

- Shelters or ‘baby-hatches’ need to be made known to be effective.
- State authorities like the Welfare Department, religious authorities (e.g. JAKIM in Malaysia), and hospitals must have a more humane ‘face’ and not be policing patients or clients.
- Increase the number of schools for pregnant teens.

Long-term approaches include:

- All partners work together to revitalise the family institution and they include: public campaigns, schools, religious bodies, parent education programmes, the private sector (corporate social responsibility) and non-governmental organisations.

What ought to be done with abandoned babies?

- State orphanages should expedite the adoption of these babies, especially since there is a list of childless couples waiting to adopt.
- These babies should be given full citizenship-status by the state.
- The state should use funds to provide for expenses, even after the baby has been adopted.
- The state should ensure that the abandoned baby is given life opportunities equal or better than the place he was found.

## Note

1. Aside from her own piece, the writer went through the presentations of the following presenters: Aminah Abdul Rahman, Ali Hassan, Rajabally, Karim D. Crow, Mohammad Hashim Kamali, Osman Bakar, Trias Setiawati, Zaleha Kamaruddin, Lee Wee Min, Zainab Alwani, and Eric Winkel. Many papers were not explicit in terms of policy-recommendations while some others were descriptive.

**Closed-Door Lecture by Professor Volker Nienhaus on  
“Islamic Capital Markets and the Public Interest (*Maṣlahah*)”,  
organised by the Malaysian Securities Commission  
and the University of Malaya  
(Kuala Lumpur, 9 June 2011)**

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In his closed-door lecture at the Malaysian Securities Commission, renowned senior German economist Professor Volker Nienhaus highlighted the problems in using the *efficiency model* as a point of reference to measure the performance of the Islamic financial industry globally. This was due to critics perceiving it to be too capitalist or conventional. The alternative model will be to view it from the

*public interest (maṣlaḥah)* perspective which he regards to be a more acceptable benchmark. It was opined that *maṣlaḥah* itself suffers from a too generalised statement and various juristic permutations in its meaning. The challenge to the industry is to achieve consensus on a broader definition of public interest. This will depend on the cooperation of Islamic jurists and Islamic economists to come up with a substantive and applicable modern concept of *maṣlaḥah* which can be further translated into policies by policy makers to enhance transparency, conscious risk sharing and informed choices through capital market products. Dr Nienhaus distinguished the relative ‘Islamicity’ of capital market instruments from banking products in that the former better reflects basic principles and claims of Islamic finance (risk-sharing, financing the real economy) than opaque banking products. Where systemic efficiency (at macro level) is a concern of Islamic market regulators this can be justified by public interest arguments. Dr Nienhaus also raised the need for the Securities Commission in Malaysia to make a paradigm shift from a *sharī‘ah*-compliant approach to a *sharī‘ah*-based approach, or alternatively from a micro-legalistic to a macro-systemic perspective where contractual engineering will give way to financial innovation. The importance of this shift is to nurture an Islamic entrepreneurial culture of taking on a higher level of risk tolerance and acceptance of the longer gestation arising from participation in business ventures with more direct linkages between risk and returns.

The speaker, Professor Nienhaus, is currently a Visiting Professor at the ICMA Centre, Henley Business School, University of Reading, United Kingdom. Previously, he was Professor of Economics at the German universities of Trier and Bochum (1989–2004) and President of the University of Marburg (2004–10). He holds an honorary professorship at the faculty of economics and business administration of the University of Bochum since 2004, is a member of several academic advisory committees and boards, including the Governing Council of the International Centre for Education in Islamic Finance (INCEIF) in Kuala Lumpur and the International Advisory Board of the Forschungsgesellschaft für Wettbewerb und Unternehmensorganisation mbH (FWU, Research Institute for Competitive and Corporate Organisation, Munich and Dubai). He is also a consultant to the Islamic Financial Services Board (IFSB) in Kuala Lumpur and was a Visiting Scholar at Kuala Lumpur’s University of Malaya (under the Malaysian Securities Commission’s Islamic Capital Market programme).

From the audience, Professor Mohammad Hashim Kamali, the CEO of IAIS Malaysia, made several observations that brought into the picture the definition and relevant characteristics of *maṣlaḥah* from the perspective of Islamic jurisprudence.