Islam and Civilisational Renewal

A journal devoted to contemporary issues and policy research

ISLAM AND CIVILISATIONAL RENEWAL

AIMS AND SCOPE

· **Islam and Civilisational Renewal** (ICR) offers an international platform for awakening the civilisational potential of the Islamic legacy. Revitalising synergies between Islamic and other civilisations in a spirit of self enrichment through discovery and research may facilitate renewal within Muslim societies and more significant contributions by Muslims to the global human community.

· ICR explores contemporary dynamics of Islamic experience in legal and religious practice, education and science, economic and financial institutions, and social and intellectual development.

· We seek viable policy-relevant research yielding pragmatic outcomes informed by the best values and teachings of Islam as well as of other contemporary civilisations.

· ICR is inter-disciplinary, non-political and non-sectarian. We seek to contribute to prospects of peace among all nations, and assist the conceptual and societal transformation of Muslims.

· ICR encourages a fresh discourse for self renewal informed by an inclusive tolerant approach to diverse schools of thought and expression of ideas. The intent is to integrate over 1,400 years of Islam's civilisational resources of diversity, dialogue and coexistence for meaningful exchanges with other world civilisations.

· ICR promotes the Malaysian initiative of *Tajdīd Haḍārī* or Civilisational Renewal, with its component principles: 1. Faith, Ethics & Spirituality, 2. Just Governance, 3. Independence & Self-Determination, 4. Mastery of Knowledge & Science, 5. Islamic Economics & Finance, 6. Human Dignity & Ecological Wellbeing, 7. Cultural & Aesthetic Integrity, 8. Equity & Fraternity, 9. Diversity & Dialogue, 10. Peace & Security.

CONTRIBuTIONS AND EDITORIAL CORRESPONDENCE

Comments, suggestions and requests to: journals@iais.org.my or karimc@iais.org.my

CONTENTS

Significant Events and Developments

Book Reviews

Obituary

EDITORIAL

In this Vol. 5 No. 4, October 2014 issue of Islam and Civilisational Renewal, the flagship journal of the Institute of Advanced Islamic Studies, we are pleased to present six papers, three Viewpoints, three Reports and a Book review.

The selection begins with my "Separation of Powers: An Islamic Perspective," where I explore what role – if any – the doctrine of the separation of powers can play and has played in an Islamic system of governance. A look at historical experience confirms that a functional line of division of powers, resembling the modern doctrine of separation of powers, was practiced to a significant degree. While political leaders exercised executive power, judges enjoyed considerable independence in their judicial functions. Scholars, for their part, were entrusted with deriving the rulings of the Shariah from its recognised sources, in particular the Qur'an and hadith.

In his article entitled "Facilitating Affordable Housing in the UK Market through Socially-Oriented Islamic Financial Institutions," Yusuf Jha who is a Shariah advisor to Abu Dhabi Islamic Bank, addresses the issue of the global shortage of affordable housing. He suggests that Islamic financial institutions (IFIs) are well placed to provide financial support to community-based initiatives through the use of cash-based endowments or *awqaf*, and in this way fill a significant private "funding gap." In his article the "Economic Benefits of Risk Sharing," Abdul Karim Abdullah highlights various ways in which the implementation of risk sharing on a system-wide basis would contribute to the realisation of the leading objectives of macroeconomic stabilisation policies.

We have an interesting article "Whether to Say *Salām*," by Kazunori Hamamoto of Doshisha University, Kyoto, which delves into the question whether Muslims are required to greet non-Muslims with a salam. He marshals evidence from the Qur'an and hadith and provides an overview of the perspectives advanced by the leading schools of jurisprudence on this issue. He finds that, notwithstanding some flexibility in the scriptural sources, compared to the modern perspective on this issue, the "traditional" view appears to be quite restrictive, as most medieval scholars did not approve of saying salam to non-Muslims.

In "A Cultural Analysis of Ottoman Algeria (1516–1830): The North–South Mediterranean Progress Gap," Tarek Ladjal and Benaouda Bensaid focus on the cultural life in Ottoman Algeria. They explore in particular how Sufism helped to respond to the ideas of the Enlightenment and the French revolution and thereby assist in protecting the Muslim identity of the Algerian people during the colonial era.

Patrick Laude of Georgetown University contributed an article entitled "On the Epistemological Scope and Some Contemporary Implications of the Qur'anic Notion of *Āyāt*," where he argues that literalist commentaries on the Qur'an,

which portray the Qur'anic ayat as manifestations of divine presence, are not entirely justified. By over-emphasising divine transcendence, they tend to gloss over the significance of the Qur'anic ayat as evidence of divine immanence.

In our viewpoints section, we present three viewpoints: "Caliph and the 'Islamic State' – Lessons of History," by Karim Douglas Crow; "The Good-Wholesome Life as an Islamic Lifestyle Standard," by Mohammed Farid Ali; and "Boko Haram Disgrace: Urgency for Renewal and Reform in Northern Nigeria Supported by the Muslim Leadership," by Daud Abdul-Fattah Batchelor – all on topical issues of considerable interest.

Our reports section covers three events. The first highlights the "International Conference on Developing Synergies between Islam and Science & Technology for Mankind's Benefit," held at IAIS Malaysia, on the 1st and 2nd of October 2014. The second describes the "International Summer School on Islam and Science held in Paris, France on the 22nd and 31st of August 2014. The third report highlights the "Shariah Governance Framework in Islamic Finance Forum," held 10th September 2014 in Kuala Lumpur. We conclude with a Book review by Asif Mohiuddinon of "The Political Psychology of Globalisation: Muslims in the West," written by Catarina Kinvall and Paul Nesbitt-Larking.

Interested readers are invited to contribute to our Journal either by submitting full papers, Viewpoints or Book reviews. Papers should address current topical issues facing both Muslim and non-Muslim communities, and recommend viable policy responses to them. Contributions should have a significant Islamic input and preferably not exceed 8000 words. Viewpoints and Book reviews should be approximately 1500 and 1000 words in length, respectively.

It remains for me to thank warmly all our contributors and my colleagues at the Editorial Committee and the Publication Unit. I look forward to their continued contributions and support.

Mohammad Hashim Kamali
Editor-in-Chief

ARTICLES

SEPARATION OF POWERS: AN ISLAMIC PERSPECTIVE[1]

Mohammad Hashim Kamali*

Introduction

European colonialism dominated the Muslim world through much of the 19th and 20th centuries, during which time the Shari'ah was suppressed and supplanted by western legal codes and its nation-state model. This model, with it concomitant constitutional blueprint, became widespread in the emerging Muslim states that were also ruled by western educated elites more familiar with western doctrines than their own Islamic heritage. Yet the latter part of 20th century witnessed a move in the opposite direction. Islamic revivalism of the closing decades of 20th century espoused a mass protest over the failure of good governance and democracy in much of the post-colonial Muslim world. Muslim masses protested against western subjugation of their history and culture. The emerging voices thus conveyed the demand that law and governance in the Muslim lands must reflect their own heritage and values - hence the increasing tendency and demand in recent decades for an Islamic system of rule and constitution.

This article explores the principle of separation of powers and its proper constitutional role in regulating relations among the various organs of state in an Islamic polity. It will be noted at the outset that the Muslim polity has undergone shifting paradigms – from the Righteous Caliphate of the early decades of the advent of Islam, to the ensuing hereditary/dynastic caliphate, to western nation state, and now to a fresh demand for an Islamic state (*dawla Islāmiyya*) as I explain in the following paragraphs. With the spread, under European influence, of the western nation state in much of the post-colonial Muslim world, both the Shari'ah and ulama lost their preeminence. Massive dislocations in their legal and political orders brought the Muslims face to face with a host of uncertainties as to what role, if any, their own legacy could play under the new constitutional arrangement of western origin.

Western educated elites that occupied the echelons of power in much of the post-colonial Muslim world found themselves ill at ease to activate the traditional channels of communication with their ulama and scholars. Muslim countries thus underwent sustained political turmoil that entailed military *coup d'états* and failure of good governance almost everywhere. It is still too early to say, for many Muslim countries, as to whether they have regained equilibrium and found

their bearings with their respective constitutional orders. Are they in a position to develop their own methods and a congenial system of rule that strikes harmony with their hallowed values, and the modern law principles of constitution and separation of powers?

This article advances two opposing perspectives about the recognition or otherwise of separation of powers in an Islamic polity. One is that of administrative centralism that visualises a unitarian approach to government hierarchy and a strong executive organ that dominates the other branches of government leaving little room for a meaningful system of checks and balances by the various organs among themselves.

The second position it discusses maintains that separation of powers is not only valid in principle but that in a real sense the Islamic polity has consistently applied it. Thus it is held that a functional separation of powers had always existed and must therefore be recognised, especially in light of the prevailing conditions in much of the present-day Muslim world, which has accepted the western nation state model, a democratic constitution and its blueprint on separation of powers. The remainder of this article devotes a section each to a discussion of the three organs of state with a view to ascertain, in some detail, the status of the constitutional separation of powers and their supportive Islamic doctrines.

Executive Centralism

If the historical caliphate is taken as a basis of assessment, then it would appear that the head of state is the repository of all political power and that separation of powers, which is a requirement of political democracy, does not have a basis in an Islamic polity. The advocates of this view maintain that separation of powers is alien to the Islamic system. There is a basis for this opinion, as I shall explain, although I believe that this conclusion is less than accurate and calls for a fresh interpretation and assessment.

The centralist approach to governance is predicated on a certain reading of the doctrine of Divine Oneness (*tawhīd*) and its far-reaching ramifications in Islamic political thought. Thus it is understood that Islam takes a holistic approach to governance both from within and without. The internal manifestation of this unitarian approach is seen in political and administrative centralism that unifies all parts of the Islamic polity into a central command structure that stands at the opposite pole of separation of powers. This unitarian approach is also manifested in the absence of any clear lines of division between religion and state, which are not separated from one another.

To say that caliphate had no place for separation of powers is predicated on the analysis that the caliph is designated into office by the people according to the principles of *wakāla* (representation) and *walāya* (delegated authority

that originally belongs to the *umma*). The head of state, being the *wakīl* or representative of the community by virtue of a contract of agency/representation thus becomes the repository of all political power. He is authorised, in turn, to delegate his powers to other government office holders, ministers, governors and judges etc. These are, then, entrusted with delegated authority (*wilāyat*), which they exercise on behalf of the head of state each in their respective capacities. *Walāya* is of two types, namely general (*walāya ʿāmma*) such as that of ministers and governors, and specific (*walāya khāssa*), which is task-specific and consists mainly of implementation rather than exercise of political power and policy initiatives. One who discharges general *walāya* must have comprehensive knowledge of the subject matter that falls under his jurisdiction, but one who exercises specific *walāya* need not have that level of knowledge.[1]

One of the principal assignments of the head of state is to implement the Shari'ah and in doing so to solicit assistance of all his employees and subordinates. The position of the head of state *vis-à-vis* the Shari'ah in this regard is seen as primarily administrative one that consists of an orderly execution of Shari'ah. The head of state is also authorised to take discretionary measures, under the rubric of *siyāsa shar'iyya*, or Shari'ah-oriented policy, to ensure good management of public affairs. The measures so taken may or may not have been stipulated by the Shari'ah, nor in the more elaborate *corpus juris* of *fiqh*, but founded in judicious policy, experience and insight (*firāsa*) of the leader. With the exception of judges whose position in respect of enforcing the Shari'ah is parallel to that of the caliph himself, all other officials act, in effect, as delegates and assistants to the head of state.[2] Appointment of officials to government positions, another important task of the head of state, must strictly be on merit, which is predicated in two main principles: trustworthiness and strength.[3] The latter refers to the relevant qualification and knowledge of the employee in relation to the work he is assigned to do. The best-qualified candidate for the post must be given priority over others.

Under the centralist model, government officials exercise delegated authority in the capacity either of leading officers of state who are vested with political authority, or *ḥukm*, or in the capacity of assistants (*muʿāwinūn*) who do not exercise political authority and merely assist those who do. The leading officers are in turn assisted by deputies and assistants who act as administrators and managers but do not exercise political power or *ḥukm*. In sum, the centralist model did not recognise autonomous individuals and organs in government hierarchy who did not refer for authorisation to the head of state.[4] The one exception to this, although somewhat half-heartedly made in earlier writings, is that of the judge whose position, in respect of the administration of Shari'ah, is at par with that of the head of state himself.[5]

Administration of the Shari'ah is a major duty, although evidently not the only one, of the head of state. This much is obvious, even in the typical outline of the ten duties of the head of state/caliph as listed in the renowned works of al-Mawardi, al-Farra'[6] and others. These duties may be summarised as follows: protection of the religion; settlement of disputes among people; internal security; defence of the borders; enforcement of the *hudud* penalties; waging jihad against the enemies of Islam; collection of taxes; distribution of the assets of the public treasury to deserving parties; recruitment of officials; and personal supervision of state affairs.[7]

An important aspect of the foregoing analysis that hardly features in pre-modern writings on the subject is that a great deal of what is said on the subject matter of constitutional law, and more specifically, separation of powers, can properly be said to be of concern to *siyāsah shar'iyyah* (Shariah-oriented policy). *Siyāsah* refers mainly to policy initiatives, administrative and procedural measures taken in the interest of establishing justice and good governance. As a principle of Islamic public law, *siyāsah shar'iyyah* (or simply *siyāsah*) entrusts the head of state with discretionary powers to introduce measures and policy decisions, as well as extra-Shariah initiatives on matters of concern to the good management of public affairs that will ensure the orderly implementation of the Shari'ah. This may include economic development, military affairs, international relations, emergency situations and so forth. The urgency of situational development that demands attention may sometimes be such as to necessitate a certain departure from some of the normal rules of fiqh and the *ijtihād*-based elaborations of Shariah.[8]

Executive power in the state hierarchy is delegated to ministers, governors, army commanders and others. Text book writers have in this connection distinguished between two types of Ministers. First, those with full authority, or *wazīr al-tafwīḍ*, who is also vested with the exercise of political power, or *ḥukm*, taking initiative and making decisions in all areas of government. This is equivalent to what is now known as *prime minister*. One who is appointed to this position must fulfil the same qualifications as the head of state himself. These may be summarised into three, namely knowledge, a just character, and wisdom (*ʿilm*, *ʿadāla*, *ḥikma*) – although many text books have enumerated several other conditions. The second ministerial portfolio is known as that of 'executive minister', or *wazīr al-tanfīdh*, and extends mainly to implementation of specified range of duties on behalf of the head of state, also not involving exercise of political power or *ḥukm*. The head of state may appoint any number of executive ministers, but only one prime minister.[9] It may be noted in passing that this line of division between two types of ministers originate in juristic opinion of a circumstantial type as explained below - there being no substantive Shari'ah position on this and it is, as Mutawalli and Busyuni 'Abd Allah have both viewed, reflective of the exigencies of the Abbasid caliphate.[10]

A similar line of division has been noted between two types of governorates, one based on competence (*imārat al-istikfa'*), and the other based on subjugation (*imārat al-istilā'*). The former is appointed by the head of state and exercises power much along the same lines as the leader himself, whereas the latter occupies the post through military power with which the head of state concurs - often for lack of a better option. This latter is indicative of "exceptional circumstances at a time when the Abbasid caliphate of Baghdad had lost much of its effective power and control over the territorial domains of the state."[11] Al-Mawardi wrote, however, that the powers of governors are "confined to management of the army, policy initiatives for people's benefit, internal security and defence but do not extend to adjudication and issuance of judicial orders, nor to the levying of (new) taxation."[12]

Delegation of power or *walāya,* in whatever form, does not derogate from the substance of personal accountability. Everyone is accountable for that which has been placed under his or her charge. This is the purport of the following Qur'anic directives:

> "Every soul is in pledge/accountable for its deeds" (al-Mudaththir, 74:38);

> "Devour not one another's properties by false means, nor proffer them to the rulers so that you sinfully usurp a portion of what belongs to others" (al-Baqarah, 2:188);

> "Take not a stand over that of which you have no knowledge. Surely, the hearing, the sight, the mind- each of these shall be called to account." (al-Isra', 17:36).

Personal accountability (*muḥāsaba*) in these passages applies to all members of the Muslim community – from the head of state, to the head of the family unit, to all government employees, men and women, indeed to everyone, as is known from the text of a renowned hadith quoted below. The precedent of the Rightly-Guided Caliphs, especially that of the second caliph, 'Umar al-Khattab, records numerous instances whereby the caliph took to task many leading figures, powerful governors for wrongdoing during his tenure of office.[13]

Separation of Powers – an Affirmative View

Theoretical concerns over the implications of *tawḥīd* and structural unity of government notwithstanding, functional lines of division of powers existed even under the historical caliphate. This is partly due to the role of the Shari'ah

and influence of the ulama who acted as the interpreters of Shari'ah. Whereas management of public affairs, *siyāsa* and public policy were the concern mainly of political leaders, the ulama occupied themselves with *fiqh* and *ijtihād* that consisted of juridical elaborations of the Shari'ah. The manner in which the rulers implemented the corpus juris of *fiqh* and Shari'ah was also of concern to judicious policy and *siyāsa*.

Tawḥīd is not a monolithic principle. Rather it is best understood as unity in diversity, Oneness of the Creator, and multiplicity of the creation – as aptly put in al-Qaradawi's phrase *wahdaniyyat al-khaliq wa ta'addudiyyat al-makhluq* – signifying unity of the purpose and diversity of the means towards it. This pluralistic dimension of Islamic thought is seen in its recognition, for instance, of the validity of other (monotheistic) religions, recognition of reasoned disagreement (*ikhtilāf*) and of scholastic interpretations and *madhhabs* etc. *Tawḥīd* at the level of belief is not open to disagreement or pluralism. Beyond that almost every aspect of the existential world, the complexity of human mental and physical make-up and manifestations of life on the planet earth and beyond are exceedingly pluralistic and diversified.

Muslim scholars are also reluctant to extend the implications of a centralist organisation of state to anything more than an administrative approach that need not interfere with the essence of accountability, and acceptance also of functional lines of division of powers in the various organs of state. The head of state, although the supreme political ruler of the land, could not be an absolute ruler. For he is not only subject to the overriding authority of the *umma* and Shari'ah but also dependent on the support of the *ulama* and *mujtahids* (those qualified to carry out independent reasoning or *ijtihād*) as well as under duty to conduct the affairs of state through consultation and consensus with the community. The contract of representation (*wakāla*) also endorses the republican substance of the Islamic system, and many of the necessary ingredients of a democratic approach to governance.[14]

The centralist model seems to have originated in a presumptive logic, which was in turn taken at face value from the juristic works of the ulama, presumably because it was deemed to bear greater harmony with the integrationist outlook of *tawḥīd* and the territorial unity of caliphate. This was how the Prophet, pbuh, in his capacity as the head of state, and the Rightly-Guided caliphs after him were seen to have conducted the business of government during the early decades of the emergence of the state of Madina. Yet it may be said that the Madinan state was small in size and was involved in recurrent warfare that might have dictated a central command structure. It was due probably to the force of circumstance, rather than any doctrinal mandate that could be quoted in support of administrative centralism. It is also somewhat of a discrepant analogy to extend the ramifications

of *tawḥīd*, which is essentially a theological concept, to state administration. To this effect, al-Sanhuri wrote that unity (*waḥda*) of government in the territorial domain of the historical caliphate was reflected in a unified central authority (*sulṭa markaziya Islāmiyya*), which was personified by the caliph.[15] Having said this, al-Sanhuri also observed that a centralised state was not an inflexible rule and the historical pattern may be changed in the light of prevailing conditions. There is nothing in the sources of Shari'ah to impose a mandate in regards to the administrative structure of government.[16] The matter thus remains open to considerations of public interest, consultation (*maṣlaḥa* and *shūrā*) and *siyāsa*. It is through these methods that necessary adaptation and adjustment in the organisational structure of the state could be devised and implemented.

On an historical note, it will be noted further that the caliphate also changed over time and underwent divergent phases of development that brought it in many ways closer to a decentralised system. The fall of Baghdad in the hands of the Mongols in mid-thirteen century CE led to the emergence of sultanates and principalities under local princes and commanders that gave rise to powerful dynasties, such as the Ghaznavids, Saljuqs, the Almohads, and Fatimids (Afghanistan, Persia, north Africa and Egypt respectively) that marked the emergence of decentralised units under the nominal authority of the caliphate of Baghdad. Politics of power and military domination in the remote geographical reaches of the caliphate thus drastically reduced the effectiveness of the hitherto prevailing centralised model. Many of the local rulers, Sultans and Amirs were not only autonomous but effectively more powerful in their own territories than the caliph of Baghdad. Yet they paid homage to Baghdad only as a semblance of political unity that also served the purpose of their continued legitimacy in office. But weaknesses in the centre and difficulties of transport and communication, cultural and linguistic differences tended to endorse the spread of the decentralised pattern over the greater part of the vast geographical domains of the caliphate. Yet the sentiment of Muslim unity under the concepts of *umma* and *khilāfa* remained strong enough to give the caliphate a new lease of life under the Ottomans, which was, however, a military power for the most part, and this too was met with eventual decline and demise when Ottoman Turkey succumbed to western pressure to declare its termination in 1924.

Legislation and the Legislative Organ

The requirement of the Islamic constitutional theory that mandates the state to implement the Shari'ah has led some commentators to the conclusion that there is no place for independent legislation in Islam, and no separate legislative organ is therefore needed to fulfil that role. The Shari'ah thus presented a major limitation

on the legislative powers of the state so much so that the state throughout the Islamic history has shied away from claiming legislative authority unto itself-lest it create a rival system of law to the Shari'ah.

The state never ceased, however, to issue administrative ordinances, decrees and by-laws, under such alternative names as *niẓām*, *ferman*, *nizamnama*, *usulnama* and *qānūn*, mostly under the rubric of *siyāsa*. The state had no legislative organ with a specific assignment to promulgate law, simply because this role was mainly played by the ulama as the interpreters of Shari'ah and carriers of *ijtihād* and *ijmāʿ*. Many commentators, including Mahmood Ahmad Ghazi, author of a book, State and Legislation in Islam, are of the view that the state in Islam is not vested with independent legislative authority beyond interpreting and implementing the Shari'ah.[17]

Wahba al-Zuhaily, has observed, however, that separation of powers is upheld in an Islamic polity, not only in functional terms, but as a matter of principle. Zuhaily thus wrote on a comparative note:

> Islam validates the principle of separation of powers. This is because legislation in Islam ensues from the Qur'an and Sunna, consensus (*ijmāʿ*) of the umma, and *ijtihād*. All of these are independent of the head of state- nay but he is bound by them and by the conclusions drawn from them. The principle of *ijmāʿ* in Islam manifests the will of the people … Both the Islamic and western democracies reject despotism and consider the people as the locus of authority in political and government affairs.[18]

Representative assemblies have the authority, both under the present-day constitutions of Muslim countries, and western doctrines, to pass laws and regulations, but unlike the western democratic state model, which exercises sovereign legislative authority, its Islamic counterpart is primarily consultative and has limited legislative powers.[19] Moreover, consultative assemblies and parliaments have a relatively short history in Muslim countries and have functioned in a constrained environment due mainly to the overarching Shari'ah and the prevalence also of an all-powerful executive organ. The centralist model has thus prevailed, not only through the longer stretch of Islamic history, but also during much of the post-colonial period, and persistently dominated the legislative and judicial branches. Historically, the learned ulama and *mujtahids* monopolised the *fatwa*-making role, *ijtihād* and *ijmāʿ*, and left little room for consultative assemblies and parliaments in the interpretation of Shari'ah.

Except for the Ottoman state, the Andalus and the Maghreb where historical records indicate the existence, on a limited scale, of consultative councils of the learned for deliberation over juridical and state matters, which was not devoid,

however, of political overtones, Muslim states had no recognised legislative organs. It was well into the early 20th century, and during the post-colonial period for the most part, that Muslim countries began to create consultative councils (*majlis shūrā*) with limited powers that were also constrained by the presence usually of a strong executive organ and a powerful *ulama* class. In the history of Islamic government, the state has neither initiated nor articulated separation of powers as such, just as it did not issue a formal constitution either. Yet the argument for the functional separation of powers in an Islamic polity ensues from the inherent limitations concerning the powers of the rulers and judges, the role of the *ulama*, the substantive principles of justice and the state duty to implement the Shari'ah.

The jurists and *mujtahids* were not state functionaries and mainly acted in their capacities as pious individuals that served and interpreted the Shari'ah independently of the state. These religious leaders were civil society figures that gained prominence through their knowledge and community service and their standing in the mosque and *madrasa*. They served voluntarily as teachers and imams, as free-lance legal advisors, attended birth and burial ceremonies and thus became influential in their communities. Their intellectual contribution and leadership could even be seen at a glance in the nomenclature of the leading schools of Islamic jurisprudence that bear to this day the names of their individual eponyms, the Imams Abu Hanifa, Shafie, Malik, Ibn Hanbal, Ja'far al-Sadiq and so forth, founders of the *madhhabs* (legal schools) and scholastic centres that flourished in their names.

A great deal of what has been said so far has, however, changed in the course of time. The prevalence of the nation state model with its constitutionalist underpinnings and the fact that the legal theory of Islamic jurisprudence over *ijtihād* and *ijmāʿ* etc., we have envisaged in our discussion above is no longer operative under the nation state model. The nation state model disrupted continuity of much that was Islamic in the realm of law and governance, the Shari'ah itself, and ideas and institutions of an Islamic constitutional order. Most of the post-colonial Muslim states were modeled on divergent legal theories and constitutions that barely refer to *ijtihād*, *ijmāʿ*, the *umma*, *khilāfa*, even the Shariah.

But even under the old executive-centralist model and the admitted continuity of many of the basic Islamic positions under the substantive Shari'ah, there still remains considerable scope for extra-Shari'ah legislation. The unprecedented disruptions and changes the Muslim world has experienced brings it face to face with new challenges to provide fresh interpretation of the source evidence in conjunction with newly arising issues of concern to law and governance. This may be elaborated as follows:

1. That which has not been regulated by the existing Shari'ah, and which is
    known, in the *fiqh* jargon, as the unoccupied sphere (*manṭiqat al-firāgh*, also
    as *manṭiqat al-'afw*) and remains open to human legislation and *ijtihād*. This
    is the purport of a renowned hadith: "God has made certain things obligatory,
    so be sure not to neglect them; He has laid down certain limits, which you
    must not exceed; He has prohibited certain things which you must avoid; and
    He has, out of mercy but not forgetfulness, remained silent over other matters,
    so try not to be inquisitive about them."[20] Qaradawi quotes this hadith side by
    side with the Qur'anic verse: "and your Lord is never forgetful." (Maryam,
    19:64) Hence the conclusion that the Muslim community is free to regulate
    its own affairs in all areas that are not regulated by textual injunctions, such
    as science and technology, industrial relations and commerce, international
    relations, traffic regulations, administration and policy relevant matters etc.,
    all of this and more may be open to *siyasa*-based initiative and legislation.
    Further support for this position is found in the Qur'anic proclamation that
    "God has expounded in detail all what He has forbidden to you" (al-An'am,
    6:11) – thus implying that nothing is forbidden beyond what is clearly
    declared in God's messages. Note also the legal maxim that "permissibility is
    the basic norm (of Shari'ah) in all matters-*al-aṣlu fi'l-ashyā' al-ibāḥa*," and
    the hadith text that "Muslim are bound by their stipulations."[21] Muslims are
    free to conclude contracts, enact laws and regulations that incur commitment
    provided always they do not conflict with the clear injunctions of Shari'ah.[22]

    The foregoing also subsumes unregulated public interest (*maṣlaḥa
    mursala*), which refers to matters of public interest that have not been
    regulated by the existing Shari'ah. Concerning all that which appears to be
    of benefit for the people, be it in the present or future, whether in temporal
    matters or in reference to the Hereafter, the authorities are empowered to
    take measures to secure the benefit in question whenever the opportunity
    arises. Such measures may consist of substantive law or *siyāsa*-based rules
    and procedures that may be introduced from time to time.

    Maṣlaḥa mursala is circumstantial and cannot therefore be generalised
    nor predicted in advance. Something that is deemed to be a *maṣlaḥa* in one
    country may not be the same in another, nor even in the same country, for
    change of time and circumstance may alter the situation so that a *maṣlaḥa* of
    the past is no longer the same under a different set of circumstances. Hence
    the wisdom and insight of capable leaders, consultative bodies and scholars
    play a role in the identification of *maṣlaḥa* and also in the determination of
    measures through which it can be realised. The Companions took measures,
    for instance, to establish new government departments, build prisons, issue
    coins, introduce market regulations etc., on which the text was totally silent.

Maṣlaḥa is also an evolving concept that grows abreast with new changes in the life of the community and the legislative organ would be authorised to legislate over what they deem to be of benefit.[23] This may be illustrated by reference to legislation, in recent times, that Muslim countries have introduced on compulsory registration of marriage and divorce as well as the sale and purchase of real property, municipal laws, guidelines and restrictions on urban planning, imports and exports, and more recently restrictions on smoking and so forth, all of which partake in *maṣlaḥa*-based legislation and the scope remains open for legislative initiative.[24]

2. Matters over which the Shari'ah grants a choice to the head of state, such as in respect of treatment of the prisoners of war, where the text (Muhammad, 47:4) records several methods, one of which may be selected for purposes of enforcement. Also with regard to the perpetrators of highway robbery (*ḥirāba*) the text (al-Ma'idah, 5:33) records four types of punishment from the most to the least severe and the choice rests with the leader to select one he deems to be most appropriate. Differences of opinion also exist on whether death by retaliation (*qiṣaṣ*) is applicable to one who commits murder under duress: some say only one of the two parties is subject to retaliation but differ as to which, others say both are, and still others maintain that neither is subject to retaliation.[25]

3. With regard to matters over which the jurists are in disagreement, be in the interpretation of text, or *ijtihād*-based conclusions, the head of state may determine and select that which is deemed to be most appropriate. This is in accordance with the renowned legal maxim: "the command of the Imam puts an end to disagreement – *amr al-imām yarfa' al-khilāf*." In a similar maxim it is provided "the command of the Imam is enforceable – *amr al-imām nafīdh*."[26] Qur'an commentaries and *fiqh* manuals record many instances where the range of disagreement may be such that seven or eight different views are given by various schools and jurists. The head of state, the courts and the legislature, for that matter, would be in a position to select only the one that best serves the interest of the community for purposes of judgment and legislation. Disagreement is also found not only among the leading schools, but often within them and among their leading figures and followers. Note, for example, the extensive *fiqh* works, such as that of Ibn Maflah al-Hanbali's *Kitāb a-l-Furū'* in six volumes, and al-Mardawi, *al-Inṣāf fi Masā'īl al-Khilā*f in twelve volumes, on the impressive range of scholastic diversity of schools and scholars over juristic issues.[27] The authority of the head of state in such cases may be specified by a legislative instrument that takes from these resources a ruling that is deemed to be in the people's best interest.

The Judiciary

Justice is a major preoccupation of Islam and its Shari'ah, and those who administer justice merit great spiritual distinction and reward. Qur'anic guidelines on justice maintain commitment to impartial justice and objectivity in its implementation. There are more that 50 verses in the Qur'an on justice (*'adl*, *qisṭ*), and more than 300 on injustice and oppression (*ẓulm*). The scope of justice in the Qur'an and hadith subsume three varieties: corrective or retributive justice, distributive justice, and political justice as in the sphere of appointments of officials, international relations, war and peace etc.[28]

Historically, the ulama and religious leaders dominated the judicial branch, in the capacity mainly, however, of government employees. But since the Shariah was not enacted by the state, and the state had in effect an administrative capacity with regard to its enforcement, the ulama and judges regarded themselves as the custodians of Shari'ah and bearers of direct mandate to enforce it almost independently of the state hierarchy. In practice, however, judges were under the administrative control of governors and ministers.

Muslim commentators have held that no one is in principle authorised to influence the judge nor to compromise his independence as the effective administrator of Shari'ah, a task they have been mandated by the Qur'an (cf., al-Nisa', 4:59). In Zaydan's assessment, "no one whatsoever is permitted to interfere in the work of the Qadi with a view to influencing him away from the course of justice. Anyone who violates this guideline is violating the Shari'ah."[29] This is because the duty to administer justice, although primarily borne by the head of state, and the judge acts as his deputy, the latter shares that function with him by virtue of a direct Shari'ah mandate.

Judgment (*qaḍā'*) is by definition a declaratory task that is vested in the judge; the latter ascertains the ruling of Shari'ah and declares its application to a dispute before him. The judge does not, in other words, create a ruling (*ḥukm*) in the absence of any evidence in Shari'ah. This is a declaratory and interpretative role, and no one can effectively share it with the judge, who must issue judgment based on his own understanding and conviction. Since the judge is personally accountable for his error or miscarriage of justice, he must act independently of extraneous influences in the conduct of duty. He is within his rights also to reject all interference, even from the head of state himself, in the conduct of his judicial functions.[30]

Since almost every case before the court exhibits significant variation in respect of detailed circumstances surrounding it, judges are often called upon to carry out original interpretation (*ijtihād*) of the basic evidence of Shari'ah to arrive at appropriate judgments. This is endorsed by the theory of *ijtihād*, which demands

total freedom for the judge and *mujtahid* to discharge their duty in accordance with their true conviction free of all interference. The judge is not even allowed to follow other judges in the deliverance of his own judgment and *ijtihād*, nor to deputise that task to anyone else. Should there be interference from the head of state or his leading officials, the judge is not under duty to comply. For according to the ruling of a renowned hadith "There is no obedience in transgression; obedience is due only in righteousness."[31] It would be wrong for the head of state and other office holders of influence to interfere in the works of a judge that may undermine his independence. Yet historical records exhibit a wide gap between theory and practice, which show that judges were often denied their independence.

Commentators have stated that judges enjoyed considerable independence during the Rightly Guided Caliphs, and also during the Umayyad rule (665-750CE) so much so that they issued judgments in disputes involving the caliph himself and have issued judgment against the caliph.[32] Reports thus indicate that the caliphs 'Umar b. al-Khattab, and 'Ali b. Abi Talib appeared before the Qadi as parties to litigation, and both expressed the desire that they should not be given any preferential treatment by the court. This precedent sustains the conclusion, as one commentator points out, that the judge can accept a suit against the very person of the head of state and try him in an open court and that "this feature of the Islamic judiciary is an index of its independent status."[33] Under the Umayyad rule, judges were free in the exercise of *ijtihād*. The founder of this dynasty, the caliph Mu'awiya, was also the first to relinquish his judicial functions to appointed judges.[34] Another observer qualified this conclusion so as to say that "the judiciary was fully independent from the executive … but this independence was confined to civil cases and private wrongs."[35]

The emergence and gradual crystallisation of the four schools of jurisprudence during the early Abbasid period around the eleventh century CE led to new restrictions on the independence of judges. The establishment of the leading schools was taken to imply that the Shari'ah had already been expounded and elaborated to an advanced level and that from then on everyone, including the judges, should follow the existing expositions of the schools and refrain from innovative interpretation and *ijtihād*. A factor that prompted this development was the exceeding diversity of schools, interpretations and doctrines that were viewed with apprehension and thus a cause for concern that they could lead to confusion and unacceptable disparity in court decisions. The unprecedented expansion of the territorial domains of Islam also brought the Shari'ah into contact with other more entrenched cultures and traditions thus prompting the ulama to pronounce the so-called 'closure of the gate of *ijtihād – sad bāb al-ijtihād*'. This was partly why it became official policy of Islamic governments to adopt one or the other of the leading schools as their official *madhhab*.[36]

The new restrictions which limited the scope of *ijtihād* to a particular school clearly marked a departure from the precedent of the early caliphs and an unwelcome imposition on the freedom of judges. Al-Mawardi (d.450/1058), himself a judge and follower of the Shafi'i school, found this unacceptable when he expounded the doctrine and wrote that the judge must exercise his own *ijtihād* and, in so doing, he is not bound to adhere to the ruling of the school to which he subscribes. Should he be the follower of the Shafi'i school, he is not bound by the ruling of that school unless his own *ijtihād* leads him to it; should his *ijtihād* favour the opinion of Abu Hanifah, then he should act on it without hesitation.[37] The prominent Hanbali Jurist Ibn Qudama al-Maqdisi (d.1223/620) held it to be impermissible to appoint a judge on condition that he should adjudicate according to a particular school. "God the Most High has decreed righteousness as the criterion of justice and righteousness cannot be confined to a particular school. Hence when a judge is appointed with such a condition, that condition is null and void".[38]

A careful reading of the Qur'an also points to the need for an independent judiciary to adjudicate disputes between the ruler and ruled with total impartiality. This may entail the sensitive task of disqualifying the head of state when found to be in violation of his terms of office. This is envisaged in the Qur'an where the text anticipates the possibility of disputes arising between the ruler and ruled, which can only logically be adjudicated by a judicial authority that is not influenced by either of the disputing parties. This is our understanding of the Qur'anic verse, known as the *ayat al-umarā'* (the rulers' verse) to which a reference has already been made:

> O you who believe! Obey God and obey the Messenger and those invested with authority among you. Should you dispute over a matter among yourselves, then refer it to God and to the Messenger … That is better, indeed commendable in the end (al-Nisa', 4:59).

This text is clear on the point that both the ruler and ruled are subject to the ordinances of Shari'ah. It is also implied that people are entitled to disagree with their leaders. The context also indicates that the verse addresses the ruler and ruled. In the event of a dispute arising between them, then it is only logical that neither of the two parties would be authorised to adjudicate over it, which is why it should be objectively determined, as the text specifies, by reference to the Shari'ah. To facilitate the implementation of this text, there must be an independent judiciary with full powers to adjudicate disputes arising between the citizen and state.[39] This may take the form of the historical *Maẓālim* (courts of grievances), which had jurisdiction over disputes involving state officials and judges themselves, or it

may take the form, as we may have today, of an independent judiciary with clear constitutional mandate that grants it immunity against interference. It is essential in any case, that the head of state should have no powers to dismiss or replace the leading judges in the land, and that means a free and independent judiciary.[40]

Furthermore, the Islamic constitutional theory is explicit on the point that the community may depose the head of state in the event of a manifest aberration, when he commits a crime, or in the event of loss of mental and physical faculties. This begs the question as to who should make that momentous decision to disqualify a reigning head of state. The constitutional theory has not answered this question, but it may be said in response, that the judiciary is called upon to discharge the sensitive task of impeaching the errant head of state and eventually to declare him disqualified. This would be almost impossible unless the judiciary is fully independent and the judges enjoy total security of office.[41]

Conclusion and Recommendations

This article advanced an Islamic perspective on an aspect of western constitutional law that does not claim its origins in Islam, but which has been widely recognised and adopted by Muslim countries and constitutions - and it has as such become a part of the general custom (*'urf 'aam*), which is a recognised source of judgment in Islam. My enquiry into the Islamic sources also addressed the exaggerated assertion that separation of powers is un-Islamic, or anti-Islamic. I have shown that this is not the case. One can even ascertain a functional separation of powers in an Islamic polity. My other conclusions are:

- Separation of powers is an important instrument of checks and balances in the exercise of power and a central theme therefore of constitutionalism and government under the rule of law.
- Separation of powers is not a substantive principle of the Shariah, but a sub-theme of judicious policy (*siyasah shar'iyyah*), and open therefore to considerations of good governance and public interest (*maṣlaḥa*).
- Muslim countries that have committed themselves to the principle of separation of powers in their constitutions are also bound under Shari'ah to observe it – as in the hadith that "Muslims are bound by their stipulations." Good constitutions are often adopted but not implemented, and even violated: examples may be Pakistan under president Musharraf, and Afghanistan under president Karzai.
- The locus of political authority in Islam is the community, ummah and people in every country, but the exercise of that authority is regulated by the constitution, which is essentially an instrument of limitations the people may choose to impose.

- Separation of powers is not a monolithic idea in that it can take various forms and dimensions depending on the conditions and capabilities of particular states, their constitutional history and traditions. A country may subscribe to administrative centralism, presidential or parliamentary system, even federalism, yet also apply a regime of separation of powers.
- Islam envisages a consultative and participatory system of rule, which also means there should be greater coordination among the organs of power. When separation of powers is integrated in an Islamic polity and constitution, it should also be moderated by the concerns of coordination and unity of purpose among the various organs of state.

Notes

*   *Mohammad Hashim Kamali*, Founding CEO of IAIS Malaysia, graduated from Kabul University, and took his PhD in Islamic and Middle Eastern Law at the University of London in 1969. Professor Dr M. H. Kamali served as Professor of Islamic Law and Jurisprudence at the International Islamic University Malaysia (IIUM, 1985–2007), then Dean of the International Institute of Islamic Thought and Civilization (ISTAC). He also held Visiting Professorships at McGill University's Institute of Islamic Studies; Capital University, Ohio; and the Wissenschaftskolleg, Berlin. A member of the Constitution Review Commission of Afghanistan (2003), he has provided expert legal consultation to the new constitutions of Iraq, the Maldives and Somalia. Eminent authority on Islamic legal studies, he has published over 150 academic articles and 35 texts, including standard textbooks at universities worldwide. He can be contacted at ceo@iais.org.my.

1. Cf., 'Abd al-Hamid Mutawalli, *Mabādi Niẓām al-Ḥukm fi'l-Islām*, Alexandria (Egypt); Mansha'at al-Ma'arif, 1974, p. 417; 'Abd al-Ghani Busyuni 'Abd Allah, *Nazariyyat al-Dawla fi'l-Islām*, Beirut: al-Dar al-Jami'iyya, 1986, 260. This binary fiqhi division of *wilaya* elaborates the Qur'anic concept of *qawwamun* (guardians) in al-Nisa' (4:35).

2. Cf., Mohammad Hashim Kamali, "Characteristics of the Islamic State," *Islamic Studies* 32 (1993), 17-40, at 31.

3. Cf., Qur'an: 28:26. See for details Basyuni 'Abd Allah, *Nazariyyat al-Dawla*, 224.

4. Cf., Sa'di Abu Habib, *Dirāsah fi Minhāj al-Islām al-Siyāsī*, Beirut: Mu'assasa al-Risala, 1985, p. 72; Taqi al-Din al-Nabhani, *Muqaddimat al-Dustur*, Kuwait: Dar al-Qalam, 1964, 89-90.

5. 'Uthman Bin Ju'a Damiriya, "al-Sulṭat al-'Āmma fi'l Islām: al-Mafhūm wa'l-'Ilāqa," *Majalla Jamī'a al-Sharja li'l-'Ulūm al-Shar'iya wa'l-Insāniyya*, (Sharjah University Journal for Shari'ah and human sciences), vol. 3, no. 3 (1427/2006), 14.

6. Both Abu'l Hassan al-Mawardi (d. 1058 CE), and Abu Ya'la al-Farra' (d.1066) wrote books bearing the identical title: *Kitāb al-Aḥkām al-Sulṭāniyya* (book on sultanic ordinances), which are recognised reference works on the subject.

7. Abu'l Hassan al-Mawardi, *Kitāb al-Aḥkām al-Sulṭāniyya*, Cairo: Matba'a al-Sa'ada, 1959, p. 40.

8.   For more details on *siyāsa shar'iyyah*, see Mohammad Hashim Kamali, *Shari'ah Law: An Introduction*, Oxford: One World Publications, 2008, Ch. 11 entitled "Beyond the Shari'ah: an Analysis of Shari'ahh-oriented Policy (*siyāsah shar'iyyah*), 225-246.

9.   Abu'l Hassan al-Mawardi, *Kitāb al-Aḥkām al-Sulṭāniyya*, Cairo: Matba'a al-Sa'ada, 1959, 30.

10. 'Abd al-Hamid Mutawalli, *Mabādi Niẓām al-Ḥukm fi'l Islām,* Alexandria: Mansha't al-Ma'arif, 1974, 229. Busyuni 'Abd Allah, *Nazariyyat al-Dawla fi'l-Islām*, 254f.

11. Basyuni 'Abd Allah, *Nazariyyat al-Dawla*, 260.

12. Al-Mawardi, *al-Aḥkām al-Sulṭāniyya*, 33.

13. See for details on accountability (*muḥāsaba*), Mohammad Hashim Kamali, Citizenship and Accountability of Government: an Islamic Perspective, the Islamic Texts Society, Cambridge, U.K, 2011, pp. 200-203. See also Busyuni 'Abd Allah, *Nazariyyat al-Dawla fi'l-Islām*, 261f.

14. Cf., 'Uthman Damiriya, "*al-Sulṭat al-'Āmma fi'l-Islām*," 11.

15. 'Abd al-Razzaq al-Sanhuri, *Fiqh al-Khilāfa wa Taṭawwruha*. Arabic translation and commentary by Nadia al-Sanhuri and Tawfiq al-Shawi, Cairo: al-Ha'a al-Misriyya al-'Amma li-l-Kitab, 1989, 174-75.

16. Ibid, 179.

17. Cf. Mahmood Ahmad Ghazi, *State and Legislation*, Islamabad: Shariah Academy, 2006, 110.

18. Wahba al-Zuhaily, *Qaḍāya al-Fiqh wa'l-Fikr al-Islāmī*, Damascus: Dar al-Fikr, 2006, 466ff.

19. Ibid.

20. Quoted in Yusuf al-Qaradawi, *al-Siyāsa al-Shar'iyya fi Ḍaw' Nuṣuṣ al-Sharī'a wa Maqāṣidiha*, 2nd ed., Cairo: Maktaba Wahba, 2005/1426, 70. Hadith also recorded by Al-Nawawi in his *Arba'īn* Hadith (forty select hadith).

21. Abu Dawud, Sunan Abu Dāwūd (Ahmad Hasan's tr,), Vol. III, 1020, hadith no. 3587.

22. See for a discussion, Mohammad Hashim Kamali, *Islamic Commercial Law: An Analysis of Futures and Options*, Cambridge (and Kuala Lumpur): Islamic Texts Society, 2000, 66-82.

23. See for details on maṣlaḥa mursala M. H. Kamali, *Principles of Islamic Jurisprudence*, Cambridge: Islamic Texts Society, 2003, ch.13 (351-369). See also Qaradawi, al-*Siyāsa al-Shar'iyya*, 82f.

24. Cf., 'Abd al-Ghani Busyuni 'Abd Allah, *Nazariyya al-Dawla fi'l-Islām*, Beirut: al-Dar al-Jami'iyya, 1986, 215f.

25. Cf., al-Qaradawi, *al-Siyāsa al-Shar'iyya*, 80.

26. See for details on the two legal maxims and the subject of *ikhtilāf* generally, M. H. Kamali, *Shari'ah Law: An Introduction*, Oxford: Oneworld, 2008, Ch. 5 entitled "Disagreement (*ikhtilāf*) and Pluralism in Shari'ah," pp. 99-123 at 119. This maxim essentially derives from the Qur'anic verse on obedience to the leaders (*ulu al-amr* – al-Nisa', 4:59).

27. See for a discussion, al-Qaradawi, *al-Siyāsa al-Shar'iyya*, 74-79.

28. For more details on justice see Mohammad Hashim Kamali, *Freedom, Equality and Justice in Islam*, Cambridge: Islamic Texts society, 2002, 103-155.

29. 'Abdal-Karim Zaydan, *Niẓām al-Qaḍā' fi'l-Sharī'a al-Islāmiyya*, 3rd revised ed., Beirut: Mu'assasah al-Risalah, 2002, 59.

30. Ibid., 59-60.

31. Ibid., 60.

32. Ibid., 61. See also Subhi Mahmassani, *Arkān Huqūq al-Insān fi'l-Islām*, Beirut: Dar al-'Ilm li'l-Malayin, 1979, 98.

33. Farooq Hassan, *The Concept of State and Law in Islam*, New York: University of America Press, 1981, 43.

34. Sulayman Muhammad al-Tamawi, *al-Sulṭat al-Thalath fī Dasātīr al-'Arabiyya wa fi'l-Fikr al-Siyāsi al-Islāmī*, Cairo: Dar al-Fikr al-'Arabi, 401.

35. Ghulam Murtaza Azad, *Judicial System of Islam*, Islamabad: Islamic Research Institute, 1987, 100.

36. See for detail Mohammad Hashim Kamali, "Appellate Review and Judicial Independence in Islamic Law," in ed. Chibli Mallat, *Islam and Public Law*, London: Graham & Trotman, 1993, 49-85.

37. Abu'l Hassan 'Ali al-Mawardi, *Kitāb al-Aḥkām al-Sulṭāniyya*, Cairo: Matba'a al-Sa'ada, 1090/1327, 64.

38. Abu Muhammad 'Abd Allah Ibn Qudama al-Maqdisi, *Al-Mughnī*, Riyad: Maktaba al-Riyad al-Haditha, 1981/1401, vol. 9, 106.

39. Muhammad Asad, *The Principles of State and Government in Islam*, Los Angeles: California University Press, 1961, 66.

40. Cf., Mahmud 'Abd al-Majid al-Khalidi, *Qawā'id Niẓām al-Ḥukm fi'l-Islām*, Kuwait: Dar al-Buhuth, 1980/1400, 211.

41. Cf., Mohammad Hashim Kamali, "Appellate review and Judicial Independence in Islamic Law," in ed. Chibli Mallat, *Islam and Public Law*, 51-52.

FACILITATING AFFORDABLE HOUSING IN THE UK MARKET THROUGH SOCIALLY-ORIENTED ISLAMIC FINANCIAL INSTITUTIONS

Yusuf Jha*

Abstract: In the context of the growing global shortage of affordable housing, policy discourse in the last decade has centred on ways to get the private sector involved through a variety of public-private partnerships. This paper focusses on two such contemporary applications of community centred alternatives in Community Land Trusts (CLTs) and Shared Ownership Co-operatives (SOCs) and explores ways in which mainstream Islamic Finance can engage and support them. By focusing on the "private funding gap" that exists between mainstream finance and these community centered programs, the paper posits that Islamic Finance Institutions (IFIs) are well placed to provision financial support to such initiatives through the effective use of cash based endowments or *awqaf*. Such a re-structuring process within Islamic Finance proposes not only to allow IFIs effectively to assist in providing affordable housing but also promises to enable them to fulfil their originally stated socio-economic ideals better.

> **"In the empires of usury the sentimentality of the man with the soft heart calls to us because it speaks of what has been lost."**
> — Lewis Hyde

Introduction

The unaffordability of property today is a global problem. In the UK specifically, the average price of a home has risen by over 43 times since 1971, increasing from £5,632 to £245,319 (Shelter, 2013). For the past decade this has meant areas in London, for example, have had house prices appreciate at an annual rate higher than the salary of the capital's key workers, heralding the contemporary phenomenon of *"houses earning more than people"* (New Economics Foundation, 2003).

Whilst various causes have been identified for such price inflation, the magnitude and complexity of the problem indicates that governments and markets alone are unlikely to provide a solution. This has led to an increasing recognition of a need for the 'third sector', (consisting of community driven organisations) to contribute to economic development (Salomon and Anheier, 1997). Two such 'third sector' models in the form of Community Land Trusts (CLTs) and Shared Ownership Co-operatives (SOCs) have been arguably said to be amongst the most effective contemporary tools in both tackling property inflation and providing long-term affordability (Davis, 2006). Despite this,

they have received little support and recognition from mainstream commercial finance, Islamic finance included.

Whilst Muslim societies have historically been founded on a similar third sector, public-private partnerships in the form of trusts or civic endowments for public welfare (lit. *awqaf*), the challenge remains for the contemporary Islamic Finance sector to revive such a dynamic. This paper explores avenues for such a revival by examining the potential of coupling Islamic Finance Institutions (IFIs) and *awqaf* with a view to provisioning financial support for community endeavours such as CLTs and SOCs.

Causes of Property Price Inflation

Neoclassical economic literature concerning house prices contends that prices are determined by free market forces of supply and demand wherein the "equilibrium" price is when these two forces equalise (Landsburg, 2002). Within this dynamic, economists tend to explain the inflation of property prices as that of supply decreasing and demand increasing. Some of the factors that may contribute to such a scenario include a decrease in housing stock, an increase in population growth and a receding land supply. Within a UK specific context, all three factors have been highlighted as the main contributors to property inflation by the official government Barker Report (2003) on affordable housing. This report identified the main constraint on property prices as being limited land supply, citing regulatory relationship and control over the use of land as influencing the way in which such land is used for development.

Despite perspectives such as the Barker Report dominating mainstream discourse, recent times have seen increasing advocacy of an alternative view. In contradistinction to neoclassical economics, voices such as Keen (2011), Werner (2010), Douthwaite (2000), Diwany (2003), Kennedy (2012) and the monetary reformist group Positive Money (2013:1) all state that the inflation of property prices is not so much an economic issue of supply and demand as of being one of *monetary policy*, wherein the main issue is the role of bank credit in the nation's money supply. It is the process of money creation that Keen (2011) and Werner (2010) contend has led to speculative lending and contributed to the price inflation of property. They posit that as money is created, *"in amounts exceeding the ability of the economy to create new goods and services, the result is inflation* (Eisenstein, 2007, p. 269)*"*. Furthermore Voith and Wachter (2012) contend that such inflation particularly impacts land in demonstrating that land prices for well-located, desirable communities increases faster than wages in low- and moderate-wage occupations.

Empirical support in favor of the view that money creation is linked to property price inflation may be seen in the positive correlation between bank lending in the

UK and in domestic property price appreciation for the same period. As *Figure 1 shows* below, by focusing on UK house prices over an extended period (1997-2010), the increase in Population and Housing Stock remains fairly constant, whilst it is the fluctuation in bank lending (conventional mortgages) that displays a positive correlation with the corresponding increase in house prices.
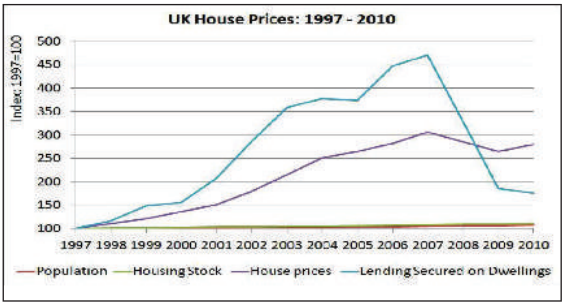
(Source: Positivmoney.org)

Figure 1   Fluctuation of uK house prices over 1997-2010

The argument of bank lending being the primary cause of property price appreciation is further supported in *Figure 2*, wherein the change in UK house prices and that of the adjusted net change in lending over the same period appear to be so synchronised, as to be unable to be explained by other causal factors.
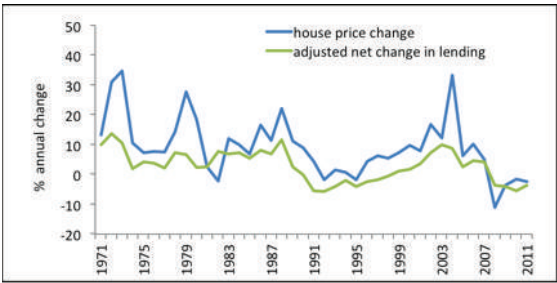
(Source: Positivmoney.org)

Figure 2   Fluctuation in uK house prices and lending (% annual change)

The patterns in house prices indicated through both *Figure 1* and *Figure 2* point to a direct, positive correlation with the amount of money lent into the economy. This is important because if bank lending towards property acquisition is *itself* understood to be the primary contributory towards property price inflation,

then the role of community inspired initiatives outside of the banking network acquire increasing import, especially if this inflation is intended to be countered. This is where the two key models of Community Land Trusts (CLTs) and Shared Ownership Co-operative models (S0Cs) particularly stand out, as an analysis of both models illustrates.

Community Land Trusts (CLTS)

A Community Land Trust (CLT) operates by extracting land from the market and retaining it as a public asset under the community ownership of a non-profit seeking Trust. With land costs becoming an increasingly significant part of house prices (often 40-60% of the final price), such removal of land from the market allows for property affordability to be preserved on a long-term basis for future generations (NEF, 2003).

CLTs: History, Motivation and Techniques

The CLT model was originated in the United States by *Ralph Borsodi*, *Slater King* and *Robert Swann*, drawing upon earlier examples of planned communities intended to steward affordable housing on leased land (Davis, 2010, p.3-48). Their early inspirations include the Garden city movement in the United Kingdom, Single Land Tax communities in the USA (based on the ideas of the late economist *Henry George*) and Ghandian inspired Gramdan villages in India, such as the Land Gift movement of *Vinoba Bhave* (Davis, 2010, p.108-113).

From the beginning CLTs were premised on servicing the needs of community-based individuals in providing access to land and maintaining security of tenure with regards to property affordability, economic diversity and local services. In that regard they exhibit behaviour similar in nature to land based *awqaf* that existed throughout the Muslim world. Though there is significant variation among the hundreds of CLTs in the globe today (thereby indicating their flexibility), some common key features to be found amongst them include:

1. **Nonprofit Corporation** – A community land trust is an independent, not-for-profit Corporation that is legally chartered in the state in which it is located (Davis, 2010, p.113).
2. **Dual Ownership** – A nonprofit corporation (the CLT) acquires multiple parcels of land throughout a targeted geographic area with the intention of retaining ownership of these parcels perpetually (Davis, 2010, p. 221).
3. **Leased Land** – CLT acquired land is treated as a common heritage, not as an individual possession. While CLTs remove their land permanently from

the market, intending never to resell, they can provide for the exclusive use of their land through its conveyance to individual homeowners (or to the owners of other types of residential or commercial structures) through long-term ground leases (Davis, 2010, pp. 221-228).

4. **Perpetual Affordability** – CLTs typically retain a repurchase option for any residential (or commercial) structures located upon its land. The resale price is set by a formula designed to ensure a modicum between being a fair return on investment as well as giving future homebuyers affordable access to housing (Davis, 2006).

5. **Perpetual Responsibility** – With CLTs being integral owners of land through any ground lease structures and having first option of repurchase, their interest to ensure responsible use of premises and property is locked-in perpetually and unlike conventional property developers does not disappear once a building is sold (Davis, 2010, pp. 221-228).

6. **Community Based** – Typically CLTs operate within the physical boundaries of a targeted locality, being guided and accountable to the people who encompass the respective community (Davis, 2010, pp. 221-228).

7. **Representative Governance** – Management structures such as Board of Directors in CLTs typically seek tripartite democratic governance structures; representing proportional interests of community leaseholder residents, adjoining community (non-residents) and public governance bodies (Davis, 2010, p. 402).

CLTs: Case Studies and Proof of Concept

In a recent publication commissioned by the *University of Salford* (Paterson & Dayson, 2011), more than ten CLTs in the UK were demonstrated to have exhibited *'proof of concept'*, in their facilitation of *"the completion of 137 homes, with a further 92 on site, alongside other projects in the pipeline"* (Paterson & Dayson, 2011, p. 17). Whilst the majority of CLTs in the UK have been on rural sites, recent times have also seen the emergence of urban CLTs in the form of the *Cashes Green Community Land Trust* (based in Gloucestershire, seeking to build 78 homes on a derelict hospital site) and *the East London Community Land Trust* seeking development and stewardship of a local hospital alongside small developments for local residents within the Olympic Park legacy neighborhoods of East London.

Shared Ownership Co-operatives (SOCs)

Shared Ownership Co-operative (SOC) housing operates on a part buy/part rent basis and seeks to provide a "third way" of land tenure between home ownership and renting, allowing residents to pay an affordable rent on the share of equity they do not own. This is similar to the commonly called *Diminishing Musharaka* arrangement in Islamic Finance, albeit the pricing arrangements in SOCs are typically more equitable than those of commercial "Islamic" banks, as they do not involve benchmarks to pre-agreed interbank lending rates. Generally speaking, SOCs have three distinguishing features: the owner-occupancy of residential property; the fair allocation of equity between lower-income homeowners and future owners; and the sharing of rights, responsibilities, and benefits of residential property between individual homeowners and the other controlling party (Davis, 2006 and 2008).

SOCs: History, Motivation and Techniques

Research shows that SOCs as a form of limited-equity mutual housing were popular in Britain in the past, especially prior to the First World War and in the 1960s and 1970s when they were developed for what were then key workers (NEF, 2003). Such models were actively championed by various socially conscious economists in the late 1970s-early 1980s, typically pairing a lower income household wanting to buy a home with a local shared equity program that would co-invest in the equity of the property by contributing to the relevant unaffordable portion of their mortgage. The homebuyer would then build equity each month as they paid off their mortgage, with any price appreciation on the property being limited in order to preserve affordability for any other future low income buyer (Davis, 2006).

As SOCs involve a shared commitment to balancing the twin goals of preserving housing affordability for future generations alongside offering homeowners a dependable opportunity to build wealth; they are mostly managed by public or nonprofit agencies that share some of the rights, responsibilities, risks and rewards of ownership (Davis, 2006). Some of the key features of SOCs include:

   i.   **Security of Home Ownership**: By virtue of the buyer's share in the home's equity (e.g. 20% shares), their lease on the home is secured. With the purchase of more shares, the rent on the outstanding portion will be reduced pro rata (Carswell, 2012 and Davis, 2008).
   ii. **No Default Risk**: As the core relationship of SOCs is that of ownership/partnership rather than lender/borrower, it is impossible for the prospective buyer to "default" on "loan repayments", since the financing is not debt-based but rather equity-based and as such, *ab initio*, there is no "loan" to

"default" on (Davis, 2008).

iii. **Community Based Cooperatives**: Though not necessarily non-profit, the cooperatives typically managing such schemes should represent the interests of the wider community within the area, being primarily concerned with the fair allocation of equity and sharing of rights, responsibilities, and benefits of residential property accruing to the individual homeowners and the community as a whole (Carswell, 2012).

iv. **Fair Allocation of Equity:** All SOC models place an emphasis on the fair allocation of equity, focusing specifically on how the appreciating value of residential property is rightfully apportioned between the homeowners and the community. Thus SOCs seek to balance the creation of private wealth against the retention of public wealth through contractual controls such as resale price caps[1] (Davis, 2006 and 2008).

SOCs: Case Studies and Proof of Concept

The concept of SOCs does not represent something new in a UK context, being similar to *"non-equity co-ops set up in the 1980s under the Housing Corporation in England and Wales, and even more similar to the community ownership co-ops set up in Scotland to take over public housing estates"* (NEF, 2003, p. 24). The decline of such models in their historical UK context was that with increasing privatisation under the conservative Government, the models had no design features to prevent demutualisation and the schemes were inevitably sold onto the open market to property developers keen to pay above their book value. Interestingly, *"Between 1961 and 1977 across the UK 1,222 co-ownership societies were formed, producing over 40,000 units. However following the 1980 Housing Act most societies decided to dissolve and sell to their members, leaving only 31 co-ownership societies today registered with the Housing Corporation"* (GLA, 2004, p. 14).

However, it is worth noting that those SOC schemes which did provide for a degree of equity lock, *"that combined the benefits of renting and owner-occupation in the form of shared ownership co-operatives (GLA, 2004, p. 14)"* were able to continue to work successfully. Examples include the East London based *Glenkerry House*,[2] which has been operative for the past 24 years in running a 14-storey tower block as a community leasehold co-op, with the local London Borough as the freeholder. As a report for the London Mayor highlights, Glenkerry House represents *"an ideal case study when developing a new model of shared-equity co-operative housing"* (GLA, 2004, p. 24).

The Model of Combining SOCs and CLTs

The potential to combine successful design features of SOCs such as *Glenkerry House* with that of CLTs has been actively explored in recent times and proposed as a viable solution to the current crisis of affordable housing. Research (Miriam, John and Harold, 2012) and proposals from leading think tanks (NEF, 2003) have sought to detail CLT and SOC combination structures, thereby effectively creating a model of resale-restricted, owner-occupied housing that aims structurally to tackle property inflation as well as provide long-term affordability to its residents (Davis, 2006).

The potential synergy between both structures, with one focused on the land and the other on the development of property upon the land has been found not to only preserve affordability but also to build social capital (through the nurturing of social networks) and civic engagement (through wider involvement in the civic associations of the local community). Studies in low-income housing projects with a troubled history of deferred maintenance, criminality, and general distress have shown that the vehicle of such shared ownership builds collective responsibility and spurs collective action, thus improving conditions for all residents (Davis, 2006).

A combination of both structures would typically involve:

    i.   **Purchase of Land by CLT:** With a one-time purchase of a land plot/ land parcels required by the CLT, in the absence of the land being gifted to the CLT, this step would represent a significant financial hurdle (and accordingly an opportunity for socially orientated financial institutions). Either way, this step is essential as it allows the land to be permanently taken off the speculative market thus preserving its affordability (Davis, 2010).

    ii.   **Development/Purchase of Property by SOC Cooperatives:** typically involving leasing land from the CLT under a 99-year ground lease, any number of separate co-operative housing societies may partner with the CLT to develop, own and manage multi-unit residential buildings. The SOCs would then further allow for buyers/homeowners to gradually build up ownership of buildings, as opposed to the land which remains with the CLT (Davis, 2006).

The many benefits of such a structure to residents would include secure tenure of residence as well as affordable and equitable housing payments. Benefits to future residents would likewise be preserved through a clear and transparent resale formula that locks in permanent affordability for generations to come of low to moderate income households (Davis, 2006, 2008 and 2010).

The "Funding Gap" Opportunity for IFIs

The Financing requirements for both CLTs and SOCs would not differ in principle from that required by any other non-profit developer of affordable housing. Funds would thus be needed (either as equity or debt), *inter alia*, to pay for two broadly classified categories of *pre-development finance* (e.g. site surveys, architect costs, planning permission fees and land acquisition) and *development finance* (e.g. construction/purchase of residential/commercial structures).

Currently most funding for joint CLT-SOC structures comes from government grants for both land acquisition and project development, with sustainable operational funding generally coming via partnership contracts with housing associations, socially orientated venture capital funds and in some cases from community driven investment funds such as the *Community Land Trust Fund*[3] in the UK.

Despite this, there still exists a significant "funding gap" at the private commercial financial institutional level (Community Finance Solutions, 2009). Interestingly, in the UK, only the *Charity Bank* and *Troidos Bank* have been explicitly noted to support financially the provision of CLT and SOC projects (Troidos Bank, 2013) – no IFIs state the same. This general lack of mainstream commercial funding for affordable housing, inclusive of the lack of support from mainstream Islamic Financial Institutions (IFI), may be attributable to the following:

1. Lack of willingness to take on the development risk;
2. Tendency of such institutions to provide debt financing in a manner inevitably pegged to a fixed or inflation linked interest payment; and
3. The credit/risk departments in such institutions being totally unfamiliar with the nature of the asset class.

In light of the above and the corresponding neglect by conventional financial institutions, potential exists whereby CLT and SOC projects could be actively supported by mainstream IFIs. This "funding gap" promises not only to provide further diversification opportunities for IFIs themselves, but also to enable a greater realisation of their socio-moral ethics, something which has been found questionable by both academics and laymen alike.

IFIs and Social Responsibility: The Forgotten Obligation

Pioneering Islamic economists (*Baqir al-Sadr, 1968; Mawdudi, 1969; Chapra, 1970 and Kahf, 1973*) sought to place the Islamic Economic system as one that would promote universal brotherhood, provide for a more equitable modality of distribution of income and allow for individual financial freedom through the fulfilment of basic human and spiritual needs. Such early ideals were to be translated into practise

wherein scholars such as Asutay (2008) note that the initial experience of Islamic Finance *"in Egypt in late 1960s was structured as a socially-oriented institution, aimed to provide credit to peasants, small businesses, and workers to overcome financial exclusion and expand the ownership base of society."*

It was the transformation of Islamic Finance into its current commercial banking form, heralded by the arrival of the first Islamic commercial Bank (Dubai Islamic Bank) in 1975 that led to a marked change in direction. This is best evidenced by the subsequent reliance in Islamic Banks on the *Murabaha* contract, being *"essentially a form of deferred payment sale, described as "interest-like" owing to its implied acceptance of the time value of money"* and said to contribute to nearly 70% of all financing in Islamic Banks thereafter (Delorenzo, 1999). Since then, in keeping with the profit maximisation of limited liability corporations, successful financial performance has held priority *"at the expense of the 'social and economic developmentalist' aspirations of Islamic moral economy"* (Asutay, 2012). This has meant that whilst the Islamic Finance industry has performed well in financial terms, having grown in size from around US$10 billion of total invested assets in 1975 to just over US$1.8 trillion in 2013 (Ernst and Young, 2013), its performance in terms of earlier advocated socio-ethical goals has been arguably less commendable (Asutay 2007, 2008 and 2012).

Debating the Ethical Practice of IFIs

The trajectory of mainstream IFIs from 1975 onwards has understandably been akin to that of commercial banks and financial institutions. As Ahmed (2010) notes, this can be demonstrably shown to be that of:

i.   Mirroring conventional finance through an adoption of fixed return instruments benchmarked to interest rates (Warde; 2000:240);

ii.   Targeting efficiency akin to conventional finance products while neglecting the ethical concerns of Islamic jurists and economists (El-Gamal:2000);

iii. Directing activity and resources towards the growth of the financial economy rather than the growth of the real economy (Badawi, 1996/1997:20); and

iv.   Consistently pursuing profit maximisation and shareholder value at the expense of faith-based ethical principles; which are turned into 'mere mechanisms for a means to an end' (Parker, 2005:2).

Arguably, all of the above points could be said to be entirely consistent with Islamic finance having accepted the central structure of a commercial Bank as a limited liability corporation. As *Sheikh Saleh Kamel*, founder of one of the oldest and largest Islamic Banks in the Dallah al-Baraka group is reported to have said, *"I tell you, truthfully and without pretense, … that we went beyond choosing the*

"bank" label [in "Islamic Banking"], to the point of adopting its central essence…
Consequently, we failed to give our financial institutions any characteristics
beyond simple financial intermediation" (El Gamal, 2001). In similar vein, leading
Islamic Economist Nejatullah Sidddiqui notes that *"The realities of financial
markets which prioritize economic incentives rather than religious behavioural
norms has forced Islamic finance to become part of the international financial
system...the difference has been reduced to technicality, and the value system is no
longer mentioned* (Siddiqui, 2008).

The result is that today, practically every single Islamic Finance product finds its
origins in an economic, risk and cash-flow sense from a commercial equivalent.[4]
Consequentially one of the industry's leading scholars Mufti Taqi Uthmani
was driven to write, *"Islamic financial institutions have now begun competing
to present themselves with all of the same characteristics of the conventional,
interest-based marketplace, and to offer new products that march backwards
towards interest-based enterprises rather than away… Oftentimes these products
are rushed to market using ploys that sound minds reject and bring laughter to
enemies* (Usmani, 2008)*"*.

Thus the main criticism against mainstream Islamic Finance from both those
within and outside is that opposed to the wider socio-ethical remit that Islamic
finance should operate in, it has instead been more akin to a *"social failure"*
(Asutay, 2012).

Potential for Reforming IFIs: Reviving the Awqaf

If the allegation that Islamic Finance has lost its socio-ethical bearings by adopting
institutions and norms that arose out of a very different moral fabric is held to be
true, then it pays heed to observe which institutions actually best illustrate the
opposite, i.e. a dynamic of moral consciousness more synonymous with Islam's
ethical imperative. Perhaps the most impressive aspect of Islamdom's pre-
banking medieval economy was the role of *awqaf* (plural: *waqf*); the practice of
charitable endowments that were systematised to such a degree that entire nation
state economies were able to be supported through their network of philanthropic
activities. Historically such privately run endowments provided services throughout
the Muslim world in a manner akin to contemporary welfare states; with provision
such as food, housing, health and education –all being decentralised and provided
at practically zero cost to the State (Çizakca, 1998).

Interestingly, at the time of the dissolution of Ottoman Empire, three-fourths
of its land and buildings in some Turkish towns were *awqaf*. Likewise during
the same era, in various Muslim countries, *awqaf* reached one-third or more of
cultivable land. For example, it is historically recorded, at the beginning of 20th

century in Palestine, that 233 *waqf* deeds were recorded (owning 890 properties) in contrast to only 92 private ownership deeds (with only 108 properties), thereby clearly showing the focus of the Muslim economy as being an "endowed one" at the time (Ahmed, 2010). The institution of the *waqf* was not only a pillar of medieval Muslim society, in many cases it served as its very foundation, as a leading Islamic legal text declares, *"It is no exaggeration to claim that the waqf, or pious endowment created in perpetuity, has provided the foundation for much of what is considered 'Islamic civilization'* (Keller, 1994, p. 453)*"*.

Amongst the various forms of *awqaf*, the cash *waqf*, i.e. consisting purely or partially of cash provisioned for a variety of purposes, was historically, in economic terms, the closest precedent to Islamic banks. Cash *awqaf* often contributed non-interest bearing loans to the public as well as each other through innovative means not entirely dissimilar from modern day Islamic Banks. For example, Cizakca (2004) estimates that about 10 percent of the total eighteenth century population of the city of Bursa, which averaged about 60,000 inhabitants during that period, borrowed from such cash *awqaf*. Whilst contemporary times have seen this institution cease to play an effective role for a variety of reasons ranging from under-development, colonisation and the establishment of nation states wherein *waqf*-controlled assets came to be centralised, its revival under Islamic Finance promises to play a central role in the reformation of the industry.

It is thus no surprise to note that scholars such as Cizakca (1992) recommend that Islamic banks be obliged by the government, (or by regulatory authorities such as *AAOIFI*), to allocate a certain portion (e.g. 5%) of their investment portfolio per annum to the purchase of *waqf* certificates, itself forming part of a *waqf* fund (wherein the certificates would represent a right to the beneficial income although not legal ownership in the underlying assets, as per *waqf* principles). The allocation and management of such social capital by Islamic banks through investment certificates and the revival of community orientated, decentralised cash based *awqaf* would allow for mitigation of what has previously been seen as the major hazard/risk pertaining to *awqaf*, namely the mismanagement of cash by the designated *mutawillis* (trust managers). Sadeq (2005) and Kamali (2005) argue that successful and professional management of trust-based *awqaf* community projects would be best orchestrated professionally by Islamic Banks, due to their prior commitment to best practices and standards already in existence with investment funds.

Whilst Islamic banks, being commercial banks, would find it difficult to transform the structure of their balance sheet portfolios, as that would risk compromising deposit or savings usually mandated to be protected by state regulatory authorities; such *waqf* funds, in a manner akin to investment funds could effectively operate off-balance sheet (See *Figure 3 below*). This would be particularly feasible, as

most Islamic banks operate a mandated charity account, thereby allowing them to add seed money to the fund as charity, in addition to managing the funds with a profit generation incentive.
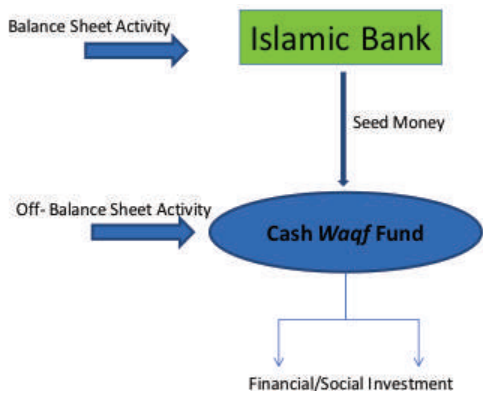
(Source: Author's own)
Figure 3   The Waqf Fund as an Off-Balance Sheet Activity

The adoption of a model such as that of *awqaf* which does not place the maximisation of profits as its primary objective, thereby allows for a combination of managerial efficiency and community participation. In such models parent Islamic banks alongside local community and government representation could then be tasked with maintaining the perpetuity of such funds through interim provision of liquidity, if required. Recent developments in the industry indicate that there are institutions paying heed to such opportunities as *The Meezan Bank* of Pakistan, in their founding of the *Ihsan Trust* (www.ihsantrust.org), currently manage a cash *waqf* that provides development microfinance, benevolent loans, and educational grants for financial assistance; all provisioned as the charitable arm of the Bank itself (thereby utilising its seed money in the manner described previously).

All of this indicates that IFIs through setting up cash *waqf* funds would be ideally placed to provision and support the funding gap that CLT and SOC projects typically face. As any financing would typically involve zero cost of capital and as much of the fund's income could be generated from endowments, the socially rewarding aspects of community projects such as affordable housing could be placed at the forefront alongside expected financial returns. Locally placed projects could also seek to attract direct investment from the community, a process best effected through community based securitisation.

Securitisation for the Greater Good

Alongside such a modern revival of *awqaf*, IFIs could also utilise contemporary financial techniques such as financial securitisation within a community remit. Whilst in an institutional context most Islamic securitisation has effectively sought to replicate the structures of bonds, a fact that can be attributable to point that Islamic Finance assumes the organisational structure, law, regulation and general market framework of commercial banking. It is notable that the adoption of a *waqf* framework within Islamic banking would allow IFIs to break away from this remit. The potential model of an embedded corporate *waqf* has begun to bear fruit in places like Malaysia[5] and could be augmented and better supported by IFIs across the world.

Waqf funds could then be supplemented by IFIs promoting localised community involvement through the selling of *waqf* certificates. Essentially, these certificates would represent a potential right to income (if such profit/income is generated) from underlying *waqf* assets for a limited period, but not an ownership in the underlying assets. A typical structure could be a BOT (Build-Operate-Transfer) concession contract, whereby *waqf* assets could be built and developed on the premise of future rentals accruing to certificate holders for a limited period, following which the beneficial income from the assets in their entirety would transfer back to the fund. Funds generated thus in return from such potential, limited, circumscribed beneficial ownership could then be used to provision funds for the development and purchase of future community facilities and assets intended to function as endowments. The distinguishing point of these instruments/certificates would be that alongside an investment opportunity, they represent a philanthropic contribution towards local community empowerment. To further the spirit of such charitable endowments, the certificates could be bought in one's own name or in the name of someone deceased.

Whilst a myriad number of uses of such funds collected through a *waqf* certificate program could be employed, it is possible to foresee social needs such as affordable housing being at the very forefront. In that regard this vehicle would be ideal for providing funding to CLT-SOC projects that could subsequently generate income and returns from the rental of property and land. Pre-development finance could be provisioned by securitising future rentals through the unitisation of potential rental income to certificate holders for a limited duration, after which the rentals would continually support the *waqf* fund itself. Such a possible structure has been already discussed in the context of proposals by academics such as that of the *Community Land Partnership*.

The Community Land Partnership

Alongside traditional financing (debt/equity), recent times have seen novel ideas with regards to funding CLT-SOC structures through the securitisation of future rental income by the process of unitisation. *Chris Cook*, a Senior Research Fellow at the University College London (UCL) advocates what he terms a *Community Land Partnership* (CLP), a structure wherein future rental income in the form of "units" is sold at a discount to provide upfront financing for development costs.

It is important to note that the CLP is not an organisation but an innovative use of a UK specific "legal wrapper" model called the *Limited Liability Partnership* (LLP). Cook argues that the LLP approximates the basic Islamic notion of *Partnership of Person*, which is, by definition, an approximation of the current concept of limited liability (Swinson, 2004). The LLP model therefore acts as a consensual framework agreement encapsulating various relationships and rights pertaining to shared equity (in this case land and developed property) and achieves them in the context of a CLP as follows:

    i.   **Custodian** – who holds the land in perpetuity (operationally the CLT);
   ii.   **Occupier** – who occupies the land and buildings;
  iii.   **Investor** – who introduces money or "money's worth" in land, property, materials, labor etc. (operationally the Housing Association, Fund, Bank or even private investor) and;
  iv.   **Manager** – who develops and manages/maintains the developed land.

According to Cook, rental income from the Occupier can then be "unitised" and sold to Investors as undated credits issued at a discount by the Custodian. In principle, the rentals themselves could then be index-linked (to property values; wages; prices or any combination deemed fit) and Occupiers could themselves become Investors by paying more rental than that due, thereby acquiring units in the pool of future rentals.

Cook's proposed structure holds particular potential for Islamic Finance as the securitisation of future rentals is a dominant structure already employed in the form of *ijarah* (rental-based) *sukuk*. Whilst such *sukuk* currently tend to act as Islamic Capital Market Products and are typically traded in high volume between both Islamic and conventional finance institutions (Ali, 2005), the potential for their adaptation at a more community-focused *waqf* level is immense. This has recently been potentially demonstrated through a series of innovative large-scale transactions concerning development in Mecca.
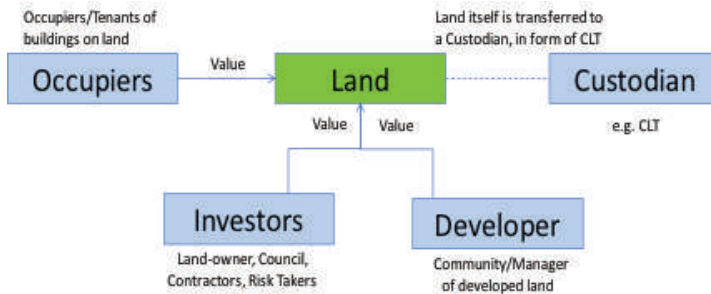
(Source: Author's adaptation of Cook's structure)
Figure 4   **Relationship between various parties in a CLP**

Waqf Sukuk: Proof of Concept

Amongst the most notable *waqf sukuk* is the construction of the Zam Zam Tower complex, incorporating several five-star chain hotels, a multiplex shopping centre and residential spaces ranging from studios to royal suites, opposite the Grand Mosque in Mecca. With this complex being built upon *waqf* land as part of the Grand Mosque in Mecca; instead of being sold, the land was leased to a Real Estate development company on a BOT (Build-Operate-Transfer) concession contract for 28 years. Having usufruct rights over a 28 year lease period, the company was then able to raise funds for the project through an innovative *waqf sukuk,* wherein possessors of the certificates would hold usufruct rights for 24 years (4 years less than the 28 years, thereby covering constructions costs for the building period). Investors in such certificates effectively held a pro-rata share in the sub-lease rental income over 24 years, with the development company making a profit through the rental differentials. The end result thus represented a win-win for all, allowing for a re-transfer of the multi-functional complex back into the possession of the *waqf* after 28 years. Noticeably, this *waqf sukuk* was oversubscribed by 135 percent in two years and the development company estimated a rate of return on investment in the region of 26 percent per annum (Ahmed, 2004, p.128).

The remarkable demonstration of 'proof of concept' of the Zam Zam Towers *waqf sukuk* on such a large industrial scale indicates that the concept could be likewise successfully replicable in local, communitarian projects. The fact that the structure of the *waqf sukuk* is almost identical to Chris Cook's proposed structure of *Community Land Partnership* augers well for the development of such *waqf sukuk* on a local scale by IFIs.

What this indicates is that the potential upfront capital commitment of IFIs in facilitating such CLP models would be minimal, as it could source such funds through *waqf sukuk* or *waqf* certificates. In return as Ahmed (2007) advocates, IFIs could then charge management fees through the offering of a range of *waqf* management services ranging from custody, estate management, investment management and general advisory services (Ahmed, 2007 and 2011). The result would be a potentially changed dynamic with regards to the interaction between IFIs and social finance, one that resonates with the founding principles originally advocated by Islamic finance's early proponents.

More than just an Alternative Mode of Finance

Islamic Finance was not intended simply to replicate modern mainstream financial norms with an Islamic label. Similarly, pioneers of alternative financial models such as CLTs and SOCs did not see their proposed solutions as being stand-alone entities but rather facets of an entirely different financial movement. Early proponents of CLTs such as *Robert Swann* (Swann, 1989) envisaged community orientated, decentralised, democratic economics and saw CLTs as advocating a vital set of means to encourage local, bioregional economies. In this manner he and others of similar ilk were inspired by alternative economists such as *E.F. Schumacher* who argued in his book Small is Beautiful: Economics as if people mattered that from a truly economic point of view the most rational way to produce is *"from local resources, for local needs"* (Schumacher, 1989). Socio-economic activists such as Swann, Schumacher and others foresaw such movements as being in opposition to modern day market economics, which effectively prioritised *"Profit over People"* (Chomsky, 1999). It was in response to this imperative that they advocated for ownership of land, natural resources, industry and the determination of conditions for receiving credit to be de-centralised, such that they could all be more responsive to local and regional needs and conditions. Within this framework, CLTs and SOCs were intended to help facilitate the decentralisation of the control of land and financing in order to better serve local people in a more equitable way. All of this stated agenda could be said to be akin in spirit to the nature of community orientated, decentralised, endowed economies that characterised the Muslim world during its golden period in the middle ages.

In contrast, today's modern day IFIs with their debt-based, impersonal "financing", best illustrated in the realm of property through each of the dominant forms of Islamic home finance (be they *Murabaha, Ijara Muntahia Bitamleek or Diminishing Musharaka*) all imitate the cash-flow and economic effects of a modern day interest-based mortgage. When we reflect upon the fact that property

is the dominant asset by which most banks produce credit or money, as the Chairman of the Financial Services Authority (UK) Lord Adair Turner states, *"over 75% of banks' lending (and hence money creation) goes into property"* (The Independent, 2012), IFIs operating within the parameters of banking are to be expected to follow suit. If the current practice of reductive focus on transactional validity within Islamic Finance has arguably unwittingly co-opted its institutions into a debt-based, interest-inspired logic, it is no surprise that Islamic home financing currently seeks to mimic interest-debt financing through debatable contractual means. The result, as *Maulana Akram Nadwi* notes is that, *"the instruments and transaction contracts that are billed under Islamic finance …build or propose legal solutions on the pattern of terminology and contracts… without any regard for whether the general outcome to which these contracts contribute is even tolerable, let alone desirable (Nadwi, 2013)"*.

This paper states that there is a way to change this. It concludes that IFIs can rectify this malpractice of lack of vision by seeking synergy with initiatives that focus on counteracting the effects of interest such as CLTs and SOCs, rather than normalising those that have arisen out of it, such as Banks and debt based mortgages. If contemporary bank lending for mortgages is not only the primary cause for property price inflation, but also brings about the effective privatisation of land, real estate and other assets in the hands of an increasingly receding privileged financial elite, thereby favoring the financial economy in preference to the real one – is it not time that Islamic Finance thought outside of the "banking" box? Rhetoric aside, Islamic Finance scholars and practitioners owe it to their profession and training to employ a wider lens when engaging in analysis of current products detailing the home finance space. As this paper highlights, a detailed look at the revival of community orientated cash *awqaf* alongside the use of similarly geared *waqf sukuk* could provide financial support for CLT and SOC inspired projects. Movement in the right direction allows for the opportunity of failure to become success, whereas that in the wrong direction only amounts to successful delusion; it's time IFIs paid heed to the perennial question:

"So where then are you headed?"
[Qur'an: 81: 26]

Policy Recommendations
- Islamic Banks in support with Central Banks can establish cash *waqf* funds as off-balance sheet investment funds.[6]
- These cash *waqf* funds can have their own independent governance structures overseen by Central Bank authority. Their Boards should consist

of local community representatives, thereby establishing a separation between the parent commercial bank entity and the *waqf* fund; akin to Glass–Steagal Legislation.

- Ideally the cash *waqf* should establish sister relationships with cash *awqaf* of other Islamic Banks, allowing for mutual indemnification along takaful/re-takaful lines.

- The priority of investment activities of any cash *waqf* should be socially orientated, of local jurisdiction and benefit such as affordable housing.

- Investment opportunities into affordable housing and other social ventures could also involves solicitation of funds from public through *waqf sukuk* certificates.

- These Certificates would represent pro-rate share of income/revenue to be derived from projects under the cash *waqf* funds such as affordable housing.

- An example project would be a Community Land Partnership (see paper), which would allow for an efficient use of securitising future rental income to fund a BOT (Build-Operate-Transfer) model that eventually transfers the housing infrastructure and land into the corpus of the fund.

- Eventually a nationwide Community Land Trust/cash *waqf* fund can be developed by government authorities, to provide interim financial support to the privately run cash *awqaf*, thus assisting their funds perpetuity along Waqf lines.[7]

References

Ahmed, H. (2004). *'Role of Zakah and Awqaf in Poverty Alleviation'*. Occasional Paper No. 8. Jeddah KSA.: IRTI. Available from: http://www.irtipms.org/PubText/201.pdf [accessed 06 May, 2014].

Ahmed, H. (2007). *Waqf-Based Microfinance: Realizing the Social Role of Islamic Finance*. Paper written for the International Seminar on *"Integrating Awqaf in the Islamic Financial Sector",* Singapore. Available from: http://imfn.org/images/Litrature/Waqf-Based%20Microfinance%20Realizing%20The%20Social%20Role%20Of%20Islamic.pdf [accessed on 06 May, 2014]

Ahmed, H. (2011). *Waqf as a Sustainable Social Enterprise: Organisational Architecture and Prospects*. Global Islamic Finance 32-39.

Ahmad, T. (2010). *Integrating the Awqaf into the Islamic Financial Sector*. Unpublished.AHURI, Australian Housing and Urban Research Institute, (2011). *Gentrification and displacement: the household impacts of neighbourhood change*. AHURI Final Report No. 160.

Armor, J. Hansman, H. and Kraakman, K. (2009), *The Essential Elements of Corporate Law*, University of Oxford, Legal Studies Research Paper No. 20/2009.

Asutay, M. (2004). *MFP 211 Research Methodology in Social Sciences; Lecture 5: Research Methodology*. Markfield U.K: M.I.H.E.

Asutay, M. (2007) *"Conceptualisation of the Second-best Solution in Overcoming the Social Failure of Islamic Banking and Finance: Examining the Overpowering of Homo Islamicus by Homo Economicus,"* IIUM Journal of Economics and Management 15, no. 2, pp. 167-95.

Asutay, M. (2008), *Islamic Banking and Finance: Social Failure*. New Horizon (169), pp. 1-3.

Asutay, M. (2012), *Conceptualising and Locating the Social Failure of Islamic Finance: Aspirations of Islamic Moral Economy vs. the Realities of Islamic Finance*. Asian and African Area Studies 11(2), pp. 93-113.

Ali, Salman, Syed (2005) *"Islamic Capital Market Products: Developments and Challenges"* Section 3.2, Jeddah: Islamic Research and Training Institute, Islamic Development Bank.

Barker, K. (2004), *Delivering Stability: Securing our Future Housing Needs: Final Report—Recommendations*, Review of Housing Supply, London, HM Treasury.

Bank of England Speech, (2007). *Paul Tucker, Executive Director, Monetary Policy Committee, Bank of England*. Available at: http://www.bankofengland.co.uk/publications/Documents/speeches/2007/speech331.pdf [accessed 26 March, 2014]

Bakan, J. (2005), *The Corporation: The Pathological Pursuit of Profit and Power*, Free Press.

Baqir al-Sadr, M. (1968; 2:648). *Iqtisaduna*, Beirut, Dar al-Fikr.

Business Wire News database, (2009). *Two top economists agree 2009 worst financial crisis since great depression; risks increase if right steps are not taken*. Available at: http://www.reuters.com/article/2009/02/27/idUS193520+27-Feb-2009+BW20090227 [accessed 04 February, 2014]

Brown, E.H. (2008), *Web of Debt: The Shocking Truth About Our Money System and How We Can Break Free*, Third Millennium Press.

Brown, E. (2012). *It's the Interest! Why Bankers Rule the World*. See: http://truth-out.org/news/item/12605-its-the-interest-stupid-why-bankers-rule-the-world> [accessed 26 March, 2014]

Bryman, A. and Bell, E. (2007), *Business Research Methods*, 2nd ed., Oxford University Press.

Carswell, A. ed. (2012), *"Shared Equity Homeownership"* The Encyclopedia of Housing (Second Edition), (Los Angeles, CA: Sage Publications, pp.666-670).

Chapra, U. (1970: 54). *The Economic System of Islam: A Discussion of its Goal and Nature*. London: Islamic Cultural Centre.

Chapra, U. (2000). *The Future of Economics- An Islamic Perspective*. Markfield, U.K: The Islamic Foundation.

Chomsky, N. (1999). *Profit Over People: Neoliberalism and Global Order*. Seven Stories Press.

Çizakca, M. (1998). *Awqaf in History and its Implications for Modern Islamic Economies*, Islamic Economic Studies, Vol. 6, No. 1, November 1998. Available at: http://waqaf.org.my/wp/wp-content/uploads/2013/11/Awqaf-in-History-and-its-Implications-for-Modern-Islamic-Economies-Murat-Cizakca.pdf [accessed 03 May 2014]

Çizakca, M. (2002). *"Latest Developments in the Western Non-Profit Sector and Implications for Islamic Waqf"*, in M. Iqbal (Ed), Islamic Economic Institutions and the Elimination of Poverty. (pp. 263-297). Markfield, U.K: The Islamic Foundation.

Çizakca, M. (2004). *Ottoman Cash Waqfs Revisited: The Case of Bursa 1555-1823*. Manchester: Foundation for Science Technology and Civilisation (FSTC Limited).

CLT Legal Toolkit, n.d. *The National CLT Network UK: CLT Legal Toolkit*. Available at: http://www.communitylandtrusts.org.uk/resources/toolkits/Legal-Toolkit [accessed 28 April, 2014]

Cohen, L., Manion, L. & Morrison, K. (2000). *Research Methods in Education*, 5th Edition, London: Routledge Falmer.

Community Finance Solutions, (2009). *Lessons from the first 150 Homes: Evaluation of the National Community Land Trust Demonstration Programme 2006-2008*. Available from: http://www.communitylandtrusts.org.uk/upload/public/Publications/150homes.pdf [accessed 04 May, 2014]

Council of Mortgage Lenders, (n.d.) *Growth in buy-to-let faster than market as whole*. Available at: http://www.cml.org.uk/cml/media/press/1112 [accessed 23rd February, 2014]

Dar, H. (2002). *Growing Mainstream Relevance of Islamic Finance. A Critical Review of Recent Literature*. Review of Islamic Economics, 11, pp 63-72

Davis, J.E. and Demetrowitz, A. (2003), *Permanently Affordable Homeownership: Does the Community Land Trust Deliver on Its Promises? A Performance Evaluation of the CLT Model Using Resale Data from the Burlington Community Land Trust. Burlington Community Land Trust*. Available from: http://www.community-wealth.org/sites/clone.community-wealth.org/files/downloads/report-davis.pdf [accessed 11 March, 2014]

Davis, J.E. (2006), *Shared Equity Homeownership: The Changing Landscape of Resale-Restricted, Owner-Occupied Housing*. National Housing Institute. Available from: http://www.nhi.org/pdf/SharedEquityHome.pdf [accessed 02 March, 2014]

Davis, J.E. (2008). *"Homes that Last: The Case for Counter-Cyclical Stewardship"*. Shelterforce. Available from: http://shelterforce.org/article/homes_that_last/ [accessed 04 May, 2014]

Davis, J.E. ed. (2010), *The Community Land Trust Reader*. Lincoln Institute of Land Policy.

Deborah, O. (2012). Guardian Online: *Yes, banking's a mess, but be part of the solution*. Move your money! See: http://www.guardian.co.uk/commentisfree/2012/jul/13/deborah-orr-better-banks-move-money [accessed 26 March, 2014]

Delorenzo, Y.T. (1999), *Murabaha, Sales of Trust, and the Money-value of Time, Harvard University Forum on Islamic Finance: Islamic Finance into the 21st Century*. Cambridge, Massachusetts. Center for Middle Eastern Studies, Harvard University. 1999. pp. 145-150.

Diwany, T.E. (2003), *The Problem With Interest*, Kreatoc Ltd.

Dyson, B. (2011). Guardian Online: *Money has been Privatised by Stealth*. See: http://www.guardian.co.uk/commentisfree/2011/nov/15/money-privatised-stealth> [accessed 26 March, 2014]

East London Community Land Trust (ELCLT), n.d. *East London Community Land Trust: A Case Study*, Community Finance Solutions. Available at: http://www.communitylandtrusts.org.uk/upload/public/Case%20Studies/East%20London%20Community%20Land%20Trust.pdf [accessed 01 May, 2014].

Economist, *"Sell em' dear"*, Available from: http://www.economist.com/blogs/buttonwood/2009/07/sell_em_dear. [accessed 23rd February, 2014].

Ernst and Young, *World Islamic Banking Competitiveness Report 2013–14*. Available at: http://emergingmarkets.ey.com/wp-content/uploads/downloads/2013/12/World-Islamic-Banking-Competitiveness-Report-2013-14.pdf [accessed 06 March, 2014].

Eisenstein, C. (2007), *The Ascent of Humanity*, Panenthea Productions.

Eisenstein, C. (2011), *Sacred Economics: Money, Gift, and Society in the Age of Transition*, Evolver Editions.

El-Gamal, M. (2000), *The Economics of 21st Century Islamic Jurisprudence*. Available from: http://www.ruf.rice.edu/~elgamal/files/jurists.pdf [accessed 06 March 2014].

El-Gamal, M. (2001), *"Interest" and the Paradox of Contemporary Islamic Law and Finance*. Available at: http://www.ruf.rice.edu/~elgamal/files/interest.pdf [accessed 06 March, 2014].

Greater London Authority (GLA), (2004). *Community Land Trusts & Mutual Housing Models*. Available at: http://www.andywightman.com/docs/community_land_trusts_models.pdf [accessed 01 May, 2014].

Hasan, Z. (2005a). *"Islamic Banking at the Cross Roads: Theory Versus Practice"*, in Iqbal, M. and Hassan, Z. (2005b). *"Evaluation of Islamic Banking Performance, On the Current Useof Econometric Models"*, in Islamic Economics and Banking in the 21st Century, paper presented at the 6th International Conference on Islamic Economics and Finance, Jakarta, Indonesia, November 21-24, 2005, (1), pp. 229-248.

Hasan, Z. (2004). *"Measuring the Efficiency of Islamic Banks; Criteria, Methods and Social Priorities"*. Review of Islamic Economics 8 (2), pp. 5-30.

Housing Strategy Statistical Appendix Data, (2010). *Communities and Local Government, UK*. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6910/2039199.pdf

Hussey, J. and R. Hussey, (1997) *Business Research: A Practical Guide for Undergraduate and Postgraduate Students*. London, Macmillan.

Iqbal, M & Molyneux, P. (2004). *Thirty years of Islamic Banking; History, Performance and Prospects*. U.K.: Palgrave Macmillan.

Iqbal, M & Wilson, R. (2006). *Islamic Perspectives on Wealth Creation*. Edinburgh U.K.: Edinburgh University Press.

Kahf, M. (1995). *Waqf: The Oxford Encyclopedia of the Modern Islamic World*. New York: Oxford University Press.

Kahf, M. (2004). *Shariah and Historical Aspects of Zakah and Awqaf*. Jeddah: Paper prepared for Islamic Research and Training Institute, Islamic Development Bank.

Keller, N. (1994). *The Reliance of the Traveller*. Amana Publications.

Kennedy, M. (2012), *Occupy Money: Creating an Economy Where Everybody Wins*, New Society Publishers.

Korten. D.C (2001), *When Corporations Rule the World*, Berrett-Koehler Publishers

Korten. D.C (2010), *Agenda for a New Economy: From Phantom Wealth to Real Wealth*, Berrett-Koehler Publishers

Locke, L.F., Silverman, S.J. & Spirduso, W.W. (1998). *Reading and Understanding Research*. Thousand Oaks CA: Sage Publications.

Mawdudi S. A. A. (1969:436). *Ma'shiyat-e-Islam (Urdu)*. Lahore: Islamic Publications.

National Statistics, (2010). *Housing Statistical Release: Household Projections, 2008 to 2033,* England. Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6395/1780763.pdf [accessed 04 May, 2014].

New Economics Foundation (NEF) (2003), *Common Ground – for Mutual Home Ownership: Community land trusts and shared-equity co-operatives to secure permanently affordable homes for key workers*, The New Economics Foundation. Available from: http://www.neweconomics.org/sites/neweconomics.org/files/CommonGround.pdf [accessed 18 February 2014].

Obaidullah, M. (2014), *Engineering a Waqf for Adahi: Awqaf New Zealand*. Available from: http://sadaqa.in/2014/04/15/engineering-a-waqf-for-adahi-awqaf-new-zealand/ [accessed 05 May, 2014].

Parker, M. (1996 October; 10:2). *"Beware of the Costly Corner-Cutter"*. Islamic Banker.

Parker, M. (2004 April; 2:99). *"In Search of Islamic Banking's Corporate Man"*. Islamic Banker.

Parker, M. (2005, March/April). *A Tale of Two Corporate Identities*. Islamic Banker 10/11, p. 6-7.

Paterson, B & Dayson, K. (2011). *Proof of Concept: Community Land Trusts, Community Finance Solutions*, University of Salford Publication. Available from: http://www.communitylandtrusts.org.uk/upload/public/Publications/Proof%20of%20Concept%20Final.pdf [accessed 01 May, 2014].

Positive Money, n.d. *The Money Multiplier and other Myths about Banking*. Available from: https://www.positivemoney.org/how-money-works/advanced/the-money-multiplier-and-other-myths-about-banking/ [accessed 28 April, 2014].

Rowbotham, M. (1998), *The Grip of Death: A Study of Modern Money, Debt Slavery and Destructive Economics*, The Cromwell Press.

Ryan-Collins. J, Werner. R and Greenham. T (2011), *Where does Money come from? A guide to the UK Monetary and Banking System*, NEF (the new economics foundation).

Salomon, L.M. & Helmut, K.A. (1997), *Defining the Non-profit Sector, A Cross-National analysis*. Manchester and New York: Manchester University Press.

Schumacher, E.F. (1989) *Small is Beautiful: Economics as If People Mattered*. New York: Harper Perennial.

Sen, A. (1987), *On Ethics and Economics*. Oxford: Basil Blackwell.

Shelter: The Housing and Homelessness Charity (2013), *Food for Thought: Applying House Price Inflation to Grocery Prices*, Shelter Policy Library. Available from: http://www.shelter.org.uk [accessed 18 February, 2014].

Speth, J.G. (2008). *The Bridge at the Edge of the World: Capitalism, the Environment, and Crossing from Crisis to Sustainability*, 1st ed. Yale University Press.

Siddiqi, M.N. (2000). *"Islamic Banks: Concept, Precepts and Prospects"*. Review of Islamic Economics, 9 (1), pp. 21-35.

Siddiqi, M. N. (2008).*"Obstacles to Research in Islamic Economics"*, Proceedings of The Seventh International Conference on Islamic Economics, Islamic Economics Research Center, KAAU, Jeddah, April 1-3, 2008. Available from: http://islamiccenter.kaau.edu.sa/7iecon/English/English%20Contents.htm [accessed 5 May, 2014].

Swann, R; Benello, C. and Turnbull, S. (1989). *Building Sustainable Communities: Tools and Concepts for Self-Reliant Economic Change*. New York City, NY: Bootstrap Press.

Swinson, A. (2004). *"On the trail of a new animal"*, Regeneration and Renewal Magazine, pp. 20–21.

Troidos Bank, *Business Banking FAQs: Do you lend to Community Land Trusts (CLTs)?* [online] Available from: http://www.triodos.co.uk/en/business/service/faq/?faqId=138281 [accessed 04 March 2014].

The Independent Blog, *"Why exactly is it expensive for us to buy a home?"* Available at:http://blogs.independent.co.uk/2012/08/28/why-exactly-are-homes-so-expensive/ [accessed 23 February, 2014].

Parker, M. (2005, March/April). *"A Tale of Two Corporate Identities"*. Islamic Banker 10/11, pp. 6-7.

UN-Habitat (2010). *World Population Prospects*, The 2010 Revision, New York: United Nations.

Usmani, T. (2008). *Sukuk and their Contemporary Applications*. Available from: http://www.muftitaqiusmani.com/images/stories/downloads/pdf/sukuk.pdf [accessed 06 May 2014].

Warde, I. (2000). *Islamic Finance in the Global Economy*. Edinburgh: Edinburgh University Press.

Wilson, R. (eds.), *Islamic Perspectives on Wealth Creation*. Edinburgh: Edinburgh University Press, pp. 11-25.

Wilson, R. (1997). *"Islamic Finance and Ethical Investment"*. International Journal of Social Economics, 11(1), pp. 51-62.

Zarqa, M.A. (1994). *"Financing and Investment in Awqaf Projects: A Non-Technical Introduction"*. Islamic Economic Studies, 1 (2), pp. 55-62.

Zaman, A. (2008), *Islamic Economics: A Survey of the Literature*. Unpublished.

Notes

*   The Author is a Chartered Sharia Auditor and Advisor formally certified by the Accounting and Auditing Organization for Islamic Financial Institutions, currently working for a GCC based Islamic Bank as a Manager in charge for Sharia Consultation and Documentation. Having received formal training in Islamic wills and inheritance tax and investment planning in the UK, he is also qualified as a UK Chartered Independent Financial Advisor. Email: yusuf.jha@gmail.com.

1.   Whilst such controls may raise objections with free market principles within both the conventional and Islamic finance space, it is important to note that mainstream Islamic finance like its conventional counterpart regularly employs

resale price cap mechanisms in the context of sale, lease and buy-back transactions regularly employed for financing and sukuk, in a manner akin to a financial lease. If Islamic finance scholars can accept such modus operandi to effectively mimic the financing mechanics of an interest based loan, it is expected that such controls to promote a greater social good like affordable housing would attract similar if not more support.

2. See website: http://www.glenkerry.org.uk/
3. The Community Land Trust Fund is an approximately £2m fund managed by the Charities Aid Foundation set up to assist the development of CLTs throughout the UK. See: http://www.cltfund.org.uk/about [accessed 05 March, 2014].
4. This could be posited as the real reason why Organizational Tawwarruq though effectively deemed non-Shari'a compliant by AAOIFI continues to be in widespread use across Islamic Financial Institutions; i.e. they have to mimic an interest based loan for short-term liquidity requirements due to institutional expectations (Khan, 2009). Similar arguments and 'expectations' could be extended to a whole plethora of Islamic Finance products.
5. See for example the Waqaf An-Nur Corporation Berhad (WANCorp), essentially being a Corporate Waqf run and managed by the Johor Corporation (JCorp), itself a State Investment Corporation in the state of Johor, Malaysia. Amongst the flagship initiatives of the corporate Waqf are: owning and managing a chain of 17 clinics and a full-fledged hospital, providing start-up capital for Microenterprises, Disaster relief and the management of a chain of seven mosques catering to over 15,000 worshippers (Obaidullah, 2014).
6. See Ihsan Trust of Meezan Bank, Pakistan, as a potential model: http://www. ihsantrust.org/
7. See Community Land Trust Fund supporting CLTs in England and Wales: http:// www.cltfund.org.uk/

ECONOMIC BENEFITS OF RISK SHARING

Abdul Karim Abdullah*

Abstract: Discussions of the benefits of risk sharing tend to be confined to benefits at the company level. These include remaining debt-free and the fact that capital, unlike borrowed funds – apart from listing, legal and other fees – comes at zero cost. What tends to be overlooked is that the use of risk sharing also brings major benefits to society at the macro-economic level. Specifically, it contributes to the realisation of the leading economic objectives of government stabilisation policies. These include an efficient allocation of resources, full employment, stable prices, robust growth, a more even distribution of wealth, and greater cyclical stability. Thus, channeling capital into investment by means of risk sharing in preference to borrowing at interest can significantly alleviate the macro-economic problems currently plaguing most industrialised economies.

Introduction

The extensive use of debt financing, compared to equity financing, is of relatively recent origin. Only with the rise of "financialisation" in the 1970s, characterised by increasingly lax regulatory regime and a *laissez faire* attitude on the part of regulatory authorities, did debt financing become the chief form of financing investment in most industrialised nations. Since the last (2007) economic and financial crisis, however, the disadvantages of debt financing are becoming increasingly clearer.

The root cause of the problem is the use of interest to motivate economic activity in preference to profit. The view that few major differences exist between interest and profit as incentives for allocating resources efficiently rests on an analysis of the underlying forces that motivate economic activity that is far from convincing. In other words, the problem is as much theoretical as well as practical.

The view that there is little difference between profit and interest facilitated not only the acceptance of interest as a legitimate incentive for motivating economic activity, but also the subsequent proliferation of debt over equity financing. However, the rapid increase in the utilisation of debt financing brought a range of harmful consequences.

Over the last few decades, nations that use interest as an incentive for the allocation resources have been sinking deeper and deeper into debt with no solution in sight.[1] Social services are being scaled back as funds are being diverted from funding public services to repay loans with interest. Some governments, including that of the largest economy operate as it were on the verge of insolvency, with the threat of government shutdown due to insufficient funds being an ever-present threat.

To make matters worse, many indebted nations have high levels of unemployment, significant inflation, and slow or declining economic growth. Added to this is the chronic instability caused by fluctuations in the volume of credit in the form of business cycles as well as an increasingly uneven distribution of wealth.

These problems can in principle be solved if their true cause is rightly understood, and suitable remedies are put in place. There needs to be greater awareness of the harm to society caused by interest-based financing and the corresponding benefits of the utilisation of risk sharing in financing economic activity.

The problems of the modern economies stem from the use of interest-based financing to fund consumption, investment and government spending. At a more basic level, they stem from the continued utilisation of the fractional reserve system of banking, without which interest-based financing would not be possible in the first place.

Fractional reserve system of banking

The fractional reserve system of banking allows financial institutions to operate with only a fraction of its short-term liabilities (deposits) in the form of liquid assets. This introduces a degree of instability into the banking system from the outset and exposes the bank to a risk known as the risk of a "run on the bank."

The fractional reserve system of banking also allows banks to operate outside of the real sector and gain interest income for their shareholders without contributing in any palpable way to economic activity (production). Moreover, the fractional reserve system of banking allows the financial institutions collectively to "create" money vastly in excess of the cash and coins in circulation.

"Created" money comes into existence as a result of bookkeeping entries made by financial institutions on their balance sheets. In other words, money "created" by financial institutions comes into existence without even being obtained in exchange for lending – the way interest income is gained. Apart from the ethical questions that permitting financial institutions to "create" money in this way raises, the fluctuations in the volume of "created" credit explains to a considerable degree the cyclical swings in economic activity.

The fractional reserve system not only allows financial institutions to "create" money without "earning" any part of it. It enables consumers, producers and even governments to spend money *that has not been earned by anyone*, including in particular the borrowers.[2]

The expenditure of created funds causes inflation, especially in the short term. In the longer term, financing expenditure using "created" funds has precisely the reverse effects.

As borrowers repay loans with interest, the money borrowed and spent is gradually withdrawn from circulation. However, the total amount withdrawn over the entire cycle of borrowing, expenditure and repayment is invariably higher than the total initially injected into the real economy when borrowed funds were spent.[3] One consequence of the excess of leakages over injections, over the entire cycle of expenditure of borrowed funds and their repayment is a contraction and a rise in unemployment that comes with it.[4]

Remedies that have been used to overcome recessions have brought mixed results. Attempts to accelerate growth using Keynesian stimulus spending amount to little more than solving one problem (unemployment) in the private sector by creating another problem in the public sector (fiscal deficit) or making it worse. The result is an increase in the national debt, reduced social services, and fewer funds left for development and the provision of public amenities.

The main reason for the ineffectiveness of conventional stabilisation policies is that nearly all analysis takes place within a fundamentally flawed theoretical framework. The major flaw in the Keynesian paradigm is the assumption that interest, as an incentive for ensuring an efficient allocation of resources, is no different from profit.

While Keynes has been rightly credited with the idea that the economy can experience equilibrium even at levels of less than full employment, he nevertheless remained firmly attached to the view that financing investment by borrowing at interest is not only ethically acceptable, but even economically sound in the sense that it helps to allocate resources efficiently.[5]

In fact, interest-based lending *reduces* the efficiency with which resources are allocated, and causes other harm besides.[6] The reduction of efficiency manifests itself in a range of adverse effects. These include inflation, unemployment, slow or declining growth, uneven distribution of income and cyclical instability in the form of business cycles.

The realisation of the leading macro-economic objectives will thus require a re-structuring of the economic system. In particular, it will require phasing out interest-based financing and replacing it with risk sharing. The macroeconomic benefits of such a transformation would include an increase in the efficiency of the allocation of resources, stable prices, reduced unemployment, higher and sustainable growth, a more even distribution of wealth, and greater systemic stability.

Interest and efficiency

Investment is financed partly by using surplus funds known as "savings," or funds not spent on consumption. Savings can be channeled to business corporations

directly by purchasing ordinary shares. They can also re-enter the real sector less directly by being first deposited in banks. Subsequently, banks make funds available to corporations in the form of loans at interest. These two forms of financing are known as *equity* and *loan* financing, respectively.

The volume of savings available for investment has important effects on economic performance. Surplus funds are used to finance long-term investment. This increases future productive capacity and holds out the prospect of a higher standard of living. However, it is not enough to generate a sufficient volume of savings. The savings need to re-enter the real sector.

If any part of the savings remains within the financial institutions, investment will be lower than would be the case if *all* savings re-entered the real sector. However, the financial system in its current form is structurally unable to recycle *all* savings in the real sector, and in that way realise an efficient allocation of resources. The reason for this is that under the current, interest-based regime, a part of the savings is prevented from re-entering the real sector. This diversion takes place as a result of the fact that banks offer guaranteed and predetermined interest income to parties with surplus funds. This interest income acts as a disincentive for investing in the risk-filled real sector.

With the prospect of gaining guaranteed interest income, and in amounts specified in advance, some investors – in particular those averse to risk – will prefer to deposit their surplus funds in financial institutions rather than take a risk in the real sector. This can happen even in cases where real sector returns may be higher than the interest offered by financial institutions. The reason for this is that, even though the interest income gained from financial institutions may be lower, it is *guaranteed*.

Another reason why not all savings deposited in financial institutions may find their way back into the real sector is that surplus funds can be re-cycled only after a qualified party is able to borrow them.[7] A qualified borrower, in addition to posting acceptable collateral, needs to earn a minimum amount of profit. The availability of qualified borrowers may be limited.

A business needs to earn profit sufficiently high not only to pay interest, but also to repay the principal amount of the loan. Thus, earning a rate of profit that is at least equal to the rate of interest charged is not enough. A business that borrows at 8% per annum needs to earn profit on the capital borrowed that is higher than 8%.

The reason is that repayments of the principal amount need to be factored into the repayment schedule. Thus, in order to repay a given loan over a ten-year period, with monthly repayments, a business needs to earn a minimum rate of profit equal to 14.5 %. This means that all businesses earning rates of profit lower than this will be automatically disqualified from obtaining the loan.

In other words, loan financing effectively excludes all marginally profitable businesses from obtaining loan financing. This would appear to indicate that loan financing favours more efficient businesses, as these are generally also more profitable on account of their higher efficiency.

However, thin profits result not only from poor management; they are common in highly competitive industries. These include in particular the SMEs, the small and medium enterprises. Thus, financing businesses by lending tends to withhold loan financing precisely from businesses that most deserve to obtain them. The SMEs employ relatively large numbers of people. Restricting the flow of funds to SMEs thus makes the problem of unemployment worse. In this way, withholding investment funds from marginally profitable businesses reduces investment, employment and growth, all at the same time.

Equity financing, by contrast, has the opposite effects. When savings reach businesses in the form of investment, they come *from* and *remain in* the real sector. They are not withdrawn from circulation at any stage. The same, however, cannot be said about funds that enter the real sector in the form of loans.[8] These come from banks and eventually return to banks.

Risk sharing vs. risk transfer

Entrepreneurs can obtain funds for investment by giving up a share of ownership of a business enterprise to investors in exchange for capital or by borrowing at interest.[9] The first method requires the entrepreneur to take on partners and thus to share the ownership of his business and its profits with others.[10] The second method requires the entrepreneur to borrow and repay debt with interest.

Each method establishes a different relationship between the counterparties. The first establishes a partnership, while the second establishes a creditor/debtor relationship.[11] Each impacts the counterparties as well as the economy in different ways. The impact of creditor/debtor relationships is generally harmful. By contrast, partnerships bring a range of benefits at both the company as well as the economic level.

Partners agree to share the risks of a given business enterprise as well as any profits or losses arising from it, as the case may be.[12] The partnership has a common objective: to share risks, rewards and, if need be, losses.[13] Their interests are closely aligned.

By contrast, lending does not oblige capital providers to become co-owners of the company they finance. This can make (secured) lenders indifferent to the relative success or lack of it of the companies they finance, as they hold no direct stakes in those companies. The interests of lenders and entrepreneurs, in other words, are *only partially aligned*.

Lenders make funds available to entrepreneurs on condition that all funds be returned, along with a predetermined amount of interest, on a specific day in future.[14] Lenders expect both their returns (interest) and capital (principal amount of the loan) to be *guaranteed*. They are risk *averse*.

In a creditor/debtor relationship business risks are confined (transferred) by capital providers (lenders) to entrepreneurs. This takes place by means of *income* and *capital guarantees*, which protect lenders from losses.[15] The borrower must agree to these guarantees as a condition for obtaining the loan.

By contrast, in a partnership the entrepreneur is not obliged to return the investors' capital. Neither is he obligated to pay any rewards (dividends) to investors when the enterprise earns no profits. In this way, entrepreneurs who raise funds by means of risk sharing partnerships benefit from a reduced risk of bankruptcy. Entrepreneurs also benefit from remaining debt-free.

This holds true especially during economic downturns. Unlike parties that borrow to finance investment, entrepreneurs who raise funds on the basis of risk sharing are not legally obliged to maintain periodic payments to investors when their businesses earn no profits or incur losses.

Borrowers by contrast need to maintain repayments of loans in amounts determined in advance even during economic downturns, when they may be experiencing losses rather than earning profits. Moreover, borrowing obliges entrepreneurs to go into debt.

In other words, a creditor/debtor relationship is fundamentally *different* from a partnership. The lender shares the borrower's profits, but not his losses. Moreover, the lender's capital is guaranteed even if the entrepreneur were to go bankrupt. Should the borrower fail to make a single payment on time, he will be in default.

The rewards to investors and lenders are determined in different ways. Profit to investors is calculated as a proportion of total profit earned. However, the lender's share of the entrepreneur's profits (in the form of interest) is calculated as a proportion of the total amount of the loan. A specific percentage, unrelated to the efficiency of the business, is applied to the loan to arrive at the amount of interest that the entrepreneur must pay to the lender on dates specified in advance.

This means that the money paid in the form of interest, unlike profit, is not related in any way to the underlying efficiency of the business he is helping to finance by lending. This has far reaching implications on the efficiency with which resources can be allocated in a system that uses debt financing in preference to risk sharing modes of financing business investment.

Risk sharing

Risk sharing is used in both Islamic and conventional finance.[16] In Islamic finance, risk sharing takes place by means of partnerships known as the *mudarabah* and the *musharakah*. These partnerships issue certificates of ownership known as sukuk, normally for a specified period of time.[17] Participatory sukuk are similar to common shares. As partners, suppliers of capital share both risks and rewards with entrepreneurs.[18]

Risk sharing has a number of advantages. By pooling their resources, partners can increase the amount of capital at their disposal. This enables them to finance bigger projects. Partners can also offer advice to one another on the most effective ways to reduce the risks facing their business enterprise. Risk sharing also reduces the risk faced by any one partner.[19] The greater is the number of partners sharing the risk the lower is the risk facing each partner.

By taking on a single equal partner, an entrepreneur reduces his risk by fifty per cent. When three parties share the risk (equally) the risk is reduced by two thirds of what a single party would have to bear. The greater the number of parties sharing the risk, the lower will be the risk facing each party. The amount of risk decreases as the number of partners increases. Partners can also obtain capital at a lower "cost" over the long term if they raise it in the form of equity than if they borrow.[20]

Where the partners actively participate in the running of the business, the partnership is known as a *musharakah*, or a profit and loss sharing partnership. A partnership in which capital suppliers do not participate in the management of the business is known as *mudarabah* or a profit sharing partnership.

The *musharakah* and the *mudarabah* partnerships are both fiduciary contracts.[21] In the case of the *mudarabah*, the capital provider (*rabb al mal*) trusts another party, the manager (*mudarib*) with faithfully discharging his duties and managing the entrusted capital to the best of his ability for the purpose of earning a profit.[22] In the case of the *musharakah*, the capital provider exercises oversight over the management of the enterprise and may actively participate in managing it.

In conventional finance, risk can be shared by issuing and selling (common or ordinary) shares to interested parties (investors).[23] These are (asset-backed) certificates of ownership that entitle their holders to a proportionate share of the company's profits. To sell its shares to the public, the business must offer convincing prospects of success and be led by a competent team of executives.

Shareholders are not guaranteed profits.[24] As neither profits nor capital is guaranteed, investors face risks. The face the risk that they may earn no profits, and even that they might lose some or all of their capital. Investors can earn dividends only when their companies earn profits. However, risk has a positive

role to play. It provides an incentive to investors to exercise due diligence before committing funds. This increases the overall efficiency in the allocation of resources.

Company shares can be traded in secondary markets. Their prices go up and down with the success of the company. Companies with strong prospects of success will attract more funding than companies with poor or limited prospects. Participation in companies on the basis of shareholding is permissible under the Shariah because it requires investors to share not only profits but also the risks of business enterprise.

Shareholders can exercise varying degrees of control over the enterprise they help to finance. They take a degree of responsibility for how the business is run. This responsibility is proportionate to the extent of their shareholdings in the issuing enterprise. While the shareholders leave the day-to-day management of the business to its managers, they can vote at shareholders' meetings in favour or against major decisions proposed by the management.[25]

Economic rewards of risk sharing

Risk sharing brings significant macroeconomic benefits.[26] Overall efficiency in the allocation of resources increases because profit is linked to productivity.[27] Financing by means of risk sharing also increases investment. An increase in investment takes place as a result of the fact that capital no longer comes at a "cost" (interest). Without the incentive to deposit surplus funds in financial institutions to gain interest, parties with surplus funds will have no choice but to invest in the risk-filled real sector, if they wish to obtain any returns on their capital.

An increase in investment can be expected to generate more employment, assuming other factors remain constant, as more workers will be required to operate new machinery and equipment. An increase in investment and employment in turn brings about an increase in economic growth. An increase in production (growth) furthermore can be expected to reduce inflation, as a result of an increase in the supply of goods and services relative to demand.

Greater systemic stability would result from the fact that the money used to finance an increase in investment would come from retained earnings and/or the issuance of investment certificates rather than from bank borrowings. Business firms that use retained profits to finance investment are also less exposed to the risk of bankruptcy, especially during economic downturns, as they are not legally obligated to pay dividends when they earn no profits.

Relying on internal financing helps prevent the formation of asset bubbles caused by excessive lending and thus restrain inflationary pressures. By obliging

investors to take risk, gaining income by means of risk sharing also helps to distribute wealth more evenly, as there would no longer be any opportunity to gain "guaranteed" interest income.[28]

The need to take risk increases efficiency in the allocation of resources. Where investors feel there is little or no risk, they are more likely to commit resources on a scale greater than what is justified by a more accurate assessment of risks and the prospects of returns. This has taken place in the US housing market in 2008 and onwards, when institutional investors bought many of the so-called collateralised debt obligations (CDOs) or bundles of loans, which included subprime mortgages.

Millions of houses have initially been constructed financed by subprime mortgages, during a low interest period (2002 – 2005). When interest started to climb in 2005, many house buyers could not make higher monthly payments as requested by financial institutions.[29] They defaulted on their payments and the houses were repossessed. Subsequently the empty houses were torn down due to dilapidation. This was a manifestation of waste on an epic scale.

The need to face (share) risk filters out excessively risky investments. Ill-conceived projects are unlikely to attract funding. The fact that a given project is unable to attract funds by way of risk sharing shows that it should not be financed in the first place. As a consequence, "white elephant" projects are unlikely to attract funding. These benefits taken together constitute compelling reasons to adopt risk sharing as the choice method of financing, on a system wide basis.[30]

Debt to equity

Transforming the economy to operate on the basis of risk sharing requires re-structuring financial institutions to operate as investment companies. In the case of financial institutions, this can be done by converting debt on both sides of a bank's balance sheet into equity. Former depositors become investors, while former borrowers become partners. In fact, a few of such institutions already exist. The "Euro Pacific Bank is a pioneer in transactional only banking. The bank maintains a 100% deposit ratio, makes no loans and does not engage in leverage or speculation with client assets."[31]

Such transformation would require enabling legislation. The desired transformation can also be helped using market forces. One incentive to financial institutions to operate in the real sector can be provided by amending the law to permit retailers (and manufacturers) to sell their goods directly to consumers on credit. This would put retailers in direct competition with financial institutions. As their costs are lower than those of the financial institutions, it would only be a matter of time before financial institutions (banks) would either be driven out of business, or forced to enter the real sector.[32]

However, the retailer's credit price would have to remain the same as the cash (spot) price.[33] Even if not all retailers (or manufacturers) were to opt for this scheme, strong incentives exist for them to participate. While the need to administer payments on a deferred basis will add to the company's expenses, the prospect of higher sales resulting from lower prices would go a long way to compensate retailers and manufacturers for the extra burden of administering credit payments to the buyers.[34]

Direct selling is already practiced in a number of countries, by department stores and furniture sellers. If retailers can legally offer credit sales, there is no reason why housing developers or automobile manufacturers should not be able to do the same. The problem with the current practice is that the credit price is commonly significantly higher than the spot (or cash) price. The law needs to ensure that the credit price can only increase by a legally allowable margin, paid only for compensating the seller for the extra cost of administering credit sales.

The competition from companies making direct credit sales to customers would provide an incentive to banks to enter the real sector. Banks would be unable to sell goods at higher (marked up) prices, with the manufacturers selling the same goods on an installment (credit) basis at lower, manufacturers' prices.

Trading companies that operate on the basis of risk sharing would also become more stable. Unlike in conventional financial institutions, no structural mismatch could develop between liquid assets and short-term liabilities. Neither could a mismatch develop between the institution's assets and liabilities as a result of poor performance or non-performance of any of its assets. In a company that operates on a risk-sharing basis, both sides of its balance sheet rise or fall in tandem. Any losses on the asset (investment) side of the balance sheet are reflected (matched) on the liability side (investors' investments) of the company.

Investment companies would also become more stable as a result of not facing liquidity risk. This risk arises in conventional banking because banks use their depositors' funds to make loans at interest while guaranteeing those funds to depositors at the same time.[35]

For financial institutions that operate on the basis of risk sharing, there is no risk that depositors will withdraw their deposits in large numbers on a short notice. There is only the possibility that investors may sell (or liquidate) some of their investments to others. Such sales, however, would not drain liquidity from financial institutions the way withdrawals of deposits from a bank would.

They would *only transfer the ownership* of investments from one party to another, much like sales of common shares do. In such an environment, the main risk to investors is that their assets may decline in value. This is known as *asset risk*. Prudent *asset management*, rather than liquidity management, can go a long way towards ensuring that this risk will be minimal.

Conclusions and recommendations

A start in transforming the system of incentives could be made by offering tax incentives to companies to use equity financing in preference to debt financing. Similarly, disincentives should be in place to discourage financing by borrowing. For example, payments of interest should no longer be treated as "expenses." This allows banks to reduce their taxable income and the amount of tax they pay.[36]

A tax should also be placed on all transactions in derivatives.[37] Apart from reducing the flow of funds into the unproductive credit sector, a tax such as this would also raise extra revenues for governments and thereby help to reduce its debt.

In an interest free system there would be no need to "bail out" failing financial institutions at great taxpayers' expense and increasing the debt burden on future generations. The practice of privatising gains and socialising losses would be reduced.

Neither would governments have to go into debt as a result of having to finance counter cyclical fiscal policies. Transfer payments to unemployed individuals will also be smaller than in economies with higher employment levels. As a result of stronger growth and less unemployment, governments can collect higher tax revenues. These constitute compelling reasons for adopting financing risk sharing on a system wide basis.

Legislation needs to be implemented to facilitate the economic transformation to risk sharing modes of financing. Important benefits of financing investment by risk sharing include higher systemic stability and a more efficient allocation of resources. Raising funds on the basis of risk sharing would also enhance investment, reduce unemployment and improve economic growth.

Prices should also be more stable in an environment where producers have no need to pass on interest expenses to their clients in the form of higher prices, and where financial institutions are unable to make loans simply by "creating" funds.

Risk sharing also ensures an efficient allocation of resources and a reduction of waste by providing investors with a powerful incentive – the risk of losses – to exercise due diligence. At the same time, by requiring a greater number of parties to share risks, risk sharing enhances systemic stability. These constitute compelling reasons for utilising risk-sharing contracts in preference to risk transfer modes of risk management.

- It is recommended to adopt financing by risk sharing in preference to loan financing.
- It needs to become easier to raise investment funds by issuing shares or participatory sukuk. Red tape needs to be reduced or eliminated.

- Banks and other financial institutions need to reinvent themselves as trading companies that operate on the basis of risk sharing rather than risk transfer (in the form of secured lending).
- A regulatory framework needs to be implemented that rewards and facilitates the issuance of securities that share risk rather than transfer it.
- The law needs to be amended to encourage investment by risk sharing. Tax advantages need to be transferred from lenders to entrepreneurs.

Endnotes

* *Abdul Karim Abdullah (Leslie Terebessy)*, Assistant Fellow at IAIS, earned his MA in political philosophy from the University of Toronto, Canada (1999) and a MEd (1986) from the University of Toronto's Ontario Institute for Studies in Education (OISE). A former lecturer, editor, writer and coordinator of the English programme at University Sains Islam Malaysia (USIM), his current projects involve research into the current financial crisis, critical thinking in Muslim societies, and Islamic Finance. He has edited *Islamic Studies at World Institutions of Higher Learning* (Kuala Lumpur: USIM 2004). He can be contacted at abdulkarim@iais.org.my.

1. This applies to both the public as well as the private sector.
2. We may note in passing that, since most of the money loaned by financial institutions is "created" rather than "earned," it is only partly true that financial institutions act as "intermediaries" between parties with a surplus of funds (savers) and parties that experience a shortage (borrowers), by channeling the savings of the former to meet the needs of the latter.
3. The reason why a greater amount of money is withdrawn from circulation during the repayment stage than is injected into it when borrowed funds are spent is that all borrowed funds need to be repaid *with interest*.
4. Standard economic theory teaches that whenever leakages from the circular flow exceed injections, a contraction (decline) in economic growth will take place. This decline can take the form of a reduction in the rate of growth, or even the form of an absolute decline in the GDP from one accounting period to the next.
5. I have elaborated the weaknesses of this assumption in "The Pitfalls of *Riba* or Interest-based Financing," ICR, Vol. 4, No. 1, January 2013.
6. We use the term "efficiency" in its macroeconomic sense, in which it means producing goods and services that meet people's needs without generating any persistent surpluses or shortages. Thus, evidence of efficiency in the macroeconomic sense would include stable prices, full employment, and robust growth.
7. A qualified borrower is one who is able to post acceptable collateral and who earns profits sufficiently high to repay the loan with interest over a specified period of time.
8. We draw a distinction between lending and investment. The former takes place when capital is advanced on condition that it be repaid, and that rewards (interest)

be specified and guaranteed in advance. The latter takes place when investors share risks with entrepreneurs. In other words, investment takes place on the basis of risk sharing, without income and capital guarantees.

9. The combination of debt and equity financing is known as the "capital structure" of the firm. In addition, entrepreneurs can use their savings or retained earnings to finance business investment.

10. Capital can be raised by selling common shares or stocks to interested investors. "Shares" are asset-backed certificates of ownership in the issuing enterprise. They can be sold privately or on a stock exchange. Buyers of the shares become co-owners of the business in proportion to their investments. As co-owners of the business, they become entitled to a proportionate share of its profits.

11. Mirakhor, Abbas "Risk Sharing and Public Policy," INCEIF, Paper prepared for the 5th International Islamic Capital Market Forum Securities Commission of Malaysia, 10 November, 2011, Kuala Lumpur, Malaysia, p. 14.

12. Humayon A. Dar and John R. Presley, "Lack of Profit and Loss Sharing in Islamic Banking: Management and Control Imbalances," *International Journal of Islamic Financial Services Vol. 2 No. 2*, September 2000, p. 3, accessed online on 20 June 2014; <http://www.iefpedia.com/english/wp-content/uploads/2009/09/international-journal-of-ISLAMIC-FINANCIAL-SERVICE.pdf>

13. In France, business communities are known as "societies."

14. Repayment of loans can also be *amortised*, meaning that the entire loan, inclusive of interest, will be repaid in installments.

15. Risk transfer is present in, but not restricted to, all forms of collateralised lending at interest. Risk transfer is also utilised in insurance as well as in derivatives, including options, credit default swaps, and interest rate swaps.

16. For a comprehensive overview of risk sharing, see Mirakhor, Abbas "Risk Sharing and Public Policy," INCEIF, Paper prepared for the 5th International Islamic Capital Market Forum Securities Commission of Malaysia, 10 November, 2011, Kuala Lumpur, Malaysia.

17. Agha, Oliver Ali and Claire Grainger "Analysis: Sukuk - When is a default not really a default?" *Risk.net*, 11 December 2009, accessed online on 15 March 2013, <http://www.risk.net/credit/analysis/1565919/sukuk-default-default>

18. Shoaib, Nabeel, "Top 500 Islamic Financial Institutions - From Niche To Mainstream," *The Banker*, November 2007, p. 1, accessed online on 15 March 2013, <http://search.proquest.com.myaccess.library.utoronto.ca/docview/225624269#>

19. Kamali, Mohammad Hashim, *Islamic Commercial Law: An Analysis of Future and Options*, Ilmiah Publishers, 2000, p. 209.

20. By this we mean that the issuer is not obliged to commit himself to making predetermined payments of interest. Of course, listing costs, legal fees and various taxes do impose some costs on entrepreneurs who issue certificates of investment to investors, whether it be in the form of participatory sukuk or common shares. These types of costs are only incurred once, unlike payments of interest, which are recurring over the entire course of the repayment of a loan. When the accumulated interest expenses are compared to the initial listing and other costs, the latter become dwarfed by the former.

21. Jobst, Andreas A. "The Economics of Islamic Finance and Securitization,"

Working Paper Version: February 28, 2007 Forthcoming in the Journal of Structured Finance (2007), Vol. 13, No. 1, p. 6, accessed online on 19 January 2013, <http://www.kantakji.com/fiqh/Files/Markets/f178.pdf>

22. Kapetanovic, Harun and Muhamed Becic "Mudharabah Sukuk: Essential Islamic Contract, Applications and Way Forward," in *Sukuk*, Abdulkader Tomas, (ed.), Securities Commission Malaysia, Sweet and Maxwell Asia, Thomson Reuters, 2009, p. 226.

23. What is the difference between "risk sharing" and "profit and loss sharing?" The term "risk sharing" signifies the "sharing of risks and rewards." But "rewards" may sometimes take an unwelcome form, namely that of losses. "Risk sharing" understood in this way thus implies that there is little difference between "risk sharing" and "profit and loss sharing." In some arrangements, however, such as in *mudarabah* partnerships, only profits are shared, but not losses. These are borne exclusively by the capital provider (*rabb al mal*). Thus, *mudarabah* partnerships are profit sharing partnerships rather than profit and loss sharing ones. In Islamic finance, a "profit and loss sharing partnership" in known as a *musharakah*, in which profits are shared according to a pre-agreed profit sharing ratio, but losses are shared in proportion to capital invested.

24. The so-called "preferred" or "preference" shares constitute something of an anomaly, as they combine some features of bonds, such as giving priority to holders of preferred shares over holders of common shares in the payment of dividends, and some features of common shares, such as that the payments of dividends are not guaranteed as interest payments are, but are paid only when profits are earned.

25. This varies from business to business, and also depends on how active the shareholders are.

26. n.a. "Faith-based finance: The whys and wherefores of Islamic finance," *The Economist*, Sep 4th 2008, accessed online on 23 May 2012; http://www.economist.com/node/12052679

27. Chapra, Umer M., *Towards a Just Monetary System*, The Islamic Foundation, 1985, p. 71.

28. Habib Ahmed, "Islamic Financial System and Economic Growth: An Assessment," p. 18, accessed online on 15 June 2011, <islamiccenter.kau.edu.sa/.../Islamic%20Fin.%20System%20and%20Econ%20Growth%20by%20Habib%20Ahmed.doc>

29. Many subprime borrowers had ARMs, or adjustable rate mortgages. The interest rates on such mortgages fluctuate with market rates.

30. These arguments have been developed in the following papers: "Understanding the Causes of the Debt-Crisis: Interest-based lending," ICR, Vol. 3, No. 4, July 2012; "The Pitfalls of *Riba* or Interest-based Financing," ICR, Vol. 4, No. 1, January 2013; "Risk Sharing, Transfer and Management," ICR, Vo. 4, No. 2, Apr. 2013; "Debt and Economic Activity," ICR, Vol. 4, No. 3, July 2013; "Enhancing Cyclical Stability by Interest-free Banking," ICR, Vol. 5, No. 3, July 2014.

31. Schiff, Peter Euro Pacific Capital Inc., accessed online on 14 October 2014, <http://www.europac.net/>

32. The price of a house can be several times higher when sold on credit by a financial institution than when sold for cash by a construction company.

33. A small increase – specified by the law – could be permitted to compensate sellers for higher expenses caused by having to administer some of their sales on credit.
34. Effectively the prices would be lower due to the fact that bank interest would no longer be factored into them. In housing, for example, in which the credit price of a house can be as much as 200% higher than the cash price, this would effectively mean a discount of up to 67% from the credit (bank) price of the house. Such a steep reduction could hardly fail to stimulate the demand for houses.
35. As a result of lending most of their depositors' money to borrowers, banks are left with only a small amount of money (commonly less than 3% of all deposits) in the form of cash to meet unexpected withdrawals.
36. Humayon A. Dar and John R. Presley, "Lack of Profit and Loss Sharing in Islamic Banking: Management and Control Imbalances," *International Journal of Islamic Financial Services Vol. 2 No. 2*, September 2000, p. 4, accessed online on 20 June 2014;<http://www.iefpedia.com/english/wp-content/uploads/2009/09/international-journal-of-ISLAMIC-FINANCIAL-SERVICE.pdf>
37. A tax of 1% on the nominal value of derivatives would raise a great deal of revenue for governments, and thus enable them to repay debts. The notional value of derivatives stands at more than USD 400 trillion globally.

WHETHER TO SAY *SALĀM*:
MUSLIM COURTESY TOWARD NON-MUSLIMS

Kazunori Hamamoto*

Abstract: This article addresses the question of whether or not Muslims should say *salām* to non-Muslims. While various opinions on it have been presented since the first century of Islam, most medieval scholars did not approve of saying *salām* to non-Muslims. However, the traditional mainstream position has been reconsidered by modern reformers, and the increase of Muslim population in the West has rendered this issue more important and controversial. This article does not intend to give a definitive answer to this controversy but to explore its long history from an objective point of view, paying attention to what Qur'anic verses and hadiths are related to the issue and how they can be interpreted without contradiction. Besides, the similarity as well as the difference between Ibn al-Qayyim's view and Rashīd Riḍā's is one of the important points of this article.

Introduction

Salām is one of the most important words for Muslims. It is an Arabic word that means peace and has the same root (s, l, m) as *Islam* and *Muslim*. *Al-salām*, the Peace, is one of God's 99 beautiful names[1] and also an essential component of Muslim greetings. According to the Prophet Muḥammad, God taught Adam [Ādam] how to exchange greetings; Adam said to a group of angels, "Peace be upon you [*al-salām 'alay-kum*]," and the angels replied, "Peace be upon you and God's mercy [*al-salām 'alay-kum wa-raḥmat Allāh*]."[2] These phrases are not just greetings but even supplications for each other's peace.

Muslims often mention this special importance of *salām* in Islam as evidence that Islam is a peaceful religion. Here a question arises: can these supplications for peace be offered for everyone in the world, or are they exclusively addressed to Muslims?[3] In the time of the Prophet, this question was of practical relevance to Muslims' relationship with Jewish tribes who enjoyed equality with Muslims under the Constitution of Medina.[4] It is only reasonable to suppose that the Prophet treated Muslims and Jews without discrimination not only in government but also in greetings. Yet some Jews' disloyalty to the Prophet made him reconsider how to deal with Jews. Later on, non-Muslim citizens of the Islamic state were called "*dhimmī*"'s, and most medieval Muslim jurists took a view that it was no longer permissible to say *salām* to them. In modern times, however, this issue was put into a new context: the rise of Western colonialism and its consequences — the secularisation of Muslim societies, the intensification of Western Christian missionary activities,[5] the Israeli occupation of Palestine, and so forth. As a

result, Muslim scholars were divided; some stuck to the classical view, insisting on alienating non-Muslims in order to protect the dignity of Islam, while others claimed that Muslims should show Islamic virtues to non-Muslims in order to keep Islam a universal religion in a true sense. More recently, the growth of Muslim population in Western countries has given birth to a branch of Islamic jurisprudence for Muslim minorities,[6] *fiqh al-aqalliyyāt*, in which how to greet non-Muslims is an inescapable question. Today, the issue of *salām* is one of the most controversial ones among Muslims, and numerous opinions on it are expressed at various websites. This article does not intend to give a definitive answer to it but aims to survey the history of this controversy from an objective point of view.

Since greetings are exchanged between two sides, the above question consists of two sub-questions. First, should Muslims say *salām* to non-Muslims on Muslims' initiative? Second, should Muslims return *salām* if non-Muslims say it first as a salute to Muslims? Muslim scholars have been answering these questions by consulting the Qur'an and hadiths, but their answers are not one and the same. This is because some Qur'anic verses and hadiths, if taken literally, could contradict each other, which can lead scholars to different interpretations. Before going into their arguments, let us see what verses and hadiths are related to this issue.

1. Qur'anic Verses and Hadiths about Saying *Salām* to Non-Muslims

There are several hadiths directly related to the subject, which are sorted into two groups according to our two questions. In one group of hadiths, though they are transmitted by different transmitters and not completely the same in wording, the Prophet prohibits Muslims from saying *salām* first to Jews or Christians. *Ṣaḥīḥ Muslim* has one of these hadiths,[7] and *al-Adab al-Mufrad* by al-Bukhārī has a few of them.[8] In *al-Kāfī* compiled by al-Kulaynī, the most authoritative Shī'ī collection of hadiths, it is reported that Imām 'Alī forbade greeting people of the Book.[9] In connection with this group of hadiths, there is also a hadith telling that the Prophet wrote to Byzantine ruler Heraclius, "Peace be upon those who follow the guidance,"[10] which could be understood as suggesting that *salām* should not be said to non-Muslims.

In the other group of hadiths, the Prophet directs that Muslims just say "(and) upon you [(*wa*) *'alay-kum al-salām*]" when they are greeted by non-Muslims. All of Muslim, al-Bukhārī and al-Kulaynī have collected several of these hadiths.[11] While some of them are transmitted with "and [*wa*]," others are not. Also, while some of them use *kum*, the plural of the second person, others *ka*, the singular. In addition, many of them clarify their context: a party of Jews said to the Prophet,

"Death [*al-sām*] be upon you," as mentioned in the Qur'an 58:8, and the prophet replied to them, "(And) upon you." In some of them, furthermore, the prophet admonished his youngest wife 'Ā'ishah, who answered the Jews back in a similar manner to theirs, to stay well-mannered even when non-Muslims used unpleasant words to her.

Besides these two groups of hadiths, there is a hadith in which the Prophet says, "Spread peace [*afshū al-salām*]." This hadith is also recorded by all the three collectors mentioned above.[12] In some versions, these words are followed by "among you," but it is open to question whom "you" refers to.

In the Qur'an, there are a number of verses about the greeting of *salām*. In many of those verses, *salām* is given to those who have entered Paradise,[13] which could be interpreted as suggesting that not all people are entitled to receive *salām*. But these are not very relevant to our subject since they are only about the hereafter. On the other hand, there are a few verses implying that *salām* can be said to unbelievers or even idolaters, whom God blames most strongly. In 19:47, for instance, Abraham [Ibrāhīm] says *salām* to his father, praying that God will forgive him for his ancestral polytheism. In 43:89, God tells the Prophet to distance himself from idolaters, saying *salām* to them so that they will realise the truth some day.[14]

There is also a verse that requires Muslims to give back a greeting better than or equal to the one they have received (4:86). Although this verse does not specifically refer to *salām*, it is closely related to our second question. As seen below, a number of scholars have discussed it in their comments on this verse, in which the focus is on whether the whole verse is only applied to Muslims or not. In this connection, the Qur'an enjoins Muslims not to say "You are not a believer" to whoever says *salām* to them (4:94).

In addition, Qur'anic verses talking about Muslim's general attitude toward non-Muslims have to do with our questions because they can serve as guiding principles in interpreting the aforementioned hadiths and verses. However, while some of them are hostile to non-Muslims, others are not. For example, 9:5, the so-called verse of sword, commands Muslims to fight polytheists, whereas 60:8 allows Muslims to be kind and do justice to those who have not attacked them or expelled them.

2. Classical Views

In this section, we will see how medieval scholars interpreted these verses and hadiths. They dealt with our questions in their commentaries on the Qur'an, exegeses of hadiths collections, and legal books. To begin with, we will look at three works that were written during the formative period of legal schools and

frequently quoted by scholars in later times. Then we will go into the positions of different legal schools.

2.1.   The Formative Period of Legal Schools

Ibn Abī Shaybah (d.849), author of *al-Muṣannaf*, a great collection of traditions about the Prophet, his companions and others, records a fairly substantial number of traditions relevant to our interests. As regards our first question, Ibn Abī Shaybah not only records the prophetic hadith that instructs Muslims not to say *salām* first to non-Muslims but also reports that several figures of early generations, such as Ibn ʿAbbās (d.687), Abū Umāmah (d.700) and ʿUmar bn ʿAbd al-ʿAzīz (d.720), did not oppose saying *salām* to non-Muslims. According to Ibn Abī Shaybah, Ibn ʿAbbās wrote to a man who belonged to people of the Book, "Peace be upon you"; Abū Umāmah did not pass Muslims, Jews, or Christians without saying *salām* on his own initiative; ʿUmar ibn ʿAbd al-ʿAzīz, referring to Qurʾanic verse 43:89, shared his own view that there is no problem if Muslims say *salām* first to *dhimmīs*. As for our second question, Ibn Abī Shaybah records, besides the Prophet's words "and upon you," a few different views on this issue: for example, Ibn ʿAbbās said, "Whoever of God's creatures greets you, reply to him, even if he is Magian"; Ṭāwūs (d.724) said that if a Jew or a Christian greeted him, he answered, "Peace has gone higher than you [*ʿalāka al-salām*]," although this view is not supported by other scholars.[15]

Al-Ṭabarī (d.923) discusses our second question in his comment on 4:86, which enjoins Muslims to give back a greeting better than or equal to the one they have received. According to him, there are two different interpretations of this verse: some Muslims regard this whole verse as talking about greetings only among Muslims, but others assign better greetings for Muslims and equal greetings for non-Muslims. Al-Ṭabarī reports that ʿAṭāʾ held the first one, whereas a few Muslims, such as Ibn ʿAbbās and Qatādah (d.736), went for the other interpretation. Al-Ṭabarī then compares these two positions and finally adopts the first one for two reasons: in several hadiths the Prophet instructs Muslims to return a worse greeting to non-Muslims, and God does not say that a part of this verse is for Muslims and the rest of it for non-Muslims.[16] As for our first question, al-Ṭabarī, at least in his commentary of the Qurʾan, does not mention the hadith that instructs Muslims not to say *salām* first to non-Muslims position. However, according to al-Qurṭubī (d.1273) and Ibn Hajar al-ʿAsqalānī (d.1449), al-Ṭabarī says somewhere that this hadith should be obeyed in principle and that the hadith in which the Prophet said *salām* on his own initiative to a group made up of Muslims and non-Muslims should be understood as an exception.[17] Whether al-Qurṭubī and al-ʿAsqalānī's accounts are true or not, given that al-Ṭabarī does not

allow Muslims to say *salām* in reply, it is most likely that he considers it even less permissible for Muslims to say *salām* first to non-Muslims. As far as polytheists are concerned, he clearly states that 43:89 has been abrogated by the verse that orders Muslims to kill them (9:5).[18]

Al-Khaṭṭābī (d.998), in his exegesis of *Sunan* by Abū Dāwūd, makes a brief comment as to how Muslims should respond if Jews say to them "death be upon you." While the Prophet answered "and upon you [*wa-ʿalay-kum*]" in all the versions that Abū Dāwūd has recorded,[19] al-Khaṭṭābī, referring to another version transmitted by Sufyān bn ʿUyaynah (d.814),[20] maintains that the proper answer is "upon you [*ʿalay-kum*]" because to say "and upon you" is to say "death be upon you as well as us."[21] But what al-Khaṭṭābī is writing here makes sense only if non-Muslims say rude words at Muslims; how should Muslims reply if non-Muslims tell them *salām* in a decent manner? However, al-Khaṭṭābī seems to think that it does not matter how non-Muslims greet Muslims; in another version that Abū Dāwūd has recorded, the Prophet instructs Muslims, as a general rule, to say "and upon you" when they receive a greeting from people of the Book, but al-Khaṭṭābī does not make any comment on it. In addition, while Abū Dāwūd has recorded the hadith that tells Muslims not to say *salām* first to non-Muslims, al-Khaṭṭābī makes no comment on it. This silence of al-Khaṭṭābī should be understood as a sign that he takes into granted that Muslims are not to say *salām* to non-Muslims.

From what we have seen above, it can be seen that several figures in the 7th and the early 8th centuries are reported to have considered it permissible to say *salām* to non-Muslims, whereas scholars in later centuries tend to take the opposite view, relying on the hadiths and taking them literally. Although this is basically true of legal schools after the 10th century too, as will be seen below, there is also a notable divergent view.

2.2.   Ḥanafī School

Al-Zamakhsharī (d.1144), a Muʿtazilī theologian and Ḥanafī jurist, touches on our questions in his comment on 4:86. He presents the views of al-Ḥasan (al-Baṣrī, d.728), al-Shaʿbī (d.721), Abū Ḥanīfa (d.767), Abū Yūsuf (d.798) and others. According to al-Zamakhsharī, al-Ḥasan held that Muslims are allowed to say *salām* to non-Muslims but not to say "God's mercy" for the reason that asking God forgiveness [*istighfār*] for non-Muslims is forbidden; al-Shaʿbī said to a Jew, "upon you be peace and God's mercy," and then said to a companion of him, "He lives in God's mercy, doesn't he?"; there were also some scholars who held that to say *salām* to non-Muslims is permissible when it is necessary. However, according to al-Zamakhsharī, the founding fathers of the Ḥanafī school do not allow Muslims to say *salām* to non-Muslims, at least on Muslims' initiative:

Abū Ḥanīfa told a Muslim not to say *salām* first to non-Muslims; Abū Yūsuf told a Muslim not to greet or shake hands with non-Muslims.[22] Al-Zamakhsharī does not clarify what his own position is. Interestingly, in his comment on 19:47, he supports a view that Muslims are allowed to ask God forgiveness for non-Muslims on condition that they embrace Islam. This could be understood as implying that al-Zamakhsharī approves of saying salām to non-Muslims on this condition, but he does not clearly say so.[23]

Al-Mawṣilī (d.1284) states, in his exegesis of a legal book written by himself, that greeting *dhimmīs* is disliked because it is a glorification of them [*taʿdhīm(i)-him*]. In this connection, he observes that it is no problem to say "peace be upon those who follow the guidance" when both Muslims and unbelievers are in a group. He also notes that it is permissible to say to *dhimmīs* "May God make your life long" only if it is intended to pray that they will embrace Islam or pay poll tax. As for responding to greetings from *dhimmīs*, he states that there is no problem; he even says as follows: "Refusing to do that would hurt them and replying is doing good. Hurting them is reprehensible and being courteous to them [*al-iḥsān bi-him*] is recommended." He adds, however, that nothing should be added to "and upon you."[24]

While al-Mawṣilī dislikes glorifying non-Muslims, it is noteworthy that he approves of being courteous to them. In addition, concerning the permissibility of visiting non-Muslims, he states that Muslims are not prohibited from being kind to them [*barr-hum*], following the prophet's example[25] But is it convincing that greeting non-Muslims is a glorification of them, whereas visiting them is not? Should this rule be applied to every kind of non-Muslim? In any case, what he writes on this issue seems to be more or less the Ḥanafī school's position. Ibn Nujaym (d.1562), taking a similar view to al-Mawṣilī's, writes that it is not permissible to say *salām* to *dhimmīs* unless it cannot be helped, that nothing should be added to "and upon you" in return to greetings from them, that shaking hands with them is disliked, and that glorifying them is forbidden, whereas it is not disliked to visit non-Muslim neighbours or to be their guest.[26] Al-Ḥaṣkafī (d.1677) entirely follows Ibn Nujaym in these respects.[27]

2.3.   Mālikī School

Al-Bājī (d.1081) discusses our questions in his exegesis of Muwaṭṭaʾ by Mālik ibn Anas. The hadith he comments on here is the one in which the Prophet said to Jews, "upon you." Following earlier Mālikī jurists, al-Bājī states that this hadith requires Muslims to reply when greeted by people of the Book and not to greet them first. In this connection, Mālik is reported to have said, "The Jews and Christians are not to be answered. If you reply, say 'upon you.'" But al-Bājī

understands that the true intention of this remark was not to prohibit Muslims from replying to people of the Book but to prohibit them from doing so with words other than "upon you." He then comments on 4:86, mentioning the two opposing views of ʿAṭāʾ and Ibn ʿAbbās. In addition, al-Bājī mentions al-Shaʿbī's view, which we have already seen, and another view that Muslims should say "upon you be stones [ʿalay-ka al-silām]." But he himself agrees with ʿAṭāʾ for the reason that his position accords with the hadith. Finally, al-Bājī discusses the question of whether or not a Muslim should demand back [yastaqīl] salām if he says salām to a Jew or a Christian. Although it is reported that Ibn ʿUmar (d.693) did so, al-Bājī concludes in the negative, following Mālik's teaching.[28]

Al-Qāḍī ʿIyāḍ (d.1149) discusses our questions in his exegesis of Ṣaḥīḥ Muslim. As regards our first question, he presents three views: first, a view that follows the hadith "Do not say salām to a Jew or a Christian on your own initiative," which is, according to al-Qāḍī ʿIyāḍ, upheld by the majority of scholars, including Mālik; second, a view that gives preference to another hadith "Spread peace," which al-Qāḍī ʿIyāḍ attributes to Ibn ʿAbbās, Abū Umāmah and Ibn Muḥayrīz (d.718)[29]; third, a view that greeting non-Muslims on Muslims' initiative is allowed only when it cannot be helped, which al-Qāḍī ʿIyāḍ attributes to Ibrāhīm (al-Nakhaʿī, d.715) and ʿAlqamah (d.681). As for our second question, he presents five options: "upon you," "and upon you," "upon you be stones," "peace has gone higher than you," and "upon you be peace." According to al-Qāḍī ʿIyāḍ, it was Ibn ʿAbbās, al-Shaʿbī and Qatādah who said to non-Muslims "upon you be peace." Commenting 19:47 and 43:89, on which some scholars base their views that Muslims are allowed to say salām to non-Muslims, al-Qāḍī ʿIyāḍ states that salām in these verses means alienation and desertion, adding that some people say 43:89 was abrogated by the verse of sword (9:5). Concerning the question of whether to put "and" before "upon you," As to which is better, "and upon you" or "upon you," he reports that while a Mālikī jurist Ibn Ḥabīb (d.853) had a similar view to al-Khaṭṭābī's, there are different views within the Mālikī school. He also points out that the Arabic conjunction wa has more than one function.[30]

2.4.   Shāfiʿī School

Al-Nawawī (d.1277) discusses our questions in his exegesis of Ṣaḥīḥ Muslim and in Rawḍat al-Ṭālibīn, one of the most important works in the Shāfiʿī school. In Sharḥ Ṣaḥīḥ Muslim, al-Nawawī often quotes al-Qāḍī ʿIyāḍ on the one hand, and clarifies the position of the Shāfiʿī school on the other. According to al-Nawawī, Muslims are forbidden to say salām first to non-Muslims and must say "and upon you" or "upon you" if non-Muslims greet Muslims. He upholds this understanding on the grounds of the two hadiths most specifically related to the

issue, and states that general rules, such as "Spread peace," are limited in scope by those specific ones. He also mentions, based on what al-Māwardī (d.1058) has reported, that some Shāfi'ī scholars considered it permissible to say to non-Muslims "peace be upon you [*al-salām 'alay-ka*, but not *al-salām 'alay-kum*]," and to say "and upon you be peace" without "and God's mercy" in reply to them. But al-Nawawī rejects such views for the reason that they are against these two hadiths. As to whether or not there should be "and" before "upon you," he states that it does not matter though it is better to say "and" since there are more ḥadīths in which the Prophet says "and" than hadiths in which he does not.[31]

In Rawḍat al-Ṭālibīn, al-Nawawī cites an explanation by al-Rāfi'ī (d.1226). According to al-Rāfi'ī, it is not permissible for Muslims to say *salām* first to *dhimmīs*, and if someone does so by mistake, he should demand back [*yastaridd*] *salām*. Al-Rāfi'ī then continues that Muslims are allowed to greet *dhimmīs* with expressions other than *salām*, such as "may God guide you" and "may God bless your morning." As for the way to reply when greeted by *dhimmīs*, al-Rāfi'ī states that nothing should be added to "and upon you." Al-Nawawī seems to basically agree with al-Rāfi'ī but makes a comment about greeting *dhimmīs* without *salām*. In his view, 58:22 instructs Muslims not to be kind to or friendly with unbelievers, and therefore Muslims should not greet *dhimmīs* on their own initiative in any form unless there is a need to do so. He then adds that when a Muslim encounters a group made up of Muslims and non-Muslims, it is desirable for him to greet them with the intention of greeting the Muslims alone. Also, al-Nawawī states that if a Muslim writes *salām* to a polytheist, it is desirable for him to write "peace be upon those who follow the guidance," following the Prophet's example.[32]

While al-Nawawī does not refer to 4:86, al-Suyūṭī (d.1505) tries to reconcile this verse and the Prophet's words "and upon you" in a different way from al-Ṭabarī's. In al-Suyūṭī's understanding, to simply say "and upon you" is to return an equal greeting, and therefore such a reply does meet the requirements of 4:86. He understands so on the grounds of a hadith in which a man gave the Prophet a long polite greeting, so the Prophet could not give him back a better greeting and simply said, "And upon you," intending to return a greeting equal to the one he received.[33] However, this view of al-Suyūṭī may not be commonly accepted even within the Shāfi'ī school. In fact, Ibn Hajar al-'Asqalānī, quoting a view that to simply say "and upon you" is not enough to obey 4:86, stresses that it should not be used as a reply to Muslims.[34]

2.5.   Ḥanbalī School

Ibn Qudāmah (d.1223) presents the Ḥanbalī school's position in al-Mughnī, one of the most authoritative works in this school. Referring to several hadiths, he asserts that Muslims should not say *salām* first to people of the Book or say any words except "and upon you" in reply to greetings from them. He then adds that Abū ʿAbd Allāh (Aḥmad bn Ḥanbal) considered it even worse to give *dhimmīs* greetings other than salām, such as "how are you?" Furthermore, according to Ibn Qudāmah, Abū ʿAbd Allāh hated to shake hands with people of the Book. He also reports Ibn ʿUmar demanded back *salām* after he realised that he had said *salām* to a Jew; instead Ibn ʿUmar said to the Jew, "May God increase your wealth and your children's," and explained to his companions that it was for poll tax.[35]

Nevertheless, Ibn al-Qayyim (d.1350) challenges this view at least partly. He discusses our questions in Aḥkām Ahl al-Dhimmah, a book dealing with legal issues related to *dhimmīs* in the Islamic land. After explaining that *al-salām* is one of God's names and that God has designated (*al-*)*salām ʿalay-kum* as greeting of Muslims, he concludes that Muslims should refrain from exchanging greetings of *salām* with non-Muslims. As for the way of responding to greetings from non-Muslims, however, he takes account of the situation in which the Prophet answered "and upon you" or "upon you," and asserts that if *dhimmīs* say "peace be upon you" instead of "death be upon you," Muslims should answer "and upon you be peace" in accordance with indications and principles of God's law; he emphasises that God has enjoined Muslims to be just and courteous, and claims that Muslims should go back to the principle of 4:86 if the situation described in 58:8 has disappeared.[36] Here a question arises: why should Muslims not say *salām* first to non-Muslims while they should say it in reply? But Ibn al-Qayyim provides no further justification for this.

In another book, Zād al-Maʿād, Ibn al-Qayyim discusses this issue slightly differently, although there is something vague in his writing. With regard to the hadith that instructs Muslims not to say *salām* first to non-Muslims, admitting that it appears to be a universal rule, he mentions a view that this instruction of the prophet only applies to a certain kind of non-Muslim, such as Banū Qurayẓah, who fought against Muslims. As for replying to greetings from *dhimmīs*, he supports the view that Muslims are required to respond anyhow. He does not make it clear whether Muslims should say *salām* back to non-Muslims, but it is noteworthy that he distinguishes *dhimmīs* from innovators [*ahl al-bidaʿ*], maintaining that Muslims are not ordered to avoid *dhimmīs*.[37]

2.6.   Ja'farī School

Al-Ṭūsī (d.1067) deals with our second question in his comment on 4:86. Like al-Ṭabarī, after presenting two different interpretations, he upholds the view that this whole verse is exclusively applied to greetings between Muslims on the grounds that the Prophet instructed Muslims to say just "and upon you" in reply to people of the Book.[38] With regard to our first question, al-Ṭūsī does not discuss it in his commentary of the Qur'an or his other works, such as *Tahdhīb al-Aḥkām* and *al-Istibṣār*, both of which are among the most important legal books in this school. It is likely, however, that he considers saying *salām* first to non-Muslims more reprehensible than saying *salām* in reply to them.

Al-Ṭabarsī (d. 1153) makes a very similar comment to al-Ṭūsī's on 4:86.[39]

Al-Māzandarānī (d. circa 1670) discusses our questions in his exegesis of al-Kāfī. Commenting on Imām 'Alī's words "Do not greet people of the Book on your own initiative, and if they greet you, say 'and upon you,'" al-Māzandarānī tries to reconcile this and other hadiths. On the one hand, he allows for exceptional cases on the grounds that the seventh Imām Abū al-Ḥasan Mūsā permitted a Muslim to say *salām* when he had to consult a Christian doctor, though the Imām added that supplications for non-Muslims do not work. On the other hand, al-Māzandarānī asserts that the relevance of the injunction to spread peace is limited by this instruction of 'Alī. He then proceeds to the question of "and" before "upon you" in reply to greetings from non-Muslims. He proposes that the way of reply should vary depending on how non-Muslims greet Muslims: if they say "death be upon you," "and" should not be said, but otherwise "and" should be said. Either way, however, he does not allow Muslims to say *salām* to non-Muslims; in this regard he differs from Ibn al-Qayyim. He then adds that this instruction of 'Alī should not be interpreted as requiring Muslims to return a greeting to people of the book but allowing them to do so. Also, he states that 4:86 only stipulates how to respond to greetings from Muslims, understanding this verse in the same way as al-Ṭūsī and al-Ṭabarsī. Commenting on the sixth Imām Abū 'Abd Allāh (Ja'far al-Ṣādiq)'s words "You say *salām* in reply to Jews and Christians," which is a hadith peculiar to Shī'ah, al-Māzandarānī points out that it goes along with 19:47 and 43:89 unless the Imām said *silām*, which means stones. However, he maintains that *salām* in this case is not a greeting but a word for alienation and desertion.[40]

As can be seen from the above, most medieval jurists agree that Muslims should not say salām to non-Muslims in principle, on their own initiative or in return. They only differ – even inside each legal school – in such respects as whether it is strictly prohibited to say *salām* first to non-Muslims or just disliked, under what circumstances and under what conditions it is exceptionally permissible, whether

to demand back *salām* or not after saying it to non-Muslims by mistake, whether it is permissible or not to greet them with words other than *salām*, whether it is obligatory or not for Muslims to reply to greetings from non-Muslims, whether to put "and" before "upon you" or not, and whether saying back "(and) upon you" is polite enough to meet the requirements of 4:86 or not. Except for several figures in the 7th and the 8th centuries and some Shāfiʿī jurists who are reported to have considered it permissible to say *salām* to non-Muslims, as far as we have seen, only Ibn al-Qayyim seriously takes the possibility that the Prophet only refrained from saying *salām* to a specific kind of non-Muslim. As we will see in the following section, Ibn al-Qayyim's logic becomes common in the modern age.

3.   Modern Views

Rashīd Riḍā (d.1935) gave a fatwa on our questions in al-Manār. He holds that Islam is a universal religion and that one of its objectives is to propagate its morals and virtues to people and to attract each other so that all humans will be brothers and sisters. Reminding that the prophet said *salām* to Jews until some Jews changed *al-salām* to *al-sām*, Riḍā emphasises that *salām* should be spread universally except for those who fight against Muslims. He also quotes a hadith transmitted by Abū Umāmah: "Verily God made *salām* a greeting for our community and a protection for our *dhimmīs*."[41] Riḍā understands these words to be in harmony with the universality of *salām*. On the other hand, he considers that the Prophet abstained from saying *salām* to non-Muslims only temporarily; he states that things disappear if their causes disappear. At the end of the fatwa, describing Islamic society in his time, in which some Muslims are trying to glorify Islam by keeping it from non-Muslims who are promoting Europeanisation, Riḍā admonishes such Muslims, pointing out that their efforts will only result in making Islam invisible to the world.[42]

 In addition, Riḍā discusses this issue in *Tafsīr al-Manār* too. He criticises some Muslims for their view that Islamic morals are not for non-Muslims; he regrets that "they have forgotten that if Islamic morals please people who have become familiar with Muslims and come to know the virtue of their religion, it will probably make Islam more attractive to them."[43] As regards several hadiths that prohibit Muslims from saying *salām* to people of the Book, he says:

> In my view, the necessity of knowing the cause of hadiths to understand what they intend is stronger than the necessity of knowing the cause of revelation of the Qurʾan, because the whole Qurʾan is universal guidance of which people must be informed, whereas hadiths include what the Qurʾan does not include, namely specific circumstances and

opinions that are neither supposed to be religious creeds or universal guidance nor supposed to be known to people.[44]

It can be said that Riḍā claims the permissibility of saying *salām* to non-Muslims much more boldly and fully than Ibn al-Qayyim does. Unlike Ibn al-Qayyim, Riḍā clearly claims the permissibility of saying *salām* to non-Muslims not only in return but also on Muslims' initiative. Riḍā's thoughts on this issue have strongly influenced a number of scholars of later generations, including Muḥammad al-Ghazālī (d.1996) and Yūsuf al-Qaraḍāwī.

Muḥammad al-Ghazālī, in his comment on 4:86, states that the Muslims in Medina [al-Madīnah] used to extend greetings to Muslims and non-Muslims alike until some people of the Book resorted to distorting the word *salām* to *sām*. Considering this distortion to be just a specific instance, he asserts: "the general meaning of the verse is that it becomes Muslims to undertake social interaction with others, Muslims and non-Muslims, as that would be more conducive to creating amity, peace, and trust among all."[45]

Al-Qaraḍāwī, in a fatwa for Muslim minorities living in non-Muslim countries, referring to 4:86, comments:

> It is not suitable for Muslims to be less in morality than the non-Muslims. Rather, they should be the epitome of politeness and gentleness as the Prophet (peace be upon him) said, "The best of believers in faith are those best in morality" and also, he said, "I was sent to perfect the nobility in character."

He then mentions that Ibn 'Abbās said to a Magian, "upon you be peace and God's mercy," and then said to a companion of him, "He lives in God's mercy, doesn't he?"[46]

Yet traditional views are still enjoying considerable popularity. For example, Muḥammad al-Gharawī, in his book devoted to discussing *salām*, asserts that Muslims are not allowed to add anything to "upon you" in reply to greetings from non-Muslims. As for initiating *salām*, he cites Riḍā's view lengthily and comments that it is nothing but *ijtihād* against the authentic text which forbids saying *salām* first to non-Muslims.[47]

Moreover, 'Abd Allāh al-Fawzān even states that if Muslims say *salām* to non-Muslims, it extinguishes the fire of jealousy in their heart; he insists on keeping non-Muslims jealous on the grounds of a hadith in which the prophet said, "The Jews do not envy you for anything more than they do for peace [*al-salām*] and protection [*al-ta'mīn*]"[48] This view makes a striking contrast with Riḍā's.

There are also middle positions. Sayyid Muḥammad Ḥusayn Faḍlullāh (d.2010), a Lebanese grand āyatullah, issued a fatwa on the question of whether

Muslims are allowed to greet non-Muslims on Muslims' initiative. He states that God wants Muslims to greet the others in the most courteous manner. He then quotes 17:53 and 4:86, explaining that they are applied not only among Muslims but also between Muslims and non-Muslims. Nevertheless, he recommends that Muslims should use non-Islamic greetings for the reason that non-Muslims do not believe in peace of Islam. It seems that Faḍlullāh tries to reconcile Qur'anic verses about greeting with the fact that the Prophet refrained from saying *salām* to non-Muslims. While some medieval scholars held that it is permissible for Muslims to greet non-Muslims without saying *salām*, Faḍlullāh goes further in stressing the importance of exchanging greetings between Muslims and non-Muslims. However, his view is still similar to the traditional mainstream view in insisting that non-Muslims do not believe in peace of Islam.[49] It is quite different from Riḍā's comment on 4:94; Riḍā regards *salām* as a word used commonly among Muslims and non-Muslims who want a peaceful relationship with Muslims.[50]

Muḥammad bin Ṣāliḥ al-ʿUthaymīn (d.2001), a prominent Saudi Arabian scholar, quotes the hadith that prohibits Muslims from saying *salām* first to people of the Book, and takes it as a universal rule. However, he continues that if non-Muslims say to Muslims "peace be upon you," Muslims should answer "upon you be peace." According to al-ʿUthaymīn, this is because 4:86 tells Muslims to do so, and because it was when some people of the Book say "death" to the prophet that he instructed Muslims to answer "and upon you".[51] Al-ʿUthaymīn seems to follow what Ibn al-Qayyim writes in Aḥkām Ahl al-Dhimmah. Therefore, the question we raised about it can be raised to al-ʿUthaymīn too.

Conclusion

Roughly speaking, there are two opposite views as to how to understand without contradiction Qur'anic verses and hadiths related to our questions. The first view strictly, or at least basically, follows the Prophet's instruction that Muslims should not say salām to people of the Book on their own initiative or in return. It takes this instruction as a final and universal rule in abstraction from its context, and limits the meanings of verses and hadiths which could be interpreted as suggesting that *salām* should be spread to non-Muslims or that Muslims should be kind to non-Muslims unless they are antagonistic to Muslims. To be fair, this view requires Muslims to practice a certain degree of courtesy toward non-Muslims, but it dislikes treating non-Muslims with too much respect or friendliness. This view can be supported by the jurisprudential theory of abrogation: old rules are abrogated by new ones that contradict old ones; for, if this theory is applied, the

fact that the Prophet used to say *salām* to non-Muslims until some Jews distorted this word is no longer a source of Islamic law or ethics. However, it should be noted that this theory itself can be questioned.

On the other hand, the second view is based on the understanding that Islam seeks to build friendly relationships with other religions. This understanding requires Muslims to be gentle, amiable, and trustworthy with non-Muslims in order for them to appreciate Islamic virtues. This view is in harmony with verses like 60:8 and goes well with the interpretation that 4:86 and "Spread peace" are universally applicable beyond religions. Seen from this perspective, the Prophet's refraining from saying salām to people of the Book was an exceptional response to a specific kind of non-Muslim, and not to non-Muslims in general. In addition, the gist of the hadith "(and) upon you" is that Muslims should stay well-mannered even when non-Muslims insult them. This view tends to take Qur'anic verses as universal guidance and interpret hadiths with their specific contexts. However, it should not be forgotten that the Qur'an includes a number of verses that look hostile to non-Muslims, and, given this, careful attention should be paid to the contexts of Qur'anic verses too.

There are two other views halfway between these two: one of them holds that while Muslims should be friendly with non-Muslims, Muslims are only allowed to greet non-Muslims with words other than *salām*. This view tries to reconcile the above two positions in some respects, but at the same time it can be challenged from both sides in other respects. Those who adopt the first view would show their displeasure at this view, saying that it allows Muslims to be too intimate with non-Muslims. Those with the second view would criticise it for ignoring the fact that the Prophet used to say *salām* to non-Muslims until he changed his attitude.

The other view maintains that Muslims should not say *salām* first to non-Muslims but should say *salām* in return if they say *salām* first to Muslims. This view applies 4:86 to greetings not only among Muslims but also between Muslims and non-Muslims, on the one hand, and limits the purport of the Prophet's words "(and) upon you," taking its context into consideration, on the other hand. However, when it comes to initiating *salām*, this view insists that Muslims should not do it to any non-Muslims. This distinction between greeting on one's initiative and replying to greetings might make some feel that this position is incoherent.

As we have seen, the first view was the most favoured one among legal schools in the Middle Ages, although two points should be added. First, scholars with this view differ in details, and some of them may be said to have taken a position fairly close to the third view. Second, there were also scholars who went against it, taking the second or fourth view. Some Shāfiʿī jurists as well as several figures during the early centuries are reported to have approved of saying *salām*

to non-Muslims. Furthermore, Ibn al-Qayyim clearly pointed out the possibility that the Prophet only abstained from saying *salām* to a certain kind of non-Muslim. In the modern age, while the first view is still popular, the other views have been adopted by an increasing number of scholars. Among them, Riḍā and his followers used Ibn al-Qayyim's logic more thoroughly and thus advocated the position most cogently opposed to the medieval mainstream.

It is not an aim of this article to decide among these views. It should be said, however, that this controversy cannot be settled by just referring to a single Qur'anic verse or hadith. Whatever position may be taken, it needs to be well grounded and reconciled with every verse and hadith related to the subject. In addition, verses and hadiths need to be interpreted in consideration of the contexts in which they were born. The question we have discussed may be one of the best examples to show the importance of taking a holistic approach to Shari'ah.[52]

- There are two main views on how Muslims should greet non-Muslims, if at all. The first view is broadly the medieval view, while the second view may be thought of as the "modern" view.
- According to the medieval view, Muslims should say *salām* to people of the Book neither on their own initiative nor in reply.
- The modern view, by contrast, holds that since Islam seeks to build friendly relationships with adherents of other religions, Muslims should maintain good relations with non-Muslims, and therefore greet them in polite ways, or at least return greetings in a polite way.

Notes

1. The Qur'ān 59:23.
2. Muslim, *Ṣaḥīḥ*, Chapter Paradise [Kitāb al-Jannah].
3. On the other hand, it should be noted that some non-Muslims are not pleased to

be greeted in the Islamic manner. In this connection, according to most Arabic translations of the Bible, Jesus said "salām(un) la-kum" rather than "al-salām 'alay-kum" (John [Yūḥannā], Chapter 20).

4. Ibn Hishām, *al-Sīrat al-Nabawiyyah* (al-Zarqā', 1409/1988) vol. 2, 167-72.

5. Mahmoud Ayoub, "Religious Freedom and the Law of Apostasy in Islam," *Islamochristiana*, vol. 20 (Roma, Pontificio Istituto di Studi Arabi e d'lslamistica, 1994) 91.

6. Zaki Badawi, suggesting that the term minority should be used in terms of power rather than number, states that a colonial territory has a perpetual minority status. Taha Jabir al-Alwani, Towards a Fiqh for Minorities: Some Basic Reflections (London, The International Institute of Islamic Thought, 1423/2003) viii.

7. Muslim, *Ṣaḥīḥ*, Chapter Greetings [Kitāb al-Salām].

8. al-Bukhārī, *al-Adab al-Mufrad*, Chapter People of the Book [Kitāb Ahl al-Kitāb].

9. al-Kulaynī, *al-Kāfī*, vol. 2, Chapter Social Intercourse, Section Greetings to People of Different Religious Communities [Kitāb al-'Ishrah, Bāb al-Taslīm 'Alā Ahl al-Milal].

10. This phrase is also included in the Qur'ān (20:47).

11. In *Ṣaḥīḥ Muslim* and *al-Kāfī*, these ḥadīths are gathered in one chapter. In *Ṣaḥīḥ al-Bukhārī*, however, they are scattered over several chapters.

12. Muslim, *Ṣaḥīḥ*, Chapter Faith [Kitāb al-Īmān]; al-Bukhārī, *al-Adab al-Mufrad*, Chapter Greetings [Kitāb al-salām] et al; al-Kulaynī, *al-Kāfī*, vol. 2, Chapter Social Intercourse, Section Greetings [Kitāb al-'Ishrah, Bāb al-Taslīm].

13. Qur'ān 7:46, 10:10, 14:23, 16:32, 19:62, 36:58, 39:73, 56:91 et al.

14. According to other verses, salām can be said to the ignorant [al-jāhilūn] (25:63, 28:55).

15. Ibn Abī Shaybah, *al-Muṣannaf* (Riyadh, Maktabat al-Rushd) 1425/2004, vol. 8, 450-3.

16. Abū Ja'far al-Ṭabarī, *Jāmi' al-Bayān 'an Ta'wīl Āy al-Qur'ān* (Cairo, Dār Hajr, 1422/2001) vol. 7, 273-7.

17. Abū 'Abd Allāh al-Qurtubī, *al-Jāmi' li-Iḥkām al-Qur'ān* (Cairo, Dār al-Kātib al-'Arabī, 1387/1967) vol.11, 112; Ibn Hajar al-'Asqalānī, *Fatḥ al-Bārī bi-Sharḥ al-Bukhārī* (Egypt, Muṣṭafā al-Bābī al-Ḥalabī, 1378/1959) vol.13, 277.

18. al-Ṭabarī, *Jāmi' al-Bayān*, vol. 20, 665.

19. Abū Dāwūd, *Sunan*, Chapter Morals [Kitāb al-Adab].

20. Sufyān bn 'Uyaynah's version is included in al-Tirmidhī's ḥadīth collection. al-Tirmidhī, *al-Jāmi' al-Ṣaḥīḥ*, Chapter Seeking Permission [Kitāb al-Isti'dhān].

21. Abū Sulaymān al-Khaṭṭābī, *Ma'ālim al-Sunan* (Aleppo, Muḥammad Rāghib al-Ṭabbākh, 1352/1934) vol. 4, 154. Al-Khaṭṭābī makes a comment on a similar ḥadīth in his exegesis of *Ṣaḥīḥ al-Bukhārī* too, but instead of discussing how to respond, he stresses that God does not answer supplications from wrongdoers but from sufferers. al-Khaṭṭābī, *A'mār al-Ḥadīth* (Mecca, Jāmi'ah Umm al-Qurā, 1409/1988) vol. 3, 2178.

22. Jār Allāh Abū al-Qāsim al-Zamakhsharī, *al-Kashāf* (Riyadh, Maktabat al-'Ubaykān, 1418/1918) vol. 2, 121.

23. *Ibid.*, vol. 4, 25-6. In this connection, al-Māturīdī (d.944) suggests the possibility that Abraham said salām to his father on condition that the father embraces Islam. Abū Manṣūr al-Māturīdī, *Ta'wīlāt Ahl al-Sunnah* (Beirut, Dār al-Kutub

al-ʿIlmiyyah, 1426/2005) vol. 7, 240.

24. ʿAbd Allāh bn Maḥmūd al-Mawṣilī, *al-Ikhtiyār li-Taʿlīl al-Mukhtār* (Beirut, Dār al-Kutub al-ʿIlmiyyah) vol. 4, 165.

25. *Ibid*.

26. Zayn al-Dīn Ibn Nujaym, *al-Ashbāh wa-al-Naẓāʾir* (Damascus, Dār al-Fikr, 1403/1983) 388.

27. Muḥammad bn ʿAlī al-Ḥaṣkafī, *al-Durr al-Mukhtār* (Beirut, Dār al-Kutub al-ʿIlmiyyah, 1423/2002) 342.

28. Abū al-Walīd Sulaymān bn al-Bājī, *al-Muntaqā: Sharḥ Muwaṭṭaʾ Mālik* (Beirut, Dār al-Kutub al-ʿIlmiyyah, 1420/1999) vol. 9, 423-5.

29. Ibn Muḥayrīz is reported to have shaken hands with a Christian in a mosque. Ibn Abī Shaybah, *al-Muṣannaf*, vol. 3, 620.

30. ʿIyāḍ bn Mūsā al-Yaḥṣabī, *Ikmāl al-Muʿlim bi-Fawāʾid Muslim* (Mansoura, Dār al-Wafāʾ, 1419/1998) vol. 7, 48-53.

31. *Ṣaḥīḥ Muslim bi-Sharḥ al-Nawawī* (al-Maṭbaʿat al-Miṣriyyah wa-Maktabat-hā, 1924) vol. 14, 144-5.

32. Abū Zakariyyā al-Nawawī, *Rawḍat al-Ṭālibīn* (Saudi Arabia, Dār ʿĀlam al-Kutub, 1423/2003) vol. 7, 431-2. This is an exegesis of what al-Rāfiʿī writes in *Fatḥ al-ʿAzīz*. Abū al-Qāsim al-Rāfiʿī, Fatḥ al-ʿAzīz (Beirut, Dār al-Kutub al-ʿIlmiyyah, 1417/1997) vol. 11, 374.

33. ʿAbd al-Raḥmān al-Suyūṭī, *al-Iklīl fī Istinbāṭ al-Tanzīl* (Beirut, Dār al-Kutub al-ʿIlmiyyah, 1401/1981) 96; This ḥadīth is recorded by al-Ṭabarānī (d.971). Abū al-Qāsim al-Ṭabarānī, *al-Muʿjam al-Kabīr* (Cairo, Maktabat Ibn Taymiyyah) vol. 11, 358.

34. Ibn Hajar al-ʿAsqalānī, *Fatḥ al-Bārī*, vol. 13, 284.

35. Abū Muḥammad Ibn Qudāmah, *al-Mughnī* (Maktabat al-Qāhirah, 1389/1969) vol. 9, 363.

36. Shams al-Dīn Ibn al-Qayyim al-Jawziyyah, *Aḥkām Ahl al-Dhimmah* (Dammam, Ramādī, 1418/1997) vol. 1, 409-26.

37. Ibn al-Qayyim, *Zād al-Maʿād fī Hady Khayr al-ʿIbād* (Egypt, Muṣṭafā al-Bābī al-Ḥalabī, 1390/1970) vol. 2, 30-31.

38. Shaykh al-Ṭāʾifah al-Ṭūsī, *al-Tibyān* (Najaf, al-Ṭabʿat al-ʿIlmiyyah, 1383/1963) vol. 3, 278-9.

39. Abū ʿAlī al-Ṭabarsī, *Majmaʿ al-Bayān* (Beirut, Dār al-Fikr, 1376/1957) vol. 5, 180-1.

40. Muḥammad Ṣāliḥ al-Māzandarānī, *Sharḥ Uṣūl al-Kāfī* (Beirut, Dār Iḥyāʾ al-Turāth al-ʿArabī, 1421/2000) vol. 11, 118-22. The text reads "al-mubāʿadah wa-al-mushārakah" (121), but it should be "al-mubāʿadah wa-al-mutārakah," which is an expression commonly used by a number of scholars.

41. This ḥadīth is recorded by al-Ṭabarānī, but al-ʿAsqalānī says it is Abū Umāmah's opinion. al-Ṭabarānī, *al-Muʿjam al-Kabīr*, vol. 8, 129; al-ʿAsqalānī, *Fatḥ al-Bārī*, vol.13, 277. In Shīʿah, there is a ḥadīth of which wording is slightly different yet meaning is the same. ʿAllāmat al-Majlisī, *Biḥār al-Anwār* (Beirut, Muʾassasat al-Wafāʾ, 1403/1983) vol. 73, 11-2.

42. Muḥammad Rashīd Riḍā, *al-Manār*, vol. 5, Cairo, 1902, 583-5.

43. Riḍā, *Tafsīr al-Qurʾān al-Ḥakīm* (Egypt, al-Maṭbaʿat al-Manār, 1328h) vol. 5, 313.

44.   *Ibid.*, p. 315.

45.   Muhammad al-Ghazālī, *A Thematic Commentary on the Qur'an*, translated by Ashur A. Shamis (Herndon, International Institute of Islamic Thought, 1421/2000) 72.

46.   Yusuf al-Qaradawi, *Fiqh of Muslim Minorities: Contentious Issues & Recommended Solutions*, translated by al-Falah Foundation (Cairo, al-Falah Foundation, 1424/2003) 144. He seems to mix up Ibn 'Abbās's tradition and al-Sha'bī's.

47.   Muḥammad al-Gharawī, *al-Salām fī al-Qur'ān wa-al-Ḥadīth* (Beirut, Dār al-Aḍwā', 1990) 140-3.

48.   'Abd Allāh bn Ṣāliḥ al-Fawzān, *Minḥat al-'Allām fī Sharḥ Bulūgh al-Marām* (Riyadh, Dār Ibn al-Jawzī, 1428h) vol. 9, 141. This ḥadīth is recorded by al-Bukhārī. al-Bukhārī, al-Adab al-Mufrad, Chapter Greetings [Kitāb al-salām].

49.   http://english.bayynat.org.lb/Jurisprudence/minorities4.htm,   accessed   on   10 March 2014.

50.   Riḍā, *Tafsīr*, vol. 5, 347-50.

51.   Muḥammad bn Ṣāliḥ al-'Uthaymīn, *Sharḥ Ḥilyat Ṭālib al-'Ilm* (Alexandria, Dār al-Baṣīrah, 1429/2008) 50.

52.   This article is an outcome of JSPS Strategic Young Researcher Overseas Visit Program for Accelerating Brain Circulation (2011-13): *Interrelations and Dialogue among the Communities of Monotheistic Religions in the Multicultural Age.*

ON THE EPISTEMOLOGICAL SCOPE AND SOME CONTEMPORARY IMPLICATIONS OF THE QUR'ANIC NOTION OF *ĀYĀT*

Patrick Laude*

Abstract: This paper argues that the cosmic signs or *āyāt* repeatedly mentioned in the Qur'an can be understood, and indeed have been understood in classical Islam, as theophanic manifestations of His Being and Qualities; hence a metaphysical intuition of their divine roots goes beyond reason as mere decipherer of the wonders of structure and mechanics of the world. By contrast, literalist reformist and modernist discourses tend to shun the Quranic evidences of Divine immanence while emphasising exclusively the distance between God and His creation. This is why most contemporary Islamic apologists of modern science understand the world as a realm of cosmogonic "signatures" rather than one of metaphysical theophany. As a response to this type of views, it is argued herein that both the reductive and problematic treatment of the Qur'an as a kind of scientific manual and, at the other extreme, the denial of the conjunction between *tawhīd* and the traditional Islamic concept and practice of science fail to do justice to the deeper layers of meaning of *āyāt*. Only a consideration of a sense of the qualitative meaning of the cosmos through a restoration of a consciousness of Divine Immanence can provide an antidote to such reductive readings.

Contemporary Islamic public discourse appears, by and large, to be primarily magnetised by the two poles of law, particularly in its social and political dimensions, and science, together with its technological applications. The first pole refers to orthopraxy, or that which defines Islam as a right "doing," which means that it is intrinsic to Islam itself as a lived reality, while being often envisaged from the primary point of view of its social-political concomitances and laws. While such focuses have been obviously very significant throughout Islamic history, what may be deemed to be representative of the last decades is the extent to which religious concerns have been increasingly and exclusively centered on such areas, arguably at the expense of intellectual endeavours in the theological and philosophical fields.

Besides this "orthopractic" principle of identity, there is another set of concerns which, while being literally extra-Islamic in and of itself, has exercised an increasingly strong pull on the Islamic psyche. This is the province of modern science and its technological fruits, a field that is powerfully attractive to many Muslims as a contemporary epistemological and axiological complement to, and sometimes validation of, the Islamic religion itself. The reasons for this overwhelming impact of modern science and technology have been many, while being likely reducible to a few salient ones. First, there is an enduring sense that,

since the dawn of contemporary history, the Islamic world has been dominated and colonised by European powers largely as a result of its inability to keep up with the scientific and technological progress taking place in Europe and America. The focus of most Muslim thinkers lying with socio-political challenges,[1] therefore with matters of power, science has been endowed with supereminent prestige in terms of responding to those challenges. Secondly, and consequently, there have been growing interpretations of Islam as a rational, if not rationalistic, religion. The premises of such interpretations can be found centuries back both in Islam itself and in Western representations of Islam.[2] However, for some scholars such as William Chittick, the contemporary branding of Islam as a "rational" if not "rationalistic" religion, among "both Muslim apologists and Western scholars," should not veil that "rationalism has in fact played a more restricted role in Islamic history than many historians suggest."[3] Although the rational streak of Islam is integral to its history, it is also hardly doubtful that, with the notable exception of the world of Islamic spirituality or tasawwuf, a decline of metaphysical and spiritual discourse in Islam has been parallel to a growing rationalisation of the religion. For such analysts, this state of affairs has left a "philosophical" vacuum which only modern science, or rather applied science, could fill.[4] This largely explains the positivistic character of many Islamist discourses on science in the late 19th and 20th century,[5] as well as, more recently, the facilitation of what Olivier Roy has characterised as the "formatting" of contemporary religion as an object of ideological consumption.[6] The net contemporary result is that, by and large, formal and rational *tawhīd* and the authority of an arguably "monolithised" shari'ah on the one hand, and modern sciences qua technology on the other hand, have become the two legitimating and validating principles of knowledge in Muslim culture. The ideological need to bring the two together could not, therefore, but arise.

Our purpose in this context is to evaluate some arguably problematic ways in which this need has been fulfilled, but also to explore the grounds on which some contemporary Muslim intellectuals have argued, by contrast, for the recovery of the oft-neglected dimensions of the spiritual traditions of Islam with respect to the scope of a possible "Qur'anic science" of the cosmos. With this objective in mind, this paper provides a few elements of reflection on the Qur'anic notion of *āyāt* as a way of engaging contemporary Islamic discourses on science and knowledge.[7] One of the main steps of this reflection consists in highlighting the connection, in significant and influential segments of classical Islamic theosophic and mystical metaphysics, of the notion of *āyāt* with the concept of *tajalliyyāt* – often translated in contemporary scholarship as "Divine Self-disclosures"[8] and in contrasting the implications of this connection with rationalistically inclined contemporary Islamic discourses on *āyāt* as "proofs" in the context of a scientific

knowledge of the universe. In order to do so, one must start with the observation that such metaphysical understandings of the *āyāt*—which we do not claim, however, to be representative of the whole classical tradition, was founded on both basic assertions that Divine Reality transcends the world of creation and, no doubt in a more challenging and subtle way, that It manifests something of Itself, Its Qualities, or *sifāt*, through the cosmos.[9] Hence, in classical Sufi gnosis, a metaphysical intuition of the divine roots of cosmic *āyāt* tended to open onto a sense of the Divine Proximity of *al-Qarīb*, the All-Near. It can be argued, moreover, that this sense of an immanence of the Divine Qualities through the "signs of God," while including a strong consideration of the divine "design" of creation,[10] extended beyond a mere rational deciphering of the structure and mechanics of the world, and balanced out *tanzīh*, or transcendent incomparability, with *tashbīh*, or immanent analogy.[11] By contrast, most contemporary readings - whether revivalist, puritanical, or modernist ones, tend to shun the Qur'anic intimations of Divine immanence while emphasising quasi-exclusively the rational and "theological" distance between God and His creation. Thus, Muslim rationalist apologists of modern science tend to understand the world as a realm of cosmogonic "signatures" rather than one of metaphysical Self-disclosures.[12] In such readings, the *āyāt* are conceived as cosmic markers of a transcendent Divine Intelligence rather than as instances of Divine Presence or Proximity.[13] This perspective may not be exempt from a measure of reductionism which has arguably contributed to a spiritual impoverishment of the tradition. There is only one step from such a diagnosis to the hypothesis that the rationalistic reconstruction of religion opened a vacuum in which some of the religious pathologies of our times became free to prosper. In other words, if it can be argued that the modern rationalist/scientistic point of view does not readily make room for the "presential centrality" of God, then it may follow from it that this presumed "abstraction" of the Divine may foster an overemphasis on formal literalism, rational legalism, and ideological systematisation. Indeed, some contemporary rationalist and ideological forms of Islam do not seem to approach God as an immanent "centre," most likely because they are ill-equipped to understand such a perspective otherwise than as a gross "localisation" of God, hence in their view a form of idolatry or shirk.

When considering the overall intellectual climate of contemporary Islam, it is expedient, if not fully satisfactory, to take account of four representative ways of articulating the relationship between Islam, the Qur'an and modern sciences among Muslims. First, a number of prominent Islamic thinkers circumscribe their consideration of modern sciences to their practical effectiveness, while being primarily concerned with situating those sciences within Islamically-defined ethical boundaries. This is, for example, quite evident when considering

the remarkable development of Islamic bio-ethics in the last decades.[14] These works do not significantly address the epistemological status of contemporary sciences within the context of a reflection on the meaning(s) of Qur'anic *'ilm* as knowledge of God, nor in regard to a concern for the contemporary theme of a "desacralisation" or "disenchantment" of the world. They tend to neglect, ignore or reject the qualitative cosmology implied by the Qur'anic worldview that was developed by major streams of the classical tradition through notions such as those of *kursī*, *'arsh*, and *malakūt*.[15] Theirs is, for all practical purposes, a contemporary scientistic cosmology that they do not articulate explicitly and ontologically to the monotheistic creed and the injunctions of the shari'ah, except in a quasi-ethical manner in terms of a very general reference to divine injunctions to "seek knowledge." This focus on science as pragmatic "outcome" distances itself from an obsolescent 19th century positivism, but it remains focused on the prestige of science as a central paradigm of knowledge. For instance, the primary concern of a major reformist thinker like Abdulkarim Soroush lies with saving science from positivism, i.e. from the non-recognition of the historicity of science and its claim of empirical independence from any a priori theory. Notwithstanding this reservation, Soroush still comes to the rescue of modern science against post-modern suspicions and pre-modern "obscurantism" while limiting his own scope to an ethics of science as a quest for the proper relationship between "knowledge and justice" and for "forging a desirable connection between them."[16] Similarly, other prominent Muslim intellectuals, like Tariq Ramadan, do not as much address the epistemological and cosmological implications of modern sciences as they assess the need for their moral contextualisation and ethical control.[17]

A second type of approach, often criticised nowadays, which appears in works such as Maurice Bucaille's best seller on The Qur'an, the Bible and Science,[18] addresses the epistemological implications of the Revelation by attempting to connect the explicit teachings of the Qur'an to the discoveries of science in the way of treating the Book as a repository of scientific knowledge, the truth of which would be confirmed by contemporary scientific advances. As for the third position, characterised as "culturalist-historical" by Ibrahim Kalin,[19] it tends to be defined, by contrast, by an attempt at highlighting the role of historical, sociopolitical and cultural developments in fostering Islamic science. In doing so, some of those historical approaches may even argue for the independence of the two domains of religion and science from each other. In this view of things, which remains relatively minor among scholars, the developments of medieval Islamic sciences, for example, were not directly related, in practice, to Qur'anic or Islamic principles.[20] Thus, Ahmad Dallal argues in favor of a historical view of religion and science in classical Islam as discrete realities that no unity or hierarchy of knowledge could subsume under a common tree of knowledge.

In addition to those three main approaches of the relationship between Islam and science, one must also mention a fourth position, which is not without considerable influence in North American academia and much of the Muslim world, and is best represented, by the works of Seyyed Hossein Nasr, Naquib al-Attas, Osman Bakar, and Muzaffar Iqbal, among others. This view sees the Qur'an as expressing a qualitative cosmology grounded in *tawhīd* which is deemed to have functioned as a paradigmatic Islamic framework for scientific research and activity.

Although the second and third types of discourse are profoundly at odds in their respective views of the scope of the Qur'an and its relationship with science, they share a common concern for giving priority to the transcendent dimension of the Divine, while upholding a shared view of the primacy of rationality. This is particularly evident when considering their respective understandings of the meaning and function of the Qur'anic *āyāt*. While the second perspective connects scientific knowledge to revelation in outright opposition to the third one, both outlooks tend to bypass or reject the immanent and theophanic dimensions of the *āyāt*, while downplaying or ignoring the connection of the latter with modes of knowledge other than rational ones, such as imagination and spiritual intuition, not to mention aesthetic perception. It can be argued, therefore, that their respective conceptions of the signs of God "upon the horizon and within their own souls (*nafs*)" do not prevent the possibility of a rational absolutisation of the gap between creation and its Creator. In the first case (Bucaillean approach) the *āyāt* are conceived "scientifically" as divine "signatures" that allow us to infer from them the existence of a transcendent Maker responsible for the workings of creation. In this view, it would seem there is a transcendent Creator who lies beyond the workings of creation, and a creation that bears the marks of His Work. Thus, the Qur'an tells us about this Work and these workings, but although the existence of the Maker is recognisable through them, He is not thereby knowable in His Essence. The connection herein is epistemologically, indeed rationally, functional rather than ontological, and the recognition of the existence of God through or from that of the world is primarily, if not exclusively, a matter of rational and scientific correlation. It pertains to what Hussein Abdul-Raof has pointedly referred to as "number-and-science oriented Qur'anic inimitability."[21] Knowledge of God is limited to a rational/scientific recognition of His existence through a confirmation of Qur'anic data by science, and this knowledge is expected to translate into a more rationally and scientifically backed obedience to the words of revelation and religion in general.

The second type of approach appears in the works of contemporary experts like Ahmad Dallal who argue for a recognition of the independence from religion that sciences have enjoyed, in their view, in Islam. In this case, as illustrated for

example by Dallal's contextualisation of, and meditation upon, al-Rāzī's *tafsīr* of the Qur'anic meaning of *āyāt*, what the Qur'an teaches us through the *āyāt* simply amounts to a recognition of the existence, power, but also unreachability and unfathomableness, of God. There is no question that Al-Rāzī's emphases, and Dallal's critical use of them, point to one of the very significant dimensions of the matter, as best illustrated in verses such as 2:22 "(He) Who hath appointed the earth a resting-place for you, and the sky a canopy; and causeth water to pour down from the sky, thereby producing fruits as food for you. And do not set up rivals to Allah when ye know (better)." However, as a result of this exclusively "transcendentist" outlook on the *āyāt* as indicators of God's all-powerfulness and unknowableness, we see a potential chasm being opened between a religious blessed unknowingness of, and surrender to, God's Essence on the one hand, and scientific knowledge on the other hand. The more "affirmative" aspect of the *āyāt* as gifts from God and benefits for mankind may to some extent "soften" the rigours of this emphasis on transcendent incomparability by highlighting a relational, indeed merciful, dimension of the Transcendent, but they do not in any explicit way open onto a sense of theophanic presence.[22] All they do in a sense is to remind one of the Unfathomable Mercy of the Unknowable Essence, without making God in any way "closer" in a metaphysical sense. At any rate, this may be deemed to lead to a wider separation between faith as a non-rational knowledge, and science, as the rational investigation of creation par excellence. The point made by Dallal in his commentaries on Al-Rāzī is that the Qur'an does not provide scientific answers, nor even the principles of scientific answers, to the question of the structure of cosmic phenomena, but simply fosters a sense of awe before God's power through creation, and a blessed and grateful recognition of his being the Originator. Besides and beyond these reverential and grateful sentiments, such rejection of the concept of an Islamic science fosters a situation in which modern science would become free to develop its own cosmology and the ambience of its own empirical "creation" as it were, independently from the metaphysical and cosmological demands of *tawhīd*. For those who hold this view, it is, implicitly or explicitly, an opportunity for fostering a "reconciliation" between the Muslim psyche and the modern paradigm, and for claiming to rid the former of what Dallal deems to be the obscurantist, "ill-disciplined" and "imaginative" burden of a pre-modern cosmology.[23]

Now an argument can be made that both aforementioned views of the message of the Quran and the *āyāt* do not truly consider a most meaningful aspect of the Qur'anic dimension of the divine "signs," that is their qualitative and "presential aspects." This is what will be suggested in the following pages through a reading of a few representative instances of Qur'anic *āyāt*, together with references to a few classical texts and pieces of spiritual exegesis.

In order to begin this discussion we would like to highlight a crucial passage from surah al-Nahl that runs from verses 11 to 79. In this passage a long list of *āyāt* are provided, including references to livestock, palm-trees, bees, colors, death and life, the wool of animals and many more "signs." The mention of these "signs" and "gifts" is not only mirroring the dual point of view of God's power and human benefits, but it also refers to human attitudes that are, or should be, normative in response to them. It is clear, therefore, that the *āyāt* are intrinsically relational. Thus, at least eight verbal forms are used to characterise the actions and attitudes that befit believers in relation and response to God's *āyāt*. These are, *yatafakkarūn* (11), from the family of *fikr* and *tafakkur* or reflection and meditation, *ya'qilūn* (12), referring to an exercise of the intellect as link to God, *yadhdhakarūn* (13), remembrance of God as mention or prayer, *dhikr*, *tashkurūn* (14), expression of gratitude for God's gifts, *ta'tadūn* (15), divine guidance provided in and through the "signs," *yu'minūn* (64), faith in God through His signs, and *yasma'ūn* (65), listening to God's signs.[24] It is clear from all of those examples that intelligence, will and feelings are summoned by the *āyāt*. *Āyāt* require an integral response on the part of mankind, which makes it plain why the Qur'an considers their rejection or disdain by disbelievers as the worst of transgressions. *Āyāt* are an expression of Divine Mercy to mankind while marking at the same time the Rigour of God by calling for a discrimination, or a discernment, that separates those who pass this test of discernment from those who do not. This is clearly indicated by the fact, noted by Madigan, that "the verbs used in recounting the response of people to God's *āyāt* are overwhelming negative."[25] This latter aspect could lead one to emphasise that the "signs" bear witness, through their aspect of rigorous discernment, to the transcendence of God. Thus, when signs are pointers to the realities which they signify while being different from them, there is a need for bridging the gap between the signifier and the signified, a need in which lies the "merit" of the believer. However, the merit attached to the response of the believers is not a mere matter of rational recognition, but one of direct, integral, one could say "holistic" contact with the *āyāt*. This is why, according to some mystical *tafsirs*, only the saint or "knower by God" can truly know the depth of the *āyāt*.[26] At any rate, guidance and remembrance entail much more, for example, than mere scientific investigation or deciphering, since they imply a spiritual realisation, or *tahqīq*. And the expression to "listen" to the signs connote both an exercise of sensory and emotional attention, and one of surrender and obedience.

When looking more closely at the different kinds of *āyāt*, one may distinguish three. *Āyāt* can be *tadhkirah* or *dhikr*, *āyāt bayyanāt* that is clear and unambiguous signs, and finally *mithāl* or *amthāl*, that is akin to similitudes and analogies. First, the *āyāt* are often defined as *dhikr* or *tadhkirah*. The natural phenomena are

therefore reminders of the Divine and reminders of the pre-existential covenant of God with mankind. It is said in Surah al-A'rāf that when God "drew forth from the Children of Adam - from their loins - their descendants, and made them testify concerning themselves, (saying): 'Am I not your Lord ?' (*Alastu bi-rabbikum*?) They said: 'Yea! We do testify!' (This), lest ye should say on the Day of Judgment: "Of this we were never mindful" (7:172). In this context, the *āyāt* bring about a process of inner recollection of God by means of his "signs." The exteriorisation of God as *az-Zāhir* through His *āyāt* calls for an interiorisation, an intimate recollection of God, a coming close to God on the part of mankind through *dhikr*. This intimate recollection is diversely characterised, in its various modalities, as thinking, reflecting, remembering, listening and so forth. Moreover, this interiorisation must translate into ways to relate to the greater cosmos, as well as to any aspect of the world, human and non-human, that surrounds mankind. Thus in the verses, "the heaven He raised and imposed the balance (*al-mīzān*). That you not transgress within the balance. And establish weight in justice and do not make deficient the balance." (*Wa aqīmū al-wazna bi-l-qisti wa lā tukhsirū al-mīzān*) (55:7-10). The natural *āyāt* pertaining to cosmic order and balance are clearly connected, in these verses, to social, moral and spiritual teachings concerning *al-mīzān*, a term that suggests both equilibrium and justice. The correspondence and similitude between inner integration and outer integration is unambiguously highlighted. The cosmos participates, therefore, in the very wisdom and justice of God, to which mankind is called by virtue of its original and ontological covenant with God.

We will not comment in details on the *āyāt bayyanāt*, the clear signs, inasmuch as they refer generally not to the natural or cosmic signs, but rather to the prophecies, miracles and prodigies brought by and through the prophets "by the permission" and through the acts of God. Like Lut (29:35) and other prophets before them, Moses is endowed "with clear signs" (2:92) and Jesus is given "clear signs" (2:97), and God sends "manifest signs to his servant" (57: 9). The "clarity" refers, therefore, to the directness of the "revelation" of *āyāt bayyanāt* as coming from God, without even the illusory mediation of secondary causes. In this sense, the Qur'an itself is, first and foremost, an *āyat bayyanat,* as testified in the second verse of its second surah: "This is the Book; in it is guidance sure, without doubt, to those who fear God" (2:2). Notwithstanding the privilege of "clarity" of the *āyāt bayyanāt*, all "signs" are ultimately "designed" to enter the realm of evidence and become "manifest," as testified by the verse "soon will We show them our Signs in the (furthest) regions (of the earth), and in their own souls, until it becomes manifest (*yatabayyan*) to them that this is the Truth" (41:53).

From our present point of view, however, the most important aspect of the *āyāt* is their frequent kinship with the similitudes or analogies, in Arabic *amthāl*. First

of all, it bears pondering that the Qur'an often uses natural and cosmic *āyāt* in order to highlight analogies between orders of reality. In verse 7:57 for example, we read that "He it is Who sendeth the winds as tidings heralding His mercy, till, when they bear a cloud heavy (with rain), We lead it to a dead land, and then cause water to descend thereon and thereby bring forth fruits of every kind. Thus bring We forth the dead. Haply ye may remember." Thus, bringing dead land back to life by rain is connected, in several places, to God's power to resurrect the dead and to renew creation. It therefore denotes the power of God, but also a similitude between levels of reality, here the terrestrial, biological, and the celestial or eschatological. The metaphysics of the *āyāt* is connected to a metaphysics of the *amthāl*, a metaphysics of analogy. Three points must be emphasised in this respect. First, on the most elementary level, the *āyāt* as *amthāl* are means of divine pedagogy. The Qur'anic God teaches mankind through parables that involve analogies between realities, the lowest being obviously accessible to all while the highest pertain to divine actions, mysteries or spiritual dispositions. Now this pedagogical function is not merely metaphorical, or even allegorical, since it directly flows from metaphysics and cosmology. In other words, analogy is the fundamental law of reality. This type of understanding is one developed, for example, by Ghazālī in his Mishkat al-Anwār. Consonant with the pervasive pre-modern view that sees the terrestrial world as mysteriously connected to other worlds of meaning beyond it, Ghazālī expounds a metaphysics of similitude that is founded on the Qur'anic distinction between the world of dominion, *'alam al-malakūt*, and the world of manifestation, *'alam al-shahādah*. This distinction entails a rigorous law of correspondence or similitude between the two worlds. It is presupposed by the unity of the Real, *tawhīd*, as well as entailed by the cosmogonic principle of a descent from the highest degrees of being to the lowest ones. Ghazālī articulates it this way: "The visible world comes forth from the world of dominion just as the shadow comes forth from the thing that throws it, the fruit comes forth from the tree, and the effect comes forth from the secondary cause. The keys to knowledge of effects are found only in their secondary cause. Hence, the visible world is a similitude of the world of dominion."[27] Two further points are, moreover, important to underline here: firstly, *tawhīd* refers to one single God, as opposed to two, three or a thousand, but also to the exclusive and inclusive Reality of God, as expressed by the Names *al-Ahad* and *al-Wāhid*. Secondly, the process of creation is also one through which everything that is manifested must have to be present in a more essential way in the Principle of its manifestation. And this means, therefore, that the lower levels of manifestation always point to higher ones as their more "real" degree of being. Therefore, to know the *āyāt* amounts to knowing God because there is nothing knowable in them that is not God's. Now, such a view is not easily aligned with dominant

contemporary religious and scientistic understandings. It challenges the ordinary religious consciousness that postulates a quasi-absolute gap between God and the world and treats the latter as a "scientific" handicraft of God, and it also contradicts the scientistic paradigm since the prevailing concept of contemporary science that originated in the modern West denies, for all methodological purposes, the reality of that which transcends the observable and quantifiable layers of the universe.

Now, much has been made in puritanical and reformist circles of the Qur'anic axiom that "only God knows," and this has not uncommonly led to the perilous conclusion that mankind can know nothing outside of scriptures, at least when it comes to metaphysics and theology. Thus, verses stating that God "knows" and man "knows not" are often used in order to illustrate such theses. Given the pedagogical function of *amthāl* as *āyāt* that was highlighted above, one may be arrested by the explicit Qur'anic statement according to which mankind is ignorant when it comes to similitudes. Verse 74 of surah 16 asserts that men themselves must not "strike analogies" with God because "they do not know," and only God knows how to "strike" them. It might be misleading, however, to read this verse as an absolute statement of human ignorance. What it may suggest rather, is the vertically descending direction of the gift of being and meaning. In other words, the continuity between levels of reality, or the analogies that connect them, cannot be a result of human deductions, speculations or hypotheses, but rather one of ontological necessity, coming from God, as it were. On the one hand, it is Revelation that "teaches" signs and similitudes, on the other hand the latter are inscribed in the very structure of reality. What this means is that human reason and discourse are not the foundations of analogies, without for that lessening the need for a human receptivity to Divine teachings, intimations and grace. Such receptivity entails an existential and spiritual motion of coming closer to God's presence that is the pre-condition for the theophanic unfolding of the *āyāt*.[28]

In order to read deeper into this meaning of the immanence of God's Qualities through *āyāt*, it may be helpful to look at a very rich passage from the Qur'an. This passage runs from verse 63 to 73 of the *Surah al-Wāqi'ah*: "Have you considered what you sow? Is it you that cause it to grow, or are We the causers (*az-Zāri'ūn*) of growth? If We pleased, We should have certainly made it broken down into pieces, then would you begin to lament: Surely we are burdened with debt: Nay! we are deprived. Have you considered the water which you drink? Is it you that send it down from the clouds, or are We the senders? If We pleased, We would have made it salty; why do you not then give thanks? Have you considered the fire which you strike? Is it you that produce the trees for it, or are We the producers? We have made it a reminder and an advantage for the wayfarers of the desert. Therefore glorify the name of your Lord, the Great." (56:63-73)

The immanence of God to creation is presented on three different levels through the *āyāt* of sowing, rain and wood. Irrespective of the sequential presentation of these three *āyāt* in the Book, we can discern three degrees of impact of Divine immanence. There is, on the most elementary level, that of the second *āyāt*, a clear reference to the incapacity of humans to produce natural phenomena such as rain, of which God is the true cause, which brings back humans to a sense of ontological dependence. Secondly, even when considering the productive actions of man (like rubbing wood to make fire) one must be led to realise that they depend upon the properties given by God to the materials used by mankind. Finally, and most radically, even the actions of man himself have God as agent: man is not the real agent in "sowing" but it is in fact God who sows, and is the Sower, *az-Zāri'*. We can see here three deeper and deeper degrees of Divine immanence. At a first level God is mostly a transcendent Cause. On the second level, He is also a transcendent Cause but He inspires man, as it were, by providing him the means of his actions. At the third degree He is clearly the only immanent Agent through His *af'āl*, and not only as transcendent Creator. The reference to the possibility of the reduction of the seeds in powder, a striking image of the return to nothingness, suggests the Divine Power to sustain everything into creation, and the occasionalist interpretation of *khalq al-jadīd* that is to be found in the works of not a few Muslim theologians.

The strong immanentist bent of Qur'anic *āyāt* is further buttressed by a suggestive verse that evokes the flight of birds in the sky: "Do they not see the birds held in the atmosphere of the sky (*fī jawwi as-samā'i*) ? None holds them up except God. Indeed in that are signs for a people who believe (*inna fī dhālika la-ayyātin li-qawmi yu'minūna*)." (16:79) When meditating upon this verse one can infer that the *āyāt* is not about a physical statement but refers, rather, to a metaphysical and spiritual reality. To understand this *āyāt* scientifically, or merely physically, would actually lead one to cast doubt on the very point made by the Qur'an, since it appears to imply an ignorance of the law of gravity. In other words, it is not only that the physical laws created by God support the birds, as some *tafsirs* indicate: they are supported by none but God Himself, *ill'Allāh*. Secondly, this verse shows that a purely rational understanding of the laws of nature on the basis of physical sciences does not provide the fundamental key to the meaning of creation. The latter can only be recognised to be a mysterious but efficient Divine Act of being that sustains creatures into existence. There is no secondary cause that could be metaphysically isolated, as it were, from the primary Cause. Thirdly, this Cause is not only rationally and chronologically anterior, but also and above all metaphysically foundational at all times and in all places. As a consequence, the Qur'an suggests that the key to God-consciousness is a sense of Presence of the All-Powerful and All-Merciful

everywhere and at any time, not a mere rational position of a First Cause which would function as a supreme technologist of the workings of Creation, while being cast aside as soon as the serious business of doing science begins.[29]

The sense of presence inherent to such evocations of the *āyāt* is further suggested by the articulation of Unity and multiplicity implied by some Qur'anic verses. Thus in the following verses: "Lo! In the creation of the heavens and the earth and (in) the difference of night and day are tokens (of His Sovereignty) for men of understanding, Such as remember Allah, standing, sitting, and reclining, and consider the creation of the heavens and the earth, (and say): Our Lord! Thou createdst not this in vain. Glory be to Thee! Preserve us from the doom of Fire." (3:190-191). First of all it is important to note that the meditation on this *āyāt* is the characteristic of those who are referred to as *ūlū al-albāb* and *dhākirūn*. The first term, which is frequent in the Qur'an, includes the plural of *lubb* which refers in Arabic to an inner intelligence that suggests a penetrating and intuitive intelligence rather than rational abilities *stricto sensu*. As for the term *dhākirūn*, it clearly refers to remembering God in mentioning Him in prayer, although this kind of prayer is obviously not restricted to the canonical *salāt* since the latter does not involve any "reclining" and cannot nor should be performed at all times. Finally, the word for "in vain" is *bātil*, which refers to something that has no substance and reality, by contrast with the Real, *al-Haqq*. The alternation of days and nights is one of the *āyāt* mentioned on several occasions in the Qur'an. It alludes to one of the fundamental aspects of cosmic existence, one that implies order, complementarity, correspondence between outer and inner rhythms and needs and, above all perhaps, a reflection of eternity through the cyclicity of time. What is striking herein is that this alternation, with all that it entails, is related, on the side of human receptivity, to those who "remember God standing, sitting and lying," therefore throughout the various stages of the cycle of daily existence. While the duality of day and night proceeds from the Unity of the Creator, the multiplicity of human daily "states" is so to speak reabsorbed into the *tawhīd* of remembrance. Multiplicity and alternations flow from Unity and reproduce it through their rhythm on their own level. At the same time Unity remains, through human recollection, the metaphysical leitmotif underlying the rhythm of its manifold manifestations, as the permanent *dhikr* that connects temporality to Eternity, and plurality to Oneness. Those who remember God are keenly aware of qualitative differences in creation, beginning with temporal ones, against the background of a heightened awareness of the One here and now. This example demonstrates how the *āyāt* may function not only as rational clues for the existence of the Creator, but as theophanic reminders of Divine Unity within creation. This aspect of multiplicity within Unity is evidently central in the *āyāt* par excellence, which is the Qur'an. Let us note that it manifests itself

both horizontally, in the diversity of verses, and vertically by the multiplicity of degrees of meaning. A number of authenticated *ahādīth* refer to the principle that each of the verse or *āyāt* of the Qur'an has four different meanings. These meanings are referred to as literal or external (having to do with the "back" of the verse or *zāhir*), inner (referring to the "belly" or "inside" – *bātin*), pertaining to the "limit" (*hadd*) and finally connected to the "point of ascension" or *matlā'*.[30] Inasmuch as the concept of *āyāt* corresponds to both Qur'anic verses and natural phenomena or "signs" – whether external or internal—one may be prompted to ask whether such degrees of meaning might have some validity when applied to the latter. Within the mystical tradition of Islam, some commentators of the Qur'an such as *al-Barrajān* have directly connected the three domains of manifestation of the signs of God, that is the Book, the cosmos and the soul (*nafs*), in a simultaneous "higher reading" of all three.[31] While it is quite evident that such phenomena can be taken "literally" as "phenomena," that is literally as "appearance" or manifestation, and while it is no less evident that such phenomenal manifestations are of necessity inscribed within ontological and spatio-temporal limits that make them different from each other, it may be helpful to raise the question of the possible status and meaning of what could be considered the *bātin* and the *matlā'* of phenomena "on the horizon" and "within the soul." Now the notion of an inner meaning of cosmic phenomena, a *bātin*, is clearly relevant to our topic, since it is directly connected to our prior discussion of the *amthāl* as illustrated by Ghazālī's metaphysics of analogy. In other words, any higher level of being includes the *bātin* of a phenomenon situated on a lower ontological level. God "stands above" each creature in the sense that He is the Ultimate Meaning of each of them, both as Essence - because there is none other than the Essence, and as Quality or Name - because each creature makes one taste God through being a reflection of the latter.

As for the *matlā'*, its ascentional orientation highlights the transfer of the visible sign into the invisible. By contrast with the hadd that delimits each *āyāt* within its own exclusive reality, the *matlā'* envisions it from the point of view of its analogical openness. It has therefore to do with *tashbīh*, resemblance in difference, by contrast with incomparability that is akin to *hadd*. These all-too briefly sketched distinctions would seem to justify encompassing all the various instances of *āyāt* under the generic meaning of theophany, or "divine manifestations." Moreover, the Qur'anic attribution of the term *āyāt* to the verses of the Qur'an itself, which Muslims consider to be the Word of God, would lead one to consider that the "sign" can indeed be theophanic. The fact that Muslims consider the recitation of the *āyāt* as spiritually transformative, by contrast with their translations in other languages, cannot be simply ascribed to their divine origin but also, and therefore, to "something" at work in them that lies both

beyond them, and is still inherent to their very being. Thus, it is plausible that Qur'anic *āyāt* are not simply external markers of meaning, or mere references to the transcendence of God, but that they do entail both theophany and theurgy, the manifestation of divine power at work through a spiritually transformational process.

This theophanic aspect is confirmed by a uniquely significant use of the term *āyāt* in the *Surah An-Najm*. During the celestial voyage alluded to in these verses, the Prophet is said to have seen the "greatest signs of His Lord (*Laqad raā min āyāt rabbihi al-kubrā*)" (53:18). However, it is striking to consider that these signs are not even described in any way, as appear to transcend the means of perception and criteria of knowledge of terrestrial existence. In other words, the "greatest *āyāt*" are direct theophanic manifestations of the Divine Reality that, in this particular case, surpass any human formal characterisation. These "signs" are indeed manifested, and still ineffable, as indicated by the wonderfully elliptical Qur'anic statement, "And He revealed to His servant what He revealed (*Wa awhā ilā abdihi mā awhā*)." (53:10)[32]

In order to return to the critical framework of our inquiry we would like to suggest that much of Islamic contemporary discourses seem to be primarily determined by the modern prestige of "facts," meaning that which is "reified," whether as actions or phenomena. This particular emphasis, with the specific mindset that it presupposes and that it fosters, resonates with the concerns of a number of Muslim thinkers and scientists influenced by the modern Western outlook, one that is primarily interested in accounting for the biological, chemical or physical structure of phenomena. Although it cannot do away with the measure of moral and even spiritual intentionality that is inherent to the religious orientation as such, this type of phenomenal and formal emphasis may tend to obscure the ultimate finality of the latter, which has been traditionally understood, particularly in the inner dimensions of the tradition like *tasawwuf*, as a "coming closer to God." By contrast with the classical view that aligned human spiritual intention and divine grace, contemporary religion does run the risk of turning into a formal technology, as science does translate into a technology of production. Thus, the contemporary religious mindset of a portion of Muslim scientists may be considered largely "indirect" in its focus on the Ultimate inasmuch as it identifies with a sense of exclusive transcendence that can confine to rational abstraction and formalist conformity, and therefore potentially to ideological and political appropriation. This would imply moving away from the internal meaning of Islam as surrender to an "ideological" label of formal conformity.

In conclusion, one may see plausible reasons to understand the Qur'anic verse "Do not sell my *āyāt* at a small price" (2:41) as an invitation not to reduce *āyāt* to

the single dimension of rational or scientific proof, but on the contrary to ponder their depth and integral significance. The latter would allow for an understanding, and a spiritual and moral consideration, of a dimension of Divine proximity. This is no doubt what the fourteenth century commentator Al-Kāshānī had in view when he refers, in his *tafsīr*, to the signs "not to sell at a small price" as to "those indicating the self-disclosures of My essence and attributes."[33] Let us consider further, in this connection, that for Ibn 'Arabi, as William Chittick has shown, the signs are the denotations (*dalālāt*) of the Real.[34] In other words, they are not simply the connotations (*mafhūmāt*) of God, as they are in most of modern Islamic thought. Denotation refers a sign to its meaning, while connotation refers to associated meanings. The cosmic signs of a type of "scientism" that might be espoused by some secularised Muslim scientists connote God, but they do not denote Him. In this distinction lie crucial differences as to how they may envisage the *āyāt* and their function in the Islamic consciousness. One of them rests with the meaning of beauty as a denotation of God, since "God is beautiful and He loves beauty." This appears in full light in the verses "And ye have a sense of pride and beauty in them as ye drive them home in the evening, and as ye lead them forth to pasture in the morning. And there is beauty (*jamāl*) for you when you bring them in and take them out." (16: 5-6) This beauty "for" mankind is a direct experience of God's Mercy in the form of something that is not reducible to rational understanding nor practical benefits. It is of the nature of something more immediate and more spiritually intimate.

These considerations invite us to highlight in fine a few general orientations that may be relevant to the mission of educational and socio-cultural institutions. The first lies with the need to cultivate a holistic education that does not isolate the rational and the scientific from the aesthetic and the "affective" in the deepest sense of the term. This is a precondition for nurturing a receptivity to the deeper meanings of the "signs." The second point pertains to the need to design educational curricula that highlight the richness and diversity of the Islamic intellectual traditions, thereby parrying the misguided reduction of Islamic and Qur'anic discourse to contemporary ideological trends and agendas. A third aspect relates to the high significance of spiritual and moral training as a necessary informing principle of any intellectual and scientific endeavours. This does not simply mean tracing protective ethical boundaries around human activities, but fostering a sense of *tawhīd* as consciousness of Unity in all areas of human activities. This would presuppose a re-centering of religious consciousness on the ultimate beauty or *ihsān* of the tradition. Fourthly, the educational cultivation of this consciousness cannot be achieved without a harmonious blend of contemplative education through prayer and intellectual maturation through mental exercise, discipline and argumentation.

As a fifth point, an increased reverential attention to the function and meaning of nature in human life would be part and parcel of any holistic education. This cannot only happen through furthering a respect and protection of natural sites and species but also, and above all, through rediscovering the ways in which the terrestrial "garden" is a reflection and, for believers, a faint prefiguration of the celestial one. Finally, the various dimensions of inner development that we have just sketched must be buttressed by the nurturing of a general ambience of collective harmony and *mizān*; without such an ambience made of sense of respect for others, justice, and peace, many efforts may fail to translate into the highest personal potential of realisation.

The relationship between *āyāt* and spiritual intimacy is no better encapsulated than in the already mentioned verse: "We will show them Our signs in the horizons and within themselves until it becomes clear to them that it is the truth. But is it not sufficient concerning your Lord that He is, over all things, the Witness?" (41:53) So even though the "signs" play a central role in the knowledge of God, it appears that the greatest, deepest and "sufficient" (*yakfi*) proof lies beyond proofs since it is the very and only Selfhood that witnesses the "proofs" and is indeed proof of itself, the One who "cometh in between the man and his own heart (*bayna al-mar'i wa qalbihi*)" (8:24) and is "nearer to man than his jugular vein (*aqrab ilayhi min habli al-warīd*)." (50:16)

Notes

* *Professor Laude* has been teaching at Georgetown University since 1991. A former fellow in philosophy at the Ecole Normale Supérieure in Paris, he earned a Master's degree from the University of Paris IV Sorbonne in 1982, and a Ph.D. from Indiana University in 1985. Professor Laude's scholarly interests and output lie in comparative mysticism and Western representations and interpretations of Islamic and Asian spiritual and wisdom traditions. He has authored over ten books and monographs including: Pathways to an Inner Islam, Albany: SUNY Press, 2010, Louis Massignon: The Vow and the Oath, London: Matheson Trust, 2011, Divine Play, Sacred Laughter and Spiritual Understanding. New York: Palgrave McMillan, 2005, and Singing the Way: Insights in Poetry and Spiritual Transformation. Bloomington, Indiana: World Wisdom, 2005. He has also published numerous articles in academic journals such as Studies in Spirituality, Philosophy East and West, Hikma, Sophia, Revue des sciences philosophiques et théologiques, and La Revue Théologique de Louvain. He can be contacted at laudep@georgetown.edu.

1. This has even resulted in what the Islamicist Eric Geoffroy has diagnosed as a "rationalism induced by the inferiority complex of the ex-colonized." *Eric Geoffroy, L'islam sera spiritual ou ne sera plus*, Paris, Le Seuil, 2009, 75.

2. This was particularly true during the Enlightenment. The case of Voltaire is quite representative of this way of understanding Islam, often in contradistinction with Christianity. "In his *Les Moeurs et l'esprit des nations* (1756) he (Voltaire)

considered Muhammad an important political thinker and praised Islam as a 'rational religion', considering it more tolerant of other faiths than Christianity had been." Diane Morgan, *Essential Islam: A Comprehensive Guide to Belief and Practice*, Greenwood, 2010, 99.

3. William Chittick, *Science of the Cosmos, Science of the Soul*, OneWorld, Oxford, 2007, 95.

4. Thus Richard K. Khuri has argued that science, in much of Islamic discourse, has been understood in mainly mechanistic terms, this "mechanistic" outlook not having been without affecting the understanding of religion itself. "Modernity itself is thus also seen in mechanistic terms; for rather than grasp its rational and scientific components in their variety and richness, not to mention the moral values underlying it, urgency and haste reduce modernity to its most visible aspects: technological and economic advancement, and democracy, themselves reduced, as we have just seen, to mechanisms. So mechanism comes to dominate the Arab-Muslim reformist spirit insofar as it strives towards revitalisation along Western lines (regardless of whether this is accompanied with moral-religious conservatism or not)." In *Religion and Political Structures: From Fundamentalism to Public Service*, edited by John T. Ford, Robert A. Destro, Charles Richard Dechert, The Council for Research on Values and Philosophy, Washington DC 2005, 41.

5. In order to illustrate his point that "the positivistic understanding of science is shared by most Muslim thinkers in the late nineteenth and twentieth centuries", Ahmad Dallal quotes Hasan al-Bannā's assertion that "Islam does not reject science; indeed, it makes it as obligatory as the acquisition of power, and gives it its support… The Qur'ān does not distinguish between secular and religious science, but advocates both." (Ahmad Dallal, *Islam, Science, and the Challenge of History*, p.161).

6. Olivier Roy, *Holy Ignorance: When Religion and Culture Part Ways*, Columbia University Press, 2010.

7. The correlation between the Islamic concept of science and the Islamic concept of *āyāt* has been clearly articulated by Muzaffar Iqbal: "Given these inherent relationships between God, humanity, and nature, it is impossible in Islam to conceive of nature as an independent self-subsisting entity. Likewise, science – as an organised enterprise that studies and explores the natural world – cannot be conceived as a separate entity which has to be somehow externally related to Islam. In fact, the much-touted lack of separation of state and religion in Islamic polity is applicable to all other domains, as Muslim believe that Islam is not merely a set of commandments and rituals but a complete way of life, encompassing all domains of knowledge and human activity. This worldview is based on an uncompromising insistence on *Tawhid*, the Oneness of God, a ubiquitous concept in Islamic thought that unifies all realms of knowledge, making them branches of the same tree. Difficult as it may be for the modern Western mind – accustomed to regarding religion solely as set of personal beliefs – to understand this aspect of Islam, it is impossible to construct a relationship between Islam and science – or any other domain of knowledge – as a relationship between two distinctively separate entities … it is a relationship that is inherently inseparable from the well-articulated concept of nature as a Divine Sign." Muzaffar Iqbal, *The Making of*

Islamic Science. Islamic Book Trust. 2009, 10.

8. See William Chittick, *The Self-Disclosure of God: Principles of Ibn Al-'Arabi's Cosmology*, State University of New York Press (Suny Series in Islam), 1997.

9. This is, of course, in direct opposition to the Mu'tazilite reduction of Qualities, or Attributes, to the transcendent Essence. As Nader El-Bizri has rightfully noted, "by reducing the attributes to the essence, the Mu'tazila seemed to deny worshippers the object of their praise, exaltation and piety." *The Cambridge Companion to Classical Islamic Theology*, edited by Tim Winter, Cambridge University Press, 2008, 124.

10. Thus, a mystic like Ghazālī could praise the science of structural anatomy as a way of recognising "divine governance": "Indeed, on one can study the science of anatomy and the marvelous uses of the organs without acquiring this compelling knowledge of the perfect governance of Him Who shaped the structure of animals, and especially that of man." *Al-Ghazali's Path to Sufism-his Deliverance from Error al-Munqidh min al-Dalal*, translated by R.J. McCarthy, Fons Vitae, 2000, 29.

11. On this necessary but precarious "balance" see the chapter "Beyond Ideology" in William Chittick, *Science of the Cosmos, Science of the Soul*, 59-74.

12. Thus, this declaration of Al-Afghani: "Those who forbid science and knowledge in the belief that they are safeguarding the Islamic religion are really the enemies of that religion. The Islamic religion is the closest religion to science and knowledge, and there is no incompatibility between science and knowledge and the foundation of the Islamic faith." Quoted in Nikki Keddie, *Sayyid Jamal al-Din "al-Afghani": A Political Biography*, University of California Press, Berkeley, 1972, 104-5.

13. "Seven hundred and fifty verses of the Quran … exhort believers to study Nature, to reflect, to make the best use of reason in their search for the ultimate, and to make the acquiring of knowledge and scientific comprehension part of the community's life." Muhammad Abdus Salam, *Renaissance of Sciences in Islamic Countries*, World Scientific Publishing, Singapore, 1994, 95.

14. See for example Abdulaziz Sachedina, *Islamic Biomedical Ethics: Principles and Application*, Oxford University Press, 2011.

15. For a study of this classical cosmology see Seyyed Hossein Nasr, *An Introduction to Islamic Cosmological Doctrines*, State University of New York Press, 1993.

16. Abdelkarim Soroush, *Reason, Freedom, and Democracy in Islam*, Oxford, 2000, 50-51.

17. "The universal and comprehensive message of Islamic ethics penetrates all the sciences without exception, calling for moral consistency, but it does not confuse the latter with the autonomy of scientific methods (in themselves morally neutral)." Tariq Ramadan, *Western Muslims and the Future of Islam*, Oxford University Press, 2004, 60.

18. Maurice Bucaille, The Bible, the Qu'ran and Science: The Holy Scriptures Examined in the Light of Modern Knowledge, Tahrike Tarsile Qur'an, Seventh Revised Edition, 2003. Such a perspective is also highlighted in the works of highly respected and influential figures like Said Nursi.

19. Cf. Ibrahim Kalin, "Islam and Science", Oxford Islamic Studies Online.

20. "Yet while religion dominated the moral sphere and claimed a higher rank there on

account of the nobility of its subject matter, it did not exercise an epistemological hegemony over science." Ahmad Dallal, *Islam, Science, and the Challenge of History*, Yale University Press, 2010, 147.

21. Hussein Abdul-Raof, *Theological Approaches to Qur'anic Exegesis: A Practical Comparative/Contrastive Analysis*, Routledge, 2012, 62.

22. "A typical commentary focuses on the specific way the various aspects of the natural phenomena are arranged to maximize the benefits they offer to mankind." Ahmad Dallal, op. cit., 123.

23. Refer to Dallal's critique of Nasr's concept of "Islamic science" in Ahmad Dallal, op. cit., 174.

24. In addition to these verbal instances in the significant passage of Al-Nahl, Daniel Madigan has also noted, in other passages, the occurrence of the verbs *raja'a* (to come back, 7:174, 43:48, and 46:27), *ittaqā* (to feel reverential fear, 2:187) *faqiha* (to know, 6:65) and *yaqina* (to be certain, 13:2) in conjunction with Quranic mentions of the *āyāt*. Cf. Daniel A. Madigan, *The Qur'ān's Self-Image: Writing and Authority In Islam's Scripture*, Princeton University Press, 2001, 98.

25. Daniel A. Madigan, *op. cit.* 102.

26. "God (…) has made His signs (*āyāt*) manifest to His friends (*awliyā'*)", *Tafsīr al-Tustarī, Great Commentaries on the Holy Qur'ān*, translated by Annabel Keeler and Ali Keeler, Fons Vitae, 2011, p. 176. "[45:3] *Truly in the heavens and the earth there are signs (āyāt) for those who believe."* He said: The signs (*'alāmāt*) are for the one who has certainty (*yaqīn*) in his heart, and who is guided by their existence (*kawn*) to the One who has brought them into existence (*mukkawin*)." Daniel A. Madigan, *op. cit.*, 188.

27. Al-Ghazālī, *The Niche of Lights*, translated by David Buchman, Brigham Young University Press, 1998, 12.

28. Thus, *the Tafsīr al-Tustarī* comments on the verse "And He shows you His signs; then which of the signs of God do you reject?" (40:81) by connecting explicitly the ability to read the "signs" and the degree of sainthood: "God, Exalted is He, has made His signs (*āyāt*) manifest to His friends (*awliyā'*)." Sahl ibn 'Abd Allah al-Tustari, *Tafsir Al-Tustari*, translated by Annabel Keeler, Fons Vitae, 2011, 176.

29. This is also the spiritual lesson drawn by Kashani in his *tafsīr*, albeit on a different plane, when he understands the "birds" as intellective faculties that are detached from earthly and lower objects and exclusively "sustained" by God in the "atmosphere" of the world of spirits. Cf. *Tafsīr Al-Kāshānī*, Part I, translated by Feras Hamza, Fons Vitae, forthcoming.

30. For a discussion of various interpretations of these four "levels" see Kristin Zahra Sands, *Sufi Commentaries on the Qur'an in Classical Islam*, Routledge, 2006, 8-13.

31. Thus, Denis Gril notes that Ibn Barrajān's 'ibra or spiritual "passage" cannot be achieved without an involvement of all faculties of the soul in an interiorising reading of the Book and the world: «Ce passage ne peut s'accomplir sans un effort constant du lecteur sur lui-même par une intériorisation de la perception, des sens extérieurs vers les sens intérieurs, de la vue vers la vision (*basar-basīra*), car toutes les facultés de l'homme sont sollicitées pour la lecture simultanée du Livre et du monde.» Denis Gril, «La 'lecture supérieure' du Coran selon Ibn Barrağān», Arabica, tome XLVII, Brill, Leiden, 2000, 516.

32. For a discussion of Sufi interpretations of these verses see the commentary of Ibn ʿAtā, which stresses the "purification" from any "state" and "station" that would entail some kind of human or egotic appropriation of the: "signs," in The Subtleties of the Ascension, *Early Mystical Sayings on Muhammad's Heavenly Journey*, Abū ʿAbd al-Rahmān al-Sulamī, translated and annotated by Frederick S. Colby, Fons Vitae, 2006. "The verse seems to conceal more than it reveals about the nature of the experience." Frederick S. Colby, *The Subtleties of the Ascension*, 36.

33. "And do not sell, that is, do not exchange, *My signs*, those indicating the self-disclosures of My essence and attributes, such as the *sūrat al-ikhlās* [Q. 112] and the *kursī*-verse [Q. 2:255] and the like, for a small price, that is, for the paradise of your soul because of your habituation to the sensory pleasures and the reward of deeds through the affirmation of the unity of acts." *Tafsīr Al-Kāshānī*, Part I, translated b Feras Hamza, Fons Vitae, forthcoming, 35.

34. William Chittick, *The Sufi Path of Knowledge*, SUNY Press, 1989, 92.

A CULTURAL ANALYSIS OF OTTOMAN ALGERIA (1516-1830): THE NORTH-SOUTH MEDITERRANEAN PROGRESS GAP

Tarek Ladjal* and Benaouda Bensaid**

Abstract: A number of works have dealt with the socio-political and economic history of Algeria under the Ottoman protectorate; yet the intellectual and cultural life of this period remains poorly explored. We examine the question of 'progress' against the intellectual and religious life of Ottoman Algeria, analysing the reasons behind the negligent European intellectual influences upon Ottoman Algeria. We review pre-colonial Algeria's cultural and intellectual landscape in order to assess the reaction of Algerian society to European ideas originating in the French Revolution and the Enlightenment. Algeria's intellectual context, learning system, and the public practice of Sufism contributed significantly to building resistance to European intellectual infiltration and influence, while the European communities in Algeria played a marginal role in shaping Algeria's intellectual and cultural life. In spite of its inherent political and geostrategic advantages, Ottoman Algeria failed to achieve a balance between military power and politics in the Mediterranean region, and its own inherent cultural resources.

Research into intellectual life in Algeria (*al-Jazā'ir*) during the Ottoman era necessitates understanding the historical relationships between political and religious authority. The earliest traces of this relationship are found in the first moments of the Turkish presence in Algeria, specifically in the official correspondence in 1519 between the two Barbarossa brothers and the Ottoman Sultan Selim the First (or Selim the Grim d.1520). On this occasion, the Sultan rallied the support of the brothers to assist Ottoman interests in the region under the guise of religious authority and legality,[1] an initiative which provided the Ottomans with a strong foothold in Algeria. From this beginning of Ottoman presence in Algeria there grew a dialectic relationship between political and intellectual elites, which exercised both a negative and positive impact on the political and cultural scene manifesting in two predominant relationships. There was either contention or agreement, with each predicament enjoying an active presence in Algerian politics. Where one dominates, the other fades into the background and vice versa.

Similarly the Ottoman politics of containment and domestication assisted them in their dealings with cultured Algerians. Such an approach was drawn from the Ottoman realisation that the loyalty of the elites ensured the loyalty of Algerians in addition to constituting a sound strategy for influencing local politics, culture and society. The Ottoman approach is evidenced in the earliest

examples of Ottoman rule in Algeria, such as when the Ottomans incited the leader of the Muslim campaign against the marauding Spaniards Arrouj (d.1518) and Barbarossa (d.1546) to meet with Shaykh Ahmad bin Yūsuf al-Malyānī (d.1514), a leading figure in the Shadhiliyah Sufi order, and forge an alliance between the al-Malyānī family with the Ottomans which lasted until the end of Ottoman rule in Algeria. The success of this approach led the Ottomans to employ Arrouj and his successors to instigate the allegiance of a large number of learned Families including the houses of Ibn Bādīs, al-Fakkūn, Qaddūrah, and Ibn al-Qāḍī. These Families provided invaluable services to Ottoman authorities in times of insurrection and political turbulence.

Ottoman management and administrative scheme in Algeria had a profound impact on boosting the authority of the intelligentsia as shown in the special official posts offered exclusively to intellectuals including Judges, *Muftis*, the *Khaznajī* (state treasurer), *Shaykh al-Balad* (village headman), *Naqīb al-Ashrāf* (the head of the Ashraf group), *Qā'id al-Dār, Bāsh Kātib* (secretary), *Bāsh Sayyār* (caravan manager), and *Amīn al-Sakkah* (market inspector). The judiciary system attracted the largest number of cultured persons. It consisted of two chief judges, one from the Mālikī School of law and the other from the Ḥanafī School; Muftis; endowment managers; government representatives; and officers. The judiciary was extensive in application in that it encompassed all cities, coastal areas, towns and villages.[2] The extensive administrative system with its numerous positions of authority was instrumental in containing and managing the Algerian cultured class as it provided them with powers, wealth and exclusive privileges.

However, the policy of persuasion, flattery and domestication was not always successful, as history bears witness to a dispute between higher Ottoman authorities and local administrations. This predicament led to the development of alternatives in the history of the cultural landscape as a result of the many injustices towards local scholars which drove the majority of them to migrate to other countries or even flee from the reach of the Ottomans. We can convincingly claim that the majority of insurrections that plagued Ottoman rule in Algeria were directly led or guided by some notable intellectual and popular religious scholars. The revolt of Yahya al-Awrāsī and his brother Ahmad in the seventeenth century, of Ahmad al-Zawāwī, and of Muhammad al-Ghurāb (d.1792) against the authority of Alī Ṣāliḥ Bey (d.1792) in Constantine are instructive examples.

The revolts of Darqāwah (d.1802) in the West, and of Ibn al-Aḥrash (d.1803) in the East represent two important events in the political and cultural history of Ottoman Algeria. These revolts against the Ottomans were deeply reflected in the culture of the time, which prompted the Ottoman administrators to review their policies by withdrawing their trust from local religious authorities,[3] and establishing schools and institutes to counter the authority and influence of the

leading Sufi educational institutions of the Zāwiyah and the Murābiṭūn (see further below).[4] However, this led to the loss of many scholars who suffered from restrictions and harassment imposed by the Turks on Algeria's educational and cultural symbols. This harassment was experienced by a good number of prominent scholars the likes of Abū Rās al-Nāṣirī (d.1823) who wrote a book on the Darqāwī wars entitled Darʾ al-Shaqāwah fī Ḥurūb Darqāwah; by Muhammad al-Zajāy (d. 1828); and by the leader of the al-Qaytanah Zāwiyah Shaykh Muhammad Muḥyī al-Dīn (d.1833), and his famous son al-Amīr ʿAbd al-Qādir (d.1883) who were both prevented from travelling to Mecca for Hajj. Also among these scholars were Ibn al-Qandūz al-Tawjīnī (d.1828) who was killed by the Turks in Māzūnah—just as the noose was tightened on Ahmad al-Tijānī (d.1815) until he fled to Morocco. Al-Shārif ibn Takūn (d.1851) also fled to Morocco, whereas Muhammad ibn ʿAlī al-Sanūsī (d.1859) fled to Mecca. Such events limited the effectiveness of the educational reforms adopted by the Turks in the later period of their rule. The pre-nineteenth century roots of these Algerian intellectuals have to be grasped in proper historical perspective.

I. SUFI DOGMA: INSTITUTIONS AND PRACTICES

A. Institutions

The intensification of the struggle during the fifteenth and sixteenth century between the Spanish and Muslims in Algeria, along with weak political systems of that period, led to the development of an alternative authority in the form of the *Zāwiyah*. This was a characteristic N. African Sufi institution comprising a self-financed congregation and teaching centre led by a master affiliated with a recognized Sufi Order, often built in the mountains and rural areas. The first *Zāwiyah* to appear in Algeria was that of Shaykh Saʿādah, near Toulga, in the fourteenth Century.[5] This emerging authority was destined to play an active role in Algerian politics, culture and society although it did not manifest itself in any single definite form. Its educational and religious dimensions and its role in society earned popular legitimacy. This resulted in a powerful influence on the opinions of the general populace and future political authorities. *Zāwiyah* influence spread quickly seeing strong expansion in the 16th century until it reached a wide audience by the second half of the eighteenth century and the first-quarter of the nineteenth century[6] – up until the eve of the French occupation. According to Dupont and Coppolani, there were twenty three Sufi Orders (*ṭarīqahs*) with 295,189 members and 349 *Zāwiyahs*.[7] This favourable environment allowed Sufi institutions and practices to continue influencing the religious and intellectual thought and practices of the majority of Algerians for approximately three centuries.

Undoubtedly the nature of the new immigrants to Algeria, namely Ottoman Turks, contributed in one way or another towards opening up the path for Sufi institutions to emerge, since Ottoman Turks harbour a significant amount of loyalty and obedience towards *Taṣawwuf* and its practitioners. The *darāwīsh* (Sufi practitioners) had assisted the early Ottoman dynasty in consolidating their authority over Anatolia, just as they had assisted in the conquest of Constantinople. Perhaps the most famous of their masters at the time is al-Ḥājj Muhammad Bakdāsh (d.1753) in the eighteenth century,[8] after whom the Bakdāshīyah Sufi order is named and which conveniently established for itself a presence in Ottoman Algeria by way of Turkish administrators and Janissaries. From the earliest beginnings of the Ottoman administration of Algeria, its fondness towards *Taṣawwuf* was reflected in its dealings with its local administrators and allies in which its political agenda was conveniently invested. Beyray Rays for example, notes how in the year 901 AH he and his uncle Kamāl Rays (the leader of the revolt) retired to the *Zāwiyah* of Shaykh Muhammad al-Tawātī (d.1612) in the city of Bejaia where they stayed for two winters as a sign of love and respect for Shaykh Muhammad al-Tawātī. They both used to spend their summers pursuing *Jihād*. Rays also notes that they both felt safe and secure in the city by virtue of the Shaykh's protection.[9]

The alliance between Ottoman Turks and Sufi masters (*shuyukh*) brought about a noticeable spread and domination of Sufi thought, which in turn led Algeria under Ottoman rule to attract migrating Sufi orders from East and West. In addition to the Qādirīyah Sufi order (founded in Baghdad by 'Abd al-Qādir al-Jīlānī d.1198), the Shādhilīyah order made its way into mainstream thought and practice in Algeria. In the latter-half of the 13rd /19th century an attempt to document the number of Sufi Orders in the region found there were thirteen orders from an original number of sixteen, all of which had Shādhilīyah origins.[10] This supports the view that Sufism in Algeria was not born in Algeria, but was the result of a number of strong eastern and western influences. Even the Raḥmānīyah Sufi order established by Shaykh 'Abd al-Raḥmān al-Azharī (d.1793) at the beginning of the nineteenth century in Algeria, cannot be certain of its Algerian roots since its peculiar Algerian nature was witnessed in the practices of the Khalūtīyah Order by its founder Shaykh 'Abd al-Raīmān al-Azharī during his sojourn in Egypt and Darfur.

The intimate relations between the provinces of Western Algeria and the Sufi organizations of Morocco led to the spread of Sufism into Eastern Algeria and consequently a larger Sufi presence there. The Tijānīyah, Ḥanṣālīyah, Raḥmānīyah, and al-Shābīyah Orders flourished in the East while the 'Īsāwīyah, al-Qādirīyah, al-Azayānīyah and al-Darqāwīyah dominated the Western regions.[11]During Ottoman rule, the *Zāwiyahs* of 'Abd al-Raḥmān al-Tha'ālabī and al-Walī Dādah

and ʿAbd al-Qādir al-Jīlānī were the most prominent in the capital city Algiers, while after the French colonial occupation there were thirty two Sūfī domes and shrines along with twelve *Zāwiyahs*.[12] The *Zāwiyahs* of Sīdī al-Manāṭiqī, Sīdī ʿAbd al-Muʾmin, Sīdī Msīd, and Sayyid Rāshid were prominent in the eastern city of Constantine, which hosted more than sixteen Zāwiyahs. The Zāwiyahs of al-Qayṭanah, Sīdī al-Zīb, Sīdī Boumediène, Muhammad al-Sanūsī, and Aḥmad al-Ghumarī were prominent in the western regions of Algeria; while *Zāwiyah* Khingat Sīdī Nājī and Muhammad ibn ʿAlī al-Majjājī, the *khalwah* (Sufi retreat) of ʿAbd al-Raḥmān al-Akhḍarī, and the Tomb of Sīdī Khālid were prominent in southern parts of Algeria. However, the Berber provinces of Zawāwah and Bejaia hosted more than fifty *Zāwiyahs* – the most famous being those of Tīzī Rashīd, Sīdī al-Azharī and Ibn ʿAlī al-Sharīf in Āqbū.[13]

B. Practices

The inevitable infiltration of materialist values into *Taṣawwuf* resulted in the loss of much Sufi spiritual ethos, and most importantly the loss of its role in education. It also caused a transformation in the trajectory of Sufi thought causing it to lose its position in educational leadership, accompanied by promotion of reclusive values such as abstinence from social and worldly life. On the one hand this mindset gained currency among the oppressed, while on the other hand it led to the "emergence of a religious priestly group of people who were used to resist science and philosophy."[14] This development contributed towards the withdrawal of rational and intellectual thought from the cultural and knowledgeable spheres in society. It then paved the way for blind religious following and shallow Sufi practices which were mostly preoccupied with commentaries on religious works and commentaries upon those commentaries, and with repetitive supplications and praises, while their praxis did not exceed dancing to drums and issuing of amulets. Such practices shocked European travellers, leading some to describe Algeria's cultural situation at the time as consisting predominantly of magic, and that their religious scholars were mere magicians.[15]

This domination of Sufism in popular practice also led to a form of intellectual monotony which marginalised reason, thereby creating an intellectual regression which encompassed society. Perhaps the weakness of the Sufi masters and the intellectual elite, many of whom had become illiterate,[16] explains their favourable stand on the infiltration of superstitious thought and the doctrines of divine deferment into the intellectual or non-intellectual makeup of their disciples. This state of affairs intentionally or unintentionally subjugated the general public through broadening the boundaries of the 'imaginary' in the minds of Algerians as a result of a decline in learning and culture, as well as the absence of science and rational disciplines from their education. As an example, we point to the idea

of the divine Will and Destiny with its effects on the practical life of society, which reveals a crucial aspect pertaining to the declining of Sufism in Algeria and its impact on public life. Thus the leading seventeenth century scholar Muhammad al-Būnī (d.1609) called for the complete exclusion of reason from the field of human thought and the disregard of medicine. He further asserted that humans have no free will and that trials of retrogression, oppression and corruption are caused by God for certain beneficial purposes known only to God. Therefore, there was no need for humans to cry out against oppression, oppose their oppressors, or even criticise those who caused retrogression.[17]

II. THE EDUCATIONAL SYSTEM

A. Learning Institutions

1. Qur'an Schools (*al-Kuttāb*)

Qur'an schools represented small often simple establishments concerned to train children from dirtying places of worship.[18] In these schools, children learnt basic Arabic and basic knowledge skills including writing, reading, and memorising the Qur'an, while also beginning to learn selected legal and linguistic texts. Qur'anic schools played an important role in the preservation of Algeria's national identity. Such schools increased in number and popularity immediately after the French colonial campaigns in reaction to the popular policy of obscurantism in local affairs and the policy of Christianisation pursued by French authorities.[19] Statistics on the number of local Qur'ān schools during this period are conflicting due to the challenge of differentiating between Qur'ān schools, Zāwiyahs, and other local teaching institutions. It is reported that there were more than one hundred Qur'ān schools in Algiers alone.[20] In Casbah alone there were eight Qur'ānic schools,[21] and ninety in Constantine.[22] The inexpensive set-up costs and their simplicity meant Qur'ānic education was wide-spread, which explains the then low percentage of illiteracy in Algeria.

2. *Zāwiyahs*

Perhaps the most important characteristic of the culture of Ottoman Algeria was the activity of the *Zāwiyahs*. Originally *Zāwiyahs* were established for warrior–ascetics, but later were turned into places for reflection, asceticism and memorising the Qur'an. This religious phenomenon led to the prevalence of asceticism and mysticism where the tombs of Sufi masters were located. *Zāwiyahs* were generally viewed as places in which materiality met mysticism.[23] Perhaps their most important characteristic is the idea of wholehearted devotion resulting

in unconditional loyalty and submission to the authority of the Shaykh (whether a living teacher, or a deceased saint). Furthermore the *Zāwiyah* contributed in important ways to religion, education, politics, and social works. Although many *Zāwiyah* Shaykhs were illiterate, they exercised an incredible influence over their disciples.[24] This partly explains the negative contribution of certain *Zāwiyah* institutions upon the cultural life of Algeria.

Nevertheless some *Zāwiyahs* had a marked positive influence on the intellectual, social and political scene in Algeria, which slowly facilitated the emergence of prominent scholarship and *Jihād*. Many of the scholars emerging from those *Zāwiyah* turned to institutions of higher education and taught a religious curriculum similar to the major centres of Zaytūnah or al-Azhar.[25] Many *Zāwiyahs* like those maintained by the Sanūsīyah and the Tījānīyah orders contributed greatly to the spread of religion in far regions of sub-Saharan Africa. Other *Zāwiyahs* organized and led political-military action against the Ottomans and then the French occupiers.

3. The Madrasah

Abū Rās al-Nāṣirī defined the "madrasah" as that structure "built for the study and teaching of all forms of learning."[26] According to the constitution of the madrasah, the move to the second stage was not systematic as the responsibility falls on the will of the student or parents. This second stage[27] consisted of two distinct levels.[28] The madrasah contributed to the activation of cultural life in Algeria, especially in expanding urban areas.

4. Higher Education

The absence of official recognition of its authority made it difficult for institutions of higher learning to achieve stability. This caused many of its students and scholars to leave Algeria in search for better opportunities for higher intellectual attainments. In Algiers there were al-Qashāshīyah and al-Andalusiyīn;[29] in Tlemcen the *Madrasah al-Jāmī' al-'A'ẓam* and the *Madrasah Wādī Imām*; in Bisakra the *Madrasah al-Khanqah*;[30] and in Constantine there were Āl al-Fakkūn, Ibn Āfūnās and al-Kitānīyah.[31] In his memoirs General Beidou reported an official census according to which the number of students in institutions of higher learning in 1837 in Constantine alone was between six to seven hundred, whereas by 1850 this dropped to only sixty students.[32] The reason for this decline was primarily due to political activity by French occupiers towards education in Algeria, especially their policy regarding the system of endowments (*awqāf*) supporting these educational institutions—which constituted, as in the case of the entire Muslim world, the primary funding resource for religious and scientific education.[33]

From its early days the French colonial regime targeted these financial endowments. The commander of the French campaign De Bermn decreed on September 8th 1830 the confiscation of Islamic endowments. The following day he issued another resolution in which he granted himself alone the authority to manage and lease religious properties.[34] His targeting the massive network of Islamic endowments did not end there, but continued with a series of successive resolutions which sought to completely dissolve Algerian educational institutions, in order to produce a new generation of Algerians steeped in ignorance and illiteracy. This intent is clearly evidenced by the decree of 7 December 1830, the plan of 25 October 1832, the decree of 31 October 1838, the Royal publication dated 24 August 1839, the decree of 30 October 1858, and the law of 1873[35] —all of which sought to completely remove all forms of education in Algeria. Such a policy directly resulted in the rise of illiteracy rates from 14% before the occupation to 92.2% by 1901, settling in the year of independence in 1962 at 92%.[36] To date, Algeria continues to suffer the consequences of this French imperial policy whereby the generations who lived through the dark days of the French occupation and were victim of their inhumane policies remain alive today. Furthermore, the illiteracy rate in Algeria as of 2008 was 22% – much of which is the result of the oppressive French campaign. It is hoped that this rate will decrease to 12% by 2016.[37] Doubtless this high rate of illiteracy has delayed the process of development and construction in post-independence Algeria.

B. Curriculum

Any discussion of the methods used in Algerian cultural institutions prior to the French occupation requires the examination of curricula and the teachers. In the Grand Mosque of Algiers there were more than nineteen professors and teachers. A large number of scholars gathered in the military camps who actively contributed to the cultural movement, headed by Abū Rās al-Nāṣirī (d.1823), Bujlāl (d.1790), al-Ṭāhir ibn Hawā (d.1792), Muhammed ibn Zarqah (d.1799), and Ahmed al-Shārīf (d.1807). The city of Constantine equally enjoyed a favourable environment, for during that period there were a good number of prominent scholars who contributed to the development of a learned culture the likes of Mufti Abdul Qādir al-Rāshīdī (d.1780), and the Ḥanafī judge Shaʿbān ibn Jallūl (d.1799), as well as ʿAmmār al-Garbī (d.1800), and Muhammad al-ʿArabī ibn Mūsa (d.1802). In the beginning of the thirteenth / nineteenth century there was seven learned circles, each with its own teacher in the Grand Mosque of al-Qayṭanah. In the desert of Wādī Ṣūf was Khalīfah ibn Ḥassab al-Qamārī (d.1796) and Muhammad ibn ʿAbd al-Karīm al-Tawānī (d.1800) in Tuwāt.[38]

The courses taught and the teaching methods may be summarised according to three distinct stages:

1. The first generally simple and basic stage is completed either in the mosque or the Qur'an school wherein children are taught the alphabet, reading and writing by a Shaykh or guardian. Following this comes group memorisation of the Qur'an. This first stage often began at the age of six and continued to twelve years. Almost all villages had this type of institution.

2. In the second stage, graduates from the first stage continued their instruction in the mosques attached to Madrasahs and *Zāwiyahs*. Usually a student would begin memorisation of the fundamental Islamic texts like that by Ibn Ashūr, the Ajrūmīyah, Qatr al-Nadā, the Alfīyah of Ibn Mālik, al-Shāṭibīyah, and Sullam al-Akhḍarī. At this stage, the curriculum focuses primarily on learning grammar, Islamic law, *'aqīdah* (creedal doctrine), hadith, and poetry. This level of instruction was primarily meant for boys – not for girls.

3. The third stage roughly corresponds to the concept of a modern university education since it was purposely provided for those who excelled in the previous two stages. Instruction was more specialised, usually taking place in madrasahs and colleges. At this stage, many future judges and teachers were granted licenses by professors and teachers, opening the door to many graduates to enrol in higher universities such as al-Zaytūnah and al-Azhar for further studies.[39]

The traditional character of this curriculum with the predominance of *taqlīd* brought intellectual stagnation and limited intellectual creativity, which in turn led to the conviction of the learned elites of the time to regenerate productive values by championing modernisation. Methods of learning through memorisation played a significant role in learning and culture and in maintaining a low literacy rate among Algerians. The reason for this may be attributed to the extensive network of mosques, madrasahs and Qur'an schools across Algerian cities and villages. Parents were mainly responsible for the initial education of their children. Europeans visitors were surprised to discover that the majority of Algerians were able to read and write in Arabic.[40] The German traveller Wilhelm Chamber in 1830–1831 expressed his surprise as follows: "I have searched for an Algerian citizen who is capable of reading or writing but I could not find such a person, while I found plenty in the countries of southern Europe."[41] Such a state of affairs is further supported by official French statistics that state that in 1833 the illiteracy rate in France was 53%, but did not exceed the threshold of 14% in Algeria.[42] This is further corroborated by Yaḥyā Abū 'Azīz's statement indicating that the prevalence of reading and writing during that period was 90% of the population, while the percentage of those who reached the level of general culture was 60%.[43]

Yet this horizontal expansion did not match a vertical growth in curricula or teaching of courses. The reasons probably rest on the then prevailing religious culture and simplicity of thought of many learned people, or the spirit of inertia inhibiting *ijtihād* and modernising efforts. These may explain the debate surrounding many scholars like Muhammad Zjay (d.1828) in the town of Maaskar regarding his inferences from Qur'an and Hadith, while his opponents would infer rulings through strict observance of the Mālikī popular legal work by al-Khalīl.[44] It is in this context that we understand how the curriculum in many instances lacked attention to scientific disciplines such as medicine, engineering or astronomy, which were absent from learning in Algeria during the Ottoman period in such a way that it drew the attention of European travellers. Shaw described this situation as follows: "For a few centuries, philosophy, mathematics, physics, and medicine were generally monopolised by them (Muslims); only to become unknown and understudied in Algeria today."[45] The little of those disciplines which infiltrated the curriculum was set for limited religious purposes, being used as secondary disciplines to help understand religious teachings. The primary ideas of mathematics were necessary for the calculation of inheritances (*farā'iḍ*), while astronomy was studied to determine times for prayer. Medicine was only taught to understand certain related prophetic traditions on bodily states (*'ilm al-abdān*).[46]

Thus, according to the testimony of Yaḥyā al-Shāwī on the authority of his father, in the town of Banī Rashīd alone there were three hundred learning circles for teaching the book of al-Murā'ī and interpretation of the Alfīyat Ibn Mālik (both on Arabic Grammar), but no circles of learning were reported in the fields of engineering, mathematics, natural sciences, chemistry or medicine,[47] or any life sciences. The absence of cultural institutions failed to nourish any socio-cultural transformation of society. One European traveller described his disappointment with the rampant cultural deterioration, and commented: "Ideas die when they do not find a field of continuous reform." According to his report, he would go out to the streets of Algiers to find nothing worth his attention such as a library or a coffee shop with a newspaper.[48]

In his work published in 1869 entitled The History of Constantine during the Beys, E. Vyst compared the progress of learning in the school of Saleh Bey in Constantine with that of the College de France, observing: "If we compare these two, we would find no discrepancy or difference."[49] Vyst's statement merely reduces all differences between these two institutions to their organisation, teachers' salaries, students' scholarships and lodgings—but the standards of learning and education were definitely different. This is substantiated through the testimony of the German traveller Wilhelm Chamber where he argues that many graduates of religious institutes in Algeria would travel to the city

of Livorno in Italy to acquire European scholarship in different fields.[50] In addition, the deteriorated health conditions described in reports by the Spanish priest Diego de Haèdo, by Garcin de Tassy (d.1878), and the United States Ambassador William Shaler, all highlight the heavy reliance on herbs, amulets and superstition in medical treatment, explaining the scarcity of western medicine in Algeria. According to reports by the German traveller Marsio, the only pharmacy in Algeria had a few drugs and herbs, with its caretaker 'al-Bāsh Jarrāḥ' ignoring the medical characteristics and benefits of the items he stocked.[51] According to Simon Pfeiffer there was no a single professional physician during his visit to Ottoman Algeria.[52]

These all confirm the intellectual disconnection between the two regions of the Mediterranean, north and south. The absence of a clear education policy to enhance culture and learning indicates how the political authorities neglected their responsibilities in education and health care. This is understandable in light of the nature of the Ottoman ruling elites and their role in Algeria, since they viewed learning as having little importance to their times.[53] The ignorance of Arabic language by the ruling elites – who mostly comprised Turkish, Circasian and Alluj from the Balkans as well as Eastern Europeans – contributed to the isolation of Algerian society on account of their increased unfamiliarity with the local context and failure to understand its needs and challenges. According to historical sources, during the entire period of Ottoman rule over Algeria only a few Ottoman administrators mastered the Arabic language, including Muḥammad Bay al-Kabīr (d.1799) and Aḥmad Bay (d.1850) both from Kraghla, Muḥammad Bakhdash (d.1724), Ḥusayn Khwāja (d.1706), and Yūsuf Bāshā (d.1637). Significantly it was under their administration that cultural and intellectual activity became more active.

Furthermore, chaotic political conditions combined with social injustices contributed to the weakening, if not outright destruction, of cultural and intellectual values acquired in the existing colleges and schools. In his work on the intellectual culture and level of students in Tlemcen, al-Zayyānī (1749–1809) provided us with concrete realities showing the stagnation or even failure of the educational system during that time. He remarks, "None of those students in Tlemcen master logic, language, nor Arabic to remedy the tongue. They neither mastered the legal rulings nor the Hadith traditions."[54] The frayed conditions further undermined the cultural and social spheres animating the moral fabric of values in Algerian society. Had it not been for the presence of religion and for the legacy of earlier centuries, those values may very well have eroded entirely. It is in this context that we should understand the disappointment of al-Wartilānī who during his travels observed learning standards and institutions and described how the ruling power marginalised learning.[55] In the same context belongs the

characterisation by the scholar Abū Rās al-Nāṣīrī of the academic and cultural conditions in Algeria during late Ottoman rule: "I am in an era where scholarship and its institutions are dysfunctional. Its sources and channels have been shut. It's abode and functions have been transformed, and its features and history have been forgotten."[56]

However, this poor state of affairs was not the essential character of Algerian life throughout Ottoman rule, for major political transformations occurred including the French Revolution, Napoleon's expedition to Egypt, and the rise of Algerian authors who believed in change and a modern state born in the French Revolution. This new trend was represented in Muḥammed Ibn al-ʿAnnābī (d.1851) and Ḥamdān Khwājah (d.1845) who were educated in both the Islamic heritage and European culture. They both overlooked the serious implications of the French Expedition to Egypt, and the power and modernisation of the French military. A jurist like Ibn al-ʿAnnābī introduced daunting critical ideas regarding the need and necessity for Revolution in the cultural–political–educational systems and to learn from European progress, while blaming the prevailing Sufi culture for social backwardness. Thus he issued a verdict urging the obligation of removing all dervish propaganda with impunity. His work on military reform al-Sayʾ al-Maḥmūd fī Niẓām al-Junūd gave a reform constitution embracing his concepts and views on change.[57]

III. FOREIGN PRESENCE AND CULTURAL INTERACTION

The fall of Granada, the increase of Spain's military might, and repeated wars between Islam and Christendom in the Western Mediterranean resulted in a general growing emotional hatred among residents of the Southern Mediterranean to everything European. Those wars sustained a state of mutual denial and rejection, inherent in the collective unconsciousness ever since the earliest interaction between Muslims and Christians in Andalusia, then the Crusades, until the might of Ottoman conquests in Eastern and Central Europe. This helps explain the state of isolation endured by nations of North Africa, which represented in the historical imagination an unshakable shield for the religion of Islam against all enemies of their Faith. The state of affairs in the Northern Mediterranean was not very different from that existing in the South Mediterranean.

Beginning from the fifteenth century Ottoman and Algerian military expeditions into Europe resulted in several defeats for European powers, feeding an image of Algerians in the European imagination as "The scourge of Christendom."[58] A great number of adventurous individuals from all over Europe entered Algeria, while the percentage of diplomats, ambassadors,

business people, and priests was relatively small in the representation of Europeans in Algeria. The list of those people from among the Europeans who were able to record their impressions and observations on Algerian society in the form of works and travelogues remain instrumental for understanding peculiar details of the socio-cultural life of that era. A significant number of historical and literary works written during this period deeply shaped the European imagination of Muslim Algerians as rude and uncivilised, largely the result of successful Ottoman and Algerian military expeditions in Europe.[59] These works were composed by Europeans who interacted with Algerian society either through business, diplomacy, travel, Christian proselytisation, or as a result of captivity. This latter form of interaction, namely captivity, covered most of the European Christian presence in Algeria from the eighteenth century until the end of Ottoman rule. Upon his departure from Algeria in 1567 Hasan Bāsha bin Khayr al-Dīn left a number of Christians and slaves, "among them, was a large number of artists, fluent in many languages and beneficial in many fields."[60] Towards the end of the sixteenth and throughout the seventeenth century, the number of prisoners of war reached 25,000.[61]

In the eighteenth century official European representation within Ottoman Algeria was empowered through a variety of institutions. Europeans had consular representation with seven consulates, as well as courts, hotels, commercial depots and churches.[62] The Jews, whose presence in North Africa dates back to earlier historical times, were known as the Jewish Residents or Toshavim. Their presence significantly increased with the migration of Spanish Jews (the megorashim) after the Inquisition; and their influence in the seventeenth century was augmented with a second wave of migration from Livorno in Italy. The immigrant European Jews controlled Jewish groups in Algeria, and dominated foreign trade until the era of the French occupation.[63] According to one European consul, the number of Jews was thirteen thousand in Algiers alone,[64] with fourteen synagogues.[65] They maintained active religious and cultural relations with their counterparts in Florence, Marseilles, Amsterdam, London and other European cities. Due to their cultural differences and living standards, there arose a serious conflict between these two Algerian Jewish communities. The Toshavim represented the conservative character influenced by the civilisation of the Middle East, while the megorashim and the Livornoians exhibited a significant degree of Western influence in absorbing modern European culture.

It was this mixed makeup and ethnographic diversity of Algerian society hosting Arabic, Turkish, French, English, Spanish, Italian, German, Dutch and other languages, which confused the German traveller Wilhelm Chamber who was unable to determine their sources.[66] Such cultural and linguistic diversity raises the interesting question of the effect of those diverse groups and races on

Algerian cultural life. What intellectual and technical impact did they exercise upon society at large, especially considering that many European captives had direct interaction with the public, with many of them embracing Islam and choosing Algeria as their abode of residence? To answer this question is difficult due to the scarcity of historical data for explaining this interaction. Supporting the challenging position of researchers on the question of cultural interaction may be John B. Wolfe's assertion that European authors and travellers had less chance to interact with Algerian residents,[67] in addition to the psychological reaction resulting from fanaticism or from mutual hatred and rejection, as argued by Andrew C. Hess.[68]

One may explain the infiltration of ideas issuing from the French Revolution and its effects on Algerian socio-cultural domains through those very same channels. Yet the state of isolation and closeness is not explained by any of the above considerations. Aḥmad bin Sahnūn (d. 1796), the official secretary for the Bay of the city of Oran, commented on the French Revolution saying it was a local issue for the French unbelievers, while he prayed for their destruction.[69] As was the case with Abū Rās al-Nāṣirī who witnessed the Napoleonic conquest of Egypt, being concerned with showing its negative sides while ignoring the power and modernisation of the French Army. Clearly Algeria's system of governance suffered from degeneration and corruption, while the authority of religious thought and the deterioration of learning all contributed to inhibiting the transfer of European technology, such as printing or industrial machinery, in addition to modern intellectual and literary ideas.

Conclusion

Intellectual life in Algeria prior to French occupation was not lacking in institutions or organizations, but was in need of a spirit of innovation and educational reform. This is partly indicated by the large number of schools, which exceeded those found in Europe, yet possessed a different quality of instruction. The underlying roots of the deteriorating quality of education sprang from the predominance of an otherworldly religious spirit and attitude affecting the general character of culture and learning institutions. Religious sciences were overly focused on tradition and lost sight of the importance of the natural sciences. Attitudes of complacency and reproducing past historical achievements became prevalent among the intellectual elite. The stultifying effects of Sufism coupled with the absence of modernisation were not the only causes for intellectual deterioration, since the prevailing political culture also played a significant role in Algeria's deterioration. The military maritime nature of Ottoman Algeria was greatly

concerned with the doctrine of encountering the Northern Christian world and prevention of its military expansion into the Maghreb, negatively affected the development of learning and further marginalised the importance of a progressive intellectual culture.

Beyond these factors, the predominance of cultural blindness in most classes of the Ottoman military elite was bound to have an impact on their stance towards education and intellectual institutions. Historical sources hardly allude to any interest on the part of the Ottoman ruling elites in regard to building or sustaining schools – to the same extent they performed with construction of forts, fleets, and castles. To a large extent this cultural imbalance justified the traditional reliance of educational institutions upon *waqf* funds, and precluded any reforming for curricula and intellectual life. These factors mitigated against the infiltration of ideas stemming from the European Enlightenment north of the Mediterranean. Rather, local learning was preoccupied with fatwas of prohibition or condemnation of heresy. The ruling class perceived all that came from the north to be an imminent danger that should not be trusted, even if it were an intellectual or scientific product with utility or benefit. The resistance to Europe's intellectual influence was manifested in the contributions of Ḥamdān Khwājah and Muḥammed bin al-ʿAnnābī, and by the resistance to any enlightenment initiated by European travellers, adventurers, or writers living or visiting Algeria during the late Ottoman period.

This situation worsened under the French occupation of Algeria which sought the complete demolition of the educational system through its confiscation of endowments, preventing new schools from opening, and plunging the country into the chaotic depths of illiteracy lasting one hundred thirty-two years – whose effects Algeria continues to suffer today. Our study effectively underlines the significance of cultural depth in defining cultural policy relevant to modern science and culture. We propose the following policy points to serve as productive avenues for cultural implementation when planning for modernisation.

- Intellectuals and educational experts should conduct broader and deeper research into the significant role played by cultural resources for revitalising curricula throughout all levels of education. Disparity in educational structures and corresponding intellectual activity may disclose weaknesses and gaps to be intelligently addressed through more adequate resources and better training; or strengths which require sustaining and consolidation.
- Reflection grounded on historical understanding shall throw light on the conscious configurations of the socio-political fabric in the South Mediterranean: it was ill-equipped to 'catch up' with European progress,

then failed to confront encroachments from the North that came not only in the form of military and political confrontation, but also in the form of imported ideas, cultural hegemons and discordant worldviews. This reality is still quite relevant to present day societies across the Islamic world, and more awareness of these factors are pertinent for contemporary issues.

• These studies must be integrated with the growing attention paid by Muslim intellectuals to factors affecting the specific mode of modernity achievable by Islamic nations in various fields (economic, financial, educational, and political); and requires intensive research into the cultural failings of the Muslim world at large, with its evident inability to overtake or surpass globalised Euro-American cultural dominance.

Notes

* *Tarek Ladjal* is a Senior Lecturer at the Department of History and Islamic Civilization; he was previously a lecturer at the Department of Islamic Studies in International Islamic College University Selangor Malaysia. Tarek obtained his Masters in Theology and Comparative Religion from Emir University at Constantine Algeria, and his PhD Degree in Modern Muslim World History and Civilization at University Malaya, Malaysia. Tarek has published various papers in his field. He is currently the Co-Director of the Malaysia Middle East Relation (MMER), Academy of Islamic Studies University Malaya. Tarek is an expert in Muslim World, Islamic History and Civilization, Islamic though and culture, Sufism and politics, History of Muslim Relation, Islamic reform movements, He has led several research projects and conducted variety of research and publications in different issues. He can be contacted at tarekladjal@gmail.com

** *Dr. Benaouda Bensaid* earned his Ph.D. in Islamic Studies from McGill University, Montreal, Canada. He has over 18 years of experience in teaching and administration in Canada and overseas. Dr. Bensaid specialises in various subjects of Islamic studies including Islamic thought, Islamic ethics, Islamic law, Islamic mysticism, and modern Muslim movements. Dr. Bensaid has been instrumental in founding several Islamic projects in Canada, and has delivered numerous workshops and lectures on various Islamic topics. Dr Bensaid was working for UM since 2009, now he is associate Professor in Effat University in Jeddah S. A.

1. Unknown author, *Ghazawāt Arrj wa-Khayruddīn*, Ed. Nūr al-Dīn ʿAbd al-Qādir (Algeria: al-Maṭbaʿah al-Thaʿālibīyah, 1934) 27.

2. ʿAbdul Raḥmān al-Jilālī, *Tārikh al-Jaz'ir al-ʿĀm*, (Algiers: Dār al-Thaqāfah, 1984) 5–11, 286, vol. 3, 519.

3. M. bin Maymūn, *Al-Tuḥfa al-Marḍiyyah fī Akhbār al-Dawlah al-Bakdāshiyah*, ed. M. bin ʿAbd al-Karīm al-Jazā'īrī (Algeria: NCPD, 1972) 253.

4. Abū l-Qāsim Saʿd Allah, *Tārīkh al-Jazā'ir al-Thaqāfī* (Beirut: Dār al-Gharb al-Islāmī, 2000) vol. 2, 267.

5. Ahmidah ʿAmirawī, *Muḥaḍarāt fī Tarīkh al-Jazā'ir al-Ḥadīth*, (Algeria: Dār al-Hudā, 2004) 24.

6. Masūd al-‘Īd, "Al-Murābiṭūn wa al-Ṭuruq al-Ṣūfīyah bi-l-Jazā'ir khilāl al-‘Ahd al-‘Uthmānī", *Journal of Social Sciences* [University of Constantine, Algeria] 13 (1988) 35–51.

7. Coppolani X. Depont, Les Confreries Religieuses Musulmanes (Montréal: Maisonneuve, 1897) vol. 1 p. 257.

8. Sa‘d Allāh, *Tārīkh al-Jazā'ir al-Thaqāfī*, vol. 4, 198.

9. *Ibid.* vol. 1, 464.

10. *Ibid.* vol. 4, 266.

11. For basic orientation regarding these Orders, their organization, and the institution of the *zāwīyah*, consult John Spencer Trimingham, *The Sufi Orders in Islam* (Oxford: Clarendon Press, 1971).

12. Sa‘d Allāh, *Tārīkh al-Jazā'ir al-Thaqāfī*, vol. 4, 266.

13. *Ibid.* vol. 2, 246–267.

14. J. Desmond Bernal, *Science in History* (London: Penguin, 1969) 1–12.

15. *Ibid.*

16. Yaḥyā Abū ‘Azīz, *"Awḍa‘ al-Mu'assassāt al-Dīnīyah bi-l-Jazā'ir khilāl al-Qarnayn al-Tāsi‘ wa-l-‘Āshir,"* in Majallat al-Thaqāfah," 17 (1981) no. 13, 347

17. Sa‘d Allah, *Tārīkh al-Jazā'ir al-Thaqāfī*, vol. 1, 478.

18. Abū ‘Azīz, *op. cit.* 13.

19. *Ibid.*

20. ‘Abd al-Raḥmān al-Jilālī, Tārikh al-Jazā'ir al-‘Ām (Algiers: Dār al-Thaqāfah, 1984) vol. 3, 451–540, 537–552.

21. Abū ‘Azīz, *op. cit.* 13.

22. Abū ‘Azīz, *Ma‘a Tārīkh al-Jazā'ir: Multaqayāt al-Waṭanīyah wa l-Dawlīyah* (Algiers: OUP, 1999) 347.

23. Maḥfūẓ Dammūm, *al-Thaqāfah wa al-Muthāqafah fī al-Mujatama‘ al-Ḥaḍarī khilāl al-‘Ahd al-‘Uthmānī* (Masters Thesis: Algeria: University of Emir Abdelkadir, 2002), 100.

24. Abū ‘Azīz, *op. cit.* 17.

25. Sa‘d Allah, *Tārīkh al-Jazā'ir al-Thaqāfī*, vol. 3, 263–266.

26. Abū Rās al-Nāṣirī, *Fatḥ Allāh wa-Minnatuh fī al-Taḥadduth bi-Faḍl Rabbī wa-Ni‘matih*, ed. Muhammad al-‘Arabī al-Zūbīrī (Algeria: The Office for University Publications (OUP), 1986), 34, 76–77. (Generally in the present era, the madrasah is equivalent to primary and secondary school education in many Muslim societies.)

27. According to the statement made by Senator Combs in the interests of the French Congress, there were more than two thousands high schools; (al-Jilālī, *op. cit.* 1984, vol. 3, 538).

28. Al-Nāṣirī, *Fatḥ Allāh*, 76; Sa‘d Allah, *Tārīkh al-Jazā'ir al-Thaqāfī*, vol. 3, 221.

29. Al-Nāṣirī, *op. cit.* 34.

30. Sa‘d Allāh, *Tārīkh al-Jazā'ir al-Thaqāfī*, vol. 1, 284.

31. Aḥmad T. al-Madanī, *Mohammed Othman Basha* (Algeria: National Book Foundation (NBK), 1986), 153.

32. Al-Jilālī, *Tārikh al-Jazā'ir al-‘Ām,* 540.

33. Wael B. Hallaq, *Sharī‘ah: Theory, Practice, Transformation* (Cambridge: Cambridge University Press, 2009), 471ff.

34. DRE [Directorate of Religious Endowments], the Algerian *Awqāf*, (Algeria: Ministry of Religious Affairs, 2008), 3.

35. Nāṣir al-Dīn Sa‘idūnī & Mahdī al-Būabdelli, *Al-Jazā'ir fī al-Tārīkh* (Algiers: NBK, 1984), vol. 1, 110, 167, vol. 3, 519.

36. Muḥammad Bā' Mughlī, *The Economic Foundation for the Endowment System in Algeria and its Role in the French Occupation* (Algeria: University of Algeria

Press, 2002), 166.

37. National Office for Literacy Report, Ministry of National Solidarity (Algeria: 2012).
38. Sa'd Allāh, *Tārīkh al-Jazā'ir al-Thaqāfī*, vol. 3, 276.
39. Yaḥyā Abū *'Azīz, Ma'a Tārīkh al-Jazā'ir; Multaqayāt al-Waṭaniyyah wa al-Dawliyyah* (Algeria: OUP, 1999), 337–347.
40. André Brenan et. al., *Al-Jaza'ir bayna al-Māḍī wa al-Ḥāḍir* (Algeria: OUP, 1984) 211.
41. Abū al-'Īd Dūdū, *Al-Jazā'ir fī Mu'llafāt al-Raḥḥālīn al-Almān, 1830-1855* (Algiers: NCPD, 1975), 2-13.
42. However, Evirett maintains that the percentage of illiterates was less than that of France, and exceeded 40% during that time; see Brenan, *op. cit.* 211.
43. Abū 'Azīz, *Ma'a Tārīkh al-Jazā'ir*, 221.
44. Sa'd Allāh, *Tārīkh al-Jazā'ir al-Thaqāfī*, vol. 1, 49.
45. John B. Wolfe, *The Barbary Coast: Algiers under the Turks 1500 to 1830* (New York: WW Norton & Co., 1979), 155.
46. Sa'd Allāh, *Tārīkh al-Jazā'ir al-Thaqāfī*, vol. 3, 186.
47. Al-Jilālī, *Tārikh al-Jazā'ir al-'Ām*, vol. 3 552.
48. Sa'd Allāh, *Tārīkh al-Jazā'ir al-Thaqāfī* vol. 1, 166.
49. Al-Jilālī, *Tārikh al-Jazā'ir al-'Ām*, vol. 3 537.
50. Abū al-'Īd Dūdū, *Al-Jazā'ir fī Mu'llafāt al-Raḥḥālīn al-Almān*, 13.
51. J. Laugier De Tassy, *Histoire des Etats Barbaresques qui Exercent la Piraterie* (Paris: Chez Chaubert, 1757), 211.
52. Simon Pfeiffer, Mudhakkirāt aw Lamḥāt Tārikhiyyah 'an al-Jazā'ir, trans. Abū al-'Īd Dūdū (Algeria: NCPD, 1974) 25.
53. Sa'd Allāh, *Tārīkh al-Jazā'ir al-Thaqāf*i vol. 1, 241.
54. Mawlay Bel Hamissi, Al-JazÉ'ir min KhilÉl RaÍalÉt al-MaghÉribah fÊ al-'Ahd al-'UthmÉnÊ (Algeria: NCPD, 1981) p. 162.
55. A. al-Wartilānī, *Riḥlat al- Wartilānī*, ed. Mukhtār Filālī (Batnah: Dār al-Shihāb, 1999) 122.
56. Abū Rās al-Nāṣirī, Fatḥ Allāh wa-Minnatuh, 11.
57. Aḥmidah 'Amīrawī, *Muḥaḍarāt fī Tarīkh al-Jazā'ir al-Ḥadīth*, (Algeria: Dār al-Hudā, 2004) 98.
58. See in particular R. Lambert Playfair, *The Scourge of Christendom: Annals of British Relations with Algiers Prior to the French Conquest* (London: Smith, Elder & Co., 1884).
59. Such works are found in the Newberry library in Chicago, which has more than forty works written by European travelers and journalists who visited Algeria during Ottoman rule. The French National Library and British Museum preserve more than one hundred titles (Wolfe, p. 171), while the bibliography of Sir Playfair points to the existence of more than 293 works published before 1789 on this particular topic; R. Lambert Playfair, *The Bibliography of the Barbary States* (UK: Gregg, 1971).
60. Sa'd Allāh, *op. cit.* vol. 1, 151.
61. Andrew C. Hess, *The Forgotten Frontier: A History of the Sixteenth-Century Ibero-African Frontier* (Chicago: University of Chicago Press, 1978) 261–271.
62. Al-Jilālī, *op. cit.* vol. 3, 519.
63. Sa'īdūnī & al-Būabdelī, *op. cit.* vol. 4, 201.
64. John B. Wolfe, *The Barbary Coast: Algiers under the Turks, 1500 to 1830* (New York: W.W. Norton & Co., 1979), 167. Sa'd Allāh, Tārīkh al-Jazā'ir al-Thaqāfī vol. 3, 232.
65. Al-Jilālī, *op. cit.* vol. 3, 519.

66. Dūdū, *Al-Jazā'ir fī Mu'llafāt al-Raḥḥālīn al-Almān*, 12.
67. Wolfe, *The Barbary Coast*, 166.
68. Andrew C. Hess, *The Forgotten Frontier: A History of the Sixteenth Century Ibero-African Frontier*, 271.
69. Ibn Sahnūn, *Al-Thaghr al-Jumānī fī Ibtisām al-Thaghr al-Wahrānī*, ed. al-Mehdi al-Būabdelī, (Algeria: NBK, 1980), 225.

VIEWPOINTS

Caliph and the 'Islamic State' – Lessons of History

Karim Douglas Crow*

*The succession (khilāfah) to Prophecy will last for thirty years,
afterwards Kingly-rule is given to whomever (God) wills.
- God's Messenger Muḥammad [the ḥadīth al-Safīnah]*[1]

The declaration of a so-called 'Islamic State' in parts of Syria and Iraq on 27 June 2014/1 Ramaḍān 1435 by Sunni Jihadist renegades led by Abu Bakr al-Baghdadi (*a.k.a.* 'Awwād Ibrāhīm 'Alī al-Badrī, or Abū Du'ā', born 1971)[2] claimed a universal authority throughout the Muslim *ummah* in the manner of the caliphs of old. The veteran Iraq observer Patrick Cockburn objectively describes IS to be "the most powerful and effective extreme *jihadi* group in the world...violent and sectarian... highly fanatical." Abu Bakr sends a powerful message resonating in the minds of militants across the Islamic world, by denying the legitimacy of the political and religious leaders of 1.6 billion Muslims. "I do not promise you, as the kings and rulers promise their followers and congregation, luxury, security and relaxation," he said in his *khuṭbah* in Mosul; "instead I promise you what Allah promised his faithful followers" [i.e. Paradise through martyrdom]. In his audio message posted online on 1 July 2014, Ibrahim stated it was the duty of all Muslims to immigrate to his self-styled 'Islamic State', and he named a list of countries from the Central African Republic to Myanmar and Xinjiang (in Chinese Turkistan) where violations are being committed against Muslims. "Your brothers on every piece of this earth are waiting for you to rescue them," he declared; "By Allah, we will take revenge! by Allah we will take revenge! even if after a while."

Most official state Muslim religious authorities around the world have denounced this Islamic State as illegitimate, dangerous and divisive. The Jordanian religious scholar Abū Muḥammad al-Maqdisī, deemed one of al-Qaeda's spiritual leaders, branded Ibrahim's Islamic State as "deviant" and contrary to the principles of Shari'ah law, and challenged the basis of al-Baghdadi's claims: "Is this 'caliphate' going to be a safe haven for all the vulnerable and a shelter for every Muslim? Or will this name become a hanging sword over Muslims who disagree with them?" This newly risen proto-caliphate headquartered in the eastern Syrian provincial capital of al-Raqqah is seen to be an aberration, a hopeless dead end signalling perverse misguidance and descent into brutality. They seek to recreate a moral,

social and political order sourced in divine guidance, while their immoral means poison their ends.

Nevertheless, there remains the lingering appeal of an authentic Islamic polity or form of governance which could embody the principled ideals of Islam: social distributive justice, a moral economy, impartial egalitarian law, and repelling cultural-military penetration by Euro-American marketisation. Many Muslims still associate the very concept of 'caliphate' with a golden age when Islam was a powerful and successful world empire; while some dream of erasing the colonial borders of the Arab world to unify the Muslims and reverse the invasive penetration of Western dominance. Combined with this nostalgia is the expectation that enforcing Shariʿah law would help solve the problems modernity has wrapped up Muslim societies.

Since the mid-twentieth century small groups of cult-like radicals hoped for a restored caliphate, but this never achieved any real traction with the world's Muslims. The global Jihadist project galvanized by al-Qaeda from the 1990s advanced this dream, with Mulla Omar Uruzgani of Afghanistan even proclaimed a "caliph" by the Taliban and al-Qaeda. The al-Qaeda spin-off JI (Jamaʿat Islamiah) in Indonesia that perpetrated the Bali bombings on 1 October 2005, also echoed the dream of creating a caliphal polity in South East Asia. Now the black banner of IS is raised as a rallying point for militants from Indonesia to Nigeria, and several al-Qaeda affiliates from Yemen to Sinai to North Africa have declared themselves to be 'emirates' in copy-cat fashion. IS cells are uncovered in Malaysia, Australia, and Germany raising the alarm of 'martyrdom operations' in several countries. Meanwhile the United States led Arab coalition is air bombing al-Raqqah and Jihadist sites in Syria and Iraq.

Recalling History

It is instructive that al-Raqqah in eastern Syria was twice the site of Muslim caliphs in the second century of Islam. Just southwest of al-Raqqah in the east Syrian steppe by the middle Euphrates lies the ruins of al-Raṣāfah (known in late Roman times as Sergiopolis), a thriving caravan depot and Byzantine border fortress against the Sasanian Persians, whose massive 1600 feet long walls still stand around the Basilica of Saint Sergius[3]. Its strategic location at the crossing of caravan routes connecting Aleppo and Anatolia with northern Iraq was advantageous. In the eighth century the Umayyad Caliph Hishām b. ʿAbd al-Malik (r. 724–743) made this city his favoured summer residence where he built several palaces just outside the city walls, as well as a mosque near the shrine of St. Sergius and a market complex.

Half a century later in 796 the fifth Abbasid caliph Hārūn al-Rashīd (r. 786–809) decided to move his court and seat of government from Baghdad to al-Raqqah. There caliph Hārūn spent twelve years or most of his reign, only returning to Baghdad for a short visit once. Raqqah was well situated for the Abbasid imperial centre at the height of power: communication lines through the Euphrates to Baghdad, through

the Balikh river to the north, and through Palmyra to Damascus were excellent. From al-Raqqah any rebellion in Syria and the middle Euphrates area towards Iraq could be controlled. The splendid life at Hārūn's court is enshrined in poetry and legend, celebrated also in the *Arabian Nights*. Hārūn's two sons and future Abbasid caliphs al-Amīn (r. 809–813) and the redoubtable caliph al-Ma'mūn (r. 813–833) both grew up in al-Raqqah.

The city was abandoned for much of the Ottoman period, until its resettlement in the late 19th century. Since Syrian independence it grew rapidly becoming home to almost a quarter of a million inhabitants. Thus the choice of al-Raqqah as military and administrative centre was a calculated move by IS, and its rapid advance west toward Aleppo, north to the border with Turkey, and east through Iraq to Mosul and Diyala province near the Iranian border was accomplished by following the twin-rivers. Along its way IS captured oil wells, water resources and dams, much war materiel and amassed fresh recruits. The territory between the Tigris and Euphrates forms the heartland of this proto-caliphal realm stretching from the borders of Turkey to Kurdistan and Iran – as world media repeats: "*vast swathes of land.*"

Another motive for this choice was the impressive tomb complex in al-Raqqah, sponsored and paid for by the Islamic Republic of Iran, for three of the Prophet's most famous Companions: 'Ammār b. Yāsir, who was slain fighting in 657 for the fourth caliph 'Alī at the battle of Siffīn[4] against a Syrian army commanded by Mu'āwiyah b. Abī Sufyān (who became the sixth caliph); and the spiritual icon Uways al-Qaranī; and Ubay b. Ka'b (d.649) whose Qur'an readings were influential. The magnificent shrine refurbished for 'Ammār was designed to serve as a visitation site for Iraqi and Iranian pilgrims honouring a venerated saint—with the boom in Iranian pilgrimage to Syria from the 1980s[5]. Work commenced in 1988 well before the Baathist Asad regime hurled Syria into chaos and bloodshed in 2011. (Today out of a total Syrian population of 22 million, three million are refugees and six and a half million are internally displaced.) During the 1990s to 2000s al-Raqqah hosted a series of events sponsored by Iran, with conferences and lectures devoted to Shi'ah themes and Iranian-Syrian fellowship. When Abu Bakr al-Baghdadi took control of al-Raqqah in March 2013 in concert with *Jabhat al-Nuṣrah* [at that time still under his umbrella of 'Islamic State of Iraq & Sham' – formerly 'al-Qaeda In Iraq'], they seized the shrine and turned it into a headquarters for issuing fatwas. His people purged the new structure around 'Ammār's tomb of Iranian symbols. Tomb visitation is anathema to neo-Wahhabi puritans, and tomb destruction part of their repertoire of hatred as they recently made abundantly clear in Mosul. Such destruction fuels the sectarian–directed proxy conflicts gathering renewed energy across the Islamic world. So much for the history of al-Raqqah—reminding us that history repays its devotees with useful insights.

Can the Caliphate Return?

The Abbasid caliphate ruled central Islamic lands until the Mongol conquest of Baghdad in 1258. Afterwards with the Mamluk Sultans in Egypt, and then the Ottoman Sultans who made Istanbul the capital of their powerful empire, no one ever took seriously their claims to a universal caliphate, despite occasional flowery hyperbole calling the Ottoman ruler 'caliph' or more often 'world emperor.' It was the great Ottoman warlord Sultan Selim I, father of Suleiman the Magnificent, who brought the title 'caliph' back as a souvenir of his conquest of Mamluk Egypt. Along with this grandiose title Selim brought the relics of the Prophet Muḥammad he confiscated from the Ḥasanid Sharīfs in the Ḥijāz and now displayed in Topkapı Serai, serving as legitimating emblems of his dynasty's authority. In actuality the Sultans functioned more as secular monarchs. True: the penultimate Ottoman Sultan Abdul Ḥamīd II (r. 1876–1909) who was concerned about European encroachment on Ottoman and Muslim lands, declared himself as caliph to garner support against European encroachment, to some effect in British colonial India.

Yet Shaykh Aḥmad al-Damanhūrī the 18th century rector of al-Azhar, foremost center of Sunni learning, wrote an essay in which he bluntly stated that the caliphate had ended in 1258—and that neither the Mamluk 'shadow caliphate' (eighteen of them held office from 1261–1517) nor the Ottoman emperors were truly caliphs[6]. The Sunni caliphate had lapsed when the army of Hulagu Khan demolished Baghdad in February 1258, killing the last Abbasid caliph AL-Mustaʿṣim by rolling him in a carpet and trampling him to death under their horses' hoofs – the Mongol's mark of respect for a man of royal blood. When Kamal Ataturk abolished the 'caliphate' in 1924, it had already ceased to exist over six hundred fifty years previous.

Today Sunni Islam lacks any formal religious and administrative centre while Muslim societies are organised on the basis of the nation-state. Majority Sunni Muslim nations appoint a Mufti or leading jurist as the highest religious legal authority to administer what remains of the Shariʿah. The Mufti is almost always a state functionary. Do the failures of official Islam in political, economic, and military spheres open a vacuum that would-be caliphs or emirs are seeking to fill?

Notes

* *Karim Douglas Crow* is a Principal Research Fellow at IAIS Malaysia. His current projects involve research into ethical issues joining Muslim with Euro-American societies, and civilisational aspects of contemporary Islamic and Asian societies in the light of globalised trends. He is completing several books: American Evangelicals: Cultural Shifts, Militarism, and the Coming of Messiah; 'When God Created Wisdom': 'Aql Creation Narratives in Islam (forthcoming, Leiden: Brill); and his lifetime project Lamp of Knowledge: the Career and Teaching of Jaʿfar al-Ṣādiq (d.148/765 CE).

1. From Abū Dāwūd, *Sunan*, and al-Tirmidhī, *Ṣaḥīḥ*; for the ideological role of this utterance distinguishing between the rule of the Four Rightly-guided Caliphs, and Umayyad tyranny, see Karim D Crow and Ahmed Kazemi Moussavi, *Facing One Qiblah* (Singapore: Pustaka Nasional, 2005) p. 78 & pp. 180–181 note 100.

2. Abu Bakr has degrees in Islamic Studies, including poetry, history and genealogy, from the Islamic University of Baghdad; he was a preacher in Diyala province north-east of Baghdad, where after the U.S. invasion of 2003 he led his own armed insurgency group. Between 2005 and 2009 he may have been a prisoner of the Americans in Bocca Camp in southern Iraq. See Patrick Cockburn, "Who Are ISIS? The Rise of the Islamic State in Iraq and the Levant", *The Independent*, 16 June, 2014.

3. Elizabeth K. Fowden, *The Barbarian Plain: Saint Sergius Between Rome and Iran* (Berkeley: University of California Press, 1999), on the cult of the martyr St. Sergius in Syria and Mesopotamia, regarded by the Ghassanid Arabs (or Jafnids) as their patron saint. On caliph Hishām's building projects see Alan Walmsley, *Early Islamic Syria: an Archaeological Assessment* (London: Duckworth, 2007).

4. Siffin is forty kilometers west of al-Raqqah. Uways was an ascetic Yamani with whom the Prophet is said to have communicated telepathically, and was deemed patron saint of al-Raqqah; Ubay was one of the Prophet's secretaries. The identification of their tombs at al-Raqqah relied on popular tradition, and may be conjectural.

5. Consult the important studies of this shrine and its recent history by Myriam Ababsa, *Raqqa: territoires et pratiques sociales d'une ville syrienne* (Beirut: Presses de l'Institut Français de Proche-Orient, 2009) pp. 225–254; and her study "Significations territoriales et appropriations conflictuelles des mausolées chiites de Raqqa (Syrie)", in *Les Pelerinages au Maghreb et au Moyen-Orient*, eds. Sylvia Chiffoleau & Anna Madœuf (Damascus: IFPO, 2005) pp. 110–130; both are available online at – http://books.openedition.org/ifpo/. See also Martin Kramer's useful synopsis of her work posted 16 April, 2013, at: http://www.martinkramer.org/sandbox/2013/04/the-shiite-crescent-is-broken/.

6. Aḥmad al-Damanhūrī, *al-Nafʿ al-Ghazīr fi Ṣalāḥ al-Sulṭān wa l-Wazīr*, Egyptian National Library, Taymūr Ijtimāʿ, MS 34, folio 10; cited by Juan Cole, "The Debacle of the Caliphates", 30 June 2014, at: http://www.juancole.com/2014/06/caliphates-baghdadis-grandiosity.html.

The Good-Wholesome Life (*Ḥayātan Ṭayyibah*) as an Islamic Lifestyle Standard

Mohammed Farid Ali*

Whoever works righteousness, man or woman, and has faith, verily We will certainly enliven him with a good-wholesome life; and We will bestow on such their reward according to the best of their actions.
Q al-Naḥl, 16:97

In one respect the contemporary lifestyle of Muslims is essentially no different from the lifestyle of other individuals. For both Muslims and non-Muslims, the optimum standards of the good life require a sufficient amount of material means for possession and use. It is natural and necessary to possess sufficient material means in order to fulfil our human needs. This only becomes problematic when material possessions begin to stimulate appetites and incite a never ending thirst for more possessions beyond what is sufficient. This material based standard can replace human values by material ones. Human values then become measured according to price-tags and brand-names reflecting wordly criteria of fulfilment. When such standards are taken for granted, materials are acquired not merely to fulfil necessary human needs, but for servicing appetites beyond the healthy bounds of moderation and a balanced existence. How may we assess what is natural and necessary for proper human standards? The idea of the 'good-wholesome life (*Ḥayātan Ṭayyibah*)' stated in the Qur'an (al-Naḥl 16:97) offers an altogether different standard. This viewpoint explores the meaning of this phrase in various *tafsīr* works and seeks to establish the Qur'anic basis for an Islamic standard of an ideal human lifestyle.

The first point to note is that the phrase '*Ḥayātan Ṭayyibah*' refers to our life here in this world — not to future life in the Hereafter. The 20ᵗʰ century scholar Muhammad al-Amīn al-Shanqīṭī (d.1973 CE) observed that the second portion of this verse (16:97) beginning with "…and we will bestow/*wa la-najziyannahum*" is referring to rewards bestowed in the Hereafter. If the first part of the verse with the phrase "enliven him with a good-wholesome life/*ḥayātan ṭayyibah*" is properly understood to refer to life in the Hereafter or in Paradise, then there would be a redundant repetition (*takrār*) in this verse. In actuality, the second part with the phrase "*ḥayātan ṭayyibah*" really refers to life in this material world and serves as the *indicium* (*qarīnah*).[1] That righteous people who perform good deeds may experience a good life in this world is supported by another frequently repeated verse which states (al-Baqarah 2:201):

Our Lord! Grant us Good in this world and Good in the Hereafter, and shield us from the torment of the Fire (*rabbanā ātina fī al-duniya ḥasanah…*)

Furthermore, the above distinction is supported by sound traditions of the Prophet. Anas b. Malik reported the Prophet as saying: "Allah the Almighty will not be unjust with the faithful person in their good deed. He will reward him for it in this world and bestow rewards in the Hereafter…"[2] We will mention more traditions when treating the meaning of the phrase "*ḥayātan ṭayyibah.*" Those prophetic traditions also confirm the actuality that this phrase under discussion is referring to our present worldly life.

The second point of interest is the meaning of the very phrase "*ḥayātan ṭayyibah*" which we translated as 'good-wholesome life.' The phrase *ḥayātan ṭayyibah* is the reward which the Almighty will grant to the pious man and woman here in this world. What is that reward? The leading exegete of the Qur'an Ibn Jarīr al-Ṭabarī (d.922 CE) presented several interpretations of the phrase which he based on various reports from authoritative early commentators:

   i.   Halal sustenance in this world (*al-rizq al-ḥalāl fi al-dunyā*)
   ii. Goodly sustenance in this world (*al-rizq al-ḥasan fi al- dunyā*)
   iii. Wholesome sustenance in this world (*al-rizq al-ṭayyab fi al-dunyā*)
   iv. Wholesome halal sustenance (*al-rizq al-ṭayyab al-Ḥalāl*)
   v.   Consuming halal and wearing halal (*ya'kulu ḥalāl wa yalbasu ḥalāl*)
   vi. The life of sincere faith and obedient works (*al-Ḥayāt mu'minan bi-Allāhi ʿĀmilan bi ṭāʿatihi*)
   vii. Happiness (*al-saʿādah*)
   viii. Contentment (*al-qanāʿah*) and frugal-enjoyment (*qunūʿ*) – the view of 'Ali and of Ibn 'Abbas
   ix. Life in the Hereafter in Paradise

After presenting these converging interpretations al-Ṭabarī commented at some length that the most appropriate understanding of this phrase 'good-wholesome life' is 'contentment.' He argued that those people whom Allah Almighty made content with their share of material sustenance, do not tire themselves running after this material world. They will not prioritise their share to the extent that they become annoyed with their lives if they lose something of material provision. The things which they do not have, they do not crave for by the sway of their physical desires. He further observed that as far as the other interpretations are concerned, 'contentment' serves all those meanings embracing halal sustenance (*al-rizq al-ḥalāl*) and genuine felicity. Thus when a person is content with their portion

of halal sustenance, although the amount of their sustenance may be less than that of others, they do not opt for more of someone else's *halal* sustenance. Al-Ṭabarī concluded by pointing out that one generally observes that truly righteous people are often not well provided with halal sustenance in abundance, for we find them mostly in stringent situations rather than enjoying comfortable or luxurious means.[3] However, this does not decrease or affect their inner state of contentment.

Al-Ṭabarī's insightful remarks highlight that the phrase '*ḥayātan ṭayyibah*' is not about the amount or form of one's worldly sustenance, rather it sheds more light on the attitude of humans towards their material means. This moderated and controlled attitude is the gift which Almighty Allah gives to the righteous duty bound people. Two generations after al-Ṭabarī the learned traditionalist Ibn Ḥibbān al-Bustī (d.965 CE) in his work on ethics, *Rawḍat al-ʿUqalāʾ* at the end of his discussion on the virtue of contentment, also stated that the term "*ḥayātan ṭayyibah*" mentioned in the Qurʾan refers to contentment (*al-qanāʿah*). He affirmed that contentment is an inner state of heart (*qalb*): he who experiences sufficiency within his heart will find sufficient means in hand, whereas for one who is poor in heart material richness will not benefit him.[4] The leading Iraqi thinker Shihāb al-Dīn Sayyid Maḥmūd Al-Alūsī (d.1853) in his commentary on this phrase wrote that it is referring to our life in this world. Life here can only be pleasant if it is lived with contentment (*ʿaysh al-qāniʿ*). A life dominated by greed and pursuit of appetitive satisfaction involves one in never ending toil and distress for the appetite can never be satiated.[5] Fakhr al-Dīn al-Rāzi (d.1207 CE) affirmed that the best interpretation of the phrase in question is contentment. This is because no-one's life in this world can be good-wholesome other than the person who is content. As far as the non-contented person is concerned, he will be forever in toil and distress seeking satisfaction of his wants.[6]

The concept of '*ḥayātan ṭayyibah*' is proposing a standard of life which requires one to be rich in heart and not wealthy in terms of excessive material possession. It advocates maintaining a wise balance between spending (*infāq*) and stinginess (*bukhl*). The Qurʾan states (al-Furqān 25:67): "Those who, when they spend, are not extravagant and not niggardly, but hold a just (balance) between those (extremes)." This moderate balance requires us to spend on one's own self as well as on others within the yardstick of necessity, compassionate concern, and proper generosity. Further related aspects of this key idea in Islamic teachings may be uncovered through an examination of the inter-linked ideas of satisfaction (*riḍa*), renunciation (*zuhd*), and abstention (*ʿiffah*), which expand and deepen the idea of a good-wholesome life.

This important idea of '*Ḥayātan Ṭayyibah*' also brings home the point that religious efforts and activities should ideally lead to a content and peaceful life — not a life in which one is flooded with material possessions and driven by a

never ending desire for acquisition. A hadith which most exegetes of the Qur'an mention in their commentary on '*Ḥayātan Ṭayyibah*' clearly shows that being able to achieve a contented and satisfied life is the sign of true success. ʿAbd Allāh b. ʿUmar reported that the Messenger of Allah said: "Truly, successful is the person who accepted Islam, who was provided with enough material-sustenance and whom Allah made him content with whatever means He provided him."[7] Present religious activities and efforts carried out by Islamic institutions in relation to banking and finance, education, social reform issues, and sustainable development should reawaken a vital concern with this concept of '*Ḥayātan Ṭayyibah*', both at the individual and organisational levels. This would be the sign of their real success.

Notes

*   *Mohammed Farid Ali* was a Research Fellow at International Institute of Advanced Islamic Studies (IAIS), Malaysia.

1.   Muḥammad al-Amīn b. Muhammad al-Mukhtār al-Jaknī al-Shanqīṭī, *Aḍwāʾ al-Bayān fī Īḍāḥ al-Qurʾān bi al-Qurʾān* (Cairo: Dar al-Hadith, 2006), vol. 3, p. 237.

2.   *Ibid*., p. 238.

3.   Abu Jaʿfar Muḥammad b. Jarīr al-Ṭabarī, *Tafsīr al-Ṭabarī al-Musammā Jāmiʿ al-Bayān fī Taʾwīl al-Qurʾān* (Cairo: Maktabah al-Tawfiqiyyah, n.d), vol. 13 p. 178–9, on Q 16: 97.

4.   Abu Ḥātim Muḥammad b. Ḥibbān al-Bustī, *Rawḍat al-ʿUqala wa Nuzhat al-Fuḍalāʾ*, edited by Muhammad Muḥy al-Dīn ʿAbd al-Ḥamīd (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1977), pp. 151, 153.

5.   Abu al-Faḍl Shihāb al-Dīn Sayyid Maḥmūd al-Alūsi, *Rūḥ al-maʿānī fī Tafsīr al-Qurʾān al-Aẓīm wa al-Sabʿ al-mathāni*, edited by ʿAli ʿAbd al-Bāri ʿAṭiyyah, Beirut: Dār al-Kutub al-ʿIlmiyyah, 2nd edn., 2005, vol. 7, pp. 462.

6.   Fakhr al-Dīn al-Rāzī, *al-Tafsīr al-Rāzī* (Cairo: Maktabah al-Tawfiqiyyah, n.d.), vol. 19, p. 92.

7.   Aḥmad Musṭafā al-Marāghī, *Tafsīr al-Marāghī* (Beirut: Dār al-Kutub al-ʿIlmiyyah, 2006), vol. 13–14–15, p. 256.

Boko Haram Disgrace: Urgency for Renewal and Reform in northern Nigeria supported by the Muslim Leadership

Daud AbdulFattah Batchelor*

The infamous Boko Haram sect erupted on the world stage in 2009 with their aim to establish an Islamic State. Since its subsequent radicalisation resulting from heavy-handed treatment – including torture and murder – at the hands of state security forces, it now targets the army, police, and those associated with propagating western education. It has even degenerated into attacking the weakest participants, innocent civilians, especially school children. The most infamous act of Boko Haram was the abduction of nearly 300 female students in April 2014 from a government-run high school in the Christian town of Chibok. Over 70 percent of the girls were Christian, and reportedly a number were forcibly 'converted' to Islam. In February, 58 students mainly teenage boys, were burnt to death, shot or had their throats slit in a school attack. The mayhem continues as security forces seem incapable of containing the violence. 2050 people were killed in the first half of 2014 alone. The Paris Summit held in May led to a renewed military push from neighbouring countries with support from the United States, to contain Boko Haram. The Nigerian *'ulama* have condemned Boko Haram's violence and language of arms as a *fitna* and cited it as "corruption on the earth" - one of the most serious crimes in Islam.[1]

Boko Haram's approach is however, aligned with certain influential opinion-makers in Muslim states who teach that receiving modern education is evil and forbidden. Such education is derisively dismissed as "western education" - synonymous with Christian missionaries and the detested former British colonialism, which subjugated the once-powerful Sokoto Muslim imamate. Demonisers of such education are often supervisors of traditional "Qur'anic schools," which follow a restricted non-contemporary syllabus. These are however, still the mainstay of the education system in the twelve northern 'Shariah-states.' A strong state-driven modern education system is essential, but a state program, which commenced in the 1970s floundered when oil prices fell abruptly. In the northeast and northwest Muslim zones, 50% of children do not attend formal schooling compared with just 20% in southern Nigeria. Consequently, large segments of Muslims cannot participate effectively in Nigeria's development.

Boko Haram is another Saudi-Salafi-inspired militant group that split from its parent group and became radicalised. Its founder and spiritual head until his demise in 2009, Muhammad Yusuf, and some members were formerly with the *Jama'at al-Izalat al-Bida'a* group preaching for removal of religious innovations,

but left to form the core of the "People of Sunnah for Preaching and Struggle". It became known colloquially as "Boko Haram" from its preaching platform that "participating in the western-style education system is prohibited." It believes that the western-style modern education system was a ploy by missionaries and colonialists to take over all aspects of Muslim life resulting in a Muslim "bit by bit becoming a disbeliever." The group is now committed to avenge from the suffering experienced due to injustice and atrocities committed upon them by the Nigerian Federal police in 2003 and 2009. Its subsequent actions however, decry any support for the values of the noble religion of Islam. In the heat of violent confrontation with government security forces, this commonly results in Islamically-unacceptable abuses within targeted groups. Consequently it commits criminal actions in the name of Islam which does great harm to its image. Islam as frequently emphasised by the Prophet (PBUH) strongly condemns the killing or kidnapping of innocent civilians. The kidnapped women are not spoils of any legitimate war and Islam prohibits forced conversions.

Its ideology involves calling certain Muslims as non-Muslims (*takfir*) whom it then justifies assassinating. Also, its leaders develop independent but often deviant rulings (*ijtihad*). Positions of the sect include that democracy totally conflicts with Islam, ruling by man-made laws is clear disbelief (*kufr*), and employment for a government which does not rule by the Shari'ah is impermissible. Although claiming it does not intend harm to the general public, there are severe impacts on public interests – curfews and closures of markets, banks and educational institutions due to insufficient security. The common people live in fear as their homes can be subject at any time to army and police raids and residents with no links to the movement are at times dragged out and executed. The flight of investment from northern Nigeria acerbates the economic decline of the North vis-à-vis the South, and produces a scarcity of jobs.

Not surprisingly then in Nigeria, with limited education especially on health and nutrition, an estimated one million women and children die annually from largely preventable causes. Among children these are polio, malaria, measles, bacterial meningitis and malnutrition. This profile is typical of poor countries but if not for corruption, Nigeria should be wealthy from huge exports of 'sweet' oil worth 100 billion US dollars annually. Significantly, although Nigeria ranked fourth in 2012 amongst 27 Muslim countries in religiosity level of its Muslim citizens, in terms of social interaction indicators – especially how well the government nurtured weaker societal members such as women, infants and the poor – it ranked a lowly 47 out of 49 Muslim countries.[2]

Boko Haram who target schools because the latter teach a modern curriculum is clearly wrong. Islam strongly encourages the learning of beneficial knowledge – whether revealed from the Qur'an and Sunnah (religious knowledge), or acquired

from investigation of the material world (science and humanities). Prophet Muhammad (PBUH) stressed the obligation to acquire knowledge: "Search for knowledge is incumbent on every Muslim man and woman." Education for Muslims is not only to provide their frame of reference in Allah's creation, and knowledge of their *farḍ* obligations for worship, but also facilitates earning a living to contribute to society in a trade or profession. Scientific knowledge, even about public health or raising children, is essential for a robust society capable of developing Islamic civilisation. It will also help achieve essential objectives of Islamic law (*maqāsid al-Sharīʿah*) - protection of life, progeny, intellect and wealth of citizens.

Abu Hamid al-Ghazali (d.1111 CE) considered essential knowledge as not confined to religious sciences but includes basic sciences. He stressed that this world is preparation for the Hereafter and when worldly affairs are managed well it facilitates one's success in the *Ākhirah*. He divided knowledge into *farḍ ʿayn* and *farḍ kifāyah* – the latter a collective obligation, which is discharged if some citizens pursue studies to provide community service, e.g. in medicine. Consequently, al-Ghazali favoured a mixed approach by bringing temporal knowledge within the ambience of *fardh kifayah*. Mohammad Hashim Kamali, CEO of the International Institute of Advanced Islamic Studies (IAIS) Malaysia, concluded in his book *The Right to Education, Work and Welfare in Islam*, that it is recommendable for the individual, and *farḍ kifāyah* on the whole community, to promote beneficial knowledge outside the sphere of religious sciences.

Hindrance to adoption of scientific knowledge in traditional Muslim religious schools is partly due to modern science having developed largely in the West, where textbooks are prepared and subjects taught from a secular perspective. This does not integrate well with religious education. Clearly, we must ascertain and articulate the spiritual link with science and encourage scientific inquiry and research. If only textbooks are available from secular sources, an introductory module should clarify key elements of the Islamic approach, placing subjects in the context of creation and its purpose and inculcating Islamic values and good behavior (*akhlāq*).

In northern Nigeria there have been recent improvements with an expansion of urban Islamic public schools teaching a modified national curriculum which supports career development. The rise of Boko Haram is symptomatic of underlying factors in the body politic of the nation and the Muslims in particular. One characteristic of Nigerian Muslims is that they are a very much divided community.[3] Credible leaders are needed to stand with a vision that actively seeks harmony between ethnic groups. It would seem essential that a fully representative council of the northern Shariʿah states meet to identify immediate and long-term measures for resolving festering social and religious

problems. "Islamic" solutions may involve expanding modern education while not neglecting Islamic education, and enhancing unity between diverse Muslim groups – Salafis, Sufis and intellectuals; Hausas and minorities, *madrasah* and college staff and student fraternities. To help this process it is essential that a greater proportion of petrodollars are directed towards national development. A compact is needed with the Christian community to seek greater harmony and mutual respect. Muslims themselves are the key to the solution.

Notes

*   *Daud AbdulFattah Batchelor*, an Australian scholar, is Associate Fellow at IAIS Malaysia. He has a broad experience in industry, academia and international consulting covering the fields of Environmental Management, Islamic Political Science and Earth Sciences. He has been active in Muslim community organisations and is co-founder of the Islamic College of Brisbane. Daud has an MA in Islamic and Other Civilisations from ISTAC, and was presented the Longmans Award for PhD research at Universiti Malaya. He has an MSc from the Imperial College of Science and Technology, London and a Master of Engineering Science. He is currently working at assisting the Afghanistan peace process by determining how differences may be resolved to achieve a workable political framework, in the context of his current research focus on Islamic political systems.

1. This crime draws the *hadd* punishment of "execution or crucifixion or the cutting-off of hands or feet from opposite sides, or exile from the land". (Al-Ma'idah 5:33).

2. Daud Batchelor, "New Islamic Index of Wellbeing for Rating Muslim Countries", *Islamic and Civilisational Renewal*, *Vol. 4 No. 2, December 2012,* 188-214.

3. Rafiu Ibrahim Adebayo, "Divisiveness among Muslims in Nigeria and its Implications for National Integration" *Islamic and Civilisational Renewal, Vol. 5 No. 1, January 2014*, 96-110.

SIGNIFICANT EVENTS AND DEVELOPMENT

International Conference on Developing Synergies Between Islam and Science, & Technology for Mankind's Benefit
(Kuala Lumpur, 1-2 October 2014)

Daud AbdulFattah Batchelor and *Asadullah Ali al-Andalusi, IAIS Malaysia*

The *International Conference on Developing Synergies Between Islam, Science, & Technology* held on 1-2 October, 2014 at the International Institute of Advanced Islamic Studies (IAIS) in Kuala Lumpur, featured 40 speakers across diverse fields detailing issues revolving around Islamic discourse and its relationship with science and technology in the world today. The conference was graced by former Malaysian Prime Minister and Chairman of IAIS, YABhg Tun Abdullah Bin Haji Ahmad Badawi, who provided a motivating Opening Address. Many of the speakers – some veterans to the conversation, such as Emeritus Professor Datuk Osman Bakar (Director and Chair SOASCIS, Brunei Darussalam) and Professor Mehdi Golshani (Sharif University of Technology, Iran) – offered several valuable solutions drawing extensively from their educational and activist backgrounds in the fields of environment, education, and policy reform. Professor Osman Bakar in the first keynote address focussed on the concept of beneficial knowledge with reference to science and technology. Speakers were restricted in time due to the large number of presentations. They were however, still able to elaborate succinctly on issues while offering recommendations and solutions together with the hundreds of participants over the two-day period, spanning 16 hours in total, not including Q&A sessions, refreshments, and a catered lunch – where more vibrant discussions took place, giving speakers further time to elucidate points to eager listeners. The Conference programme was divided into 12 themed sessions: (S.1) Cosmology and the Universe, (S.2) Philosophy of Science and Emergence of Biological Systems, (S.3) Principles of Tawhidic Science, (S.4) Applications of Tawhidic Science, (S.5 & S.7) History of Science, (S.6) Medical Applications of Tawhidic Science, (S.8 & S.10) Science Education, (S.9) Bioethics, (S.11) Forum on the History and Education of Science from an Islamic Perspective, and (S.12) Plenary Forum on Bioethics: Current Status and the Way Forward.

The second keynote address, provided by Distinguished Professor Tun Kamal Hassan, discussed the epistemological implications of the Qur'anic revelation to human society, elaborated on characteristics of the people who possess sound intellects (*Ulu al-Albab*). He then elucidated the higher purposes of the Qur'an

- ultimately to make human beings and societies know Allah through knowing His signs, which when properly interpreted and applied make the life and work of Muslims a comprehensive worship (`ibadah`) of Allah, the Most Gracious. Some notable presentations included discussions of the epistemological influences of contemporary science and its Islamic counterpart. Professor Alparslan Acikgenc (Yildiz Technical University, Turkey) explained the epistemological foundations of the contemporary history of science, and elucidated how sciences develop through a 'knowledge system' based on certain metaphysical principles inherent within the primary belief system of particular cultures. Alparslan further proposed a fresh philosophy of science with an epistemological approach from an Islamic perspective. Professor Mulyadhi Kartanegara enlightened us on Rumi's exposition of the Living Earth and the ardent love (*'ishq*) of it towards the Divine, which explains the evolutionary process with its apex in the creation of humankind who represent both the microcosm and macrocosm of the universe. Other discussions focussed on society's comprehension regarding Islam and scientific discoveries. Professor Mehdi Golshani's (Sharif University of Technology, Iran) spoke on how Islam can give a proper orientation to scientific and technological development based on the holistic concept of Tawhidism (Oneness), which attempts to incorporate all elements of human understanding into one. He focussed on the misuses of science in the contemporary period, followed by reasons for the "brain-drain" in the Muslim world which he blamed on the relative lack of scientific institutions and funding. A number of presentations focussed on the environmental crisis facing the world, the ethical dimensions of scientific practice, as well as how to educate properly the public on these issues. Professor Mohammad Hashim Kamali (Founding CEO, IAIS, Malaysia) explained the basic principles of environmentalism from the Islamic perspective, drawing on the Qur'an and Sunnah, to argue for a *fiqh* of "balance" and "cleanliness" – definitive labels of the religion itself – while promoting a culture of communal responsibility in effectively applying these principles in society, which would in turn more heavily manage and penalise those major corporations and organisations that are responsible for many of the prevailing environmental issues. Dr. Daud Batchelor (Associate Fellow and Conference Chair, IAIS, Malaysia) gave a stimulating talk on the practical applications of a Tawhidic approach to science by focusing on the reduction of waste consumption across the world through the implementation of the Islamic principles of *tazkiyah* (self-improvement) and *qana'at* (contentment) – in contrast to capitalistic consumerism and greed, which have been instrumental in the environmental degradation of the world.

   Assoc. Professor Isham Pawan Ahmad (IIUM, Malaysia) spoke about the need for science to have values and ethics incorporated into its standard

methodologies. He insisted that the contemporary understanding of science as neutral and valueless was contrary to reality – biases and value are never separate from practice, though the researchers behind scientific enquiry are often unaware of them. He argued for a transparent and open "humanising science" based on re-evaluation of current scientific methodology, which has the metaphysical baggage of secular materialism and a seemingly apathetic attitude towards ethics and values. Eminent scholar, Professor Malik Badri's presentation was on a form of psychological shock therapy that had been utilised by early Muslim physicians. Substantial discussions on bioethics were also revealing, such as Dr. Shaikh Mohd Saifuddeen Shaikh Mohd Salleh's and Prof. Adeeba Kamarulzaman's (University Malaya, Malaysia) paper on harm reduction in intravenous drug use from the Islamic perspective. Dr. Abdurezak Abdulahi Hashi (IIUM, Malaysia) spoke on current breakthroughs in the biosciences and whether we can implement ethical values in controlling and managing these discoveries in the near future for mankind's benefit rather than its exploitation. Dr. Elmira Akhmetova (IAIS, Malaysia) capped this session by exposing the contemporary state of genetically modified foods (GMFs) and their possible harmful effects on society given the lack of research on long-term side effects of GMF.

The final presentations focused on the lack of proper scientific education and values at primary and secondary levels of education. Nur Jannah Hassan (IIUM, Malaysia) called for a Qur'anic worldview to be implemented into the science curricula in Malaysia in particular, and in general across the Muslim world to counteract the overly materialistic (both metaphysically and ethically) perspective of the secular sciences. She proposed and has been working on a project along with Professor Kamal Hassan to revise modern day textbooks geared towards Muslim students at the primary and secondary levels, infusing them with the proper values and understanding of science from an Islamic perspective. A case study was then given by Mohammad Hilmy Baihaqy bin Yussof and Professor Osman Bakar (SOASCIS) regarding how such an approach can be effectively applied from experiences of education in Brunei.

Finally, a summation of the conference and suggestions for the Way Forward was provided firstly by Professor Osman Bakar and then Professor Mohammad Hashim Kamali. They favoured the holding of further such conferences on Islam and Science, but with more focus, perhaps in the field of Tawhidic medical applications and bioethics or Islam and environmental sustainability. The application of the *maqasid al-shari'ah* to assessing and reforming technology development also deserves much greater attention. Several important policy recommendations from the Conference deliberations of relevance to the Malaysian government and the Muslim world at large were suggested for implementation. These included revising educational curricula, laws pertaining to consumption

and waste management, stricter laws and punishments for those who harm the environment, and practical/ethical guidelines for medical practitioners and bioscience researchers to implement in their everyday practices so as to ensure a balanced, productive, and healthy society. Overall, the conference was a beneficial and enlightening experience which has set the stage for further research for academicians and practitioners on how to facilitate progress and remedies in the Muslim world regarding its scientific heritage and current practices. In the meantime, IAIS will be busy preparing the Conference Proceedings volume to ensure that the many excellent ideas provided in the papers presented receive a wider more international exposure.

International Summer School on Islam and Science (Paris, 22-31 August 2014)

Daud AbdulFattah Batchelor, IAIS Malaysia

An excellent program on Islam and Science was co-organised by Professors Nidhal Guessoum and Jean Staune (Director, Universitie Interdisciplinaire de Paris) in Paris for 21 Muslim 'students' from universities and institutions in Algeria, Egypt, Jordan, France, the United Arab Emirates, the United States and the United Kingdom, Indonesia and Malaysia. Professorial lectures were delivered by prominent Muslim scientists/engineers/religious scholars – Nidhal Guessoum (American University of Sharjah, UAE), Ehab Abouheif (McGill University, Canada), Bruno Guiderdoni (Islamic Institute of Advanced Studies in Paris), Odeh Jayyousi (Jordan), Usama Hasan (Quilliam Foundation, UK) and leading Christian scientists – Philip Clayton (Claremont School of Theology, USA), Denis Alexander (Faraday Institute, Cambridge, UK) and Jean Staune. This was a cutting edge program on the state of thinking on critical issues regarding Religion and Science. To support the training, group visits were made to the impressive institutions of the *Museum National d'Histoire Naturelle and the Cite des Sciences et de l'Industrie*, as well as to the Central Paris Masjid. The program was not all scientific as participants were also treated socially to warm French hospitality and delicious cuisine for their lunches and dinners.

The objective of the school was to train participants on how to address questions of Islam/Religion and Science and to move the discourse beyond *i'jaz* (suggested miraculous aspects of science in the Qur'an) and simplistic understandings of belief and science. Professor Nidhal Guessoum outlined four main schools of thought on Islam and science: (1) Sacred Islamic Science (Syyed Hossein Nasr and followers) (2) Ethical Islamic Science (Ziauddin Sardar), (3) Universal Science (Mohammad

Abdus-Salam), (4) *I'jaz* (Bucaille, El Naggar), and a new breed of intellectuals including Mehdi Golshani (Theistic Islamic Science), Guessoum (Averrosian Harmony), Zainal Abidin Bagir (Indonesia) and Adi Setia (Malaysia). Seven main issues related to the Islam and Science nexus were identified by Guessoum: (1) Evolution; (2) Cosmology; (3) Miracles, laws of nature, divine action; (4) *I'jaz*: science in the Qur'an?; (5) Are there "proofs" for religious claims? Is God's existence provable? (6) Is any scientific knowledge certain? Are there immutable facts?; and (7) Where does 'authority' reside in scientific knowledge?

One position of some religious writers is controversial and seems to negate God's role in the planning and design of His creation of the universe (or multi-universes), as if there was another agent (beside God), or that the processes of change are operating independently with their own will. They believe that the intelligent design (ID) hypothesis is presented by people only to negate Darwinian evolution. I myself could consider the likelihood that both concepts can coexist[1] (for example, that natural selection is part of intelligent design). As a simplistic description I propose, God is existent in the beginning (*Al-'Awwal*) and at the end (*Al-'Akhir*) being in multi-time dimensions as the Master of Time. He develops the natural laws and constants that can be set at the beginning to ensure the desired outcomes occur (continuously) and at the end of time, much as a production engineer in a factory will set the initial parameters and processes to ensure the correct quality of the desired manufactured goods (a crude example for want of a better one). This approach can also accommodate the Ash'arite doctrine that God is present at every moment recreating His creation, but not necessarily altering His laws and constants, which are relatively fixed to provide the natural world and humans with confidence (as part of His Mercy) in the dynamic laws of the earth and the universal functions (at least at a human level), except when miracles are evidenced through divine change in His (otherwise) perennial laws. God may also operate at a subatomic level to bring about change undetected at the human conscious level.

Bruno Guiderdoni provided an overview on the role of scientists, the scientific method, and the two books provided by God for mankind to examine – *Kitab al-Tadwin* (divine revelations) and *Kitab al-Takwin* (natural phenomena). He compared the approach of Imam Ghazali and of Ibn Rushd towards Truth and the necessity that *'aql* (rational thinking) does not contradict *naql* (revelations). He considered the big religion/science current issues – The Big Bang theory, pre-Big-Bang cosmology and eternity/temporal origination; Creation through time; and Fine-tuning. It is important to realise that God's decree *kun fayakun* results in evolution unfolding over time, not an instantaneous creation. Resources for studying science and Islam include: *kalām*, *falsafah* and *sufi/akbarian* doctrine (i.e. world as *tajaliyyāt ilāhiyyah*); lessons of the new history of science (including new evaluation of Arab-Islamic contributions); post-modern conceptions of

science (Popper/Kuhn/Feyerabend and their critiques); and new paradigms (e.g. non-reductionism, emergence).

Ehab Abouheif gave a masterful demonstration of some proofs of evolution – from the genetic make-up of ants, to how the same gene in disparate animal groups (including humans) is responsible for eye development indicating the unity of living matter. Biological evolution is the descent with modification of all organisms from common ancestors. It is deemed by him a fact while evolutionary theories are hypotheses that are used to try to explain how biological evolution occurred, and are still being tested as to which are correct. He stated "There is abundant scientific evidence supporting the fact that humans are related to and share a common ancestor with animals."[2] Like Bruno Guiderdoni he believes that it is the breathing in of the spirit (*ruh*; refer to Qur'an 38:71-72) that makes us distinctly human and different from animals.

Philip Clayton gave two talks providing a broad coverage on religion and science issues – "On the Main Questions and Hot Debates in the English Speaking world" and "How to Teach the Controversies." He identified the hot debates as (1) Intelligent design, (2) fine-tuning versus multiverse theory, (3) Evolution versus Creation, (4) Divine action – how does God act in this world? (5) Emergence and complexity in the life sciences, and (6) Consciousness and Mind, and provided insightful suggestions for approaching the issues positively and resolving them leaving prejudices and presumptions aside. He shared his vision that "Muslims, Jews and Christians each do their own 'creative mutual interaction' with scientific knowledge without a loss of the distinctive features of their own traditions – each practices a generous orthodoxy in our interactions with sciences without giving up the heart of our faith." "We learn to be attentive listeners and learners from the work in other traditions even though we disagree with some conclusions and assumptions. We therefore support growth in spiritual knowledge in the spirit of "humility theology."

Denis Alexander spoke on "Why Science and Faith are so Separate in the Western World?" He discussed the seminal contributions of British scholars from the 17th century onwards in natural theology,[3] and that Charles Darwin was a product of this school, although in his later years he seemed to turn agnostic. Alexander argued that it was the professionalism of scientific studies at the end of the 19th century (taking over from religious scholars) that led to a separation of religion and science, which had previously been studied together. He also spoke on "Ethical Challenges Arising from Contemporary Biology" including latest developments in stem cell research. Challenges he enumerated include: (1) destruction of early embryos and use of foetal tissues, (2) egg donation for somatic cell nuclear transfers, (3) use of 'saviour siblings', (4) should use of stem cells be patent-protected, and (5) what risks are acceptable?

Jamal Mimouni spoke about *i'jaz* and the abuse of science with respect to propositions of many so-called scientific miracles in the Qur'an. *I'jaz* as used currently was defined by Guessoum as the claim that the Qur'an contains scientific content which was unknown previously, which can only be understood today in the light of modern knowledge.[4] The corollary is that one can find scientific facts ahead of time by looking at the Qur'an with an open mind thus establishing miraculosity of the Qur'an. Mimouni believed the '*i'jaz* industry' had become too ideological rather than aiming for a coherent dispassionate presentation of evidence. He provided criteria to ensure coherence of proofs and arguments about matching scientific facts with Qur'anic statements and believed there was no unequivocal proof of God presenting new scientific information in the Qur'an. This latter position is perhaps questionable though in a few cases in view of acceptance by many scientists that God is referring to the Big Bang in al-Qur'an 21:30 and to demonstrable stages of development in the human embryo and foetus in 23: 12-14, as explicated by Keith Moore. It would seem the Big Bang theory still satisfies the physical evidence available while opposing multiverse and string theories are highly speculative. It is also probable some such theories have been proposed to counter a theory (Big Bang) that many religious people, Christians and Muslims, believe points to the primal Act of the Creator. It seems imperative that scientists develop a methodology for establishing the relative certainty or uncertainty of theories to direct the lay person to those having a higher probability of being correct. Otherwise, in fields such as astrophysics, a non-specialist would likely be quite confused with the great proliferation of current theories.

Usama Hasan in two talks provided background on Islamic ethics and on some of the seminal debates between Muslim philosophers such as Abu Hamid Ghazali and Ibn Rushd, on the nature of cause and effect and other controversies touching on miracles (including the fire being cooled for Prophet Ibrahim) and how God's will is done in the world. He also highlighted the many areas where an incorrect understanding of natural phenomena had been made through misinterpreting Qur'anic verses and hadith. He discussed about *maqasid al-shariah* and *maslahah*, and cited Imam Ibn al-Qayyim's (d. 751/1351) seminal statements that "The Islamic Law is all about wisdom and achieving people's welfare in this life and the afterlife. It is all about justice, mercy, wisdom, and good. Thus, any ruling that replaces justice with injustice, mercy with its opposite, common good with mischief, or wisdom with nonsense, is a ruling that does not belong to the Islamic Law, even if it is claimed to be so according to some interpretation" and that fatwas (legal rulings) can and must change according to time, place and context. Imam Ghazali had stressed the essentiality of properly understanding the context of Qur'anic revelations in their interpretation rather than following a purely literal approach.

Jean Staune spoke on answering frequently-asked questions about religion and evolution. He discussed the difference between Intelligent Design and Fine Tuning, and whether the existence of chance in evolution is compatible with the existence of God. Einstein, a believer had surmised that "chance is the tool that God uses when He wants to be *incognito*" although to us it appears as happenstance. Qur'anic references to the creation of man from clay is backed up by experimental evidence that self-replication can occur in clay crystals. Jean on evolution discussed the similarity of the chromosomal makeup of apes and men, where chromosomes 2 and 3 of apes fuse to become chromosome 2 of men. This is not to suggest that men descended from apes but that apes and men have a common ancestor. Jean suggested non-Darwinian ways in which evolution in life may have occurred citing "structuralism" and "Lamarckian" evolution. The German writer, Johann Wolfgang von Goethe, believed by some to have been a Muslim, proposed that flowers had developed from leaves, which has modern evidence to support it. Jean prefered a "God of evolution" rather than of "Intelligent design" although Guessoum and myself can contemplate a co-existence of these two processes in God's creation. He cited Simon Conway Morris that we should explore evolution through the laws of nature and not only through 'Selection'. Another of his concepts was that of "Attractor" whereby evolutionary trajectories are channelled into modes of stable functionalities. The latest word on teleology is found in the tome of *Incomplete Nature* by Terrence Deacon.

Odeh Al-Jayyoushi gave two talks – on Islam and the environment, and on Islam and critical thinking. He believed that humans have an important role to build sustainable cities which follows from understanding the Islamic concept of *hayat al-tayyibah*. He spoke well on environmental ethics and the expansive ecological view of the Qur'an while commenting that although man has been created as a guardian and witness, there has been relatively little Islamic discourse in the environmental debate. With the Enlightenment there was a radical shift in the West from the Divine to focus on humankind with a concomitant separation between science and religion and alienation between man and nature, which is only now being partly rectified. However, he believed the current global economy based on the Western worldview is failing people, nature and economic development. There is a continuing loss of natural capital as the carrying capacity of the earth is exceeded, which affects sustainability of ecological systems for future generations. There are issues between wealthy countries and developing countries – between rights and needs. Muslims have a key role to play. Important Islamic principles on environmental management include conservation, balance, social responsibility, shared water resources, wise consumption (Qur'an 7:31) and innovative *ijtihad*, among others. There is work to be done for Muslim thinkers to review Islamic legal theory and the *maqasid al-shari'a* to develop a sustainability science.

Overall, the school was well organised and highly stimulating for one such as myself who embraced Islam many years before from the standpoint of a scientist who regained his faith in God on being directed to Qur'anic verses calling man to ponder on the nature and intelligent purposes of His creations in the universe.

Notes

1. This is also the view of Nidhal Guessoum, *Islam's Quantum Question: Reconciling Muslim Tradition and Modern Science* (London: I. B. Tauris, 2011, pp. 240-241).
2. Ehab Abouheif, "On Bridging Islam and Evolution through the Secret World of Ants: Struggles of a Muslim Evolutionary Biologist" (Unpublished).
3. "Natural theology" is the use of science to demonstrate the power and wisdom of God.
4. Nidhal Guessoum, *Islam's Quantum Question: Reconciling Muslim Tradition and Modern Science* (London and New York: I B Tauris, 2011).

Shariah Governance Framework in Islamic Finance (Kuala Lumpur, 10 September 2014,)

Sheila Ainon Yussof, IAIS Malaysia

On 10 September, 2014 three Research Fellows from IAIS Malaysia (Sheila Ainon, Tawfique, Ahmad Badri) participated in Islamic Banking and Finance Institute Malaysia (IBFIM)'s Continuous Professional Development (CPD) program relating to a highly relevant topic "The Shari'ah Framework and Governance in Islamic Finance". This course is designed to provide participants with a comprehensive understanding of shari'ah compliance and the practical application of the Shari'ah Governance Framework (SGF 2011) for Islamic financial institutions (IFIs).

The two day course started off with corporate governance in IFIs and the regulatory framework of shari'ah governance provided by SGF 2011, which is said to undergo a revision next year. Different models of shari'ah governance were highlighted namely the centralised, "laisez faire" and hybrid. The government of Malaysia regulates shari'ah advisory based on a centralised SG model with the following features: shari'ah advisory at the regulator's level; centralised fatwa; the SAC issues guidelines on the governance of SC for IFIs; a centralised appointment of SC which conducts shar'iah compliance review. The trainer

emphasised the need for IFIs to comply with local and international standards on corporate governance Bank Negara Malaysia (BNM), Shariah Advisory Council (SAC), Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), and Islamic Financial Services Board (IFSB) standards).

The second day revolved around the impact of the Islamic Financial Services Act (IFSA) 2013 on IFIs. The objectives of the IFSA 2013 are to promote financial stability and compliance with shariʿah; to strengthen regulation of financial institutions and to implement recommendations under the Financial Sector Assessment Program (IMF and World Bank) including its gate keeping provisions on licensing, shareholding, directors, CEO, Auditors, SAC and SC. Severe penalties will be imposed on offenders of shariʿah non-compliance. The IFSA 2013 gives legal recognition to and aligns regulatory treatment with the distinctive features of shariʿah contracts. Business conduct and product offerings must be aligned with features of shariʿah contracts and the essence of shariʿah on prohibition of unfair and deceptive business contract.

As the IFSA is a new legislation which replaced the Islamic Banking Act 1983 and the Takaful Act 1984, a lengthy discourse was given to it for participants to understand the mechanics of implementing the new law and practical implications. However the course only focused on Islamic Banking and not Takaful industry. This may be due to this particular course being one of the six core subjects. The other core subjects are 'Philosophy and Fundamentals of Shariʿah for Islamic Finance', 'Application of Shariʿah in Islamic Finance', 'Ethics in Islamic Finance', 'Islamic Finance Regulatory Framework' and 'Contemporary Islamic Finance Architecture'. Upon completion of the six core subjects under Associate qualification and after fulfilling the Intermediate and Advanced qualification requirements, participants will be awarded a 'Certified Qualification in Islamic Finance (CQIF) for Banking, Takaful, Capital Market and Wealth Management. The qualifications framework and progression route is necessary for those who want to develop a career or conduct research in Islamic finance. It is BNM's goal to grow the Islamic finance industry with qualified and competent Islamic finance practitioners and researchers so as to maintain a high standard of professionalism and to preserve the integrity of Islam through a common knowledge and interpretation of shariʿah.

The training concluded with a discussion on the power given to BNM to issue binding standards on shariʿah under the IFSA 2013. This is reported to be a work-in-progress at BNM with active participation of the industry. It is hoped that by establishing the shariʿah standards, it will streamline the interpretation of shariʿah scholars locally and globally; expedite the process without a need to refer to the SAC; serve as a guide for product development and lastly, it will serve as a benchmark for shariʿah reviewer, shariʿah auditor and external auditor in performing their tasks.

BOOK REVIEW

by Asif Mohiuddin *Department of Islamic Studies, University of Kashmir, Srinagar, India*

The concept of globalisation reflects the era of intense social change, where capital, data, thoughts, individuals move inexorably across the hereditary map of nation-state circumferences and cultural perimeters. The contemporary globalised world is characterised by the emergence of a series of striking actions and responses evidenced and made concrete in a series of dramatic events. The evolution of intense and penetrative vigilance against the rampant exchange of 'estranged' cultural values and civilisational clashes has heightened ethnocentrism in the West. Due to the enhanced immigration flows, the minority communities particularly Muslims have been affected. In response to this predicament, minority rights have become more acute as Western nations have attempted to assimilate and subsequently incorporate the new citizens. The book entitled: *The Political Psychology of Globalization — Muslims in the West*, by Catarina Kinnvall and Paul Nesbitt-Larking is a welcome contribution to our understanding of minorities in multicultural societies, putting forward the integration policy framework and the Muslim responses to it. The work attempts to examine the identity perspectives by analysing the global-local interactions, and also intends to understand the concept of identity in multicultural societies by utilising the deep socioeconomic insights; critical political concepts and narratives focusing on political and psychological experiences. Thus accommodating the vast dialectical framework, the concept of identity is addressed in the context of constant strife for authority, knowledge and discourse.

This book makes use of a descriptive and empirical methodology, and investigates thoroughly by analysing the narratives and discourses. Discourses and narratives together provide a significant analysis about how identities are perceived in a coherent manner. The authors mainly focus on how the categorisation of people and groups in multicultural societies through identity dialectics may strengthen the collective identity. This interdisciplinary analysis based on the broad framework of globalisation and cosmopolitanism assays the variant approaches undertaken by Muslims in response to identity politics and strategies.

The book is divided into two parts. Each part, in addition to main chapters, comprises supplementary chapters on retreatism, essentialism and engagement — Part I: 'Theorizing Citizenship, Integration, and Identities in Multicultural Settings': and Part II: 'Challenges and Identity Crisis: Muslims in the West'. The work consists of eight chapters, followed by references (pp. 197-216) and an index (pp. 217-227). The first part deals with the conceptual analysis of citizenship, identity and integration patterns in multicultural societies; the second part seeks to understand the challenges faced by Muslim minorities, and identity strategies adopted by them to represent themselves as pertinent stakeholders.

In chapter one as an introduction, (pp. 3-18), the authors present the central argument of the book and address the issue of living in a complex multicultural society by analysing the impact of political and psychological experiences in shaping identities of people in the context of globalisation.

Chapter two (Immigration and Citizenship Regimes in a Globalizing world, pp. 21-48), discusses the various identity strategies among Muslim minorities by examining the patterns of immigration and citizenship regimes in six western countries: France, the Netherlands, the United Kingdom, Denmark, Sweden, and Canada. The first section of the chapter discusses the historical context of Muslim immigration in the West. The second section explores the emergence of diaspora and postdiaspora identity strategies in the West. The third section evaluates the patterns of immigration and citizenship regimes of the individual countries. The brief analysis of minority status quo in these countries discloses the composite nexus between integration and racist political culture. The concept of retreatism as an identity strategy is evaluated in the final section and is seen as the outcome of social exclusionary discourses and ethnocentric attitudes adopted by various countries towards minorities.

Chapter three (The Political Psychology of Integration and Assimilation, pp. 49-74), seeks to understand the different approaches undertaken by various citizenship regimes to incorporate and assimilate the growing number of immigrants. This chapter analyses the issue of 'reuniversalised citizenship' and argues that it engenders the paradoxical relationship between culture and citizenship in a sense that it undervalues the expression of a Universalist will. The 'group based approach', on the other hand, offers the politics of difference rather than assimilation. In comparison to the above mentioned approaches the 'unavoidable costs approach' emphasises the protection of distinct cultures and articulates the preservation of individual society. The emergence of essentialist notions of self and identity are discussed in the second section; Muslim consciousness in third; and fundamentalism and structural insertion of gender identities are discussed in next sections.

Chapter four (Dialogism, Multiculturalism, and Cosmopolitical Citizenship pp. 75-96), examines narratives of political engagement — incorporating normative and developmental perspectives in the context of globalisation. This chapter asserts the importance of dialogue as a means to eliminate the diasporic cultural resistance. Chapter five (The Politics of Retreatism, pp. 99-122), examines the concept of retreatism; analysing identity strategies across five European countries, including France, the Netherlands, the United Kingdom, Denmark, Sweden and Canada. This chapter discusses, in detail, the adoption of retreatism as an identity strategy by first generation immigrants in response to the challenges posed by dominant majorities in these countries. Further, this chapter — based on the secondary sources primarily in the form of books, articles and reports — analyses the socio-structural and historical context of retreatist identity strategies evidenced in the West.

Chapter six (The Politics of Essentialism, pp. 123-159) explores the evolution of essentialist identity politics among both majority and Muslim minority communities, and focuses on the unfolding of various specific events affecting the overall political structure and social incorporation of groups in multicultural societies. The social exclusion and the emergence of fundamentalist ecology are further seen to reflect the sense of injustice, oppression and lack of access to the majority community.

Chapter seven (The Politics of Engagement, pp. 161-186) evaluates the concept of engagement; discussing at length the politics of dialogue, gender and cooperation in multicultural societies. The chapter discusses political engagement across six Western countries, and specifically focuses on the Canadian perspective among both majority and minority populations

Finally, in the 'conclusion' the authors readdress the historical and structural developments underlying the emergence of identity strategies and citizenship regimes in the West. Catarina Kinwall and Paul Nesbitt-Larking argue that the most significant contribution of this work is the development of a new paradigm that attempts to address a wide range of issues related to self, identity strategies, citizenship regimes, multiculturalism and globalisation. The authors stress the importance of dialogue in pursuit of common understanding as reflected in the analysis of the dialogical framework. This analysis, therefore, based on the postnationalist dialogical model, attempts to illustrate how the impact of regime and public policy on the cosmopolitan consciousness structures the functioning of Muslim minorities living in the west.

This work presents a positively ambitious initiative for the proper integration of Muslim minorities in the West. The inclusion of 'Political Psychology' as an interdisciplinary and academic field of study in the analysis of identity formation constitutes the basic innovative dimension of the book. The authors discuss

the issues related to integration and identity strategies and in their opinion, in some European countries especially the Netherlands and France, the integration attitudes are gaining a lot of momentum in spite of overwhelming resistance to multicultural political structures. But, the current situation of Muslim minorities in these countries is grim and quite serious. For example, the new integration policy framed by the Dutch government shares social dissatisfaction over the multicultural society model and places more demands on immigrants. While justifying their creation of a parallel society within the country, the policy ceases to offer more subsidies to immigrants. Overall, the multicultural policies adopted by various citizenship regimes towards minorities either reflect marginalisation of these communities or restriction of their social and cultural freedom.

According to Olivier Roy, the outcome of implementing such policies is that the host countries impinge on immigrants, exceptionally retentive of their culture, giving rise to a new phenomenon of what is called as 'globalised Islam' or 'Islamic fundamentalism'. The Muslim stakeholders, in response to such policy initiatives, challenge the issues of social security; the very isolation of diasporic communities and also reject certain policy initiatives that offer oppressed nationalities to minorities in the name of integration.

Overall, the authors are quite optimistic about the future of Muslims in the West. According to them, to create a balance between individual rights and the collective lives of the people, the only viable option is the constant engagement in a dialogical process in the context of wide range of identity projects and strategies. This process entails the elimination of mutual differences and the acceptance of exclusivist cultural values and norms.

OBITUARY

Ali Al'amin Mazrui (1933 – 2014)

Daud AbdulFattah Batchelor, IAIS Malaysia

Professor Ali Mazrui, an intellectual giant, who passed away at the age of 81 on 12 October, 2014, worked for the future of his beloved Africa as a pan-Africanist and innovative thinker. Although he died in the United States, his body has been buried in Mombasa, Kenya where he was born in 1933. He died while holding tenure as Albert Schweitzer Professor and Director of the Institute of Global Cultural Studies at Binghamton University, New York. Mazrui was exiled to the US in the 1970s after he sharply criticised the regimes of Daniel Arap Moi and Idi Amin in Kenya and Uganda, respectively. In his tribute, Kenya's current President, Uhuru Kenyatta described him as a "towering" academic whose "intellectual contributions played a major role in shaping African scholarship".

Mazrui excelled at analysing the problems in African societies and was critical of African socialism as well as Marxism. He highlighted the exploitation of Africa by the capitalist system and believed that in the final analysis the West rarely lived up to their liberal "ideals". He described himself as a believer in "African liberalism" and was one of the first to link Israel's treatment of the Palestinians with South Africa's apartheid rule. Although rejecting terrorism, Mazrui sympathised with those displaying anti-imperialist sentiment. He also believed that the democratic system could accommodate Islamic *shari'ah* law. Professor Mazrui spoke out against negative social aspects of the growing Western influence worldwide such as in his speech in 2000 when he said "even the very vices of Western culture are acquiring worldwide prestige" and Muslim societies are evidencing impacts from increasing alcoholism.

He is author or co-author of more than twenty books and typically expressed strong opinions in his extensive writings. In his essay series "*On Heroes and Uhuru-Worship*", he showed close empathy with those heroes who fought against the former colonialists while speaking out against 'worshipping' them. Mazrui was creator and presenter of the jointly produced US/BBC/Nigerian ground-breaking television series in the 1980s titled *The Africans: A Triple Heritage* that discussed Indigenous, Islamic and Western influences on Africa. He explained in his 2004 book "*Islam between Globalization and Counter Terrorism*" how religion was becoming entrapped in the danger of rising extremism.

He had an exemplary academic career having studied and then worked at

leading universities and institutions. After pursuing his studies on a Rockefeller Foundation Fellowship he received his MA from Columbia University, New York, and his doctorate from Oxford University in 1966. Mazrui's research interests included African politics, international political culture, political Islam and North-South relations. Recently he served as President of the Association of Muslim Social Scientists.

Among his many honours, the prestigious US journal Foreign Policy in 2005 named him amongst the world's top 100 public intellectuals, and he has appeared in the List of the Top 500 Influential Muslims in the world. In 2011 Professor Mazrui was awarded the IIIT Scholar Award for "*his lifetime distinguished contributions to scholarly work on Islam and Muslim world affairs and his outstanding service to the American Muslim community as an engaged public intellectual and a strong voice – with unrivalled courage – in defense of the oppressed and in the pursuit of justice*".

May Allah Most Gracious grant him a blessed resting place and inspire a new generation of African Muslim leaders to follow in his august footsteps in facing the formidable problems across the continent with effective solutions to achieving harmony and wellbeing amongst its burgeoning population.

CALL FOR PAPERS

Islam and Civilisational Renewal (ICR) invites scholarly contributions of articles, reviews, or viewpoints which offer pragmatic approaches and concrete policy guidelines for Malaysia, the OIC countries, civic non-governmental organisations, and the private corporate sector. The principal research focus of IAIS is to advance civilisational renewal through informed research and interdisciplinary reflection with a policy orientation for the wellbeing of Muslim communities, as well as reaching out to non-Muslims by dialogue over mutual needs and concerns.

Our enquiry and recommendations seek to be realistic and practical, yet simultaneously rooted in Islam's intellectual and spiritual resources, Muslim political and social thought, inter-faith exchanges, inter-civilisational studies, and global challenges of modernity.

ICR invites contributions on the following topics:

- issues of good governance and Islamic law reform in Muslim societies
- science, technology, development and the environment
- minorities and culture-specific studies
- ethical, religious or faith-based issues posed by modernity
- inter-faith, inter-civilisational, and Sunni–Shi'ah dialogue and rapprochement.

ICR is published in English and it is essential that to help ensure a smooth peer-review process and quick publication all manuscripts are submitted in grammatically correct English. For this purpose, non-native English speakers should have their manuscripts checked before submitting them for consideration. The Editorial Board holds the right to make any necessary changes in the approved articles for publication upon consultation with the writers.

Contributors to ICR should visit the following website for guidelines to consider in their contribution: http://www.iais.org.my/icr/index.php/icr/about/submissions