

(including judges of the Federal Court, Court of Appeal, High Court, and Judicial Commissioners) in a lecture on “Islamic Jurisprudence”.

Professor Kamali’s discourse presented a general introduction to *Shariah*, in distinction to *fiqh*, and then elucidated the higher objectives (*maqasid*) of *Shariah*. This was followed by an overview of the substantive and procedural guidelines of Islam on justice, such as the rule of law and advocacy of basic rights and responsibilities. A *Shariah*-based approach to justice, Professor Kamali indicated, is also essentially civilian in character, just as is the case with the Islamic state and government. The *Shariah* does not subscribe to theocracy at any level. The Head of State is a civilian figure, who is accountable for his conduct before the court like anyone else. Proceedings in the courts of *Shariah* are also grounded in evidence and proof in the same way as in the civil courts. All litigants are entitled to equality before the law and equal treatment before the courts.

A holistic approach to *Shariah* and justice delivery in Islam also takes into consideration the Islamic public law doctrine of *siyasa shar’iyyah*, or *shariah*-oriented policy. Rulers and judges accordingly enjoy a degree of flexibility and discretion to make decisions that deliver justice, rather than taking a literalist approach to the understanding of legal text. Justice is the higher objective of Islam that overrides the concerns of literalism. Professor Kamali also discussed the application of *Shariah* in Malaysia with special reference to areas such as family law and inheritance, where *Shariah* has historically remained the applied law of most Muslim countries, including Malaysia.

9th Kuala Lumpur Islamic Finance Forum (KLIFF) (Kuala Lumpur, 16-17 October 2012)

Mohammad Hashim Kamali, IAIS Malaysia

The final afternoon session of this two-day event (16-17 October), devoted to “Ethics and Finance – Towards Sustainable Growth”, featured a presentation by Professor MH Kamali on the subject of “Ethics and Finance: A *Shariah* Perspective”. The session panel discussion included former Chief Justice of Malaysia Tun Abdul Hamid Mohamad, internationally renowned scholar Sheikh Nizam Yaquby, and President and CEO of INCEIF (International Centre For Education In Islamic Finance) Daud Vicary Abdullah.

Professor Kamali’s contribution highlighted the ethical grounding of the *Shariah* rules on contracts and transactions (*mu`amalat*). He began by drawing attention to the fact that the Qur’an and Sunnah are emphatic on justice and fair dealing (*`adl, ihsan*) just as they teach promotion of what is good and

desirable and prevention of that which is rejected and evil. There is a clear emphasis on trustworthiness (*amanah*), due fulfilment of promises, and contracts and cooperation in good and beneficial works (*ta`awun*). Helping the poor and indigent and striving for social justice through equitable distribution are among the major themes of the Qur'an and Sunnah, with obvious ethical consequences. Islam stands for a light and tolerant approach to business (*samahah, tasamuh*) as opposed to the aggressively profit driven and competitive approach that now prevails almost everywhere.

Professor Kamali then demonstrated how the Shariah, through rules of contract and *mu`amalat*, integrates the ethical messages of Islam within the fabric of contractual relations and commerce. Here he elaborated upon several principles. The principle of equivalence in the countervalues of a contract, for example, is expressive of a commitment to justice. This is also true of the principle of risk sharing and of Shariah prohibitions on *riba* (interest) and hoarding that seek to curb the possibility for exploitation in business transactions. The Shariah rules of contract also require that at least one of the two countervalues in a contract of exchange is present at the time of contract. This is meant to ensure the circulation and availability of essential goods in the market, and is expressive of the concern that transactions proceed over real goods and services and are not to be reduced to a mere exchange of documents. There is little reliance on debt in Islamic transactions. The sale of debts (*bay` al-dayn*) is proscribed for the most part with the obvious consequences of minimising the debt-based segment of the economy. This and a set of other supportive rules go a long way to curb and prevent the kind of crises European and many other economies are witnessing at present.

The final portion of Professor Kamali's presentation focused on the role of the *maqasid al-shariah* (higher objectives of Shariah), and discussed how the *maqasid* seek to integrate the ethical norms of Islam into the fabric of *mu`amalat*. Of the five essential *maqasid*, known as *daruriyat*, namely protection of life, religion, intellect, family and property, he elaborated on the last of these *maqasid*, namely the protection of property (*hifz al-maal*) and its sub-divisions: 1) circulation (*rawaj*) of goods and services among people; 2) clarity (*wuduh*), in that the Shariah laws of contract and transactions seek to ensure clarity and prevent ambiguity, confusion and uncertainty (*gharar*) in commerce and transactions; 3) stability (*thubat*), that is, predictability and assurance through a regime of laws that ensures a stable environment of commerce, contracts and ownership, and prevents conflict among people; 4) justice (*adl*) which ensures fair exchange, equitable trading and protection of people's rights and responsibilities, and which is also concerned with equality before the law; and finally, 6) growth (*tanmiyah*), that is, economic development and increase of wealth that ensures, in turn, the Qur'anic principles of the vicegerency of man (*khilafah*), building the earth

(*i`mar al-ard*) and establishment of a just order and civilisation therein.

Each of these higher objectives, or *maqasid*, in the sphere of *mu`amalat* requires elaboration and has far-reaching implications that reflect on the whole of the ethical groundings of the Islamic law of contracts and how they integrate Islam's ideals of equity and justice in market regulations, contractual relations and finance.

**International Workshop: Being Muslim in the World,
Everyday Ethics and Cultures of Adab
(Islamabad, 23-24 May 2012)**

Karim D. Crow, IAIS Malaysia

“Being Muslim in the World: Everyday Ethics and Cultures of Adab”, was presented 23–24 May 2012, at the Faisal Masjid Campus of the International Islamic University, Islamabad (IIUI). The Islamic Research Institute of IIUI, the Iqbal International Institute, the International Institute for Research & Dialogue, the Center for the Study of Religion and Conflict (Arizona State University), and the American Institute of Pakistan Studies – four prominent think-tanks specialising in Islamic world issues – joined forces last spring to convene an international workshop to explore the dynamics of *Adab* and everyday ethics, with a concern to identify concepts, issues, and directions of research for Islamic lived ethics. Fifteen scholars selected from the United States, Pakistan, India, and Malaysia conducted this intensive closed-door dialogue in the conference centre attached to King Faisal Mosque, near the Islamic Research Institute. Their interest was in exploring the dynamics of *Adab* and everyday ethics, with a concern to identify concepts, issues, and directions of research for Islamic lived ethics. The dominant focus was the historical and modern experience of Muslims in South Asian societies; i.e., India before partition (today's India, Bangladesh and Pakistan). The conceptually illuminating exchanges were facilitated by the participation of Professors Muhammad Khalid Masud (Director, IRI), Mumtaz Ahmad (President IIUI), Yasmin Saikia (Center of Religion and Conflict, ASU), and the senior scholar C. Mohammad Na'im (retired, University of Chicago). Malaysia and Indonesia also came into view with the presence of Dr Mohd. Zaidi bin Ismail (IKIM, Kuala Lumpur), and Dr Asna Husin (Ar-Raniry State Institute for Islamic Studies, Banda Aceh). On the morning of the second day a public session before a large group of IIUI students had papers on “Imagining Ethical Worlds” chaired by Dr Mumtaz Ahmad, with a keynote address from Professor Dr Muhammad Masoom Yasinzai (Rector, IIUI).