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EDITORIAL

In this latest issue of IAIS Malaysia's flagship journal, *Islam and Civilisational Renewal* (ICR), I have the honour of presenting five new substantive articles, all with actionable policy recommendations, in addition to four viewpoints and five event reports. As always, our expert contributors have succeeded in crafting a unique body of work, characterised by honest scholarship, depth of learning and originality of thought.

Maszlee Malik, an Assistant Professor at the International Islamic University of Malaysia (IIUM) and well-known political commentator, contributes our lead article, 'Rethinking the Role of Islam in Malaysian Politics: A Case Study of Parti Amanah Negara (AMANAH).' Since its creation in 2015, AMANAH has portrayed itself as the bearer of a new, moderate and inclusive brand of Islam. Drawing upon interviews with AMANAH's party membership, however, Maszlee questions the extent to which this 'new discourse' is consistently and coherently adhered to across the party. The article ends with the following policy recommendations: 1) AMANAH urgently needs to 'culturise' its inclusive Islamic discourse; 2) to make its voice heard within Malaysia, AMANAH must demonstrate that Islam promotes good conduct and civility as a means of ensuring that diversity nurtures peace and prosperity; 3) AMANAH must appeal to non-Muslims as well as Muslims by demonstrating that Islam does not side-line non-Muslim needs and interests; 4) since the Malaysian public currently distrusts AMANAH's objectives and direction, the party must invest in reputation building, management initiatives and strategic communication; and 5) AMANAH must look beyond ideological concerns and champion everyday socio-economic issues in order to mobilise everyday voters.

Our second article, 'Statistics in Islamic Scriptures and Legacy,' is an insightful exploration of the fascinating—yet oft-overlooked—role statistical enquiry played in classical Islamic scholarship. Co-authored by Qazi M. Ali (Aligarh Muslim University, India) and Mohammad Omar Farooq (University of Bahrain), the article attempts to parallel modern statistical methodologies with the Qur'anic concept of *al-ihisa'*, thereby demonstrating that the latter foreshadowed the former. In conclusion, the authors recommend that: 1) Islam's historical contribution to the field of statistics be more widely recognised; 2) statistical analysis be employed as a suitable, authentically Islamic tool for understanding past economic and social conditions in Muslim societies; and 3) either an edited book or a monograph be produced to celebrate the Muslim contribution to statistics.

Our third substantive article, contributed by Nadia Selim, a PhD candidate at the University of South Australia, is entitled ‘Ibn Sahnun’s 9th Century Framework: A Guide for Arabic Language Curriculum Writing.’ In Australia, Nadia argues that Muslim teachers of Arabic frequently rely on curricula introduced from the Arab world, without adequately considering the situated-ness of their English-speaking students. As a result, much of their teaching proves irrelevant and inaccessible. To remedy this, Nadia proposes the utilisation of Ibn Sahnun’s ninth-century *Kitab Adab al-Mu’allimin* (The Book of Teachers’ Ethics), a learner-centred and culturally-sensitive curriculum capable of constituting the basis of a new, more flexible approach to language teaching. Nadia concludes by recommending that: 1) further interpretive research be conducted into other early Islamic curricula capable of informing modern Arabic language teaching; 2) traditional Islamic language acquisition theories be reconciled with their Western equivalents in order to produce a system better suited to the needs of Muslim learners in Western environments; 3) a dedicated leadership body be established that is committed to furthering the teaching of Arabic in English-speaking contexts; 4) a team of experts must develop a new Arabic language curriculum model inspired by traditional Islamic thought; and 5) interested parties must convene a conference dedicated to the teaching of Arabic in Western Islamic educational settings.

Elma Berisha, of the Asian Institute of Finance, contributes our fourth article, entitled ‘The Contribution of Early Muslim Scholars to Semiotics: Selected Highlights and Implications.’ Delving into the complex field of symbol interpretation, Elma asks why Muslim thinkers have been excluded from the ‘official’ history of this discipline, even though figures like al-Ghazali and Ibn Barrajan, working within the context of the Qur’anic ‘*ayah* doctrine’, made many unique contributions to it. Consequently, Elma proposes the existence of a lost Muslim history of semiotics, one that should be reclaimed. Elma ends by recommending that: 1) a more systematic exploration of the Muslim contribution to semiotics be undertaken, not least as a measure towards establishing a new model of critical thinking rooted in the Qur’anic concepts of language, meaning and reality; 2) a more systematic investigation be undertaken into the implications of a sign-dependent reality; and 3) a sign-based approach be used to stimulate a more discursive approach to learning amongst Muslims.

In our final substantive article, ‘Earning a Living and its Position in the Sacred Law: An Exposition of Shaybani’s Doctrine,’ Ismail Ya’u Abubakar, Tatiana Danisova and Suleiman Mohammed Hussein Boayo, all of Universiti Teknologi Malaysia (UTM), explore the work of eight-century Muslim scholar, Muhammad ibn Hasan al-Shaybani. Focusing on the desirability of earning a livelihood, the authors utilise Shaybani to identify what can and cannot be earned, what the ethics of earning should be, and the practice of the prophets in this regard. In particular, the authors stress the importance of a livelihood for establishing human dignity. The authors conclude by

recommending that: 1) all legal earnings be encouraged, especially those essential to the sustenance of life (such as agriculture); and 2) all Islamic institutions inculcate the ethics of earning a living.

Turning to our viewpoints, the first is by IAIS Research Fellow, Ilham Ramli. Headed ‘The Drawbacks of Judicial Pluralism in the Administration of Justice,’ it addresses the complex issue of legal pluralism in Malaysia. Arguing that such a system infringes the rights of non-Muslims and prevents the comprehensive determination of justice, Ilham proposes that it be replaced with a centralised system arrayed around a single judicial authority, in which civil and Islamic laws sit side by side.

Our second viewpoint, by IAIS Research Analyst Wan Naim Wan Mansor, is entitled ‘RUU 355 from an Islamic Perspective: Improve Legal Safeguards in Tandem with Higher Punishments.’ In it, Wan Naim critically examines RU 355, the controversial Private Member’s Bill that seeks to increase the levels of punishment currently available to Malaysia’s Syariah courts. After briefly considering the many concerns this bill raises, Wan Naim foregrounds its contravention of a guiding Islamic legal principle: that punishment must be balanced with moderation. As the Bill also lacks adequate legal safeguards and procedural guidelines, Wan Naim therefore believes it requires further amendment before it can be passed.

Our third viewpoint, ‘Leveraging Blockchain Technology for *Halal* Supply Chains,’ is co-authored by Marco Tieman and Mohd Ridzuan Darun, both of Universiti Pahang Malaysia. Conscious of the reputational vulnerabilities *halal* supply chains often suffer from, the authors propose Blockchain technology as a potential solution; a decentralised digital ledger that continuously records all transactions conducted across a network, Blockchain has the potential to quickly and easily confirm *halal* compliance within a *halal* supply chain.

In our final viewpoint, ‘The Yemeni Quagmire: A Humanitarian Tragedy of Dire Proportions,’ Asif Mohiuddin of Kashmir University (India) provides us with an analysis of the ongoing Yemeni civil war. After chronicling the development and progress of that conflict, including its humanitarian consequences, Asif argues that it can only be resolved when negotiators begin to prioritise the needs of Yemen’s diverse communities, not just the demands of regional powers like Saudi Arabia and Iran. Asif concludes by appealing to the international community not to allow the Yemeni civil war to become overshadowed by events in Syria.

This issue of the ICR concludes with five event reports. The first covers an interview with myself, conducted by Setare Sadeghi of the Faculty of World Studies, University of Tehran, on the 20 July 2017. The interview, reproduced here in full, covered a variety of issues, including conflict in the Middle East, the role of Iran in the wider Muslim world, the rights of women and the importance of pluralism. Throughout I stress the importance of moderation (*wasatiyyah*) for most of the Muslim world’s current problems.

Our second event, 'Meeting the Challenges of Demographic and Industrial Transitions in Malaysia,' was co-organised by the Institute of Strategic and International Studies (ISIS) Malaysia, Institut Darul Ridzuan (IDR) and the United Nations Children's Fund (UNICEF). Held in Ipoh on 12 September 2017 and attended by Wan Naim Wan Mansor of IAIS, it examined the implications of Malaysia's aging population, notably the increased demand it creates for an effective social welfare system capable of meeting the needs of the elderly.

Our third event, 'Designing Sustainable Energy Systems for Community Development 2017,' was held on 10-15 July 2017 at Kampung Buayan, Sabah, and co-organised by Energy Action Partners and the US Embassy in Kuala Lumpur. Attracting a wide range of international participants, including IAIS Research Fellow Shahino Mah Abdullah, this event saw participants learn various skills relating to renewable energy system design, community engagement, sustainable development, and social entrepreneurship.

On 29 August 2017, IAIS organised and hosted the prestigious event, 'Seminar Kebangsaan Mahkamah Syariah: 60 Tahun Pasca Merdeka' (National Seminar on the Syariah Courts: 60 Years after Independence). Attended by many local participants, this event aimed to evaluate the effectiveness of Malaysia's Syariah court system, notably regarding: (1) the empowerment of the Syariah courts; (2) the empowerment of the Syariah legal profession; and (3) resolving the recurrent practical issues faced by Syariah courts.

Our final event, held on 26 September 2017 at IAIS, saw the launch of the Burma Human Rights Network report, 'Persecution of Muslims in Burma,' followed by a roundtable discussion on the same subject. The latter, which focused on the unique features and difficulties surrounding the conflict in Burma, included presentations by Kyaw Win (Burma Human Rights Network), Lilianne Fan (Geutanyoe Foundation Aceh) and Mohd Azmi Abdul Hamid (Majlis Perundangan Pertubuhan Islam Malaysia).

As a final word, I would like to express my heartfelt appreciation to all our contributors. Their well-informed and enlightened contributions will, I feel sure, be of interest to readers worldwide.

Mohammad Hashim Kamali
Editor-in-Chief

ARTICLES

RETHINKING THE ROLE OF ISLAM IN MALAYSIAN POLITICS: A CASE STUDY OF PARTI AMANAH NEGARA (AMANAH)

*Maszlee Malik**

Abstract: In 2015, a group of sidelined and outcast progressive leaders and other activists from Parti Islam SeMalaysia (the Islamic Party of Malaysia, also known as PAS) decided to leave that organisation and form Parti Amanah Negara (AMANAH). The establishment of this new party was linked to efforts at saving the moderate form of Islamic political thought once embraced by PAS; the founders of AMANAH claimed that the new PAS leadership, elected during the 2015 Muktamar (Annual General Assembly), were too conservative and threatened the continuation of this moderate heritage. According to its founders, AMANAH has therefore been established to bring Islamic political activism into a new paradigm, with the hope of shaping a future Islamic discourse in Malaysia that is more inclusive, moderate, democratic and progressive. This article is an attempt to understand the party's ideology, supposedly a 'new discourse' in political Islam, and evaluate the level of adherence it enjoys amongst AMANAH members. This is done through a qualitative study conducted with 100 party members from different levels.

Keywords: Parti Amanah Negara (AMANAH), Democrat Muslim, Ennahda Party, Malaysia, Parti Islam Se-Malaysia (PAS), Political Islam, Rached al-Ghannouchi.

Introduction

In 2008, just after Malaysia's 12th General Election, when the opposition managed to deny the ruling Barisan Nasional (BN) coalition a two-thirds majority for the first time in Malaysian political history, Parti Keadilan Rakyat (PKR), the Democratic Action Party (DAP) and Parti Islam SeMalaysia (PAS) formed an opposition coalition called Pakatan Rakyat (PR). This coalition was maintained into the following 13th General Election (2013), winning not only urban votes, but also triumphing in traditional BN strongholds. In total, PR managed to secure

approximately 52% of the popular vote, considered by many to be a further unprecedented achievement in Malaysian political history. However, in 2015 PR met an untimely end when PAS's 61st Muktamar (Annual General Assembly) passed a motion to sever ties with DAP.¹ Following this, DAP and PKR continued to work alongside each other, while PAS went its separate way. But PAS's 61st Muktamar is not only remembered for its impact on the PR coalition; it also proved a landmark event in the internal mechanics of PAS itself.

The break between PAS and the PR began with the "Kajang move" in 2014, when PKR attempted to replace their Selangor Menteri Besar, Tan Sri Khalid Ibrahim. This move was opposed by the PAS leadership. However, while the party's conservatives wanted to distance PAS from PR as a result, a more moderate faction wanted to strengthen the coalition. The culmination of this feud occurred during the aforementioned 61st Muktamar, held 4-6 June 2015. The internal party elections held during this meeting witnessed bitter infighting, culminating in the conservatives wiping out the progressive component of the party *en mass*. These sidelined and outcast progressive leaders of PAS subsequently left the party. Along with other like-minded Islamic organisation members, they went on to establish Parti Amanah Negara (AMANAH) on 16 September 2015. The creation of this new party stemmed from a desire to save the moderate Islamic political thought PAS had once embraced.

AMANAH seeks to present a progressive, democratic and inclusive Islamist alternative to PAS, which is perceived to have become dogmatic and exclusive. The inclusive and democratic Islamism that AMANAH tries to promote has added diversity to the topic and practice of political Islam, both locally and globally. Unlike the conventional Islamic rhetoric used by PAS and UMNO, revolving around the enforcement of moral codes and strengthening of Islamic law, AMANAH offers a *Maqasid Shari'ah* (Higher Objectives of the Shariah) approach. This concept highlights Islamic values, such as social justice, good governance and multicultural co-existence. AMANAH maintains that its 'inclusive Islam' approach, based on the *Maqasid Shari'ah*, does not mean that the party has abandoned Islamic ideology; the *Maqasid Shari'ah* approach aims to demonstrate the relevance of Islam in modern multi-cultural and multi-religious contexts like Malaysia.

This paper examines how this new framework for a more inclusive Islamic politics (term by some AMANAH leaders as 'Muslim Democrat' or 'Political Islam 2.0') differs from the vision presented by PAS. It argues that the new framework adopted by AMANAH is a genuine departure from the old, conservative paradigm of political Islam and does not represent mere political strategy or expediency. The consistency of AMANAH's position, however, is tested here by comparing the different views of 100 party members, as gleaned from interviews, roundtable

discussions, and other statements made by individuals. The respondents were diverse, consisting of members of the central leadership, leaders at state level, and normal members. Both genders were considered, with most members coming from the five major states of Selangor, Wilayah Persekutuan, Johor, Kedah and Perak. The selection of normal members was random, while the leaders at state level were chosen from the five selected states. For the central leadership, the researcher was able to interview more than half of the party's leaders, from different age ranges and both genders. The respondents were asked about what they hoped the party would achieve, what differentiates it from existing Islamic parties in Malaysia, and how they define both the struggle this newly formed party faces and its terms of reference.

Genesis

AMANAH represents the transformation of Parti Pekerja Malaysia (Malaysia Worker's Party), first founded in January 1978. On 31 August 2015, the progressive Islamists who had left PAS, collectively known as Gerakan Harapan Baru, took control of this party along with members of other like-minded Islamic organisations, including Pertubuhan Ikram Malaysia (IKRAM)² and Angkatan Belia Islam Malaysia³ (ABIM).⁴ The party was officially launched on 16 September, in conjunction with Malaysia Day, after the Registrar of Societies approved its new name.⁵

AMANAH began with six Members of Parliament⁶ and seven state legislative assemblymen in six different states,⁷ all of whom were originally elected as PAS members in the 2013 General Election. Amanah's founding president was Mohammad Sabu and its deputy president Salahuddin Ayub, with former PAS members Husam Musa and Mujahid Yusof Rawa being appointed as vice-presidents. Two further AMANAH vice-presidents, Hasanuddin Mohd Yunus and Hasan Baharom, were formerly the vice-president of IKRAM and leader of ABIM respectively. Many other AMANAH leaders, including Dzulkefly Ahmad, Hatta Ramli, Khalid Samad, Suhaizan Kayat, Siti Mariah Mahmud, and Mazlan Aliman, were professionals with Islamic credentials who had been associated with PAS before their migration to AMANAH. Most of the MPs who joined AMANAH were known for debating public policy and articulating an Islamic discourse within a modern context. These qualities have made them popular among many non-Muslims and some segments of urban Muslims.⁸

According to its founders, AMANAH aims to bring the ideals of Democrat Muslims to Malaysian politics. As discussed, the founders of AMANAH were formerly leaders of PAS, where they acted as the architects of the moderate approach adopted by that party since 2008. It was they who managed to

bring PAS into coalition with other opposition parties, to form PR. Moreover, numerous non-conventional policies introduced by PAS during the period 2008 to 2015, such as ‘PAS For All’, ‘*Negara Berkebajikan*’ (State of Benevolence), and others, represent the fruits of their labour. However, attempts to bring PAS to a more modernist and progressive outlook ultimately failed; those who tried to change the party from its conservative stance were the ones who ended up being sidelined and removed. Despite being active in PAS for decades, the progressives failed to properly structure and strategise their work within the party, failing to spread their progressive ideas to its wider membership.

The AMANAH president, Mohammad Sabu, has insisted that the party is multi-racial and multi-religious, committed to undertaking a more inclusive Islamic agenda for the well-being of all citizens.⁹ This is in contrast with PAS’s orientation, which is increasingly directed towards Islamic legalistic reductionism. Dzulkefly Ahmad, the director of the AMANAH strategic centre, has asserted that AMANAH was born out of the need for change in Malaysia, as desired by Malaysians due to the country’s miserable economic and political situation.¹⁰ Intolerable levels of corruption associated with the ruling party, especially the 1MDB scandal revolving around the Prime Minister Najib Tun Razak, have made Malaysians hungry for change. According to Dzulkefly, AMANAH, set upon the core principles of *Maqasid al-Shari’ah*, reflects this desire for real change towards a better Malaysia.¹¹

However, PAS has accused AMANAH of being a DAP stooge. PAS president, Abdul Hadi Awang, for example, expressed this sentiment during a *ceramah* (political campaign) during the Kuala Kangsar by-election in 2016.¹² The current leadership of PAS has vilified DAP as anti-Islamic and an impediment to PAS attempts to implement *hudud*. As a result, they have labelled AMANAH members as *jebon* (mongoose), parasites, liberals, secularists, pluralists, anti-Shari’ah and anti-*Ulama* (religious scholars).¹³

A Fresh Model of Islamic Politics

From September 2015 to December 2016, the author conducted open-ended interviews with 100 randomly selected AMANAH members, including both leaders and grassroots activists, mostly from the states of Selangor, Wilayah Persekutuan, Johor, Kedah and Perak. Questions covered: what kind of Islamist party they wanted AMANAH to be; what Islamic models of governance they aspire to; the difference between their party, PAS and other Islamic parties; their views on potential coalitions with secular and non-Islamic parties; and their views on *hudud*, PAS’s political card since 1990. Results were compared with party literature, including official statements launched by the party, and any unofficial

statements party leaders have made, at all levels. This comparison is relevant to see the level of consistency in the party's position.

A consensus exists amongst respondents that AMANAH is what the current PAS is not. The majority maintain that the party's *raison d'être* is to fill the gap left by PAS in Malaysia's modern political environment. The majority of respondents also claim they are looking up to Turkey's AK Party and its leader, Recep Tayyip Erdogan, as an inspiration, while some senior and youth leaders are quoting the prominent Tunisian thinker, Rashid al-Ghannouchi, head of the Ennahda party. The top echelons of AMANAH, however, insist that the party will carve out its own model using the political thoughts and ideals of the late PAS president, Fadzil Muhammad Noor, and the late PAS *Murshidul 'Am* (Spiritual Councillor) and Kelantan Menteri Besar, Nik Abdul Aziz Nik Mat. In contrast, all respondents characterised Jihadi-oriented Islamist groups like al-Qaeda, IS, Boko Haram, and the Taliban as dangerous models to be avoided, with some respondents even saying that the current PAS leadership is being penetrated by those who subscribe to the ideologies of these extremists. However, such a heavy allegation was not supported by solid proof and thus remains mere political rhetoric.

In explaining the major difference between AMANAH, PAS and other Islamic parties in Malaysia, most respondents declared that AMANAH is a continuity of the inclusive approach pioneered by Nik Abdul Aziz. This key PAS figure was an example of openness amongst *ulama*, who insisted on harmonious relations between citizens from different faiths and became an icon of unity amongst the opposition parties. His centrality to AMANAH is unsurprising, since many AMANAH leaders were known for their close relationship with Nik Aziz during their days in PAS. It was through the blessings of Nik Aziz that these individuals, many of whom were in the PAS central committee, managed to popularise the ideas of 'PAS For All' and the welfare state, initiatives that successfully rebranded PAS and expanded its appeal to non-Muslim voters after the 2008 general election.¹⁴ Nik Aziz also inspired many AMANAH leaders with his moderate, humble and simple lifestyle, seen as indicative of his clean governance.¹⁵

On the other hand, a sizeable number of former PAS leaders and activists in AMANAH also mentioned Ustaz Yahya Othman, the former secretary of PAS's Majlis Shura Ulama, as a source of inspiration.¹⁶ Aside from these names, the leadership of AMANAH across all levels agreed that the party's guiding principles are derived from a deep understanding of *Maqasid al-Shari'ah*, which aims to attain the well-being of citizens by upholding the principles of justice, the rule of law, freedom and good governance. In its new outlook, AMANAH departs from the concept and conventional image of 'political Islam', which carries negative connotations in the modern world. Instead, the party defines

itself as a “democratic political party with an Islamic frame of reference and a national platform.”¹⁷

The concept of *Maqasid al-Shari'ah* was extensively developed by Abu Ishaq al-Shatibi, one of the scholars of *al-Maghreb al-'Arabi* (Northern Africa) and author of the major reference work on the subject, *al-Muwafaqat*. Subsequently, the theory of *maqasid* was enshrined and translated into a modern context by the late Tunisian scholar, Syeikh Tahir Ibn Ashur. According to the understanding of *Maqasid al-Shari'ah* promulgated by these authors, any act, ruling or policy undertaken or adopted by Muslims must be in accordance with the highest aims of the Shari'ah, as exemplified in the preservation and promotion of five points: human life (including quality of life), religion/belief, mind/intellectuality, wealth and progeny. Ibn Ashur added three more qualities to these: freedom (*al-Hurriyah*), justice (*al-'Adalah*) and equality (*al-Musawah*).¹⁸

In an interview, party president Mohammad Sabu insisted that “the party [AMANAH] is heading towards a more civilisation-based Islam, and towards a ‘leadership of the competent pious’ [*Kepimpinan Muttaqin*] unlike PAS whose interest has always been on legalistic Islam, reflected by its eagerness to implement *hudud* and its ambiguous idea of ‘Leadership of the Jurist’ [*Kepimpinan Ulama*].” Arguing that most of the characteristics of good governance, especially fighting corruption and bribery, are compatible with Islamic values, Muhammad Sabu stressed that “striving for justice and clean government is part of Islamic politics.”¹⁹ Mujahid Yusuf Rawa, the party vice-president, defined AMANAH’s Islamic agenda as being an “Islam based on grace and compassion, and not anger and fury [*Islam ramah tamah dan bukan marah-marah*].”²⁰

This new approach implies that Islamic politics should be more inclusive in its struggle to uphold justice and fight corruption and bad governance. It is also via this new approach that AMANAH, according to Mujahid and other party leaders, seeks to offer all possibilities of working together with other parties, across faiths, ideologies and inclinations, to help achieve common goals and common goods for the well-being of all citizens.²¹ Similarly, Salahudin Ayub, the deputy president, and Hasanudin Mohd Yunos, the vice-president, also state that the party is unique because it fights for justice and the rights of all Malaysians, not exclusively Muslims.²² They assert that AMANAH is consistent in its aim to bring mercy to all humankind (*Rahmatan lil 'Alamin*) through political involvement and striving for good governance.

In explaining *Rahmatan lil 'Alamin*, Siti Mariah, the chief of AMANAH’s Women’s Wing, asserts that the party tackles issues related to women, children, family, people with disabilities and the environmental.²³ Siti Mariah’s views are echoed by a group of AMANAH youth leaders from Wilayah Persekutuan, who were interviewed in a focus group. According to them, these issues are blindspots

that are often neglected by many Islamic parties and organisations globally. Based on the *maqasid* approach, however, AMANAH is perceived by its youth leaders as a source of hope for bringing a new dimension to Islamic activism, as an exemplar to other Islamic parties and movements throughout the globe.

Party strategist Dzulkilfy Ahmad declared that AMANAH is no longer a conventional Islamic party, representative of the old school of political Islam.²⁴ Rather, he asserts that it is ‘second generation’ political Islam, which wishes to be known as ‘Democrat Muslims’ rather than ‘Political Islamists’ (thereby echoing the Tunisian Party Ennahda, below).²⁵ This new, non-conventional and non-political Islamist worldview is shared by most respondents interviewed here, especially at the leadership level. This can be seen as an epistemological break from the old version of political Islam in Malaysia.²⁶ However, AMANAH’s Shah Alam MP, Khalid Samad, maintains that AMANAH is still an ‘Islamic party’, but with a different, more inclusive approach in comparison to PAS.²⁷ This aspiration was shared by a small number of other respondents, mainly religious teachers (*asatizah*) and former PAS activists.

When it came to the issue of Islamic law, especially *hudud*, notably in the context of the so-called ‘*hudud* bill’²⁸, respondents had mixed views and responses. While all respondents agreed that *hudud* is not a priority, they differed in determining the suitability of *hudud* in multi-racial Malaysia. Many AMANAH members feel *hudud* can only be implemented if the majority of Malaysians vote for it through their MPs, which will be indicative of the people’s level of readiness. However, they are skeptical about achieving such readiness in the near future. Rather, they believe that the party’s priority is to attain cleaner governance and a corruption-free Malaysia, and they are willing to work with any party which shares this aspiration.

All respondents viewed the Shari’ah as being broader than *hudud*, agreeing that it encompasses clean and good governance that is free of corruption, dedicated to the well-being of its citizens (regardless of faith and ethnicity), accountable, and just. Additionally, all respondents acknowledged that citizens in a modern state like Malaysia should be treated equally and be allowed to enjoy their rights and responsibilities. Within such a framework, non-Muslims must enjoy unqualified citizenship (*muwatanah*).²⁹ In this regard, the leadership of AMANAH agrees with Rachid Ghannouchi’s approach to politics.³⁰ Thus, Ghannouchi holds that his Ennahda party must serve all Tunisians based on the firm belief that Tunisia is for all Tunisians, not just Muslims. To achieve this, Ghannouchi stresses the principles of *maqasid*, making sure that Ennahda will always firmly adhere to the principles of freedom of politics, freedom of speech, freedom of ideas and all the other values that constitute a civilised country.³¹ Echoing prominent Algerian thinker, Malek Bennabi, Ghannouchi stresses that

a comprehensive understanding of the essence of Islam will lead towards an appreciation of democracy.³²

In explaining Ennahda's approach to politics, Ghannouchi emphasises that inclusivity and openness are the party's main principles.³³ He refuses to be associated with radicalism, conservatism or any vision that wishes to establish a theocratic state in Tunisia. In contrast, he insists that power-sharing and collective leadership alone can bring the country forward, rather than monopoly or domination by a single party or movement that could eventually lead to dictatorship and autocracy.³⁴ He insists that a government that is based on power-sharing and political plurality is the ideal model for the modern Muslim state.³⁵ This is democracy; democracy with an Islamic element, according to Ghannouchi, endows men with a value that surpasses the political or social, a value that honours the dignity of the human being, where the divine element within man is taken into consideration.³⁶ The central theme in Ghannouchi's thought is that democracy is compatible with Islam, and that Muslims need to incorporate it into their political thought in order to institutionalise the concept of *shura* (consultation).³⁷

AMANAH's emulation of this Ghannouchian framework has given a moral-boost to the party, providing it with legitimacy and justifying its departure from PAS's radical views on Islam and Islamism.³⁸

The AMANAH party is also strongly promoting its 'inclusivity' agenda. By the word 'inclusive', the members mean the party is open to non-Muslims. The leadership believes that a political struggle inspired by Islamic values should address and be concerned with issues relating to non-Muslims as well as Muslims. At the central committee level, AMANAH has two non-Muslim representatives: Hu Pang Chaw, the former head of Dewan Penyokong PAS, and Gopalan K. Papachan, who received the award for most outstanding AMANAH member at the party's first Annual General Meeting (Konvensyen AMANAH) on 7 December 2016.

Interviews revealed that most AMANAH members perceive the party as being different from other Islamic parties, particularly PAS, due to its inclusivity and openness towards others. This common perception is the 'glue' connecting most AMANAH members. There is likewise a consensus among members that any Islamic party should acknowledge the multi-religious and multi-racial reality of Malaysia. According to most of the AMANAH leaders who were also former leaders of PAS, they tried to bring this inclusivity into PAS from 1998 onwards, even managing to make it the mainstream policy after the 2008 election, when PAS was part of the opposition coalition PR. However, the approach was pushed aside by PAS leaders after the 61st Muktamar.

Evaluation

In principle, Islamic democracy is not a new discourse within Malaysia. Anwar Ibrahim, for example, the former Deputy Prime Minister of Malaysia, frequently discussed Islamic democracy, governance, and co-existence during his many speeches, writings and statements while in office.³⁹ Anwar, who was also the former president of ABIM, insists that Ghannouchi's ideas were the position of ABIM during the administration of former Prime Minister, Dr Mahathir Mohamad; just as Ghannouchi has emphasised the *Maqasid al-Shari'ah*, so did ABIM over the 1980s and 1990s. Although Anwar left ABIM to join UMNO during that period, the former's aspirations and spiritual guidance continued to inspire his Islamisation project within government. He also engaged many ABIM activists to support his Islamic agenda in UMNO.⁴⁰

Certainly, ABIM's *Manhaj Malizi* (the Malaysian method of change) is close to Ghannouchi's approach. It was through *Manhaj Malizi* that ABIM built its own framework of political activities and social works in the 1980s. Over that period, ABIM emphasised the need to contextualise Islamic methods of change and not wholly imitate Middle Eastern models, like the Ikhwan movement. Thus, ABIM called for *Manhaj Malizi*, essentially an effective strategy for getting an Islamic message across to Malay Muslims in Malaysia without introducing something radically different, at the expense of local cultures and traditions. In this sense, the adoption of a moderate approach, which stressed the importance of accommodating local realities, is essentially similar to Ghannouchi's.⁴¹ In explaining the importance of *Manhaj Malizi*, Siddiq Fadzil said: "Realising that Malaysia is not Egypt, neither is it Pakistan or Iran or any other countries in the world, rather Malaysia is Malaysia with its unique characteristics, we are convinced that Malaysian problems should be solved through the experience of Malaysia."⁴²

However, Anwar claims that his intonation was more neutral and less 'Islamist' than Ghannouchi's.⁴³ This fact was also recognised by the late Abdel Wahab el-Messiri, whose 2003 discussion of 'the new Islamists' mentioned Anwar as the epitome of a new generation of Islamists who were leaving the old, reaction-based platform of Islamism behind.⁴⁴ Furthermore, according to Anwar, his ideals of Islamic democracy can currently be seen in his party, PKR, in which the real meaning of inclusivity and democracy are being practiced and acted upon as the core values of the party. PKR leaders and members comprise Islamists from ABIM, IKRAM and other Islamic organisations, along with former UMNO members and former left-inclined social activists from SUARAM, the dissolved Parti Rakyat Malaysia (PRM) and other civil society activists.⁴⁵

If the above is correct, then why did the founders of AMANAH not join Anwar's PKR? Didn't they realise that by inventing another 'Islamic party' they were splintering the opposition, as has happened in many other parts of the world? Furthermore, by having Islam as its core and foundational ideology, is AMANAH's 'inclusivity' agenda not mere rhetoric or maybe even a political strategy to win votes and the support of non-Muslims? The 'neutrality' of Anwar's party, which one might term 'secular', is arguably more suited to achieving inclusivity so, again, why not join PKR?

In replying to these questions, Dzulkefly Ahmad, insists that AMANAH is 'Political Islam 2.0', differing from all older political Islam paradigms.⁴⁶ While AMANAH's departure from PAS does not equate to abandonment of Islamic political epistemology in its totality, Ahmad points out that in order to understand the position of AMANAH, one needs to understand the notion of 'ideological evolution'. An ideological evolution occurs when a paradigm within a certain ideology shifts from its initial fundamental principles, but while maintaining its epistemological references with a degree of coherence. Ideologies are not fixed, but constantly interact with the political, economic or social contexts within which they were produced and subsequently reproduced; dogmatic and static adherence is an exception, even in supposedly dogmatic-based religious ideologies. Ahmad also gives the example of how Ghannouchi's political thought, exemplified by Ennahda, evolved from its former political Islamic ideals into a new platform by departing from the conventional political Islam position to one which puts the principles of democracy, freedom and the rule of law before Islamist ideological ideals. He added that Anwar's Muslim democratic ideals are acknowledged and embraced by AMANAH; however, to be in his party is another issue. Ahmad asserts that the issue of affiliation to certain parties is not only ideological; there are also strategic and political issues to consider, that influenced the founders of AMANAH in their decision not to join PKR but establish a new platform for their democratic political struggle.⁴⁷

However, to say that Ghannouchism alone defined the position of AMANAH would not be an accurate assessment either. The adoption of Ghannouchi's concepts only serve to substantiate a pre-existing discourse held by those individuals who established AMANAH, a discourse that was already evolving within the socio-political and socio-cultural context of Malaysia. Indeed, despite AMANAH's unprecedented involvement and engagement with non-Islamists and secularist partners, and the new ideas it has adopted that go beyond the classical and conventional models of Islamism, they have failed to come up with a substantial framework based on a coherent philosophical foundation. This indicates that the leaders of AMANAH are not yet, at least at this early stage, capable of establishing their own thought processes. Nevertheless, this is not

necessarily a major drawback, since Malaysian political parties are not generally ideological. Political leaders in Malaysia are thus not required to be thinkers.

Reflecting this lack of philosophical coherence, AMANAH members at the grassroots level have different interpretations of what the party really is, and what makes them different from other Islamists. However, the interviews and roundtable discussions that formed the basis of this assessment were mainly conducted during the first year of the party's establishment (2015-2016), before such a framework can be expected to have taken shape.

Another obvious shortcoming of the party stems from its demographics: most members are professionals, young educated people, and middle-class citizens. While this predominantly high level of education amongst AMANAH members allows the party to boast about the quality of its leadership, it is surely lacking in the kind of grassroots supporters common to other, older parties in Malaysia, such as UMNO, PAS, and PKR.

The birth of AMANAH has proven useful in generating an evolution in contemporary Islamic political thought. With regards to the Malaysian political arena, it can be said that AMANAH, as an Islamic party that believes in democracy and inclusivity, has been able to position Islamic values at the forefront of a more inclusive and accessible message capable of functioning as a viable bridge between Muslims and non-Muslims. This approach is important amid the plethora of racial and religious-related incidents that have occurred since 2009, threatening the harmony that Malaysia has thus far enjoyed since the 1969 riots. The emergence of these issues may be piecemeal and coincidental, but the pattern is threatening the very fabric of Malaysia's multi-ethnic and multi-religious make-up.

Conclusion

It is clear that AMANAH, despite being a political party with an Islamic identity, has departed from the issues many other conventional Islamic parties subscribe to, such as the re-establishment of *Dawlah Islamiyyah* (Islamic State), *hudud* (Islamic criminal punishment law), the relationship between Islamists, secularists and non-Muslims, and the domination of power. The party has revisited its position on all these issues, developing more realistic approaches that the party founders trace to Recep Erdogan's political manoeuvres and Rashid Ghannouchi's ideas of Islamic democracy, *hurriyah* (freedom), *al-muwatanah* (equal citizenship for both Muslims and non-Muslims), power-sharing and continuous dialogue and engagement.

This study, focused on the AMANAH leadership and its members, indicates that all party members, at all levels, consistently adhere to a new 'Democrat Muslims' approach, adopted in contrast to conventional political Islam. This new

approach, according to AMANAH's leaders and founders, in comparison with the 'legalistic discourse' of conventional political Islam, promises a more democratic, inclusive and friendly Islamic discourse within a wider understanding of the highest objectives of Shari'ah (*Maqasid al-Shari'ah*). However, the price paid by the party for such an epistemological break and paradigm shift is high, since it has to start a new chapter in Malaysian politics as a new party, handicapped by perceptions of being a splinter group from PAS.

Furthermore, the political cleavage of Muslim Malays, especially in Malay-majority constituencies, will always be a hurdle for AMANAH, making it difficult to fully replace the long-established presence of PAS, which has been present in Malaysian politics for more than half a century. Additionally, AMANAH's new paradigm of 'Democrat Muslims' also faces a tough challenge in Muslim-majority areas due to the current popularity of semi-conservative Islamic culture in Malaysia. Similarly, the racial prejudice against non-Muslims in general and DAP in particular that has been orchestrated by certain parties in the media, both mainstream and social, has added another hurdle to AMANAH's quest to position itself as an alternative Islamic voice for Muslims.

Given the ideological and theoretical dependence AMANAH has on Ghannouchi's concept of the Muslim democrat, Ghannouchi's visit to Malaysia by invitation of the Malaysian Government in early July 2017 has created a new dilemma among AMANAH leaders, especially given Ghannouchi's widely reported praise and positive evaluation of Malaysia both during and after his visit. In responding to this dilemma, Dzulkefly Ahmad replied that AMANAH embraces Ghannouchi's thought but not his political decisions as a statesman.

Policy Recommendations

1. AMANAH must culturise an inclusive Islamic discourse amongst religious communities and assist them in embracing universal good values and ethics, as against the religious hegemony and intolerance that has started to dominate Malaysian politics since 2009.
2. History has shown that religious hegemony and intolerance in a pluralistic society will invariably result in conflict and will only frustrate the claim that Islam is a religion of compassion, peace and freedom. To counteract this, AMANAH must prove that the call of Islam is towards the observance and practice of good conduct and civility, ensuring that diversity will nurture peace and the common good.
3. On top of convincing Muslims of its potential and capability to be their voice, AMANAH must also appeal to non-Muslims with a brand of moderate and inclusive Islam that does not sideline their needs and interests.

4. There still exists a degree of uncertainty and distrust amongst the public about AMANAH's stance, objectives and direction. The party therefore needs to invest in reputation building and management initiatives to solidify its position as the country's sole moderate Islamic party fighting for the rights of both Muslims and non-Muslims. By intensifying its strategic communication through well-planned and well-implemented tactical initiatives, AMANAH will be able to ensure that its messages reach its target audience directly.
5. Moving forward, for AMANAH to truly make a noticeable impact in the local political arena, particularly in the upcoming 14th General Election, it must proactively move beyond ideological concerns and deliberations. Its focus should be on working harder on the ground, to penetrate the grassroots and mobilise voters. For this to be a reality, the party must take an active role in championing socio-economic causes that are close to the hearts of the people.

Notes

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 7. They are: Ir. Pahrolrazi Zawawi, representing N17 Pengkalan Kundor; Husam Musa, representing N17 Salor; Mohammad Nizar Jamaluddin, representing N14 Changkat Jering; Syed Hamid Syed Mohamed, representing N32 Kuala Semantan; Saari Sungib, representing N18 Hulu Kelang; Hasnul Baharuddin, representing N53 Morib; and Aminolhuda Hassan, representing N21 Parit Yaani.
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STATISTICS IN ISLAMIC SCRIPTURES AND LEGACY

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Abstract: Statistics as a modern discipline has emerged and developed as part of the development of scientific inquiry. While Islamic civilisation has contributed to many key areas of modern knowledge, statistics is one area that has rarely been explored in this context. This paper examines the concept of statistics in Islamic scriptures, particularly the Qur'an, and how the concept has evolved in the history of Islamic civilisation. Evidence presented in the paper sheds important light on how close the modern concept of statistics is to the term *al-ihsa'* in the Qur'an.

Keywords: Statistics, Islam, *Ihsa'*, Islamic history, Social Research, Ibn Khaldun.

Introduction

Statistics has been used by scholars of religion for a fairly long time. First, statistical methodology was used to verify the authorship of religious texts. Secondly, it was utilised to study the historical aspects of religious movements. Thirdly, some statisticians looked for statistical and probabilistic ideas in religious texts. Keeping in view the third aspect, this paper attempts to explore the Islamic scriptures, namely the Qur'an and hadith (the traditions of the Prophet of Islam), for the use of the concept 'statistics' as it is understood today.

While this usage of the concept has relevance from the perspective of hermeneutics, it also has heuristic applications. Like other parts of the world, the Muslim world has had various experiences of statistical measurements and applications. Yet, statistics as a subject remains a neglected one in the Muslim scholarly tradition. This paper is expected to pave the way for a better understanding of the concept of statistics from the Islamic scriptural perspective. This may also help trace the applied side of statistics in the Muslim world throughout history.

Conceptualising the premises

Walter Wilcox collated 115 definitions of 'statistics' given by different scholars in European languages during the period 1749-1934.¹ A modern definition of statistics has evolved into something closer to the following, given in the

Encyclopedia Britannica: “the art and science of gathering, analyzing and making inferences from data.”²² It is also described as “the collection of data sets, and extraction and presentation of the information they contain.”²³ In examining the usage of the term ‘statistics’ in the religious scriptures of Islam, the abovementioned definitions will be used for comparative reference.

Statistics and religion

An entry in the *Encyclopedia of Statistical Sciences* entitled ‘Statistics in Religious Studies’ contains a brief account of the topic along with a bibliography.⁴ For example, A. S. Hasofer explores the occurrence of probability notions as well as a variety of random mechanisms in Talmudic literature.⁵ N. L. Rabinovitch studies both the ancient and medieval periods from the perspective of probability and statistical inference.⁶ Adam and Reucher studies Isaiah.⁷ A. M. Honroe examines the issue of synoptism in Christian scripture.⁸ Thus, in the context of the relationship between statistics and religious studies, one finds several key areas of statistics explored and/or applied.

A major application of statistics to religious studies occurs in the study of religious literature ... Compilation of data from religious writings can be dated to the work of the Masoretes, Jewish scribes who worked during the sixth through tenth centuries and were concerned with accurate preservation of the Hebrew Bible.⁹

Many of these studies were limited to basic data gathering and organisation, such as word counts, letter counts, occurrence of certain words, etc. without applying any statistical analysis. Many such works later applied statistical techniques of inference.

[T]he use of formal statistical analysis to explicate such [scripture-related] hypotheses did not occur until the mid-twentieth century. Following Wake, Morton and his colleagues applied statistical methods to the Pauline Epistles ... He measured such variables as sentence length and the frequency of occurrence of specific words, and compared of the writings traditionally attributed to Paul with each other and with other classical Greek writings.¹⁰

Gradually, a more comprehensive application of statistical analysis was observed in various areas of religious studies.

[Another] area of relationship between statistics and religious studies concerns application of statistical methodology in sociological, historical, or archeological investigations in religious studies. Three

journals...are dedicated to such investigations, although similar studies appear in a wide variety of sources.¹¹

Statistics, social research and Islamic discourse

With such a robust application of statistics to Jewish and Christian scriptures,¹² one question naturally arises: what has been the relationship, if any, of this subject to Islam and Islamic scriptures? For many centuries Islamic civilisation outshone other civilisations over vast parts of the world. Islamic civilisation was a vibrant one, politically, economically, socially, culturally, intellectually and technologically. While many statistical concepts have taken their current shape only in modern times, many basic or essential aspects could not have been avoided in an advanced civilisation like that of Islam. Yet, one observes a paucity of studies in this area. Such paucity appears paradoxical, because the notion of statistics, as it has evolved in modern times is very close to a similar notion appearing in the Qur'an and hadith, the two primary scriptural sources of Islam.

For those who are unfamiliar with the primary scriptural sources of Islam, a brief explanation might be helpful. According to Islamic creed, the Qur'an was revealed verbatim from God to the last Messenger, Muhammad, through the archangel Jibril (Gabriel). The Prophet Muhammad received these revelations over a period of twenty-three years, when they were memorised by numerous of his faithful followers, and also written down. Hadith, which are the second primary source, contain records of the words and deeds of the Prophet. Over several centuries these narrations took the form of a number of compilations, the most trusted ones being *Sahih al-Bukhari*¹³ and *Sahih Muslim*.¹⁴ If any Islamic practice or precept is not mentioned or elaborated upon in the Qur'an, Muslims must turn to the hadith for detailed guidance based on the fact that the Prophet is *uswatun hasana* (the best example). Apart from these two primary scriptural sources, there are secondary sources of Islamic law and jurisprudence, which includes *ijma'* (consensus) and *qiyas* (analogical reasoning).

Exploring the literature on statistics and religious studies, there is hardly any study focused on Islam, mainly because legalism and theology have gained an overwhelming dominance in the discourse on this religion. Muslim scholars who upheld the rationalistic and intellectual dimensions of textual analysis were ignored or even rejected by the so-called mainstream Muslim community. Thus, more Muslims are familiar with the names and works of luminaries of Islam, such as Imam Abu Hanifa (d. 767 AD), Imam Malik (d. 795 AD), Imam Shafi'i (d. 820 AD), Imam Ahmad ibn Hanbal (d. 855 AD), Imam Ghazali (d. 1111 AD), Imam Ibn Taymiyya (d. 1328 AD) and so on, then they are with rationalists like al-Kindi (d. 870 AD), al-Biruni (d. 1048 AD), Ibn Rushd (d. 1198 AD) or Ibn

Khaldun (d. 1406 AD). Many scholars in the latter group were not only ignored, but religiously denounced.¹⁵

The orthodox view culminated in the position of Imam al-Ghazali, whose impact may have seriously constrained the development of Muslim minds in the rational or scientific fields. Al-Ghazali observed: "Even if geometry and mathematics do not contain notions that are harmful to religious belief, we nevertheless fear that one might be attracted through them to doctrines that are dangerous."¹⁶

The fact that even Ibn Khaldun, who was not indebted to Greek philosophy as were other Muslim philosophers, was condemned reflects how powerful the hold of the orthodoxy was, especially in the legalistic trend. Al-Biruni, one of the greatest scientists among Muslims, was also subjected to similar religious denunciation.¹⁷

Ibn Khaldun and al-Biruni are particularly relevant here because the former made pivotal contributions in the field of sociology of history and the latter in the field of science, mathematics, astronomy, history and more. Given that Muslim scientists and scholars have provided leadership in the fields of knowledge in general and science in particular for such a long period of time, it would be reasonable to expect that they also made some contribution to statistics. Indeed, it appears that the works of Ibn Khaldun and al-Biruni did make such contributions to the fields of research methodology in general and statistics in particular, as connected to the development of modern statistics.

Connecting these historical dots might not have been possible without the seminal study of Robert F. Boruch, professor of education and statistics at the Wharton School of the University of Pennsylvania, who focused on the works of Ibn Khaldun and al-Biruni.¹⁸

Boruch's work grew out of a UNESCO conference on evaluation techniques, where the participants generally identified "the techniques of applied social research in general and statistical evaluation in particular [being] more compatible with western culture than eastern."¹⁹ The goal of his paper was:

[T]o illuminate this concern in a limited way, notably by identifying early Arabic precedents for some of the 'modern' ideas implicit in methods of applied social research. ... The history of social research, including statistic, deserves serious intellectual attention on its own account. Kruskal and Mosteller ... and others have increased our understanding of the topic on relevant occidental literature. Eastern and Middle Eastern material has received far less attention than it deserves to judge from historians and philosophers such as Hacking ... and others. This is an effort to rectify the matter in a small way, using

two remarkable works, Ibn Khaldun's *Muqaddimah* and al-Biruni's *India*.²⁰

According to Boruch, Ibn Khaldun's "work has been recognised as a progenitor of modern disciplines of sociology and human ecology by scholars" and al-Biruni's "works contain ideas pertinent to social statistics, applied social research, and numerical evidence."²¹ Others have also studied the works of al-Biruni. Works by him "besides *India* have been analyzed by Eisenhard and Kennedy in the interest of discovering early predecessors to the contemporary measures of central tendency in statistical data. Some of the specific issues he considered fall often into territory now claimed by the pollster, the demographer, social scientist, statistician, and evaluation researcher."²²

After identifying and analysing traces of several basic statistical or quantitative methods, such as mean, relative frequency, correlation, causality, response bias, etc., Boruch asserts:

[T]here is sufficient evidence here to judge that some ideas underlying contemporary research methods, especially quantitative methods, were recognized by Ibn Khaldun and al-Biruni and were discussed. To judge by other commentators, there is evidence for the contention that Ibn Khaldun did go well beyond his own contemporaries in this respect. ... [I]t seems fair to regard both men as legitimate predecessors to the applied social researcher—conscientious models of what can be done to understand what happens, why it happens, and with what consequences.²³

According to the renowned historian Arnold Toynbee, "... in the Prolegomena (*Muqaddimah*) to his Universal History, he (Ibn Khaldun) has conceived and formulated a philosophy of history which is undoubtedly the greatest work of its kind that has ever yet been created by any mind in any time or place."²⁴ What is remarkable in this context is that Ibn Khaldun identified the Qur'an as the source of guidance and inspiration for his works.

When our discussion in the section on royal authority and dynasties has been studied and due critical attention given to it, it will be found to constitute an exhaustive, very clear, fully substantiated interpretation and detailed exposition of these sentences. We became aware of these things with God's help and without the instruction of Aristotle or the teaching of the Mobedhan (note: a Zoroastrian source).²⁵

We, on the other hand, were inspired by God. He led us to a science whose truth we ruthlessly set forth. If I have succeeded in presenting

the problems of this science exhaustively and in showing how it differs in its various aspects and characteristics from all other crafts, this is due to divine guidance. If, on the other hand, I have omitted some point, or if the problems have got confused with something else, the task of correcting remains for the discerning critic, but the merit is mine since I cleared and marked the way. '*God guides with his light whom He will*' [al-Qur'an 16:68].

Statistics in the Islamic Scriptures

As Ibn Khaldun asserts that his work was rooted in Qur'anic guidance, in this part we explore how the notion of statistics has been dealt with in that text. Notably, as the *Dictionary of Statistics: English-French-Arabic* notes: the Arabic term for statistics, as used in modern statistics, is *al-ihsa'* or *ilm al-ihsa'* (the discipline of statistics).²⁷ The term means: "to count, enumerate, calculate, compute, reckon."²⁸

That term is also used in the Qur'an in several places,²⁹ notably in the sense of counting or measurement or simply taking account.

On the Day that Allah will raise them all up (again) and show them the Truth (and meaning) of their conduct. Allah has reckoned its (value) – *ahsahu* - though they may have forgotten it, for Allah is Witness to all things. (58:6)

God, of course, does not need to gather such data or information, since He is Omniscient. However, in the human context, the importance and relevance of gathering data, an essential part of statistics, is undeniable. In the following verses the term *ihsa'* has been used not just in the sense of counting or measurement, but especially in the sense of census, corresponding to the notion of 'population.'

That He may know that they have (truly) brought and delivered the Messages of their Lord: and He surrounds (all the mysteries) that are with them, and *takes account* – *ahsaa* - of every single thing. (72:28)

And the Book (of Deeds) will be placed (before you); and you will see the sinful in great terror because of what is (recorded) therein; they will say, "Ah! woe to us! what a Book is this! *It leaves out nothing small or great, but takes account* – *ahsaha* - thereof!" They will find all that they did placed before them: And not one will your Lord treat with injustice. (18:49)

Verily We shall give life to the dead, and We record that which they send before and that which they leave behind, and *of all things have*

We taken account – ahsainahu - in a clear Book (of evidence). (36:12)

And all things have We preserved – *ahsainahu* - on record. (78:29)

The following verse takes the issue of gathering data much further as accuracy as well as avoidance of error are clearly emphasised.

He does take an account of them (all) – *ahsaahum* -, and *has numbered them (all) exactly*. (19:94)

While God is perfect and error-free, gathering data as accurately as possible and analysing the same for exactitude are vital in a human context, for which measurement of error is the logical conclusion. In the works of al-Biruni and Ibn Khaldun, who were inspired and guided by the Islamic scriptures, we see not just gathering particular sets of information or data, but also organising and analysing the data to evaluate its acceptability.

Complete and perfect knowledge is the domain of God. Lack of perfection and complete accuracy is the domain of *homo sapiens*. This recognition is especially relevant, because while human beings cannot act like God or achieve perfection and complete accuracy, the need to be aware of our errors in terms of their deviation from reality, and any possible measurement of such error, is vitally important.

Thy Lord does know that you stand forth (to prayer) nigh two-thirds of the night, or half the night, or a third of the night, and so does a party of those with thee. But Allah does appoint night and day in due measure *He knows that you are unable to keep count –tuhsuhu - thereof*. So He has turned to you (in mercy); read you, therefore, of the Qur'an as much as may be easy for you. He knows that there may be (some) among you in ill-health; others travelling through the land, seeking of Allah's bounty; yet others fighting in Allah's Cause, read you, therefore, as much of the Qur'an as may be easy (for you); and establish regular Prayer and give regular Charity; and loan to Allah a Beautiful Loan. And whatever good you send forth for your souls you shall find it in Allah's Presence,- yea, better and greater, in Reward and seek the Grace of Allah, for Allah is Oft-Forgiving, Most Merciful. (73:20)

Since God-like perfect counting or enumeration is not possible for human beings, there is a need to calculate or estimate-meanings also covered by the term *al-ihsa'*. Recognising errors or deviations is essential to such processes of calculation or estimation. Thus, it is not surprising that attention to such accuracy,

especially when numbers, figures or sources are concerned, was well recognised by Ibn Khaldun.

Ibn Khaldun was extraordinarily sensitive to errors of many kinds in reporting. Recognizing that one must rely on a variety of sources whose reliability is unknown, he discourages simple acceptance of reports and identifies numerical information as being particularly susceptible to distortion:

“If one trusts ... information in its plain transmitted form ... he often cannot avoid stumbling and slipping and deviating from the path of truth.

This is especially the case with figures, either sums of money or soldiers, whenever they occur ... They offer a good opportunity for false information and constitute a vehicle for nonsensical statements.”³⁰

As Boruch points out, Ibn Khaldun cites the Qur’an for this sensitivity toward the evaluation of reported information.

To buttress the case that it is wrong to ‘make a feast of untrue statements’ as his antecedents and contemporaries did, he appealed to the Koran ...: ‘They procure for themselves entertaining stories in order to lead others away from the path of God’ and ends with the announcement that ‘this is a bad enough business.’³¹

In trying to separate fact from fiction and not accepting any report or data without evaluation or scrutiny, al-Biruni also appealed to the Qur’an to sustain his views.³²

The fact that there are limits to our ability to count and measure is also recognised in the Qur’an, as in the following two verses:

And He gives you of all that you ask for. But *if you count the favours of Allah, never will you be able to number them - tuhsuhaa*. Verily, man is given up to injustice and ingratitude. (14:34)

If you would count up the favours of Allah, *never would you be able to number them - tuhsuhaa*: for Allah is Oft-Forgiving, Most Merciful. (16:18)

These verses hint at the gap between complete or perfect information, such as population, and what human beings have to contend with, i.e., a ‘sample.’ Of course, in such cases, such calculation would be ‘estimation.’

In the following verse, too, the term *al-ihsa'* has been used in the sense of approximation or estimation.

Then We roused them, in order to test which of the two parties was best at calculating – *ahsa* - the term of years they had tarried! (18:12)

The term *al-ihsa'* in hadith has been mentioned specifically in the sense of estimation or measurement.

Narrated Abu Hurairah: Allah's Apostle said: "Calculate/estimate/determine - *Uhsu* - the Crescent of Sha'ban for Ramadan."³³

Narrated Hudhaifa: The Prophet (s) said: "Count – *uhsuu* - the number of people who have uttered (embraced) Islam ..."³⁴

In the *Muqaddimah*, Ibn Khaldun has used the same term in the sense of census. Referring to Ibn Battuta's account of a particular Indian monarch, Ibn Khaldun wrote:

He [Ibn Battuta] reported things about him that his listeners considered strange. That, for instance, when the ruler of India went on a trip, he counted [*ahsa'*] the inhabitants of his city, men, women, and children, and ordered that their requirements for (the next) six months be paid them out of his own income.³⁵

The following verse where the word *al-ihsa'* has been used is of especial relevance; in the practical context of divorce, the believers are asked to count the number of menstrual cycles that must pass before divorce can be pronounced according to Islamic rules.

O Prophet! When you do divorce women, divorce them at their prescribed periods, and count (accurately) – *ahsuu* -, their prescribed periods: And fear Allah your Lord: and turn them not out of their houses, nor shall they (themselves) leave, except in case they are guilty of some open lewdness, those are limits set by Allah. And any who transgresses the limits of Allah, does verily wrong his (own) soul: you know not if perchance Allah will bring about thereafter some new situation. (65:1)

It is well-known that al-Khawarizmi devoted himself to the development of algebra in order to simplify the calculation of inheritance shares in accordance with Islamic rules.³⁶ It is not surprising that the curiosity of Muslim scholars in applying algebra to linguistic studies led them to cryptography, where statistical methodology is vital.

Al-Kindi (d. 870 AD) was a pioneer in cryptography, providing the first known recorded explanation of cryptanalysis in his work *A Manuscript on Deciphering Cryptographic Messages*. He is therefore credited as the father of cryptography.³⁷ His book described “the use of several statistical techniques for cryptanalysis. This book apparently antedates other cryptology references by several centuries, and it also predates writings on probability and statistics by Pascal and Fermat by nearly eight centuries.”³⁸ His work indicates that one of the common statistical methods, maximum likelihood, was well known in the Muslim world. Borelli *et al* explains his contribution in the following way:

In a natural language letters have a typical occurrence frequency (E appears 12% of an English clear text, say); this typical frequency is “inherited” by the corresponding cipher text letter, and so, after a few trials and some semantic aid, the cryptogram can be broken. The underlying method, called *maximum likelihood*, is typical of statistics, and was well known in the old Arab world: to this end the Aristotelian philosopher Al Kindi had prepared an accurate statistical description of the Arab language, obtained by sampling part of the Qur'an. Long forgotten in Europe, cryptography was re-born in Italy during Renaissance, but the lessons of the Arabs had been learnt, and it was well understood that a good cipher system should be able to ‘cheat’ statistics.³⁹

Another example of a relevant contribution is provided by Ibn Sina, or Avicenna (d. 980 AD), in the area of drug development, which required concurrent control.

The central idea in clinical trials today is that of concurrent control: comparing the effects of treatments at the same time in a single experiment. This idea did not really find widespread practice until after the Second World War but there were, of course, many earlier examples. Some are reviewed by Pocock (1983) in his book and also by Lancaster (1994) and Gehan and Leman (1994), who suggest that the Islamic-Persian scholar Avicenna (980-1037) was an early proponent of the technique.⁴⁰

A key aspect of statistics is the study of probability, a synonym of which is chance. Muslims have taken the notion of probability seriously because one of the major prohibitions in Islam involves *maysir* (gambling or games of chance).

They ask you concerning intoxicants and gambling. Say: In them is a great sin and some benefit for men. But the sin is greater than the benefit. (2:219)

O you who believe! Intoxicants and gambling, (dedication of) stones and arrows are abomination of Satan's handiwork: Abstain from it so that you may prosper. Satan's plan is (but) to excite enmity and hatred between you, with intoxicants and gambling, and binder you from the remembrance of Allah, and from prayer: Will you not then abstain? (5:90-91)

Unfortunately, while in many areas of life, Muslims have been inspired by the Qur'an or Islamic precepts to deal with relevant problems and challenges, in regard to the issue of chance, beyond the insistence of the moral aspect of the prohibition, there has not been any specific attempt to study and develop the concept of chance or probability in an applied manner. This may be because theology in general approaches the issues of life and reality in the framework of certainty and conviction. This is especially true in traditional Islamic theology, where in matters of faith firm conviction (*yaqeen*) is expected and its opposite in the form of doubt/uncertainty (*shakk* or *shubhah*) or chance/probability (*ihtimal* or *zann*) is shunned.

Nonetheless, the notion of probability in a qualitative sense was noted and dealt with, even in the scriptural context, by Ibn Khaldun. This is in relation to narrations from the Prophet Muhammad. As Ibn Khaldun explains about hadith:

Another of the sciences of tradition is the knowledge of the norms that leading hadith scholars have invented in order to know the chains of transmitters, the (individual) transmitters, their names, how the transmission took place, their conditions, their classes, and their different technical terminologies. This is because general consensus makes it obligatory to act in accordance with information established on the authority of the Messenger of God. This requires probability for the assumption that the information is true. Thus, the independent student must verify all the means by which it is possible to make such an assumption.⁴¹

Explaining further about the role of probability in determining the acceptability of hadith⁴², Ibn Khaldun explained:

One must act only in accordance with those traditions of the Messenger of God that, in all probability, are true. How it is possible to assume probability must be investigated by independent study. One gets to (the assumption of *probability*) through knowledge of the probity and accuracy of the transmitters of traditions. Such knowledge is established through information obtained on the authority of religious leaders, which declares a transmitter to be reliable and free from unreliability or

negligence. This shows us whether we should accept their (traditions) or reject them.⁴³

Gradually, the problem-solving approach and perspective has waned; with the domination of mysticism and legalism, these aspects have been avoided to the extent that no functional approach and tool has been developed, especially in the quantitative arena. It is not surprising that in the modern conflict between religion and science, which should be alien to Islam, the debate continues as to whether God and chance are compatible or a scientific/rational minds must make a choice between God and chance.⁴⁴

While Muslims made major contributions to the development of statistical concepts, it is important to recognise that much of it remained limited to the qualitative domain. Thus, in modern statistics, full of quantitative tools and methods, Muslims have remained disconnected from the legacy of their own contributions. It should not be surprising that modern works on the history of statistics, which generally cover the past 3-4 centuries, do not note any major contribution from Muslims.⁴⁵ Consider, for example, the field of Islamic finance, where models are being used and risks are being quantified. Notably, according to some researchers the term 'hazard', which is at the core of the notion of risk, is probably of Arabic origin.

According to Kendall, Maurice George (1956), it was brought to Europe at the time of the third Crusade and derived from the Arabic word 'al zhar', meaning a die.⁴⁶

Yet, lacking any quantitative tools, we can speak about risk or uncertainty only in legalistic terms.

Conclusion and Recommendations

The contribution of Islamic civilisation to the field of mathematics is well known.⁴⁷ It is only natural that statistics, as a practical, applied field intimately connected with mathematics, should also have played an important role in Islam. However, the praxis related to this field and how much it has developed has not been studied as extensively. It is also well recognised that Muslim scientists and scholars contributed pivotally to empirical investigation and research. There are also indications that Muslim scholars and scientists were aware of several important statistical methods. That would be considered natural, especially in light of the notion of *al-ihsa'* in the Qur'an. As explored in this paper, the Qur'anic term *al-ihsa'* covers a broad range of meaning and nuance that closely reflects the modern notion of statistics in the following sense: "the art and science of gathering, analysing and making inferences from data." It can also be argued that

there is hardly any comparable scripture where pivotal thoughts corresponding to the modern field of statistics exist.

Boruch hoped that his pioneering work about the contribution of Muslims to the field of statistics would pave the way for a further study of the subject. In this paper, Boruch's presentation of evidence and arguments is further strengthened by the notion that the Qur'an contains specific terms and ideas that bound the notion of statistics to practical aspects of life. This neglected area of statistics in the legacy of Muslim history merits further research. The paper concludes by recommending that:

- Works on the history of science in the Muslim world include the contribution of Muslims to the field of statistics.
- Further investigations should empirically study the economic and social conditions and experience of Muslims throughout history by applying statistical and quantitative tools and methods.
- An initiative should be taken to publish an edited book or monograph focused on the historical contribution of Muslims to the field of statistics and quantitative study.

Notes

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IBN SAHNUN'S NINTH CENTURY FRAMEWORK: A GUIDE FOR ARABIC LANGUAGE CURRICULUM WRITING

*Nadia Selim**

Abstract: Building Arabic curricula for non-Arabic learners is problematic due to the specificity of the Arabic language. This problem is exacerbated by the existence of a subclass of Arabic learners who do not truly fit into any of the normative classifications of language learners. Non-Arab learners are unable to cope with curricula designed for Arab-background heritage learners. Consequently, teachers of Muslim children in Islamic schools in English-speaking contexts are designing Arabic curricula without adequate training or support. It has, therefore, become a necessity to develop a curriculum framework that responds to the needs of Muslim learners of Arabic in Western Islamic settings. As Islamic civilisation presented a body of robust educational thought and led to one of the earliest Arabic literacy campaigns, it is imperative that Arabic curriculum writers look to it for guidance. Therefore, this paper considers one of the earliest iterations of an Arabic curriculum presented in *Kitab Adab al-Mu'allimin* (The Book of Teachers' Ethics) by Ibn Sahnun (817 - 870 CE).

Keywords: Islamic civilisation, Ibn Sahnun, Arabic, curriculum, heritage learners.

The Arabic Curriculum Problem

Models for the development of Arabic-specific school curricula that cater for non-Arab learners are still being designed in English majority contexts. The UK and Australia have taken strides towards creating national Arabic curricula, but these reflect some problems. The first problem relates to the frameworks used for their development. In the UK, for instance, the Arabic curriculum framework was adapted from frameworks designed for European languages.¹ Given the fundamental differences between Arabic and European languages in terms of syntax, phonetics and morphology, an attempt to teach Arabic with a curriculum design adapted from European languages might not be appropriate.² The second problem relates to the narrow scope of targeted learners. Driven by an aim to capitalise on communal language assets, the curricula target Arab-background learners only. In Australia, for instance, the context statement informs that the curriculum is pitched at background learners who have access to the Arabic language and culture in their homes, i.e. Arabs.³ This approach does not account for the diversity of Arabic heritage learners.

Heritage Language Learners (HLLs) bring a diverse range of language skills into classrooms and constitute a distinct class of learners that are neither native-speakers (first language learners) nor non-native speakers (second or foreign language learners).⁴ Research suggests that there are “significant differences between Arab HLLs and Muslim HLLs on two motivational variables. Arab HLLs are significantly more motivated to study Arabic and to learn more about Arabic culture than do Muslim HLLs. On the other hand, Muslim HLLs are significantly more motivated to learn Arabic language to understand Islam better.”⁵ This means that Arabic language curricula that are restricted to secular communicative purposes, incorporating the components of Arabic culture only, are unable to meet the needs of Muslim learners of Arabic who seek the understanding of their religion and Islamic culture.

These design problems are exacerbated by a paucity of research on Arabic learning at schools in non-native contexts and the absence of Arabic language leadership bodies.⁶ Teachers often design programs without support and often without adequate training to do so. As a result, students experience repetitive learning, unstructured lessons and ultimately poor learning outcomes with dissatisfaction seemingly greater among non-Arab Muslim students.⁷ This situation is worsened by teaching and textbooks that are heavily invested in the flawed Grammar-Translation Method.⁸

This necessitates research into constituents of learning, curriculum design and enactment, particularly in settings where non-Arab Muslims constitute a major cohort of Arabic learners, such as Islamic schools in English-speaking contexts. Motivated by the need for research into curriculum design for non-Arab Muslim learners, this research examines one of the earliest curriculum shape papers presented by the ninth-century Muslim scholar, Ibn Sahnun (817 -870 CE). This qualitative investigation has three main objectives. Firstly, the identification of curriculum design elements that are consistent with contemporary language curriculum design knowledge but cognisant of the specificity of the Arabic language and the needs of non-Arab Muslim learners. Secondly, the identification of aspects of Islamic civilisational thought pertaining to the teaching of Arabic language. Thirdly, this research seeks to illuminate the fact that contemporary curriculum designers have much to learn from the extremely progressive thought of the Islamic civilisation.

Muhammad Ibn Sahnun (817 - 870 CE): Background and Relevance

Muhammad Ibn Sahnun (otherwise known as Abu Abdillah Muhammad ibn Abi Said Sahnun) was born in Kairouan⁹ in the modern-day North African state of Tunisia. His father was a jurist, Sahnun ibn Said ibn Habib al-Tanukhi,

who was known for his piety, justice, and investment in the education of his son, Muhammad, and daughter, Khadija.¹⁰ He is known to have given his son's teacher the following direction: "Teach my son by praising him (appreciating) and speaking softly to him. He is not the type of person that should be trained under punishment or abuse. I hope that my son will be unique and rare among his companions and peers. I want him to emulate me in the seeking of knowledge."¹¹

Ibn Sahnun was respected for his God-consciousness, generosity and kindness.¹² He was educated in Kairouan for a long time and then, at around 33 years of age, embarked on a pilgrimage and journey of knowledge-seeking in the year 235 AH/850 CE.¹³ Having furthered his education in Egypt and Hijaz (Saudi Arabia), Ibn Sahnun realised his father's aspirations by becoming a teacher and a scholar who was both highly productive and highly praised by his contemporaries.¹⁴

He is credited with setting out the first framework for the development of an educational curriculum¹⁵ in a book called *Kitab Adab al-Mu'alimin* (The Book of Teachers' Ethics) or "Rules of conduct for teachers."¹⁶ It is not known when Ibn Sahnun proposed this curriculum framework, but the text "has been preserved in a unique Tunisian manuscript from the 14th or 15th century (National Tunisian Library, ms. Tunis 8787)."¹⁷ The text of the original manuscript was included in the 1931 Arabic publication by Hasan Husny Abdel-Wahab, which was later republished in 1972 by Muhammad al-Matwi after verification and further investigation.

Ibn Sahnun's book constitutes the first teachers' manual and "provides us with an idea of the beginnings of educational theory and curriculum development in Islam while at the same time showing that certain problems relating to the ninth century continue to concern us today."¹⁸ The matters dealt with in this book can be organised into three main sections: administration, ethical professionalism and teaching/learning.¹⁹ Our focus on the work of Ibn Sahnun was motivated by its relevance to the matter at hand, the conceptualisation of an Arabic curriculum model for Muslim learners of Arabic. This work was found to be relevant in three ways:

1. The framework was conceptualised at a time when Arabic pedagogical thought was emergent. Ibn Sahnun's framework recommendations were articulated at an incredibly dynamic time in which stakeholder roles, learning expectations, and pedagogical thought were being formulated and reformulated to meet the higher objectives of learning and the needs of students. Essentially, Ibn Sahnun's recommendations are akin to a contemporary conceptualisation or a curriculum shape paper.

2. The framework was conceptualised in a region that included many non-Arab Muslim learners. Ibn Sahnun's recommendations were made to teachers operating in a region where Arabicisation was not very successful and unusually slow. While it has been suggested that by the time the Islamic empire was institutionalising education, "Arabicisation had already progressed to such an extent that it had become unnecessary to provide any program for second language acquisition,"²⁰ the process of Arabicisation was not uniformly successful and was even reversed in some regions (such as Persia).²¹ In North Africa, where Ibn Sahnun's work was developed, Arabicisation was met by formidable Berber resistance. Full-scale wars were led by non-converted Berbers and many battles were caused by the apostasy of previously converted Berbers.²² This led to the sacking of Kairouan, which had been established around 670 CE by Uqba Ibn Nafi.²³ The volatility of the region meant that although Arabic language was the language of Arab-dominated urban centres, most of "the countryside and the nomadic population of North Africa remained Berber-speaking until the second invasion in the 11th century, when the Bedouin tribes of the Banu Sulaym and Banu Hilal entered the Maghrib."²⁴ There are some reports that "as late as the 12th century there were still speakers of Romance in Gafsa and Gabes."²⁵ This means that Ibn Sahnun's curriculum framework was cognisant of the presence of a minority of ethnic Arab learners in urban centers and a majority of indigenous Berber-speaking children who came to these centres to learn Arabic.

3. The framework was articulated for elementary schools (*kuttab*). These schools admitted children starting at age 6 or 7.²⁶ *Kuttab* emerged during the rule of Caliph Abdel-Malik Ibn Marwan (646 – 705 CE) and were used to educate both old and young members of the indigenous African and Berber peoples as well as the Arab children of families who moved to the newly established city of Kairouan.²⁷ However, these *kuttab* were not restricted to Muslim children, as evidenced by Ibn Sahnun's instruction that Christian children not be made to learn the Qur'an or its transcription,²⁸ which indicates "that (a) Muslim and Christian children were attending the same classes together and (b) Ibn Sahnun took literally the Qur'anic injunction: 'There is no compulsion in matters of faith' (Qur'an 2, 256)."²⁹ This means that this framework was developed for children and allowed for diversity.

Ibn Sahnun's work has been examined by various researchers to gain insight into its Islamic pedagogical components and compare it to contemporary educational thought and praxis both within the Muslim world and beyond. Such

examinations are of great importance because the inadequate “awareness of the educational achievements of the past bears the risk of not recognising what is genuine progress in the field of education and what is mere repetition.”³⁰ The focus on the work of Ibn Sahnun is yet to extend to its applicability to Arabic language curriculum design.

The Method and Discussion

The following qualitative analysis draws upon both Ibn Sahnun’s curriculum and contemporary knowledge in the field of applied linguistics and education. The research utilises a critical interpretive approach “to elicit meaning, gain understanding, and develop empirical knowledge.”³¹ The analysis mainly focuses on Ibn Sahnun’s Arabic language document as presented in the 1972 publication by Muhammad al-Arusi al-Matwi, but while also referring to other sources for comparison and verification. Through interpretive and analytical examination, six themes emerge as shown in Figure 1.

1. Stakeholder voice	2. Clarity of objectives	3. Reading for literacy
4. Essential grammar	5. Collaborative dialogue	6. Culture and heritage

Figure 1: Emergent themes Figure

These six themes constitute important principles that Arabic curriculum writers need to consider and will therefore be discussed in the light of research in the fields of *Second Language Acquisition (SLA)*, *education and the Arabic teaching and learning status quo*.

1. Stakeholder Voice

Contemporary research underscores the significance of stakeholder voice, particularly student voice, as there is a tendency to exclude the main stakeholders from decisions that affect them.³² Students are often seen as beneficiaries of educational change rather than active participants in the process³³ and this leads to classroom environments being designed for them rather than decided with them.³⁴ It has been identified that the opinions of students have been frequently overlooked, especially in discussions concerning their learning needs and experiences.³⁵ Research suggests that listening to student voices empowers them as individuals and is critical to the enhancement of educational efficacy.³⁶ In fact, we should trust students and allow them to take a central role in the educational design process.³⁷ With regards to stakeholder voice, Ibn Sahnun’s framework is predicated on voice and agency for stakeholders. He presented a framework that included both compulsory and discretionary topics,³⁸ as shown in Figure 2.

Compulsory	Electives
Points of articulation	Calligraphy
Recitation of the Qur’an	Comprehensive Grammar (<i>jami’an-nahw</i>)
Memorisation of the Qur’an	Proverbs
Grammatical inflections (<i>i’rab</i>)	Poetry
Orthography of the Qur’an	Legends
	Historical reports
	Public speaking
	Writing letters
	Arithmetic

Figure 2: Components of Ibn Sahnun’s curriculum

The compulsory topics aim to develop functional Muslims and include “memorisation of the Qur’an; the duties of worship; knowledge of reading and writing; and good manners, since these are obligations toward God.”³⁹ The discretionary topics are what we can refer to as electives in a modern sense. These were more connected with Arabic language learning or the sciences of the tongue⁴⁰ and development of a cultural identity. Arithmetic was also recommended, viewed as a life necessity.

The recommendation of a variety of electives gave stakeholders both a voice and agency. Firstly, teachers have a level of freedom far removed from contemporary scenarios in which compulsory curriculum and set textbooks leave teachers more concerned with test outcomes and scrambling to the finish line at the expense of providing students with quality learning. In Ibn Sahnun’s curriculum framework, teachers have the freedom to decide in discussion with guardians what they will and will not teach and could negotiate additional remuneration for the teaching of the discretionary topics. Teachers could thus determine if time and resources are available to deliver these topics. This flexibility also suggests that teachers could specialise on teaching certain topics.

Secondly, the provision for meaningful parental involvement in the selection of learning topics suggests awareness of the importance of learner-centered education. For instance, students of the time could choose to study public speaking if they wished to deliver sermons in the future, but did not have to learn poetry, or vice versa. Naturally, as guardians of their children, parents have a say in their children’s decisions, but ultimately parents respond to children’s preferences and needs. In designing the framework in this manner, Ibn Sahnun was providing young ninth-century learners of Arabic language with a degree of agency they often do not possess in contemporary learning settings. For instance,

research on Arabic learning in the UK suggests that there is still a need to take stakeholder views into consideration and move away from a top-down approach to the development of Arabic as a foreign language.⁴¹

Ibn Sahnun presented a framework that did not take a top-down approach or view learning through a narrow lens of predetermined topics. The framework was neither fixed nor unresponsive; rather it was flexible and negotiable and predicated on choice in the learning of Arabic language. This position is consistent with the views held by many scholars and educators of the Islamic civilisation. The emergence of a learner-centered approach that took student voices into account was evident in other works and movements in the ninth century. For instance, due to student disengagement from the study of grammar, many ninth-century grammarians wrote simpler books.⁴²

2. Clarity of Objectives

The academic literature on education emphasises that if students are to achieve the educational outcomes that they are expected to, they need to be immersed in an environment that aligns practice, learning activities and assessment with those objectives.⁴³ This alignment needs to ensure that we specify outcomes for content and for the depth of understanding that we aim to have learners achieve.⁴⁴ Moreover, the intended outcomes need to be very specific, in terms of what the learner is supposed to be able to achieve or even produce.⁴⁵

Ibn Sahnun's curriculum framework clearly differentiates the use of the Arabic language as a medium of religious practice and as a topic of study.

Arabic-mediated religious learning	Arabic language learning
Religious topics of learning that are dependent on an essential literacy.	Topics geared towards building Arabic language ability and literacy.

Figure 3: The differentiation of Arabic as a medium and a topic of study

Naturally, because Islamic practices are experienced in the Arabic language, particularly Qur'an recitation and prayers, that language underscores much of that religion's learning. However, there is a clear distinction to be made here between Arabic as a medium of religious learning and as a language to be studied. In relation to *Arabic-mediated religious learning*, students have to study the points of articulation and the precise recitation of the Qur'an as well as the study of its correct *i'rab* (grammatical inflections) and its orthographic representation.⁴⁶ In addition to these points, however, Ibn Sahnun's framework detailed several elective topics, which included calligraphy, comprehensive grammar, proverbs,

poetry, legends and public speaking.⁴⁷ These topics form the framework of an Arabic curriculum and can be referred to as components of *Arabic language learning*.

Today, it seems that in some English-speaking contexts, Imams teach Islamic studies, Qur'an recitation, memorisation and the Arabic language.⁴⁸ This does not have to be a problematic scenario if the imams have Arabic teaching qualifications and/or training. However, more concerning is the fact that the clear demarcation between Arabic-mediated religious study and Arabic language learning is not clearly articulated. For Arabic learners in many settings, there is therefore much confusion about learning objectives. Furthermore, practice and content are often not aligned with intended learning outcomes. Tertiary level research suggests that this confusion manifests as a divergence between learner expectations and institutional visions for programs,⁴⁹ or methodological misalignment.⁵⁰ In terms of childhood education, in Australia it was identified that Arabic-speaking Muslim parents wanted their children to maintain Arabic but had very differing views on what constitutes Arabic literacy. In some cases, literacy was viewed as the ability to read and write the alphabet; for others, literacy was equated with the ability to recite chapters of the Qur'an.⁵¹

Ultimately, the confusion around literacy is acutely felt in Islamic educational settings because Arabic literacy objectives and outcomes remain unclear and are often confused with religious literacy.⁵² For instance, in the Australian Islamic schooling context most schools seem to take an approach to Arabic teaching that does not build language proficiency.⁵³ Peter Jones notes that one of the teachers explained that students did not generally acquire Arabic proficiency even if they were of Arab origin.⁵⁴ This suggests that the program did not have clear objectives or articulation of incremental developmental outcomes and that teaching methods, learning activities or content were not aligned to develop Arabic proficiency.

3. Reading for Literacy

Contemporary research on developing literacy in a foreign language has emphasised the importance of extensive reading and is often associated with Stephen Krashen's work. Drawing on his earlier, less popular theory of second language acquisition, Krashen made a strong argument for free voluntary reading,⁵⁵ a concept that has gained momentum since the 1990s.⁵⁶

One of the very notable aspects of Ibn Sahnun's Arabic curriculum framework is its consistency with Krashen's argument for free voluntary reading. He believed that reading a variety of texts would be of benefit to students. Young ninth-century Muslim learners of Arabic were not restricted to the Qur'an in their learning of Arabic nor to a textbook; rather, it was recommended that they be exposed to other contents, such as proverbs, legends and poetry, provided

care was taken to ensure that content was not morally unconscionable.⁵⁷ Furthermore, these learners were essentially choosing what to read with the assistance of their guardians, and thus engaging in free voluntary reading to build their literacy and vocabulary. In explaining Ibn Sahnun's inclusion of poetry, al-Matwi explains that poetry was believed to be the anthology of the Arabs and their great lexicon.⁵⁸ This is indicative of an awareness of its richness, its role in conveying Arab cultural identity and its role in facilitating vocabulary acquisition. It is also notable that the Qur'an was neither explicitly included as an Arabic learning topic nor excluded.

Ibn Sahnun's progressive approach to building literacy contradicts the contemporary realities of Arabic learners in various English-speaking contexts. Students are not given a choice in the textual content they are meant to read, often being restricted to the textbook and therefore exposed to a limited language genre. The dearth of reading materials for intermediate and advanced learners,⁵⁹ the known absence of textbooks developed for young learners in second, foreign and minority language contexts,⁶⁰ and the current approach to teaching Arabic can be detrimental to the development of meaningful literacy as learners are not given opportunities to develop reading strategies such as contextual guessing.

Young Muslim learners in English-speaking contexts deal with three additional issues. Firstly, some Muslim educators promote "Qur'anic Arabic" as the only textual source of Arabic language learning and literacy acquisition. Secondly, secular educators exclude the Qur'an and other religious texts altogether. Thirdly, teaching is heavily invested in the Grammar-Translation Method (GTM), which often involves a scrutiny of grammar rules and the memorisation of long lists of decontextualised vocabulary.

In terms of the emphatic focus on the Qur'an as a source of learning and acquisition of literacy, it seems that this notion re-emerged in Northern India in 1942 when "Professor Abdus Salam Kidwai pioneered a method for teaching Qur'anic Arabic. His main idea was to make the Qur'an the prime source of teaching Arabic."⁶¹ This seems to be an anomalous approach because it contradicts the position of Islamic civilisational scholars. Five hundred and sixty-five years before Professor Kidwai, the renowned scholar, Ibn Khaldun (1332-1406 CE), argued that language learning that uses only the Qur'an as a source will produce a stilted linguistic ability at best because students are presented with a level of eloquence only achievable by God and are then asked to scrutinise and emulate it. The inimitability of the Qur'an is a core belief among Muslims, which renders any attempt to enter the realm of Divine linguistic ability a futile endeavour for any learner⁶² or, indeed, native speaker of Arabic. Ibn Khaldun based his conclusion on research and analysis of Arabic learning in different parts

of the Muslim empire. He highlighted that the Muslims of the Maghreb did not attain adequate Arabic proficiency because of their restriction to the Qur'an as a medium of learning. Ibn Khaldun also noted that the Andalusians acquired the best command of the Arabic language because of their greater focus on poetry than the Qur'an.⁶³

The complete exclusion of the Qur'an and other religious texts in secular curricula is also an untenable position if Muslim learners are to benefit from the learning experience. Curriculum writers cannot assume that the goals of Muslim learners, particularly if they are of non-Arab origin, will be limited to transactional communicative purposes, especially when research suggests that they harbour significant religious motivation.⁶⁴ The importance of "social, historical and cultural contexts of use"⁶⁵ in the learning of a language that is very closely aligned with faith and is taught in a setting that is primarily Islamic in its ethos and orientation, makes consideration of the religious motivation of students a necessity. In this environment, and among such students, there is need for a measured integration of religious verses relevant to teaching units.

The third problem relates to investment in GTM, which means that Muslim students are pressurised with the memorisation of lists of decontextualised vocabulary. This is not to undermine the role that explicit vocabulary instruction plays in getting learners started on their journey of acquisition, but that explicit instruction cannot constitute the sole means of acquiring the sizeable vocabulary needed for textual comprehension.⁶⁶ Most research on vocabulary instruction suggests that explicit instruction involves, and should involve, the use of various vocabulary teaching techniques that go beyond definitional approaches.

Here we see that Ibn Sahnun's curriculum recommended rich exposure to vocabulary through the reading of a variety of literary genres. The curriculum did include the Qur'an, but did so in the space of religious study. While it did not include that text in the Arabic language learning topics, it neither explicitly supported or rejected its inclusion for Arabic reading. Most importantly, the framework did not restrict learners from reading other content if it was consistent with Islamic ethics. Finally, Ibn Sahnun's approach reflected that vocabulary acquisition was contingent on encounters with words through voluntary reading of various literary genre rather than through memorisation, as evidenced by the inclusion of poetry.

4. Essential Grammar

For the past 30 years, communicative approaches to language teaching⁶⁷ have moved away "from an explicit focus on language itself (i.e., grammar, phonology, and vocabulary) to an emphasis on the expression and comprehension of meaning

through language.”⁶⁸ The theoretical underpinning of this movement is that learners will develop better communicative abilities if they are instructed in a way “that more closely resembles the characteristics of a ‘natural’ environment.”⁶⁹ That is not to say that advocates of this approach did not want to teach children “grammar” but that they wished to incorporate it into a broader framework that builds other areas of competence. This is because research supports the hypothesis that “accuracy, fluency, and overall communicative skills are probably best developed through instruction that is primarily meaning-based but in which guidance is provided through timely form-focused activities and correction in context.”⁷⁰

The reality of Arabic teaching in various contexts today can be quite different. In many ways, the experience reflects investment in GTM which prioritises scrutiny of grammar rules and translation from and to the target language over other aspects of language learning.⁷¹ In this regard, it is most interesting that Ibn Sahnun had two notions of grammar, namely *i’rab* and *jami’an-nahw*. He differentiated between these, and positioned them differently in his curriculum.

I’rab originates in the trilateral root ‘*a-r-b* and can be defined as: “manifestation, declaration, proclamation, pronouncement, utterance; expression (of a sentiment); desinential inflection (gram.).”⁷² This can be understood in terms of oration or recitation in accordance with Arabic grammatical norms. Arabic words have nominal, verbal, adverbial and adjectival endings that signify their purpose in a sentence and have great implications for meaning. The correct pronunciation of these is critical to the rule of memorising, reciting and transcribing the Qur’an which must be preserved verbatim, as revealed. Seventh century Arabs used these inflections as part of their daily oral communication in Classical Arabic, regardless of their level of literacy. This is a functional knowledge of Arabic grammar that has serious implications concerning how the content of scripture is understood and was therefore deemed necessary by Ibn Sahnun.

The word *nahw* originates in the trilateral root *n-h-w* which is used in both verbal and adverbial senses in Arabic. One of the combined meanings is to move towards, and was used to describe Arabic grammar for the first time by the fourth Caliph of Islam, Imam Ali ibn Abi Talib, in his direction to codify Arabic oral norms to protect the Arabic language. *Jami’an-nahw* in Ibn Sahnun’s view was a comprehensive grammar. This was a topic that involved deeper study of abstract morpho-syntactical concepts and was included as an elective course.

There are a few points to consider here. Firstly, regardless of which notion of grammar we are dealing with, we find that Ibn Sahnun incorporated grammar as a component within broader frameworks of Arabic mediated religious learning and Arabic language learning. Neither notion supported an excessive focus on grammar as the only topic of study or route to Arabic knowledge. Grammar

was not considered an approach to teaching the Arabic language but part of a framework that incorporates focus-on-form into a broader framework of learning and meaning-making.⁷³ This position is consistent and does not focus on grammar to the exclusion of all other aspects of language learning.⁷⁴ Secondly, the fact that Ibn Sahnun relegated the deeper study of grammar to an elective, is suggestive of an awareness that learners have different aptitudes and learning preferences. Seeing that some students may not be inclined towards an excessive focus on abstract concepts, it was considered permissible to avoid overwhelming them with such study. Thirdly, this is also evidence of global educational thought in Islam, as Ibn Sahnun's position resonates with grammar reformation movements of the ninth century. These movements were championed by grammarians who realised that grammar had become too complicated for students and thus began writing simplified books and diversifying teaching approaches.⁷⁵

5. Collaborative Dialogue

Merrill Swain stressed the need for comprehensible output in language acquisition after realising that teaching was often geared towards building receptive skills (listening and reading).⁷⁶ Proponents of communicative language teaching and the interactionist approach suggest that activities such as role play as well as tasks that require pair work and group work are greatly needed in language classrooms. The literature suggests that these activities promote the use of language by the learner and more capable interlocutors and are somewhat reflective of natural situations of language use. Merrill Swain later advocated collaborative dialogue; drawing on socio-cultural theory she explained this as dialogue that promotes knowledge-building, seeing it as a space in which language use can promote language learning.⁷⁷ Socio-cultural theory has its origin in the work of Russian psychologist Vygotsky (1896–1934) and contends that mental functioning in humans is at its core a mediated process that is structured by cultural activities, artefacts, and concepts.⁷⁸ In this theory, arguments made for concepts such as scaffolding and the zone of proximal development suggest that a collaborative space in which learners can be supported in their language acquisition by others more capable than they are is an important component of learning.⁷⁹ This collaborative space involves dialogue which helps problem solving and knowledge building through oral or written use of language.⁸⁰ This concept is predicated on the socio-cultural theory's arguments that internal mental activity is organised through external dialogue.⁸¹

Ibn Sahnun held views similar to those of Merrill Swain because he recommended that teachers encourage students to “study individually and with others but also to create situations to challenge their minds. He suggests, for

example, that pupils dictate to each other and that advanced pupils would profit from writing letters for adults. Fair competition between the pupils is expressly favoured, as the author tells us, since it contributes to the formation of the pupils' character and to their general intellectual development."⁸² This means that a curriculum built for Arabic should sustain approaches of teaching that promote interaction and collaboration between students and other linguistic counterparts, especially at a time when Computer Assisted Language Learning (CALL) has raised the benchmark for virtual collaboration across borders. Teaching should not be bogged down in unessential grammar or focus on one skill to the exclusion of all others. There is a need to integrate methods and activities that promote collaborative dialogue, motivate students and challenge them mentally.

6. Culture and Heritage

An awareness of the need to incorporate culture in language learning has engrossed the field of Second Language Acquisition (SLA) for decades due to a recognition that language functions are never independent of the cultural context in which they are used, that meanings are made within cultural frameworks.⁸³ Ibn Sahnun's recommendation that students learn poetry, proverbs and legends suggests an awareness of the connection between language and culture and the importance of creating avenues for intercultural meaning-making. Thus, his curriculum was equally targeted at Arab and Berber children. Naturally, Arab children were already immersed in their own culture, able to speak the language and experience Arab culture outside of their learning settings as well as within it. For these children, such topics were means of cultural inculcation and engagement. For the Berber children, however, such topics were a major means of developing intercultural understanding and developing socio-cultural and linguistic competence. This is a major point to take from Ibn Sahnun's curriculum framework, especially because the need for cultural learning is far greater when learners are learning a language other than their own and when that language holds deep connection to their faith and belief system.

Efforts have been made to accommodate cultural learning at national curriculum level. For instance, in Australia, the shape paper emphasised the need to reflect on intercultural meaning-making and language exchange.⁸⁴ However, the consequent Arabic curriculum has confined this to communicative or linguistic activities with extremely minor allusions to "festivities and Christmas." The scope of cultural education does not seem to draw on the rich religious heritage of the Arabic language. This is an area where nationally developed curricula need to respond to learner needs and navigate Arabic's intertwined relationship with Islam. For instance, the religious motivation that underpinned the development

of grammar and the Muslim efforts to become a literary nation are important aspects of the history and development of the Arabic language that should not be ignored.

Readings about Arab history, leaders and traditions also need to be incorporated but should not be restricted to secular sensibilities. For non-Arab Muslim learners, readings need to include non-Arab Muslim as well as Arab Muslim figures. Textbooks often include readings about contemporary Arab figures such as Arabic Nobel laureates or musicians.⁸⁵ This scope needs to be expanded in the Islamic context to include non-Arab Muslim figures of relevance to a broader Islamic history and cultural heritage. Islamic civilisation was inclusive and promoted Persian, Afghani and African scholars. It is imperative to build the non-Arab students’ affiliation with Arabic by relating their learning to their own cultural heritage. Such inclusions would present young Muslim learners with language learning success stories and create opportunities for integrating Arabic language learning within learning units in other areas, such as science, geography, mathematics, physics, and biology.

7. Summary of Findings

Ibn Sahnun’s work is an excellent resource for Arabic curriculum writers, particularly those who target Muslim learners. His framework presents Muslim educators with immediate and long-term solutions for the development of Arabic language learning courses that are consistent with both an Islamic worldview and theories underpinning existing curricular efforts. Most importantly, this framework allows model development for a unique group of heritage learners whose needs are often sidelined. A summary of these points is shown in figure 4.

Curricular issues concerning Muslim learners of Arabic	Ibn Sahnun’s framework
Consideration of student diversity	Supported
Stakeholder voice / Learner & guardian	Supported
Religious motivation for the learning of Arabic	Supported
Purely secular approach to curricular development	Unsupported
Stakeholder voice / teacher	Supported
Clarity of objectives	Supported
Teacher specialisation	Supported
Varied reading for acquiring literacy	Supported
Use of the Qur’an	Supported (not emphasised)
Emphasis on “Qur’anic Arabic” for Arabic literacy	Unsupported

Reading for religious practice	Supported
Vocabulary acquisition through reading	Supported
Emphasis on grammar	Unsupported
Grammar-Translation Method	Unsupported
Inclusion of essential grammar / focus-on-form	Supported
Language production / output: speaking	Supported
Language production / output: writing	Supported
Interaction and collaborative activities (pair/group)	Supported
Cultural learning and cultural responsiveness	Supported
Potential for curricular integration	Supported

Figure 4: A summary of Ibn Sahnun's framework

Conclusion and Recommendations

It is evident that Ibn Sahnun's framework was extremely progressive and ahead of its time. Many aspects of this ninth-century framework are more learner-centred, contextually-sensitive, culturally-responsive and organised than curricular efforts undertaken today. The examination of this insightful curriculum leads one to the conclusion that there is much to learn from the Islamic Civilisation's approach to education and literacy development that can benefit educators and curriculum writers today. The findings from this research necessitate the following courses of action:

1. Further interpretive research of other curriculum frameworks developed during the Golden Age of Islam is needed to uncover further points capable of guiding the development of a more comprehensive framework for teaching Arabic to Muslims learners, particularly in Islamic settings.
2. Further research is needed to reconcile Islamic civilisational thought on language acquisition theory and teaching with Western thought to respond to the needs of Muslim learners in a Western environment.
3. Educators need to actively seek the establishment of a leadership body dedicated to teaching Muslim learners of Arabic in English-speaking contexts.
4. It is recommended that a consortium of Arabic curriculum developers collaborate on the development of a curriculum model inspired by Islamic civilisational thought.
5. The launch of a conference dedicated to the teaching of Arabic in Islamic educational settings is needed.

Notes

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THE CONTRIBUTION OF EARLY MUSLIM SCHOLARS TO SEMIOTICS: SELECTED HIGHLIGHTS AND IMPLICATIONS

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Abstract: In a previous article I have argued that the contribution of early Muslim scholars to Semiotics needs to be unearthed and highlighted. Semiotics is broadly defined as the study of signs or sign-use behaviour leading to communication and understanding between humans in society. Semiotics emerged in the early twentieth century as distinct from mainstream philosophy or philosophy of language. As an institutionalised academic discipline, semiotics has acknowledged the implicit contributions of earlier scholars from antiquity, the middle ages and early modernity. However, to date the contribution of Muslim scholars is conspicuously absent. Hence, in this article I intend to recapitulate perspectives from selected Muslim scholars in order to obtain a more balanced notion of sign-function and its potential implications. This is where the unique contributions of al-Ghazali (1058-1111) and Ibn Barrajan (n.d.-1141) come in, whose perspectives are reflected in key modern approaches to sign models and their interpretational tendencies. The article suggests that there is a need to explore the legacy of Muslim scholars in the field of semiotics in a much more systematic and comprehensive way, given that sign-based thinking (or the *ayah* doctrine) is a major theme in the Qur'an.

Keywords: semiotics, signs, *ayah*, Qur'an, al-Ghazali, Ibn Barrajan

Why Signs and Names Are Important

Signification (meaning-making) based on signs is the basis of human cognition, communication and culture. The most common defining feature of a sign is its ability to stand for 'something else.' A sign is an event that "generates in us the expectation of something else."¹ A sign can be a letter, a word, an image, a number, a sound and so on, while the 'something else' can be anything at all. The presence of the 'something else' is not immediately necessary in sense-perception for sign-function proper to unfold. Indeed, the whole point of semiotics or sign-function, as emphasised by the renowned semiotician J. Deely, is to enable thinking and communication without the need for the referred to material objects being part of the immediate physical context.² A common way to illustrate this point is how one can converse about an elephant without having to bring an elephant into the room every time it is referred to. Or take, for example,

a simple statement like “Mangosteens, grapes and dates are fruits.” Imagine the difficulties of constructing this sentence using real objects, of having to display a sample of the fruits in question while also requiring a sign for ‘equal’ and some symbol of belonging on the other side of the ‘equation’. What could we display there, on the other side, to substitute for the word ‘fruits’? Should all possible fruits be gathered there, from all seasons, all geographies? Should we qualify it further, e.g to ‘tropical fruits’? If we did, we would need to re-track to see if these three fruits really are ‘tropical’, which in turn would entail breaking the qualification down to two or more sentences, each with its correctly re-categorised fruits. Thus, even in this simple classification, the question arises as to how to handle overlaps and exceptions. A simple statement like this would become insurmountable if it were not for the routine linguistic significations we use on a daily basis. This relates to the awkwardness one might feel if forced to define every word spoken in a conversational flow, e.g. “but, what do you mean by grapes?” Words we say are taken for granted because they trigger automatic mental images in our minds. They perform the indispensable role of organising reality.

The above example not only indicates how signs facilitate human communication by virtue of referring to objects and concepts in their physical absence, but also demonstrates how names serve as a pragmatic shortcut to avoiding all kinds of complications over definition and classification. Signs and names serve as inter-subjective conventions concerning how we refer to things, people, ideas and phenomena in general. We say ‘fruits’ without having to disagree or argue *ad nauseam* about how fruits are defined. Hence, one need not wonder why the Qur’anic verses about the ‘names’ are so supremely fundamental, coming as they do right at the start, hand-in-glove, with the creation of the first human being.

He taught Adam the names (of all things), and then showed them to the angels: “Tell me the names of these, if you are truthful.” “Transcendent are You!” they replied. “We have no knowledge except that which You have given us. You alone are the Knowing, the Wise.” Then He said: “O Adam, tell them their names;” and when Adam had informed them of them, He said: “Did I not tell you that I know what is in the heavens and earth, and I know what you reveal and what you have been concealing.” 2.31-33³

A few brief ‘learning points’ emerge from these verses in the context of the semiotic issues raised in this article. First, “He taught Adam the names” implies an inherent capacity for extraneous learning in human nature, particularly a

capacity for linguistic repertoire. Second, “Tell me the names of these,” means the angels failed to name the displayed objects because concepts/meanings were not given *a priori* to them. The reply of the angels was not “we see no things” nor were they silent due to any inability to communicate. Their reply was: “*We have no knowledge except that which You have given us.*” This implies that, besides the names themselves, there was also knowledge of those names. Third, from these verses it is evident that something was shown to all parties in the narration. The ‘names’ therefore refer to some undeniable reality, independent of human linguistic and perceptual lenses. Fourth, this narration suggests that the first human was taught a method of overcoming the definitional problems of reality. However, since the names of the things were not ‘taught’ to angels, they in turn were not able to define the things, despite being able to testify to their presence. Accordingly, for humans, the names are an enabling tool that helps them think about and relate to the external world, as well as to each other. Names were given as a method to perceive reality, not substitute for it, as seems to have been misinterpreted in an extreme thread of Western semiotics, following the *language turn*. In this limited space, no justice can be done to the paramount relevance of these verses and their potential interpretations. These brief highlights merely serve as a prologue to the Qur’anic ethos in which the contribution of the early Muslim scholars to semiotics occurred.

Al-Ghazali’s Standard Theory of Signification

Simple sentences such as “Mangosteen, grapes and dates are fruits” can be said to comprise signs of dyadic nature. A written or spoken sentence is limited to a linguistic-psychological level. In each case, the spelling (*sound*) or writing (*image of text*) are known as the ‘signifiers’ while the meaning these imply in our minds (*concept*) is referred to as the ‘signified’. For example, the written word ‘fruits’ is a signifier for the signified ‘concept of fruits’ in our minds. A picture of fruits could also serve as a signifier of the same mental concept. In modern semiotics, the popular dyadic model of signs is that of Ferdinand de Saussure (1857-1913), widely-known as the father of semiotics. He has defined a sign as “a two-sided psychological entity” (Fig 1).⁴ In the Saussurean dyadic model, the sign-function unites “not a thing and a name,”⁵ but a mental concept and a name. Therefore, the notion of the object (or the thing) as an extra-psychological anchor is entirely absent. A more complete way of conceptualising signs in modern semiotics is the triadic model, which we will refer to in more detail later.



Figure 1: Semiotic dyadic model of F. de Saussure

It is noteworthy that a triadic model of sign-function is considered a major achievement in mainstream semiotics, one solely attributed to Latin scholars of the seventeenth century.⁶ There is evidence, however, that early Muslim scholars have felt it necessary to go beyond the linguistic framework of sign-function since the eleventh century, if not earlier. They were not only interested in how to build formally correct inferences, but also in how sentences connect to the real world of things. As the sciences of grammar, rhetoric and syllogistic logic flourished, these scholars aspired not only to build linguistically and logically valid arguments but, as importantly, to build them in a way that reflected objective reality.⁷ This tendency is a seamless reflection of the over-arching Qur’anic framework of *ayat*, translated as ‘*God’s signs in the universe*’. The Qur’an advances an essential doctrine of *ayat* permeating all reality “created upon the truth (*haqq*),” functioning as pointers to the providential purpose of creation. As stated in the Qur’an:

In the earth are signs [*ayat*] for those having sure faith; and in your selves; what, do you not see? (51:20-21)

Then, do they not look at what is before them and what is behind them of the heaven and earth?...Indeed, in that is a sign [*ayah*] for every servant turning back. (34:9)

And We did not create the heavens and earth and that between them in play. We did not create them except upon the *haqq* (truth). (44:38-39)⁸

In the current exposition of early Muslim work on signification, I have taken al-Ghazali’s standard theory of signification as a case in point. His treatise on the *Beautiful Names of God*,⁹ provides an elaborate exposition of the relationship between language, meaning and reality. In what could be termed al-Ghazali’s triadic interpretation of signification, he states that “the truth is that the name is different from both the act of naming and the thing named, and that those three terms are distinct and not synonymous.”¹⁰ Al-Ghazali makes a clear distinction

between the name (*al-ism*), the thing named (*al-musamma*), and the act of naming (*tasmiyya*).¹¹ He starts his book by stating clearly the four signification positions that he deems erroneous, before then seeking to advance his own. These four erroneous positions are: 1) when the name is confused with the act of naming, 2) when the name is confused with the thing named, 3) when the name is allowed to be both the same with the thing named or not the same with the thing named, and 4) when the name cannot be said to be either the same with the thing named or other than it. Al-Ghazali by contrast elaborates a distinct identity for each signification element: “The meaning of the name is other than the name”¹² and “The act of naming is mentioning the name or positing it.”¹³ He also emphasises the role of the human observer in signification: “that for everything posited for the purpose of signifying there is someone to do the positing, the ‘act of’ positing, and the thing posited.”¹⁴

Ultimately, al-Ghazali’s tries to balance the Ash‘arite and Mu‘tazilite philosophical viewpoints when finding a solution to the problem of the divine names and attributes.¹⁵ Despite the obvious challenges in juggling these contradictory positions, al-Ghazali did not reduce the signification model to anything less than a triadic structure. He maintained that any signification process involves these three levels of reality: linguistic, conceptual and objective (or ‘particular’). More importantly, to quote T. Kukkonen, an expert on al-Ghazali: “Al-Ghazali contends that of the three modes of existence, existence in particulars regularly enjoys primacy, because whenever a form or shape present in the imaginary faculty (*al-khayal*) corresponds to an actual object of cognition, it will have arisen through one’s perception of some actual existent.”¹⁶ Hence, al-Ghazali not only did not dismiss the object or the referent from the equation, but he established its primacy over the linguistic or conceptual. Illustrating this with our fruits example, between the signifier ‘fruits’, the meaning it triggers in our mind and the reality of the fruits themselves, it is the latter that is of primary importance. Unlike U. Eco and F. Saussure, al-Ghazali embeds the relationship of objects or things to meanings/signified/concepts/the ‘content of knowledge’ in some sort of non-arbitrary, ‘causal-representational’ account. As it might already have become clear from previous Qur’anic verses, this is a decisive feature in the Islamic interpretation of sign-function. In a similar vein with modern semioticians, al-Ghazali attributes the relationship between ‘the expression’ (name or signifier) and referred things or objects to human choice (*ikhtiyar insani*),¹⁷ qualifying it as subject to convention and change. In other words, “Words consist of segmented letters, posited by human choice to indicate individual things.”¹⁸ Al-Ghazali’s standard signification model bears multi-layered implications and deserves an in-depth discussion on another occasion.

Ibn Barrajan on the Ontology of Signs

Kukkonen notes that for al-Ghazali the question of naming is “fundamentally ontological and he treats it as such.”¹⁹ Here the ontological treatment of signs is illustrated with another early Muslim thinker, the twelfth century Andalusian, Ibn Barrajan of Seville.

To echo the author of *The Mystics of al-Andalus*, Ibn Barrajan was a “connoisseur of this divine art. He spent his waking hours practicing, explaining, and illustrating ways of ‘reading’ the books of nature, revelation, and man.”²⁰ ‘Religious literacy’ for Ibn Barrajan was the ability to read God’s signs in creation. He insists that creation intrinsically bears the touch of its divine Creator, just as an artist inherently leaves his personal mark on his artistic productions.²¹ What he terms as ‘*masiwaAllah*’ or ‘everything other than Allah’ is divided into three basic categories that each disclose God’s creativity in distinct modes. These are: (1) the human being, (2) physical creation, and (3) revelation. How can something that is essentially defined as ‘other than Allah’ be in turn essentially defined as signifying towards Him? God can be known only through signs but never through any personifying representation.

Ibn Barrajan conceived of all of existence (*wujud*) as a unitary whole with no independent parts.²² In his own words, “Nothing stands on its own [*la yaqum bi-nafsihi*].”²³ All entities in physical creation, just like all human organs, are interdependent: plants depend on the sun, and animals depend on plants. Similarly, the heart depends on lungs, and the limbs depend on veins, etc.²⁴ Everything is submerged in interconnectedness, interdependence, and correlative existence.²⁵ Ibn Barrajan reminds his readers that the Qur’an enjoins the believer repeatedly to seek knowledge of the creation of the heavens and earth, with most of the revelation being devoted to invoking God’s signs in the world. From this perspective, Ibn Barrajan’s doctrine of *al-haqq al-makhlūq bihi al-khalq*²⁶ is a direct response to this Qur’anic invitation to contemplate God’s creation and recall that the things of this world are signs of God. Moreover, as Ibn Barrajan reiterates, it was Ibrahim, the “supreme Mu‘tabir,” who first arrived at the knowledge of divine unity by pondering the celestial heavens.²⁷ Therefore, Ibn Barrajan holds that studying the structure of the cosmos complements studying the structure of the Qur’an.²⁸ All this stands in contrast to the commonly-held view that religion makes one depreciate this worldly reality (*dunya*). Early Muslim scholars emphasised objective reality as it is, having no incentive to deny it, doubt it or avoid its objectively occurring phenomena in any way. On the contrary, they made it their intellectual mission to study and appreciate it. This statement from al-Ghazali testifies to this: “within (the realm of) possibility, there is nothing more wondrous than what (actually) is.”²⁹

At this junction it is noteworthy that the multiplicity of subjective interpretations of signs is not taken negatively by early Muslim scholars. Humans are seen as occupying the unique position of being both sign-readers and a sign in their own right, simultaneously. To early Muslim scholars, the beauty of the human contribution to sign-reading is precisely the subjective perspectives and idiosyncratic insights they bring to that endeavour. “The multiple meanings of God’s signs emerge out of the fact that God’s creative power is infinite, and thus His creation can be contemplated from different perspectives, and by different souls with different potentials and degrees of realisation.” “And He created Adam and implanted within him the meanings of the names of God. It is native to traditional thought that the qualities of God’s names permeate the Adamic form and are concealed within him.” To further conclude that “the signs of God, like the verses of the Qur’an, are open to simultaneous interpretations that are equally valid,”³⁰ al-Ghazali seems to be on the same page with this: “creatures differ in the sea of knowing God - great and glorious - and that their difference is without limit.”³¹ Once this inclusive perspective is suggested, the relevance of semiotics looms beyond the communication and epistemological realms. It suggests that sign-based thinking and approaches to reality serve as a meeting point in between the subjective, the objective and the potential come together.

Modern Triadic Model

Here we have outlined several examples of how signs enable communication in at least two significant ways: by substituting for things/objects and by circumventing definitional complications. It is said that communication would be unthinkable without signs to substitute for referred objects/things. At the same time, we have highlighted the emphasis al-Ghazali placed on the objective side of signs, namely the primacy of prioritising the referred-to object over the linguistic/mental representation of it. This may sound contradictory. At one end we are saying the greatest merit of signs is that we can almost dispense with objects, thus allowing the subjective and inter-subjective to flourish, while at the other end we hold that a dyadic account of signification is incomplete and that the emphasis of Muslim thinkers on the objective side is important. How can this be explained? We need to take a closer look at the modern triadic model of signs and attempt to connect the dots underpinning certain major philosophical tendencies.

For C. S. Peirce (1839-1914), the founder of the American School of Semiotics, a sign is “irreducibly triadic in character.” Quite explicitly put in Peircean’s words, “if a relation is not triadic, it is not a sign relation.”³² Peirce’s triadic model of sign consists of *representamen*, *interpretant* and *object*.³³

Terminological variations of the triadic model are illustrated in Figure 2 below, which is reminiscent of al-Ghazali's elemental structure of the name and its meaning. The triadic nature enables relationships between things, concepts and human subjects to transfer into far-ranging meaning-making networks, or "global semantic fields."³⁴ Hence, the triadic model has been seen as important due to its ability to bridge the gap between the subjective and objective aspects of sign-function, through its integrating function between the *interpretant* and *object*.³⁵

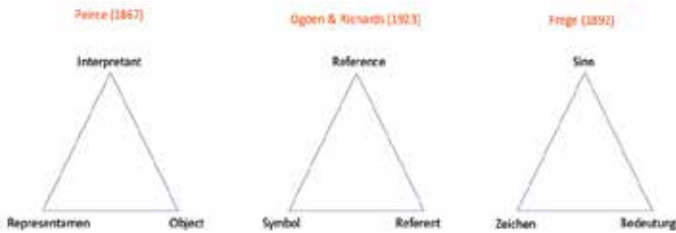


Figure 2: Semiotic Triadic Model³⁶

Nevertheless, in modern semiotics, besides wide variations in terminology, there is also a wide range of interpretations about the role of the object itself, just as there are nuances of understanding regarding the nature and role of the interpretant.³⁷ In the long-standing spectrum of these nuanced interpretations, there seems to be a tension between the triadic elements. This appears alongside ongoing discussions about the subjective versus the objective, the interpretant versus the object, observer versus the observed, the intensional versus the extensional and so on.³⁸ This schism becomes particularly apparent once one focuses on the role and function played in signification by the third element (Figure 2), the object or the referent. In the words of T. Sebeok, reminiscent of al-Ghazali's above-mentioned second refuted position: "The initial distinction between object (O) and sign (S) raises profound questions about the anatomy of reality, indeed about very existence, but there is nothing approaching a consensus about these riddles among physicists, let alone philosophers."³⁹ In plain words, there seems to be a tendency to impose a predominating role on one element of sign-function over the rest, including the sign-function itself. For some, there is no room for an interpreter or subjective sign-reader, while for others the interpreter is everything. In the former tendency, we speak of objects but not signs, and in the latter we speak of culturally-defined signs which are liberated from the extraneous reality of objects.

Denial of Signs

One dominating paradigm is to deny signification altogether, which is the implied position of reductionist positivism. In a positivist, Cartesian world everything is analysed as an object, set of objects, and objects acting and reacting upon one another. The world is a mechanical machine with its interpreting ghost already exorcised. This mechanistic approach prevailed during recent centuries and provided a powerful tool for science, but not without neglecting human psychology and ecology. In this scheme of things, there is no formal acceptable way to link the workings of human psychology and the reality of objects experienced. In a way, for this interpretation there are no signs, only basic objects. In modern popular culture, this is manifested in the tendency to deny meaning to the universe and to warn against reading signs where there are none or seeing patterns where there are none. Signification is pitted against nihilism, nothingness, meaninglessness, and randomness. Seen semiotically, this is an ideological campaign against the concept of signs. But if signs and signals were to be ignored in nature, there would be no scientific discoveries whatsoever. Science is anything but a thrill of chance or a random connection of dots. For example, if the ‘echo of the big bang’ which was but noise heard on a radio telescope had been ignored as meaningless by two astronomers in New Jersey fifty years ago, no development would have taken place towards the Big Bang theory. All they heard was a random noise. But they paid attention to it and discovered cosmic background radiation, thereby strengthening the Big Bang thesis. Philosophically, ignoring the signifying value of objective reality is merely a way of avoiding the ultimate question “how can signification arise out of something that signifies nothing?”⁴⁰

As a student of psychology, I have been well aware of the efforts of behaviourists to de-mentalise the notion of signs. In a typical behaviourist scheme, there is stimulus and response, but nothing in between. This is said to be the legacy of an ancient Greek claim that “in order for knowledge to be knowledge it has to be free of the human element.”⁴¹ Dismissing the role of human mental activity in the act of knowing and science-making was a major topic of discussion in our Islamic psychology classrooms.⁴² For so long, modern science had simply left out so-called higher-level cognition, the mysterious and complicated realm of human thinking and reasoning. Introspection was taboo. A person could become an object of others’ scientific examination without ever being entitled to speak of one’s own self in one’s own terms. There was no room for interpretant, whatever this is taken to mean. It was not until the twentieth century that the psychology of thinking became a scientific endeavour.⁴³ Against this backdrop, it is no surprise that, since the founding of semiotics, the positivist paradigm has been one of the challenges to its advancement.⁴⁴

Culturalisation of Objects

Having an awareness of how human psychology has been downplayed by the predominating positivist paradigm, it was a surprise to discern an opposite tendency in some pockets of semiotic literature. I tracked this tendency while attempting to understand the role of the object or referent and the implications of its presence or absence in modern semiotic models. Above and beyond semiotic models, when it comes to elucidation of the nature and function of the object, Eco states that “though it (*the object*) certainly was a necessary condition for the design of the model, it is not a necessary condition for its semiotic functioning.”⁴⁵ Inadvertently, this potentially risks regressing the triadic model of sign back to a linguistic-psycho-social level. However, Eco insists that for sign-function proper, the triadic model does not mandate “the presence of the referent (*the object*) as a discriminant parameter.”⁴⁶ For Eco the object itself converts into a cultural unit, which is subjectively-bound and engenders the notion of social construction. Accordingly, all the terms involved in sign-function, including the referent or the object, are defined or explained through arbitrary cultural systems. “Every attempt to establish what the referent of a sign is forces us to define the referent in terms of an abstract entity which moreover is only a cultural convention.”⁴⁷

The tendency to downplay the objective and advance a cultural approach to sign-function becomes much clearer in the following chapters of Eco’s *A Theory of Semiotics*, in which he discusses “the referential fallacy” or “extension fallacy.” In his own words, “The referential fallacy consists in assuming that the ‘meaning’ of a sign-vehicle has something to do with its corresponding object.”⁴⁸ Al-Ghazali would have agreed that the name of the thing/object/referent should not be confused with what it stands for. Nevertheless, he maintained that that ‘meaning’ does have something to do with its corresponding object/thing. To simplify, for Eco the relationship between names/signifier and object/thing is arbitrary and cultural, as can be illustrated with multi-lingual references/names to the same thing/object. However, for al-Ghazali the relationship between concept/signified/meaning and the object/thing is beyond the arbitrary, as no meaning could possibly be constructed using only arbitrary signs or names. This presupposed causal feature is the ‘taught’ element as mentioned earlier in the Qur’anic verses.

On the other hand, the theory of codes espoused by Eco is only concerned with “the conditions under which the message may be communicated and comprehended,” not its truth-value or connection with facts (in this case, status of the object).⁴⁹ The empirical verification of an object is not necessary for semiotic codes to function. In Eco’s own words, objects become subjects of metaphysics:

“The idea of the ‘interpretant’ makes a theory of signification a rigorous science of cultural phenomena, while detaching it from the metaphysics of the referent.”⁵⁰ Eco defines semiotics as a “theory of lies” by virtue of the fact that semiotic codes work in the way that they do: by standard function, they signify meaning, regardless of whether they are empirically verified or not. “Thus semiotics is in principle the discipline studying everything which can be used in order to lie. If something cannot be used to tell a lie, conversely it cannot be used to tell the truth: it cannot in fact be used ‘to tell’ at all.”⁵¹ Indeed, as many have pointed out, the semiotic freedom that allows use of words/signs to state an untruth is a privilege accorded to humans alone. We can see the difference here from the emphasis of early Muslim scholars, who preferred to treat lies as an exception to truth (*haqq*) rather than as the general rule. Instances brought up by Eco, such as unicorns, whereby we create semiotic functions with unreal objects, are exceptions. The under-scoring of early Muslim scholars implied that objective things are present out there, functioning as a general foundation for any cultural signification to occur, be it truthful or not. By contrast, Eco, by silently ignoring what the object is, is ready to go on and elaborate on future possibilities of that object becoming something else.⁵² This illustrates how codes work in that the ‘cultural unit’ of an object is likely to change to accommodate new features. Here is a telling passage quoted at length:

Every English speaker can speak about snow and understand sentences concerning snow because he possesses a cultural competence assigning to the content-unit «snow» certain properties which do not include that of being made with peanut butter. The laughing response is the side-effect of a misuse of the code, or of a contradiction posited within the code. But it is both authorised and elicited by the code's existence. The code does not stop us from understanding a proposition which is commonly believed to be false. It allows us to understand it and to understand that it is ‘culturally’ false. It is possible that in a possible world or in our future world, because of the increasing water pollution, snow could be exposed to such an ecological tragedy. But even though it happened, the fact would still be semiotically ridiculous. Obviously in the latter case this sense of the ridiculous will quickly disappear, and a sense of fear will take its place. But both fear and amusement can, in this sense, be considered as the consequence of a particular contradiction within the code (4). One laughs because even though one realises that the situation is unthinkable, one understands the meaning of the sentence. One feels fear because, even though one realises that the situation is possible, one does not like to accept such an alarming semantic organisation of one’s experience. The sentence

appears to be ridiculously or tragically meaningful insofar as its meaning conflicts with the meaning-rules we possess. Its meaning is unacceptable not because it is incomprehensible but because - if accepted - it implies the restructurisation of our codes.⁵³

Bridging the Gap

The notion of objects being screened through cultural filters and subjective loopholes is hardly deniable. Much of what we know reflects the cultural lenses through which things are taught us. However, this is not quite the same as imparting an ontological priority to cultural units over objective units. Cultural units are a derivation or approximation, or even a distortion, of factual, natural objective units, not vice versa. After all, it is the object towards which the sign-function points, cultural variations notwithstanding. What early Muslim scholars seem to have been saying when they gave primacy to objects is that one should be given the choice to go and inspect things for oneself, to stretch-test the cultural lens in order to either confirm it or defy it with facts. In this whole enterprise, the role of human interpreter is both crucial and undeniable, in addition to culturally-bound. But this is only insofar as objective reality signifies, as it always has, the independence of the human mind.

Recent developments in semiotics appear to place a new emphasis on the relational nature of signs, attempting to balance both the subjective and the objective. This is seen as a good development to bridge the gap between the hard sciences and social sciences.⁵⁴ It is striking to discover that Muhammad Iqbal's (1877-1938) take on signification is close to these attempts to bridge the gap. Iqbal's visionary call to re-think the age-old categories of cause/effect, knower/object and ideal/real resonates with many other voices in modern semiotics. Reminiscent of Deely's discourse, Iqbal speaks of a reality which is "relational in character."⁵⁵ Building on the tradition of early Muslim scholars, Iqbal reminds us of how the Qur'an points to signs outside of itself and "declares the unity of inner experience" and "History and Nature" as being "three sources of knowledge."⁵⁶

Key Recommendations

- This, admittedly rather rudimentary article, suggests that there is a need to explore the legacy of Muslim scholars in the field of semiotics in a much more systematic and comprehensive way, especially given the influence on scholars of the sign-based thinking (or *ayah* doctrine) which is so key to the Qur'an. This could contribute to the re-establishment of a

model of critical thinking, rooted in the Qur'anic concepts of language, meaning and reality.

- It also recommended that a more systematic investigation be undertaken into what a sign-dependent reality means. As many authors, including Iqbal, have pointed out, a sign-dependent approach may contribute to progressively narrowing down the objective-subjective gap, thereby ameliorating the effects of the two extremes of reductionist positivism and cultural relativism. This understanding could foster a paradigmatic framework for a renewed relationship with the universe, where natural science once again becomes a way of fulfilling intellectual curiosity in God's creation and serving humanity in pursuit of individual eternal reward.
- Since a sign-based approach invites investigation into what is conveyed in the sign itself, it is likely to stimulate a discursive approach to learning, inquisitive thinking and openness to new discoveries.

Notes

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EARNING A LIVING AND ITS POSITION IN THE SACRED LAW: AN EXPOSITION OF SHAYBANI'S¹ DOCTRINE

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Abstract: Earning a living is considered essential for every human being. The nature of life in this world is based on acquisition and effort; nothing can be obtained miraculously, without effort. God created human beings for a purpose, which is explicated by the Shari'ah. This paper aims to delineate the opinions of Imam Muhammad Shaybani on the earning of wealth, including what should be earned, what the ethics of earning are, and what is the tradition of the prophets concerning the acquisition of a livelihood. The paper highlights the importance of earning, how it maintains one's dignity and brings success in this world and in the hereafter. Finally, the paper affirms that social development can be achieved through earning by knowing what should be kept by those who earn and what should be given by them to the needy. This research is based on a critical and analytical approach to the aforementioned issues in Shaybani's work. Its approach differs from Adi, who only translated *al-Kasb*, with annotations on important issues.

Keywords: *Iktisab*, doctrine, ethics, hiring, transaction, trade, shaybani, position.

Meaning and Significance of Earning (*al-Iktisab*)

Earning (*al-iktisab*) has numerous meanings. According to al-Shaybani, it is obtaining wealth through permissible means; God has made earning a livelihood obligatory upon His servants, so that they may seek assistance by earning through devotional acts.² Ibn Manzur stated that *al-kasbu* means the earning of wealth.³ For Sibawaih, *kasb* means to act properly and *waktsaba* means a way of acting and striving. According to *al-Mawsu'at al-Kuwaitiyyah al-Fiqhiyah* (Encyclopaedia of Jurisprudence of Kuwait), *al-kasb* means obtaining wealth by any means, either permissible (*halal*) or prohibited (*haram*). Moreover, the meaning of vocation (*al-ihtiraf*) differs from earning because the latter is generally compared to earnings from a vocation, as defined by lexicographers. This condition may not be a custom of a person who earns wealth through a vocation.⁴ In relation to earning, a number of scholars have commented on the following Qur'anic verse, in which God says,

Allah burdens not a person beyond his scope. He gets reward for that (good) which he has earned, and he is punished for that (evil) which he has earned. "Our Lord! Punish us not if we forget or fall into error, our Lord! Lay not on us a burden like that which you did lay on those before us (Jews and Christians); our Lord put not on us a burden greater than we have strength to bear. Pardon us and grant us forgiveness. Have mercy on us. You are our *Maula* (Patron, Supporter and Protector etc.) and give us victory over the disbelieving people."⁵

Commenting on the above verse, Ibn Jinni notes that '*makasabat*' (He gets reward for that [good] which he has earned) signifies a multiple reward in compensation for one deed, while '*maktasabat*' (he is punished for that [evil] which he has earned) is to compensate for only one sin. Ibn Jinni regarded '*makasabat*' as profitable earning, while '*maktasabat*' is a punishment against him who commits evil.⁶ According to Jurjani, earning is an act which either brings benefit or evil; this should not be attributed to God, as He is free from acquisition of benefit or harm.⁷ However, some theologians have a different opinion, that God created everything, including bad or good actions, though God has attributed good to Himself only.⁸ According to Hans Wehr, it means acquisition or gaining of property or rights by un-interrupted possession of them for a certain period.⁹

The Western perspective holds that all the income of private individuals be categorised into earned or unearned. The difference between these two is that beyond a certain threshold income becomes unearned. Earned income for income tax purposes consists of the following: 1) income from employment, including wages and salary, overtime pay and other rewards of employees; 2) pensions paid to a retired employee, his wife or widow under an accepted pension scheme; and 3) income from a trade or profession to which a person belongs, either as a proprietor or an active partner. Earnings of private individuals also include earnings of companies shared by shareholders.¹⁰

The Importance of Earning in Islamic Jurisprudence (*Fiqh al-Islami*)

Cleansing of the heart is achieved when one earns one's sustenance in a permissible (*halal*) manner and uses it to buy only permissible items. Whosoever gives charity from his pure earnings equivalent to date-palms, his reward will be multiplied and uncountable. Islam encourages working for a living because it is a means of establishing right and proper possession. Likewise, Islam gives high regard to manual labour because it is a genuine means of earning, without

any ambiguity when used properly.¹¹ Earning that is meant to gain a livelihood and not accumulate wealth is better than devotional acts as its benefits extend to other people, whereas the benefits of devotional acts are confined to one person. Certainly, the Prophetic traditions affirm that the best of people are those who benefit others. The caliphs during the golden age said that devotion is divided into ten segments, nine parts of which are meant for earning permissible wealth.¹² Earning is given preference over devotion and perhaps even over fighting in *jihad*.¹³ Imam Ghazali stresses the obligation of earning, saying:

Working for earning is mandatory since performing the prescribed prayers cannot be done except by doing the ritual purification, and this in turn requires a kettle to pour water with, or leather bucket (*dalw*), or rope with which to draw water from the well (*al-bi'r*). Likewise, the prescribed prayers cannot be performed except by covering the naked parts of the body (*'awrah*), and that is only possible by clothing (*thawb*) which normally cannot be obtained except by working (for it); and whatever that is required in order to fulfil an obligation is in itself an obligation.¹⁴

Earning eradicates poverty and prevents begging. It improves standards of living. Earning is part of faith, as faith comprises action. The community is prompted to utilise the resources of the earth in cultivation, making investments and other activities.

In *fiqh al-Sunnah*, Sayyid Sabiq stated that the legitimacy of earning through buying and selling is substantiated by the Qur'anic injunction: "But Allah had permitted trade and forbidden usury" (2: 275),¹⁵ and from the Prophetic tradition: "The best earning is what is obtained through the use of our hands and all worthy transactions." Thus, manual labour or contract is the best source of income a person can rely upon, even though others are permissible also.¹⁶

In the Maliki school of thought, Abu Qasim al-Garnati classified earning into two types: 1) earning without exchange, such as inheritance, spoils of war and gifts; and 2) earnings from buying and selling, hiring, or receiving a dowry in a marriage contract. The first category highlights that earning can be made without any exchange activities or a consideration in return.¹⁷

In the Hanafi School of thought, Imam al-Shaybani has explained earning as the acquisition of wealth for permissible reasons, which may be found in various aspects of life. God instructed His servants to earn wealth for their livelihood and seek rewards in their devotional acts. The Qur'an states that "And seek the bounty of God: and remember God frequently" (62:10). It should be inferred from this verse that one should seek worldly material gain in order to devote oneself to spiritual acts.¹⁸

Some Commentaries on *al-Iktisab* in the Qur'an

Before mentioning the Qur'anic commentaries, it is important to note in respect to the term *al-iktisab* that the present discussion focuses on how many times this word appears in the Qur'an along with its derivatives. According to *Mu'jam Alfadz Qur'an al-Karim*, *kasaba* is mentioned sixty-seven times.¹⁹

According to the commentary of Bagawi, *al-kasb* means cultivation of good in this world and in the hereafter. The Qur'an says:

To any that desires the tilth of the hereafter, We give increase in his tilth; and to any that desires the tilth of this world, We grant somewhat thereof, but he has no share or lot in the Hereafter (42:20).²⁰

Allah also says: "In his favour shall be whatever good he does, and against him whatever evil he does [*Laha ma kasabat wa alaiha maktasabat*]."²¹

In view of this verse, al-Zamakshari asserts that a soul benefits from the good it earns and is harmed by the evil it does. No one should carry the burden of another, nor shall anyone be rewarded for another person's devotional act. The same applies to the rewards of good earning; they are confined only to the person who performed them, no one else. *Kasaba* is confined to good deeds, *iktasaba* to evil deeds. This is because in *al-iktisab* there is gain and benefit for oneself. The propensity to evil is an instinct a person has to push them towards evil freely.²²

In view of the above verse, Muhammad 'Ali al-Sabuni highlights that "every soul shall be rewarded for the good presented and the evil perpetrated."²³ Because of the above verse, Muhammad ibn Jarir al-Tabari explicated that, "every soul shall have what wounded or hurt to itself and what acts for good." In this translation, however, the usage of the term "wounded" is improper as it gives a negative impression; wounding oneself may not bring good to the soul. Instead '*wa alaiha maktasabat*' means each soul has the good of what it acts for.²⁴ In referring to the previous verse, Abdullahi ibn Abbas commented that "as [a] soul has the good earned and when it leaves self-conversation (*hadith al-nafs*), forgetfulness, mistake and dislike;" thus '*wa alaiha maktasabat*' means that the soul has earned evil with self-centeredness, forgetfulness, mistake or disliking.²⁵

In contrast to al-Zamakshari's view, Wahbah al-Zuhaili maintains that the saying of Allah "*laha makasabat wa alaiha maktasabat*"²⁶ entails that *al-iktisab* is attached to evil because it necessitates changes, difficulties and planning that violates human nature and customs, but doing good does not need striving because God instilled it in human nature. Thus, the soul gets its pleasure from practising it.²⁷

In the *Encyclopaedia of Islam*, earning is regarded as gainful business, meaning good investment. Human activity has to aim at seeking the pleasure

of God and the mercy of God, both of which are regarded as better than the riches of this world. The Qur'an tells us that the best way to obtain the pleasure of Allah is to spend in good causes and practice true worship. Good earning may be to release one's debtor if the latter is unable to repay his debt. This is considered as the most gainful business. Moreover, endurance of pain, self-control and fighting in the sake of God also bring returns in this world and the hereafter. The act of performing righteous deeds either by one's action or wealth is considered as *qardun hasanun* (a benevolent loan). Another element of gainful business is to base one's decision on the consciousness of God without illusion or transgression. According to the Qur'an, the most lucrative gain or business is the one that is not confined to the temporal life of this world but also includes the ever-lasting rewards which are promised to the faithful. Gaining in business through fraud harms the doer in this world while good earnings bring joy and peace in the hereafter. In this manner, the preference for good and lawful business activities over bad and unlawful ones is considered proof of a sound decision. In other words, wisdom lies in judging by quality rather than by quantity.

When determining the best thing to invest in, decisions must be guided by what the Qur'an commands and the Prophet taught. The Qur'an motivates believers to emulate the Prophet in their dealings; doing so is a sure way of gaining the bounties and profits of Allah. Fulfilment of a promise safeguards one's trust, while to be just and moderate is the hallmark of good conduct. Bad practices, such as obtaining wealth through usury, deception and oppression harm individuals and society as a whole. These unworthy acts keep one from the mercy of Allah and decrease one's wealth.²⁸ In this way, Imam Ala' al-Din 'Ali ibn al-Lubadi considered a usurious person a loser, saying:

The miserable man imagined that he was saved through his prayer and fasting in spite of his oppression and deceit, but none of that availed him at all. Rather, his good deeds were transferred as restitution to those whom he had oppressed and betrayed, and he himself was cast into fire.²⁹

There are similarities and differences between earning (*al-kasb*) and hiring (*ijarah*). The Arabic *ijarah* is derived from the letters 'a-j-r and means a statement of contract between the employee and the employer regarding work to be carried out for an amount of wealth. Hiring without any consideration in return is lending (*'iarah*).³⁰ Hiring has a positive effect in its technical sense, while earning produces both positive and negative effects. For example, the positive effect of hiring is shared by the employer and employee when they enter into a binding agreement. On the other hand, the benefit of earning belongs to the earner only.

Earning in the Prophetic Tradition

Al-Shaybani stated, "Earning is the *sunnah* of the messengers (p.b.u.h.).³¹ We are commanded to adhere to their teachings and follow their guidance. Indeed, our prophet Adam (p.b.u.h.) was the first person who earned wealth. The Qur'an states, 'So let him not get you both out of the Garden, so that thou art landed in misery...' ³² meaning that 'Adam suffered in earning wealth. Mujahid (r.a.) said the interpretation of the verse [by his own understanding] 'Do not eat bread with oil except by working so hard till you die.'"³³ This statement by Mujahid clarifies the verse about Adam, namely that this world is a place of suffering even for the best creation of God, the prophets. It also highlights that it is part of their mission as prophets to seek worldly material goods, in addition to the ultimate purpose of performing devotional acts. By contrast, asceticism denies the lawfulness of earning a living to the extent that even basic duties become difficult to perform. This extremism in asceticism goes beyond torture and is being currently practised by Christians, Buddhists and Hindus. This kind of practice has a negative effect on the betterment of the socio-economic aspects of individual life and society.³⁴

Al-Shaybani said, "In the report (*athar*) it is narrated that when 'Adam (p.b.u.h.) was sent down to earth, Gabriel (p.b.u.h.) brought to him seed and commanded him to plant it. When 'Adam planted and cultivated the seed, he processed it into ground flour and then baked it. After finishing these activities came the time of 'Asr prayer, and Gabriel (p.b.u.h.) came to him and said: 'indeed your Lord is greeting you.' He said: 'if you fast the rest of the day, He will forgive your sin and favour your children.' Then 'Adam fasted, even though he was eager to eat the food in order to compare its taste with the taste of food in Paradise. Since that time, it became a *sunnah* for people to break their fast after 'Asr."³⁵ This shows that even at the time of Adam, farming was a vocation for sustainable development. The importance of farming cannot be underestimated as it supplies food for man and animals. It also plays a role in providing employment, improving well-being, and developing rural and urban areas. Even developed countries depend on farming and agriculture.³⁶

Al-Shaybani said, "Noah (p.b.u.h.) was a carpenter; he used to eat from what he earned. Likewise, Idris (p.b.u.h.) was a tailor.³⁷ Meanwhile, Ibrahim (p.b.u.h.) was a merchant as narrated by the Prophet (p.b.u.h.): 'Trade is recommendable on you; indeed, your father was a merchant.' The term 'farther' in the hadith refers to Ibrahim al-Khalil (p.b.u.h.)."³⁸

In a similar vein, al-Shaybani said, "Dawud (p.b.u.h.) ate from what he earned; indeed it was narrated that he used to go out secretly (*mutanakkiran*). Then people in his time used to ask about his behaviour until he met Gabriel (p.b.u.h.) one day in the form of a young man, then Dawud (p.b.u.h.) asked Gabriel (p.b.u.h.), O

you young man how do you know Dawud (p.b.u.h.), then Gabriel said: blessing of Allah be on you, indeed, you have only one habit. Then Dawud asked Gabriel what is that habit, he said, indeed, you usually eat from the treasury, surely the best of you is the one who eats from his earning."³⁹ Habibu al-Rahman explicated the role of the public treasury (*bayt al-mal*) as established during the golden era of Islam, holding it to be an institution for generating funds for the state. Public treasuries are still relevant in contemporary times; they perform the function of a ministry of finance. They also act as a Central Bank by monitoring, controlling and issuing currency.⁴⁰

Al-Shaybani further stated, "Dawud (p.b.u.h.) returned to his *mihrab* (mosque) supplicating to Allah and saying: O God teach me how I should earn wealth and not rely on the treasury, and then Allah taught him how to make armour-plate, and gave him the skill in softening iron, so iron was soft in his hands just as how the dough was soft in peoples' hands. In this regard, the Qur'an states: '(Also) And We made the iron soft for him.'⁴¹ In another verse, the Qur'an states: 'It was We who taught him the making [of] coats of mail for your benefit, to guard you from each other's violence: will ye then be grateful?'⁴² This episode between Dawud and angel Jibril shows the importance of earning, especially through handcrafts. Dawud (p.b.u.h.), relied on the public treasury for [his] livelihood. After receiving guidance from the angel, he was taught by God [to] make armour-plates and was given the skill of softening iron. Later he changed the mode of his acquisition of his earning[s]."⁴³

Al-Shaybani added, "Dawud made the metal coats of mail, and he sold each metal coats for twelve thousand. He paid for his food from his earnings and gave out charity. Sulayman (p.b.u.h.) was making baskets from palm leaves to feed himself. Zakariyya (p.b.u.h.) was a carpenter.⁴⁴ 'Isa (p.b.u.h.) was eating from what his mother generated from the weaving of cloth, and he ate from the grain of corn. As for our prophet (p.b.u.h.), he was making his living from rearing animals occasionally. Indeed it was narrated that the prophet (p.b.u.h.) said to his companions: 'I was rearing animals for 'Uqbah bin Abi Mu'ayt and no prophet was sent to the people except that he was a shepherd.'"⁴⁵

The example of Zakariyya demonstrates that even in ancient days carpentry was of great importance. Wood was used by our forefathers in many aspects of life, whether to make fire or build houses and boats. At present, the need for woodworking extends beyond residential purposes to the commercial sector, where various businesses produce finished products made of wood. Similarly, palm leaves have a comparable value given they are used for many different purposes: as writing material, decoration and containers.⁴⁶

Al-Shaybani further said, "In the *hadith* of Abi Sa'ibah (r.a) he said: 'The Prophet (p.b.u.h.) was my partner, and he was the best partner because he neither

deceived nor argued.' Moreover, others said: what kind of partnership do you have, and then he said: 'our partnership is on making leather (*al-adam*).'⁴⁷ The prophet worked as a farmer in *Jurf*⁴⁸ as was stated by Muhammad in the book of farming in order to show that the earning of wealth is the *sunnah* of the prophet.⁴⁹ The kind of business conducted between Abi Sa'ibah and the Prophet still exists, namely a partnership of not less than two people, who contribute money, skills and other resources in accordance with the terms of that partnership.⁵⁰

The Usage of *al-Iktisab* in Various Aspects of Life

Al-Shaybani said, "Indeed, Allah has prescribed his slaves earning for a living that will help them in conducting their spiritual devotions. In line with this, the Qur'an states: 'And seek the bounty of Allah and celebrate the praises of Allah often (and without stint) that ye may prosper.'⁵¹ As mentioned, Allah has made earning a living a means of practicing spiritual devotion. Indeed, the Qur'an states: "O ye who believe! Give the good things which ye have (honourably) earned."⁵² This means that one should spend out of one's wealth and resources. According to Ibn Mas'ud and Mujahid, this verse allows one to spend from the permissible wealth one earns through business and vocation.

As the Qur'an states, wealth must be acquired through permissible ways and not otherwise.⁵³ Several verses in the Qur'an point to this. For example, "Whatever misfortune happens to you, is because of the things your hands have wrought, and for many (a sin) He grants forgiveness."⁵⁴ This verse clearly refers to obtaining wrong things for oneself as earning. Also, the Qur'an states: "A punishment by way of example, from Allah, for their crime, and Allah is exalted in power."⁵⁵ Thus, Allah punishes a thief because he committed an offence. It is known that the term (*al-kasb*) is used for anything good or evil, but when it is used without qualifications, it generally means earning of wealth.

The Two Types of Earning, Their Rules and Classifications

Al-Shaybani explicated that, "Earning is divided into two categories. The first is earning of oneself. This means acquisitions of what is necessary for livelihood via means of permissible earning, such as farming, trading and vocational skills. The second category includes earning while doing harm to oneself; this means the earning of a person through illegal or impermissible means, for example stealing, fornication and fortune-telling and others. A person who earns for himself is one who seeks the basic permissible things, and a person who earns against himself is an oppressor, for example a thief.

“According to the position agreed upon by all scholars, the second type of earning is prohibited. The Qur'an states: ‘And if anyone earns sin, he earns it against his own soul: for Allah is full of knowledge and wisdom’⁵⁶ and ‘if any one earns a fault or a sin and throws it on to one that is innocent, he carries (on himself both) a false charge and flagrant sin.’”⁵⁷

This means that for whosoever commits an offence, the reward for his deed is restricted to him only. No one can bear it on his behalf. The second verse highlights that one should not earn a fault or sin and throw it on innocents, which is a great crime. Consequently, in relation to business, earning is a good conduct, but in relation to crime it is a misfortune and sinful.

The Four Classification of Earning according to al-Shaybani

Al-Shaybani, in his book *al-Kasb*, classified earning into four categories as follows: 1) hiring, which is a contract between the employee and the employer, in which the employee will get benefit from the tasks he is given; 2) business (*al-tijarah*), involving buying and selling with the intention of earning a profit or exchanging wealth to gain profit; 3) farming, such as *muzara'ah* (share-cropping) contracts in which one party agrees to cultivate crops, with a share of what is cultivated being given to another party who helped fund or otherwise support the cultivation; and 4) handicrafts (*al-sina'ah*), which require the knowledge and technical expertise of a particular vocation in order to be practiced.

All these classifications of earning are the same according to the majority of jurists, including Imams Abu Hanifa, Malik, Shafi'i and Ahmad.⁵⁸

Earning in Terms of its Permission and Prohibition

Worldly or spiritual rewards must be earned properly. God accepts only what is afforded through rightful possession. Wealth, property or any other possession can only be gained through right, pleasant and acceptable conduct, such as buying and selling and giving gifts. Oppression, stealing and deceit are not proper ways of acquiring possession of something. Islam motivates earning through all permissible ways, warning against laziness, begging and the wanton enjoyment of benefits.⁵⁹ These unworthy attitudes are far from Islam and will lead to prohibited acts. In this manner, Umar bin Khattab said:

One may not leave earning of wealth, and said O Allah enrich me without putting effort toward it. Surely, heavens have never rained either gold or silver. Verily Allah enriches people by themselves via means of earning.⁶⁰

Possession or ownership of any form of provision is only achievable through striving. The Qur'an says: "And shake towards thyself the trunk of the palm-tree: it will let fall fresh ripe dates upon thee."⁶¹ If earning, in whatever form, is to uplift anybody, prophets and their brethren, saints and pious people should be the first because they were the first to adhere to and apply the commandments of the Shari'ah. Their struggle for a livelihood took place while living in this world and yet pursuing life after death. Imam Ghazali said:

Common sense (*al-ma'qul*) attests to it, for in earning resides the order of the world (*fi al-kasb nizam al-'alam*), for Allah most High has ordained the endurance of the world until the time of its dissolution, and He has rendered the earning of the servants the cause of this endurance and order, whereas disregarding it (earning) leads to the ruin of this order, and that is something disallowed.⁶²

On the other hand, Islam prohibits all forms of transgression, whether in earning, trading, leadership, or married life. The Qur'an says: "Verily Allah will not deal unjustly with man in aught: It is man that wrongs his own soul."⁶³

Proof of the Permissibility and Recommendation of Earning

Al-Shaybani stated, "our evidence on the permissibility and recommendation for earning is what the Qur'an states: 'But Allah hath permitted trading and forbidden *riba* (usury).'"⁶⁴

The Qur'an states: 'O ye who believe! When ye deal with each other, in transactions involving future obligations in a fixed period of time, reduce them to writing.'⁶⁵ And the Qur'an states, 'Eat not up your property among yourselves in vanities: but let there be amongst you traffic and trade by mutual good-will.'⁶⁶ This verse warns against vanities in someone's wealth through stealing, usury, gambling, oppression and deception. The acquisition of property amongst yourselves should be via business.⁶⁷

"Some of these verses indicate the permissibility of earning, while others constitute a recommendation for engaging in trade. Whoever says these verses do not indicate the permissibility of trade, his understanding contradicts the meaning of the text; this is because the verses deals with the issues that are common even to the lay man, for example the issues of debts, witnesses and writing agreements."⁶⁸

Indeed, the statements in these verses should be understood as people use them in their speech. Surely the Shari'ah of Allah is revealed to us according to the ability of our understanding. The terms buying and selling in the verses indicate

the real meaning of earning; it is not metaphorical. The statement carries the real meaning; it can only be turned into a metaphor when there is proof, such as in the following verse: "Verily, Allah has purchased of the believers their persons and their goods; for theirs (in return) is the garden (of Paradise)."⁶⁹ Since God promises a just reward only to those who fight in the cause of eternal salvation, the latter cannot be attained through anything other than our sincere redemption or suffering, not any commercial transaction.⁷⁰ This verse referencing buying and selling between Allah and the believers is therefore metaphoric.

The Prophet said: "No one has ever eaten any food that is better than eating what his hands have earned. And indeed, the prophet of Allah Dawud would eat from the earning of his hands."⁷¹ This *hadith* indicates what Allah says: "Eat of the good things which We provided for you."⁷² With certainty we are on solid ground when we assert that acquisition of wealth is the *sunnah* of all the prophets.⁷³ Earning is the best provision one can acquire in this world and in the hereafter.⁷⁴ Imam 'Ala al-Din 'Ali ibn al-Lubadi stated:

It was said to a wise man, 'What are the best (types) of earnings?' He said, 'As for the (best) earnings in this world, these are seeking of the lawful in order to avoid being in need, the taking from it after worship and sending forward its surplus as a provision for the Day of resurrection. As for the best earnings of the Hereafter, it is knowledge that you have disseminated, a good deed that you have done, and a good practice *sunnah* that you have revived.' It was then said (to him), 'What are the worst (types) of earnings?' He said, 'As for the earnings in this world, these are the unlawful that you have amassed and spent on iniquities, and which you leave behind for those who do not obey Allah. As for worst (type) of earnings in the Hereafter, these are a right that you denied, a sin that you committed and an evil custom that you actualised.'⁷⁵

The Position and Benefits of Earning in Islamic Finance and Economics

Islam provides guidance and a prescribed set of rules for all aspects of human life, including the economic. In economics and finance, Islam deals with trading (i.e. buying and selling), contracts and the funding of wealth (i.e. *zakat*). Muslims are vulnerable under conventional finance wherever they are subjected to it. Nevertheless, efforts by Muslims to implement Islamic finance still leave much to be desired; many transactions are still not free from *riba*, deception and ambiguities. *Tawarruq* is a good example of this. This concept means the buying of an item on credit on a deferred-payment basis and then immediately reselling

it for cash at a discounted price to a third party. *Riba* enters into this transaction as a result of the creditor selling the item to the buyer with a deferred payment set at a higher amount than the original sale price.⁷⁶ Although this contract is called Islamic, its actual practice is against the teachings of Islam. As a result of this ambiguity, the wealth generated from this type of earning is not in line with the requirements of an authentic transaction and not, therefore, a good way of financing any charitable institutions or individuals. Instead, there are other ways in which this can be achieved. The Qur'an says:

Alms are for the poor and the needy, and those employed to administer the (funds); for those whose heart have been (recently) reconciled (to Truth); for those in bondage and in debt; in the cause of Allah, and for the wayfarer.⁷⁷

In farming, for example, a farmer has to set aside a part of the harvest for alms giving. Likewise, a proportion of all provisions and assets owned by an individual above a fixed amount must be paid as *zakat* annually. In addition, spoils of war are earnings with benefits extending even to those who did not participate in the battle. The prophet's share and the share of others were fixed. The Qur'an says:

And know that out of all the booty that ye may acquire (in war), a fifth share is assigned to Allah, and to the Messenger, and to near relatives, orphans the needy, and the wayfarer...⁷⁸

In the same vein, earnings can also be lawfully taken from: unbelievers as a result of treaties, the people of reconciliation, lands under covenant and reconciliation, and the wealth of an inheritance not entitled to anyone. Moreover, taxes levied on land, people, gifts, donations, bequests, and labour are also valid forms of earning. There are also modern types of income, including the sale of petroleum, gas and farming, in addition to the provision of services (for example, electricity and means of communication) that also constitute valid earnings. These additional forms of earning should be distributed by the government of a country to those who work in the defence of religion, for example Muslim judges and other pious persons.⁷⁹

The foregoing discussion has illustrated the great achievements of Islamic civilisation during the second century AH. These achievements came in different forms, such as the earning of wealth from farming, carpentry and trading in merchandise. These activities continue to the present day.

Conclusion and Policy Recommendations

The purpose of life in this world is to gain spiritual and material earnings. The Qur'an says, "I have only created the *Jinn* and Men, that they may serve Me."⁸⁰ The positive aspects of earning are commendable, while its negative aspects should be avoided as harmful in both this world and the hereafter. Islam encourages hard work in the context of earning a livelihood, prohibiting laziness and begging, except by someone who finds himself in a critical condition. The prophets, while performing numerous miracles, also earned their livelihoods, notably as shepherds. They also practiced metal work, carpentry, and farming. Today, development may be achieved through lawful earning, even by a person who is not a Muslim. Transgression through unlawful means, on the other hand, destroys progress and brings backwardness. In this way, earnings should not be underrated; any form of permissible earning may be encouraged accordingly. In order to achieve success in both lives, a person must earn properly. This paper recommends that:

- Different types of legal earning should be encouraged, especially farming, which has a direct relation with every aspect of life.
- The prophets demonstrate to the *ummah* that a livelihood does not come by itself.
- Islamic institutions should inculcate the true teachings and ethics of earning in their programmes.

Notes

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1. Muhammad bin al-Hasan bin Farqad, also known as Abu Abd Allah al-Shaybani was born in 132 AH. It is agreed that his place of birth was Bawasit, one of the cities in Iraq. He studied in Kufah, which was a centre of knowledge and learning. He mastered a variety of sciences including *fiqh*, Arabic, *hadith* and grammar. He travelled to many places in search of knowledge, including Madinah, Makkah, Sham and Yaman. He learned from scholars and many also studied under him. Famous among his teachers was Abu Hanifa, who groomed

him and instilled in him the zeal for learning. Imam Malik and Abu Yusuf were also among his teachers. His students included Imam al-Shafi'i, Abu Sulaiman al-Jurjani and others. Among his contemporaries were Qasim bin Sallam al-Harawi, Ali bin Hasn al-Razi and Imam al-Shafi'i. He began his career during the time of caliph Imam Ali and was appointed as chief judge during the reign of three caliphs: Ibrahim al-Mahdi, Abdullahi al-Hadi and Harun al-Rashid. Among his publications were *al-Mubsut*, *al-Jami' al-saghir* and *al-Sayar al-saghir*. Al-Shaybani wrote a book on *al-kasb* because he was asked to publish a book on the ascetic concepts of *zuhd* and caution (*al-wara'*). He replied by saying, "I published a book on buying and selling." Then he started writing on earning but passed away before completing the work. Al-Shaybani died at 182 AH, see, Muhammad bin al-Hasan al-Shaybani, *Kitab al-Kasb* (Halba: Dar al-Kutb al-Ilmiyah, 1997), 12; see also, Umar bn Abd al-Aziz al-Bukhari, *Sharh al-Jami' al-Saghir* (Beirut: Dar al-Kutb al-Ilmiyah, 2006), 25.

2. Al-Shaybani, *Kitab al-Kasb*, 70.
3. Muhammad bin Mukrim bin Ali and Jamal al-Din Bin Manzur, *Lisan al-Arab* (Beirut: Dar al-Sadr, 1414 AH), 716.
4. Wizarat al-Awqafwa al-Shu'un al-Islamiyyah Kuwait, *al-Mausu'ah al-Fiqhiyah al-Kuwaitiyyah* (Kuwait: Ministry of Islamic Affairs Kuwait, 1427 AH), 5.
5. Al-Baqarah, 2:286.
6. Ibn Manzur, *Lisan al-Arab*, 716.
7. Ali bn Muhammad al-Sayyid al-Jurjani, *Mu'jam al-Ta'rifat* (Cairo: Dar al-Fadilah, n.d.), 154.
8. Muhammad bin Saleh bin Muhammad al-Uthaimin, *al-Qaul al-Mufid Ala Kitab al-Tauhid* (Saudi Arabia: Dar al-Ibn al-Jauzi, 1424 AH), 253.
9. Hans Wehr, *The Hans Wehr Dictionary of Modern Written Arabic* (New York: Snowball Publishing, n.d.), 825.
10. Derrick G. Hanson, *Dictionary of Banking and Finance* (London: Pitman Publishing Ltd, 1985), 241.
11. Abu Ammar Yasir al-Qadhi, 'The Importance of Halal Sustenance,' *Mission Islam*. Available at: <http://www.missionislam.com/knowledge/halaalsustenance.html>. (Accessed on: 30 November 2011).
12. Al Islamiyya, *Al-Mausu'ah al-Fiqhiyah*, 236.
13. Ibid., 236.
14. Adi Setia and Nicholas Mahdi Lock, *Right Livelihood and the Common Good Kasb Tayyibwa-Maslahah 'Ammah* (Kuala Lumpur: IBFIM, 2013), 24.
15. This translation is from: *The Holy Qur'an: English Translation of the Meanings and Commentary* (Madinah: King Fahd Holy Qur'an Printing Complex, 1419 AH).
16. Sayyid Sabiq, *Fiqh al-Sunnah* (Beirut: Dar al-Kutb al-Arabi, 1977), 46.
17. Abu Qasim Muhammad bin Ahmad al-Kalbi al-Garnati, *al-Qawanin al-Fiqhiyah* (Riyad: Markaz al-Turath lil-Barmajiyah, 2013), 165.
18. Al-Shaybani, *Kitab al-Kasb*, 70.
19. Nasir Khasru, *Mu'jam al-Faz al-Qur'an* (Tehran: Islamic Publication, 2013), 240-3.
20. Muhi al-Sunnah, Abu Muhammad Husain bin Mas'ud al-Bagawi, *Tafsir al-Bagawi* (Beirut: Dar Ihya' al-Turath al-Arabi, 1420 AH), 142.

21. Al-Baqarah, 2: 286.
22. Mahmud bin Amr bin Ahmad al-Zamakshari, *al-Kashaf an-haqa'q Gawamid al-Tanzil* (Beirut: Dar al-Kutb al-Arabi, 1407 AH), 332.
23. Muhammad Ali al-Sabuni, *Safwat al-Tafasir* (Cairo: Dar al-Sabun li tiba'ahwa al-Nashr, 1997), 163.
24. Muhammad bin Jarir al-Tabari, *Jami' al-Bayanan Tafsir al-Qur'an*, ed. Abdullahi bin Abd-al-Muhsin al-Turki (n.p.: Dar al-Hijrat li tiba'ahwa al-Nashrwa al-Tauziwa al-'lan, 2001), 154.
25. Abdullahi Ibn Abbas, *Tanwir al-Miqbas min Tafsir Ibn Abbas* (Beirut: Dar al-Kutb al-Ilmiyah, 817 AH), 42.
26. Al-Baqarah, 2:286.
27. Wahn bin Mustapaha al-Zuhail, *Al-Tafsir al-Munir fi al-Shariah wa al-Aqidah wa al-Manhaj* (Damascus: Dar Fikhr al-Mu'asir, 1418 AH), 153.
28. Mufti M. Mukarram Ahmed, *Encyclopedia of Islam* (Kuala Lumpur: Crescent News Sdn. Bhd, 2007), 19-21.
29. Setia and Lock, *Right Livelihood and the Common Good*, 349.
30. Ali bin Muhammad bn Ali al-Jurjani, *Kitab al-Ta'rifat* (Beirut: Dar al-Khutub al-Ilmiyah, 1983), 10.
31. Messengers are the best of Allah's creation, but He does not send down to them provision and wealth. He makes them work hard in this world by earning their living. If Allah wills, He may send down to them wealth from the heavens.
32. Taha, 20: 117.
33. Hassan al-Shaybani, *Kitab al-Kasb*, 74-5.
34. Spahic Omer, 'Islam Rejects Excessive Asceticism and Monasticism,' *Islamicity*. Available at: <http://www.islamicity.com/articles/printarticles.asp?ref=IC1211-5338&p=1>. (Accessed on: 13 October 2017).
35. Hassan al-Shaybani, *Kitab al-Kasb*, 75.
36. Pragyandeepa, 'Role of Agriculture in the Economic Development of a Country,' *Economics Discussion*. Available at: <http://www.economicsdiscussion.net/economic-development/role-of-agriculture-in-the-economic-development-of-a-country/4652>. (Accessed on: 30/12/2016).
37. Narrated by al-Hakim in *al-Mustadarak* 2:596. The *hadith* chain of narration is weak, as stated by al-Hafiz Ibn Hajar in Fathu al-Bari 4:306, in *Kitab al-Buyu*.
38. Al-Shaybani, *Kitab al-Kasb*, 76. There is wisdom in earning a living by hand, working using our hands makes one experience some difficulties in life. In the process, one will also experience the sweetness of consuming *halal* provision to a greater degree than others.
39. Ibid., 76-7.
40. Md. Habibu al-Rahman, 'Bayt al-Mal and its Role in Economic Development: a Contemporary study,' *Turkish Journal of Islamic Economics* 2, no. 2, (2015): 7-17.
41. Saba', 34:10.
42. An-biya', 21:80.
43. Al-Shaybani, *Kitab al-Kasb*, 77.
44. Narrated by Muslim in his *Sahih*, 15:135, in *Kitab al-Fada'il* and Ibn Majah, 2:727, in *Kitab al-Tijarat*.
45. Narrated by al-Bukhari, 4:441, *Kitab al-Ijarah*. The Prophet Muhammad who

- was sent to humanity, reared animals, as did the rest of the messengers. This indicates that livestock farming was essential in the past. See, Al-Shaybani, *Kitab al-Kasb*, 77-8.
46. Alison Young, 'Introduction to Carpentry'. Available at: <https://alison.com/courses/Introduction-to-Carpentry>. (Accessed on: 6 January 2017).
 47. *Al-adam* the plural of *adim* is clean or unclean leather, see: Muhammad ibn Muhammad ibn Abd al-Razaq al-Zubaydi, *Taj al-Arus*, vol. 181; and 'Adamiyu who is selling the leather. IbnAthir, in *Ansab*, 1: 41.
 48. A town four miles away from Madinah, see, al-Shaybani, *Kitab al-Kasb*, 80.
 49. Ibid., 78-80.
 50. <http://www.businessdictionary.com/definition/partnership.html>.
 51. Al-Jumu'ah, 62:10.
 52. Al-Baqarah, 2:267; al-Shaybani, *Kitab al-Kasb*, 70.
 53. Abu Muhammad Husain bn Mas'ud al-Bagawi, *Muhi al-Sunnah* (Beirut: Dar Ihya' al-Turath al-Arabi, 1420 AH), 142.
 54. Al-Shurah, 42:30.
 55. Al-Maidah, 5:38.
 56. An-Nisa, 4:111.
 57. An-Nisa, 4:112; al-Shaybani, *Kitab al-Kasb*, 80-1.
 58. Ibid., 140.
 59. Umar bin Faihan al-Marzuqi, '*al-Nishat al-Iqtisadi min Manzur Islami*.' Available at: <https://www.google.com/webhp?sourceid=chrome-instant&ion>. (Accessed on: 14 May 2016).
 60. Abu Hamid Muhammad bin Muhammad al-Ghazali, *Ihya' Ulum al-Din* (Beirut: Dar al-Ma'rifah, n.d.), 62.
 61. Maryam, 19:25.
 62. Setia and Lock, *Right Livelihood and the Common Good*, 43.
 63. Yunus, 10:44.
 64. Al-Baqarah, 2: 276. The word *riba* is derived from the Arabic root *raba* which means "to increase" and refers to the practice of lending money at an exorbitant (and therefore unlawfully high) rate of interest. The technical definition of *riba* is any material gain or advantage derived through unjust means – such as cheating, bribing, corrupt exploitation of influence or authority for self-advantage, deception in trade, speculative transactions, or living off the sweat of others. *Riba* is of two types: *riba al-fadl*, which occurs when there are transactions where items capable of *riba* (*mal al-ribawi*) are exchanged or where there is an increase in either item over another if they differ in quality; and *riba al-nasi'ah* (delayed payment usury), a form of usurious transaction that occurs if there is a sale where both items are properties subject to usury (*mal al-ribawi*), but only one of the items is received at the time and place of the sale and the other items were received at a later date. Aly Khorshid, *Islamic insurance - A modern approach to Islamic Banking* (London: Routledge Curzon, 2014), 34-5. Imran N. Hosein, *The Importance of Prohibition of Riba in Islam* (Kuala Lumpur: Umma Vision Resources, 1947), 44.
 65. Al-Baqarah, 2:282.
 66. An-Nisa, 4: 29.
 67. Al-Shaybani *Kitab al-Kasb*, 86.

68. Ibid., 85.
69. Al-Taubah, 9:111.
70. See the Holy Qur'an English translation, 536.
71. Narrated by Imam al-Bukhari in his *Sahih*, 4: 303 in *Kitab al-Buyu'*.
72. Al-A'raf, 7:160.
73. Al-Shaybani, *Kitab al-Kasb*, 86-87.
74. Ibid.
75. Setia and Lock, *Right Livelihood and the Common Good*, 289.
76. Abbabs Miraclichtor, Zamir Iqbal, *An Introduction to Islamic Finance: Theory and Practice* (Singapore: John Wiley & Sons: 2011).
77. Al-Taubah, 9:60.
78. Al-Anfal, 8:41.
79. Sheikh Othman bin Fodiyo, *Selected Writings of Sheikh Othman bn Fodiyo* (Gusau: Iqra publishing House, 2013), 224-7.
80. Al-Zariyat, 51: 56.

VIEWPOINTS

The Drawbacks of Judicial Pluralism in the Administration of Justice

*Ilham Ramli **

Legal pluralism in Malaysia has been traditionally a colonial legacy. Legal pluralism not only posits the existence of multiple legal spheres in the same social field but develops certain suppositions concerning the relationships and interaction between them. One area in which there is apparently interesting interaction is in the administration of justice. Whilst legal pluralism may be celebrated because it moves away from the pre-occupation with legal centralism, society cannot afford to have a justice system that is in disarray. This is indeed the case in Malaysia where a common law tradition and civil justice system seem to be at odds with the strong element of religion in the constitution. For more than 50 years, the Malaysian legal system has had to grapple with the ongoing and seemingly endless conflict of judicial authority between the civil and Syariah courts. Syariah courts in Malaysia are exclusively empowered to hear and dispose of cases among Muslims on subject matters enumerated in the first item of List II of the Ninth Schedule of the Federal Constitution. The existence of dual and parallel judicial systems with mutually exclusive jurisdiction in society is in practical terms unsustainable for it essentially creates a crisis of authority. There are two main problems with the current arrangement of dual justice systems in Malaysia; firstly, there is clear infringement of the right to be heard where non-Muslims, who would have a direct interest in the case, are incapable of being heard and have a day in the Syariah courts. Secondly, there cannot be a comprehensive determination of a dispute because of conflicting judicial authorities.

Therefore, there is a need for a minimum commitment to legal centralism by having a streamlined judicial system primarily as a means of securing a functional place for judicial authority that can provide final, timely and comprehensive determination of legal disputes. This presents a two-fold challenge – ideological and institutional – both of which impede the important work of having a reliable and effective administration of justice. Ideologically, a streamlined judicial

system may be rejected for fear of the subordination of Islamic laws and values to incompatible elements in the civil legal system. While there has been a discussion about certain differences in the underlying values and framework of the civil and religious systems of laws, there is nothing inherently problematic from an Islamic point of view in accepting that civil courts are also Syariah courts. Courts are basically created to administer justice and enforce laws. Although there are bound to be substantive differences between certain aspects and elements of Islamic laws and civil laws, this substantive issue is a matter which is primarily for the legislature to resolve and not the court. Therefore, non-Muslim citizens on the one hand should not worry that they would be arbitrarily subjected to Islamic laws. On the other hand, Muslims should embrace the fact that the status and identity of Syariah courts are never contingent upon the name or the fact that they are independently separated from the civil courts.

The success of Islamic finance illustrates that there is no ideological hurdle making it impossible for Islamic law to be administered by the civil courts. Islamic law in a modern form will go through the democratic legislative process at the legislative assembly whereby Syariah rules from the whole corpus of Islamic teachings are extracted and crystalised into a set of legislations by Parliamentarians. Islamic finance instruments which are substantively governed, among other things by the Syariah law can be administered sequentially notwithstanding some views to the contrary by the civil courts. It indicates that there is actually no real distinctive impediment – ideological or jurisprudential – to treating Islamic laws and civil laws alike in the context of the administration of justice.

It may be contended, however, that the example of Islamic finance is inadequate because, in a secular system, most if not all of its facets can be adopted under the concept of private autonomy of contract. Rather, the plausibility of having a streamlined judicial system should be considered in the contentious areas of family and inheritance law, personal status law, criminal law, gender inequality, and human rights in general, in order to map out how an incorporation of Syariah into the civil court system would work. It is actually not difficult for a streamlined judicial system to work even in these contentious areas if we jurisprudentially rely on the legal positivism school of thought. Legal positivists maintain that the validity of law derives from its source. Therefore, ordinary courts can administer any law passed by the legislative assembly regardless of its pith and substance, which may be religious in nature. Any disagreement on the scope, propriety and applicability of highly contentious norms which may have strong religious elements has to be sorted out by Parliament. On this score, Islamic law will be administered and treated equally in comparison to any other branch of law; tort, contract law, criminal law, defamation law etc. Equal treatment here refers to

the ideal situation where all laws are administered by a single judicial authority within a broad single judicial framework. As such, there will be no issue about court jurisdiction to adjudicate a legal dispute.

Institutionally, the dual and parallel judicial systems in Malaysia are purportedly designed to serve the interests of both Muslims and non-Muslims. It was thought that the arrangement would be capable of safeguarding the non-Muslims from being subjected to Islamic laws whilst at the same time giving space for the Muslim community to practice its personal laws. But in practice, the current arrangement means there is no single judicial authority that would have jurisdiction over all subjects. It is an intricate challenge to resolve a dispute when there are two judicial bodies claiming authority over the same matter.

The issue of a dual judicial system with parallel jurisdiction is an institutional problem and must be addressed structurally. It is also a constitutional problem that cannot be completely addressed with piecemeal solutions using various canons of construction or technical legal interpretation of constitutional provisions, for these would not solve the core issue of conflicting authority. Courts are established to adjudicate legal disputes, and this judicial role is primarily a norm-applying function. Therefore, for the sake of finality, consistency and predictability, courts in Malaysia should be streamlined into one system and vested with jurisdiction over all members of society. This suggestion acknowledges that there can be different kinds and levels of courts as the state deems fit. The Syariah principle of particularisation of justice (*takhsis al-qada*) also permits the setting up of specialised courts. This multiplicity should not in any way be mistakenly understood to imply the existence of multiple judicial authorities for there is actually only one judicial authority, which is essentially monolithic and indivisible.

It does not follow from the proposal of a streamlined judicial system, however, that certain segments of society cannot be exempted from the application of certain specific laws. The inapplicability of Islamic laws to non-Muslims is an accepted Syariah position and can still be retained. Instead of protecting non-Muslims by creating two different courts, civil and Syariah, non-Muslims may be statutorily exempted from certain specific areas of law. This is in line with the doctrine of reasonable classification that permits differentiation based on an intelligible differentia. In the context of the criminal justice system, for example, an Act of Parliament may criminalise adultery and provide a punishment for such an offence that is applicable to Muslims only. In this way, the clash of judicial authority would not arise because there is only one authority that exists to administer different kinds of law on all citizens.

The inapplicability of certain Islamic laws to non-Muslims is also feasible in light of the prerogative of the Public Prosecutor to choose the most appropriate

charge in criminal cases. The prerogative of the Public Prosecutor to choose an offence that carries a higher punishment against the accused person over the same facts is common. In Malaysia, a suspect who has been apprehended by the authorities for unlawful possession of firearms, for example, can be charged under Section 8 of the Arms Act 1960, and shall, on conviction, be liable in respect of such contravention to imprisonment for a term not exceeding seven years, or to a fine not exceeding ten thousand ringgit, or to both. Alternatively, the suspect may be charged under Section 8 of the Firearms (Increased Penalty) Act 1971, and shall, on conviction, be punished with imprisonment for a term which may extend to fourteen years and with whipping with not less than six strokes.

In the context of a streamlined judicial system, the scepticism of those who reject the consolidation of civil and Syariah courts on the grounds that such consolidation amounts to ‘secularisation’ of the religious court does not hold water because an acceptable degree of exclusivity and autonomy of Syariah law is still maintained in the system. The Public Prosecutor, for example, would have the option whether to charge a Muslim suspect for the offence of stealing under the Syariah Penal Code (punishable with amputation of the hand) or under the ordinary Penal Code (punishable by imprisonment). The decision can be made upon considering the whole facts and context of a case to ensure the requirements of legality, propriety and proportionality are adequately met.

Ultimately, we have to get out of this binary dichotomy of civil and Syariah courts in the cause of a better Malaysia. Maintaining such a dichotomy will not serve any good purpose because a decentralised judicial system is an injustice in itself. The need to have a streamlined judicial system should be our priority, particularly for those who are serious about uplifting the current status of the Syariah Courts. This can be done by dispensing with the unnecessary and self-defeating separation between the Syariah courts and the civil courts. As such, the Syariah courts are recognised as specialised courts in the whole scheme of the judicial system. Alternatively, if the current arrangement were to be retained then non-Muslims, at the very least, must be allowed to appear and bring cases before the Syariah courts. It is a pure injustice if citizens are restricted from appearing before any court of law simply on the ground of their religion.

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RUU 355 from an Islamic Perspective: Improve Legal Safeguards in Tandem with Higher Punishments

*Wan Naim Wan Mansor **

Muslims generally favour upholding the Shari'ah, especially at the highest levels of government. Any implementation of this aspiration, however, must follow the necessary guidelines. It should not take place at the expense of the principles and values of the Shari'ah itself. This article takes a look at RUU 355 and some concerns arising from it.

On 26 May 2016, Abdul Hadi Awang, an opposition leader in Malaysia's Parliament and President of the Islamic Party of Malaysia (PAS), introduced a Private Member's Bill, known as RUU 355 (Bill, Malay: *Rang Undang-Undang*) to amend the Syariah Courts (Criminal Jurisdiction) Act 1965. The Bill seeks to raise the upper boundaries of Syariah courts' sentencing limits while retaining the offences under the jurisdiction of Syariah courts, as specified in List II of the State List of the Ninth Schedule to the Federal Constitution.

Initially, RUU 355 sought to extend the sentencing jurisdiction of the Syariah courts to cover all punishments "except for the death penalty." This caused controversy due to the sweeping nature and far-reaching consequences of the amendment. It was also unusual in its phrasing. It replaced section 2 entirely instead of just raising the maximum limits of punishments, which is uncommon in legal practice. Experts also raised alarm about the constitutionality of the Bill and its future repercussions.

Some of these problems were addressed on 24 November 2016, when an amended version of the Bill specified the maximum limits on punishments: 30 years' imprisonment, RM100,000 fine, and 100 lashes (administered according to Shari'ah guidelines) (see below). The Bill also retained the original wording of section 2. Even so, the Bill prompted expressions of unease by politicians, NGOs, civil society, Muslims as well as non-Muslims alike.

Reservations about the Bill included fears that it violates people's privacy, restricts free speech, legally disempowers non-Muslims in inter-faith disputes, leads to significant legal differences between states, and amounts to an abuse of power.

These reservations regarding the Bill highlight three concerns. First, what is the justification for the drastic increases in the current set of punishments (i.e. from 3 years' jail to 30 years and RM5,000 fine to RM100,000) despite there being no change in court jurisdiction?

Syariah Courts (Criminal Jurisdiction) Act 1965 (Act 355) Section 2	
Amendment 1988 Maximum limit of Syariah court sentences: 3 years' jail or RM5,000 fine or 6 lashes or Any combination	Proposed Bill 355 Maximum limit of Syariah court sentences (modified version, 24 November 2016): 30 years' jail or RM100,000 or 100 lashes* *administered in line with Shari'ah criminal procedure

Second, there appears to be a dearth of attention paid by RUU 355 proponents to reforming and amending relevant legal procedures when applying the law in tandem with enhanced punishments.

And third, what Shari'ah transgressions will these new punishments apply to? If *hudud* crimes such as theft, banditry, and public-safety crimes remain under the jurisdiction of civil courts, what 'Islamic offenses' are left that would justify the heavier punishments specified in RUU 355?

PAS leaders were previously forthright in their remarks that the reason for tabling RUU 355 was to validate the Kelantan Islamic Hudud Law Enactment (Syariah Criminal Code (II) (1993)). The Kelantan Hudud Law was amended in 2015 with minor improvements in response to public opinion. However, in term of substance, the enactment remains the same and continues to raise significant concerns from the perspective of the Shari'ah.

Malaysia-based Islamic scholar Mohammad Hashim Kamali, for instance, pointed to the apparent absence of provisions on repentance and rehabilitation in the enactment and a preference for heavier punishments when the Shari'ah itself advises constraint in regards to the application of all punishments, including the *hudud*.

In *Punishment in Islamic Law: A Critique of the Hudud Bill of Kelantan, Malaysia* (1993), Kamali foremost criticised the enactment for its heavy reliance and almost wholesale adoption of the tenth-century book *al-Ahkam al-Sultaniyyah*, by the renowned Shafi'i jurist Abu'l Hasan al-Mawardi (d. 450 AH). Such "imitative and *taqlidi* orientation," according to Kamali, does not

reflect a legal reform that responds to “the dictates of law and justice in society,” but a “dogmatic initiative” that neglects the realities of contemporary society in Malaysia.

Kamali submitted that the Qur’anic outlook on punishment is characterised by its dual emphasis on retribution and reform. In each Qur’anic verse mentioning *hadd* punishments (*sariqah*, *zina*, *qadhif*, and *hirabah*), clauses on repentance (*tawbah*) and reform (*islah*) never fail to appear, along with the affirmation that “God is Most Forgiving and Merciful” (*‘inna Allaha ghafurun rahim’*) (Quran 5:33, 38-39; Quran 24:2-5). These reformative dimensions, however, were unfortunately overlooked and under-developed in conventional *fiqhi* approaches, a situation reflected (by imitation) in the Kelantan *hudud* law. Maintaining this Qur’anic balance between retribution and reform is essential to achieve justice, and could be the key to a successful public reception due to its appeal to moderation.

Raising the upper limit of punishments thus requires an attempt to rectify this imbalance, in addition to improving legal safeguards and procedural guidelines. To remedy this, we need to look no further than the vast and ever-expanding literature of Islamic law, which explores a broad range of important principles and guidelines.

For example, in his research on Islamic criminal investigation procedure, New York University professor, Sadiq Reza, identified four relevant Shari’ah principles: (1) honouring privacy during investigation (2) avoidance of eagerness to prosecute (3) avoidance of eagerness to inflict the *hudud* during adjudication, and (4) the establishment of mechanisms that review the lawfulness of punishment and detention.

These principles can serve as useful guidelines when drafting Islamic criminal law and may be utilised to enhance RUU 355, especially its proposal to raise punishment limits.

Honouring privacy, for instance, is deeply rooted in the Qur’anic verses “enter not houses other than your own” and “spy not on each other” (Qur’an 24:27 and 49:12). This virtue is again seen and confirmed by the Sunna on various occasions, best demonstrated by the famous refusal of caliph ‘Umar ibn al-Khattab to act upon wine-drinkers after realising that he had breached their privacy by spying on them in their homes.

The principle of avoiding prosecution whenever possible is conveyed in two famous hadiths involving adultery. The first involves Ma’iz b. Malik whose adultery confession was ignored by the Prophet (peace and blessings be on him) on three different occasions before he carried out the *hadd* punishment on the fourth. In the second hadith, the Prophet also initially refused to hear the adultery confession by al-Ghamidiyya and subsequently gave her multiple

opportunities across the years, involving pregnancy, delivery, and weaning of the child, to drop her confession.

The principle of avoiding *hudud* during adjudication is conveyed in a well-known hadith-cum-legal maxim to “avoid the *hudud* in all cases of doubt or ambiguity” (*‘idra’u al-hudud bil shubuhah*).

Fourth and lastly, the practice of constant review of the lawfulness of detentions and punishments is widespread in classical juristic texts, such as Hanafi jurist al-Khassaf’s *Adab al-Qadi* and Shafi’i jurist al-Nawawi’s *Minhaj al-Talibin*.

In sum, upholding the Shari’ah entails not just imposing heavier punishments; it also requires that legislation be based on a correct understanding of Islamic law, maintaining proportionality between crime and punishment, and adhering strictly to the procedural guidelines of the Shari’ah. As of now, the RUU 355 proposal has yet to reflect a balanced interpretation of Islamic law, and its proponents have yet to give enough attention to improving legal safeguards in the imposition of higher punishments. The preoccupation with punishment and neglect of reform dimensions by its proponents is further demonstrated in the latest amendment to the Kelantan Syariah Criminal Procedure Enactment 2002 (2017), which seeks to validate public caning.

Finally, the expression of valid reservations about RUU 355 should not be seen as being unfaithful to Islam. It is preferable under Shari’ah to make an error on the side of leniency than on the side of severity.

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Leveraging Blockchain Technology for *Halal* Supply Chains

Marco Tieman and Mohd Ridzuan Darun***

Background

Halal supply chains are vulnerable due to their credence quality attributes, importance of maintaining *halal* integrity throughout the supply chain, need to avoid doubt, lack of control of food norms, and sensitivity of the Muslim consumer towards *halal*. These vulnerabilities make *halal* supply chains complex to design, manage, and optimise. Transparency of *halal* supply chains is needed in order to ensure trust and authenticity of a *halal* brand. The principle of a shared database that is safe, open and verifiable without a central operator is an attractive proposition to embed trust and authenticity for *halal* food, cosmetics, home care, and pharmaceuticals.

Blockchain is the main technology behind Bitcoin. Blockchain is already called the Fourth Industrial Revolution. It is a digital public ledger comprising stringed data blocks containing information, similar to our DNA. It is not stored somewhere centrally, but distributed on many servers throughout the world. Blockchains are encrypted and automatically synchronised in the distributed blockchains, making them a trusted public ledger that everyone can inspect, but no single user controls.

The combination of the distributed ledger technology with smart contracts, contracts between supply chain partners that ensure *halal* compliance in each link in the *halal* supply chain, has the potential to create high performance *halal* supply chain networks.

What are the Challenges Facing Current *Halal* Supply Chains?

A large discussion on *halal* blockchains was held on 15 May 2017 at Universiti Malaysia Pahang in Kuantan (Malaysia) organised by the Faculty of Industrial Management. This large discussion group showed that *halal* supply chains have inherent problems or flaws, namely in: (1) traceability (ability to verify the location of a product) and organising product recalls; (2) transportation and warehousing (storage) downstream of the supply chain in accordance with *halal* requirements; (3) end-to-end chain integrity (unbroken chain) from source to

point of consumer purchase; (4) different *halal* systems and interpretations of different markets; and (5) lack of integration of information technology systems.

These problems require a radically different approach to how *halal* supply chains are orchestrated. *Halal* blockchains have the potential to solve all of the above *halal* industry problems!

A Vision of *Halal* Supply Chains Through Blockchain Technology

A *halal* blockchain would be a digital ledger of all *halal* supply chain transactions that have ever been executed. It would constantly grow as ‘completed’ blocks are added to it with each new set of transactions. The blocks are added to the blockchain in a linear, chronological order. Each node in the *halal* supply chain network gets a copy of the blockchain, which gets downloaded automatically upon joining the *halal* supply chain network. The *halal* blockchain has complete information about the addresses and their supply chain path right from source to the point of consumer purchase. As the *halal* blockchain database is shared by all nodes participating in a *halal* supply chain network, information is easily verified by just scanning the QR-code (a two dimensional barcode) on a product.

Blockchains pre-program the *halal* requirement of the destination market, such as: *halal* production certificate requirements, *halal* storage-transportation-terminal handling terms, coding of *halal* on freight documents, and many more. In a blockchain you can easily identify the parties that committed fraud, as this remains visible. This discourages the industry to commit fraud in *halal* supply chains. At the same time it allows the rating of *halal* logistics service providers, distributors, and other supply chain participants based on the performance of their services.

***Halal* Blockchain Design Principles**

The main objectives to be achieved with *halal* blockchains are: reliable data and trust in *halal* supply chains; seamless and efficient *halal* process from source to point of consumer purchase; sustainability of *halal* supply chains; consumer confidence in *halal* brands; and global recognition of *halal* blockchains.

The main principles of *halal* blockchains are: that *halal* blockchains incorporate the different *Mazhabs* of the destination market, in particular the Islamic schools of thought, *fatwas* (religious rulings), and local customs; *halal* blockchains should be relevant for both Muslim and non-Muslim countries; *halal* certification requirements of the destination market and mutual recognition be critical design principles for *halal* blockchains; supply chain participants be automatically aligned and informed on process compliance based on the specific product-market scenario; and authenticity and security of *halal* blockchains be

a top priority to protect confidential information and minimise the chance and impact of cyber attacks.

Smart contracts are pre-agreed autonomous programs that define supply chain relationships as well as automatic actions. In the case of *halal* issues, the blockchain system would trigger automatic immediate action based on the smart contract's terms, for example, initiating a product recall, internal and external communication, informing of *halal* authorities, etc. Automatic action reduces lead-times in resolving *halal* issues, thereby reducing reputation damage.

Performance measurement of *halal* supply chains and their participants is critical to ensure high performance. This requires first of all a classification of *halal* blockchain participants in terms of a *halal* assurance system; local and international *halal* certification; and whether a *halal* assurance system is in place or not. Second, the actual *halal* performance needs to be measured in areas of efficiency, effectiveness, and robustness.

Manufacturers, brand owners, and retailers benefit from *halal* blockchains, in particular through transparency of supply chain, synergy advantages through vertical and horizontal collaboration, standardisation of *halal* assets, and more effective risk and reputation management. Logistics service providers and distributors benefit from *halal* blockchains too, in particular through long term customer relations, better use of *halal* assets, consolidation of *halal* cargo and new value added logistics and services, digitalisation of paper flows, and more efficient payment settlement. *Halal* certification bodies benefit through easy auditing of *halal* supply chains and faster support for industries in case of a *halal* issue or crisis.

Conclusion and Recommendations

Halal blockchains provide clear advantages for manufacturers, brand owners, retailers, logistics service providers, distributors, and *halal* certification bodies. For better trust and authenticity, a country's *halal* brands and *halal* certification bodies should embrace this new technology to support the *halal* industry in case of a *halal* issue, or worse, a *halal* crisis. They should support the *halal* certification of logistics service providers, distributors and retailers in order to facilitate a higher compliance in transportation and warehousing downstream of the supply chain. Harmonisation and standardisation of *halal* supply chain standards in different jurisdictions will be essential in the coming years to better support *halal* industries and their global supply chains.

Notes

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The Yemeni Quagmire: A Humanitarian Tragedy of Dire Proportions

*Asif Mohiuddin**

The war in Yemen, which escalated in March 2015, is making a dire humanitarian situation worse, with insurgent groups expanding and no end in sight to an intractable ideological conflict between warring political factions who appear further entrenched in their enmity than ever before, despite UN efforts to push Yemeni leaders towards new negotiations. The conflict has turned the country into a “humanitarian catastrophe”; fighting on the ground and air strikes have killed 10,000 people and displaced more than three million. According to the UN Office for the Co-ordination of Humanitarian Affairs (OCHA), nearly 19 million people, almost 70 percent of the population, are in need of humanitarian aid.

Having its roots in the failure of the political transition in 2011, the conflict in Yemen quickly descended into an armed conflict between the Houthis (a minority Shia group from the north of the country) and the government of then longtime authoritarian president, Ali Abdullah Saleh, culminating in the spectral transfer of power to Abd-Rabbu Mansoor Hadi, his deputy and the head of interim government. While Hadi struggled to deal with a wider array of problems, including corruption, widespread poverty and economic stagnation, the Houthis and the security forces allied with Saleh took control of the entire country, forcing Hadi to flee abroad in 2015. Alarmed by the rise of a rebel group believed to be backed militarily by Iran, a Saudi-led coalition, with logistical and intelligence support from the US, UK and France, attempted to restore legitimacy to Hadi’s government. However, since then, despite an air campaign, pro-government forces have failed to dislodge the Houthis from their northern strongholds.

Although Yemen’s instability stems from a long history of political discord, poverty and violence, the conflict intensified when the Yemeni government led by Saleh launched a large military offensive against the Houthis in 2009 and cracked down on its political opponents, with allegations of extrajudicial incarcerations, torture, and forced disappearances. In 2011, the Houthis responded to the Arab Spring revolutions by expanding their influence and seizing greater territory, eventually gaining administrative control in areas where they had only a foothold before, with mixed results that have brought a country already beleaguered and dazed by insurgent groups and economic crisis into a new period of even graver

uncertainty. Throughout 2013 and 2014, despite participating in internationally supported political talks, the Houthis continued to consolidate their political power and played a significant role in the government, effectively controlling parts of the country's north and centre, while also addressing their legitimate social, political and economic grievances.

Many analysts describe the Yemen imbroglio as a proxy battle between Saudi Arabia and Iran, although this portrayal falls short of explicating the extent of Yemen's internal divisions and an ongoing domestic power struggle exacerbated by the tumultuous events of the Arab uprisings. Nevertheless, Iran and Saudi Arabia's intervention in Yemen, particularly the outflanking of the latter by the former, has engendered the rise of many splinter groups backed in recent years by US Special Forces and extremists in the Arab world, who have established bases in Yemen and appear to be gaining a lot of ground as other countries and players are sucked in. While the struggle between Riyadh and Tehran has geopolitical implications, the conflicts in Yemen and Syria are the closest they have come to open confrontation as the struggle for greater economic and political legitimacy in the region has transcended the placid waters of the Gulf, encompassing almost every major conflict zone in West Asia.

In such a supercharged ambience, Yemen's topsy-turvy war, although overshadowed by the devastating crisis in Syria, is a major calamity. Unlike in Yemen, in Syria the US administration has favoured a "hands-off strategy", preferring not to get sucked into more Middle East wars. Moreover, since the Syrian conflict has bled beyond its borders, with ISIS carrying out harrowing attacks across Europe and other Middle Eastern countries, it has monopolised the US government's diplomatic energy to the disadvantage of Yemen. Seeing the world as a giant game of risk, the unintentional message of political stakeholders in the West to Tehran and the Houthis has been that Yemen is not a priority. Hence, due to the US and UK's strategic imperative in Yemen, repeated UN initiatives to achieve some kind of peace settlement have been severely impaired.

There are reports of looming famine, with the conflict triggering a humanitarian catastrophe, leaving an unprecedented 81 million people needing food aid in 2017 (at least 17 million people are considered food insecure, and 6.8 severely food insecure). The ongoing conflict, as per a report published by Doctors without Borders/Médecins Sans Frontières (MSF), has placed overwhelming strain on the country's deteriorating health system, with consequences far larger than the immediate wartime implications. As the health system continues to collapse, those hospitals that remain open are crippled by a lack of fuel, coupled with insecurity and damage to markets, electricity blackouts, and lack of medical supplies for surgery. This health care crisis is further exacerbated by contaminated water and poor sanitation, making people more vulnerable to diseases and killing nearly

2,000 people and infecting more than a half million. Researchers warn that the total number of people infected could eventually rise to over 600,000, ultimately rivalling the largest outbreak in Haiti, which affected at least 770,000 people in 2010, making it one of the largest outbreaks recorded since 1949.

Those affected by the epidemic of life threatening diseases, and the wider conflict, find it very difficult to access medical facilities because of ongoing fighting, which has left only 45 percent of Yemen's 3,500 health facilities fully functioning, and even they face severe medicine shortages due to import difficulties, inflation or lack of equipment and staff. With 80 percent in desperate need of humanitarian aid and 2 million staring at death due to malnourishment, children under the age of 5, accounting for close to half of all fatalities due to a high incidence of cholera, are bearing the brunt of the conflict in Yemen.

The war in Yemen has taken a devastating toll on the educational sector, leaving hundreds of schools destroyed, the remaining few unfit for use due to destruction, presence of displaced people or occupation by combatants. The situation has driven many Yemenis, in a phenomenon seldom seen anywhere, to purchase their educational essentials on a black market that has emerged in Sanaa and other governorates.

In the face of this senseless humanitarian tragedy, increased awareness and attention to the conflict is essential before it unfolds into a quagmire that the world will regret. The war has had a ripple effect in the Middle East, especially on the GCC, with the conflict heading in a downward spiral, that could potentially develop into the world's next full-blown refugee crisis. The United Nations brokered peace talks have stalled, all willful perpetrators having failed to reach a resolution because everyone is holding the humanitarian status quo as a political chip to bargain with at a table where no one is interested in establishing peace, while the country is imploding and the world is watching this quagmire break down. According to Stephen O'Brien (the Under-Secretary-General for Humanitarian Affairs and head of UN Emergency Relief), USD 2.3 billion in humanitarian aid is needed this year to allow the consumption of commercial food and other imports, but only 41 per cent of that amount has been received.

It is critical that all stakeholders push for an immediate cessation of hostilities in order to provide long overdue assistance and relief in what is one of the largest humanitarian crises of our age. As the country remains highly divided along tribal, ethnic, sectarian and ideological faultlines, with the tribal structures being the most important, the route to sustained stability requires negotiations from a multitude of factions. In this context, the US administration will likely agree with the Saudis to continue with military pressure; but it is not clear that military pressure in this multi-layered conflict can convince the Houthis and Saleh to negotiate in a multilateral context to foster a Yemeni state with

sufficient legitimacy. To restore the balance of power in the country, a regional settlement that includes Iran and Russia on the side of the Houthis, and the US and the GCC on the other side, is one way to give enough self-assurance to regional actors to the effect that peace is possible. However, since the country is on a wartime footing, and those benefitting from war are in command on both sides, the inclusion of Iran and Russia would give the Houthis and Saleh some confidence that their voices will not be stifled, and allow them to relinquish their strategic advantage. For Iran, Yemen is an important Arab country in the Arabian Peninsula, with significant geostrategic importance. However, for Iranians, it is not a vital security interest but rather a millstone to weigh down the Saudis and the United States indefinitely. The Iranians may therefore not be unwilling to negotiate.

Notes

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SIGNIFICANT EVENTS AND DEVELOPMENTS

Interview with Professor Mohammad Hashim Kamali on Contemporary Islamic Issues

Setare Sadeghi

Professor Mohammad Hashim Kamali is the founding CEO of the International Institute of Advanced Islamic Studies (IAIS) Malaysia established in 2007. Originally from Afghanistan, he served as the Professor of Islamic Law and Jurisprudence at the International Islamic University Malaysia from 1985 to 2004). From 2004 to 2006 he was the Dean of the International Institute of Islamic Thought and Civilization. Professor Kamali is the world's leading expert on comparative studies between Islamic and modern law. He is a renowned producer of quality scholarship on Islam in the world today. Professor Kamali received the King Abdullah II bin Hussein International Award for the year 2010 for his intellectual and academic contributions towards serving Islam and Muslims as well as the Islamic Republic of Iran's *Book of the Year Prize* by President Hassan Rouhani. Professor Kamali visited the faculty of World studies where he delivered a lecture on Islam and moderation. In an exclusive interview with Professor Kamali, we asked him about his take on moderation, unity among Muslims, women's rights and his visit to Iran.

Q: The need for dialogue between cultures and nations is strongly felt in a world where the drums of wars are beaten. Based on Quranic teachings, how do you think Muslims can play a role in bringing more peace to the Middle East and the world in general?

A: Well, I think that under the present circumstances, [it can be achieved] more through setting examples, through actions rather than words. I believe this something Muslim countries tend to fall short of. Historically I think we have played the role of *Wasatiyya* and there have been three occasions since 1997 when the Muslim world had to give a response and the response has consistently been on the part of moderations. President Khatami of Iran suggested the idea of Dialogue of Civilization in 1997 in the United Nations at a time when the Clash

of Civilizations were being circulated. Then in 2004 I think, the idea of Alliance of Civilization—this is after 9/11—was proposed by Turkey and Spain; Erdoğan and Zapatero. Finally I think it's Malaysia and also Iran that have spearheaded the idea of *Wasatiyya*; by Malaysia's Prime Minister at the United Nation in 2010. I think this is consistent on the part of the Muslim world responding to tumultuous international currents, mostly against Muslims with a kind of tempered response that is true to the Scripture. From the Quranic viewpoint, I think that [Muslims should] stay on the path of *Wasatiyya* but *Wasatiyya* in peace times. Peace is a precondition in many ways for moderation. Concerning the situation in the Middle East, I think that *Wasatiyya* cannot bring peace, peace has to come first. If you talk to people in Syria, in Palestine, maybe in Afghanistan and Iraq—countries ravaged by war—to play the role of *Wasatiyya*. They might respond, what are you talking about! Why don't you speak to the aggressors? You expect me to be moderate instead of responding to an onslaught and to an attack?! This is the reality of some parts of the world. They're afflicted with conflicts after conflicts and to expect them to promote moderation would be excessive. I think countries that do enjoy peace—Iran is peaceful, Malaysia is peaceful, and many other Muslim countries are enjoying peace—although the environment generally is not conducive, they should try to promote first peace which is the precondition and a near precondition to that is unity among Muslims. I think we need unity in the face of the scenarios that we are witnessing all around us. Unity should be our priority. Instead of *Wasatiyya*—we will move to that but priorities are priorities. Once you have peace and when you have unity, you can then be an effective voice by setting examples. I think that can be an effective way. If you can put your own house together, if you can talk to each other and be effective in bringing normality, addressing conflicts, finding solutions then that can be an active approach towards moderation and the Quranic principle of *Wasatiyya*. However, Muslims should not give exaggerated responses. I think they should seize every opportunity even small ones for peace and friendship. All that said, I would like to add that moderation cannot be shown in response to injustice and aggression. You need to respond to that kind of issues in a proper way and moderation is not really the guiding formula. If you have to fight oppression, you have to fight it. The Quran requires us to give a better response when there is a gesture in an opportunity for peace.

Q: What role do you believe Iran is playing in purveying moderation and unity among Islamic countries as well as fighting for justice?

A: Definitely, Iran has played a role in fighting for justice and it has gained the respect of the Muslim world in that Iran has been one country that has stood up

for the right principles. Iran can be a very effective player given the advantages that it has, especially more recently when Iran has held a very successful election. It is very unusual to have elections in such a large country like Iran with many oppositions internally and have it completed in success and without major distortions within days. It is an effective incident in the actual world that is setting a good example. In addition, the man who has spoken for Wasatiyya, President Rouhani, who won a landslide. That is another plus internationally and within Iran for the forces of moderation. Therefore, it gives Iran a very good position to enhance and continue its role by bringing Muslims together, reducing tension and factionalism, through effective cooperation with the neighbors and others. Maybe now that President Rouhani has started a new term in office in a very positive way, [it is an opportunity] to enhance its policy and maybe revise some aspects of his policies towards Hezbollah, towards Syria and other hotbeds of tensions to see in what ways Iran can turn another page. This is something that if done the whole world will look to Iran as it is something that Iran is in the good position to do it. So I think on the whole Iran has been standing for the right principles. I think Iran deserves better from the international media. When you visit Iran you see a lot of good works going on in reality while internationally Iran has been receiving a very poor coverage. The negative profile has been very strong. Iran deserves better. Iran is very resourceful internally: intellectually and materially. One hopes that there will be a redoubling of the efforts for the forces of moderation. As I said, unless you have peace, it is very difficult to bring moderation.

Q: In your lecture at the Faculty of World Studies, University of Tehran you elaborated on a moderate outlook towards women's rights based on Islam. In your opinion, how can Muslim nations improve women's rights in their countries without falling for the so-called feminist movement?

A: I think to empower their women within their own countries by giving more reality to the idea of equality; legal equality, equal rights in the workplace in terms of payments and participation, in education, in the family environment, and some constitutional rights. We have a bigger problem of inequality and discrimination against women in Afghanistan and in neighbouring countries; but one good thing that happened in 2003 and I was a part of that—I was a member of the constitution commission of Afghanistan— we proposed an affirmative clause in support of women, that there should be a quota. That succeeded. From every province out of 34 provinces of Afghanistan there should be at least one woman representing the province. Among the more than 2000 delegates, 400 were women. Women themselves pushed the case and they proposed that instead

of one member, there should be two women representing each province and that was passed. Now this is part of the constitution that from every province there should be two members of the parliament. This was affirmative action measure in a country like Afghanistan but women themselves helped and empowered that voice. This is a very good way of women themselves being given the role and they will conduct the campaign themselves. I'm not drawing analogies. I think in Iran perhaps the situation is a lot better, but generally speaking I think there is room for improvement in every one of those areas I mentioned. I think the feminist confrontational approach that pits women against men, as if one is the enemy of the other, this is not the Islamic way and it's even losing ground everywhere as it is not productive. One should avoid that. Otherwise, there is a great deal of awareness towards the improvement of women's rights to equality being developed. Now in terms of actions, a lot of countries are doing well enough and can do better.

Q: How do you think Muslims can protect the variety that exists between them while avoiding any sectarian move?

A: I think culture, arts and education are good areas for cooperation among Muslims. These are softer options in comparison with immigration and citizenship as those are hard areas. Thus I think countries should enhance their exchanges and cooperation in these areas first and then move on to other areas. It is mainly through engagement with all parties involved. Sectarianism is a problem that is a curse on the Muslim world right now in Syria, Iraq and elsewhere where there is tribalism and then there are foreign hands taking advantage of the little areas of tensions enlarging on that—and they have succeeded. It is, therefore, time for being extra cautious and more alert and try to look for opportunities to sit together and engage with one another and listen to one another. I think they know how to protect and improve their relations to address sectarianism. Once again there is a question of honest engagement. Muslims are not doing that well in this regard. This is something from which Muslims should exclude the foreigners if they can and sit among themselves; then they can expect to achieve better results. I have been saying this to Afghanistan and to others, that if you expect outsiders—Americans and others—to address your problems, I don't think you will succeed. You should do it yourself. Putting your house in order again comes as a priority. If you prove that you respect your own people, you are democratic within yourselves, good governance is your guiding principle, you are tolerant and internationally known for it and nationally you are a convincing voice, then I think people will engage with you, people will sit with you. But if the voice that people hear from you is the voice of arrogance, not being fair

to your own people in different parties, then you lose credibility. So it's about putting your house in order to make your voice effective and then try to engage. [You need to do so] with the intention of bringing improvement not just to make a gesture, putting up a show; not in a way that proves your intentions and actions are not tuned with one another.

Q: Your book was awarded by President Hassan Rouhani at Islamic Republic of Iran's 34th Book of the Year ceremony. How do you feel about that? What are the main features of your book that you believe were admired by the committee and what does that tell about Iran, do you think?

A: I was honoured and I was very happy. I went to Iran, although I spent a short while as four days is not enough for a big country like Iran to get to know but I did come back with a very positive feeling. I sat and engaged in conversations with people every evening. Groups of people came to see me some of them were related to Afghan students in Iran, Afghan PhD students and others, some Sunni associations active in Tehran who brought me some of their publications. We also had a couple of visits from two intellectuals, one or two Iranian professors that I had known. So I had a good exposure that gave me a fairly good view of Iran's internal diversity. I saw a contrast between how Iran is seen from outside and what it is from within. But the committee did not actually tell me why they chose my book but I can tell; maybe because the topic was on their subjects and the other reason is we had an event here in Malaysia before we launch that book a few months before in November 2015 where the Sultan of Perak who is a Harvard doctorate, intellectually well-known, came and launched it. He had read the book. Sultan Nazrin is a prominent figure and a much respected voice. He had read it and he stood to speak about my work at length. He touched on one aspect that he liked to see respected Sunni scholars speak on Shi'ism. He has spoken on engagement with the Shia community and tried to show to the outside world that Shia Muslims and Iran have tried to promote moderation within themselves. It has an internal engagement without engaging in outside polemics that Kamali has done justice to that subject. I think that is one aspect of the book that made it be selected by the committee, the fact that they are showing moderation in actual writing. Scholars from both sides talk and talk that there is a lot in common, but they hardly write about it. This is one way the book reflects: honest engagement, convincing engagement. I have also shown in my book that the Muslim community worldwide—Shias, Sunnis and all of them—have played a positive role on the world scene historically and even in contemporary times. Perhaps those are the messages of the book that might have appealed to the committee. But the committee is in Iran, maybe you can ask them (laughs).

Meeting the Challenges of Demographic and Industrial Transitions in Malaysia: Conference Resolutions (Perak, Malaysia, 12 September 2017)

Wan Naim Wan Mansor

This think tank meeting was organised by the Institute of Strategic and International Studies (ISIS) Malaysia, Institut Darul Ridzuan (IDR) and the United Nations Children's Fund (UNICEF). It was held in conjunction with the Pangkor Dialogue (11 and 12 September), an international event focusing on policy renewals in the context of the second 'big push' in Malaysia's socio-economic development. It was also a follow-up to a previous forum organised by ISIS under the title "Malaysia's Population in 2050: What Does This Mean Socio-economically?".

The primary concern discussed during the event was the rapid demographic transition of Malaysia; currently in the 'aging' phase moving towards the 'aged' phase. It took France 115 years to make this transition, yet Malaysia is predicted to make it in only 25 years. The purpose of the meeting was thus to discuss specific and concrete policy recommendations to prepare Malaysia for this transition.

Four speakers were tasked to initiate the dialogue, each focusing on a specific topic: Dr Amjad Rabi (Senior Social Policy Specialist, UNICEF) on 'Child-sensitive Social Protection'; Dr Muhammed Abdul Khalid (Managing Director & Chief Economist, DM Analytics) on 'Inclusive Labor Market'; Tunku Alizakri Raja Muhammad Alias (Deputy CEO, EPF) on 'Old-age Social Protection'; and Assoc. Prof. Dr. Madeline Berma (Faculty of Economics, UKM) on 'Exploring "New" Approaches for Development of Indigenous Communities'. The Malaysian government was represented by Johan Mahmood Merican, Deputy Director General (Human Capital) of the Economic Planning Unit (EPU).

Overall, discussions revolved around identifying new paradigms and models of social welfare. For instance, it was proposed that the 'Developmental Social Protection System' is better suited for the upcoming socio-economic transition than the conventional 'Charity' model. The former adopts a more active position by targeting specific vulnerable people (e.g. the young, jobless, new-parents, and elderly), while the latter takes a more passive stand by only targeting the poor in a blanket fashion. The former model also enjoys higher levels of transparency and efficiency due to its universality and clear delineation of rights and rights-claimers, as compared to the latter which relies on relatively vague definitions of 'poor' often accompanied by intricate bureaucracies. Also mentioned was the call

to study foreign welfare models, especially success stories from the Scandinavian region. However, it was unanimously agreed that such models would need to recognise local realities and values, and to develop organically from within.

**Designing Sustainable Energy Systems for
Community Development 2017
(Sabah, Malaysia, 10-15 July 2017)**

Shahino Mah Abdullah

This field-based programme was held from 10 to 15 July 2017 in a village called Kampung Buayan, located on the edge of Sabah's Crocker Range, Malaysia. It was organised by an international non-profit organisation, Energy Action Partners, in collaboration with the US Embassy in Kuala Lumpur. The six-day workshop was designed for those who are passionate about community development and making a positive impact through sustainable energy services. Participants were young people from diverse backgrounds, coming from the USA, UK, Germany, Australia, China, India, Somaliland, Bangladesh, and Malaysia. The programme provided both teaching and practical training on renewable energy system design, community engagement, sustainable development, and social entrepreneurship. During the programme, all participants stayed with local people, their food being supplied by the host family.

On the first day (10/07/2017), Scott Kennedy, Assistant Director for Educational Initiatives at the Massachusetts Institute of Technology and Executive Director of Energy Action Partners, introduced the participants to renewable and micro-energy technology. He emphasised four important elements in developing community-based projects, namely equity, efficiency, sustainability, and agency. After that, Gabriel Sundoro Wynn, Asia Program Director at Green Empowerment, and Adrian Lasimbang, founder of TONIBUNG (Friends of Village Development) and Penampang Renewable Energy Sdn. Bhd., presented an overview of community-based micro hydropower system during the afternoon session. Based on their experiences, these systems not only require civil, mechanical, and electrical engineering expertise, but also 'social engineering' works, such as *gotong royong* (a collaborative work with local community participation).

The second day (11/07/2017) focused on feasibility studies. Scott Kennedy, Gabriel Sundoro Wynn, and Adrian Lasimbang taught how to conduct a feasibility study for solar energy and hydropower systems. Such studies are a vital component before potential projects can be proposed. Participants were exposed

to hands-on activities for this field-based study. They learned solar site analysis using Solar Pathfinder and did a site visit to Buayan's micro hydro power house. Then, during the afternoon session, Daniel Ciganovic, a Business Development Director at ME SOLShare, a startup that provides interconnected solar home systems, underscored the importance of smart technologies in order to serve both investor interest and community needs in developing sustainable energy systems.

On the third day of the programme (12/07/2017), Rusaslina Idrus, a member of the Board of Directors at Energy Action Partners, exposed participants to community engagement activities. Participants were divided into several groups and assigned the task of collecting necessary information from the Buayan community through interviews in order to understand their needs and values. The groups then presented and shared their findings accordingly. Then, participants were introduced to the 'Minigrid Game', which was developed by Ayu Abdullah, Regional Director for Southeast Asia at Energy Action Partners. The game was one of the community engagement tools used by the organiser to involve rural communities in the planning of energy systems.

These practical activities provided participants with an in-depth understanding for the fourth day activity (13/07/2017), to travel to a remote village known as Timpayasa and conduct a local energy assessment. As it was a rainy day, participants had to spend almost three hours hiking up several hills and crossing rivers in order to get there. The writer had a chance to participate in this activity, and managed to collect useful information for the 'energy access challenge' from Linsung Matingkas, 74, a Dusun Tagas of Timpayasa. After collecting necessary information, including photos of Timpayasa, all participants returned to Buayan on the same day to analyse their findings using a microgrid software package called HOMER, guided by Scott Kennedy.

After two days of community engagement activities, participants were instructed in how to construct business and operational models for micro-energy systems based on the previous information obtained from local people. This was the primary focus of the fifth day (14/07/2017). In his talk on social entrepreneurship, Daniel Ciganovic emphasised that these models must be sustainable while serving the client's needs. He added that, in order to ensure the longevity of a project, ownership must be clearly stated and knowledge transferred to the community so that the latter could take good care of the facility in the future. Based on the questionnaire provided by Daniel, participants found this session to be very helpful in constructing their group's proposal in the 'energy access challenge'.

On the final day in Buayan (15/07/2017), participants had to finalise their group task before leaving for the Centre for Renewable Energy and Appropriate Technology (CREATE) in Donggongon, a Penampang township. Adrian

Lasimbang, Founder and Executive Director of CREATE, led a tour of the Centre and briefly explained its role as an energy provider for communities that still live in remote areas. Then, each group had to present its proposal to both the organisers and CREATE's technology experts for evaluation. Several projects were proposed, including Karen Power Bank, Solar-Hydro Hybrid Power System, Kupa-Kopi Community Centre, Health Vending Machine, Malvin's Motor Services and Timpayasa-Tiku's Grid System. The winning group, which was considered to have the most relevant project proposal, proposed the Karen Power Bank. The group was given a chance to use CREATE facilities to develop its project.

The programme officially ended with a lively certificate presentation ceremony led by Scott Kennedy. In conclusion, the writer believes that the programme was indeed beneficial in many ways; it provided the local people with the opportunity to develop future energy facilities, and all the participants with the valuable experiences of living with indigenous people, learning their needs, participating in contributing back to the rural community, implementing classroom lessons, learning to construct relevant projects for societal development and widening their professional networking. At the same time, the programme succeeded in nurturing a shared concern among participants, despite their diverse backgrounds, towards helping the rural community via the development of a sustainable energy platform.

**Seminar Kebangsaan Mahkamah Syariah: 60 Tahun Pasca Merdeka
(National Seminar on the Syariah Courts: 60 Years after
Independence)
(IAIS Malaysia, 29 August, 2017)**

Tengku Ahmad Hazri

IAIS Malaysia organised the inaugural National Seminar on the Syariah Courts: 60 Years after Independence (SEMAHSYAR, Malay: Seminar Kebangsaan Mahkamah Syariah: 60 Tahun Pasca-Kemerdekaan) to review the accomplishments and shortcomings of the country's Syariah judicial system. The seminar took place at a time when great debate about the Syariah courts is taking place in the country, as part of a wider debate about Islamic law in Malaysia, notably the unresolved issue of overlapping jurisdictions between Syariah and civil courts, as well as human rights criticisms in the application of Islamic law, all issues compounded by recent attempts to expand the sentencing jurisdiction of these courts.

The seminar focused on three things: (1) empowerment of the Syariah courts; (2) empowerment of the Syariah legal profession; and (3) resolving recurrent practical issues. IAIS Founding CEO Mohammad Hashim Kamali in his Preface to the Seminar booklet, observed that “the Syariah courts predate even colonialism. Their survival despite the ravages of colonialism speaks volume about their centrality in society.” Furthermore, Kamali envisaged a “global role for the Syariah courts”.

Towards enhancing the status of Syariah court institutions, the need for standards is imperative. To this end, Ahmad Hidayat Buang in his paper explained that, globally, standards have already been established to evaluate performance of the judiciary across various legal jurisdictions. Such standards should be taken into account when devising projects and agendas towards judicial reform and transformation of the Syariah courts. Such standards consider the credibility of the judiciary among others. They include the Global Measures of Court Performance (part of the International Framework for Court Excellence [IFCE] by the International Consortium for Court Excellence [ICCE]), the Rule of Law Index (by the World Justice Project), and the Islamic State Index. In Malaysia, measures are also provided by MAMPU and the Shariah Index. These criteria take into account many factors.

Specific to Malaysia, the quest towards improvement of the Syariah courts must be carried out with a sound grasp and appreciation of the history and evolution of Islamic legal institutions in the country, which predate independence and, indeed, colonialism. Justice Aidi Moktar of the Syariah Court of Appeal in his Keynote Address, ‘Syariah Court Transformation Plan: Challenges and Recommendations,’ pointed out that Article 121 (1A) of the Malaysian constitution requires not only the civil courts to respect the jurisdiction of the Syariah courts, but also that various institutions and agencies of the government respect the division and separation of jurisdictions. Furthermore, there are also specific areas that need to be attended to, namely Islamic family law and the standardisation of Islamic law among states. He explained how the Syariah courts predate colonialism, but with the advent of the latter, their role became marginal. In 1948, the “eclipse”—as Ahmad Ibrahim described it—of the Syariah courts occurred as they were brought under the civil courts. Then in 1965, with the (then known as) Muslim Courts (Criminal Jurisdiction Act) 1965 (Act 355), the sentencing limit of the courts with regards to offences was capped.

Subsequently, however, developments took place to improve their status. In the 1980s, the government made it mandatory for Syariah court staff to undergo training in Islamic judicial practices. In 1988, a constitutional amendment inserting Article 121 (1A) into the Federal Constitution effectively excluded the civil courts from matters within the jurisdiction of the Syariah courts. In the 1990s, the

Department of Syariah Judiciary (JKSM, Jabatan Kehakiman Syariah Malaysia) was established, new laws introduced relating to transactions, procedure and evidence, among other things. Later, the courts were also restructured as a three-tier hierarchy, involving the Syariah Subordinate Court, Syariah High Court and Syariah Court of Appeal. The Syariah Court was further separated from the State Islamic Religious Councils and Offices of the Mufti in order to facilitate greater fidelity to the separation of powers.

However, Aidi argued that the framers of the constitutional amendment did not anticipate that there would be overlapping jurisdictions between the Syariah and civil courts, or that there would be constitutional issues arising from the application of Islamic law. These issues therefore need to be resolved through a concerted effort from all sections of society—not the judiciary alone—towards a healthy and functional system that respects the boundaries of each constituent for the benefit of all.

The sentencing jurisdiction of the Syariah courts, is currently capped at a standard equivalent to the “inferior courts”, namely the magistrate and sessions courts. The recently proposed amendments to Act 355 (Syariah Courts (Criminal Jurisdiction) Act 1965) seek to upgrade the sentencing jurisdiction of the Syariah courts to a fine up to RM100,000, imprisonment of 30 years and 100 lashes of the whip. However, constitutional law expert Shamrahayu Aziz, in her paper, ‘Enhancing Syariah Court Jurisdiction through Amendment to Act 355: Between Ideal and Reality,’ noted that this will not materialise if there is no uniformity among state governments. The amendment—assuming it is passed as law—will only provide the jurisdictional limit which is then left to the state legislatures to adopt. If the latter is not ready, the Act will not be applied as the law of the state. The varying degrees of readiness between the states will therefore result in different sentencing limits for different states, even for the same offence. The expanded jurisdiction requires an adequate legal framework and infrastructure for it to be workable, including human and administrative resources, adequate procedure and evidence laws.

Musa Awang in his presentation on ‘Syariah Lawyers in Malaysia: Contemporary Realities and the Prospects towards a Syariah Legal Profession Act’ suggested that a uniform law should be adopted to regulate the practice of Syariah lawyers in Malaysia. The fact that Islamic law falls under state jurisdiction under the constitutional framework means that the profession has been incoherently regulated by different sets of laws, including those which pertain to entry qualifications, fees and codes of conducts. Currently, the profession faces several challenges owing to a lack of standardisation. Musa also gave a historical account of the legal profession from the early period of Islamic history both generally and in Malaysia, down to the present. The legal profession has its antecedents in the

practice of agency (*wakalah*) among the Companions, such as to collect taxes and *zakat*, to conduct marriage and to purchase items. Later some knowledgeable Companions interceded on behalf of individuals who were accused of committing offences or crimes.

Mohamed Azam Mohd Adil, in his paper, ‘Amendments to the Law Reform (Marriage and Divorce) Act 1976 (Act 164) and its Implications on the Jurisdiction of the Syariah Courts,’ proposed the formation of a special mediation committee to implement the Law Reform (Marriage and Divorce) Act 1976 (Act 164) and resolve the dilemma that arises when one spouse from a non-Muslim marriage converts to Islam. In such cases, the special committee should consist of experts on both Islamic law and civil law. The formation of the committee is an administrative exercise, and thus requires no amendment of the law or the constitution. However, in allowing Syariah court judges to confer with civil court judges on issues pertaining to civil law but which impinge on Islamic law, amendment to the constitution is required on Articles 122B and 123, as well as on the Courts and Judicature Act 1964. The amendment bill was proposed to address the problem of child custody following the conversion of a spouse from a non-Muslim marriage into Islam. The controversial section 88A of the bill—which requires the child’s religion to remain that of the religion of the couple at the time of the marriage—was finally removed following fierce objections from mostly Muslim groups. The dilemma further complicates issues pertaining to the consequences of conversion on inheritance, rights to matrimonial property and maintenance. The issue also spills over into the problem of conflicting jurisdictions between the civil and Syariah courts. Sometimes, the husband and wife file separate petitions to the Syariah and civil courts, resulting in conflicting court orders. Muslim groups object to two provisions in the bill, one that confers exclusive jurisdiction to the civil court to dissolve the marriage, and one that requires new converts to declare that in the event he dies before his civil marriage is dissolved, that the civil court is vested with the exclusive authority to administer his estate.

Noor Huda Roslan, judge of the Syariah High Court, used her presentation to call for a more concerted effort to empower female Syariah court judges. Such efforts should include ensuring continuity between the more senior judges and the junior ones. There should be platforms by which discussions should be allowed to take place between them so that the senior ones can guide the junior ones. The empowerment of female judges further helps to address the shortage of qualified candidates to fill up posts in the courts. In her presentation, Noor Huda surveyed the scholarly positions on the status of women as judges, both in the works of jurists and in the *fatwas* of religious councils in Malaysia. Classical jurists differed on this subject, with the majority believing it was impermissible

(Shafi'i, Hanbalis, etc), some regarding it as permissible with a few exceptions, and yet others allowing it without qualification. In Malaysia, the Fatwa Councils have made it permissible (*harus*).

Azril Amin, presenting on 'Human Rights Issues in the Syariah Courts: An Overview', believes, that human rights are conditioned by cultural specificities. Azril cited with approval the aforesaid remarks by Professor Kamali on the need for a "global role" for Syariah courts by connecting them to the global community. Azril then assessed claims to the universal validity of human rights, as delineated in international human rights instruments, concluding that conceptions of human rights differ across cultures. Recognition for human rights in Islam began as early as the revelation of Islam itself, when the Qur'an granted rights to women and children (including unborn female children, who were often buried alive). Towards empowering institutions entrusted with the implementation of Islamic law, Azril suggested that the status and position of women and children be improved, issues relating to custody of children resolved, the procedural aspects of Shari'ah codified, and issues pertaining to crime attended to. At the same time, various issues with respect to the Syariah courts were also addressed. These included mechanisms for instilling an awareness of human rights issues in the administration of Syariah institutions. The need to revise the limited role of Syariah courts with respect to sentencing for offences was also revised.

Launch of Burma Human Rights Network Report 'Persecution of Muslims in Burma - Ethnic Cleansing of Rohingya and Growing Persecution of Muslim Citizens in Burma'
(IAIS Malaysia, 26 September, 2017)

Tengku Ahmad Hazri

On 26 September 2017, IAIS Malaysia organised the launch of the Burma Human Rights Network report, 'Persecution of Muslims in Burma,' along with a panel discussion on the Rohingya crisis. On the panel were Kyaw Win (Executive Director, Burma Human Rights Network), Lilianne Fan (International Director, Geutanyoe Foundation Aceh) and Mohd Azmi Abdul Hamid (Secretary-General, Majlis Perundingan Pertubuhan Islam Malaysia (MAPIM)).

The findings of the report were presented by Kyaw Win. The report reveals the systematic and institutionalised nature of the persecution against the Rohingya and other Muslims in Myanmar, complete with backing by the military, Buddhist religious elites and the civilian government. Although global concern has fixated on the Rohingya community, the available evidence indicates that it

is the Muslims in general who have been targeted. The report reveals—across the country—villages adopting ‘no-Muslim’ policies, instances of religious discrimination (economic boycotts against Muslim businesses) and intolerance towards Islamic belief and practices. Officially, Kyaw Win explained that there is no law explicitly discriminating against the Muslims; most such policies were implemented through military orders, which nevertheless had to be implemented as law, rendering them difficult to be challenged in court.

Mohd Azmi bin Abdul Hamid (“Cikgu Azmi”) presented on the geopolitical dimensions of the Rohingya problem. According to him, the crisis has proven so prolonged in part because multiple geopolitical interests are at stake. This can be seen in how China and Russia blocked a UN Security Council statement of concern on the Rohingya in March 2017, and how ASEAN’s non-interference policy has been perceived as a major hurdle towards a regional solution.

Lilianne Fan, International Director at the Geutanyoe Foundation, a non-profit and non-governmental organisation based in Aceh, looked at the issue from the standpoint of humanitarianism. She noted how humanitarian assistance and international aid sometimes backfired, having the effect of polarising communities in Rakhine further when assistance is seen to tilt towards Muslims, thereby violating a cardinal principle or requirement in international aid that assistance be given without regard to background, whether race or religion. However, in reality it is the Muslims who have suffered most from the persecution. Nevertheless, aid has been blocked, leading to various other problems, such as poverty and malnutrition, which in turn lead to mass emigration to adjacent countries. To more effectively reach a solution, she proposed targeted sanctions, stronger regional level protection, and a focus on Myanmar citizens (in such a climate of hate, even when the government is prepared to help, doing so attracts a backlash from the people themselves).

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