-	ر	ل	l	l	l	l
پ	-	p	p	p	ژ	-	zh	j	zh	م	m	m	m	m
ت	t	t	t	t	س	s	s	s	s	ن	n	n	n	n
ٹ	-	-		ṭ	ش	sh	sh	s	sh	ه	h	h	h ¹	h ¹
ث	th	th	th	th	ض	ḍ	ḍ	ḍ	ḍ	و	w	v/u	v	v/u
ج	j	j	c	j	ص	ṣ	ṣ	ṣ	ṣ	ی	y	y	y	y
چ	-	ch	ç	ch	ط	ṭ	ṭ	ṭ	ṭ	ة	-a ²			-a ²
ح	ḥ	ḥ	ḥ	ḥ	ظ	ẓ	ẓ	ẓ	ẓ	ال	-al ³			
خ	kh	kh	h	kh	ع	ʿ	ʿ	ʿ	ʿ	¹ when not final ² -at in construct state ³ (article) al- or l-				
د	d	d	d	d	غ	gh	gh	ğ	gh					
ڈ	-	-	-	d	ف	f	f	f	f					
ذ	dh	dh	dh	dh	ق	q	q	ķ	q					
ر	r	r	r	r	ك	k	k/g	k/ñ/ğ	k					

Vowels

	Arabic and Persian	Urdu	Ottoman Turkish
Long	ا ā	ā	ā
	آ Ā	Ā	-
	و ū	ū	ū
	ي ī	ī	ī
Doubled	يِي iyy (final form ī)	iy (final form ī)	iy (final form ī)
	وُ uww (final form ū)	uv	uvv
	وُ uvv (for Persian)		
Diphthongs	و au or aw	au	ev
	ي ai or ay	ay	ey
Short	ا a	a	a and e
	ا u	u	u or ü
	ا o or ö		
	ا i	i	i

Urdu Aspirated Sounds

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

For Ottoman Turkish, modern Turkish orthography may be used.

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Islam and Civilisational Renewal (ISSN 2041–871X; Online: ISSN 2041–8728) is published by Pluto Journals on behalf of the International Institute of Advanced Islamic Studies (IAIS) Malaysia and is distributed worldwide by Marston Book Services.

ICR is published four times a year in January, April, July, October.

Subscription rates are for four issues. All rates are inclusive of postage and excluding VAT.

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