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- **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 *Tajdid Haqārī* 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.

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EDITORIAL

This January 2013 issue of ICR stands as a milestone in the evolution of the journal since its launch, with the birth of IAIS Malaysia, in 2008. It marks five years of continuous quarterly publication; with it we signal a number of changes that we believe will serve the journal's aims and readership well, refining the former and expanding the latter. They offer scope for more cogent analysis from increasingly diverse points of view within the Muslim *ummah* and globally, from within circles of interfaith dialogue and civilisational exchange.

We commence our sixth year of publication with a new advisory board and the appointment of four regional editors to enhance global coverage and representation. The present issue ushers in new associate editors as well as a new "Focus" segment on the interplay of crisis and opportunity in our world, drawing upon unique sources from within the Muslim world for understanding current and unfolding developments.

In this issue we publish an insider view of the strife afflicting the Muslim community in Myanmar; we take stock of the impasse reached by the US and NATO in Afghanistan and present the grounds for pursuing negotiations with the Taliban; in neighbouring Pakistan we examine the "fragmented" educational mosaic in the country, a situation that poses a major challenge for the government; and from Bangladesh we reflect on the direction and impact of continuing Islamisation.

In our regular "Articles" section Professor Anthony Johns sets the tone with an in-depth discussion of Islam's thinker and luminary al-Ghazali (d. 505/1111) and his central role in Islamic humanism, followed by a glimpse into how al-Ghazali came to be so relevant to the Malay context through an article by Dr Megawati Moris. While al-Ghazali has been deeply revered in most of the Muslim world, he also had his detractors, notably in the Kingdom of Saudi Arabia. The recent history of Saudi Arabia itself is the subject, in our third article, of scholarly historical assessment by Professor Sean Foley, a colleague in the USA who adroitly addresses the current interplay of Saudi Arabia, the Soviet Union and modern Islam. This in turn sets the stage for informed consideration of the mix of globalisation, economic and financial crises by expert colleagues in Malaysia who discuss the Islamic financial audit system, the case against interest-based finance (*riba*), and the ethics of stem-cell research.

Policy recommendations stemming from our Articles section are substantial and range from conducting consultations with prominent figures and Ulama associations in Malaysia and other Muslim countries to a proposal to raise public and institutional awareness concerning the destabilising effects of interest-based financing and the linkage between it and cyclical market instability.

The scope and vitality of other policy recommendations emerging from this issue of ICR are varied and relevant to cite:

- World leaders should anticipate the renewal of ties between Saudi Arabia, Russia and the former Soviet states, in view of the substantial cultural, historical and religious linkages that bind their peoples; they should allocate resources to promote exchanges in these areas.
- Interest-based financing should be phased out and replaced with financing on the basis of profit and loss sharing.
- The Central Bank of Malaysia should chart the process and method of *Shariah* audit, providing the benchmarks and standards required for an Internal *Shariah* Audit Framework, instead of leaving it to the industry.
- A comprehensive Talent Development Programme should be designed for internal *Shariah* auditors, reviewers and advisors for skill training, cross fertilisation of ideas and continuous education.
- Universities in the region and in Malaysia in particular must formulate their own worldviews instead of following those of former colonial masters, and provide an enabling environment for youth and students to debate and speak freely.

The issues and themes simmering in our Articles department surface for further consideration in our Viewpoints section, which features discussions of finance and ethics, civilisational renewal in Iraq, early childhood education, and finally the rule of law in Islam in conjunction with contemporary human rights discourse. The January 2013 issue of ICR closes with notes of recent events and activities that have engaged the attention and resources of IAIS Malaysia and its staff, partners and affiliates.

This issue goes to press with the arrival of two new associate editors at ICR: a long-time veteran of Malaysia studies and the Malay context of Islamic civilisational renewal, environmental and political scientist Dr Daud Batchelor (hailing from Brisbane, Australia); and seasoned Muslim world development practitioner, Arabic translator and teacher, Michael K. Scott (hailing from Baltimore, Maryland).

We are confident that this January 2013 issue will effectively engage a wider circle of readers and authors in continuing our efforts to present more refined discussions. We hope you join us for the extended journey.

Mohammad Hashim Kamali
Editor-in-Chief

ARTICLES

AL-GHAZĀLĪ AND THE FOUNDATIONS OF AN ISLAMIC HUMANISM

*Anthony H. Johns**

Free Muslims from legal restrictions as far as you can
/ Idfa' al-ḥudūd 'an al-muslimīna mā wajadtum...¹

Abstract: While the famed Muslim jurist-theologian Abū Ḥāmid al-Ghāzālī is widely acclaimed for his reconciliation of Islamic mysticism (*taṣawwuf*) with the Law, he also exemplified the centrality of a Humanist tradition in Islam. His work *Kitāb ādāb al-samā' wa l-wajd* [Protocols for Spiritual-Audition and Ecstasy] presents a view of humanity existing at diverse spiritual levels and portrays the wonder of divine love, the humanity of the Prophet, and the legitimacy of human joys and pleasures - in particular poetry, music and dance. Ghāzālī established the basis for a God-centred Humanism that values secular activities for their potential to advance spiritual life, while according full respect to the Law. His pioneering thought distils important principles that are of great relevance for Muslim thinkers and planners today, including the importance of freeing Muslims from legal constraints as far as possible within the sanctity and authority of the Law, and the need to continually refresh the Islamic legacy and advance spiritual life through finding value in worldly activity. His investigation of 'spiritual audition' opens the door onto a world of spirituality and dialectic arising from a loving awareness of mundane human experience.

Introduction

The contribution of the leading Shāfi'ite jurist and Ash'arite theologian Abū Ḥāmid al-Ghazālī to Islamic thought and spirituality was immense. His ultimate achievement is usually described as the reconciliation of Mysticism with the Law, thereby securing for Sufi tradition (*taṣawwuf*) a legitimate place in the Islamic disciplines. This essay is based on our draft of an English translation of his work on the practice of spiritual audition, *Kitāb ādāb al-samā' wa l-wajd* [*The Protocols of spiritual-audition and ecstasy*]², and attempts to show another dimension of his work as an advocate for and exponent of the rich tradition of Islamic humanism.

Ghazālī is often spoken of as having reconciled the Law and mystical experience. This statement is based on a misdefined premise. Although his *Adab al-samāʿ*³ is framed as a juridical issue focused on the question over whether *samāʿ*³ and *wajd*⁴ are permissible, he is not indulging in a mere intellectual exercise as if to say: here is the Law, here is mysticism, let us reconcile them. Rather his approach is: here is our experience of God, the Prophet He sent to us, and the Book the Prophet has brought; here is the world he has provided for us, and the joys we may find in it as we serve Him. His approach is one that lives Islam as comprising all these elements.

Kitāb ādāb al-samāʿ wa l-wajd reveals a genuine Islamic humanism, an experience of God that inspires a love of humanity and becoming aware of the presence of God through our human experience. Ghazālī rejects a formalistic commitment to religion and with it the puritanical stream in Islam. Notwithstanding his respect and reverence for the great legal theorist Muḥammad b. Idrīs al-Shāfiʿī (d. 204/820), he does not share his dislike of chess and backgammon as inappropriate for scholars of religion. He finds within the Law a place for poetry, music (both instrumental and vocal), as well as for dance and movements—whether as amusement for the common people, or as aids to progress in the spiritual life. Ghazālī views religious life in Islam as a continuum—from those called to experience ecstasy (*wajd*), to the everyday follower of religious requirements among the common people. He reveres the Law, but it is in the spirit of his treatment of the Prophetic utterance counselling leniency in suspending legal punishments (although he does not quote it): *Free Muslims from legal restrictions as far as you can, and if you find a way of release then clear its path.*⁵ It is in such details that he reveals the foundations of an authentic Islamic humanism.

This humanism is God-centred throughout. While Islam is not a sacramental religion in the Christian sense of the words, everything in creation is a sign of God. Ghazālī states, “Every good and beautiful thing in the world perceived by the mind, by sight, hearing and the other senses, from its beginning to its end, from the summit of the Pleiades to what lies beneath the soil, is but a grain out of the treasure chests of His power, and a ray from the light of His presence. Glorious beyond compare is He who is veiled from being visible by the very intensity of His manifestation and is hidden from sight by the radiance of His light.” One thinks of Hopkins’ sonnet,

The world is charged with the grandeur of God.
It will flame out, like shining from shook foil.

Ghazālī has this awareness of the wonder of creation. He delights in listening to birds singing and the beauty of nature, for every such experience is a sign of God. He understands human problems and weaknesses on the spiritual path. He is aware that language is arbitrary, that a single phrase can communicate multiple and seemingly contradictory meanings, and that poetry may sometimes be a remedy for the staleness that over familiarity with the Qur’ān might bring.

His work *The Protocols of spiritual-audition and ecstasy* also reveals much of al-Ghazālī’s personal values as a human being. For him, the Law is not an inert set of rules but something dynamic and alive responsive to human life and experience. Even though the Law is not reducible to a fluid structure of situational ethics, it possesses a social and circumstantial dimension. He sees this exemplified in the warmth and human kindness of the Prophet, his appreciation of poetry, and his solicitude for women and children—inviting them to watch the Abyssinian war games, and over-riding Abū Bakr’s objection to ‘Ā’ishah and two girls playing with tambourines.

Far from simply arguing for their permissibility, al-Ghazālī displays an enthusiastic love and appreciation for music, poetry and dance, and celebrates their roles in social life—even while he cautions against possible occasions of sin. He asserts that amusement (*lahw*), play (*la’ib*) and inconsequential talk (*laghw*) have their place in human life and are not to be condemned out of hand. The word *dour* is not in his vocabulary, and he exhibits a special love for music. Ghazālī marvels at how song may still a child crying in its cradle, and how on hearing music the camel, a dumb animal, finds heavy burdens light and long distances short. The task of the camel is to carry burdens, and that of humankind to seek God. Music stimulates both to the point that a camel may drop dead with exhaustion, and a man be so overcome with ecstasy that he departs this life.

Indeed, al-Ghazālī loves voice, melody, and rhythm, and is amazed at the mysterious states the soul can experience such as fear, sorrow or joy—occurring in the sessions of *samā’* when poetry is sung. However, music without words may take one even higher. “The sound of stringed instruments and other kinds of musical tonalities without any intelligible content, can have an extraordinary effect on the soul. It is not possible to express the wonder of them. They produce a sensation that may be described as yearning (*shawq*), but it is a yearning that the one who experiences it does not know what he yearns for, and it is extraordinary that one whose heart is stirred by listening to the sound of string instruments, flutes and the like, does not know what he yearns for. He discovers in himself a state of aching longing, a longing for something, yet he does not know what it is, (and this may happen) even to common people and those whose hearts have never been overwhelmed by love either of God or man.”⁶ This yearning, he implies, is for God Himself.

The Text

Translation is often a thankless task which rarely succeeds in communicating the full range of a great writer's thought, and wittingly or unwittingly may misrepresent aspects of his argument. Even so, one of the closest ways of engaging with any text in a foreign language is to attempt to translate it into one's own. In the attempt to translate should occur a kind of conversation with the author: a questioning of him: what he meant by this, why did he say that? Did he have a single or diverse audience in mind when he wrote? Was there any overriding issue that motivated him, over and above the specific issue to which he addressed himself? In the case of al-Ghazālī, translation offers the opportunity to learn more of him, of his contribution to his shaping of the understanding of what it means to be a Muslim, and of development within the Muslim tradition itself.

Formally, his work is an investigation into a disputed issue: the legal status of listening to music (instrumental and vocal), in particular the use of music to arouse religious emotion and so induce ecstasy.⁷ The title *The Protocols of samāʿ-sessions and ecstasy* is brief and formal. The result of his investigation is likewise formal, expressed with the succinctness of a *fatwā*: that such sessions in themselves are *mubāḥ* permissible; but participation in them may be *ḥarām* unlawful, *makrūh* undesirable, *ḥalāl* permissible, or *mustaḥabb* commendable according to the age, disposition and circumstances of the participants.⁸ Ghazālī further makes a distinction between the activity of music making itself and of listening to music, and the inner disposition of the participants, their mentality, motivation, level of spiritual attainment and related factors.

The work opens with an impassioned invocation:

Praise be to God who sets ablaze the hearts of His saints with the fire of His love, and enraptures their aspirations and spirits with yearning to meet Him and behold Him; Who brings their eyes and inner perceptions to a halt in reflection on the Beauty of His presence until they become intoxicated by the fragrance of the breath (*rūḥ*) of union with Him, and by reflecting on the splendour of His Majesty (*al-jalāl*) their hearts are bewildered and filled with perplexity. Then in both existences [visible and invisible] they see none other than He, and in both domains [this world and the hereafter], speak of none other than He.⁹

This sets the tone for what follows, making clear that when individuals draw close to God, it is God Himself who first implanted in them this longing to draw close to Him. It lays emphasis on *samāʿ*, the key word in the title of the book, when it states that this setting ablaze is through the ear by the sense of hearing or spiritual audition: “*There is no way to arouse what is hidden within human hearts other than by the spark provided by the sense of hearing, there being no access to the heart other than by the gateway of the ear.*”

The work is divided into two chapters, the first devoted to *samāʿ*, the second to *wajd*. Chapter one, the primary source for our essay, consists of three parts: the first defining *samāʿ*, and presenting some of the views for and against it by earlier authorities; the second proving that in itself, it is *mubāḥ* permissible, and the third is a response to several arguments made against it. This framework might appear aridly academic, yet despite his claim to be applying a legal algorithm to this issue al-Ghazālī infuses into his argumentation alongside respect for the Law a love and enthusiasm for all that is human. Moreover, his demonstration that the grounds for the disapprobation of music, and leisure more generally, are circumstantial and not intrinsic to it, leads him in directions which may at first sight seem unexpected.

In part one he juxtaposes views of the classical jurists indicating they regard *samāʿ* as Unlawful as reported by Abū l-Ṭayyib al-Ṭabarī, against those of its practitioners. Shāfiʿī had declared singing to be an undesirable amusement (*lahw*), and the leading Iraqi jurist Abū Ḥanīfah (d. 768 CE) regarded listening to it to be sinful. Indeed, al-Ghazālī cites al-Shāfiʿī: “I do not like playing chess, and I regard every game by which people amuse themselves as Undesirable, because games are not appropriate for those concerned with religious learning, or who have a sense of propriety (*murūʾah*).”¹⁰ Against this, he reports the story told of the learned man Ṭāhir b. Bilāl al-Ḥamdānī al-Warrāq who stated,

I used to devote myself to prayer in the mosque in Jiddah beside the sea. One day in one of its alcoves I saw a group [of Sufis] reciting and listening to poetry. In my heart I condemned it, saying to myself, “Are they reciting poetry in a house of God?!” Then that night, I saw the Prophet sitting in that very place and Abū Bakr al-Ṣiddīq was beside him – and Abū Bakr was reciting a piece of poetry and the Prophet was listening to him, holding his hand against his breast, as though entranced by it. I said to myself, “It is not right that I condemn them for listening to poetry, when here is the Messenger of God listening to it while Abū Bakr recites it?” The Messenger of God then turned and said to me, “This is truth *by* truth”, or “This is truth *from* truth” – I am not sure of his exact words.

For good measure he includes an intermediate position, that of the prominent Meccan authority ʿAbd al-Malik Ibn Jurayj (d. 766) who permitted the holding of sessions of *samāʿ*. He was asked, “On Judgement Day, will this be reckoned among your good or your evil deeds?” Ibn Jurayj replied, “Neither one nor the other, because it is like indulging in empty talk (*laghw*) of which God says, “*God will not take you to task for empty talk when you swear oaths*” (*Q al-Baqarah* 2:225, & *al-Māʾidah* 5:91). Ghazālī thereby sets out the three possible positions toward practicing spiritual audition, and argues that since this disagreement exists, rather than adopt one view or another on the basis of personal preference

let alone *taqlīd*, “one should seek truth by the way proper to it, that is, by investigating the legal principles by which prohibition and permissibility are determined.”¹¹ He chooses to proceed not by the adequate and readily available negative path that since there is no scriptural authority, or any argument based on such authority, to prove that participation in *samāʿ* sessions is Unlawful, it is thereby Permissible; rather he demonstrates that these authorities themselves prove that it is Permissible. His choice of this procedure, although strictly speaking unnecessary, is not arbitrary since it allows him to show how wide is the variety of styles of performance subsumed under the term *samāʿ*, and to illustrate the aesthetic and spiritual riches it subsumes. More importantly, it affords him the opportunity to give an exposition of the circumstances affecting the legal status of an individual’s performance of an act in itself Permissible, and to give an account of the broader principles and considerations lying behind the provisions of the Law. In this manner al-Ghazālī indicates lines of development already established which enable a continually adaptive theology of the Law.

Four Components

It is on the basis of such considerations that he opens his discussion with a general statement: *The act of singing involves listening to a pleasant sound which has rhythm, conveys meaning and stirs the heart*. Of these terms ‘pleasant sound’ is the broadest in meaning. It can be sub-divided into those that have rhythm and those that do not; those that are rhythmic are subdividable into those that have meaning such as poetry, and those that lack meaning such as sounds issuing from inanimate things or those produced by animals. In the light of these sub-divisions, he discusses the four components of the term ‘singing voice’ in some detail.

1) The first is ‘pleasant sound’. That listening to a ‘pleasant sound’ is not Unlawful can be proved by inferential reasoning (in al-Ghazālī’s terminology *qiyās*), for reason indicates that each of the five senses has a pleasure specific to it. This is also proven by revelation in the Qur’ān and Ḥadīth. Among these is the utterance: ‘God never sends a prophet without a beautiful voice.’¹² The Messenger said, ‘God gives ear more intently to a man reciting the Qur’ān with a beautiful voice, than does the owner of a singing girl to her singing.’¹³ The Qur’ān (*al-Fāṭir* 35:1) utters, ‘...*He adds to His creation whatever He wills*’, said to refer to beautiful sounds; and by implication the verse (*Luqmān* 31:19) ‘*The ugliest of sounds is the braying of the donkey*’ suggests the opposite! He takes this argument a stage further when he counters the claim that such listening is Permissible only in the case of listening to the Qur’ān, by a *reductio ad absurdum*: it would follow from this that listening to the singing of nightingales be declared Unlawful because it is not from the Qur’ān. For if listening to a spontaneously produced sound without meaning is Permitted, why should it not be Permissible

to listen to a sound from which can be learned wisdom and with it virtuous ideals?

Something revealing of his humanity may be glimpsed in al-Ghazālī's description of the pleasures to be derived from the mind and the senses. Humankind possesses reason (*'aql*) and five senses, and each sense has a specific perception (*idrāk*) and finds pleasure in what it perceives. Thus, the pleasure of sight is in things beautiful to behold such as greenery, flowing water, an attractive face, and in sum, every beautiful form. These are the opposite of gross, ugly shapes that everyone finds disagreeable. The pleasure of the sense of smell is in fragrant odours, the opposite of unpleasant odours. The pleasure of the sense of taste is in delicious foods such as rich meats, sweet pastries, and foodstuffs that are piquant – the opposite of what is bitter and nauseating. The pleasure of the sense of touch is in the feel of what is smooth and delicate – the opposite of rough and coarse. While the pleasure of the intelligence is in knowledge and understanding – the opposite of ignorance and stupidity. In the same way, sounds perceived by the sense of hearing may be divided into those which give pleasure, such as the song of the nightingale and the sound of the flute, and those that are disagreeable, such as the braying of the donkey.

2) The second component is 'sounds with rhythm'. These may be produced from inanimate material or the throats of living creatures whether animal – nightingales, turtledoves or pigeons – or human. By 'sound produced from inanimate materials' he means musical instruments. His justification for making such instruments is that the craftsmen who make them do so in imitation of nature, and everything they fashion has within it an image (*mithāl*) replicating the innate character God appropriates for a thing when He creates it. Thus the playing of musical instruments – apart from those specifically prohibited by the Law – is Permissible.¹⁴

Attention needs to be given to his explanation as to why the playing of certain instruments is prohibited. It is not because of their sound. Rather the reason is analogous with why certain types of jars which at one time used to hold wine and were emblematic of drinking sessions are Unlawful: they bring wine to mind, and arouse a longing to drink wine. The same applies to certain types of flutes and drums: the beating of the *kūbah* – a long drum narrow in the centre with broad extremities – is deemed Unlawful since it is often beaten by transvestite male performers (*mukhannath*). Were it not for this, drums would be treated just like those drums beaten by pilgrims on the Ḥajj, or by warriors marching to war. They are deemed Unlawful because of what they might lead to, just as being alone with a woman outside the prescribed degrees of kinship is Unlawful because it could lead to sexual intercourse, or looking at her thigh because of its proximity to her genitals. In the same manner even a small sip of wine is declared Unlawful even if it does not cause intoxication, because it is a temptation to drunkenness.

However he makes the point that in particular circumstances geography and social custom may be relevant to a legal judgement: the wearing of the *qabā'* with the hair of the head shaved and tied into tufts is forbidden in countries where the *qabā'* is normally worn by wicked persons. Yet this is not forbidden in Transoxania (central Asia) due to this being the customary hairstyle of virtuous people among them. From this it becomes clear that the reason they are declared as Unlawful is not due to the pleasure they give. Rather, it follows from the analogy that everything that gives pleasure is Lawful except those things which if they were deemed Lawful would actually involve harm. The Almighty says (*al-A'rāf* 7:32): *Say, 'Who dares declare Unlawful the beauty God has made, which he has produced for his servants, and the pleasurable things by which he sustains them?'*

3) The third component is meaning itself. Sound combined with rhythm and meaning serves as a definition for poetry. For al-Ghazālī reasons that since sound and rhythm are Lawful, the addition of meaning as well must be Lawful, provided what is said is not morally dangerous. Thus poetry is not Unlawful, and if it is not Unlawful when spoken, then it cannot be Unlawful if sung. The scriptural proof resides in a number of well-attested ḥadīth which al-Ghazālī cites. In one, 'Ā'ishah reports, "The companions of God's Messenger used to compete in reciting poems in his presence, and he smiled as they did so."¹⁵ She also reports the Messenger saying, "Out of poetry comes wisdom!" In fact al-Ghazālī is concerned to affirm the love of both religious and secular poetry that existed among the Prophet and his Companions. 'Ā'ishah herself is reported as reciting the verse:

Those in whose shadow [my] life was lived have departed,
and I remain behind, like the skin shed by one sick with mange.¹⁶

Ḥadīth in the collections of both al-Bukhārī and Muslim include 'Ā'ishah's narrative: "When the Messenger arrived in Madinah, Abū Bakr and Bilāl fell ill, for there was an epidemic in the city. I said to Abū Bakr, 'Father, how are you feeling?' and to Bilāl, 'Bilāl, how are you feeling?'"¹⁷ Thereafter, Abū Bakr whenever he had an attack of fever used to recite,

To every man waking in the morning amid his family,
death is closer than the strap of his sandal.

The Prophet's Abyssinian companion Bilāl after a fever had left him used to raise his voice and exclaim,

Ah, would that I knew whether ever again I would pass a night
in a valley with rush and panic grass about me,

And whether one day I could again go down to the waters of Majanna,
and (the folk of) Shāma and Tafil once more show me their wells.

‘Ā’ishah continued, “I told this to the Messenger of God, and he replied, ‘O God, make us love Madinah as we love Mecca, and even more so.’”¹⁸ When al-Nābighah recited to him one of his poems, the Prophet said to him, “May God never let your mouth be closed.” There is also a report transmitted by ‘Amr b. al-Sharīd from his father who said, “I recited to the Messenger of God a hundred verses (*qāfiyah*) of the poetry of Umayyah b. Abī ‘l-Ṣalt; at every one of them he exclaimed, ‘More! More!’ and finally said, ‘In his poetry, he was almost a Muslim.’”¹⁹

We find in the authoritative Ḥadīth compilations of both al-Bukhārī and Muslim that the Messenger of God himself, as he helped the workers carrying bricks to build his mosque used to recite,

What we carry is not just fruit born from Khaybar
This burden is more righteous, Lord, more pure.

And on another occasion he recited,

O God, true life is that of the hereafter,
Be merciful then to both Anṣār and Muhājirūn.

From the Companion Anas b. Mālīk there is a report that the Prophet used to have him sing a cameleers’ song sung for him when on a journey: Anjashah used to sing [to urge on the camels carrying] the women, and al-Barā’ah b. Mālīk those carrying the men; the Messenger used to say to him, “Anjashah, go easy as you drive the camels carrying these fragile vessels!”

4) The fourth component is ‘stirring the heart’. This provides the occasion for al-Ghazālī to present an argument not simply for the legitimacy of music, but to express a personal love for it, and an appreciation of its effects from personal experience. Its effect stems from the way in which it stirs the heart arousing an emotion that may dominate it. How this happens, how the rhythms that carry melodies connect with the soul in which it can produce wonderful effects, is a Divine secret. He stresses the variety of styles of music, and the different effects these can have on individuals:

Some sounds cause joy, others sorrow, and some lull to sleep; some cause laughter, others stir the emotions. Some cause movement of the limbs, of hand, foot and even the head in time with the rhythm. It should not be thought that this is caused necessarily by understanding the meaning of a poem. Rather it is a result of the sound of the strings of the instruments accompanying the singing of it. Indeed it is said that one not moved by the flowers of spring or the strings of the lute suffers from a malady for which there is no cure.

How could it be due to understanding (the sense of the words sung) when the effect of hearing [*samā*]²⁰ something can be seen on an infant in its cradle. An agreeable sound stills its crying, and draws away its attention from whatever caused it to cry. The camel, although by nature a dumb animal, is stirred by the song of the cameleer. On hearing it, the beast finds heavy burdens light and from the energy derived from hearing it, finds long distances short. The energy stirred within it invigorates it, and makes it forget its weariness. You see camels under the burden of the litters and baggage they carry, when the desert tracks are long, and fatigue and weariness distress them, the moment they hear the song of the cameleer, they stretch out their necks and with ears erect listen to the singer and his song. Because of the energy (aroused by the singing), they quicken their pace until the litters and baggage on their backs bob up and down, and sometimes they drop dead as a result of the strain they endure as they move along, not realizing how heavy is the weight they are carrying.

Later this vivid picture of the power which music exercises on a camel is transfigured when al-Ghazālī draws a parallel between the task of the camel, to carry burdens, and the task of humankind to seek God, with the role of music in stimulating each. For the camel, in giving it access to energy, and for the human being, in arousing in him feelings of ecstasy of such power that it may even lead to the death of the person experiencing it. How music as this effect on the heart is a divine secret. He marvels at the variety of effects it can have.

Listening (to music and song) then has a perceptible effect on the inner-awareness [*qalb* 'heart']. Anyone not moved by it is deficient in some quality, lacks an evenly balanced disposition, and is far removed from spiritual insight. He is coarser and denser in nature than the camels and the birds, indeed than any of the beasts, for all of them are moved by melody and rhythm. This is why birds used to perch on David's head to listen to his voice (when he sang).

This variety and wonder in music extends to many areas of life and the divine secret of how it comes about is common to all living creatures. For humanity it offers a kind of consecration of life. Yet despite this wonderful power of music, and the wonder of participating in musical events, the authority of the Law is to be respected. Music is Permissible, and the legal status of listening to it differs according to circumstances, the instruments with which it is performed, and what is in the inner-mind (*qalb*) of the listener.

Public Activities

The variety in music, and the types of circumstances which might effect the legal status of the individual are shown in his account of seven public activities in which music has a recognised and socially accepted role and is regularly performed.

These are: on setting out for the pilgrimage; on marching to war; in the heat of battle; on occasions of grief and sorrow; on occasions of celebration; to arouse and express 'romantic' love; and to reach out for union (*wiṣāl*) with the divine. The use of music in all these situations comes under the heading of legitimate *samā'*. These activities are widespread, and their being long established is itself an indirect suasion that this use of music is Permissible. This is something al-Ghazālī celebrates and invokes their existence as an argument to extend this legitimate use of music. Nevertheless, at the same time he draws attention to incidental or attendant circumstances which under particular conditions may render the use of music inappropriate.

Yet he also cites certain caveats. As for the first: It is praiseworthy for intending pilgrims to march around their home towns beating drums, blowing on flutes and singing poems that describe the cultic sites to be visited, for this increases their yearning to perform this act of piety. In this case, the writing and use of poetry in other situations, for example by a preacher in the mosque for example, is permissible. By extension, it can also be argued that it is Permissible for poetry to be written for other purposes as well. He has a striking appreciation for the orchestral effect of the combination of the rhythms of rhyming prose sung by a beautiful voice to the accompaniment of flute and drum, and the impact this may have upon the heart. The Law however must be obeyed. The playing of certain wood and string instruments which are emblematic of evildoers is forbidden. Performance of this music must not be used to encourage those for whom it is Unlawful to undertake the Pilgrimage, or to encourage pilgrims to make the journey when the roads are unsafe, and there is danger of death.

This balance between delight in the use of music and poetry and concern for the individual's responsibility to the realities of legal obligation is shown in various ways in his discussion of the other occasions. In his discussion of the second situation he declares it right for commanders to use poetry to urge their men on to battle. He cites the lines of the famous poet al-Mutanabbī (d. 965):

Then if you do not die by the sword, as one honoured
 You will die without honour and be a by-word for shame.
 and
 Cowards regard their cowardice as discretion,
 such is the self-deceit of ignoble natures.

Yet for the individuals concerned, this is only Lawful if the war itself is praiseworthy (*mamdūh*), and in any case, the poems and the melodies to which they are sung must be different from those sung by intending pilgrims.

In his discussion of the 'Occasions of rejoicing' he shows vividly the value he puts on human happiness and celebration. He is concerned with the whole of life,

secular as well as religious. His appeal to Revelation for this gives a central role to the Prophet. He gives an account of celebrations that took place on the arrival of the Prophet at Madinah at the time of his *hijrah* or migration from Mecca, and describes the women on roof-tops beating tambourines at the arrival of God's Messenger, while singing,

The full-moon is approaching us,
[He looms up] through the mountain passes of *al-Wadā'*
We should give thanks for that to which a caller to God is calling²¹

This is praiseworthy, and other physical expressions of joy are also praiseworthy. It is reported of a group of the Companions that on this occasion they leapt for joy overcome by happiness. He takes this as a model to extend the occasions of this physical expression of rejoicing. Not only at the arrival of the Prophet, this is permissible at the arrival of any legitimate visitor, and in fact on any Permissible occasion of rejoicing. His emotional resonance with such celebrations is reflected in the ḥadīth he invokes which describes the Prophet and 'Ā'ishah watching the Abyssinians playing their 'war games' in the courtyard of the Prophet's mosque in Madinah with the Prophet urging them on, "*Keep at it, sons of Ardafa!*"

These ḥadīth are all in the canonical collections of al-Bukhārī and Muslim. They are decisive proof-texts which establish that singing and amusement are not Unlawful, and they do so in various ways. The first concerns Amusement (*la'b*), just as the fondness of Abyssinians for dances and amusements of various kinds is well known. Secondly, they were doing it in the mosque courtyard. Thirdly, the Prophet's encouraging words "*Keep at it...*" were an order to play the game with enthusiasm – so how can it be thought that such amusements are Unlawful? The fourth is the Prophet's response to Abū Bakr and 'Umar who objected to the amusement and wanted to stop them; the Prophet pointed out that it was a feast day, a time of celebration, and these games were ways of celebration. The fifth is the length of time (the Messenger) spent watching and listening to them, because he approved of the happiness 'Ā'ishah found in them. Particularly moving are the Ḥadīths he cites relating to 'Ā'ishah, Ḥadīths which illustrate not only the legitimacy of pure entertainment but of the humanity and tenderness of the Prophet. This confirms that a solicitude for the happiness of women and children which allows them to watch such games is preferable to an ascetic harshness and self-mortification that condemns and forbids this. These arguments and citations establish that singing, dancing, beating the tambourine, games displaying leather shields and lances, watching the dances of Abyssinians on occasions of celebration, these are all Permissible. This notion of 'festival day' also includes weddings, banquets, the naming and cutting the hair of an infant, circumcision, return from a journey, and every other reason for celebration, that

is to say everything at which celebrations are legally permissible. Celebration is permissible as well at visiting, meeting and gathering with one's brethren for dining or conversation.

The final two occasions treat human and divine love respectively. The former might be understood as endorsing the use of music to celebrate 'romantic' love. If a song is performed in the presence of a wife or concubine, it enhances the love that exists between them. When the two are apart song sweetens the pain of longing for an absent beloved—Ghazālī, no less than Shakespeare, knew that 'parting is such sweet sorrow'. This is among the kinds of pleasure and enjoyment Permissible in this world, as the Qur'ān states (*al- 'Ankabūt* 29:64): *And what is life in this world but amusement (lahw) and play (la'ib)*, and song is part of this. Even so, there is the warning that if the singer create in the hearer's mind the image of a person not lawful for him to look on, and he be overcome by feelings of illicit love, such *samā'* is unlawful for him. This is not because of anything intrinsic to the *samā'*, but because of the passion it has awakened in a vulnerable person.

The seventh public activity is the *samā'* session attended by: "one who loves God ardently and who yearns to meet Him, for he looks upon nothing without seeing Him within it – glorious is He beyond compare – while no sound reaches his ear without his hearing Him by means of that sound or within it. In this is a clear echo of the words of the invocation or remembrance. For such a person *samā'* rouses his yearning, confirms his love and passion and sets fire to his heart producing in it 'states' (*aḥwāl*) flowing from divine disclosures and graces which are indescribable. One who has tasted them knows them; one whose perception is too weak to taste them, denies them."

In the technical language of Sufis these interior states (*aḥwāl*) are termed *wajd* 'ecstasy', a word derived from the root *wajada* 'to find' and which conveys the connotation of *muṣādafah* 'to light upon unexpectedly'—since the Sufi discovers interior states not experienced before this act of Listening (*samā'*). These inner experiencings set the heart ablaze with their fire, and cleanse it from impurities just as fire refines what is melted within it. From such purity of heart may come visions or 'unveiling' deemed the highest quest of those who love God, and the ultimate fruit of every work of devotion. It is good works that lead to these favours, not acts of disobedience, or even merely Permissible acts.

Ghazālī exclaims: "*Glorious beyond compare is He who is veiled from being visible by the very intensity of His manifestation, and is hidden from sight by the radiance of His light. Were it not for His being hidden by seventy veils of His light, the glories of His countenance would consume the sight of all who beheld Him due to the beauty of His presence. Were it not that His manifestness is the cause of His being hidden, human minds would be overwhelmed, hearts*

filled with confusion, their physical strength abandon them, and their limbs be in disarray.” It is with this in mind that in the ‘*fatwā*’ given at the conclusion of chapter two, he states that for those chosen, participation in *samā* ‘ is legally to be considered *mustahabb*: an activity rewarded even if its omission is not punished. His treatment of these seven occasions of public activity is brought to a moving conclusion by a striking reference to the Christian Gospel: There was someone who said, “I saw written in the *Injīl*,

‘We have sung for you, and you have not been filled with delight,
we have played pipes for you, and you have not danced’
[i.e. We have sought to fill you with longing by telling of God,
but you have not longed for Him].²²

Five Impediments

He now presents five obstacles or impediments to the permissibility of listening to music on public occasions which may make participation in them Unlawful. A *samā* ‘ session consists of the singers, the instruments accompanying them (including the musicians), and the spiritual auditors. These impediments may relate to (1) the vocal performer, (2) the musical instruments played, (3) the words of the songs sung, (4) the age and disposition of the auditors and finally (5) their levels of intellectual and spiritual understanding. In al-Ghazālī’s discussion of these impediments, among his concerns, along with his explicit juridical commitment, is to narrow the area in which these impediments may have effect. This is the obverse of his previous discussion of seven accepted public occasions on which music is performed, where he showed a concern to broaden them.

(1) Regarding the first, the vocal performer, he sees the possibility of an impediment if the performer is a woman outside the prescribed range of relationships, and therefore one whom it is not lawful for participants to look on and listen to. His opinion is that whether this constitutes an impediment or not depends on whether there is fear it may incite temptation, reiterating that this is crucial to its being taken as an impediment. He emphasises that a woman’s voice in conversation is not deemed a temptation, otherwise it would be forbidden to speak with her, or even listen to her voice. He insists that a woman’s voice is not part of her *pudenda* (‘*awrah* ‘privy parts’, as defined in Islamic Law) when not singing. In the time of the Companions women constantly spoke with men, exchanging greetings with them, asking opinions, putting questions to them, entering into discussions and so on. He concludes, “The answer to the question as to whether it is Permissible to listen to a woman singing differs according to the circumstances of the woman and the man in question, as [for example] whether the man is young or old.”²³

Ghazālī now clarifies, “It is not unusual for a legal ruling to differ according to circumstances. Thus it is our view that an old man may embrace his wife while fasting, but a young man may not. This is because the embrace may lead him to have sexual intercourse with her during the fast, and this is proscribed. Listening to her may result in a temptation to look at, and approach her, and so be declared Unlawful, but this too may vary according to the circumstances of the individual concerned.” His concern with circumstances, and their bearing on the legal status of an individual’s act as opposed to that of the act itself, is characteristic of al-Ghazālī’s legal thinking.

(2) The second impediment is present if the instruments played are emblematic of, or closely associated with, alcohol drinkers or transvestite musicians – namely specific types of flutes, stringed instruments and drums. But this apart, the principle that ‘what is not forbidden is permitted’ applies.

(3) A third impediment exists if the words recited or sung include any obscenity, or any untruth concerning God, His Messenger, or the Companions. However, such objectionable lyrics need not exclude the formal ‘sensual prelude’ (*nasīb*) of the classical love ode (*qaṣīdah*) which often included a very stylised description of a woman’s cheeks and hair locks, or the beauty of her figure and deportment. The imagery so presented is highly allegorical and the singing of such a poem is not Unlawful. Nevertheless, a listener may not apply the features of this allegorical figure to any particular woman other than one with whom he may have lawful sexual relations. If a participant is prone to this weakness, he should avoid *samāʿ* ‘altogether, for it could lead to sin.

Nevertheless, words may have many meanings, being used metaphorically and understandable in various ways. Everything could be understood as a sign of God – even the sensual prelude may communicate a spiritual meaning for one whose heart is overwhelmed by love of God. He will reflect on the blackness of a lock of her hair and see it as a metaphor for the darkness of unbelief; or the healthy bloom of her cheek as indicating the light of faith. At the mention of communion (*wiṣāl*) the auditor may think of the meeting with God, while separation (*firāq*) may bring to mind the barrier (*hijāb*) between him and God befalling those who are rejected. This being so, one overwhelmed by an ardent love of created things should be wary of *samāʿ* ‘sessions no matter what the words are. But if one is overwhelmed by ardent love of God, the words of a poem or song cannot harm him, nor hold back his understanding of the subtleties of meaning which indicate Him and assist his sublime quest.

(4) The fourth impediment resides within the self of the listener. Ghazālī recognises that participating in musical performances results in a heightened emotional state. For the young or immature novice this excitation may be unsettling and render the listener susceptible to be overcome by passion or inappropriate

excitement. When auditing a poetic sensual prelude, such a novice is unable to hear the stylised description of the allegorical beloved without identifying her with an individual woman whom he knows and passionately desiring her, then participation is forbidden him. In his case, *samāʿ* becomes an ally of Satan and an enemy of reason, and is Unlawful for him.

(5) The fifth impediment resides in the class of common people termed the *ʿawāmm*, those who have no high spiritual, intellectual and perhaps social aspirations, for whom listening to a musical performance is simply a form of entertainment and diversions. His comment is succinct and nuanced: If participating in *samāʿ* does not lead to sin, it is Permissible, just as is any other pleasure. However, the proper course is moderation; an obsession with *samāʿ* just as with anything else, is sinful. “Something beautiful may become ugly because of excess. Even bread in excess may be unlawful. Thus if participation in *samāʿ* becomes habitual and even an obsession, to the point that even when he spends most of his time at it, he is still not satisfied, then he is to be treated as one legally incompetent and his testimony not accepted, because over-indulgence in amusement is a crime.” Just as a minor sin committed over a long period may become a major one, so an act in itself Permissible may over time become a minor sin. It would be like following the footsteps of the Sudanese and Abyssinians and spending hours watching their games. Such over-indulgence is forbidden, even though in principle the act itself, watching, is not forbidden, for the Prophet himself did it. The same applies to playing chess. It is Permissible, but over indulgence in it is highly Undesirable.

Rebuts Objections

Ghazālī faces directly the objection: ‘Since you concede that participation in *samāʿ* sessions is Permissible in some circumstances and not others, why do you begin your discussion with the apodictic statement that it is Permissible? A categorical answer of this kind to such a complex matter may be misleading’. He replies by denying the validity of the question: a categorical statement is only to be excluded when the distinction made is with the subject being considered; however, if it is made as a result of incidental circumstances attending it, there can be no objection to such a statement. This lies at the heart of his moral theology. Ghazālī insists that he is right to make an apodictic statement, and that all the distinctions he makes are the result of incidental circumstances. He gives three examples. Honey is Lawful, but for one of ‘sanguine’ temperament who may be harmed by it, it is Unlawful. Wine is Unlawful, but for someone who is choking, when no other liquid is available, to drink it is Permissible. Trading is Lawful, but when the call to prayer supervenes, to continue trading is Unlawful.

The incidental circumstances affect the status of the act *as performed by the individual*, while not changing the status of the activity in itself.

He sums up his position: *samāʿ* sessions are among those things which are Permissible from the legal standpoint that they are an activity involving listening to a pleasing sound with rhythm and having meaning while stirring the heart. They may be regarded as Unlawful due to various incidental circumstances – but not on the grounds of anything within the activity itself.²⁴ He then rests his case with the assertion: “Since we have removed the veil obscuring evidence that *samāʿ* sessions are Permissible, we may disregard the view of anyone who having been shown this evidence, still disagrees with us,” and thereby brings to a close part two of this first chapter.²⁵

In part three of chapter one al-Ghazālī responds to a number of proof texts used by well-known authorities of the first three Islamic centuries to argue that participating in *samāʿ* sessions is Unlawful. These proof texts include Qurʾānic verses, Prophetic Ḥadīth, and narrations from Companions and Followers. His method is either to offer a context for the particular statement or narration which precisely defines the area which it applies; or to question the way it has been understood and thus the validity of conclusions drawn from it by the earlier authorities. He does this by applying the principles he expounded earlier in this chapter.

Three examples may suffice. One is based on *sūrah Luqmān* 31:6, *And of humankind are those who purchase the amusement of story-telling (lahw al-ḥadīth) to mislead others from the path of God*. Ghazālī refers to statements by the Companion Ibn Masʿūd and the Followers al-Ḥasan al-Baṣrī and Ibrāhīm al-Nakhaʿī who all interpreted *lahw al-ḥadīth* as ‘singing’ and who associated this verse with a report from ‘Āʾishah, “The Prophet said, ‘God has declared (everything to do with) a singing girl is Unlawful: selling her, the price paid for her, and instructing her’.” Ghazālī replies that here, by a singing girl is specifically meant a slave girl who sings for men at a drinking session. The singing of such a woman for evildoers and those whom it may lead into temptation is Unlawful. But it is incomprehensible that on the authority of this tradition, the singing of a servant girl to her owner – and the listening to her by someone other than her owner when no temptation is likely to arise – be Unlawful. This is proven by narrations concerning two servant girls singing in ‘Āʾishah’s house. To which he adds, any purchase of amusement to lead people astray from the path of God is Unlawful; but not all singing is for this purpose! Were the Qurʾān itself to be recited in order to lead people astray from the path of God, even *this* would be Unlawful.²⁶

The second is a report that Nāfiʿ²⁷ once said, “I was walking along a path with Ibn ʿUmar when he heard a shepherd playing his flute. Ibn ʿUmar put his fingers

in his ears and left the path, asking time and again, ‘Nāfi’, can you still hear it?’ until I said, No! He then took his fingers [from his ears], and said, ‘I saw the Messenger of God do this’.” To this al-Ghazālī responds: There are many ways of interpreting anecdotes such as this; as for Ibn ‘Umar’s putting his fingers in his ears, what argues against his regarding listening to the sound of the flute as Unlawful, is that he did not order Nāfi’ to do the same (i.e. also to put his fingers in his ears), and he raised no objection to him listening to it. Ibn ‘Umar did so only because he felt that, in the situation he was in then he should keep his hearing and his heart unhindered by a sound that might attract it to amusement, and distract him from a thought or a reflection (*dhikr*) within his heart which was more important. The fact that the Messenger of God did the same – given that Ibn ‘Umar did not forbid it – does not indicate that he regarded it as Unlawful, only that it was preferable for him [in those circumstances] not to listen to it.

The third example is the argument early authorities based on a statement attributed to the Companion ‘Uthmān, “I have not sung, I have not indulged in sexual fantasies, nor have I ever touched my penis with my right hand since I used it to pledge allegiance to the Messenger of God.” Ghazālī replies: “Let it be granted that indulging in sexual fantasies and touching the penis with the right hand are Unlawful. Yet if this statement is adduced as proof that singing also is Unlawful, then how can it be proven that ‘Uthmān avoided only acts that are Unlawful?” In the first two examples it is the contextual background which is significant. However, the third instance illustrates in an unexpected way the basic dictum that ‘everything not Unlawful is permitted’. The rhetorical question “How can it be proven that ‘Uthmān avoided only acts that are Unlawful?” is far reaching in its implications. It does away with the ‘legal creep’ of a certain type of mind which seeks to find grounds to exclude change, avoid development and the unfamiliar, and has an excessive concern or even a phobia about reprehensible innovation (*bid‘ah*).²⁸

Respecting Human Dignity

Alongside the heights of spiritual experience, Ghazālī has a down to earth awareness of daily life and the common issues of living. It is his adherence to this principle and an innate sense of courtesy and respect for human beings which leads him to respect and find space for social customs which may be unfamiliar. As on other occasions, an example is found in his development of a comment on a detail of ritual practice. Thus if during a *samā‘* performance an individual is overcome by ecstasy and stands, the other participants should stand with him as a sign of communal solidarity. Similarly if one participant removes his turban or it falls off, his fellows should also remove their turbans.

This courtesy has wider applications in social life. Just as individuals should respect each other in *samāʿ* sessions as a community exercise, so they should respect differing social customs in different countries. Every people has its own customs and should be accepted as they are, especially in matters involving good fellowship, courtesy, and the comfort of mutual support. “Every people has its style of life (*rasm*), and people must be treated according to the way they are”, as is stated in this report (*khabar*), especially when there is in it good association, courtesy, and healing of the heart by mutual help. “It was not the custom of the Arabs to stand when a visitor entered their presence. Indeed, in some circumstances the Companions used not to stand for the entry of the Messenger of God. But since there is no general prohibition of it we see no harm in it in countries in which it is the custom to honour a visitor by standing, for by it, it is intended to respect and honour the visitor, and set his heart at ease.” To those who object that this may be a reprehensible *bidʿah* and was not the practice of the Companions’, he tartly replies, “Not everything with the legal status of Permissible has been transmitted from the Companions.” True, one should exercise caution in adopting an innovation at variance with properly transmitted practice, but this does not in itself justify the prohibition of anything.

Such sensitivity to the human condition is shown above all in al-Ghazālī’s role as a spiritual director. He is aware of highs and lows experienced in spiritual life, and innate differences between levels of spiritual attainment. He understands how a person even of great devotion may encounter aridity when reciting the Qurʾān because of over-familiarity, yet may experience an emotional response to poetry – and feel guilty because of this. Not all devotees gain a spiritual experience from the Qurʾān at its every reading. Some find at times they can be moved to ecstasy by the songs of bards (*qawwāl*) and not by the Qurʾān. Ghazālī recounts the tale of Abū ʿl-Ḥasan al-Darrāj (d. 932) who came to Baghdad to visit the renowned Shaykh Yūsuf. When he reached Baghdad and asked for the Shaykh everyone answered, “why do you want to see that unbeliever?” Nevertheless Abū ʿl-Ḥasan continued to search and finally found him – a handsome old man with a fine beard – seated in the prayer-niche *mīhrāb* of a mosque reciting from the Qurʾān. When the Shaykh saw Abū ʿl-Ḥasan he asked him to recite verses of poetry to him. Abū ʿl-Ḥasan recited two couplets. The first tells of a broken (human) relationship, and the second reflects upon it at a deeper level,

It is as though when I was with you,
 “would that” was always on your lips,
 [should we not have said:] Would that we had lived at a time,
 when there was no need to say “would that”.

At these verses Shaykh Yūsuf closed his Qurʾān and wept copiously. Then

he stated, "This is why people say I am an unbeliever; I have been reciting the Qur'ān since the dawn prayer this morning (thus for over three hours) and not one tear has fallen from my eyes, yet at your reciting these two lines, it is as though Judgement Day was being enacted in my heart."

Ghazālī understands the man's pain and his dilemma, and offers comfort. "Even when hearts are ablaze with the love of God, an unfamiliar line of poetry may move them in a way that reciting the Qur'ān does not. It is due to the rhythm of the poem, and the way its meaning matches the mood current in a listener's heart." He explains further that the Qur'ān is known by heart by very many people. When first heard its effect on the heart is very great; on a second hearing it is weaker; and upon a third it may be almost non-existent. He sums up this issue: A Qur'ān reciter cannot recite an unknown portion of Qur'ān for every time and occasion, for the Qur'ān is closed and nothing can be added to it. Poetry and music then may have an important if not central role in one's spiritual life, and may complement revelation in one's quest for the spiritual experience of ecstasy. This is the case even when the seeker may not discover in the Qur'ān itself the desired emotional response.

Ghazālī offers abundant examples of emotionally charged ecstatic responses to auditing verses from the Qur'ān, whose words are of such power that *'Were We to reveal this Qur'ān to a mountain, you would see it bow in homage, then shatter out of fear of God'* (al-Ḥashr 59:21). The Prophet himself wept when he recited, or had recited to him *'Even if you punish them, they are still your servants'* (al-Mā'idah 5:18). The Prophet upon hearing a verse telling of God's mercy, *'When they listen to what has been revealed to the prophet you see their eyes overflow with tears because of what they recognise as the truth'* (al-Mā'idah 5:83), he shouted aloud for joy. At a more sophisticated level, al-Ghazālī continues, the Qur'ān is a remedy for humankind in all its states (*aḥwāl*). But it may happen that something in a particular recitation of the Qur'ān may not concur with the state of a specific individual at a definite time, which may expose him to the danger of feeling an aversion to the Word of God. Only what is appropriate to the current state of the heart can stir it. If a person is dominated for example by sorrow or yearning, how can the Divine words (al-Nisā' 4:12) *'Allāh makes a testatory ruling in regard to your children'* resonate within it? For a very few devout persons, the divine name *Allāh* itself may be enough to fill the mind. Others may reflect that God cares for his creatures, and so think, *'Since He cares for our children after our death, we do not doubt that He cares for us'* (al-Baqarah 2:26). For many others, those whose thinking cannot extend this far – and recognising that the Qur'ān cannot be adapted to one's personal mood or inner condition (*ḥāl*), whereas poetry can – it is necessary to turn to song. Indeed, some shaykhs have recourse to songs in *samā'* sessions rather than reciting passages from the Qur'ān.²⁹

The result of these considerations is that poetry – which along with certain amusements al-Ghazālī has already established is Permissible – may provide spiritual benefit. Against this, some had invoked the ḥadīth from the Companion ‘Uqbah b. ‘Āmir who narrated that God’s Messenger said, “Every form of amusement that a man indulges is pointless (*bāṭil*) apart from training a horse, archery, and foreplay with a wife.”³⁰ Ghazālī’s reply is that the use of the term *bāṭil* does not establish that what was referred to is Unlawful; it merely indicates that there is no merit to be gained from it. Watching the Abyssinians indulge in war games (and what could be more pointless! Ghazālī exclaims) falls outside the three items exempted from being worthless; however this cannot be regarded as Unlawful on the basis of this authority, since the Prophet himself watched them eagerly, and they gave pleasure to him and his wife ‘Ā’ishah. The significance of this can be extended by analogy. In foreplay with one’s wife, there is nothing to be gained other than pleasure. It therefore follows that taking pleasure in gardens, listening to bird’s voices, and various diversions by which humans amuse themselves can in no way be called Unlawful, even though they might be described as pointless.³¹

Ghazālī does not to leave the matter at that. Amusement, whether judged worthless or not, has a positive role to play in human life. It refreshes the mind and relieves the stress of study, and may be enjoyed for this purpose as something good. This is the case with *samā’* sessions even for the person for whom they are merely a source of pleasure and recreation. The mind is soothed, and its proper priorities are re-established, enabling one to give due attention to necessary worldly matters such as earning a living or practicing a trade, and to religious practice including performing prayers and recitation of the Qur’ān. Thus a scholar should then take a break from his studies on Friday since a day’s diversion will replenish his energy for the rest of the week. Recreation is an aid to work, and amusement helps concentration. Only the Prophets have the strength to endure total concentration and the uninterrupted rigour of Truth. Yet amusement should not become habitual nor be taken to excess, while even a person who fills his time with supererogatory prayers should from time to time take a break from them, since excessive prayer might be undesirable (*makrūh*).

Conclusion

Islam was never a religion of orthopraxy alone. Even without esoteric interpretations of the Qur’ān developed by early Sunnī mystics or the Shī‘ah, a profoundly inspiring spirituality is evident in a literal reading of the Qur’ān, complemented in Ḥadīth and the *ḥadīth qudsī*. The achievement of al-Ghazālī is in demonstrating how the Law, legal observance, spirituality and mysticism are

integral parts of a seamless whole. He exemplifies the importance in Islam of a Humanist tradition which values all secular activities within the Law, seeing in them the potential for advancing spiritual life by means of worldly things. He might equally be reputed for celebrating the grasp of the human mind, and the delights in creation proper to each of the five senses.

At a primary level his work on spiritual audition exemplifies the treatment of a juridical question which receives a juridical answer. More than this, it offers an example of insight, spirituality, and dialectic mingled with human awareness, and studying it opens the door to spiritual experience. This work presents a view of humanity existing at a diverse range of spiritual levels, of the wonder of divine love, of the humanity of the Prophet, and of the legitimacy of human joys and pleasures—foremost being poetry, music and dance. In his argumentation al-Ghazālī displays his love for these activities and disengages them from unnecessary legal restrictions by seeing them as a legitimate concomitant of the Islamic revelation. Ghazālī thereby lays the foundation for the development of a God-centred Humanism which gives due and full respect to the Law. Part of the wonder of his work is that while addressing a specific issue, it offers an informed and informing dialogue between the particular and the general. The legal status of *samāʿ* provided the author with an occasion to reflect on the richness and diversity of religious life and experience within Islam, the circumstantial factors that have to do with the framing of specific provisions of the Law, and the status of the individual in complying with it.

His thinking offers us a model for existing in the contemporary world. Along with his active concern for holding fast to the Law, and his care for individuals of every spiritual level, he sees no need to be limited by the practice of the righteous ancestors: “*Not everything with the legal status of Permissible has been transmitted from the Companions.*” We may extract several essential principles valid for Muslim thinkers and planners in their search for refreshing the basis of their legacy.

- By carefully distinguishing between legal provision and attendant circumstances, there emerges the possibility for creative development which avoids innovation.
- Ghazālī maintains the sanctity and authority of the Law, but frees Muslims from imposition of unnecessary legal constraints. Awareness of this freedom should be strengthened and heeded.
- Ghazālī demonstrates the space in Islam for a Humanist tradition, one which values all secular human activities within the Law and sees in them the potential for advancing spiritual life. This forms an essential basis for reviving Islam’s reason for being.

Notes

- * Anthony H. Johns, Emeritus Professor at the Australian National University in Canberra, held a chair in the Faculty of Asian Studies from 1963–1993, and is a renowned specialist in Sufism in the Malay world, Islamic History and Institutions, and the foundation texts of Islam. In the course of his distinguished career in Toronto, Jerusalem, Oxford, Tokyo, Cairo and Indonesia he has published significantly on Qur'an and Qur'anic exegesis, and he now serves as a member of the editorial board for *Journal of Qur'anic Studies*. Among his recent works is *Islam in World Politics*, ed. Nelly Lahoud and A.H. Johns (Routledge, 2005). Currently he is Visiting Fellow in the Division of Pacific and Asian History, of the Research School of Asian and Pacific Studies, at the Australian National University.
1. Ibn Mājah, *Hudūd* §2; al-Tirmidhī, *Hudūd* §2.
 2. *Kitāb ādāb al-samā' wa l-wajd*, book X of his major opus *Ihyā' 'Ulūm al-Dīn* (Beirut: Dār al-Ma'rifah li-l-ṭibā'ah wa l-nashr, n.d.) pp. 268–306.
 3. [For orientation on Sufi techniques of *samā'* 'spiritual-audition', see overview by Jean During and R. Sellheim, "Samā'", *Encyclopedia of Islam*, 2nd Edition, ed. P. Bearman *et. al.*; and Kenneth S. Avery, *A Psychology of Early Sufi semā': Listening and Altered States* (Abingdon & New York: RoutledgeCurzon, 2004). –Editor]
 4. [The technical Sufi term *wajd* often rendered 'ecstasy', derives from verb *wajada* ('to meet with, come face-to-face with, directly confront'), and indicates intensified inner experiencing of one's personal reality arising from sincere self-observation marked by a temporary condition of heightened self-awareness. Such episodes of self-confrontation (*wijdān*) may be overwhelmingly blissful, or unbearably distressing and overflowing with pathos—thus 'inner-catharsis' is the true import. Sufi exponents generally cautioned against over-reliance upon and unchecked attachment to such temporary episodes, viewed as galvanising moments towards real self-knowledge. –Editor]
 5. *Idfa' al-hudūd 'an al-muslimīna mā wajadtum, fa-in wajadtum li-l-muslimīna makhrajān fa-khallū sabīlahu*.
 6. *Ihyā'*, p. 284.
 7. [On the legal controversy over its permissibility, consult Arthur Gribetz, "The *Samā'* Controversy: Sufi vs. Legalist", *Studia Islamica* 74 (1991) pp. 43–62. –Editor]
 8. Of our renderings of these terms, perhaps *makrūh* requires comment. It is often translated literally as 'hated' or 'disliked'. These are inadequate to distinguish it from *ḥarām*, since in practice there is a fair amount of flexibility available when this legal ruling is given. 'Undesirable' retains this flexibility, while not giving a free pass to performance of the designated activity.
 9. *Ihyā'*, p. 306.
 10. *Ihyā'*, p. 269.
 11. *Ibid.*, pp. 269–270.
 12. Al-Tirmidhī cites this tradition in his work on the beautiful qualities of the Prophet entitled *Shamā'il al-Nabī*, on the authority of the Basran Successor Qatādah, who then added his own words: "Your prophet was handsome of countenance, beautiful of voice...."
 13. From al-Tirmidhī's *Sunan*, cited in the introduction (*taqdimah*) to *Kitāb tilāwat al-Qur'ān*.
 14. *Ihyā'*, p. 271.
 15. Tirmidhī, *Sunan*.
 16. D. B. Macdonald, in his study on al-Ghazālī's treatise on music in *JRAS* (19xx) p. 215, identified this couplet as belonging to the pre-Islamic bard Labīd b. Rabī'ah.
 17. Bukhārī and Muslim; related by al-Bukhārī on the authority of the Companion Ubay b. Ka'b.
 18. *Ihyā'*, p. 273.
 19. [Umayyah b. Abī l-Ṣalt (d. 9 H\ 630) was a contemporary of the Prophet Muḥammad and seeker of monotheist truth (*al-hanaffiyah*) whose poetry echoed certain ideas of Islam. He claimed to receive inspiration through two white birds who spoke into his left ear; see Ibn Ḥajar, *al-Iṣābah* (Cairo, 1328) I, pp. 129–30. –Editor]
 20. Note that al-Ghazālī is gradually moving from "listening *samā'*" in general to the specific sense of sessions of *samā'* (spiritual audition).
 21. Cited by Ḥāfiẓ al-Bayhaqī in *Dalā'il al-Nubuwwah*; also related by al-Bukhārī and Muslim on the

- authority of Umm 'Aṭṭyah without the mention of *duff* and *alḥān*; see *Iḥyā'*, p. 277.
22. Compare the New Testament, *Matthew* 11:17; *Luke* 7:32.
 23. *Iḥyā'*, p. 282.
 24. *Iḥyā'*, p. 283.
 25. *Iḥyā'*, p. 284.
 26. *Iḥyā'*, pp. 284, 285.
 27. Abū 'AbdAllāh Nāfi' of Madinah (d. 114 H), the *mawlā* 'client' of Ibn 'Umar.
 28. *Iḥyā'*, p. 285.
 29. *Iḥyā'*, p. 285.
 30. *Iḥyā'*, p. 285, n. 3. This ḥadīth is cited by the four *aṣḥāb al-sunan*, yet exhibits certain inconsistency.
 31. *Iḥyā'*, p. 286.

MAKING KNOWLEDGE USEFUL: APPLYING AL-GHAZĀLĪ'S TEACHINGS IN THE MALAY WORLD¹

*Megawati Moris**

Abstract: The eighteenth century scholar of Malay-Arab descent Shaykh ‘Abd al-Ṣamad al-Palimbānī wrote a seminal Malay-Jawi text entitled *Siyar al-Sālikīn ilā ‘Ibādat Rabb al-‘Ālamīn*, being a translation-cum-commentary on the *Mukhtaṣar Iḥyā’ ‘Ulūm al-Dīn* of Abū Ḥāmid al-Ghazālī. ‘Abd al-Ṣamad’s *Siyar* exercised a great impact on Malay religious life and thought, by applying al-Ghazālī’s teachings to solve the intellectual and religious problems faced by the Malay community during his era. ‘Abd al-Ṣamad discerned two main crises: first, the lack of knowledge among the Malays on the essential teachings of Sufism or *taṣawwuf*; secondly, scholars who suffered from self-delusion and misled their students. He creatively applied encyclopaedic scholarship by providing an extensive bibliography of over one hundred titles of works on Sufism, categorised for each stage of study to ensure qualified access to esoteric knowledge as well as to avoiding misunderstanding of doctrines. Thereby ‘Abd al-Ṣamad made al-Ghazālī’s spiritual teachings relevant and useful to the Malays in their attempt to discern truth from falsehood when dealing with competing currents of thought and beliefs prevailing at the time. The problems faced by Malay Muslims three hundred years ago are instructive for us today. Muslims may respond creatively as did Shaykh ‘Abd al-Ṣamad by drawing upon the higher Islamic intellectual tradition for solutions to their present predicament.

Introduction

Shaykh ‘Abd al-Ṣamad al-Palimbānī was an eighteenth century scholar of Malay-Arab descent who wrote a Malay-Jawi text entitled *Siyar al-Sālikīn ilā ‘Ibādat Rabb al-‘Ālamīn*.² The *Siyar al-Sālikīn* is a translation-cum-commentary on the *Mukhtaṣar Iḥyā’ ‘Ulūm al-Dīn* written by Abū Ḥāmid al-Ghazālī.³ With this work ‘Abd al-Ṣamad successfully transmitted al-Ghazālī’s teachings to the Malays and left a great impact on their religious life and thought.⁴ He applied al-Ghazālī’s teachings in an attempt to solve the intellectual and religious problems faced by the Malay community during his time. ‘Abd al-Ṣamad perceived the confusion of Malays regarding the orthodoxy of the Sufi tradition as adhered to and religiously practiced by Malay scholars and their followers in the Sufi orders (*turuq*).⁵ He discerned two main crises: first, the lack of knowledge among the Malays on the essential teachings of *taṣawwuf*; and second, scholars who

suffered from self-delusion and who misled their students. In his chapter on “The Censure of Self-Delusion” (*ghurūr; terpedaya*) in the *Siyar al-Sālikīn*,⁶ ‘Abd al-Ṣamad uses his authority and knowledge with the support of other scholars in the al-Ghazālīan tradition of Sufism to validate the orthodoxy of these groups. More creatively he then applied encyclopaedic scholarship by providing an extensive bibliography of over one hundred titles of works on Sufism, categorised for each stage of study to ensure qualified access to esoteric knowledge as well as to avoid misunderstanding of doctrines.

Shaykh ‘Abd Al-Ṣamad on Self-Delusion

In his initial approach to the Malays’ confusion over orthodoxy, ‘Abd al-Ṣamad defined the meaning of self-delusion (Arabic: *ghurūr*; Malay: *terpedaya*)⁷ according to al-Ghazālī and explained its causes and spiritual significance. Following al-Ghazālī, he states categorically that self-delusion is the most apparent cause (*aẓhar al-asbāb*) of human destruction (*al-halāk*).⁸ It is the belief in the outward goodness of a thing when in essence the thing is contrary to that assumption. He defines this attribute of the soul as “believing a thing that is different from what it is. It is a kind of ignorance (*al-jahl*) and in which the soul is quiet (*sukūn al-naḥs*) with what corresponds with its inclination (*al-hawā*) from imagination (*al-khayāl*) and error (*al-shubḥah*).”⁹ He wrote that al-Ghazālī gave much significance to this defect of the soul based on verses from the Qur’ān in which God warns man against being deluded by the world and self-delusion deceiving him in respect to God.¹⁰ Although al-Ghazālī stated that people who suffer from the disease of self-delusion are numerous, he divided them into four groups. In the *Siyar*, ‘Abd al-Ṣamad efficiently summarises the essential characteristics of these groups of people in terms of their delusions. They are first, the scholars (*‘ulamā*); second, the devout (*orang yang berbuat ‘ibādah*); third, the Sufis and those who participate in Sufism (*al-ṣūfiyyah wa al-mutaṣawwifah*); and fourth, the wealthy (*orang mempunyai harta*).

The first group of people who may be afflicted with self-delusion that ‘Abd al-Ṣamad lists are the scholars. These scholars may possess knowledge of the *Sharī‘ah*, of *taṣawwuf*, the intellectual sciences (*‘ilmu ‘aqlīyah*)¹¹ or the transmitted sciences (*‘ilmu naqlīyah*),¹² but they are devoid of the knowledge of the truth (*‘ilmu ḥaqīqah*) or knowledge of unveiling (*‘ilmu al-mukāshafah*)¹³ received directly from God. This is because their knowledge is limited to the exoteric aspects of the *Sharī‘ah* and does not encompass the esoteric dimension. These exoteric scholars are referred to variously as *‘ulamā’ al-zāhir*, *‘ulamā’ al-rusūm* and *fuqahā’ al-zāhir*. To bolster al-Ghazālī’s assertion, ‘Abd al-Ṣamad quotes the saying attributed to Imām Mālik (which he applied several times

throughout the *Siyar*): “He who learns jurisprudence [Arabic: *man tafaqqaha*; Malay: *barangsiapa menuntut ilmu fiqah yang zāhir*] and neglects Sufism [Arabic: *lam yataṣawwaf*; Malay: *tidak menuntut ilmu taṣawwuf yang bāṭin*] becomes a reprobate [Arabic: *tafassaqa*; Malay: *fāsiq*].”¹⁴ Al-Ghazālī feared that people who do not devote themselves to learning the inner science and practicing its way would persistently commit sin without realising it. He believed *taṣawwuf* alone provided knowledge of the inner faults or vices. Accordingly, the self-deluded scholar is one who does not know the science that provides knowledge of the inner faults (*‘aib dirinya*); i.e., *taṣawwuf*, or one who knows but does not attempt to vigorously purify himself of these vices.¹⁵

The second group, the devout, are people who perform the outward ritual obligations (*‘ibādah yang zāhir*) such as the canonical prayers (*sembahyang*) and fasting (*puasa*) but do not purify their hearts from inward vices (*ma‘ṣiyah yang bāṭin*). These people are deluded since the performance of outward acts of worship does not purify the heart from vices. This pronouncement is based on the *Ḥadīth* which essentially defines the function of the heart (*qalb*) in man, the source of all goodness and evil. If the heart is pure and clean, without inward vice, all the acts of worship performed by the body will be good, but if the heart is not free from the impurities, then the external acts will also be the same.¹⁶ Every deed and act of worship contains in it harm (*āfāt*) which could vitiate all acts of worship such as prayers, fasting and reciting the Qur’ān. ‘Abd al-Ṣamad states that whosoever does not know the places at which harm enters and persists in holding on to his acts of worship is deluded. One such example are those who take lightly or neglect what is obligatory upon them but are rigorous in their execution of the supererogatory, as in the case of those who preoccupy themselves with “inner-whispering” (*waswās*)¹⁷ when taking their ablutions or cleaning their clothing or place of prayer, resulting in the time of their prayer to be delayed or to lapse. Only with knowledge of *taṣawwuf* will a person be instructed in the things which destroy his worship and those that improve his outward and inner self.¹⁸

In the third category, the Sufis and the aspirants of Sufism, the deluded among them focus on external appearances and outward behaviours of Sufis but are ignorant (*jāhil*) of the internal aspects of disciplines enriching their inward devotional acts and behaviour. ‘Abd al-Ṣamad quotes the great Sufi exponent Abū Madyan, the precursor of the Shādhilī tradition, in his book the *Ḥikam*, who warned of the harm (*maḍarrah*) of befriending a learned man who is heedless (*lalai*) in the remembrance of God (*dhikr Allāh*) or a Sufi who is ignorant of the esoteric teachings of the spiritual path or one who imparts knowledge for the sake of glory, praise and fame. ‘Abd al-Ṣamad specifically singles out, in this group of Sufis inflicted with self-deception, those who study the science of inner

realities such as the doctrine of the “seven levels of being” (*martabat tujuh*)¹⁹ and other teachings related to it but who do not study the *Sharī‘ah* namely, *uṣūl al-dīn* and *fiqh*. He quotes Imām Mālik again to emphasise his point: “He who learns Sufism (*man taṣawwafa*) and neglects jurisprudence (*lam yatafaqqah*) becomes an apostate (*tazandaqa*).”²⁰ Our Malay Sufi master takes a step further from al-Ghazālī’s classification of self-deluded people by pointing to Imām Mālik’s qualification of the “people who have attained the realisation of the Truth” (*taḥaqqqa*) as those who are not under self-delusion; i.e., those who combine the study of both the *Sharī‘ah* and *ṭarīqah* (*man jama‘a baynahumā*). These are the people who have attained knowledge of God (*‘ilmu ma‘rifah akan Allāh*) at the level of certainty (*yaqīn*) and finality (*putus*).²¹

The fourth category of self-deluded people is made up of the wealthy who spend on good works but their actions are accompanied by feelings of ostentation (*riyā’*) or vain-glory (*‘ujb*) or wanting a good reputation (*sum‘ah*), or who desire glory and seek fame or want to be known by people as generous and to receive praise from them. There are also those who spend money building mosques or hospices for the poor and require that their names be placed on these buildings so that they can become famous and be known by people for such acts. Furthermore, they are greedy in wanting their rewards (*pahala*) or in wanting their sins (*dosa*) to be forgiven. According to ‘Abd al-Ṣamad, the deceptions in this case come in two forms: either the funds for these good works are unlawfully derived or the good works are performed ostentatiously, desiring a good reputation, which becomes evident if they are reluctant to make any contributions without getting recognition in return. There are also those who build mosques with lawful money but waste on unnecessary decorations and ornaments.²²

‘Abd al-Ṣamad’s approach throughout proceeds by setting forth the merits and benefits of the *Ihyā’* and al-Ghazālī’s works on *taṣawwuf* and quoting the scholars of the Ḥaḍramawt tradition in their laudations of his works. The Ḥaḍramī scholars were authorities and transmitters of al-Ghazālī’s teachings and wielded great influence among the Malays both religiously and intellectually following the introduction of Islam in the Malay Archipelago.²³ The most important statements extolling the *Ihyā’* came from the ancestor of the al-‘Aydarūs clan, al-Sayyid ‘Abd Allāh al-‘Aydarūs (d. 865/1461), as in the following examples:²⁴

...in the *Ihyā’* is contained a commentary of the Qur’ān, the Sunnah and the *ṭarīqah*; Whosoever loves the *Ihyā’* peruses it and acts according to its contents, is worthy of receiving the love of God, His Messenger, His angels, His prophets and His friends...;

And indeed the books of al-Ghazālī are the quintessence of the Qur’ān, the Sunnah and the intellectual and transmitted sciences. And God is the Trustee of what I said;

If God were to resurrect the dead certainly they will not give counsel to the living except to act by what is in the *lḥyāʾ*.

In this way, ʿAbd al-Ṣamad affirmed the authenticity of al-Ghazālī’s teachings as providing the beneficial knowledge (*ʿilm al-nāfiʿ*) referred to by the Qurʾān, which according to ʿAbd al-Ṣamad is the knowledge of *taṣawwuf* and is called by several names: science of the inward (*ʿilmu bāṭin* atau *kebatinan*); science of the Path (*ʿilmu ṭarīqah*); and science of wayfaring (*ʿilmu sulūk*). In terms of the hierarchy of knowledge, knowledge of jurisprudence (*ʿilmu fiqhah*) and theology (*ʿilmu kalām*) or principles of religion (*ʿilmu uṣūl al-dīn*) are lower in rank than *taṣawwuf*, and the latter leads to the highest which is knowledge of God (*ʿilm maʿrifah bi Allāh*) or knowledge of the Divine Truth or Reality (*ʿilmu ḥaqīqah*).²⁵ ʿAbd al-Ṣamad felt there was a need for this verification since the question of orthodoxy of Sufi adherents was of prime importance and remained an unsettled issue following the charge of infidelity (*kufṛ*) and persecution of the Malay Wujūdīyah²⁶ a century earlier. The main attack against the group was that their metaphysical teachings were pantheistic, considered heresy in Islam.²⁷ He was concerned to cement the adherence of the *Sharīʿah* in their doctrines and practices by pointing out to the Malays that the *Sharīʿah* is the foundation for all knowledge and action in Islam. He repeatedly stated that the highest form of knowledge, which is knowledge of God, is unattainable without the groundwork of the Law (*Sharīʿah*), and the way to the ultimate Truth (*ḥaqīqah*) is by following the spiritual path (*ṭarīqah*). Hence, there can be no *ṭarīqah* and *ḥaqīqah* without the *Sharīʿah*.

ʿAbd al-Ṣamad reiterated that those people who seek knowledge and perform acts of worship such as prayer, fasting, and alms-giving without purifying their hearts from inward vices are self-deluded. Their devotional acts will not be accepted by God unless they are done sincerely – solely for the sake of God and for the purpose of obeying His command – as well as on the condition that they stay away from committing both inward and outward sins. He asserted that no one who performs devotional acts is free from delusion save those who follow and whole-heartedly practice the Way (*madhhab*) of the Sufi. The Way of the Sufi scholar encompasses knowledge derived from both the outward and inward meanings of the *Sharīʿah* (*segala ʿilmu Sharīʿah yang zāhir dan ʿilmu Sharīʿah yang bāṭin*).²⁸ Essentially, it goes beyond understanding and practicing the *Sharīʿah* in its external form to penetrating into its inner meaning and living out this inner dimension, i.e., the *ṭarīqah*. Those who embody this combination of knowledge are those who have attained knowledge of the *ḥaqīqah*, the Origin of all things. The ultimate goal of the Way is to gain illuminative knowledge, by which one knows God through God Himself (*maʿrifah bi-llāh*) and not

through purely human knowledge. Reflective of al-Ghazālī's emphasis on both knowledge (*ilm*) and action (*amal*), knowledge of the Truth is not attained by mental comprehension alone but by the soul's realisation of the Truth which can be actualised by undergoing the spiritual discipline of the *ṭarīqah* and realising the spiritual virtues. 'Abd al-Ṣamad referred to "those people who are rid of self-delusions and have realised the Truth in themselves" as '*orang Ṣūfī yang muḥaqqiq*' (the verifiers among the Sufis).²⁹

'Abd al-Ṣamad on the stages of the science of *taṣawwuf* ('*ilmu taṣawwuf*') and its books³⁰

'Abd al-Ṣamad's ultimate approach to solving the problem of Malay confusion, and his most significant contribution in this chapter, lies in categorisation of the science of *taṣawwuf* into three levels according to the stage of the traveller on the spiritual path and the benefit derived in terms of knowledge acquired from Sufi works at each particular stage. The three levels are the elementary (*mubtadi*'), intermediate (*mutawassit*) and advanced (*muntahī*). The knowledge derived at the first level is beneficial for wayfarers at all three stages in their spiritual journey, namely, the beginner or novice, the intermediate, and the advanced or adept. He described the novice as one who possesses "soul" (*naḥs*)³¹ and is just starting out on the Path and whose heart is not pure (*sucī*) from internal vices such as ostentation, pride, and anger (*ghaḍab*), although it is clean from external vices. The intermediate traveller is one who possesses "heart" (*hati*), in other words, who is at the middle stage of traversing the path and whose heart is pure from internal vices. Finally, the adept is one who possesses "spirit" (*ruh*) and whose heart is pure from internal vices and everything else that is other than God. These adepts are the gnostics (*ārifīn*), referring to those who have arrived at true knowledge of God (*ma'rifah akan Allah Ta'ālā dengan ma'rifah yang sebenar-benarnya*).³²

'Abd al-Ṣamad recorded fifty titles of works on *taṣawwuf* which are suitable for the first or elementary (*mubtadi*') level.³³ These titles comprise mainly al-Ghazālī's writings and some other early standard Sufi works. For the second or intermediate (*mutawassit*) level, he mentioned as many as thirty titles.³⁴ In this category, according to 'Abd al-Ṣamad, none are more beneficial than works written by masters of the Shādhiliyyah order and their commentaries. He also recommended works by scholars from the Indian Sufi tradition in addition to works by his Shaykh, Muḥammad al-Sammān³⁵ (d. 1191/1777) on the practical aspects of the *ṭarīqah*. For the third or highest (*muntahī*) level, he mentioned a total of twenty titles which he considered suitable.³⁶ They comprised mainly works by al-Shaykh al-Akbar Ibn al-'Arabī (d. 638/1240) and their commentaries which

contain esoteric knowledge of the supernal realities, other metaphysical works from scholars in the Ibn al-‘Arabī school, al-Ghazālī’s more esoteric works, and works by Malay scholars of the Wujūdīyah school, for example, Shams al-Dīn al-Sumatrānī³⁷ (d. 1040/1630).

‘Abd al-Ṣamad explains that although the science of *taṣawwuf* is useful in this world and the Hereafter, yet when it examines the science of realities at the third level, it brings very little benefit to all but the adepts. He cautioned that it may prove harmful to the novice not well versed in the *Sharī‘ah* and the *ṭarīqah* and who does not practice its method: its knowledge may prove harmful and may even turn him into a heretic (*zindīq*).³⁸ ‘Abd al-Ṣamad listed the qualities of the people qualified to delve in the science of *taṣawwuf* at this third and highest level: first, it is certain that they possess knowledge of the exoteric aspects of the *Sharī‘ah*, i.e., *uṣūl al-dīn* and *fiqh*; second, they possess knowledge of the *ṭarīqah* as set down for the first and second levels; third, they have struggled to purify their souls from all vices and adorned themselves with virtues; fourth, they have truly followed the spiritual path (*menjalani sebenar-benar ‘ilmu ṭarīqah itu*); fifth, they have no more love for anything in this world except God, and nothing remains in their hearts except seeking (*menuntut*) Him. Lastly, although not really a condition but a Grace bestowed by God (*dianugerahi oleh Allāh Ta‘ālā*) on them as a result of which they become wise (*bijaksana*) in integrating (*menghimpunkan*) the knowledge which ‘Abd al-Ṣamad described as “knowledge that lights up like fire” (*‘ilmu yang nyala seperti api*), they possess the discernment (*pemilih*) to choose between good and evil; they become more intelligent (*terlebih cerdas*); and they possess an understanding free from error (*faham yang suci daripada tersalah*).³⁹ ‘Abd al-Ṣamad added that the master or spiritual guide has a clear role and responsibility in this matter. It is imperative that he forbid disciples from studying books belonging to the third level if he finds them to be weak in intelligence.⁴⁰ When they read esoteric works, disciples of this type misunderstand the meaning of the words and interpret them differently from their original meaning. Naturally, practicing the wrong things will bring them harm and lead them to destruction. Secondly, they lose years off their life studying these books without deriving any benefit from them and this is of course futile. Hence, it is better that they preoccupy themselves with activities which benefit them.⁴¹

Conclusion

The approach and contents of this important chapter in *Siyar* demonstrate how ‘Abd al-Ṣamad, by means of the teachings of al-Ghazālī, defended and clarified the orthodoxy of Sufism and of its Malay adherents who had been accused of

heterodoxy. For ‘Abd al-Šamad one of the root causes of this problem is self-delusion among the Malay scholars, both exoteric and esoteric. The first group of scholars possesses knowledge restricted to the *Sharī‘ah* which is limiting, while the second is not grounded in the *Sharī‘ah* when actually, as ‘Abd al-Šamad showed by the example of Ibn al-‘Arabī, *taṣawwuf* is the practice of the *Sharī‘ah* at its highest level.⁴² He pointed to al-Ghazālī’s works as the measure of orthodoxy and verifies this with the approval awarded them by the Ḥaḍramī scholars who historically exerted influence upon the Malays. He classified the science of *taṣawwuf* into three levels, implying that its various teachings were appropriate at differing levels. He listed the important available works according to the qualification for each level in the hierarchy. He asserted that conditions must be met to qualify for the study of this esoteric science, the two important ones being God’s bestowal of His Grace for its pursuit and intelligence, hence clarifying that it is not meant for everyone. He also explained that the acquisition of its knowledge is a gradual process which must be scaled step by step; and finally he clearly stated the dangers which could occur through misunderstanding and lack of knowledge if these conditions and requirements are not adhered to properly.

From the list of about a hundred titles which ‘Abd al-Šamad compiled for all three levels, it is evident that he was a very learned scholar well grounded in the higher reaches of Sufi tradition. In order to determine and categorise these works for each stage of study he must have been well versed in their contents. His contribution here is that he not only provided a comprehensive bibliography of works by Sufi masters in the heartland of Islam for Malay readers and students to refer to, but more importantly, he aided in providing a hierarchy for the science of *taṣawwuf* founded on the written works of these great Sufi masters which was urgently required at the time and place. Evidently, he did not consider the Malay Wujūdīyah scholar al-Sumatrānī as a heretic or an infidel since he listed two of his works at the highest level.⁴³ Interestingly, he did not include any of the works of Nūr al-Dīn al-Rānīrī (d. 1068/1658), the main critic of the Wujūdīyah, in his list despite the latter’s prolific output.. This is a clear indication of his position on the charge of heresy as well as his opinion of al-Rānīrī’s knowledge and scholarship.

The problems faced by Malay Muslims three hundred years ago remain relevant and important today. Many would argue that following in Shaykh ‘Abd al-Šamad’s footsteps, we may, like him, respond creatively and draw from our Islamic intellectual tradition to solve our present predicament. By interpreting and applying relevant principles derived from original works in the past to local contexts, contemporary Muslim scholars are able not only to instruct and educate but to address issues and solve religious and intellectual problems of our day as

well. In this way, they can make received knowledge relevant and adequate to the needs and realities of the contemporary Muslim community.

Taking the concrete context of the field of education in Malaysia in the twenty-first century as an example, the Ministry of Higher Education realises the importance of moving universities to redefine higher education and the knowledge they provide, in addition to making the knowledge benefit the community and serve the local needs. In achieving this general goal, some of the recommendations suggested by the Deputy of Higher Education Minister, Datuk Saifuddin Abdullah,⁴⁴ are the following:

- Universities in the region and in Malaysia in particular, must cooperate to “de-Westernise” and move to redefine higher education and knowledge they provide.
- These universities must form their own worldviews instead of following those prescribed by former colonial masters and the Western world.
- Institutions of higher learning need to develop indigenous knowledge.
- Knowledge and research by the higher learning institutions must benefit the people and address local issues.
- An environment of empowerment should be created where youths and students are encouraged to debate, speak freely and be recognised.

We can safely conclude that these recommendations are compatible with and do not contradict the essence of the teachings and practices of the Muslim scholars in the past in carrying out their dual role of transmitting knowledge and solving problems of human society. In the Malaysian context, the knowledge framework and education system must reflect the ideals and requirements of its multi-religious, multi-cultural and multi-ethnic society.

APPENDIX

LIST OF BOOKS AND AUTHORS ACCORDING TO THREE LEVELS BY SHAYKH ‘ABD AL-ŞAMAD AL-PALIMBĀNĪ

I. Elementary (*Mubtadi*)

Al-Ghazālī’s standard Sufī works:

- *Bidāyat al-hidāyah*
- *Minhāj al-‘ābidīn*
- *Kitāb al-arba‘in fī uşūl al-dīn*

- *Mukhtaṣar iḥyā' 'ulūm al-dīn*
- *Iḥyā' 'ulūm al-dīn*

‘Abd Al-Ṣamad’s translation-cum-commentary of al-Ghazālī’s works:

- *Ḥidāyat al-sālikīn*
- *Siyar al-sālikīn*

Other early standard Sufi works:

- *Qūt al-qulūb* by Abū Ṭālib al-Makkī
- *Risālat al-Qushayrīyah* by Abū al-Qāsim al-Qushayrī
- *Kitāb al-Gunyah* by ‘Abd al-Qādir al-Jīlānī,
- *‘Awārif al-ma‘ārif* by Shihāb al-Dīn ‘Umar al-Suhrawardī
- *Āḍab al-murīdīn* by Muḥammad bin al-Ḥabīb al-Suhrawardī

Works by Ḥaḍramī Sufi scholars such as:

- *Al-Durr al-thamīn* by ‘Abd al-Qādir al-‘Aydārūs
- *Al-Naṣā’ih al-dīniyyah wa al-waṣāyā al-īmāniyyah* by ‘Abd Allāh bin ‘Alawī al-Ḥaddād

Several treatises by Muṣṭafā al-Bakrī and Muḥammad al-Sammānī for new initiates on the Path, specifically for those belonging to the Khalwatīyah and Sammānīyah orders.

II. Intermediate (*Mutawassiū*)

Works written by masters of the Shādhilīyah order:

- *Kitāb al-ḥikam* by Ibn Aṭā’illāh al-Iskandarī and its commentaries such as those written by Muḥammad bin Ibrahim bin ‘Abbād al-Rundī, Aḥmad bin Ibrāhīm bin ‘Alān al-Naqshabandī and Aḥmad al-Qushāshī.
- *Kitāb al-ḥikam (Risālat al-tawḥīd)* by Ibn Raslān and its famous commentary by Zakariyyā’ al-Anṣārī, *Faṭḥ al-Raḥmān*.

Works by scholars from the Indian Sufi tradition: for example,

- *Jawahīr al-khamsah* by Muḥammad al-Ghawth.

Books written on the Naqshabandīyah *ṭarīqah* such as

- *Miftāḥ al-ma‘iyyah fī al-ṭarīqah al-Naqshabandīyah* which is a commentary of Tāj al-Dīn al-Ḥindī al-Naqshabandī’s *Risālah fī sulūk khaṣṣah al-sādah* by ‘Abd al-Ghanī al-Nablūsī, teacher of Muṣṭafā al-Bakrī.

Works by the Egyptian Sufi and Traditionist ‘Abd al-Wahhāb al-Sha‘rānī, who was also a student of Zakariyyā’ al-Anṣārī: for example,

- *Al-Yawāqīt wa al-jawāhir*
- *Al-Kibrīt al-aḥmar*

Works by Muḥammad al-Sammān on the practical aspects of the *ṭarīqah*: for example,

- *Asrār al-‘ibādāt*

Muṣṭafā al-Bakrī’s work entitled *Faṭḥ al-quḍṣī* with its commentary, *Ḍiyā’ al-shams ‘alā faṭḥ al-quḍṣī*.

III. Advanced (*Muntahī*)

Works by al-Shaykh al-Akbar Ibn al-‘Arabī: for example,

- *Fuṣūṣ al-ḥikam* and its commentaries by ‘Abd al-Raḥmān Jāmī, al-Nablūsī and ‘Alī al-Mahā’imī
- *Al-Futuḥāt al-Makkiyyah* and its summary by al-Sha‘rānī entitled *Lawāqih al-anwār al-quḍṣīyah*

Other metaphysical works from scholars in the Ibn al-‘Arabī school, such as

- *Al-Insān al-kāmil* by ‘Abd al-Karīm al-Jīlī
- *Al-Nafāḥāt al-Ilāhīyah* by Ṣadr al-Dīn al-Qunawī
- *Al-Tuḥfah al-mursalāh ilā al-nabī* by al-Burhānpūrī, and its commentaries by Ibrāhīm al-Kurānī and al-Nabulūsī entitled *Taḥiyyat al-mas’alah sharḥ tuḥfat al-mursalāh* and al-Nabulūsī’s own composition *Iḍā’ah al-maqṣūd min ma’nā waḥdat al-wujūd*.

Works by Malay scholars of the Wujūdīyah School: for example,

- Shams al-Dīn al-Sumaṭrānī’s *Jawhar al-ḥaqā’iq* and *Tanbīh al-ṭullāb* and
- ‘Abd al-Ra’ūf al-Fanṣūrī’s *Ta’yīd al-bayān*, a gloss (*ḥāshiyah*) on *Iḍā’ah al-bayān fī taḥqīq masā’il al-a’yān*.

Al-Ghazālī’s more esoteric works such as

- *Mishkāṭ al-anwār*
- *Al-Maqṣad al-asnā*

Several books in the *Iḥyā’ ‘ulūm al-dīn*: for example,

- *Kitāb al-ṣabr*
- *Kitāb al-shukr*
- *Kitāb al-maḥabbah*
- *Kitāb al-tawḥīd wa al-tawakkul*

Notes

- * *Megawati Moris*, Assistant Professor at the International Islamic University Malaysia (IIUM) in Kuala Lumpur, she obtained her M.A. and PhD from ISTAC. Her Master's thesis "Mullā Ṣadrā's Doctrine of the Primacy of Existence (*Aṣālat al-wujūd*)" was published in 2003 by ISTAC; while her interests are Sufism, Islamic Philosophy, Islam in the Malay world and Islam and modernism.
1. This paper was presented at The World Philosophy Day Congress 2010, 21–23 November 2010 in Tehran, Iran.
 2. Jawi edition: *Siyar al-Sālikin ilā 'ibādāt rabb al-'ālamīn*, 4 juz' (Bangkok: Maktabah wa Maṭba'ah Muḥammad al-Nahdī wa awlādihī, n.d.). This edition is a reprint of the text published by 'Isā al-Bābī al-Ḥalabī wa Sharikah, Cairo, 1372/1953, henceforth cited as *Siyar* (J). Romanised edition: *Siyarus salikin: Jalan para salik untuk mengabdikan diri kepada Tuhan Rabbul 'alamin*, 4 Juz, Perbaikan Bahasa. Muhammad Labib, Tahqiq & Pembetulan. Syed Ahmad Semait (Singapura: Pustaka Nasional Pte Ltd, 2003), henceforth cited as *Siyar* (R).
 3. The printed editions of this work are: i) Imām Abī Ḥāmid Muḥammad bin Muḥammad al-Ghazālī, *Mukhtaṣar Iḥyā' 'ulūm al-dīn*. ed. Dr. Sha'bān Muḥammad Ismā'īl (Cairo: Maktabah Naṣīr, n.d.); and ii) Muḥammad bin Muḥammad Abū Ḥāmid al-Ghazālī, *Mukhtaṣar Iḥyā' 'ulūm al-dīn* (Beirut: Mu'assasah al-Kutub al-Thaqāfiyyah, 1410/1990).
 4. See Megawati Moris, "The influence of al-Ghazālī on eighteenth and nineteenth century Malay thinkers and their works, with an analysis of Shaykh 'Abd al-Ṣamad al-Palimbānī's *Siyar al-Sālikin*, a Malay rendition of the *Mukhtaṣar Iḥyā' 'ulūm al-dīn*" (Ph.d dissertation, ISTAC, International Islamic University Malaysia, 2007).
 5. On the question of orthodoxy, Islamic scholar Seyyed Hossein Nasr states, "The question of orthodoxy in any religion is of the utmost importance, for the very word means 'correctness of belief or doctrine.'... In Islam, orthodoxy means possession of religious truth, and orthopraxy, the correct manner of practicing and reaching the truth... orthodoxy and orthopraxy can be understood as the state of being on the 'straight path' (*al-sirat al-mustaḳīm*)..." See his, *The heart of Islam: Enduring values for humanity* (New York: Harper Collins, 2002), 84–85.
 6. Chapter Ten (*bab yang kesepuluh*) of the third part (*juzu' yang ketiga*) of the *Siyar*.
 7. T.J. Winter remarks that this term is difficult to translate into English: "*Ghurūr* denotes an attitude of beguilement, illusion, vainglory, temptation, self-satisfaction, distraction: a vice which turns man aside from the quest for God." See *Al-Ghazālī on disciplining the soul and on breaking the two desires, Books XXII and XXIII of the Revival of the religious sciences*, trans., T.J. Winter with an Introduction and Notes (Cambridge: The Islamic Texts Society, 1995, Repr., 1997, 2001), 101 note A.
 8. *Mukhtaṣar al-Iḥyā'*, 214; *Siyar* (J), 3:167; *Siyar* (R), 3:335.
 9. *Mukhtaṣar al-Iḥyā'*, 215; *Siyar* (J), 3:167; *Siyar* (R), 3:335.
 10. For example, *Sūrah Luqmān*, 31: 33 and *Sūrat al-Ḥadīd*, 57: 14. *Siyar* (J), 3:167; *Siyar* (R), 3:335.
 11. In al-Ghazālī's classification of knowledge, these sciences are also referred to as non-religious sciences (*al-'ulūm ḡhayr shar'īyyah*). These sciences are attained by the human intellect alone. See *Iḥyā' 'ulūm al-dīn*, *Kitāb al-'ilm*, 1:25-26. See also Nabih Faris, *The book of knowledge, being a translation with notes of the Kitāb al-'ilm of al-Ghazālī's Iḥyā' 'ulūm al-dīn* (Lahore: Sh. Muhammad Ashraf, Reprinted 1980), 36-7; and Osman Bakar, *Classification of knowledge in Islam: A study in Islamic philosophies of science* (Kuala Lumpur: Institute for Policy Research, 1992), 205, 264.
 12. Al-Ghazālī used this term as synonymous with the religious sciences (*al-'ulūm al-shar'īyyah*) in the *Iḥyā'* and *al-Risālah al-ladunīyah*. He defined the religious sciences as "those which have been acquired from the prophets and are not arrived at either by reason, like arithmetic, or by experimentation, like medicine, or by hearing, like language." Nabih Faris, *Book of knowledge*, 36–7. See also, O. Bakar, *Classification*, 205.
 13. Al-Ghazālī also refers to this knowledge as knowledge from on high (*'ilm al-ladunī*) which he categorised as presential knowledge (*al-'ilm al-ḥuḍūrī*). Presential knowledge is direct, immediate, supra-rational, intuitive and contemplative, in contrast to attained or acquired knowledge (*al-'ilm al-ḥuṣūlī*) which is indirect, rational, logical and discursive. The former is superior to the latter

since it does not contain any errors or doubts and confers the highest certitude pertaining to spiritual truths. In terms of the *farḍ ‘ayn* and *farḍ kifāyah* distinction, *‘ilm al-mukāshafah* is considered as *farḍ kifāyah* and therefore, not obligatory for each Muslim. In addition, it transcends the religious (*shar‘iyyah*) and intellectual (*‘aqliyyah*) dichotomy since al-Ghazālī considers it to be at once religious and intellectual and hence excluded from al-Ghazālī’s classification of the sciences. See O. Bakar, *Classification*, 203–204 and 209. The treatise al-Ghazālī wrote bearing this title was translated by Margaret Smith, “*al-Risālah al-laduniyya*,” *Journal of the Royal Asiatic Society* (April 1938): 177–374.

14. *Siyar* (J), 3:168; *Siyar* (R), 3:337.
15. *Siyar* (J), 3:168; *Siyar* (R), 3:337–38.
16. *Siyar* (J), 3:169; *Siyar* (R), 3:338–39.
17. Plural: *wasāwis*. These are random thoughts, promptings and ideas projected by the devil into one’s mind to distract or confuse it. They were also termed *khawāṭir*. Al-Kalabādhī in his *Kitāb al-ta‘arruf* distinguishes four types of *khawāṭir*. They may derive from God, the angels, the egotism of the soul (*nafs*), or from the devil. If they are from God or the angels, they are referred to as *ilhām* (inspiration), but more often they are from the devil and the egotism of the soul and are called *waswās* or *hadīth al-nafs* (discourse of the soul). See T.J. Winter, *Al-Ghazālī on disciplining the soul*, LXVII, XCI–CII note 325, 240.
18. *Siyar* (J), 3:169–70; *Siyar* (R), 3:339–40.
19. The Malay doctrine of *martabat tujuh* was developed from Ibn al-‘Arabī’s original doctrine of the Five Divine Presences (*al-ḥaḍarāt al-ilāhiyyāt al-khams*) in which Being and Its manifestations are categorised into five levels of existence. The Malays followed the Indian Sufi Muḥammad Faḍl Allāh al-Burhānpūrī’s (d. 1029/1620) adaptation of the scheme into seven levels as elaborated in the latter’s work entitled *al-Tuḥfat al-mursalāh ilā al-nabī*. This doctrine became one of the primary doctrines in Malay Sufi metaphysical teachings and formed the basis for other aspects of Malay Sufi thought, such as those on cosmology, psychology and epistemology as well as for the practice of the spiritual path. However, it also caused a great deal of intellectual and religious confusion among the Malays.
20. *Siyar* (J), 3:170; *Siyar* (R), 3:341.
21. *Siyar* (J), 3:170; *Siyar* (R), 3:341.
22. *Siyar* (J), 3:175–76; *Siyar* (R), 3:350–51.
23. See for example, Syed Farid Alatas, “Hadhramaut and the Hadhrami diaspora: Problems in theoretical history”, *Hadhrami traders, scholars, and statesmen in the Indian ocean, 1750s-1960s*, ed. U. Freitag and W. G. Clarence-Smith (Leiden: Brill, 1997); and R.B. Serjeant, “The Saiyids of Hadramawt,” An Inaugural Lecture Delivered on 5 June 1956, School of Oriental and African Studies, University of London, 1957.
24. Taken from the commentary (*sharḥ*) entitled *Ta‘rīf al-aḥyā’ bi-faḍā’il al-iḥyā’* which is also referred to by the title, *Ta‘rīf al-iḥyā’ bi-faḍā’il al-iḥyā’*. It is given as an annex to the *Iḥyā’*. It also appears in the margin of *Ithāf al-sādah al-muttaqīn* by Murtaḍā al-Zabīdī. Quotations in *Siyar* (J), 3:172–74; *Siyar* (R), 3:344–49.
25. *Siyar* (J), 1:5–6; *Siyar* (R), 1:9.
26. They are the Malay exponents of the Ibn al-‘Arabī school and wrote on the central doctrine of *waḥdat al-wujūd*. This group gathered many followers into their fold and they grew in strength and popularity as a result of the Sultan’s patronage. The two most influential representatives of this school were the Sufi masters, Ḥamzah al-Fanṣūrī and Shams al-Dīn al-Sumaṭrānī from Aceh. The main critic of this group was Nūr al-Dīn al-Rānīrī, who upheld the existentialist position himself, and he referred to his group as the “true existentialists” or “existentialists who affirm unity” (*Wujūdīyah Muwaḥḥidah*) while referring to the group led by al-Fanṣūrī and al-Sumaṭrānī as the “false or deviating existentialists” (*Wujūdīyah Mulḥidah*). Refer to the penetrating monograph by S. M. Naguib al-Attas, *Rānīrī and the Wujūdīyyah of 17th century Aceh* (Singapore: Monographs of the Malaysian Branch Royal Asiatic Society III, 1966).
27. *Ibid.*, 15–16.
28. *Siyar* (J), 3:176; *Siyar* (R), 3:351–52.
29. *Siyar* (J), 3:176; *Siyar* (R), 3:352. See also, Seyyed Hossein Nasr, *Ideals and realities of Islam*

- (London: George Allen and Unwin, 1979), 122, 124–25, 138–39.
30. For a list of the books according to levels see our Appendix. Certain scholars have systematically listed these works according to the three levels, for example Martin Bruinessen, who also meticulously identified each work and its author from Carl Brockelmann's *GAL in Kitab kuning: Pesantren dan tarekat, tradisi-tradisi Islam di Indonesia* (Bandung: Penerbit Mizan, 1999), 71–87; W.M. Shaghir Abdullah, *Abdus Shamad Palembang: Ulama Shufi dan jihad dunia Melayu* (Kuala Lumpur: Khazanah Fathaniyah, 1996), 149–67; Muhammad 'Uthman el-Muhammady, "Penggabungan antara unsur tradisional dengan unsur intelektual dalam karya Syaikh 'Abd al-Samad al-Falimbani dengan rujukan khas kepada Sayr al-Salikinnya," Seminar Pemikiran Ulama' Sheikh Abdus Samad al-Falimbani, Dewan Masjid Kompleks al-Bukhary, Alor Setar, 30 December 2002, 1–6. See also Megawati Moris, "The influence of al-Ghazālī", 121–132.
 31. The terms "soul", "heart" and "spirit" refer to the subtle dimensions of the human reality in terms of certain qualities or attributes.
 32. *Siyar* (J), 3:176–77; *Siyar* (R), 3:353.
 33. *Siyar* (J), 3:177–80; *Siyar* (R), 3:353–58.
 34. *Siyar* (J), 3:180–82; *Siyar* (R), 3:358–361.
 35. He was the founder of the Sammānīyah *ṭarīqah* which was an off-shoot of the Khalwatīyah. He appointed 'Abd al-Šamad as one of his *khalīfahs* in the Malay world.
 36. *Siyar* (J), 3:182–83; *Siyar* (R), 3:361–63.
 37. Al-Sumāṭrānī was an outstanding scholar who wrote on Sufi metaphysics and is claimed to have been the first Malay thinker to write and elaborate on the doctrine of *Martabat Tujuh* (seven levels of being) systematically in his works.
 38. *Siyar* (J), 3:183; *Siyar* (R), 3:363.
 39. *Siyar* (J), 3:183–85; *Siyar* (R), 3:363–65.
 40. *Siyar* (J), 3:185; *Siyar* (R), 3:366–67.
 41. *Siyar* (J), 3:185; *Siyar* (R), 3:366–67.
 42. *Siyar* (J), 3:186; *Siyar* (R), 3:368.
 43. See the Appendix of this paper for the two titles. *Siyar* (J), 3:183; *Siyar* (R), 3:363.
 44. Extracted from his speeches written in the New Straits Times on 29 June 2011 and 20 October 2012 via www.saifuddinabdullah.com.my/category/New-Straits-Times.aspx (accessed 6 November 2012).

SAUDI ARABIA, THE SOVIET UNION, AND MODERN ISLAM

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Abstract: This paper examines Saudi-Soviet diplomacy in the interwar period, which has received little scholarly coverage but has had an important impact on the Middle East and the Muslim World. In the 1920s and the 1930s, Saudi Arabia and the Soviet Union cooperated closely in a number of areas, and Western governments recognised that an alliance would have transformed politics in the Middle East. The failure of the diplomatic relationship to last was a missed opportunity for both states and for the wider Muslim world. Not only did it limit Soviet diplomacy in the Arab World and cement the US-Saudi alliance, but it also cut off Soviet Muslims from Arabia. After the Soviet Union collapsed, the legacy Saudi-Soviet relations in the interwar period remained important. Al-Qaeda used Riyadh's historic ties with Washington to justify its violence, while millions of Muslims in the former Soviet Union re-embraced their faith and forged closer ties with Saudi Arabia than ever before.

Introduction

On 29 May 1932 a battalion of Soviet cavalry and one of Soviet infantry stood at attention for an unusual visitor to Moscow's Belorussian-Baltic railway station: Prince Faysal of the Kingdom of Saudi Arabia. Wearing a gold-braided *thob*, *gallabia*, and burnoose but with Western shoes, the twenty-six-year-old prince was only the second such personage to visit the Soviet capital since the fall of the Czar in 1917.¹ Senior Soviet officials, including first deputy foreign minister Nikolai Krestinsky, met him and his delegation at the train station and joined the Soviet officials who had met the Saudi Prince's train when it crossed the Polish-Soviet border.² As the prince walked along an exquisite carpet past saluting soldiers, large crowds gathered to see him and bands alternated playing the Hijaz's national anthem and the Internationale. Flags of the Soviet Union with the yellow hammer and sickle and that of Saudi Arabia, emblazoned with the Islamic declaration of faith, the *shahādah*, adorned the station. A large sign in Arabic read "*Ahlan Wa Sahlan*."³

Over the next week, Faysal and his party met with the Soviet elite and diplomatic corps and attended a large reception and two plays at the Bolshoi Theatre. They also visited the Red Army House, a horse show, the Military Aviation Academy, and the AMO automobile factory. They travelled to Leningrad, where they were warmly received before travelling to Istanbul via Odessa. The

young prince marvelled at the rapid development of Soviet industries and its modern technology, including its oil industry. He cabled home from the steamer *Pravda* on the Caspian Sea that he loved the natural beauty of the Transcaucasian Republics and “had been especially impressed by the oil derricks and the techniques of getting oil” in Baku.⁴

These types of comments (and the visit) worried American and European officials. They viewed the Soviets as a competitor in Arabia and the wider Middle East. Not only did thousands of subjects from Western colonies make the annual Hajj pilgrimage, but Saudi Arabia was close to Iran, Iraq, and other Middle East nations where Britain had vast economic and strategic interests. France, Italy, and Holland had thousands of Muslims in their overseas colonies, some of which were close to Arabia. (Pilgrims from the Dutch East Indies, whose population was increasingly demanding full independence, were usually the largest component of the annual Hajj pilgrimage.) For its part, Washington had just established formal diplomatic ties with King Abdulaziz’s government in 1931⁵ and had begun to understand the enormous economic potential of his state after years of invitations by the King for prominent Americans to visit his kingdom.⁶

Western fears about the Soviet position in Arabia, however, were greatly exaggerated. Although the Saudi government was effectively broke, it refused Soviet terms to lend £1 million and write off Saudi debts to Moscow, lift its embargo on Soviet products and sign commercial and friendship treaties.⁷ Diplomatic relations never recovered from this setback and they were suspended in May 1939. Riyadh’s ties with Moscow did not resume until the early 1990s, shortly after Iraq’s invasion of Kuwait.⁸

The limited duration of Saudi-Soviet diplomatic ties in the 1920s and 1930s, however, does not diminish the importance of the relationship, which has received little coverage in the scholarship on the history of the Soviet Union, the Middle East, or Islamic World generally.⁹ In the 1920s, the two sides cooperated closely at times, and Western nations recognised that an alliance would have transformed the politics of the region and Asia. The failure of Saudi Arabia’s diplomatic relationship with the Soviet Union was a missed opportunity for both nations and for the Muslim world generally. Not only did it limit Soviet diplomacy in the Middle East and pave the way for the rise of the U.S.–Saudi strategic alliance, but it also cut millions of Muslims in the Soviet Union off from the rest of the Islamic World. Few Soviet Muslims were allowed to go on Hajj or to study Islam there or at home for much of the twentieth century, while Riyadh remained firmly in the Western camp during the Cold War despite US support for Israel. Riyadh also embraced an American vision of modernity in which capitalism, religion and technological change could coexist. After the Soviet Union collapsed, the absence of Saudi-Soviet ties remained important.

Al-Qaeda and other Jihadi organisations used Saudi Arabia's close historic ties to Washington to justify violence against the West, while Muslims in Russia and other states of the former Soviet Union had re-embraced Islam, built new cultural institutions and forged unprecedented ties to Saudi Arabia in particular. Despite differences between Moscow and Riyadh over the Arab Spring and Iran's nuclear program, 20,500 Russian Muslims visited Mecca in 2011—a striking contrast from the pre-1992 era when Moscow permitted only 18 Muslims annually from the entire Soviet Union to go on the Hajj pilgrimage to Mecca.¹⁰

From Russia to the Soviet Union

Before the First World War, Russia had a tangible but not a large presence in the Arabian Peninsula and the territories that would become the Kingdom of Saudi Arabia. Nearly a quarter of the Russian Empire was Muslim, it controlled nearby territories, and at least a thousand Russian Muslims annually made the Hajj pilgrimage. What's more, Russian Central Asia had deep cultural and historical ties to the Muslim World and Saudi Arabia in particular. Muslims there had joined the Ummah centuries before their fellow Muslims in Southeast Asia, Turkey, West Africa and other traditional core regions of the Muslim World had. Building on these cultural and historical ties, rulers in the Arabian peninsula encouraged the Russians to establish trade associations in major Gulf ports. In 1901 the Emir of Kuwait sought Russian military protection. While St. Petersburg had long desired a naval base in Kuwait and had political agents in Oman, it refused the request out of fear of antagonising Great Britain, a close diplomatic partner in Europe.¹¹ Nonetheless, Russia sent its consul from Bushire in Iran to Kuwait in 1903 to become the first European envoy to meet King Abdulaziz.¹²

Following the October 1917 Russian Revolution, the Soviet government portrayed itself as the champion of anti-imperialists and it called on Arab peasants to fight “the first genuine holy war” “under the red banner of the Communist International.”¹³ But few Arabs or Muslims showed any interest in Communism, which forced Moscow to cooperate with what the Soviets termed “bourgeois nationalists” or democrats opposed to imperialism—even if they persecuted Communists in their national boundaries.¹⁴

This change in policy opened the way for Soviet ties with King Hussein, whose state in the Hijaz controlled the Hajj pilgrimage.¹⁵ In the eyes of Soviet leaders, the Hajj provided an “ideal listening post and contact point” for channelling Soviet influence and gathering intelligence on the Muslim world.¹⁶ The Soviet Foreign Minister Gregory Chicherin wrote in 1924 that “getting Mecca is of crucial importance to us.”¹⁷ And he sought to take advantage of the schism that had developed between Great Britain and Hussein when the King claimed the

title of Caliph, or leader of the global Muslim community, an action which horrified London since it threatened Britain's control over the millions of Muslim subjects in its Empire. Hoping to further inflame the tensions between Britain and its former patron, Moscow dispatched a Tatar Muslim, Karim Khakimov, to Jeddah.¹⁸ Two of his assistants were non-Muslims;¹⁹ another was a graduate of the American College of Beirut.²⁰ A British diplomat noted that the Khakimov's principal task was propaganda, since there was "certainly not enough work in his agency to keep five Europeans busy."²¹

But Soviet plans for King Hussein were seemingly dashed when his state was attacked by armies from the neighbouring state of the Najd, governed by King Abdulaziz. Although there was a debate among Soviet leaders in Moscow on how to respond to the conflict,²² Khakimov kept contacts open with both sides, and King Abdulaziz permitted him to visit Mecca. There he had an extended audience with the King and called on him to help the great revolt against the European colonial powers. The King politely declined the suggestion. He noted his admiration for Europe and reminded the diplomat of the remoteness of the Soviet Union, the proximity of Great Britain's imperial possessions, and the unsuitability of republican institutions for his kingdom.²³ Despite such bitter outward hostility and mistakes, Khakimov won praise from the King for the Soviet diplomat's balanced position in the war. When King Abdulaziz declared himself King of the Hijaz and Sultan of Najd in February 1926, the Soviet Union was the first government to recognise his new title. The King responded to Moscow's recognition with a warm note that expressed his "gratitude to the government of the U.S.S.R." and complete "readiness for relations with the government of the U.S.S.R. and its citizens."²⁴ Chicherin's vision of "getting Mecca" appeared to be within sight.

Relations improved even further at the Congress of Mecca. The Congress was called in June 1926 to resolve King Abdulaziz's claims over the sovereignty over Mecca and Medina. At the time, the Hashemite family, which ruled Iraq and Jordan, refused to relinquish its ancient claim to the two Holy Cities, while a number of leading Muslim scholars expressed unease with the conservative tenets of Wahhabism. Some Muslims discussed boycotting the Hajj or establishing an international regime to govern Mecca and Medina. Were Muslims to heed these calls, it could have spelled economic ruin for the Hijaz, which depended on the Hajj for its economic vitality, and scuttled the King's plans to use Hajj proceeds to modernise his state. The stakes could not have been higher.

Recognising the importance of the conference, Moscow chose six prominent Soviet Muslim scholars to attend. According to the British Consul, the Soviet delegates' "behaviour was exemplary" at the conference.²⁵ Their presence reminded "the Arabs of the existence of a large anti-imperialist power"

and provided the votes for King Abdulaziz to be elected the president of the Conference—a crucial first step for him gaining sovereignty over the two holy cities.²⁶ The Soviet delegates opened their home to all visitors and supported the King's claim in the Congress.²⁷ Significantly, that claim had very powerful opponents, such as Shaykh al-Ahmadi al-Zawahiri, the head of the Egyptian delegation.²⁸ (He later headed al-Azhar and his grandson now leads al-Qaeda.) But the Soviets won the admiration of the participants, who elected a Soviet delegate vice president of the Congress. At the end of the Congress, “the head of the Soviet delegation declared that the unity of the Islamic Nation had been achieved with the help of Soviet Muslims.”²⁹ Two years later in 1928 Moscow dispatched a new chief diplomat to Jeddah, Nazir Bey Turakulov, and in 1930 it raised the status of its mission from a Diplomatic Consulate General to a Diplomatic Mission.³⁰

Soviet advances, however, triggered unease among European diplomats. They warned King Abdulaziz about Soviet intentions to use the Hajj for political purposes and sought to reach a political accommodation with him to limit Soviet influence. In exchange for British recognition of his sovereignty over the Kingdom of the Hijaz and the Nejd, the King agreed to refrain from attacking neighbouring British protectorates and to limit the activities of foreign propaganda agents in his territories.³¹ The second article of what came to be called the “Treaty of Jeddah” dealt directly with this issue. It called on both parties to use all means to prevent its territory from being used as a base for “unlawful activities directed against peace and tranquillity in the territories of the other party.”³²

When Soviet diplomats in Jeddah aided participants in the 1927 nationalist revolt in the Dutch East Indies, the Dutch government warned King Abdulaziz that it might severely curtail the number of Hajj pilgrims from Southeast Asia should the Hajj serve as a centre for Indonesian nationalists and for others promoting anti-Dutch Soviet propaganda.³³ The King swiftly complied with these demands. There was a substantial Javanese intellectual and business community in the Hijaz with close ties to Southeast Asia,³⁴ and pilgrims from the region contributed greatly to the local economy in the Hijaz during the Hajj. Some pilgrims remained in Jeddah for several months either before or after the Hajj.³⁵

Checked from using the Hajj overtly for political propaganda, Khakimov deployed “soft” power to promote his government's interests. The Soviet mission opened a medical clinic, and the Soviet merchant fleet made regular trips and delivered Soviet products to Red Sea ports in the 1920s.³⁶ Both had limited direct impact. Although the doctor saw few patients, he terrified European diplomats in Jeddah, who insisted that Riyadh expel him. They feared that he could “visit everywhere under cover of [medical] consultations” and could therefore circumvent the restrictions on Soviet interactions with pilgrims.³⁷

Soviet mercantile efforts were only slightly better. The Soviet merchant fleet started to make regular trips to the Red Sea in the 1920s and complemented existing passenger service between Odessa and Jeddah. In 1927 Soviet products and commodities were distributed for free or at substantially reduced rates throughout the Hijaz.³⁸ The Soviet Eastern Trading Company (the Vostgostorg) did its own marketing and did not allow local merchants to market Soviet merchandise.³⁹ Hijazi merchants reacted to this competition with anger and pressed their governor, who had considerable commercial interests, to act. He forced the Soviets to sell their goods and commodities at competitive prices, secretly forbade Hijazi merchants from buying Soviet goods and convinced the Europeans not to do business with Soviet authorities in Jeddah. A Hijaz-wide ban on Soviet trade was eventually instituted by the end of 1928.⁴⁰

But global economic conditions compelled the merchants in Jeddah (and their government) to reconsider their economic position towards the Soviet Union. The Wall Street crash of 1929 devastated the prices of agricultural commodities which dominated the economic life of South Asia and Southeast Asia. Few Muslims in either region could now afford to go on Hajj, and the number of pilgrims dropped from 132,000 in 1927 to 38,000 in 1931.⁴¹ The revenue of the Hijaz and the Nejd was cut by a third, while the national currency, the Riyal, plunged in value. The government ran up crushing debts of £300,000 and scrambled to resolve shortages in petroleum, sugar, and other commodities.⁴² It sought every available source of income, including the pious endowments connected with the Hijaz in Asia and Africa.⁴³ Requests for funds from Great Britain, other European governments and Americans were refused. The state's financial situation became so perilous that King Abdulaziz is reported to have told his British confidant, John Philby, "If anyone...were to offer me a million pounds now, he would be welcome to all the concessions that he wants in my country."⁴⁴

Under these conditions, the King had no choice but to accept the Soviets' offer to sell the Hijaz 100,000 cans of Kerosene and oil along with 750 tons of sugar in August 1931.⁴⁵ Even after officials in the Hijaz reneged at the end of 1931 on their obligations to pay Moscow £30,000 for the oil, Moscow still believed it was possible to improve political ties and to open markets for its timber, cement, china, glass and metal tableware in King Abdulaziz's territories.⁴⁶ A year later the King signalled his desire to improve ties further when his officials asked if Faysal could add the Soviet Union on a previously scheduled trip to France, Great Britain, Poland, and Turkey. When Moscow reacted positively to the suggestion, the Saudi King wrote to M.I. Kalinin, a senior Soviet official, that Faysal's "visit will contribute to the development of relations and friendship between our two countries, relations we are constantly striving to maintain and to consolidate."⁴⁷

Soviet Union Engages Arabia

Soviet officials did their best to take advantage of the visit and the opportunity to consolidate relations with Saudi Arabia. They made certain that Faysal's visit was a "major event in the nation's political life" and that it received considerable extensive coverage in *Izvestiya* and other Soviet newspapers.⁴⁸ Train stations in Moscow and Leningrad were adorned with Saudi and Soviet flags and signs in Arabic for Faysal's arrival in the two cities. He and his entourage met elite Soviet and foreign officials and saw the most advanced Soviet military equipment, factories, and scientific facilities. Faysal and his entourage were housed at Leningrad's finest hotel, the Astoria. They also visited the Hermitage Museum and saw plays at the Bolshoi Theatre.⁴⁹ After Faysal and his Saudi delegation returned to Moscow from Leningrad, Soviet leaders organised a day-long sporting festival in their honour that drew 45,000 spectators. Faysal was impressed by the genuine warmth of the Soviet citizens, their advanced technology, and their culture. In Leningrad, he said that "our delegation has become convinced that while other countries we have visited industry is declining, here industry is growing and being developed."⁵⁰

Soviet officials backed up their extensive efforts at public diplomacy with offers of financial assistance. Although the Saudi Prince had no success winning additional funds in London or on the European Continent,⁵¹ Moscow offered the £1 million his father desired and showed a willingness to forgive the £30,000 Soviet oil debt. In return, King Abdulaziz was asked to sign a treaty of friendship with the Soviet Union and to lift the trade embargo on Soviet goods in his territories.⁵² Negotiations were sufficiently developed (and Saudi finances sufficiently poor) that Deputy Saudi Foreign Minister Fuad Hamza told the British Consul in Jeddah that King Abdulaziz, who normally would ardently oppose a treaty of friendship with Moscow, was now ready to accept one and a Soviet loan unless London provided Riyadh £100,000.⁵³ The consul sent a panicked telegram to the British Foreign Office reporting the conversation as well as noting the growing Soviet influence in the now renamed state of Saudi Arabia, epitomised by the fact that Soviet diplomats spoke Arabic fluently and wore local clothes in public in Jeddah.⁵⁴

Although the British never paid the £100,000, the loan and the Saudi-Soviet treaty never materialised. While Moscow's refusal to consider Riyadh's claims to the pious foundations tied to the Hijaz within the boundaries of the Soviet Union angered Saudi officials,⁵⁵ the biggest factor hindering Saudi-Soviet ties was the same one it had been for years: Great Britain.⁵⁶ Before travelling to Moscow, Fuad Hamza had sought out the opinions of senior British officials in London on his Kingdom's "unique relationship" with the Soviet Union.⁵⁷ Their reaction

stressed the ideological gaps between the two states and, implicitly, Saudi Arabia's weakness vis-à-vis Great Britain:

Regarding the question of relations between the Hejaz and Nejd and the Soviet Government, the opinion of His Majesty's Government was that the view and tenets of the Soviet Government were presumably very different from those of the King Abdul Aziz. If however, King Abdul Aziz thought fit, in spite of this, to change his present policy towards the Soviet Government, it would of course, not be a matter upon which His Majesty's Government would be in a position to feel aggrieved.⁵⁸

If this were not enough, most pilgrims were either British subjects or travelled on British-flagged ships through British-controlled seas. The British government regularly provided essential services to the Saudis during the Hajj from medical care to making certain enough Riyals were in circulation to meet the surge in trade. A Soviet loan of £1 million was not enough to jeopardise those ties or assume the risks of a larger Soviet presence in Saudi Arabia to King Abdulaziz's reputation in the Islamic world. Indeed, it had become common currency among many Muslims by 1930 that Communism and Islam were completely antithetical forces.⁵⁹

Despite the risks of improved ties with Moscow, Riyadh did lift its trade embargo on Soviet goods, and the Vostgostorg was permitted to market all its merchandise in the Kingdom.⁶⁰ But it was largely a symbolic action: U.S. diplomats noted that the Saudis were likely to reinstate the embargo when "taxes and other income from [the Soviets] will have liquidated his £30,000 obligation" to Moscow.⁶¹ There was not a great interest in Soviet goods and scant chance that there would be much of a market for anything other than petroleum or petroleum products. And even the market was limited: in the 1930s, Soviet petroleum products were seen in many Red Sea ports as shoddy, defectively packed, and short-weight.⁶²

For their part, Soviet economic officials eventually concluded that they had greatly overestimated the economic potential of Saudi Arabia and sought new markets for their goods. Their colleagues in the Foreign Ministry had also downgraded Saudi Arabia in their strategic calculations. Because Moscow needed London's cooperation against increasingly assertive governments in Berlin and Rome, they believed it was imperative for the Soviet Union to abandon the goal of disrupting Great Britain's interests in the Middle East and India. Ironically, twenty years after the October 1917 Russian Revolution, the Soviet Union had returned to essentially the same position as its Russian predecessor in Middle East in which diplomats deferred to the interest of Great Britain, especially in Arabia and the Gulf.⁶³

Remarkably, the Soviet mission in Jeddah continued at full staff for much of the rest of the decade. Multiple doctors came and went; one saw eighty patients a

day, less than half of what his British counterpart saw on a given day. The multi-ethnic and multi-religious Soviet legation picked up colloquial Arabic quickly and disseminated Communist ideology to ordinary Saudis and government officials alike. The wife of the Soviet Consul reportedly lived for several months in 1937 with the Turkish (and favourite) wife of Prince Faysal, Iffat bint Ahmad al-Thunayan.⁶⁴ But the Legation spent most of its time translating Soviet propaganda into Arabic and Arabic newspapers into Russian. At one point, the Soviet Consul asked his Dutch counterpart how he should translate “the People’s Commissars are chosen by the toiling class.”⁶⁵ In May 1939, Moscow closed the mission and recalled its staff, virtually all of whom were executed because of the perceived “failure of the Soviet Mission.”⁶⁶ Significantly, the closing of the mission in Jeddah coincided with Moscow’s decision to close its consulates in Afghanistan, Iran, Turkey, and Yemen.⁶⁷

Six years later, after the conclusion of World War II, Moscow sought to reestablish diplomatic relations and to reengage Saudi Arabia politically. It permitted Soviet Muslims to go on Hajj for the first time since the 1930s and its propagandists emphasised the heroic contributions of Muslims to defeating the Nazis.⁶⁸ These actions were noticed by Saudi officials. In July 1945, King Abdulaziz told Colonel Hoskins, a visiting U.S. official, that his Kingdom’s relations with the Soviet Union “were friendly but not close.”⁶⁹ At the same time, the King noted that he had expelled the Soviet legation in Jeddah for spreading Communist propaganda, Moscow had yet to formally ask to reopen its legation and “for his part he would not take steps to renew diplomatic relations.”⁷⁰ It was now far too late for Moscow to improve the relationship.

Growing American Involvement

During the previous decade, the United States had emerged as the preeminent power in Saudi Arabia, thanks in part to the fact that oil was discovered (1938) and a U.S. oil company had won the contract to develop Saudi Arabia’s oil fields in 1933, a year after Faysal had been impressed by the Soviet oilfields. And it had been clear for a number of years that the desert kingdom was about to become a central player in the global oil markets and potentially overtake the traditional leader, the United States.⁷¹ When Faysal visited the United States in 1943, he was treated as an honoured guest and shown how American technology could help to modernise Saudi Arabia.⁷² After Faysal’s return home, U.S. diplomats worked to capitalise on his trip and demonstrate that Washington was in a position to use its financial and political resources to replace Great Britain’s preeminent position in the Kingdom. In the words of British diplomats, who knew what an empire looked like, the Americans were building their own “empire in the Kingdom”—and they were not intent on sharing with anyone, especially the British.⁷³

Washington's dominant position in Saudi Arabia in the 1940s would be important beyond the borders of the Kingdom and magnify the significance for Moscow of the failure to establish ties with Riyadh in the 1930s. In particular, the intense linkage to America, a leading modern Western nation that viewed religion as central to daily life, allowed the Saudis and Muslims around the world to conceive of a form of modernity that did not adhere to either the secularism of twentieth-century Western Europe or the atheism of the Soviet Union. Instead, Muslims were able to balance their faith's values and the requirements of advanced, capitalist, and modern societies, just as Christians in America had done in the past. This balance permitted Saudi Arabia to stay within the Western camp during the Cold War, even though the Kingdom's positions on the Arab-Israeli conflict were far closer to those of the Soviet Union.

Thanks to their close ties with Saudi Arabia, US officials could be confident that Western Europeans would have the cheap, plentiful oil necessary for the Marshall Plan to be a success and to check Soviet expansion in Western Europe. Saudi oil also helped fuel the strong post-war growth of the global economy, which was also critical to the US strategy for containing expansion of Soviet influence in the developing world, especially in Asia. No nation was a stronger ally of Washington and a more ardent foe of Moscow than Riyadh. Regionally, the US-Saudi strategic partnership allowed Washington to have close ties with Israel without being shut out of the politics of the Arab world. That link would be critical to its new role after the 1973 Arab-Israeli war as an honest broker between Arabs and Israelis.

By contrast, the Soviets had strong relations with *only* Arab republics. Had Moscow developed lasting ties with the Saudis during the interwar period, especially if it had given the loan in the 1930s, it might have had a chance to develop the Kingdom's oil resources and been in a better position to influence Riyadh's decisions during the Cold War. Such a relationship is certainly conceivable, as Moscow cooperated with regimes which suppressed Communist parties after the 1950s. A possible venue for building a relationship could have been the non-aligned movement, of which Saudi Arabia and a number of Moscow's closest diplomatic partners were also members. For Riyadh, a bilateral relationship with Moscow (or one of its close allies) would have allowed it to pursue a more balanced foreign policy during the Cold War and perhaps allowed it to extract a far higher price from Washington for its assistance. While one can only guess as to how a stronger Saudi Arabia might have changed the Arab-Israeli conflict and other international issues, we can be certain that it would have had some impact and changed Washington's approach. Indeed, Moscow frequently observed how close Soviet and Saudi views on the Arab-Israeli conflict were and "that Saudi-Soviet cooperation would enhance the Arab cause."⁷⁴

Post-Cold War Events

Remarkably, the consequences of the failure of Saudi–Soviet ties have been even larger after the end of the Cold War. Although al-Qaeda originated in Afghanistan, fighting alongside an American-backed insurgency during the 1980s, the organisation and its charismatic leader, Osama Bin Laden, cited Washington’s presence in the Middle East after the 1940s as the root cause for the problems facing the global Muslim community. References to Washington’s presence in the Middle East and the wider Muslim world pepper the many statements of Bin Laden during the 1990s and 2000s, especially when he discusses the politics of his native Saudi Arabia and the other states in the Middle East. In a blistering 2004 communiqué entitled “*Depose the Tyrants*,” Bin Laden asserts that “no appointment of a king or representative can take place” in Saudi Arabia “without the agreement of America.” He further notes that American power reflects “agreements between previous [Saudi] kings and America”—presumably a reference to the famous meeting between President Franklin Delano Roosevelt and King Abdulaziz in 1945 on a battleship in the Red Sea.⁷⁵ He also asserts that there was little difference between the actions of L. Paul Bremer, the U.S. administrator of Iraq, and other regimes in the Middle East “when it comes to implementing America’s policies.”⁷⁶ America was equally important to the organisation’s online and video productions: pictures of Saudi leaders dancing with U.S. presidents were central to a video that was released months before the terrorist attacks of 11 September 2001.⁷⁷

As horrific as those acts of terrorism were, the post-Cold War era has also witnessed the rebirth of Islam in the former Soviet Union and the reintegration of its Muslims into the global Muslim community. While usually less than twenty pilgrims were permitted to go on Hajj annually after 1917 from the entire Soviet Union,⁷⁸ more than 22,000 Russians made the pilgrimage in 2011.⁷⁹ (One was a hundred-ten year-old woman from the North Caucasus.)⁸⁰ It is estimated that close to a third of Russia’s 20.5 million Muslims have performed the Hajj more than once.⁸¹ Between 1992 and 2011, nearly 300,000 Russians went on Hajj,⁸² while the number of mosques in Russia increased from 90 to 7,000.⁸³ During the same period, the Russian government registered 96 domestic Muslim educational institutions, including seven universities, and started a national program for training Russian imams.⁸⁴ Moscow’s Muslim population has grown to nearly two million and the city boasts its own Muslim hospital.⁸⁵ Similar increases in mosques, adherence to Islam and school construction occurred in other former Soviet republics with large Muslim populations after 1992. It should come as no surprise that one of the Muslim world’s most important popular singers, Maher Zain, included Russian subtitles for his video released in March 2012, “*Number one for me*.”⁸⁶

Since reestablishing diplomatic relations in the 1990s, Moscow and Riyadh have cooperated in global energy markets and seen bilateral trade rise from \$89 million in 1999 to nearly \$1 billion in 2010.⁸⁷ In 1991, Riyadh provided Moscow with \$2.5 billion in assistance and forged close ties to Soviet Muslims, whose religious freedom had been a Saudi precondition to improved ties with Moscow.⁸⁸ Russian President Vladimir Putin visited Saudi Arabia in 2007, negotiated a substantial increase in the number of Russian Hajj pilgrims, and permitted members of the Russian security service to go on pilgrimage.⁸⁹ (His successor, President Dmitry Medvedev, secured a similar increase in the number of Russian Hajj pilgrims in 2011.)⁹⁰ There has also been renewed interest in the Soviet Union's relationship with Saudi Arabia during the interwar period. A multilingual book on Prince Faysal's 1932 visit to the Soviet Union was published in Saudi Arabia in 2002,⁹¹ and there have been conferences in Russia and other former Soviet republics on the relationship. An edited collection of Turakulov's papers from his days as a Soviet diplomat were published in Russian in Moscow in 2003.⁹² There has been even greater interest in Khakimov, who is the subject of a 2012 documentary movie in Russian, *Karim Khakimov: Kremlin's wazier in Arabia*.⁹³

This intense interest in the relationship, however, has coincided with a decline in bilateral ties that threatens to revive the tensions of the Cold War. Within the regional political dynamic that has emerged in the wake of the Arab Spring and tensions over Iran's nuclear program, Moscow and Riyadh are members of rival coalitions vying for power in the Middle East. Russia supports China, Iran and their regional allies. By contrast, Saudi Arabia backs the United States and its European and regional allies. Just as the Soviet Union and Saudi Arabia once supported opposing factions in Afghanistan, Yemen and other conflicts throughout the Cold War, Russia and the Saudi Arabia are now on opposite sides of many of the conflicts that have emerged from the Arab Spring. In Syria, Moscow has provided significant assistance to the government of President Bashar al-Assad, while Riyadh has provided moral and direct support to the rebellion that started in March 2011. Further inflaming bilateral tensions are allegations that militants linked to Saudi Arabia (often called "Wahhabis" in Russia) are seeking to convert the Muslim populations in the Caucasus to Islamic extremism and played a role in a series of attacks on Muslim religious officials in Russia, including those in June 2012 on the Mufti of Tatarstan and the top Muslim official in charge of education in Kazan, Valiulla Yakupov. Russian authorities are especially suspicious about the attack on Yakupov, who sought to ban Wahhabism within Russia before he was assassinated.⁹⁴

That said, it would be foolish for policy makers in the West and the wider Muslim world to dismiss the potential of ties between Saudi Arabia, Russia, and other former Soviet states. Not only have they maintained relations despite

the tensions over Syria and elsewhere of the last two years, but there are also cultural, historical, and religious linkages that transcend politics. What's more, it is helpful to remember the role that Muslim territories of the former Soviet Union, such as Turkmenistan, Uzbekistan, and Tajikistan, had in Muslim history after they were integrated into the Ummah in the seventh century. At that time, these territories were part of greater Khorasan, a frontier region of the Islamic world and an epicentre of a defining moment in Muslim and world history: the Abbasid Revolution. The revolution, which began in 750 C.E., destroyed the Umayyad dynasty in Damascus, saw the rise of the Abbasids and Baghdad, and established the principle that non-Arabs could be Muslims. The principle that Islam was not reserved solely for Arabs would be crucial to its subsequent growth and its status today as a global faith of over 1.5 billion Arabs and non-Arabs.⁹⁵

As Russian and non-Russian Muslim areas of the former Soviet Union are integrated into the global Muslim community for a second time, Saudi Arabia's ties with Russia and the rest of the former Soviet Union may finally fulfil the promise of the 1920s and 1930s. In coming years, Muslims there are poised to have an impact on Islam and human history which could surpass the wildest dreams of Khakimov and his Soviet colleagues when Prince Faysal arrived in Moscow in June 1932.

Observers concerned with shaping policy across the Muslim world as well as in Europe and North America may anticipate renewal of ties between the Kingdom and Russia as well as the former Soviet states, given the historical, political, and religious links binding their peoples. Muslim peoples of the newly independent states in particular may find, in their relations with the people of Saudi Arabia, a renewed connection with the Islamic heartland which their historical moment requires.

Beyond this, the rising profile of Russia's strategic interests as a foil to the fading weight of United States in the Arab World and the Middle East is evidence for the re-assertion of historical requirements and economic possibilities in a multi-polar context. Therefore pragmatic factors suggest the following:

- Exchanges between the Kingdom, Russia, and Muslim majority regimes of Central Asia should be reviewed in light of changing regional realities.
- Research, cultural and religious reciprocity, and historical and sociological collaboration should be promoted between Russia and the Kingdom, in order to promote the best interests of both nations in the context of the Muslim peoples in Russia.
- Mutual academic and policy institutions might be established as a mark of recognising these strategic shifts and preparing for future contingencies: Russian and Central Asian studies in the Kingdom, and Saudi and Gulf studies in Russia.

Notes

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1. The other visitor was the King of Afghanistan, who travelled to Moscow on March 30, 1928. It is worth noting that Faysal was not the first Arab leader to visit Russia. In 1901, the foreign minister of Morocco, Abdel Karim bin Suleiman, visited Moscow and St. Petersburg. His official itinerary was remarkably similar to that of Faysal's three decades later. For more on Suleiman's visit, see Paul du Quenoy, "Tidings from A Faraway East: The Russian Empire and Morocco," *International Historical Review* 33, no. 2 (June 2011): 185–203.
 2. Other Saudi officials who joined him were Saudi Deputy Foreign Minister Fuad Bey Hamza and Faysal's aide-de camp, Khalid al-Ayubi. Vitali Naumkin, *Emir Faisal in Russia, 1932: Dedicated to the 70th Anniversary of the Late King Faisal's Visit to Russia* (Riyadh: King Faisal Center for Research and Islamic Studies, 2002), 11.
 3. Joseph A. Kéchichian, *Faysal: Saudi Arabia's King for all Seasons* (Gainesville, FL: University Press of Florida, 2008), 35–36; David Holden and Richard Johns, *The House of Saud: The Rise and Rule of the Most Powerful Dynasty in the Arab World* (New York: Holt, Rinehart and Winston, 1981), 107–108; Badr Alkhorayef, "Faisal Laid Foundation of Strong Saudi-Russian Ties," *Arab News*, 7 May 2008, <http://archive.arabnews.com/?page=9§ion=0&article=109659&d=8&m=5&y=2008>; Felix Cole, Chargé d' Affaires, Riga to U.S. Secretary of State, "Visit to Moscow of delegation from the Kingdom of the Hejaz and Nejd and its Dependencies," 1932, no. 418, reprinted in *Documents on the History of Saudi Arabia*, ed. Ibrahim al-Rashid, in *Establishment of the Kingdom of Saudi Arabia under Ibn Saud, 1928–1935*, vol. 3 (Salisbury, NC: Documentary Publications, 1976), 220–225; "Prince of Hedjaz Greeted by Soviet," *New York Times*, 30 May 1932, p. 15, *Pro-Quest Historical New York Times* (web); "Red Troops March for Royal Visitor," *Washington Post*, 30 May 1932, p. 3, *Pro-Quest Historical Washington Post* (web).
 4. Kéchichian, *Faysal*, 35–36; Robert Lacey, *The Kingdom: Arabia and the House of Saud* (New York: Avon Books, 1981), 240–241.
 5. "Hejaz and Nejd Win Recognition by U.S.," *Washington Post*, 4 May 1931, p. 1, *Pro-Quest Historical Washington Post* (web).
 6. A good example of American views of Saudi Arabia in the 1920s is Clayson W. Aldridge, American Vice Consul in Charge of U.S. Consulate in Aden, Arabia to U.S. Secretary of State, "Growing Modernization of the Hedjaz," 23 January 1928, no. 38, reprinted in *Documents on the History of Saudi Arabia*, in *The Consolidation of Central Arabia Under Ibn Saud, 1925–1928*, vol. 2, 150–156.
 7. Holden and Johns, *The House of Saud*, 108.
 8. Mark Katz, "Saudi-Russian Relations in the Putin Era," *The Middle East Journal* 55, no. 4 (Autumn 2001): 604; and John Baldry, "Soviet Relations with Saudi Arabia and the Yemen 1917–1938," *Middle Eastern Studies* 20, no. 1 (January 1984): 74.
 9. The most recent substantial works on the subject were published in the 1970s and mid 1980s: Stephen Page, *The USSR and Arabia* (London: Central Asian Research Institute in association with Canadian Institute of International Affairs, 1971); Baldry, "Soviet Relations"; and Steven Katz, *Russia and Arabia: Soviet Foreign Policy toward the Arabian Peninsula* (Baltimore: Johns Hopkins University Press, 1986). Two other scholars who have written on Soviet relations with the Middle East and Saudi Arabia in particular are Robert O. Freedman and Andrej Kreutz. Good examples of their work are Robert O. Freedman, *Moscow and the Middle East: Soviet Policy since the Invasion of Afghanistan* (Cambridge: Cambridge University Press, 1991); and Andrej Kreutz, "Russia and the Arabian Peninsula," *Journal of Military and Strategic Studies* 7, no. 2 (Winter 2004): 1–58.

10. BBC Monitoring Former Soviet Union – Political Supplied by BBC Worldwide Monitoring, “Russian president meets Muslim clergy in Bashkortostan,” 23 November 2011, *LexisNexis Academic* (web).
11. Andrej Kreutz, *Russia in the Middle East: Friend or Foe* (Westport, CT and London: Praeger Security International, 2007), 123-124; and G.M. Yemeljanova, “Russia and Islam: The History and Prospects of a Relationship,” *Asian Affairs* 26, no. 3 (October 1995): 284.
12. Holden and Johns, *The House of Saud*, 97.
13. Baldry, “Soviet Relations,” 56.
14. Page, *The USSR and Arabia*, 15.
15. *Ibid.*
16. Jon Jacobson, *When the Soviet Union Entered World Politics* (Berkeley, CA: University of California Press, 1994), 181.
17. *Ibid.*
18. Kreutz, *Russia in the Middle East*, 124; and Page, *The USSR and Arabia*, 15.
19. It should be noted the diplomats were not the only Russians in Jeddah at the time. There was a pilot in the Hijazi air force named Shirokoff. He would remain in Jeddah well into the 1930s. Joshua Teitelbaum, *The Rise and Fall of the Hashemite Kingdom of Arabia* (New York: New York University Press, 2001), 49; and Baldry, “Soviet Relations,” 74.
20. Bullard to Chamberlain, E3518/2442/91, 18 May 1925, reprinted in *British Documents on Foreign Affairs: Reports and Papers from the Foreign Office Confidential Print*, eds. Kenneth Bourne and D. Cameron Watt, in *Part 2: From the First to the Second World War, Series B: Turkey, Iran, and the Middle East, 1918–1939*, ed. Robin Bidwell, in *The Expansion of Ibn Saud, 1922–1925*, vol. 4 (Bethesda, MD: University Publications of America, 1985), 287–289; Stonehewer-Bird to Chamberlain, no. 49, E3363/332/91, 9 April 1928, reprinted in *British Documents on Foreign Affairs*, in *Eastern Affairs, January 1928–June 1930*, vol. 6, 35–36.
21. Other European diplomats were not much more occupied much of the year either. A 1923 report written by the Lebanese-American author Ameen Rihani for U.S. diplomats observed that European consuls in Jeddah “have little to do...except in the pilgrim season.” Edward M. Groth, Consul in Charge, American Consulate in Beirut to U.S. Secretary of State, “Report on Arabia from Mr. Ameen Rihani,” 27 October 1923, no. 1188, reprinted in *Documents on the History of Saudi Arabia*, in *The Unification of Central Arabia Under Ibn Saud, 1909–1925*, vol. 1, 119–120; Bullard to Chamberlain, E3518/2442/91, reprinted in *British Documents on Foreign Affairs*, 289.
22. Kreutz, *Russia in the Middle East*, 124.
23. Bullard to Chamberlain, E3518/2442/91, reprinted in *British Documents on Foreign Affairs*, 287–289.
24. For a text of the document, see “Correspondence on the Question of the Recognition of the USSR of the Government of the King of the Hijaz, Nejd and Annexed Territories,” reprinted in *Documents on the History of Saudi Arabia*, vol. 3, 214–215.
25. Baldry, “Soviet Relations,” 60.
26. *Ibid.*
27. Page, *The USSR and Arabia*, 16.
28. Martin Kramer, *Islam Assembled: The Advent of the Muslim Congresses* (New York: Columbia University Press, 1985), 107 & 116–117.
29. *Ibid.*
30. Turakulov was more pious than his predecessor and was accompanied by his wife, a doctor from Samara. He spoke French, Arabic, and Turkish. Cole, “Visit to Moscow of delegation from the Kingdom of the Hejaz and Nejd and its Dependencies,” 223; and Kéchichian, *Faysal*, 36.
31. Baldry, “Soviet Relations,” 62.
32. Reprint of the Anglo-Hijazi Treaty in *The New Near East and India* (London, England), 27 September 1927, reprinted in *Documents on the History of Saudi Arabia*, vol. 2, 131.
33. Baldry, “Soviet Relations,” 62.
34. Those ties would become especially important in the 1940s when Indonesians achieved independence from the Dutch. Indonesian nationalists in Saudi Arabia agitated strongly for independence. The Saudi government, which knew that the Dutch government’s position in Indonesia and in the world had been substantially weakened by World War II, permitted the protests. A 1946 U.S. diplomatic

- cable observed: "In view of the sympathy of the Government [of Saudi Arabia] for the efforts of colonial people to obtain their independence, and particularly fellow Moslems, no obstacles were placed...against this propaganda." J. Rives Childs, Jidda, Saudi Arabia, to U.S. Department of State, "Prohibition of Political Propaganda in Saudi Arabia," 14 August 1946, no. 39, reprinted in *Saudi Arabia Enters the Modern World*, ed. Ibrahim al-Rashid (Salisbury, NC: Documentary Publications, 1980), pt. 2, vol. 5, 46.
35. Sugata Bose, *A Hundred Horizons: The Indian Ocean in the Age of Global Empire* (Cambridge: Harvard University Press, 2006), 204.
 36. Baldry, "Soviet Relations," 63.
 37. Ibid.
 38. Ibid.
 39. W.N. Walmsley, American Consulate, Aden, Arabia to U.S. Department of State, "Saudian Political and Financial Problems," 12 April 1933, no. 162 in *Documents on the History of Saudi Arabia*, vol. 3, 173.
 40. Ibid.
 41. Holden and Johns, *The House of Saud: The Rise and Rule of the Most Powerful Dynasty in the Arab World*, 107; and Sean Foley, *The Arab Gulf States: Beyond Oil and Islam* (Boulder, CO: Lynne Rienner Press, 2010), 24.
 42. Ibid.
 43. Foley, *The Arab Gulf States*, 22.
 44. Holden and Johns, *The House of Saud*, 108.
 45. Talal Nizameddin, *Russia and the Middle East: Towards a New Foreign Policy* (London: Hurst and Company, 1999), 185.
 46. Holden and Johns, *The House of Saud*, 107.
 47. Naumkin, *Emir Faisal in Russia*, 6.
 48. Other newspapers that covered the event were the *Leningrad Pravda* and the *Moscow Daily News*. Cole, "Visit to Moscow," 223–224.
 49. Naumkin, *Emir Faisal in Russia*, 16–22.
 50. Ibid., 22.
 51. Lacey, *The Kingdom: Arabia and the House of Saud*, 240.
 52. Ibid.
 53. Holden and Johns, *The House of Saud*, 108.
 54. Ibid.
 55. Naumkin, *Emir Faisal in Russia*, 7.
 56. Holden and Johns, *The House of Saud*, 108.
 57. Baldry, "Soviet Relations," 72–73.
 58. Ibid.
 59. For more on Great Britain's relationship to the Hajj, see Foley, *The Arab Gulf States*, 22–26.
 60. Walmsley, "Saudian Political and Financial Problems," 168.
 61. Ibid., 172.
 62. Bert Fish, U.S. Legation to Cairo, "Remarks of Mr. St. John Philby at Jedda," 9 March 1940, no. 2019, in *Saudi Arabia Enters the Modern World*, pt. 2, 35.
 63. Baldry, "Soviet Relations," 73.
 64. Ibid.
 65. Ibid., 74.
 66. Ibid., 75.
 67. James P. Piscatori, "Islamic Values and National Interest: The Foreign Policy of Saudi Arabia," in *Islam in Foreign Policy*, ed. Adeed Darwisha (Cambridge: Cambridge University Press, 1983), 37.
 68. C.L. Sulzberger, "Policy on Moslems Aids Soviet Union," *New York Times*, 15 January 1945, p. 3, *Pro-Quest Historical New York Times* (web).
 69. William Eddy, U.S. Minister to Saudi Arabia to Colonel Hoskins, Economic Consul, U.S. Legation to Cairo, and Loy W. Henderson, Chief, Division of Near Eastern and African Affairs, Department of States, "Conversation of Colonel Hoskins With King Abdul Aziz Bin Saud At Riyadh on July 2, 1945 at 9:00 A.M.," 11 July 1945, Jidda Saudi Arabia, reprinted in *Documents on the History of Saudi Arabia*, vol. 4, pt. 1, 253.

70. Ibid.
71. C.L. Sulzberger, "Soviet Oil Output Put At 60,000,000 tons," *New York Times*, 23 June 1947, p. 10, *Pro-Quest Historical New York Times*.
72. Foley, *The Arab Gulf States*, 38.
73. Ibid.
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75. "Depose the Tyrants," reprinted in *Messages to the World: The Statements of Osama Bin Laden*, ed. Bruce Lawrence and trans. James Howarth (New York: Verso Press, 2005), 251.
76. Ibid., 260.
77. For more on the video, see Sean Foley, "The Naqshbandiyya-Khalidiya, Islamic Sainthood, and Religion in Modern Times," *The Journal of World History* 19, no. 4 (2008): 541.
78. Michael Schwartz, "Putin Opens Mecca Path for Muslims," A9.
79. BBC Monitoring Former Soviet Union – Political Supplied by BBC Worldwide Monitoring, "Russian president meets Muslim clergy in Bashkortostan."
80. For more on this woman's story, see <http://www.rt.com/news/russian-centenarian-pilgrimage-hajj-875>.
81. Milena Faustova, "Russian Muslims ready for Hajj," *The Voice of Russia*, 28 October 2011, <http://english.ruvr.ru/2011/10/28/59517883.html>.
82. Mikhail A. Alexseev, "The Impact of the Hajj Pilgrimage in the North Caucasus," PONARS Eurasia Policy Memo No. 74 (2009), 1; and BBC Monitoring Former Soviet Union – Political Supplied by BBC Worldwide Monitoring, "Russian president meets Muslim clergy in Bashkortostan."
83. BBC Monitoring Former Soviet Union – Political Supplied by BBC Worldwide Monitoring, "Russian president meets Muslim clergy in Bashkortostan."
84. Ibid.
85. Schwartz, "Putin Opens Mecca Path for Muslims," A9.
86. For more on this video, go to <http://www.youtube.com/watch?v=f4J7-WR1QOY&feature=relmfu>.
87. BBC Monitoring Middle East – Political Supplied by BBC Worldwide Monitoring, "Saudi-Russia trade forum to open in Riyadh 12 June," 11 June 2012, *LexisNexis* (web); and International Monetary Fund, "Direction of Trade Statistics: Saudi Arabia," <http://elibrary-data.imf.org/FindDataReports.aspx?d=33061&e=170921>.
88. During the 1980s, Saudi Arabia had four preconditions for improved relations with the Soviet Union: 1) Soviet forces had to be withdrawn from Afghanistan, 2) the USSR and its allies must reduce their military presence in both South Yemen and Ethiopia, 3) the USSR must end all hostile propaganda against the Kingdom, 4) Soviet Muslims must be allowed greater freedom to practice their religion. Katz, *Russia and Arabia*, 138–139.
89. Schwartz, "Putin Opens Mecca Path for Muslims," A9.
90. BBC Monitoring Former Soviet Union – Political Supplied by BBC Worldwide Monitoring, "Russian president meets Muslim clergy in Bashkortostan."
91. Vitali Naumkin, *Emir Faisal in Russia*. The book is in Arabic and English and has newspaper articles and diplomatic documents in Arabic and Russian.
92. T.A. Mansurov, *Polpred Nazir Tiuriakulov: Diplomat, politic, grazhdanin* (Moscow: Real Press, 2003).
93. To see a brief clip of the movie, go to http://www.youtube.com/watch?v=cPH1yD3u_ec.
94. David M. Herszenhorn, "More Than a Dozen Die in 2 Attacks in a Russian Republic," *New York Times*, 29 August 2012, *LexisNexis Academic*; "Islamic scholar reportedly killed in Dagestan attack – source," *Russia & CIS General Newswire*, 28 August 2012, *LexisNexis Academic*; BBC Monitoring Former Soviet Union – Political Supplied by BBC Worldwide Monitoring, "Russian pundit expects backlash from attacks on Tatarstan religious leaders," 8 August 2012, *LexisNexis Academic*.
95. Nicholas Eberstadt and Apoorva Shah, "Fertility Decline in the Muslim World: A Veritable Sea-Change, Still Curiously Unnoticed," in *Population Dynamics in Muslim Countries: Assembling the Jigsaw Puzzle*, eds. Hans Groth and Alfonso Souza-Poza (London and New York: Springer, 2013), 12–13.

THE PITFALLS OF *RIBA* OR INTEREST-BASED FINANCING

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Abstract: Interest-based financing presents a number of pitfalls to individuals, business firms, as well as governments. Each of these pitfalls alone constitutes a compelling reason for abandoning this hazardous mode of financing and replacing it with financing on the basis of risk sharing, such as the *muḍarabah* and *mushārah*. The major pitfalls include the inherent inefficiency of lending at interest, the profoundly destabilising effects it has on economic activity, and the crippling indebtedness of nations, firms, as well as individuals that it brings about. The paper investigates these shortcomings, and recommends utilising risk sharing partnerships as a way of avoiding the pitfalls of interest-based financing.

Introduction

Financing is the process of funding personal, corporate, and government spending. It requires identifying and utilising a suitable method of raising funds. Invariably, in any financing arrangement, whether it is a loan or a business partnership, a transfer takes place from those with a surplus to those with a shortage of funds. Parties who are short of funds raise them from parties that have a surplus.

Funds can be obtained by borrowing or in the case of businesses, by means of profit- and loss-sharing contracts. When funds are supplied in the form of loans, the providers of capital are rewarded in the form of interest. When funds are raised by way of profit and loss sharing agreements, the suppliers of capital are rewarded with a share of the profits generated by the businesses they help to finance.

Financing by borrowing at interest presents a number of hazards—one might say pitfalls, to both lenders and borrowers. Some pitfalls arise in practice, others in theory. The pitfalls, especially those facing individual borrowers as well as society at large, are rarely highlighted in the literature on finance, conventional or Islamic. This paper highlights three pitfalls that arise in practice: a less efficient allocation of resources, economic instability, and personal, corporate and government indebtedness.¹ In addition, it highlights some pitfalls that arise in the theory of finance, in particular from the way certain terms, in particular “efficiency”, are used in the discourse of finance.

The point made in relation to the last pitfall is that to view financial markets, in particular credit markets, as having the capacity to ensure the efficient allocation of resources in the real sector markets is unwarranted. The incentives that ensure an efficient allocation of resources in the real markets (profits) simply do not exist in the financial markets. Trading activity in the financial markets is largely driven by incentives that reward the *transfer* of wealth rather than its *production*.² Rewarding unproductive activity, however, inevitably results in a significant waste or inefficient allocation of resources.³

The pitfalls of interest-based financing manifest themselves in a variety of ways and at different levels. In some cases, a given pitfall may appear in one form in one place and in another form in another place. Thus, an imbalance in a market in the form of a surplus or a shortage may appear as an instance of instability from one perspective, and at the same time as evidence of inefficiency from another perspective.

We address these pitfalls one by one and, where suitable, demonstrate how they relate to other pitfalls. We conclude by recommending phasing out financing at interest and replacing it with financing on the basis of profit and loss sharing. For profit and loss sharing enables a more efficient allocation of resources, brings greater stability, and also protects parties in need of financing from indebtedness. In general, financing by way of profit and loss sharing promotes sustainable and balanced economic growth over the longer term significantly more effectively than does financing by way of interest-based lending.

Inefficiency

Efficiency has both a narrow (microeconomic) and a broad (macroeconomic) meaning. In its microeconomic sense, efficiency signifies the ability of a firm to produce a good quality product at a low cost. Lower unit costs bring higher profits, assuming other factors remain constant. In so far as increasing efficiency enables businesses to increase profits, all businesses aim at realising efficiency.

In the macroeconomic sense, *efficiency is the ability of the economy to produce the maximum amount of wealth over a given period of time, utilising all of its resources, without giving rise to any persistent shortages or surpluses*.⁴ This means that whenever employment remains below full employment (there is a surplus of labour), or prices remain or become unstable (inflation takes place) a degree of inefficiency arises.⁵

Government policies at the macroeconomic level, like corporate policies at the microeconomic level, seek to establish and maintain a regulatory framework that is conducive to the realisation of efficiency. This requires setting up and

maintaining a structure of incentives that promotes efficiency at both levels.⁶ When the structure of incentives is such that it enables the realisation of efficiency, both the individual firm as well as the economic system can be expected to perform well, resulting in higher profitability, higher output, and a better standard of living.

When the system of incentives is distorted or flawed in some way, however, inefficiencies will occur. At the microeconomic level inefficiency will arise in the form of shortages and surpluses, while at the macroeconomic level it will take the form of inflation, unemployment and sluggish economic growth. Under such conditions, the economy will perform at below optimal levels, resulting in a lower standard of living. Thus, from the point of view of public policy, it is essential to ensure that the incentive structure is such as to reward real contribution to production, rather than different types of rent seeking, in particular rent in the form of interest.

Interest constitutes a poor incentive for ensuring efficiency in the allocation of resources since income “earned” by passive lending rather than by active participation in economic activity essentially rewards people for remaining idle or unproductive. With the legalisation of lending at interest, however, the incentive for remaining idle has effectively been institutionalised. However, the rising costs, personal as well as social, of interest-based financing make it clear that another look at this mode of financing is required to determine whether it indeed serves the interests of society as claimed by its supporters, rather than only those of a few wealthy lenders.

Remarkably, the institutionalisation of interest-based financing is routinely justified by the claim that it helps to allocate resources *efficiently*, supposedly by “rationing” capital *only* to businesses that are profitable enough to pay the price (interest) of capital demanded by financial institutions.⁷

While it is true that interest-based financing channels capital only to enterprises sufficiently profitable to pay the required rates of interest, the fact that capital comes at a price – a *minimum* price – also means that all businesses unable to pay this price will remain without loan financing. In particular, it excludes the SMEs, the small and medium sized businesses.⁸ The small, medium and start-up businesses, due to the intensely competitive environment in which they have to operate, often have razor-thin profit margins.

Since the profit margins tend to be the lowest in the most competitive industries, the requirement to pay interest for capital effectively disqualifies from loan financing precisely those firms that most deserve to receive it, i.e., the most competitive and efficient firms.

Consequences of Costly Capital

The fact that capital comes at a cost introduces inefficiency into every market within the economic system, starting with the capital market. As all markets depend on, or are linked to the financial sector in one way or another, the inefficiency that first arises in the capital markets eventually spreads to all other markets.

At the microeconomic level, inefficiency arises in the form of surpluses in the product and resource markets.⁹ At the macroeconomic level, inefficiency takes the form of inflation (rising cost of living and production), unemployment (waste of human resources), and slower economic growth (lower standard of living).

Evidence of inefficiency arises first in the financial markets in the form of a surplus of capital.¹⁰ What causes the surplus is the fact that capital comes at a price. A minimum price of capital causes a surplus of capital just as a minimum price of labour causes a surplus of workers (unemployment) in the labour market.¹¹

Inefficiency caused by the surplus of capital in the financial market then spreads to the product markets in the form of inflation, arising from the need to include the cost of financing in the prices of final goods and services.

Inflation, arising as a result of firms passing their interest expenses on to consumers in the form of higher prices, reduces the demand for goods and services. As a result of reduced aggregate demand, a surplus of unsold goods develops. The need to cut back production levels in response causes some workers to be laid off. This causes inefficiency in the labour market in the form of unemployment (surplus of labour).¹²

Rising unemployment in the labour market in turn worsens the surplus in the product markets. A decline in the disposable income of households, reduced as a result of a rise in unemployment, then causes an additional reduction in aggregate demand, spending and production.

Finally inefficiency in the product and labour markets brings a reduction in overall GDP growth rate. A decline in economic growth takes place as a result of a decline in sales caused by rising prices and a decrease in disposable income, caused by a rise in unemployment. Additional reduction of economic growth takes place as a result of the need to divert funds from spending towards the repayment of debt.

Inefficiency will also surface in the foreign sector. Inflation in the product markets makes exports more expensive and thereby causes a deficit on the current account (an excess of payments for imports over receipts from exports). Rising prices of local goods reduces exports and leads to an increase in demand for comparatively less expensive imports.

A deficit on the current account puts downward pressure on the value of the domestic currency and causes disequilibrium in the foreign exchange markets (a

surplus of local currency). The downward pressure on the local currency forces the central bank to raise interest rates. Higher interest rates, however, will attract inflows of funds on the capital account (which records cross-border flows of capital for purposes other than trading). This will cause a surplus on the capital account.¹³

Thus in all these ways, what was an initial inefficiency in the capital markets in the form of a surplus of funds caused by the “cost” of financing eventually begins to spread through all other markets and effectively destabilises the entire economic system.¹⁴

Reward and Performance

In principle, the inefficiency of interest-based financing arises from the fact that a lender is able to “earn” (interest) income without giving up anything of value in exchange to earn it, in other words without adding value.¹⁵

No businessman would pay a wage to a worker without expecting a palpable contribution to production. Yet an exception to this appears to take place in the lending of capital. Unlike everyone else, lenders are able to obtain (interest) income from borrowers without making any tangible contribution or effort to production.¹⁶

The amount of interest paid by borrowers to lenders is normally agreed upon, and sometimes fixed, in advance. This means that the amount of interest paid does not – and indeed cannot – depend on the efficiency or profitability of the enterprises lenders finance. There is effectively no link between the amount of interest paid to lenders and the profitability (efficiency) of the enterprises they finance.

The absence of the link between reward and performance, however, gives lenders little reason to invest capital in any enterprises that are more profitable (efficient) than what it takes to repay debt with interest. As long as an enterprise is able to repay debt and provide acceptable collateral, its relative efficiency is of little concern to the lender. Thus, lenders sometimes finance even projects with uncertain prospects of success.¹⁷

Examples of a waste of resources (or malinvestment as Hayek called it) attributable to interest-based lending abound. They include the surplus of properties financed by subprime mortgage in the US, as well as the surplus of properties in Dubai, likewise financed by borrowing. Yet despite clear evidence of the inefficiency of interest-based financing, few economists appear to question the suitability of lending at interest for ensuring the efficient allocation of resources.¹⁸

In contrast to interest-based lending, in financing by way of profit and loss sharing the rewards (profits) to the suppliers of capital (shareholders) are firmly linked, and indeed depend on, the efficiency (profitability) of the enterprises they finance. While shareholders may not participate on a day-to-day basis in

the affairs of the enterprises they finance, and therefore are not rewarded for any “work” performed for the company, their rewards depend of the performance of the businesses they finance.¹⁹

In lending, however, not only does the reward of the lender not depend on the lender’s productivity (as the lender, like the shareholder does not directly participate in production), it does not even depend on the productivity (profitability) of the enterprise the lender helps to finance. The reason is quite simple: the amount of interest paid to lenders cannot depend on the amount of profit earned since the quantum of interest paid to the lender is determined *in advance* and profits cannot be known in advance.

Investors in profit and loss sharing contracts face risks of losses, and this gives them a powerful market incentive to exercise due diligence in allocating their resources wisely, to the most efficient and profitable businesses. This holds true both before and after committing funds. Thus, only businesses with strong and credible prospects of success can expect to obtain financing. Businesses with limited prospects of commercial success will find it hard to attract funding, and this ensures a more efficient (less wasteful) allocation of resources.²⁰

A necessary condition for the realisation of efficiency is for reward to depend on performance (productivity). This is a central pillar of the free enterprise economy. The link between reward and effort ensures that payments to a factor of production, assuming other factors remain constant, depend on, and indeed are proportionate to its productivity (efficiency). Indeed, this is why workers paid on the basis of piecework tend to be more productive (and also earn higher incomes) than workers that are paid on a salaried basis, where no direct link between productivity and reward exists.

The inefficiency of interest-based financing can be overcome by utilising profit and loss sharing contracts, that reward only genuinely productive activity. This will also eliminate all other forms of inefficiency that arise in various markets, beginning with the capital market, as a result of the fact that capital comes at a cost.

Instability

The inefficiency of interest-based financing gives rise to various types of surpluses and shortages. Insofar as these represent market imbalances, they signify *instability*.

Stability is the capacity of a person, object or system to resist *change*. When we describe a person, object or a system as stable, we mean that the condition, position, or composition of the person, object or system is unlikely to change or change *easily*. Stable does not mean static, as change can take place in a stable way. Stability can be broadly contrasted with chaos.

Stability, or the absence of a propensity to change, takes many forms, including physical, psychological, or systemic. We speak of a stable aircraft, a stable person, or a stable system. This could be an economic system, a political system or an ecosystem. Different types of stability, such as economic and political stability, generally reinforce each other. In principle, a condition of stability is to be preferred to instability, although stability is not necessarily desirable for its own sake. A prisoner may be leading a stable existence; this does not mean, however, that a life in prison is desirable.

The Qur'an mentions "stability" (*qarar*), in the context of contrasting a good word with an evil word.²¹ Good and evil words are compared to trees. Each type of tree brings forth a different kind of fruit. An old adage says, "a tree is known by its fruit." A good word is like a tree that is firmly rooted or stable; the evil word, by contrast, "has no stability"²² and is likely to collapse at any time.²³ Following divine guidance is like having one's feet "planted firmly,"²⁴ and "grasping a firm handle-hold."²⁵

In general, instability is hazardous, as it brings many risks. Thus we speak of an unstable marriage or an unstable person. Political and economic instability are likewise to be avoided.²⁶ Islam enhances stability by means of both commands and prohibitions. It promotes stability by prohibiting destabilising practices such as gambling, consuming intoxicants, and "earning" *riba*. While gambling destabilises people financially, consuming intoxicating substances destabilises people physically as well as intellectually. Borrowing at interest destabilises individuals, businesses, and entire nations financially.

Islam also enhances stability by mandating practices that have a stabilising effect. These include performing prayers, paying *zakah* and fasting. Achieving and maintaining stability helps to realise the objectives (*maqasid*) of the Shariah: protection of life (arising from a reduction of crime), protection of the family (arising from preventing marriage breakdown), and the protection of property (arising from avoiding financial crises, indebtedness and bankruptcies).

At the macroeconomic (national and global levels), instability manifests itself in the form of business cycles. These are periods of accelerating growth followed by slow or negative growth and stagnation. Business cycles that become particularly severe are known as crises. In principle, instability in the interest-based system of financing arises from an increase in spending, made possible by borrowing, that is then followed by a reduction in spending, brought on by the need to repay debt with interest.

Historically, a number of business cycles stand out as having caused a great deal of hardship. These include the crisis of 1929-1933 (the Great Depression), the 1973 oil crisis, the commodities crisis of 1987, the currency crisis of 1997, the dotcom bust of 2001, and the global financial crisis that started in 2007 and

shows no signs of abating. These crises have taken, and continue to take, a heavy toll on people, businesses and entire nations.

Friedman, Hayek and other leading economists have observed that monetary policies of central banks, despite all good intentions, can cause a significant degree of instability. What is less frequently noted is that in the longer term, and in contrast to financing on the basis of profit and loss sharing, financing at interest causes *cyclical instability* regardless of whether central banks keep interest rates constant, or allow them to fluctuate with market conditions.

Instability caused by financing spending by means of borrowing takes place as follows: an expenditure of borrowed funds initially boosts aggregate demand (AD) in all categories, consumer, producer or government; an increase in spending causes a decline in inventories of finished products; an increase in sales triggers an increase in production, investment, and employment; additional resources, including human resources, are then engaged in the production process and economic growth accelerates.

Because of the increase in demand financed by the borrowed funds, however, prices in product and resources markets begin to rise. Thus, the first effect of financing spending by borrowing is inflation. Prices in product and resources markets rise because borrowing enables all sectors, e.g., households, firms, as well as governments, to claim a share of GDP that is larger than their current income and savings allow them to claim. Were consumers, producers and governments compelled to finance their spending out of savings or income, this inflation would not arise in the first place.

The increase in demand made possible by the ability to spend through borrowing well beyond the limits of one's savings and income, causes "asset bubbles," particularly in the property and the share markets. The rising prices of assets (which often serve as collateral for loans) encourage more lending and spending. Any increases in spending financed by credit will be magnified by the multiplier. This period of economic expansion, financed by spending borrowed funds, represents the "boom" stage in the business cycle.

After the initial surge in demand (caused by the expenditure of borrowed funds), rising prices as well as the need to repay debt begin to restrain spending. As the economy overheats, central banks raise interest rates, thereby restraining spending by making both consumer and business borrowing more expensive. In time a sufficiently large spike in interest rates will reverse the expansion process.²⁷ This will initiate the contraction stage of the business cycle.

The multiplier effect will again magnify the change—now a reduction—in spending. Reduced spending will cause a rise in inventories and trigger a reduction in production of goods and services. A decline in production reduces growth, investment, employment, as well as profits.

Some borrowers become unable to continue servicing their loans. Falling asset prices reduce the market value of the collateral pledged for loans. Bankruptcies, both personal and business, are likely to rise. This represents the “bust” phase of the business cycle. At this stage some investment projects are likely to be abandoned.²⁸

Thus, credit financing exacerbates business cycles by enabling increases in spending to take place, financed by borrowing, that are subsequently followed by decreases in spending, necessitated by the need to repay debt.

To make matters worse, since the amount that borrowers are obliged to repay is always higher, on account of interest, than what they borrowed initially, the overall reduction in spending during the repayment stage (leakages) will invariably be greater than any initial increase in spending (injections) during the growth phase.

Thus, whatever boost was given to economic activity by an initial expenditure of borrowed funds is *more than offset* by subsequent reductions in spending, necessitated by the need to repay debt *with interest*. *This means that the net effect on aggregate demand (and therefore on GDP) over the entire cycle of borrowing, spending, and repayment, can only be negative.*

Put differently, spending money borrowed at interest stimulates economic growth in the short run only by reducing it by a still greater amount in the long run. In this way, to finance spending through borrowing is only to thwart, rather than foster economic growth over the long term. Moreover, since spending and repayment of debt take place on a personal as well as the national level, the effects of changes in overall spending are felt far and wide.

Aggravating the downturn in economic activity is the absence of any guarantee that funds flowing back into the financial institutions in the form of repayments of loans with interest will be recycled into the real sector. Even if the funds are recycled, there is no guarantee that they will re-enter the real sector in a timely fashion or in the necessary amounts. A delay or shortfall in the recycling of such funds is likely to make the contraction worse.

Extending more debt, whether to private businesses or governments, merely postpones solving the underlying problem, and may in fact magnify it. The short-term solution is to write off all accumulated interest charges,²⁹ and even the principal amounts owed.³⁰

The long-term solution to the problem of instability caused by interest-based financing is to adopt profit and loss sharing as the preferred mode of financing. This would compel households as well as businesses to live within their means, without spending in excess of their means. Utilising profit and loss sharing would also relieve businesses and government of the need to pay interest and reduce the burden represented by the national debt on both current and future generations.

Indebtedness

Financing by way of borrowing obliges the borrower, whether a person, a firm or a government, to go into debt. Because it imposes a future obligation on the debtor, going into debt puts pressure on him to make good his promise to repay. This pressure increases with the amount owed and the interest rate charged.

Going into debt obliges borrowers to become beholden to creditors. Indebtedness places borrowers at the “service” of the creditors, for at least as long as it takes to repay (service) the debt. Thus, borrowing from the outset establishes a relationship of inequality between debtor and creditor. This is at odds with the teaching of Islam, which emphasises that at the level of dignity, human beings are all created equal. “We have bestowed dignity on the children of Adam,” says a well-known verse in the Qur’an.³¹

Debt presents risks not only to creditors but also to debtors. While the risks of lending to creditors are often highlighted, the same cannot be said about the risks to debtors. The risk to the lender, except in cases of collateralised lending, is that a borrower may fail to repay the debt or a part of it to the lender.³² The risk to the borrower is that he or she may suffer damage to his or her reputation as a result of inability to repay debt and possibly be blacklisted as a result.

Moreover, being in debt can turn into being trapped in debt, as a result of an increase in debt, from interest and compound interest charges added on top of the original loan. A debt trap is a condition of being in debt and unable to come out of it. Going into debt is easier than coming out of it, as the repayment of money borrowed at interest always exceeds the initial amount borrowed.³³

Going into debt enables people to by-pass the natural limits on spending (income and savings) and to spend, as well as live, beyond their means.³⁴ Problems arise when debtors are faced with the need to repay debt and find that they are unable to do so for some reason, such as a lower than expected income.³⁵

This holds true even when the loan is interest-free, but it is worse when the loan is made at interest. On what grounds would a person willingly expose himself to the risks presented by going into debt? The answer most likely has to do with need. People go into debt because they feel they have little other choice.

The amount of debt currently outstanding is unprecedented. At the same time, a small number of people (in particular shareholders of financial institutions) have amassed vast fortunes. A number of industrialised nations currently suffer from a debt “overhang.” The US owes \$ 15 trillion or 100 per cent of GDP.³⁶ Japan’s debt stands at 170 per cent of GDP (or 94 per cent if reserves of foreign exchange are taken into account).³⁷ The economic problems due to the need to repay debt with interest are worst in heavily indebted countries such as Greece, Spain and Ireland, all reeling under their debt burdens.

In the US, household debt amounts to \$3 trillion, on which \$300 billion of interest is paid yearly. Developing nations are not spared large debts. Mexico had massive debt problems in 1984-1985. A number of Latin American countries such as Argentina defaulted outright on their foreign debts. Given the number of personal and business bankruptcies in many countries, including the bankruptcies (sovereign default) and near bankruptcies of entire nations, the inability to repay debt with interest and “serial default” have become a fact of life. In many parts of the world, debt-restructurings have become common. Sovereign defaults (defaults by governments) are far more common than is generally realised.

The danger over the longer term is that as growing proportions of wages, profits, and tax revenues are diverted to repay debt, progressively less money remains available for spending on consumption, investment and the provision of essential public services.³⁸ In this way, the reduction in spending, caused by the need to repay debt with interest, reduces aggregate demand and therefore economic growth. This can result in a vicious spiral: first, taxes need to go up in order to repay debt.³⁹ Higher taxes, however, reduce consumption and investment. A reduction in consumption and investment spending slows down economic growth. A declining, stagnant or negative growth in turn means a decline in government tax revenue. A reduction in tax revenue worsens the (budget) deficit and makes it still harder to repay debt. Taxes may have to go up again, and the same cycle repeats itself.

Rogoff and Krugman refer to the current economic slowdown, the most pronounced since the Great Depression, as the Second Great Contraction.⁴⁰ In the two years after the 2008 subprime mortgage crisis, global GDP declined by 6 per cent. In many industrial countries, including the US and the UK, economic stagnation continues. Unemployment levels are high, especially among younger people. The need to divert tax revenue to repay debt is necessitating “austerity measures” and “belt-tightening.”

The solution to the problem of large and growing debts, public or private, lies in phasing out financing at interest and replacing it with financing on the basis of profit and loss sharing. This will leave all money earned in the form of wages, rents and profits within the real sector (the circular flow), and make it unnecessary to borrow it at a cost (interest) from the financial institutions in order to finance consumption, investment or government spending.

Analytical pitfalls

While a number of pitfalls arise in the *practice* of interest-based financing, other pitfalls may be found in the *discourse* of finance. Indeed, the latter pitfalls may well explain the former pitfalls.

The discourse of a given discipline provides the parameters within which analysis takes place. Depending on its comprehensiveness as well as ability to integrate new insights, academic discourse presents opportunities but may also impose limitations on what can be conceptualised. Thomas Kuhn had already noted some of the challenges in attempting to rehabilitate an existing paradigm (way of looking at things) or introduce a new one and the resistance one can expect from parties with an interest in maintaining the *status quo*.⁴¹

A lack of clarity in the understanding of key economic terms, or of the way key institutions work and relate to each other, may result in a flawed understanding of how the economic system functions. Analyses resting on a problematic articulation of the meaning of key terms (such as *riba*), institutions (such as markets), or incentives (such as profits) may cause a profound misunderstanding of the dynamics of economic activity. This can result in the adoption of policies that may turn out to be detrimental and even counterproductive over the longer term. Such policies do not serve the public interest (*maslahah*) but may on the contrary undermine it in unforeseen ways.

The pitfalls in the discourse of finance commonly take the form of unwarranted assumptions about the meaning of key expressions.⁴² One key term that has been affected in this way is “efficiency.”

In the real sector, the term efficient is applied to a worker, a business, or a system. It refers to the ability of a worker, a business or a system to generate new wealth in a way that minimises waste and maximises output (production). It is seldom applied to a market, except insofar as markets help in *assisting* to allocate resources efficiently.

In finance, however, the term efficiency is used differently. Unlike in economics, in finance the term efficient is applied almost exclusively to *markets*. The allocation of resources hardly ever gets a mention. Thus, in finance the term efficiency is not – at least not explicitly – applied to the way resources are allocated. The term efficiency is used in a narrow sense, where it is restricted to the ability of markets to determine prices accurately.

The view that financial markets are efficient in the sense that they determine prices accurately is known as the “efficient market hypothesis” (EMH). This hypothesis says that the market price of an asset always reflects its true value.⁴³ The efficient market hypothesis is part of the classical theory of economics, which sees markets as efficient not only in the way they determine prices but also in the way they allocate resources.

The fact that over the long term prices are determined accurately and resources allocated efficiently in the real sector does not yet mean, however, that the same can be expected to take place in the credit markets. One of the major fallacies in contemporary finance is to think that what markets can achieve in the real sector, they can also achieve in the credit sector.

Credit markets do not operate in the same way as real sector markets. Thus, just because real sector markets in the absence of market and regulatory failure are able to allocate resources efficiently, it does not follow that credit markets can do the same. In other words, the classical “efficient market hypothesis” still holds true, *but only for the real sector markets*, and even that only over the longer term, and not for credit markets.⁴⁴

Recent experience in fact has disproved not only the claim that financial markets determine prices of securities accurately in the financial sector,⁴⁵ but also that they ensure an efficient allocation of resources in the real sector. Evidence of inefficiency of the credit markets appears in the form of the massive quantity of resources that have been channelled (and wasted) in the construction of houses financed by subprime mortgages. This has also been seen in the overinvestment in the property sector that took place in Dubai, using similar debt-like instruments of financing.

The claim that credit markets are efficient, and the implication that they also help to allocate resources efficiently in the real sector, has facilitated the flow of large amounts of resources into wasteful uses. In order to prevent a similar waste in future, it has to be recognised that financial markets, in particular credit markets, do not operate in the same way as other markets, in particular real sector markets. The activities in the two types of markets are driven by radically different incentives, interest on the one hand and profits on the other. One incentive (profit) is conducive for ensuring that resources will be allocated efficiently. The other (interest income) is not.

When functioning in the absence of market and regulatory failure, real sector markets, the product and labour markets in particular, are efficient (over the longer term) both in the sense of determining prices accurately and in the sense of allocating resources efficiently. The same, however, cannot be said about the markets for credit (debt). These have proven themselves, in retrospect, to be inefficient in both ways.

The fundamental inefficiency of credit markets, as argued elsewhere in this paper, stems from the fact that capital comes at a cost. As long as capital comes at a cost, inefficiencies will persist. Thus, to eliminate the full range of inefficiencies caused by interest-based financing, a different mode of financing, in particular profit and loss sharing, needs to take its place. When this happens, the inefficiencies caused in the real sector by interest-based financing will be eliminated.

One may add that the ability of prices to determine prices accurately is only one of the conditions, even if an important one, of achieving macro-economic efficiency. For the latter to take place, other conditions need to be fulfilled. These include the need to ensure that resources flow into the *real economy* and that investment takes place in the *real sector*.

These conditions also include the need to implement a regulatory framework and a system of incentives that reward real investment (production of wealth) rather than unproductive speculation (transfer of wealth) such as takes place in the trading of securities in the financial markets.⁴⁶ The contemporary discourse of finance appears to be largely silent on these other conditions.

Above all there is the need to share investment risk. Risk constitutes a powerful incentive for exercising due diligence, a *sine qua non* of an efficient allocation of capital. It is the possibility (risk) of suffering losses, more than any other factor, that acts as a powerful incentive to investors to allocate resources carefully. Where investors feel there is little or no risk, they may commit resources on a scale greater than is justified by a more accurate assessment of risk.

Rather than seeking to devise ways of sharing risk, however, conventional finance, and to a worrying extent Islamic finance, has been seeking to *reduce* risk for lenders, if not completely eliminate it. The reduction of risk to lenders is accomplished simply by transferring it to borrowers.

The belief that risk could be eliminated by transferring it to borrowers or insurers turned out to be unfounded. The risk was transferred, but not eliminated. Moreover, third parties (such as AIG) to whom the risk was transferred turned out to be unable to bear it. In the end, the risk was transferred to the taxpayers.

The risk was overlooked in part because a great many of the investments were touted as collateralised, in particular the “collateralised debt obligations” (CDOs).⁴⁷ Thus, in a bizarre turn of events, the very securities – products of “financial innovation” – that were supposed to reduce the risks for investors not only did not protect investors from risks but in fact made investors more vulnerable to risk by giving them a false sense of security.

Investors who hedged their investment by purchasing credit default swaps to protect themselves against defaults of the CDOs fared no better, in so far as a number of companies that sold this “protection”, such as AIG, themselves did not hedge their own positions and went bankrupt precisely at a time when they were expected to save their counterparties from bankruptcy. Another factor that was overlooked was that while hedging devices might work in isolated cases of defaults, they would not work in the case of a default on a system wide basis.

The lesson to be drawn from this is that risk transfer neither fosters an efficient allocation of resources nor provides protection against risk. By contrast, risk sharing does both. It reduces risks to investors and fosters the efficient allocation of resources – at the same time.

The belief that financial markets, and in particular credit markets, are efficient is one of the major fallacies in the contemporary discourse of finance. The fallacy is due to the failure to differentiate between real sector markets and credit markets and the belief that credit markets operate in the same way as real sector markets do.

The failure to differentiate between the two types of markets is in turn due to the failure to understand how each type of market operates and how the incentives that drive it operate. In order to set finance on the right footing, a better understanding of markets and how they operate is therefore required.

By adopting a restricted meaning of efficiency as the ability of markers to determine prices, finance has effectively excluded macro-economic (social) consideration from its discourse. Thus, finance uses what may be thought of as a “privatised” notion of efficiency. Yet this “private” notion of efficiency appears to have not only entered, but even come to dominate, the public discourse on efficiency. A notion of efficiency that has been stripped of its social significance may serve private interest well. However, it is not clear how such a meaning can serve the public interest (*maslahah*).⁴⁸

Thus, there is a need to re-establish the link between the meaning of efficiency as it is understood in finance and how it is understood in the real sector, a link that has been severed in the new discourse and practice of finance. More specifically, the scope of the dominant meaning of efficiency needs to be broadened, to include social goals, such as an achieving stable prices, full employment and sustainable economic growth.⁴⁹

For this to happen, the understanding of efficiency needs to be rooted in the real sector because it is in the real sector that goods and services that meet social needs are produced. It is only on the basis of a broader understanding of efficiency that the macro-economic objectives of economic activity (social well being) can be comprehensively articulated and successfully implemented.

Conclusions and Recommendations

The basic inefficiency of interest-based lending, the various forms of instability it causes, and the large debts it has given rise to, constitute good reasons for phasing out this mode of financing and replacing it with a mode of financing that is more conducive to economic growth: profit and loss sharing.

Were interest-based financing to be replaced by financing on the basis of profit and loss sharing, the surplus of idle funds commonly found in financial systems that use interest-based financing could be overcome. Specifically, this surplus of funds could be used to finance investment in enterprises currently unable to earn sufficient profits to pay the rates of interest demanded. This would increase investment, reduce unemployment and stimulate economic growth, all at the same time.

In a system of financing on the basis of profit and loss sharing, the funds that previously flowed to financial institutions in the form of interest payments would now flow to the businesses in the form of profits and to workers on the form of

wages. This means that businesses would have more funds to invest from internal sources. They would no longer have to access funds at a cost and they would no longer have to pass interest expenses on to consumers in the form of higher prices. This would reduce inflation. Extra funds held by business in the form of retained earnings, combined with the higher disposable income of households, would boost aggregate demand and economic activity.

- Awareness needs to be created that interest-based financing, contrary to popular perception, is in fact inefficient and adversely impacts every sector by causing a range of inefficiencies in the economy.
- Awareness also needs to be created about the destabilising effects of interest-based financing, in particular, the link between this mode of financing and cyclical instability. This is a compelling reason for abandoning interest-based financing in favour of profit and loss sharing.
- The dangers of going into debt, personal as well as social, need to be widely publicised. Alternative methods of financing should be explored.
- The discourse of finance needs to be revisited to ensure that the terminology used reflects the economy of the real sector and that key drivers (incentives) of economic activity are properly understood.
- Interest-based financing needs to be phased out and replaced with financing on the basis of profit and loss sharing.

Notes

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- 1. Other pitfalls include inflation, unemployment, a reduced economic growth over the long term and an inequitable distribution of wealth. These have been addressed at some length in the writer's "The Causes of the Debt Crisis: Interest-based Financing," *Islam and Civilisational Renewal* 3, no. 4 (July 2012), 679-702.
- 2. These incentives take the forms of commissions and fees on trades of existing stocks and bonds (debt) or issues of new securities.
- 3. "The top employees of the five largest investment banks divided a bonus pool of over \$36 billion in 2007." Kenneth S. Rogoff and Carmen M. Reinhart, *This Time is Different* (Princeton and Oxford: Princeton University Press, 2009), 210.
- 4. James D. Thexton, *Economics* (Canada: Oxford University Press, 1992), 43.
- 5. The two types of efficiency are related. Reducing the cost of inputs (a gain in efficiency at the microeconomic level) makes it possible to increase overall output (a gain in efficiency at the macroeconomic level).
- 6. Muhammad Nejatullah Siddiqi, *Banking Without Interest* (Leicester UK: Islamic Foundation, 1983), 163.
- 7. Commission of the European Communities, "Economic Benefits from Financial Integration," *Green Paper on Financial Services Policy (2005-2010)*, Annex 1 Section 1, available online at

http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0177en01.pdf (accessed on 13 October 2012).

8. It has been widely documented that the SMEs also provide the largest number of jobs. Leaving them without funding can only make unemployment worse.
9. While Henry VIII did not formally legalise interest in England until 1545, the practice of charging interest on loans was already widespread, despite being technically illegal. "For about one hundred years, from the early 1500s until the early 1600s, consumer prices in England increased relentlessly. Throughout this period, the prices of food, fuel and clothing advanced five-fold." Jeffrey B. Little and Lucien Rhodes, *Understanding Wall Street* (PA: Liberty Hall Press, 1991, 3rd ed.), 164.
10. As a consequence, the level of savings (S) will be higher than the level of investment (I). Iraj Toutouchian, *Islamic Money and Banking: Integrating Money in Capital Theory*, available online at <http://www.toutouchian.com/books.htm> (accessed on 22 October 2012), 3.
11. Umer M. Chapra, *Islam and Economic Development* (Islamabad, Pakistan: International Institute of Islamic Thought and Islamic Research Institute, 1993), 7-8.
12. The fact that financial institutions pay interest to depositors, however small, acts as a disincentive to parties with surplus capital to invest their funds for profit. Saving rates which exceed the profits rates of marginally profitable enterprises will thus draw capital away from investment in the real economy into the financial sector.
13. This is indeed what has been taking place for some time now in the US, which has been experiencing large deficits on its current account and large surpluses on its capital account. The US has been importing cheaper goods from nations such as China (thus worsening the deficit on the current account) and at the same time borrowing from them (thus worsening the surplus on the capital account). At the same time, the sales of local goods have been languishing (causing more unemployment in the US) due to their relatively high prices. The amount of US debt held by China has been estimated to exceed US \$ 1 trillion.
14. "Instability originating in the financial sector spreads to the real sector affecting balance of payments, employment, production and living standards." Mohammad Nejatullah Siddiqi, "Islamic Banking and Finance in Theory and Practice: A Survey of State of the Art," *Islamic Economic Studies* 13, no. 2 (February 2006), available online at http://79.132.221.61/files/takmili/islamic_econ/islamic_banking/vol_13_2..m_n_siddiqi..isl_banking_and_finance...pdf (accessed on 29 October 2012), 6.
16. We cannot say that the lender gives up the money he lends in exchange, because this money is returned to him when the loan is repaid. At best, the lender gives up the money "for a time." In this case, interest could be viewed as "rent" for the use of the money. But this leaves the problem of paying rent for something that is in itself useless unresolved.
17. The fact that lenders can earn income without giving up any counter value resembles receiving charitable donations. The difference is that donations are made to persons on account of their poverty, while interest payments are made to lenders on account of their wealth, as only wealthy persons are in a position to lend.
18. According to Christopher Bliss, as reported by Robert Skidelsky, "bankers provide credit to investment projects they have only very limited information about." Robert Skidelsky and Christian Westerlind Wigstrom (eds.), *The Economic Crisis and the State of Economics* (New York: Palgrave Macmillan, 2010), 4.
19. Some economists, including Muslims, appear to subscribe to the view that "there is no such thing as finance without interest." Mahmoud A. El-Gamal, *Islamic Finance: Law, Economics, and Practice* (Cambridge UK: Cambridge University Press, 2006), 26.
20. Shareholders exert an influence over the management (boards of directors) during the annual general meetings of shareholders (AGMs), where they have the power to elect or dismiss directors from the boards of directors (who in turn appoint the chief executives of the company), and thereby exercise a degree of control over company policy. Lenders as a rule have no comparable control over the companies they finance, unless they also become shareholders, as is the case with some financial institutions in Germany who also buy shares in the companies they finance by way of loans.
21. Siddiqi, "Islamic Banking and Finance in Theory and Practice," 6.
22. Qur'an, 14:24-26.
23. Qur'an, 14: 26.
24. Cf. Qur'an, 9:109.

25. Qur'an, 47:7.
26. Qur'an, 2:256.
27. Naomi Klein, *The Shock Doctrine* (UK: Penguin Books, 2007), 424.
28. "The typical story of past recessions is that a booming economy displays increasing indications of inflation. Central banks raise interest rates, bubbles burst, and economies go into recession." Christopher Bliss, "Globalization and the Current Crisis," in: Skidelsky and Wigstrom (eds.), *The Economic Crisis and the State of Economics*, 67.
29. "In raising the rate of interest to liquidate inflation banks curtail the credit needed to complete the investment projects so investment collapses, and the economy contracts." Skidelsky in *The Economic Crisis and the State of Economics*, 8.
30. Qur'an, 2:278.
31. Qur'an, 2:280.
32. Qur'an, 17:70.
33. In the US Federal Reserve Chairman Paul Volcker allowed interest rates to increase dramatically in the 1980s. They peaked in 1981 at 21 per cent. This led to a wave of bankruptcies, and "in 1983 the number of people who defaulted on their mortgages tripled." Klein, *Shock Doctrine*, 159.
34. Inability to repay debt or default is sometimes presented as "debt intolerance". See Kenneth S. Rogoff and Carmen M. Reinhart, *This Time is Different* (Princeton and Oxford: Princeton University Press, 2009), 21-33.
35. "Credit creation by the banking system produces overinvestment in relation to voluntary saving." Skidelsky in *The Economic Crisis and the State of Economics*, 8.
36. "What is certainly clear is that again and again, countries, banks, individuals, and firms take on excessive debt in good times without enough awareness of the risks that will follow when the inevitable recession hits." Rogoff and Reinhart, *This Time is Different*, xxxiii.
37. Approximately half of this debt is owed to foreign lenders, mainly China, Japan, and other countries. Ellen Hodgson Brown, *Web of Debt* (Baton Rouge LA: Third Millennium Press, 2008), 368.
38. In the US public infrastructure is showing visible signs of deterioration, as there are not enough tax dollars to pay for repairs. A major reason for the shortage of funds is the massive diversion of tax revenue towards the payment of interest on government loans.
39. According to one study authorised by the US Treasury in 2001, in order for the US government to continue servicing its national debt as it has been doing in the past, personal income taxes would have to increase up to 65 per cent by 2013 just to pay the interest charges on the US national debt. Brown, *Web of Debt*, 368.
40. The first contraction is the Great Depression. Rogoff and Reinhart, *This Time is Different*, xxix.
41. Thomas Kuhn, *The Structure of Scientific Revolutions* (Chicago IL: University of Chicago Press, 1996, 3rd ed.).
42. Gail T. Fairhurst, *The Power of Framing: Creating the Language of Leadership* (San Francisco CA: John Wiley & Sons, 2011), xiv.
43. John Kay, "Knowledge in Economics," in *The Economic Crisis and the State of Economics*, 91-92.
44. As noted earlier, we consider the share market to be a real sector market, as share certificates – unlike debt instruments – represent the ownership of real assets.
45. Even the claim that markets are efficient in the limited sense of determining prices accurately has not remained unchallenged. Apart from the dramatic declines in the prices of the collateralised debt obligations (CDOs), essentially bundles of mortgages and other loans, another example of an inaccurate market valuation of assets is provided by the collapse of asset prices in Japan, in 1987. As a deluge of selling of securities took place on 19 October 1987 in Japan, "investors woke up to the massive overvaluation of assets." Ann Pettifor, *The Coming First World Debt Crisis* (New York: Palgrave Macmillan, 2006), 152.
46. These other conditions include specifying what is and what is not permitted in commercial activity. Rules should have as their objective the provision of incentives to reward productive activity and disincentives to discourage wasteful activity.
47. Collateral is an asset that is perceived to eliminate risk for the lender.
48. Mohammad Hashim Kamali, *Islamic Commercial Law* (Kuala Lumpur: Ilmiah Publishers, 2002), xx-xxi.
49. In America, currently the top 1 per cent of population owns 40 per cent of the nation's wealth. Joseph E. Stiglitz, *The Price of Inequality: How Today's Divided Society Endangers Our Future* (New York and London: W. W. Norton & Company, 2012), xi.

PROSPECTS OF A *SHARĪAH* AUDIT FRAMEWORK FOR ISLAMIC FINANCIAL INSTITUTIONS IN MALAYSIA

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Abstract: The need to be in conformity with religious and ethical principles, or to be *Sharīah* compliant, is the unique and distinctive feature of Islamic finance which sets it apart from its conventional counterpart. Islamic financial institutions (IFIs) are to be audited not only on financial performances but also on their adherence to *Sharīah* precepts, including broader ethical and moral parameters. Currently there is no proper framework to govern the practice of internal *Sharīah* auditing in IFIs. The recently issued Central Bank of Malaysia's *Sharīah* Governance Framework (CBM-SGF) has made it compulsory for IFIs to perform a regular internal audit of transactions, operations and information systems particularly at the product implementation stage to ensure a comprehensive compliance with *Sharīah*. This has posed a challenge to Islamic banks and Takaful companies, to develop their own internal *Sharīah* audit architecture and to train a new breed of internal auditors in the science and ethics of *Sharīah* audit based on generalised guidelines under the new directive. This paper highlights persistent problems relating to inadequate auditing at the business operations level and prevailing issues in *Sharīah* audit. Recommendations are made for the industry to adopt a common internal *Sharīah* audit framework as a move towards standardisation and uniformity of audit practice.

Introduction

Malaysia has a parallel system of banking and insurance with two separate laws and regulations for Islamic finance and conventional systems. Under this dual model system, Islamic institutions offering financial services have to grapple with the challenge of competing with conventional institutions for commercial profits whilst having to distinguish themselves from conventional practices through Islamic ethics and religious precepts. Islamic financial institutions (IFIs) need to continually maintain a balance between securing the confidence of ethically conscious stakeholders who require assurance on the compliance of their products and operations with *Sharīah* and providing a commercially viable Islamic alternative to investors seeking to diversify their investment portfolio.

This raises the need to develop an effective internal *Sharī'ah* audit mechanism and governance to give the necessary assurance that the products, operations and information systems of IFIs are in fact *Sharī'ah* compliant.

The Islamic finance industry in Malaysia is “government-driven” where regulators are reputed to be proactive in its supervisory and oversight role. The new Central Banking Act of Malaysia 2009, for instance, was designed to enhance the Bank’s board of directors’ role to cover a wider oversight responsibility over risk, audit and governance with a commitment to greater harmonisation of practice. The Shariah Advisory Council (SAC) as part of this central regulatory body is also charged with the responsibility of standardisation¹ of *Sharī'ah* practices within its jurisdictions through the ex-ante scrutiny and ex-post monitoring of *Sharī'ah* compliance. In 2011, more changes were made by the Central Bank of Malaysia when the enterprise-wide *Sharī'ah* Governance Framework (CBM-SGF)² was introduced for implementation by Islamic banks and Takaful (Islamic insurance) companies for effective governance on *Sharī'ah* compliance.

At the industry level, the two-tier structure consisting of a centralised *Sharī'ah* advisory body (the Shariah Advisory Council³ or SAC) and the internal body of *Sharī'ah* scholars or *Sharī'ah* Committee (SC) is instituted to ensure that the overall Islamic financial system in Malaysia operates in accordance with *Sharī'ah* principles. At the operations level, Islamic banks and Takaful companies in Malaysia are legally required to have in place a unique two stage review of *Sharī'ah* compliance through in-house *Sharī'ah* scholars⁴: firstly, to get the initial approval/clearance from a *Sharī'ah* committee on the *Sharī'ah* compliance with all its products and instruments (referred to as ex-ante compliance) and secondly, at the second level (or ex-post compliance), to give assurances to stakeholders and consumers that their products, processes and activities are in fact in conformity with the religious/legal verdicts or fatwas of the *Sharī'ah* Committee and the objectives of the *Sharī'ah*.

Principle 7 of Section VI of the CBM-SGF clearly states that “*there shall be a robust Shariah compliance function, comprising review and audit functions, supported by risk management control process and internal research capacity.*”⁵ Since the implementation of this new framework in 2011, IFIs in Malaysia must have review functions that continuously monitor *Sharī'ah* compliance of their operations. They must also have annual *Sharī'ah* audits which would provide an independent assessment of compliance with established policies. The senior management is responsible for ensuring that all submissions to the *Sharī'ah* committee are adequately researched and supported by a thorough study of the *Sharī'ah* issues for product structuring and documentation. *Sharī'ah* advisors (as auditors) have a greater responsibility to ensure the implementation of decisions involving Islamic law and to inform the bank of any *Sharī'ah* non-

compliance issues that need to be addressed. The Board in having an overall *Shari'ah* oversight of IFIs must recognise the independence of their in-house *Shari'ah* advisors, although the latter are remunerated by them. In this respect, the role of the IFI's board, the *Shari'ah* Committee, and the management in relation to *Shari'ah* matters has been enhanced to execute *Shari'ah* compliance, and together with the creation of internal review and audit functions supported by risk management and *Shari'ah* research functions, it is aimed at advancing a *Shari'ah*-based operating environment.

The guidelines provided by the CBM-SGF are intended to tighten *Shari'ah* compliance within Islamic banks and Takaful companies, including strengthening the *Shari'ah* governance and decision-making process, raising *Shari'ah* advisers' accountability and independence, and requiring audits on banks and Takaful companies. As IFIs have been given a sufficient timeline to implement the CBM-SGF by June 2011, it is safe to presume that by now all Islamic banks and Takaful companies would have organised their audit mechanisms, internal control procedures and oversight personnel to ensure effective *Shari'ah* governance based on the regulators' directives, as failure to do so would constitute non-compliance with CBM's directives. The incentive for IFIs to comply with *Shari'ah* and the robust regulatory requirements under CBM-SGF would be to avoid operational and systemic risks whilst remaining relevant as a viable alternative to conventional banks and Takaful companies.

Across the border within the GCC countries,⁶ the *Shari'ah* governance model of Bahrain, Kuwait, UAE and Qatar (with the exception of Saudi Arabia and Oman) is based on a "minimalist approach", where the regulatory authorities expect IFIs to have proper *Shari'ah* governance system without specifying the requirements in detail.⁷ This is in contrast with Malaysia, which takes on a "pro-active" or regulatory-based approach in strengthening its *Shari'ah* governance framework and hence the requirement by CBM for IFIs in Malaysia to adopt the comprehensive SGF Model, where a greater role is given to internal auditing to ensure the effectiveness and integrity of control procedures and information systems, with competent personnel performing the audit and review. Saudi Arabia is the only GCC country that adopts a passive approach where the existing *Shari'ah* governance system as practiced by IFIs is not dependent on any legal and supervisory requirements but rather is left to the IFIs as a voluntary initiative – to come up with their own system of self governance or self regulation under indirect influence of the market.⁸

The Al-Rajhi model illustrates the self-regulated approach. The appointment of its *Shari'ah* board is made by the General Assembly or at the Annual General Meeting of shareholders and not by the Board of Directors. This makes the *Shari'ah* board independent of all organs of governance such as the management

and board of directors. Since there is no standard guideline of *Sharī'ah* governance issued by the regulatory authority, the Al-Rajhi has passed its own *Sharī'ah* guidelines and procedures known as the Shariah Monitoring Guide and Shariah Control Guidelines to ensure proper monitoring and an implementation system of *Sharī'ah* rulings, (Zulkifli Hasan, 2010).

Oman as a new entrant in the Islamic finance industry is reported⁹ to be opting for the decentralised or minimalist approach rather than the centralised Malaysian model to ensure *Sharī'ah* compliance. There will be no single, commonly accepted *Sharī'ah* board overseeing the industry nor creation of a centralised *Sharī'ah* supervisory board like the SAC of Malaysia.¹⁰ Each bank will establish its own *Sharī'ah* board, as urged by Central Bank of Oman recently in its Islamic banking circular. As in Malaysia, the standards of the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI)¹¹ will be used as guidelines; they will not be made compulsory. It is anticipated that there will be various combinations of standards from international and local standard-setters before a unique model for Islamic banks in Oman is created. Kuwait also uses the AAOIFI's *Sharī'ah* standards as guidelines.

Bahrain, Dubai and Qatar favour the adoption of the AAOIFI Audit and Governance standards.¹² For instance, in Dubai, section 5.3 of the Islamic Financial Business Module (ISF)¹³ requires its IFIs to conduct internal *Sharī'ah* review in accordance with the AAOIFI Governance Standards No. 3, and IFIs must ensure that the internal *Sharī'ah* review is performed by the internal audit function or the compliance function either as part of the existing internal audit or compliance department, or as an independent internal *Sharī'ah* audit department of the IFIs. The challenge faced by IFIs in Malaysia in this respect is whether the internal *Sharī'ah* audit should be organised as a stand-alone and independent department, where the industry may seek specific requirements from CBM in an organised manner to regulate the functions and profession of internal auditing based on *Sharī'ah* precepts.

Statement of Problem

Issues that are unsatisfactorily addressed of *Sharī'ah* non-compliance at the ex-post or product implementation stage are one of many persistent problems faced by IFIs (Abdallah, 1994; Besar, 2009). This is evidenced by the frequency and number of cases that were litigated, showing a deviation from *Sharī'ah* standards and fatwas of the Shariah Committees.¹⁴ Such non-compliance was attributed to the absence of a proper auditing process or to rarely conducted audits, or to very few institutions undertaking any ex-post *Sharī'ah* compliance process (Abdul Rahim, 2009). The Shariah committee report lacks the depth to provide

assurance: it is merely an endorsement of compliance and not a robust scrutiny of the effectiveness of internal controls. Because of the lack of a comprehensive and regular auditing process, there were rampant instances of “form over substance” compliance as shown in the competitive and sometimes irresponsible behaviour of certain IFIs, where “*Sharīʿah* compliance” was used merely as a label or marketing gimmick for commercial motives, compromising the ethical and religious standards of Islamic transactions. The above problems show the importance of developing a proper and comprehensive internal *Sharīʿah* audit framework for IFIs and for CBM to provide a common internal *Sharīʿah* audit framework for Islamic banks and Takaful companies separately for consistency of practice.

Significance of Shariah Audit and the Central Bank Of Malaysia’s Guidelines under the Shariah Governance Framework (Cbm-Sgf)

As *Sharīʿah* audit is still in its infancy, it has to be understood first from the CBM’s perspectives and long-term objectives, as covered under the CBM-SGF. Before defining *Sharīʿah* audit, it is important to know the meaning of *Sharīʿah* compliance and the need for IFIs to comply with *Sharīʿah* in order to appreciate the significance of undertaking a religious or Islamic audit. According to the World Bank Policy Research Paper, “conducting activities in accordance with *Sharīʿah* entails that the institution pledges: (i) not to engage in interest-based debt transactions; (ii) not to conduct pure financial transactions disconnected from real economic activity; (iii) not to participate in transactions where there is exploitation of any party, and (iv) not to participate in activities regarded as harmful to society.”¹⁵ *Sharīʿah* is defined here as Islamic law extracted from the Qur’an and *Sunnah* and *Ijma’* (consensus decision). Research findings also show that the majority of respondents want a more comprehensive view of *Sharīʿah* in line with the need for public accountability of larger institutions.¹⁶

As a relatively new discipline, there was no widely accepted definition as to what *Sharīʿah* audit really means. The words “review” and “audit” were used interchangeably, causing confusion in the industry as to what standard is to be used for each level of assurance. To overcome the diversity in meanings, a distinction was made by the CBM-SGF on the *Sharīʿah* review function, which refers to a “regular assessment on *Sharīʿah* compliance in the activities and operations of the IFI by qualified *Sharīʿah* officers, with the objective of ensuring that the activities and operations carried out by the IFIs do not contravene the *Sharīʿah*”.¹⁷ The *Sharīʿah* audit function on the other hand involves “the periodical assessment conducted from time to time, to provide an independent assessment and objective assurance designed to add value and improve the degree of compliance in relation

to the IFIs business operations, with the main objective of ensuring a sound and effective *internal control* system for *Sharīah* compliance”. This distinction helped to bring about clarity and consistency in the definitions and the distinctive roles to be played by reviewers and auditors.

The CBM-SGF further elaborates that the function shall be performed by internal auditors¹⁸ who may engage the expertise of IFI’s *Sharīah* officers in performing the audit, “as long as the objectivity of the audit is not compromised”. It can be inferred here that internal auditors’ consultation with *Sharīah* department is permissible in the interim *Sharīah* compliance period before a fuller compliance is achieved in all areas. What is anticipated to be the strategy of CBM is that as internal *Sharīah* audit progresses towards a greater uniformity in audit practice and governed by a centralised regulation of the professional practice, a new breed of Islamic auditors will facilitate the advancement towards the regulator’s envisioned standard of a *Sharīah* -based operating environment. This will complete the process of institutionalisation of *Sharīah* within IFIs as envisaged by ISRA (Akram Laldin, 2009).¹⁹

On the scope of *Sharīah* audit, the CBM-SGF guidelines provide an extensive coverage to encompass all aspects of the IFIs business operations and activities, including (1) audit of financial statements of the IFIs; (2) compliance audit on organisational structure, people, process and information technology application systems; and (3) review of the adequacy of the *Sharīah* governance process. It is now compulsory for Islamic financial institutions to ensure *Sharīah* compliance at all stages of its business activities: from product development, documentation, operations, human resource development to a transparent and technology-enabled information systems including IT, which will prepare the ground for a robust internal *Sharīah* audit.

To complete the end-to-end compliance, what should also be reviewed is a dispute-resolution mechanism that can assure customers of the enforceability of Islamic finance contracts in any jurisdiction, as *Sharīah* law must be the governing law to settle disputes that revolve around Islamic law and ethics.

How is Shariah Audit different from Conventional Audit?

Sharīah compliance audit is different from a conventional audit as the former is intended to be very broad and includes ethics, religious requirements (*ibadah*) and the science of business transactions (*fiqh muamalat*), (Shahul, 2009).²⁰ It was argued that the role of the conventional auditor in a capitalist framework is one that is solely accountable to the management and shareholders of the company focusing on financial matters, whilst the role of the auditor in an Islamic economy is wider, as *Sharīah* auditors are responsible to the society at large and

are required to uphold Islamic principles (Khan, 1985). This may be so in theory: studies conducted by Nawal (2009) show a gap existing between the “desirable” and the “current” practice of *Sharīʿah* auditing in the IFIs of Malaysia. It will be one of the concerns of this study to highlight the reasons for inadequate auditing at the ex-post stage (the “functional gaps”) and the flaws in the existing internal audit system to perform *Sharīʿah* audit.

The other significant difference is that *Sharīʿah* auditors and internal reviewers have an added layer of religious accountability, and while assessing the *Sharīʿah* adherence of an entity’s financial statements, they are additionally expected to carry out their main religious responsibility of “*amr bil ma’rūf wa nahi ‘an al-munkar*” (enjoining the proper and forbidding the improper). This means that all audit dimensions or parameters designed to evaluate *Sharīʿah* compliance must have the spiritual ingredient of God consciousness, that is, a fear of sanctions in the hereafter for not complying with *Sharīʿah*. Due to the religious requirements prescribed for Muslims under *Sharīʿah* law implicit in the objectives of the *Sharīʿah*, it can be inferred that to undertake the role of religious audit, the auditors and reviewers are required to be Muslims, in order to give the certification on permissible (*halal*) financing. This is comparable to issuing of *halal* certification by relevant religious authorities for food and pharmaceuticals, and of religious edicts/decrees (fatwas) of *Sharīʿah* advisors, who likewise must first of all be Muslims. The system of auditing and accounting can be referred to the practices in the early Islamic era where *hisba*, meaning “to account”, “to compute” and “to measure,” was expected to be carried out by a group of supervisors known as *muhtasib* who were appointed to ascertain whether the operation of the market or bazaars complied with the *Sharīʿah* principles (Mirakhor, 2000).

Thus *Sharīʿah* audit, at least theoretically and until the discipline has fully evolved, is different from conventional audit as the former not only involves a systematic process of obtaining sufficient and appropriate evidence but also evaluates whether the wider dimensions of social, economic, religious, environmental and ethical objectives are met by Islamic financial institutions. In conventional auditing, criteria used to assess compliance are restricted to giving an opinion on the truth and fairness or veracity of the financial statements of corporations, to discover the maximum profits for shareholders. Such a narrow focus was proven insufficient to detect the unethical practices of creative auditing in corporate scandals such as in the case of Enron, which might not have slipped under the radar if the criteria were expanded to include other dimensions instead of just GAAP.²¹

The table below is a summary of the differences between Islamic Auditing and Conventional Auditing as viewed from each of the five dimensions/elements:

Table 1 Comparison Table between Islamic Auditing and
Conventional Auditing²²

Element	Conventional Audit	Islamic Audit
3 party relationship	Entity, auditor, user	Entity, auditor and <i>broad</i> er range of users
Appropriate subject-matter	Financial statement assertions: “ <i>opinion on the truth and fairness of financial statements of corporations</i> ”	<i>Non-financial Statements</i> (Processes, contracts, personnel, systems, performance) and <i>financial statements</i>
Suitable criteria	International Financial Reporting Standards (IFRS)	<i>Sharġah</i> principles and rules, AAOIFI standards and <i>appropriate parts of IFRS</i>
Sufficient appropriate evidence	Documented evidence obtained through observations, vouching and verification of documents	SSB rulings, fatwas of international and national <i>fiqh</i> boards, <i>plus all other conventional evidence</i>
Written assurance report	<i>Standard</i> audit report prepared by auditor	<i>A more detailed</i> report prepared by a <i>Sharġah</i> auditor

Why Internal Shariah Auditing is important

The internal audit function is said to be one of the fundamental checks and balances for sound corporate governance. According to the Institute of Internal Auditing Incorporate (IIA Inc.), internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. In other words, “an internal auditing activity is meant to provide assurance that existing organisational controls are adequate in order to mitigate risks, confirm that governance processes are efficient and effective, and ensure organisational objectives are accomplished” (Ruin, 2011). In a similar manner, the function of *Sharġah* audit as defined by CBM-SGF is to provide independent assessment and objective assurance, designed to add value and improve IFIs compliance with *Sharġah*. It also follows internationally recognised audit standards, objectives and methodology. The *Sharġah* audit agenda is however extended to include the promotion of effective *Sharġah* governance. CBM-SGF also requires *Sharġah* audit to check for sound and effective internal control for *Sharġah* compliance. Currently the industry is focusing only on the existing internal control system sourced from conventional practices, and there

is a need to have *Sharī'ah*-specific guidelines to measure the internal control system for *Sharī'ah* compliance.²³ The definition for Internal Control for *Sharī'ah* compliance should also be clearly defined.²⁴

The recent issuance of the CBM-SGF shows the regulator's increased reliance on internal audit functions as an integral component to ensure effective *Sharī'ah* governance. This raised awareness of the benefits of establishing effective internal audit functions can be attributed to the lessons learned from past global corporate scandals and failures where there was no robust scrutiny of risk management, internal controls and corporate governance. It was also to rectify the problems identified by *Sharī'ah* scholars in Malaysia, namely the "absence, or improper and inadequate auditing" at the product implementation (or ex-post) stage. As a consequence, and given that the Islamic finance industry in Malaysia is centrally regulated, IFIs are now directed under the SGF to perform a regular internal audit of transactions, documentations and operations to ensure end-to-end (ex-ante and ex-post) compliance with the *Sharī'ah*.

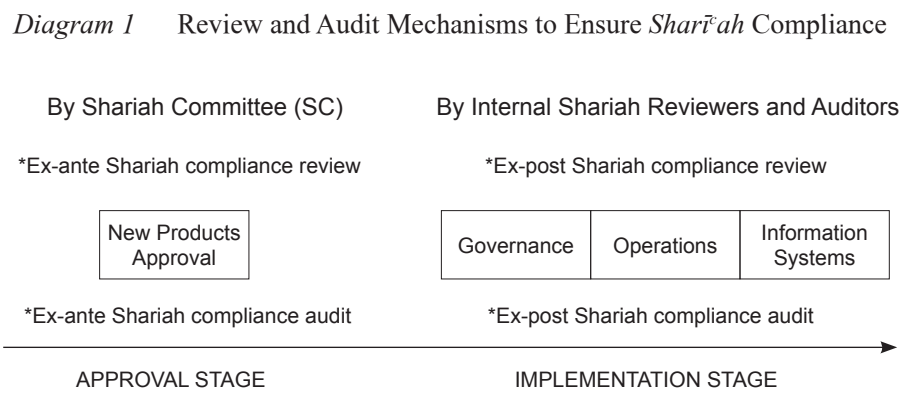
However, guidelines on *Sharī'ah* audit under CBM-SGF have been either too general or insufficiently *Sharī'ah*-specific or industry-relevant. To address this issue, parallel studies have been undertaken: one, a CBM-initiated study to develop an internal *Sharī'ah* audit framework which will adopt a systematic and disciplined approach in auditing (technical audit); second, research undertaken by this writer to complement the first study by incorporating additional parameters/benchmark for IFIs to undertake an ethical and *maqasid*-based audit, to achieve social justice and equitable distribution of wealth, and to balance out the biased focus on commercial profits. Both studies are supportive of the CBM-SGF goal in moving towards a *Sharī'ah*-based operating environment, facilitated by a common internal *Sharī'ah* audit framework.

It is yet to be seen whether CBM's study will develop an industry-relevant *Sharī'ah* audit framework, where a specific internal *Sharī'ah* audit framework will be structured separately for Islamic banks and Takaful companies. If this initiative is to be undertaken by CBM, it will be a challenge, as Islamic banks and Takaful companies have their own unique operational specificities that cannot be easily translated into a common and uniform approach unless customised options are allowed for greater flexibility and without micro-managing the industry or restricting creativity and innovation. On the other hand, if it is left to the IFIs to develop their own internal audit architecture and practice, it could prove to be a formidable task for IFIs in terms of cost, time and scarce expertise on *Sharī'ah* auditing. As the existing body of knowledge on *Sharī'ah* audit is limited, there will be a host of other problems such as the need to ensure consistency and universality in the meaning and application or interpretation of *Sharī'ah* audit, which can only be undertaken by CBM as the central regulator. Besides, it

will be difficult for IFIs to develop their own internal audit programmes in the absence of a common template or a prototype *Sharīah* model for them to adopt and customise. Allowing Islamic banks and Takaful companies to develop and customise their very own internal *Sharīah* audit framework could stand in the way of CBM’s long term objectives on standardisation and desired uniformity in practice with its manifold benefits.

The CBM’s progression towards an integrated approach is anticipated as it is critical to the desired goal of the central regulatory body to have greater uniformity in audit, risk and governance practices as seen in the roles that the governance bodies are designated to play: the CBM’s Board of Directors under the Central Bank Act of Malaysia (2009) has a wider oversight responsibility over Risk, Audit and Governance and a commitment to greater *harmonisation* of practice; the Shariah Advisory Council as part of this central regulatory body is charged with the responsibility of *standardisation* of *Sharīah* practices within their jurisdictions through the ex-ante and ex-post monitoring of *Sharīah* compliance; and the CBM-SGF is directing IFIs to advance towards a *Sharīah*-based operating environment.

Diagram 1 below is an illustration of the review and audit functions²⁵ from approval stage to implementation stage, and the processes involved in the ex-ante and ex-post monitoring of *Sharīah* compliance by *Sharīah* advisors, *Sharīah* reviewers and internal *Sharīah* auditors:



a. Ex-Post *Sharīah* Compliance Review

The function of ex-post monitoring of *Sharīah* compliance, at the implementation stage, is normally within the exclusive competence of *Sharīah* review units in IFIs. In an internal *Sharīah* review exercise, two core steps are identified to

be the best practices of a *Sharī'ah* review which require independence from one another to prevent self-reviews: the initial *Sharī'ah* setup and the periodic *Sharī'ah* review.

i. The initial *Sharī'ah* set-up

The initial *Sharī'ah* setup is predominantly a legal exercise in which documentation is examined by scholars, lawyers and industry practitioners: *Sharī'ah* compliance is stipulated in the legal context through documentation, internally in the articles of association and externally in the prospectus or offering document; *Sharī'ah* investment guidelines are developed in relation to the funds, the objectives and mechanics to be adopted and crucially the internal compliance function; a *Sharī'ah* compliance manual is drafted which addresses steps, resolutions, non-compliance events, purification of non-permissible income and formation of the *Sharī'ah* board which issues a *fatwa* for the product/service being considered.²⁶

ii. The periodic *Sharī'ah* review

The internal periodic *Sharī'ah* review is equally important as it is claimed to solidify compliance, or, effectively manage *Sharī'ah* risks of the product/service as a going concern. This relates to the compliance function, proactive measures to manage *Sharī'ah* risks, problem/dispute resolution, and continuous guidance of the *Sharī'ah* supervisory board whilst preparing the grounds for future development of an external *Sharī'ah* audit regime.²⁷

The *Sharī'ah* review function under CBM-SGF refers to regular assessment on *Sharī'ah* compliance in the activities and operations of the IFIs by qualified *Sharī'ah* officers. The function involves the examination and evaluation of the IFIs' level of compliance to *Sharī'ah*, remedial rectification measures to resolve non-compliances, and control mechanism to avoid recurrences.

b. Ex-Post *Sharī'ah* Compliance Audit

An IFI will require two types of audit:

- i. Internal *Sharī'ah* audit, which can be carried out by the existing internal auditor or compliance officer who must have the requisite knowledge of Islamic banking principles and *fiqh muamalat*, and
- ii. External *Sharī'ah* audit, which can be supported by an audit firm with Islamic finance expertise such as Deloitte, Price Water House.

The current framework adopted by IFIs follows standards stipulated by the International Standards for Professional Practice of Internal Auditing (IPPF)

issued by the Institute of Internal Audit (IIA) and Guidelines on Minimum Audit Standards for Internal Auditor of Financial Institutions issued by CBM.²⁸ As CBM has given the responsibility to perform *Sharī'ah* audit to the internal audit department, this will invariably expand the traditional job scope of internal auditors to include Islamic or religious and ethical auditing. Thus the existing internal audit department will not only act as a key organ of corporate governance where auditors also provide internal consultancy, but now it will have to perform *Sharī'ah* audit to ensure that the operations of the IFIs are *Sharī'ah* compliant. The challenge faced by the CBM is whether the existing leveraging on the Group's (the parent company's) internal audit programme will be effective in ensuring *Sharī'ah* governance. The majority of respondents from a recent study indicated, however, that there is a need for a general framework that can be used by IFIs to standardise the practices of *Sharī'ah* auditing among IFIs.²⁹ This could mean that internal *Sharī'ah* audit must be developed as a structured and single framework, separate from the Group, specifically for subsidiaries of a conventional Islamic bank. With increased accountability of internal *Sharī'ah* auditors, it will necessitate a comprehensive training programme to ensure that they are qualified and competent to undertake the new multidisciplinary role as internal *Sharī'ah* auditors, possessing both audit and *Sharī'ah* qualifications (*usul al-fiqh* or *fiqh muamalat*), so as to boost public confidence and give objective assurances of the integrity of the *Sharī'ah* audit profession.

An internal audit cycle or methodology usually involves three different stages commencing with the (1) Planning (of audit exercise) phase; (2) Examination (of evidence) phase, and the (3) Reporting phase (for full disclosure of information or transparency and accountability) and the *remedial actions* required to be taken by IFIs before the annual audit by external auditors. Based on an interview of an Islamic bank (hereinafter Bank X), the audit process of an internal *Sharī'ah* audit may be illustrated as follows:³⁰

1. Ensure that products, operations and documentations of Bank X are *compliant* with internal *Sharī'ah* ruling as prescribed by internal *Sharī'ah* Review and external *Sharī'ah* principles such as those of BNM and SC and where applicable, international standards such as AAOIFI and IFSB³¹;
2. Ascertain whether Bank X's system of internal controls and related policies and procedures to mitigate the identified *Sharī'ah* compliance risk areas were *executed* satisfactorily throughout the audit period under review;
3. Ensure that adequate and knowledgeable *personnel* are managing the day-to-day business and operations functionalities at Bank X.

To satisfy the principles of good governance, *Sharī'ah* audit shall report directly to the Board Audit Committee for independence and objectivity in order to avoid any conflict of interest and undue influence from management whilst carrying out its function of providing independent assessment and objective assurance to stakeholders designed to add value and improve the organisation's compliance with *Sharī'ah*.

Prevailing Issues in Shariah Audit

a. Narrow Scope of *Sharī'ah* Audit being Practiced

It is observed that concerns raised by scholars and academicians in applying a narrow view of *Sharī'ah* compliance are being overlooked by the CBM-SGF, for whom compliance is still “a compliance to *Sharī'ah* rulings and decisions issued by the SAC and Shariah Committee of the IFI respectively, and as determined by other relevant bodies”. The focus continues to be restricted to technical or legal (*fiqhi*) compliance, unless CBM is planning to direct industry players to apply the *golden rule*³² or the wholesomeness (*tayyib*) principles,³³ in interpreting or construing documents or processes to impute lawful and good or socially relevant intentions. Such an application will be logistically impossible to supervise, unless there is a common tool specifically designed for the industry to measure both the lawful and goodness/wholesome aspects of *Sharī'ah* compliance through a broader and deeper *maqasid*-based audit.

The dangers of measuring *Sharī'ah* compliance “in form only” have been highlighted by scholars in this area (Yusuf Saleem, 2012), where it is important that the legal validity of transactions must be enhanced by realisation of the *maqasid* of public good (Hashim Kamali, 2008). Saiful Azhar Rosly (2006)³⁴ recommends a multidimensional approach in determining the legality of *Sharī'ah* compliant instruments “on a wider scale of measurement” to include other parameters such as *aqd*, legal documentation of contract, accounting & financial reporting, and a *maqasid* approach.

By expanding the audit parameters to allow a multifocal audit, the whole gamut of business activities (as audit deliverables) can indeed be evaluated on a wider scale of measurement. But if the auditing is performed to assure stakeholders of the legality of transactions and processes without looking at the *maqasid* of public benefit, or where the business deal is causing harm to the individual and community, then it will not serve the *Sharī'ah* principles of social justice and fair dealing. Ethical and religious requirements of justice and fair dealings and equitable distribution of wealth cannot be downplayed as *Sharī'ah* is based on promotion of human welfare and social justice. Consumers have the right to know whether transactions are placing them at a disadvantage or where

they can be exploited or oppressed by IFIs. If such pertinent information is not revealed to consumers in, for example, promotional materials or annual *Sharīah* committee reports, then internal auditors would have failed in their ethical and religious duty of disclosure. Stakeholders need full information on any unethical practices or risks of non-compliance for them to make a well-informed decision on choice of IFIs, products and transactions and investments. Thus, widening the scope of audit does not mean only expanding the audit parameters or creating a multidimensional technical/legal benchmark. It must also fulfil the *Sharīah* objectives of justice, equity and fair play, and good conscience. Internal auditors must be trained to assess IFIs compliance with objectives of *Sharīah* (*maqasid al-Sharīah*), to complement their technical expertise on auditing.

One can attribute the lop-sided or unbalanced approach in assessing or assuring *Sharīah* compliance to the fact that there is no structured methodology to measure universal principles of justice, equity, fair dealings and compassion or good conscience. The examination of evidence of deviations from *Sharīah* principles can only be made after the fact, where there is a clear violation of consumers' rights and an increasing number of product liability suits against Islamic financial institutions. For IFIs to embark on a common mission to ensure company-wide *Sharīah* compliance, a *Sharīah* -specific Audit Charter should be developed to reflect the *Sharīah* mission and the organisation's vision in an integrated and holistic manner. By incorporating a common vision and proactive *Sharīah* audit programme, the infusion of religious values can be made throughout the audit plan in the form of a Vision-Mission-Goal (VMG): the audit objectives, scope of auditing, the authority and mandate of auditors, and the objectivity, professionalism and independence required of internal *Sharīah* auditors. It is hoped that a restricted view on *Sharīah* compliance will not be applied in any proposed internal *Sharīah* audit framework, but that a balanced, integrated and holistic auditing will instead be adopted where the audit practice will look at both technical and ethical auditing to ensure *Sharīah* compliance in form and substance.

b. Lack of an Organised Internal *Sharīah* Audit Framework

Most IFIs are using the conventional framework of auditing because of the current unavailability of an organised *Sharīah* -specific internal auditing framework, even though the majority of respondents recognised that there is a need for *Sharīah* auditing to be different from the conventional framework (Nawal, 2009). In a study on the role of internal auditing in ensuring governance in IFIs, the findings indicated that IFIs are still struggling to establish an effective *Sharīah* auditing framework (Yahkiruni and Nurmazilah, 2012). It can be inferred from these studies that due to the lack of a structured *Sharīah* auditing framework,

the practice of *Shari'ah* audit has not made a serious impact on IFIs of Malaysia. The existing internal audit structures in banks and Takaful companies are either leveraged on the Group Internal Audit (based on conventional audit framework with modification) or outsourced to professional *Shari'ah* compliant auditing firms. The current framework used by a majority of IFIs is a shared model but with certain modifications, and the respondents in that study indicated the need to have one general framework that can be used to standardise the practices of *Shari'ah* auditing among IFIs.³⁵ As such the internal audit units are not organised to exist as a stand-alone or independent function to undertake *Shari'ah* audit, and may lack cohesion or are too fragmented for a comprehensive audit to be undertaken on *Shari'ah* compliance.

As internal *Shari'ah* auditing is considered to be an integral component of the *Shari'ah* Governance Framework, what is urgently needed by the industry is a comprehensive framework which can provide specific guidelines, through a common audit architecture and mechanics, to properly and effectively conduct *Shari'ah* audit. CBM has given this task to the International Shariah Research Academy for Islamic Finance (ISRA) to develop the Internal *Shari'ah* Audit Framework (ISAF) for IFIs. The Exposure Draft has been circulated to the industry since July 2012 for their on-going comments and suggestions for improvements on the proposed framework. To complement the CBM's ISAF initiative, a study undertaken by this writer as part of a larger study on internal *Shari'ah* audit in Malaysia will expand the audit parameters to include the ethical and moral dimensions and for IFIs to progress towards a *maqasid*-based audit.³⁶ The writer's proposed *Shari'ah* model will assess whether IFIs are ethically responsible and conscious of their role as trustees to ensure social justice through an equitable distribution of wealth in the offering of financial services to the community.

c. Shortage of Qualified Internal *Shari'ah* Auditing Personnel

In Malaysia, the CBM-SGF has specified that *Shari'ah* audit should be conducted by internal auditors from the internal audit department. The internal auditor should be competent in terms of *Shari'ah* knowledge and understanding on the *Shari'ah* issues related to products and operations. Generally, the professionals involved in an internal *Shari'ah* audit programme are the *Shari'ah* committee member (as auditors) and the internal *Shari'ah* auditors.³⁷ The internal *Shari'ah* auditors should be directly accountable to the Board Audit Committee. The role of the *Shari'ah* Committee (as collective in house religious advisors and auditors) covers five main areas: (i) Certifying permissible financial instruments through fatwas (ex-ante *Shari'ah* audit); (ii) Verifying that transactions comply with issued fatwas (ex-post *Shari'ah* audit); (iii) Calculating and paying *zakat*; (iv)

Disposing of non-*Sharī'ah* compliant earnings; and (v) Advising on the distribution of income or expenses among shareholders and investment account holders.

Because of the unique role that they are called upon to fulfil, *Sharī'ah* Committee members and internal *Sharī'ah* auditors should ideally be knowledgeable in Islamic law and commercial transactions and accounting/auditing practices. But the scarcity of professionals with combined *Sharī'ah* knowledge and financial audit skills hampers industry efforts to have an effective *Sharī'ah* audit. Very few people are well versed in both disciplines. A similar constraint also applies to conventional finance industry internal auditors who are now required to have a multidisciplinary background and to be multidimensional and multifocal in the audit exercise. People with such a combination of skills and expertise constitute a rare breed, without even considering adding *Sharī'ah* knowledge to the required qualifications.

The CBM-SGF³⁸ has ambitiously raised the entry point for prospective members of the *Sharī'ah* Committee at a time when there is already a dearth of experts or scholars, *vis* “the *Sharī'ah* Committee is expected to have sufficient knowledge on finance in general and Islamic finance in particular to enable the members to comprehend *Sharī'ah* issues brought before them.” However this issue is addressed, it means including people from different backgrounds or disciplines as members of the *Sharī'ah* Committee.

Not only are the entry qualifications for *Sharī'ah* advisors and internal *Sharī'ah* auditors important but also the on-going training and certification of members to enhance their knowledge and understanding of the *Sharī'ah*. The current postgraduate and industry-driven courses have been found to be inadequate to equip *Sharī'ah* advisors with the expertise required. A certification programme, like a Masters in *Sharī'ah* Advisory, should be designed to address this issue. With institutionalisation of *Sharī'ah*, it is expected that in the near future only those with the basic entry qualification (a degree in Islamic law or commercial law) and a Masters in *Sharī'ah* Advisory can be called to serve on the *Sharī'ah* supervisory board or *Sharī'ah* Committee. A comprehensive training is also required to convert conventionally trained internal auditors to internal *Sharī'ah* auditors.

d. Extreme Brevity of *Sharī'ah* Committee Reports

The *Sharī'ah* Committee Report (SCR), like the auditor's report which serves as an executive summary of the *Sharī'ah* compliance aspect of an IFI, is attached to the auditor's report and made accessible to the public as a company's annual report. Abdel Karim (1990) maintains that *Sharī'ah* reports assure readers that the financial statements of the bank are in accordance with *Sharī'ah*, and also state whether the *Sharī'ah* Committee had access to all the documents and records deemed necessary. The report generated after an audit exercise is meant

to give credibility to the information in the financial statements from a religious perspective. Such assurance is to enhance and strengthen the stakeholders' confidence in the Islamic banks' operations. It should be noticed that the stakeholders are quite large and comprise all those with vested interest in the well-being of Islamic banks like the employees, customers, suppliers, supervisors, and the Muslim community (*ummah*) as a whole.³⁹

By virtue of the "Guidelines on Financial Reporting for Licensed Islamic Banks" (GP8-i) on Annual Financial reports, the *Sharī'ah* Committee's Report is a mandatory requirement (part 2: Financial Reports Requirements). The CBM's GP8-1 provides a sample, at the minimum, of how a *Sharī'ah* report should be formulated or takes on a particular form (p. 27 of GP8-i). It does not require IFIs to report on how the audit is conducted. It requires only a basic disclosure and transparent reporting.

Although research was undertaken to highlight the issues relating to the extreme brevity of *Sharī'ah* Committee Reports and the need for a more quantitative reporting (Shahul, 2009), the CBM-SGF did not provide a comprehensive reporting template but left it to the industry to define.⁴⁰ The SCR contains only qualitative or subjective opinions of the *Sharī'ah* Committee and a statement simply "*that the overall operations of the IFI are in compliance with Sharī'ah law and regulations*".

CBM-SGF requires the findings from an internal *Sharī'ah* audit to be reported to the Board Audit Committee and communicated through the *Sharī'ah* Committee Report (SCR).⁴¹ There is no third party or external auditors' attestation of the statement made by the *Sharī'ah* Committee on IFIs conformity with *Sharī'ah*. The auditor's report in the annual reports of IFIs is thus basically not a *Sharī'ah* audit report, (Mustafa, Zurina, Supiah and Nurazalia, 2012). This raises concerns as to the objectivity and reliability of both the SCR and the auditor's report, as stakeholders need full disclosure not only on financial statements but also a clear written expression from external auditors that the overall operations of the IFIs are in compliance with *Sharī'ah* principles.

The SCR in Malaysia not only suffers from brevity in reporting, but the reporting styles differ from one bank to another and are inconsistent with each other in terms of content, scope and format because of different processes and procedures in place within these banks in instituting *Sharī'ah* audit exercises.⁴² Some banks' auditing processes are too simplistic, which raises transparency and proper governance issues.⁴³ It was discovered that SCRs of banks outside Malaysia, where the regulatory authorities in each of these countries have different governance and supervisory requirements, also show a similar inconsistency or lack of uniformity in reporting due to the absence of a comprehensive and common template.⁴⁴

e. Dispute Resolution Mechanisms: Inadequate Training of Judges from *Muʿamalat* Bench

It can be inferred from the proliferation of product liability suits against banks in Malaysia that the increasing incidence of deviations from *Sharīʿah* rules and principles (especially in the *Bai Bithamin Ajil* or BBA financing instrument) can be attributed to the functional gaps and the need for robust internal audit architecture. It was shown in the majority of these cases that the *Muʿamalat* bench under the jurisdiction of the Civil High Courts was ill-equipped to decide on *Sharīʿah* matters or *Sharīʿah* non-compliant disputes, as judges selected to fill the positions have not undergone training in *fiqh muʿamalat*. However, this issue is resolved through the positioning of the Shariah Advisory Council as the top authority for the determination of Islamic law for the purposes of Islamic finance business. This means that the SAC has the mandate to act as the highest “appellate or review body” to ascertain relevant Islamic law on any financial matter and issue a ruling upon reference made to it. The SAC’s other mandate includes advising the Central Bank and the IFI concerned in any *Sharīʿah* issues relating to Islamic financial business operations, activities or transactions. Another route for an expeditious settlement of Islamic finance disputes is through arbitration, which is a better alternative to litigation, which is costly and takes a longer time for the parties to get justice within a civil law-based forum for settlement of disputes. To this end, the Kuala Lumpur Regional Centre for Arbitration (KLRCA) has been offering rules for arbitration of Islamic banking and financial services in the domestic sphere since 2007. Recently, the KLRCA has come up with an adapted set of rules that provide for international commercial arbitration based on Islamic principles which will be recognised and enforced internationally to facilitate cross-border transactions, enhancing the role of Malaysia as an Islamic arbitration centre.⁴⁵

Conclusion and Recommendations

Although it was desired that a proper and comprehensive internal *Sharīʿah* audit programme should be developed to move the industry towards a greater harmonisation of internal audit practices and a *Sharīʿah*-based operating environment for IFIs, the CBM-SGF did not provide a prototype internal *Sharīʿah* audit architecture and mechanisms for Islamic banks and Takaful companies to adopt and customise. It was left to the creativity and ingenuity of IFIs to design their own internal audit programme based on CBM’s principle-based guidelines with minimum prescriptions on best internal audit practices and standards.⁴⁶ In view of the lacuna, a more prescriptive approach by CBM is preferable. It was also to address those prevailing issues in *Sharīʿah* audit that thematic workshops were

organised by ISRA to brainstorm ideas with industry players, auditors, regulators and *Shari'ah* scholars on the appropriate framework to be developed for internal *Shari'ah* audit of Islamic financial institutions in Malaysia. This effort culminated in the drafting of the "Exposure Draft for Internal Shariah Audit Framework" (ISAF) for IFIs in Malaysia in 2012, representing yet another of CBM's proactive initiatives to ensure effective *Shari'ah* governance. To complement the CBM's effort in this area, the following recommendations are proffered:

- As *Shari'ah* audit is still uncharted territory, it is recommended that the CBM undertake this task, instead of leaving it to the industry, by providing the benchmarks and standards (or the prescriptions) required for an efficient and effective Internal Shariah Audit Framework. The prototype model will be adopted by Islamic banks and Takaful companies with modifications to suit each industry's unique product and operational requirements while making it industry-relevant.
- IFIs in Malaysia should establish an Audit Charter that will be *Shari'ah*-specific or reflect the *Shari'ah* "mission" in their organisation's vision of the scope, purpose, authority, accountability and responsibility for the internal *Shari'ah* auditing department. A *Shari'ah*-specific Audit Charter will ensure that internal auditing will be integrated and holistic in its approach through which both the rational and religious science of audit will govern the Internal *Shari'ah* Auditing Department to advance towards a common and balanced focus as a technical, ethical and *maqasid*-based audit (Sheila & Soualhi, 2012).
- A comprehensive Talent Development Programme needs to be designed for internal *Shari'ah* auditors, *Shari'ah* reviewers and *Shari'ah* advisors for skill training, cross-training or cross fertilisation of ideas between audit and *Shari'ah*, and continuous professional education on *Shari'ah* audit through professional and certification courses to ensure that auditors, reviewers and advisors are competent, professional and efficient in their audit practice. This will widen the pool of expertise and prevent poaching of internal auditors within the industry.
- A Professional Practice Code for *Shari'ah* Auditors needs to be developed to govern the profession of auditing (covering internal and external auditors) and ensuring uniformity in audit practice. Internal *Shari'ah* auditors under the new regime will play a wider role not only to act as a key function of corporate governance, but also to perform *Shari'ah* audit to ensure effective *Shari'ah* governance. A centralised regulation of the practice and profession of *Shari'ah* audit is required, to prevent stagnation in the development of this nascent discipline.

- On Audit Reports, IFIs in Malaysia may consider reporting the *Sharī'ah* audit findings as a separate statement in their annual report to promote greater transparency in *Sharī'ah* compliance. This can be in the form of a *Sharī'ah* Committee Annual Report which is a compilation of all the fatwas, rulings, product approval documentation including a summary of the *Sharī'ah* non-compliance risk areas, the risk-based approach in auditing and the proactive remedial measures that are in place to ensure efficiency and efficacy of internal control system. The annual audit reports of external auditors must reflect not only the financial statements, but also the overall operations of the IFIs as well as the extent of the accomplishment of the IFIs' corporate social responsibility not only in charitable activities but in eradicating poverty and instituting social justice and caring for the environment.

To conclude, it is due to the unavailability of a *Sharī'ah*-specific internal audit model that current audit practice in the industry continues to replicate the mainstream mechanics of auditing with its shortcomings in terms of the restrictive focus on financial audit, whereas *Sharī'ah* audit should have a wider scope to cover not only an audit of financial statements, but also to undertake a compliance audit on organisational structure, people, process and IT application systems, including a review on the adequacy of *Sharī'ah* governance process.⁴⁷

What is required is an internal *Sharī'ah* audit framework that makes an independent assessment and objective assurance of both legal and ethical compliance to *Sharī'ah*. The audit programme is to be designed to take into account IFIs' fulfilment of the public benefit/public good requirement and social responsibility. The internal *Sharī'ah* audit framework shall also apply international audit standards on organisational controls⁴⁸ to meet the following objectives: to safeguard organisations' assets, ensure compliance with both internal and external legal, regulatory and *Sharī'ah* requirements, ensure integrity (accuracy, timeliness, reliability) of financial data and statements, and to see that the established organisational controls facilitate organisational efficiency, effectiveness and economy of operations.

Through an integrated and holistic approach of the recommended internal *Sharī'ah* audit framework, a consistent and reliable assurance can be given to stakeholders on the integrity of IFIs internal control system and staffing and fulfilling its function in ensuring effective *Sharī'ah* governance.

Lastly, a policy issue paper to be written by this writer will recommend to policy makers specific punitive measures to be legislated in order to deter unethical practices and persistent violations of Islamic laws and regulations by IFIs in Malaysia and ensure a sustainable development of the Islamic finance industry in Malaysia.

Notes

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1. "Standardised" or "harmonised" *Sharī'ah* concept is a component of institutionalisation of *Sharī'ah*. M. A. Laldin (2010) of ISRA defines institutionalisation of *Sharī'ah* as the process of embedding *Sharī'ah* concept within an organisation which in turn governs the behaviour of a set of individuals in the organisation or outside it. Standardisation of Islamic financial contracts has its major benefit of ensuring the enforceability of such contracts in disputes brought before civil courts that are not legally bound by the *Sharī'ah*.
 2. Islamic Banking and *Takaful* Department, "*Sharī'ah* Governance Framework for Islamic Financial Institutions," BNM/RH/GL_012_3. The Framework is issued pursuant to S 59 of the Central Bank of Malaysia Act 2009, S 53A of the Islamic Banking Act 1983; S 69 of the *Takaful* Act 1984; S 126 of the Banking and Financial Institutions Act (BAFIA) 1989 and S 126 of the Development Financial Institutions Act (DFIA) 2002 (where the two latter institutions are participating in the Islamic Banking Scheme). The Framework is to be read with other related guidelines issued by CBM.
 3. The Shariah Advisory Council (SAC) is a body established under section 51 of the Central Bank Act 2009 to be the apex authority for determination of Islamic law for Islamic financial business. The mandates of the SAC are: (1) to ascertain the relevant Islamic law on any financial matter and issue a ruling upon reference made to it; (2) to advise BNM and the IFI concerned on any *Sharī'ah* issues relating to Islamic financial business operations, activities or transactions. BNM/RH/GL_012_3, p.1
 4. The establishment of the *Sharī'ah* Committee is a statutory requirement for Islamic banks pursuant to S 3(5)(b) of Islamic Banking Act 1983; for *takaful* operators pursuant to S 8(3)(a) of *Takaful* Act 1984; for Islamic Banking Scheme Banks pursuant to S124 (7) of the Banking and Financial Institutions Act 1989 and prescribed under S16B of the Central Bank of Malaysia (Amendment) Act 2003 for Central Bank of Malaysia. *Sharī'ah* compliance refers to compliance to *Sharī'ah* rulings and decisions issued by the SAC and *Sharī'ah* Committee of the IFI respectively and as determined by other relevant bodies.
 5. Islamic Banking and *Takaful* Department, "Shariah Governance Framework for Islamic Financial Institutions," BNM/RH/GL-012_3.
 6. Countries in the Gulf Co-operation Council (GCC) consist of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and UAE. With the exception of the Sultanate of Oman, all IFIs in the other GCC countries have their own framework of *Sharī'ah* governance systems, where Zulkifli (2010) classifies the *Sharī'ah* governance approach under two distinct categories: regulation through legal and supervisory requirements as in the case of Bahrain, Kuwait, UAE and Qatar, or through self-regulation as in the case of Saudi Arabia.
 7. Zulkifli Hasan, "Regulatory Framework of *Sharī'ah* Governance System in Malaysia, GCC Countries and the UK," *Kyoto Bulletin of Islamic Area Studies* 3, no. 2 (March 2010), 82-115.
 8. Ibid.
 9. Reuters, 27 June 2012.
 10. Bahrain is the only country in the GCC to establish a National Shariah Advisory Board in the Central Bank of Bahrain to serve and to verify *Sharī'ah* compliance but it does not have authority upon the IFIs unlike Malaysia, Sudan, Indonesia, Pakistan and Brunei (Zulkifli, 2010).
 11. The Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI) is an international standard setter on audit, governance and *Sharī'ah* standards, but the standards are not mandatory for IFIs to adopt.
 12. To date (2010) international standard setter (AAOIFI) has issued seven governance standards covering: 1. Appointment and composition of *Shariah* Supervisory Board; 2. Checks and balances brought about through external *Sharī'ah* reviews; 3. Functions of internal *Sharī'ah* reviews; 4. Monitoring of *Sharī'ah*-compliance by audit and governance committees; 5. Independence of *Sharī'ah* Supervisory Board; 6. General statement on governance principles for IFIs and 7. Corporate Social Responsibility.

13. IFIs registered under Dubai International Financial Centre have to comply with the DIFC law and regulations particularly the Law Regulating Islamic Financial Business DIFC Law No. 13 of 2004 and the DIFC Services Authority (DFSA) Rulebook on Islamic Financial Business Module (ISF).
14. Reuters (2009); Disputes on the compliance of certain products such as a recent case involving Kuwait's Investment Dar have put the spotlight on the role of *SharĪah* advisers in approving products and their relationship with bank management. As such, the CBM made it a legal requirement for Islamic banks to set up *Sharia* review, audit and risk management control functions to reinforce compliance.
15. Wafik Grais and Matteo Pellegrini, "Corporate Governance and Shariah Compliance in Institutions Offering Islamic Financial Services", World Bank Policy Research Working Paper 4054 (November 2006), available online at <http://econ.worldbank.org> (accessed on 30 August 2009).
16. Shahul Hameed and Ratna Mulyani, "Shariah Audit for Islamic Financial Institutions: Perceptions of Accounting Academicians, Audit Practitioners and Shariah Scholars". This research won the Third Malaysian Outstanding Research Paper Award 2009 under the Audit Category. Some of the research findings were used in this paper to justify changes on the flawed auditing system in Malaysia.
17. Islamic Banking and Takaful Department, "Shariah Governance Framework for Islamic Financial Institutions," BNM/RH/GL-012_3, Section VI: 'Shariah Compliance & Research Functions'. The *SharĪah* officers must hold at least a bachelor's degree in *SharĪah* which includes study in the origins of Islamic law (*Usul al-fiqh*) and Islamic commercial transactions (*fiqh muamalat*).
18. Internal auditors must acquire adequate *SharĪah*-related knowledge and training.
19. Where institutionalisation of *SharĪah* is defined as the process of embedding *SharĪah* concept within an organisation which in turn governs the behaviour of a set of individuals in the organisation or outside it.
20. Shahul Hameed Mohd Ibrahim, "The Case for Islamic Auditing", *International Accountant Journal* (January 2009), available online at <http://www.kantakji.com/fiqh/Files/Accountancy/v181.pdf>.
21. Generally Accepted Accounting Principles (GAAP) is a term used to refer to the standard framework of guidelines for financial accounting used in any given jurisdiction, generally known as Accounting Standards. GAAP includes the standards, conventions, and rules accountants follow in recording and summarising transactions, and in the preparation of financial statements.
22. Shahul Hameed Mohd Ibrahim, *Accounting and Auditing for Islamic Financial Institutions* (Kuala Lumpur: INCEIF, 2009), 417.
23. Hajah Mustafa Mohd Hanefah, Zurina Shafii, Supiah Salleh and Nurazalia Zakaria, *Governance and Shariah Audit in Islamic Financial Institutions* (Negeri Sembilan: Universiti Sains Islam Malaysia, 2012), 167.
24. Ibid.
25. The diagram is a graphic illustration of internal audit control process/system for IFIs by the writer.
26. "The Shariah Compliance Toolkit", *Opalesque Islamic Finance Intelligence* (July 2009), Editor's Note, 3.
27. Ibid.
28. Based on research findings undertaken to investigate how the approach or process has been adopted by the internal audit department in relation to the framework or standards, audit process, audit programme and plan.
29. Yazkhiruni Yahya and Nurmazilah Mahzan, "The Role of Internal Auditing in Ensuring Governance in IFIs", *Proceedings of the 16th International Business Information Management Association Conference* (Kuala Lumpur: 2012).
30. Extracted from the audit objectives of a local bank which is an Islamic subsidiary of a parent conventional bank.
31. The International Financial Services Board (IFSB) is an international standard setter based in Malaysia established for the purpose of providing prudential governance standards for IFIs.
32. The Golden Rule of statutory interpretation may be applied where an application of the literal rule would lead to an absurdity. English courts have appealed to this Rule as, among other things, a benchmark of good advocacy, a means of determining whether a claimant deserves an equitable remedy, as the basis for principles of equitable fair dealing, restitution of unjust enrichment and other purposes to give a more just result.

33. *Tayyib* principles focus on the spirit and purposes (*maqasid*) of *Sharī'ah*. There are verses from the Quran mentioning "Tayyib": Surah Al-Maida, "Eat that which Allah hath bestowed on you as food lawful and good, and keep your duty to Allah in Whom ye are believers". Thus not only should Islamic finance structures be lawful, but it must be "wholesome" or "good", being more beneficial than basic *halal* options.
34. Saiful Azhar Rosly, "Shariah Compliant Parameters Reconsidered," paper presented at the Annual Malaysian Finance Association Conference, in Kuching, Malaysia, on 4-5 June 2008.
35. Yazkhiruni and Nurmazilah, "The Role of Internal Auditing," Appendix 1: 'The Structured Interviews Data Matrix'.
36. See Sheila Ainon Yussof and Younes Soualhi, "The Maqasid Filter in Takaful Audit", in: *Islamic Banking and Finance: Principles, Instruments and Operations* (Selangor: The Malaysian Current Law Journal Sdn. Bhd.), 699-714.
37. A qualified *Sharī'ah* Reviewer/Officer holds at least a bachelor's degree in *Sharī'ah*, which includes study in *Usul al-Fiqh* and *Fiqh Muamalat*.
38. Central Bank of Malaysia *Sharī'ah* Governance Framework (2011), Section IV: Competency, Principle 4: "Any person bearing responsibilities outlined in the *Sharī'ah* governance framework for an IFI shall possess the necessary competency and continuously enhance their knowledge and understanding on the *Sharī'ah* as well as keep abreast on the latest developments in Islamic finance." See "Shariah Governance Framework for Islamic Financial Institutions," BNM/RH/_012_3.
39. Karim Abdel Karim, R.A. (1990), "The Independence of Religious and External Auditors: The Case of Islamic Banks," *Accounting, Auditing & Accountability Journal* 3, no. 3 (March 1990), 34-44.
40. "Shariah Governance Framework for Islamic Financial Institutions," BNM/RH/_012_3, Appendix 3: *Sharī'ah* Committee's Report.
41. Hence, not everything is needed as long as it fulfils the basic disclosure and transparency requirement. But how the audit is conducted is not reported. Some banks' processes are too simplistic, raising transparency and proper governance issues.
42. Sheila Ainon Yussof and Oaima Khattab, "Selected Shariah Committee Reports in Malaysia: A Critical Appraisal," an INCEIF working paper for a PhD programme, 2009.
43. Ibid.
44. Ibid.
45. Global Arbitration Review online news, 17 Sept 2012, available online at <http://www.globalarbitrationreview.com>
46. Currently IFIs adopt a combination of international standards such as the AAOIFI, IFSB and MASB (local accounting standards).
47. As prescribed or defined under the CBM-SGF.
48. Joseph Eby Ruin, *Internal Auditing: Supporting Risk Management, Fraud Awareness Management and Corporate Governance* (Selangor: Leeds Publications, 2009, 2nd ed.).

ISLAMIC ETHICS AND STEM CELL RESEARCH

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Abstract: Application of Islamic Ethics to issues in the physical sciences is only in its infancy. Human stem cells are nature's self-renewing master cells, capable of generating every one of the numerous biological tissues in the human body. Their use in contemporary medicine for repairing organs and regenerating cellular tissues holds the promise of major treatments and cures. Summary overviews of the scientific context of stem cell research is provided, and of the controversy surrounding it. The contribution of Islamic Law and ethical tradition is then reviewed, focusing on the Higher Aims of the Shari'ah. Islam may assist in defining the ethical boundaries at the heart of this issue, and positively contribute to medical science in this field of enquiry.

Introduction

Ethics is a discipline concerned with what is right and how to maintain a good life. According to Pojman, "it [ethics] is the systematic endeavour to understand moral concepts and justify moral principles and theories. It undertakes to analyse such concepts as right, wrong, permissible, ought, good and evil in their moral contexts."¹ Ethics is also sometimes used in reference to a set of rules, principles or ways of thinking that show, or claim authority to show, the action of a group of people, and in some instances stands for the systematic study of reasoning about how we ought to act.²

Islamic ethics, which can be described as a section in religious ethics, does not exist as a separate and independent discipline in Islam. It draws most of its resources from revelation. Ethical teachings of Islam are closely linked to its theology.³ The sense of God's presence or God's guidance is seen as the guiding principle. Various teachings on ethics in Islam can be found in pages of Qur'anic commentaries, theology, jurisprudence, and mystical works. Islamic ethics, however, still faces the same set of questions facing philosophical ethics: what values should be pursued? What acts are right and what acts are wrong? How should society go about making ethical decisions posed by new challenges?⁴

Ethics as a discipline in Islam began to emerge as a result of the influence of Greek thought.⁵ Classical scholars of Islam when referring to moral philosophy in Islam often use the terms *akhlāq* or *khuluq*. For instance, Aḥmad ibn Muḥammad Miskawayh wrote a book titled *Tahdhīb al-Akhlāq*. *Akhlāq* is a term commonly translated as character. Miskawayh in his famous work linked *akhlāq* to the soul. He believed that if humans understood what their soul is, what kind of beings they are, and for what purpose they have been created, Man would be able to perform good actions easily and reach a high state of mind.⁶ Al-Ghazālī in his

Iḥyā ʿulūm al-dīn also linked *akhlāq* to the state of the soul. He noted that human nature is rooted in the soul and actions flow out of it.⁷ He believed that *akhlāq* is a term for the state of the soul and its inner or spiritual character.⁸

Islamic ethics can therefore be described as what is morally correct or morally acceptable in Islam. There are also some important words that we must be conscious of when considering Islamic ethics. They are: *īmān*, *islām*, *taqwā* and *iḥsān*.⁹ *Imān* means faith. *taqwā* means God consciousness, or the understanding of a Muslim that Allah sees him or her in every circumstance. *Iḥsān* means excellence; Muslims are expected to do good always.

It is in relation to the notions and values in these words that we would try to understand the Islamic position in relation to stem cell research, but let us first define what stem cells are. These are known as nature's master cells, capable of generating every one of the many different cells that make up the body. They have the ability to self-renew, meaning that they are theoretically immortal and can divide forever if provided with enough nutrients, and since they are so plastic, they hold enormous power as a basis for new treatments and cures for various disorders ranging from Parkinson's and heart diseases to diabetes and spinal cord injuries.¹⁰ They are obtained from sources such as embryos, umbilical cords, and bone marrow. Stem cell research began quietly with the discovery in the mid-1800s that some cells could generate other cells. Today stem cell research is embroiled in controversy over the use of human embryonic stem cells (hESCs).

Despite all the contributions to research to date on stem cell therapy, there seem to have been few contributions from Muslim scholars. Learned Muslims and scholars would be expected to make their contributions, especially when we consider that Islam is a religion that provides guidance to mankind. The Qur'ān, for example, says: "This is a book; in it is sure guidance, without a doubt, to those who are God-fearing" (al-Baqarah 2:2).

Embryonic stem cell research is controversial because days-old embryos, sometimes called blastocysts, must be sacrificed to obtain the stem cells, and this means sacrificing a potential life, a situation that gives rise to great debate among ethicists, legal practitioners, sociologists and others. Those who value human life from the time of conception oppose ESC research. If human life in the form of an embryo less than two weeks after conception is a human person, then extracting stem cells constitutes murder; if it is not, then removing stem cells would be morally acceptable. Some people are of the opinion that an embryo is not sentient and has no brain, sensory organs, ability to think, memory, consciousness, internal organs, arms, legs or head. Since a blastocyst has no features related to human beings, ethical judgments pertaining to humans cannot be applied.

Islam can contribute to assessing what really constitutes human life, when human life really begins, and when we have the right to kill or conduct experiments

involving some form of killing in order to cure a patient. By trying to find answers to these questions, Islamic ethics can make significant contributions to stem cell research.

Cell differentiation and immunological intolerance are key areas of scientific interest in stem cell therapy. Cells transplanted for therapy are taken from either adult or fetal or embryonic cells, and scientists believe transplants are best undertaken on embryonic cells, for they offer a more fundamental variety of cell and have the greatest capacity to become different types of body organs.

To further understand the scientific background of stem cells, some basic knowledge of cell biology is required.¹¹

Ethical Issues Related To Stem Cells

Human biological materials have been used to cure diseases, but the use of embryos in ESC research has brought about a need to consider religious and moral concerns.

Supporters of ESC research believe in the utilitarian view, which promotes deeds that result in the greater good.¹² Embryonic stem cell research may destroy embryos, but it also has the potential to treat and cure huge numbers of people. Opponents of ESC research gravitate towards showing compassion for the embryo. One of the arguments against utilitarianism is that it promotes means regardless of morality, even though the result may be moral.¹³ These opponents further argue that ESC therapies are not guaranteed methods for cures and treatments and that the mere possibility of cure is not enough justification to harm embryos.

Those in support of ESC research ask what benefits can be derived in discarding excess embryos from *in vitro* fertilisation (IVF) rather than using them for research. Hence, they justify “sacrificing” embryos, as they will be used for research that will be beneficial for all in the long term. Some have further argued that they are pro-life.¹⁴

According to Roger Brownsword, the controversial subject of ESC research can be simplified into human dignity as empowerment and human dignity as a constraint. Those who see human dignity as empowerment believe in the choice of individuals to terminate life, including how embryos are used.¹⁵ Those who believe in human dignity as a constraint support the idea that humanity itself is dignity and it is compromised when commodified.¹⁶ This commodification includes not only the use of human organs and tissues but also the destruction of embryos for research; the use of embryos for research is therefore a violation of human dignity because the embryo is seen as a human life. All these views propel two basic questions, for which different perspectives will provide different answers: when does life begin, and what rights do embryos have?¹⁷ Whatever

view one takes, embryos can be looked upon with admiration and wonder, a sign of God's magnificent power concerning the miracle of a human life.

The perspective on when life begins is fundamental to embryonic stem cell research. Some believe that an embryo gains human qualities when fertilisation occurs.¹⁸ Others say an embryo's human nature increases as it develops.¹⁹ The range of views continues with regard to the inception of life ranging from fourteen days after implantation to four months of pregnancy. Some say embryos do not have human nature until birth. In Islamic belief, the human nature is understood to begin at the time of the 'breathing in' of the human spirit to the embryo, which may occur either from 40 or 120 days after fertilisation.

Those who believe in the human nature of an embryo at fertilisation add that it should have the same rights as living humans.²⁰ Those who believe in the gradual development of an embryo's human nature say it should be given some but not all human rights.²¹ Proponents of the belief that embryos are not human until birth say that no human right should apply until birth.²²

It is also clear that the ethical debate surrounding stem cells draws much of its energy from the abortion debate.²³ There are people who defend helpless embryos threatened with death by scientists. Frank Young stated: "The devaluation of humans at the very commencement of life encourages a policy of sacrificing the vulnerable that could ultimately put other humans at risk, such as those with disabilities and the aged, through a new eugenics of euthanasia."²⁴

Stem cell research is controversial not because of its goals but rather because of the means by which it is conducted. This is why research involving adult stem cells and umbilical cord stem cells is not controversial. The debates regarding ESCs revolve around the destruction of an embryo before it could develop. In addition, cloning is also an issue as it is a way to produce embryos for stem cell research, adding an additional layer of complexity to an already complicated subject.

The controversies surrounding stem cell use start from the nature of the initial extraction: "the removal of the DNA nucleus from the donated oocyte (egg from a female) might be considered the destruction of a potential human life, and the insertion of a DNA nucleus appears to be an asexual creation of a human embryo."²⁵

Scientists thought that by beginning with ESCs, the debate about abortion could be avoided. However, the use of ESCs does not escape the abortion issue completely because Thomson's method relies on using destroyed blastocysts as the source for ESCs, while the Gearhart method relies on aborted fetuses. Those who maintain that abortion is morally wrong and that no right can come from a wrong, argue that if using an aborted fetus's tissue is permitted, one is supporting abortion. This they believe may encourage abortion as a result of its commercialisation. Adding to the ethical issue is the fact that more embryos would be destroyed if scientists obtain the internal cell mass for development into cell lines and for therapy.

One ethical issue emanates from a religious viewpoint that life begins from conception and that the destruction of an embryo is the same as destroying an adult human being. The manner in which embryos are derived is also significant to the ethical issue, whether left-over cells from fertility clinics, donated eggs and sperms, and cloning. Fertility clinics sometimes buy the sperms and eggs from willing donors. There is also much controversy on the morality of human cloning.

Islamic Ethical Views on Stem Cell Research

‘Abdul Haq Ansari’s article titled “Islamic Ethics: Concepts and Prospects” listed numerous Muslim scholars in diverse disciplines who discussed issues of ethics in Islamic thought, including Abu Nasr al Fārābī (d.399/950), Abu ‘Ali Miskawayh (d.421/1030), Nāsir al-Dīn Tusī (d.672/1273) and Jalāl al Dīn Dawānī (d. 908/1502).²⁶ Ibn Miskawayh, Fakhr al-Dīn al-Rāzī and al-Ghazālī also made significant contributions in the area of ethics. Ibn Miskawayh developed the threefold division of virtue into wisdom, courage and temperance. Al-Ghazālī in his *Revival of the Religious Sciences (Ihyā ‘ulūm al-dīn)* explained ethics based on character traits (*akhlāq*). Al-Ghazālī supplemented his ethical views with mystical overtones.

The comparable term for ethics in Islam, *akhlāq*, is seen in Islam as being close to morality. From the Western viewpoint ethics and morality are different because morality to the West is derived from the Latin *mores* or “morals” while “ethics” derives from the Greek *ethos*. Morality presupposes what is “felt and done” and ethics what is “appropriate and rational”.²⁷ In Islamic thought what we mostly find is that ethics is the knowledge of morality or moral value.²⁸ Islamic morals, such as good and bad, right and wrong, meritorious and non-meritorious, responsibility and obligation, are defined by the Qur’ān and *Sunnah*. Furthermore, in the Islamic faith, God and the hereafter play significant roles in shaping the thoughts and thinking of Muslims on morality. The influence of God on the Muslim way of life runs contrary to a modern ethics that leaves little space for God.

Another important point to highlight is the role of Islamic law. Early Muslim scholars discussed whether the human mind is capable of knowing what is good or bad in things or actions, or whether it must depend on revelation in order to distinguish between right and wrong, and whether man should be held accountable for committing wrong out of unintentional ignorance. The discussion of Muslim scholars on such issues shows the important role Islamic law plays in Islamic ethics.

According to Kevin Reinhart, “if most Muslims were asked which science [by science he meant various aspects of Islamic knowledge] is decisive for the determination of right action, they would nominate the Islamic legal sciences.”²⁹ He further argued that Islamic law is both practical and theoretical and concerns itself with human actions in this world. He added, “The true locus of the

discussion on Islamic ethics is Islamic law.” The reason he adopted such a strong stand is that Islamic law is an example of the moral and legal theory of human behaviour in which initial moral insights are systematically and self-consciously transformed into enforceable guidelines and ideals for all human life.

In Islam, the majority of scholars support the Ash`ariyyah and Maturidiyyah view that what is ethical or unethical in Islam must be backed by evidence from the Qur`ān and *Sunnah*.

Islamic law as a decisive factor in Muslim life is manifest from the way it classifies human actions in terms of categories such as *ḥarām* (prohibited), *wājib* (obligatory), *makrūh* (disliked), *mubāh* (optional) and *mandūb* (recommended).

Applications from the Sources of Islamic Law

Does the Qur`ān, which is the first authoritative source of Islamic law, speak about embryonic stem cells? Stem cells are obtained 1-14 days after the fertilisation of embryos. The Qur`ān indeed talks about the development of the human individual in the womb:

We created man from a quintessence (of clay); Then We placed him as (a drop of) sperm in a place of rest, firmly fixed; Then We made the sperm into a clot of congealed blood; then of that clot We made a (fetus) lump; then We made out of that lump bones and clothed the bones with flesh; then We developed out of it another creature. So blessed be Allah, the Best to create!³⁰ (al-Mu`minūn 23: 12-14)

The fact that the Qur`ān uses the phrase “then we developed out of it another creature” is an indication that the fetus is perceived as having a human life later in the biological development.

Looking at the *sunnah* of the Prophet, which is the highest source of Islam after the Qur`ān, and what it may say about ESCs, there is no *sunnah* that directly discusses this subject. There are however ḥadīths that mention the formation of a baby and when life is breathed into the fetus. One such example from the *sunnah* relevant to discussions on stem cell research is the ḥadīth which states:

Each of you possesses his own formation within his mother's womb, first as a drop of matter for forty days, then as a blood clot for forty days, then as a piece of flesh for forty days ... Then the soul is breathed into him.³¹

Stem cell studies are a new area of Islamic research. Specific responses to issues would need to be developed through *ijtihād* (personal reasoning) and some of the sub-varieties of *ijtihād* that may offer helpful guidelines on issues of our concern. In this context we may look at the resources of *istiḥsān* (juristic preference), *maṣlaḥah* (public interest) and *maqāṣid al-shar`ah* (objectives of Islamic law).

In stem cell research, one of the arguments using *istiḥsān* is that it serves a greater cause by its potential to cure various kinds of ailments such as heart, kidney and spinal cord diseases. Some scholars using this approach have allowed the use of stem cells for medical purposes.³²

Two Muslim scholars who allowed stem cell therapy from a *maṣlaḥah* perspective are Muzammil Siddiqui and Aḥmad Kutty.³³ They based their argument on the interest it would serve when it is fully operational. It is believed that it would serve the public interest by providing remedies to people's ailments.

Imam al-Ghazālī's criteria for *maṣlaḥah mursalah* that the new act must be necessary, beneficial, highly probable and compatible with the applications of the *sharī'ah* can also be applied to stem cell research. This is because (a) transplantation of tissues or cells can save millions of lives and preservation of life is upheld by Islam; (b) it can help many people suffering from various diseases who are in urgent need of transplantation of cells; (c) it has a high probability of effectiveness of working on humans since there is a high record of success on animals; (d) this new science does not contradict any Islamic text.

The discussions on pre-implantation embryos are different from the subject of the Qur'anic verse and ḥadīth that disapprove of man changing the creation of Allah. This is because firstly, embryonic stem cell studies are not about "changing" but "extracting" from the creation of Allah. Secondly, the fact that to every rule there is an exception, the exception in this case is seen in terms of the extent of benefits that can be derived from avoiding the rule.

Using a *maqāsid al-sharī'ah* approach, Ibn Qayyim al-Jawziyyah noted that such an approach aims to safeguard people's interest and prevent them from harm in this world and the next. To him, if the rulings in Islam do not benefit people, that would be disastrous.³⁴ Al-Shāṭibī in his popular book titled *Al-Muwāfaqāt fī Uṣūl al-Sharī'ah* mentioned public interest as the only principal objective of the *Sharī'ah*.³⁵

To Imām al-Ghazālī, "the objective of the *Sharī'ah* is to promote the well being of all mankind, which lies in safeguarding the faith (*dīn*), their human self (*nafs*), their intellect (*‘aql*), their posterity (*nasl*) and their wealth (*māl*). Whatever ensures the safeguarding of these five serves the public interest and is desirable."³⁶

Among the main objectives of the *Sharī'ah* that relate to our discussion on stem cells are the protection of life (self), progeny and property.

The controversy surrounding stem cells is related to life because of the source of the cells and also the possible harm caused to the source. . The cells can be obtained from fetal tissues following an abortion, from human embryos created by *in vitro* fertilisation, from adult stem cells and from cloned human embryos; the problem lies in using embryos and fetal materials which some consider as having a life of their own.

This brings us to whether an embryo or a fetus can or should be given the status of a legal person right from conception or from the time it has attached itself to the wall of the woman's uterus. According to some, Islam says humans comprise both body and soul and since the soul does not exist until after 40 days or 120 days, the embryo comprises only cells and is not yet a human being. The relevant *ḥadīth* states:

Narrated 'Abdullah bin Mas'ud: Allah's Apostle, the true and truly inspired, said, "(In the matter of the Creation of) a human being [he] is put together in the womb of the mother in forty days, and then he becomes a clot of thick blood for a similar period, and then a piece of flesh for a similar period. Then Allah sends an angel who is ordered to write four things. He is ordered to write down his (i.e. the new creature's) deeds, his livelihood, his (date of) death, and whether he will be blessed or wretched (in religion). Then the soul is breathed into him."³⁷

Most scholars agreed that the soul is breathed into the human fetus at 120 days after conception and that it is *ḥarām* to abort a fetus except to save the mother's life.³⁸ Abortion after 120 days is permissible only on the basis of avoiding a greater evil such as the death of the mother and the fetus.³⁹ Embryonic stem cells are taken from pre-implantation embryos during the first few days after conception. Therefore, our discussion will not dwell further upon the topic of abortion. The Qur'ān does not advise on the specific time ensoulment happens. The Qur'ān states:

But He (God) fashioned him in due proportion and breathed into him something of His spirit. (Al-Sajdah 32:9)

This shows that it was subsequently that God breathed into this embryo of His spirit, which made it human.

Some scholars have also distinguished potential life from actual life. The majority of Sunni and a few Shi'i scholars believe that ensoulment occurs after 40 or 120 days of impregnation when actual life begins. This is based on the *ḥadīth* narrated by 'Abdullah bin Mas'ud that was earlier discussed.

To scholars such as Ibn al-Qayyim and Ibn Hajjar al-'Asqalāni, human life begins only when voluntary movements start, but prior to that the embryo has only vegetative life.⁴⁰

There are other scholars who believe that the embryo must be considered a human being and that killing it should be seen as murder. In reality they consider any tools that involve making embryos dispensable must be discarded. Abu Hamid al-Ghazālī, supports this position and argues that even though ensoulment occurs after some time, the embryo is human and should not be destroyed.⁴¹ Most Shi'i scholars and a very few Sunni scholars support the idea that the embryo

before ensoulment is a living entity from the moment of conception and judge its eradication as a sin. One of those in support of this is the Muslim president of the Egyptian Medical Syndicate. He totally disagrees with stem cell research using embryos. He said: “Destroying embryos for research is not ethically right, it’s not morally right, and it does not conform to our Islamic religion as it stands now”.⁴²

The protection of future generations and descendants is also one of the aims of Islamic law. Islam recognises that it is in the nature of man to want children. That is why the Qur’ān says that “wealth and progeny are allurements for the life of this world” (al-Kahf 18:46). In another place it mentions the prayers of the believers as saying “O Lord, grant us in our spouses and our offspring the comfort of our eyes” (al-Furqān 25:74).

The discussion on progeny is important to stem cell use because most stem cells are derived from the embryos of people who are seeking a cure for infertility. Islam allows reproductive technologies if the semen and ovum sources come from a legally married husband and wife during the period of marriage.

Scholars in their discussion on stem cells forbid the use of stem cells from illegal sources such as fetal harvesting after conceiving in order to get stem cells and then discarding or aborting the fetus.⁴³ They allow the use of stem cells derived from placenta or umbilical cord blood, which can be used with the parents’ permission if the fetus is spontaneously aborted or when aborted for therapeutic reasons.

The reference to property as one of the *Sharī‘ah* objectives comes from the fact that women’s reproductive labour is used to create the surplus embryos that are used in stem cell research. The embryos derive from a human being through technological intervention that involves the manipulation of women’s bodies. Obtaining stem cells in such manner takes considerable emotional and psychological investment and a large sacrifice on the part of the woman who gestates the embryos. A woman’s volitional and biological labour produces tissues used in stem cell research. We see these as products or the property of her reproductive labour. The embryos and fetal stem cell lines are made from parts of her body. This writer believes that when women begin to see the issues from the perspective of their bodies as property some may see becoming pregnant just to produce more stem cells as a business.

One may also mention the legal maxims, one of which states that “acts are judged by the intention behind them.” The Prophet in one of his ḥadīths said that “Surely, all actions are but driven by intentions and, verily, every man shall have but that which he intended.” This ḥadīth shows that Islam concerns itself with both the external and the internal aspect of a Muslim’s life and that any good deed performed by a Muslim must be preceded by sincerity to Allah. Scholars of *fiqh* also apply this in reaching a judgment in Islam, such as to differentiate a murder from erroneous killing, or theft from misappropriation of money.⁴⁴

The issue of intention is also significant in our discussion of stem cells. The intention behind research on stem cells is to cure as many diseases plaguing man as possible. This intention is another reason scholars of Islam have allowed it. For instance, Abdulaziz Sachedina stated that “research on stem cells made possible by biotechnical intervention is regarded as an act of faith in the ultimate will of God as the Giver of life, as long as such intervention is undertaken with the purpose of improving human health.”⁴⁵ It is also important to note that there are others who may be motivated solely by commercial purposes; these are the people that the administrators need to guard against. The extraction could easily be turned into a business by encouraging women to get pregnant for the sole purpose of later aborting the fetuses and harvesting the stem cells. It can also be easily commercialised as there are large funds being invested in research, most of which come from the private sector, since there is expectation for an increased demand for stem cells in the future.

The importance of intention is relevant to the use of fetal stem cells which are obtained from aborted fetuses. The intention here is that a fetus should never be aborted nor the mother encouraged to abort with the sole purpose of extracting fetal stem cells. However, in stem cell therapy some physicians feel that since aborted fetuses will ultimately be disposed of, they should be used for something beneficial instead.

Another Islamic legal maxim to note is “Certainty is not overruled by doubt.” Although scientists hope to cure many diseases through ESC therapy, there are also many doubts surrounding stem cell research, especially regarding embryonic stem cells. On the issue of certainty, ESCs require close attention. The embryos used often are spare embryos from *in vitro* fertilisation. Although Islam permits IVF as long as it is performed between a living and legally married couple with their consent, the production of spare embryos and storing them in a freezer for future use is not encouraged.⁴⁶ Another point to be noted related to the issue of certainty is that embryos can be misused, another cause for doubt. The Islamic Fiqh Association in Jeddah met with the Medical Fiqh Association in Kuwait in the year 2000 and they proposed that excess embryos of any form should end their lives naturally without any scientific intervention.⁴⁷ This could be considered a way of killing the embryos, not by utilising the cells, but through neglect.⁴⁸

Islam directs Muslims not to harm or injure anyone; even when injury is caused accidentally, it should be compensated for. The issue of injury comes about as a result of the personhood of an embryo. It is believed that an embryo is a person or potential person. If this is accepted, then it must have basic human rights. Part of the rights it enjoys is that it should not be killed, tortured, nor used for risky medical research. Benefits derived from a fetus do not necessarily outweigh the risks of injury that face an embryo. The embryo’s rights must be ensured by those

in a position to do so as the fetus obviously cannot articulate its own needs, nor does it have the capabilities to take steps that ensure its own well-being.⁴⁹ It is wrong to conduct an experiment when it is certain that the fate of the subject is death, even when such experimentation will benefit the health of others. A human being cannot be sacrificed for the potential good of the whole.⁵⁰

Another legal maxim of relevance here is that “Hardship begets ease and facilitation” just as need or necessity makes the prohibited lawful. Islam is a religion that desires ease for its followers. The Prophet, peace be upon him, was reported to have said, “There is a cure for every ailment, though we may not know it yet.”⁵¹ This shows that Islam encourages people to research and look for cures for illnesses.

The principle of hardship in Islam holds that the prevention of harm has priority over possible benefit. Some believe that one causes harm by killing the embryo and since medical practitioners are still trying to determine how much benefit would be derived from the use of ESCs, it is very difficult for some to support it.

Those, however, who want to examine it from a positive angle rely on the principle which stipulates that necessity renders the prohibited permissible. Therefore, since embryonic stem cell research aims at curing people from life threatening ailments, the research should be allowed to continue.

Conclusions and Recommendations

The writer underscored the relationship between Islamic law and Islamic ethics and then elaborated upon the standards set by Islamic ethics that are to be used in judging how embryonic stem cells should be utilised. This examination aimed to show the respect Islam places on different stages of human life, from the zygote stage to development into a full human being. It is with this understanding that the progressive support Islam gives to stem cell research can be understood.

A benefit from this study can be explained in a metaphor proposed by an English author about little boys playing football on an island; at the very edges of the field there are cliffs, which fall hundreds of feet, with waves crashing below against the rocky shore. The boys are playing, but only within the middle twenty yards – no one wants to risk a corner kick. Then, someone helped by building a strong fence right at the edges of the field; with this fence, they could now play the full field. Similarly, if we can clearly define the Islamic moral or ethical boundaries, we can help medical science in its field of enquiry in a positive way by ensuring that it operates within the limits of the sacred law.

From an Islamic ethics standpoint on stem cell research (especially embryonic stem cells), it can be argued that there is a point of contact between Islamic ethics and medical science. This is especially so when considering the developmental

stages of human life. This association provides avenues for science and religion to work in harmony towards enhancing the life of mankind. The lives of people in terms of health and its related issues in most countries have improved through various scientific and technological discoveries, which, for instance, have led to the development of controlled pregnancy, artificial insemination by husbands, and organ transplantation, among others. All these are well appreciated in Islam. What stands clear however, is that life is sacred and if it must be destroyed, it must be for a genuine and just cause. Unlike the Vatican approach, which rejects absolutely the destruction of the embryo, through the understanding of Islamic ethical flexibility, the issue can be seen in a better and more hopeful light.

Therefore, deriving from this investigation, the following policy recommendations are offered:

- Islamic ethical guidelines are required to be formulated to assist Muslim scientists in applying Islamic ethical principles to various medical problems, especially as they affect the dignity and totality of the human person.
- The Islamic ethical principles that call for moderation and striking a middle course (*wasatīyyah*) should be closely applied to all stem cell applications. In the debate on stem cell research, commonly people take extreme positions, either the position that the embryo is a person or that it is property. There is the extreme position of the person who sees the embryos as a human being from the moment of conception and forbids research on the embryo outside or inside the body. The other extreme position sees the embryo as mere property and reduces it to a clump of cells. Using the word “murder” for the destruction of ESCs is not acceptable. The way forward is to avoid looking at the issue in a simplistic fashion of person versus property. Although it is not yet a person, it is without doubt the developing form of human life in its early stages and therefore warrants a high degree of respect. Within this argument, it is our expectation that in the world of contemporary medical science, a well formulated biomedical ethical theory that is well grounded in Islamic ethical principles will be formulated in order for stem cell research to move forward. It will guide physicians and researchers alike in striking a balance as well as a morally acceptable foundation in difficult medical cases, especially those having to do with the early developmental stage of human life. Stem cell therapy as a new medical treatment should be allowed because it has many benefits for people suffering from various ailments. The benefit in it is greater than the harm.

Notes

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1. Louis P. Pojman (ed.), *Ethical Theory: Classic and Contemporary Readings* (Canada: Wadsworth, 2002), 1.
 2. Peter Singer (ed.), *Ethics* (Oxford: Oxford UP, 1994), 4.
 3. See Ann K.S. Lambton, *State and Government in Medieval Islam: An Introduction to the Study of Islamic Political Theory: The Jurists* (Oxford: Oxford UP, 1981).
 4. Attaullah Siddiqui, "Ethics in Islam: Key Concepts and Contemporary Challenges," *Journal of Moral Education* 26, no. 4 (1997), 423.
 5. See Muḥammad Umar al-Dīn, *The Ethical Philosophy of al-Ghazālī* (Lahore: SH Muḥammad Ashraf, 1991), 53.
 6. Ahmad ibn-Muḥammad Miskawayh, *The Refinement of Character*, transl. Constantine K. Zuraykh (Beirut: American University of Beirut, 1968), 1.
 7. Al-Ghazālī, *Iḥyā ulūm dīn*, vol. 3, transl. Fazlul Karim, (New Delhi: Islamic Book Services, 1998), 54.
 8. See Zaki Mubarak, *Al-akhlāq inda al-Ghazālī* (Ethics of al-Ghazālī) (Cairo: Dārul al-Kitāb al-Arabi, 1924), 113-114.
 9. Attaullah Siddiqui, "Ethics in Islam," 424.
 10. Nancy Gibbs, "Stem Cells: The Hope and The Hype," *Time Magazine*, 30 July 2006.
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FOCUS

CRISES AND CHALLENGES : MYANMAR, AFGHANISTAN, PAKISTAN AND BANGLADESH

Situation Analysis of the Ongoing Crisis in Myanmar

*Salvador del Souza**

The intercommunal, sectarian conflict that broke out in Rakhine State in June 2012 has not subsided despite efforts by the Myanmar authorities to contain it. Worse, fresh riots between the Rakhines and the Muslims (however we call them) erupted again in Mrauk U, Minbyar, and Kyauk Phyu in the third week of October resulting in more than two thousand houses burned and thousands of people, mainly from the Muslim community, displaced. A night-time curfew was imposed by the local authorities, and more security forces arrived following an order by Myanmar President Thein Sein. However, the tension has not diminished and further unrest is expected if the authorities cannot contain it. Even if the authorities do contain it, they must do so in a way that will lead to permanent peace and reconciliation between the two communities, not only within Rakhine State but within the whole country.

Usual Explanations of the Issue

The Rakhine conflict, which dates back decades, is complex and multi-faceted. This analysis does not aim to be grounded in history. It will not cite references since it is not an academic paper but will analyse the widely reported and known events and attitudes. In spite of the glaring shortage of studies of the issue, two common explanations will be briefly mentioned here:

1. Statelessness, both *de jure* and *de facto*, of the Rohingya though they have lived within the territories of Myanmar at least for generations;
2. Decades-long discrimination against and oppression of the Rohingya by the Myanmar authorities.

Some writings do note successive Myanmar governments' practices of divide-and-rule between the Rakhine Buddhists and the Muslims, and they note that the Rakhines too have suffered from various practices of oppression by the central and local Myanmar authorities, particularly under the previous military regime (1988-2011). Some writings also highlight the fact that exile Rakhine activists and organisations used to object to the inclusion of the Rohingya people in Myanmar

society. Organisations and various multi-ethnic bodies formed outside Myanmar offer clear evidence of the animosity of the Rakhines towards the Rohingya. However, we must note a most important fact: all of these explanations were made in the context of the military dictatorship which ruled Myanmar from 1988 to 2011. The Rakhine-versus-Rohingya issue has never been seen as significant among democracy campaigners whether within and without the country during the years of military rule, despite sporadic coverage of and campaigns for the Rohingya by international human rights organisations such as Amnesty International and Human Rights Watch.

The 2012 conflict is the most serious in Rakhine State since Myanmar's independence in 1948. Such serious intercommunal violence did not break out under the previous military regime. Therefore, we are obliged to consider the impact on the conflict of the recent phenomenon of Myanmar's democratisation. A few commentators have pointed out, correctly, that democratisation played a role in this year's conflict.

Protagonists

The Rohingya issue once was seen as involving only the authorities and the Rohingya, with a few commentators assigning a role, though not a major one, to the Rakhines.

However, with the recent process of democratisation in Myanmar, many new protagonists have come to the fore: the media, Myanmar politicians, Rakhines in Rakhine State and elsewhere in Myanmar, the majority Myanmar Buddhist community inside and outside the country, the Buddhist monkhood – all of whom are seen to have played a major role in informing and influencing public opinion in Myanmar. These actors must also be considered in context. With little or no questioning of the claims by their Rakhine brethren, the overwhelming majority opinion in Myanmar on the Rakhine-Rohingya issue is outright rejection of the Rohingya as illegal Bengali Muslim migrants who are terrorising the indigenous Rakhine ethnic Buddhists.

President Thein Sein himself suggested during a meeting with United Nations High Commissioner for Refugees, António Guterres, that the “Bengalis” who had illegally entered Myanmar should be sent to other countries willing to take them, with the help of the UNHCR. Although the exact wording is not known, according to the posting on the Myanmar President's Office website President Thein Sein did make a distinction between the Bengalis/Rohingya who have lived in Myanmar for generations and those who only entered Myanmar after independence, and he reportedly told António Guterres that the government had been trying to find a solution to the problem. However, other Myanmar government ministers repeatedly said in following months that, contrary to

popular opinion, there has been little or no illegal infiltration of Muslims into Rakhine since independence.

However, the Myanmar public, mainly monks and Rakhines, have exploited President Thein Sein's qualified statement that only overstaying Bengali illegal migrants would be resettled in other countries. Monks and Rakhines initially urged the outright deportation of all Muslims or Rohingya from Rakhine, and called for strict and steady adherence to the 1982 Myanmar Citizenship Law which does not recognise the Rohingya as a distinct ethnic group with ties to Myanmar prior to 1823. Both versions of their calls eventually will lead to the Rohingya being effectively stateless and facing deportation. Moreover, the larger Myanmar public seems to agree that even those Muslims in Rakhine State who do have citizenship certificates (National Registration Cards) bought them from corrupt immigration officials. These Muslims include the ethnic Kaman, who are officially recognised as one of the 135 ethnic groups or national races in Myanmar. Many Kaman also were attacked by the Rakhines during the riots in parts of the Rakhine State. This view indicates a growing public unwillingness to accept Muslims as legitimate citizens.

Moreover, during the recent protests over plans by the Organisation of the Islamic Cooperation (OIC) to open an aid office, the Myanmar public, led by monks, has argued that the OIC planned only to help the Rohingya and to muddle local politics. That the OIC is an international body comprising Muslim or Muslim-majority countries understandably worries Myanmar Buddhists. However, the campaigns mainly within Rakhine State against the humanitarian assistance provided by the international NGOs are not wholly sensible, given statements by the campaigners that the aid is biased toward the Rohingya. Even if most, if not all, the international NGOs provided humanitarian assistance to the Rohingya in the past, that was mainly because of the extreme poverty and oppression under which the Rohingya lived. Although the Rakhines too were oppressed under military rule, it is common knowledge that they were less severely oppressed than the Rohingya, especially in terms of economic, social and cultural rights. In fact, the whole Myanmar civil society has shown its outright bias in favour of the Rakhines by not donating at all to the Muslim refugees in the Rakhine State camps, partly due to the shock of the riots.

In the aftermath of the June 2012 riots, it is true that a number of doctored photos showing the slaughter of Rohingya by the authorities, monks, and Buddhists were posted and shared on social media sites such as Facebook. This, in part, led to an emotional uproar in the Muslim world, not all of which is well-informed on the issue, against the Myanmar authorities and the Rakhines. But not all the news and photos on the conflict are fakes. Actually, both sides posted doctored photos and news on the Internet. However, the bulk of Myanmar society seems not to

recognise the involvement of both communities and just pointed to doctored photos and fake news posted by some irresponsible Muslims. This led the larger Myanmar society and some government officials, including President Thein Sein, in press interviews with local journalists, to hide or ignore the bitter truth that the Rohingya have suffered various forms of discrimination and oppression for decades. Even worse, members of the Buddhist majority denied the allegations that the Myanmar security forces were complicit in the attacks on the Rohingya, and joined and took sides with the Rakhines in certain instances since last June.

On the other hand, the Nobel Peace laureate and democracy icon Aung San Suu Kyi, who is widely respected and is seen as the future leader of Myanmar, has been criticised by a number of commentators and organisations as politically silent at best and biased at worst. She remarked that the issue stems from lack of rule of law, but without specifying how her version of the rule of law would ameliorate the situation. In addition, she pointed to the porous border between Bangladesh and Rakhine State as one of the major causal factors. This amounted to a *de facto* accusation that some or many of the Rohingya in Rakhine are illegal migrants. She has said that, as a first step, those who are eligible are to be given Myanmar citizenship under the present legislation, thus postponing the critical revision of the Citizenship Law to bring it in line with international standards. However, other senior leaders of her National League for Democracy (NLD) party, such as Tin Oo, Win Tin and Nyan Win have called the Muslims of Rakhine State illegal Bengali migrants. Therefore, even though Aung San Suu Kyi indeed has enormous influence within her own party, her attitude alone will not counter the majority NLD opinion, since decisions on major matters are made by majority vote at party meetings.

High expectations by various persons and organisations for a potential key role by Aung San Suu Kyi are not realistic for another reason: the involvement of monks, most of whom are young, in this anti-Rohingya or anti-Muslim campaign in the country. It is not alleged here that all or even most of the monks are involved. However, since a number of monks began this campaign a few months ago, no senior Buddhist monk has stepped up and forbade the young monks from getting involved. At this stage, even if Aung San Suu Kyi herself were to get involved and say no to the feverish anti-Muslim campaign, she would be unable to stop it because despite her popularity she does not have the high moral stature that monks have in Myanmar society.

Current Situation

Although the Myanmar government does not seem to recognise the Muslims in Rakhine State (especially those in Northern Rakhine State) by the name 'Rohingya', officials have said that they (or most of them) are eligible for

Myanmar citizenship as Bengalis who have lived in Rakhine State for generations, and have called for harmony and peace between the Muslims and the Rakhines. In the immediate aftermath of the June riots, the Myanmar government formed a special commission (the Rakhine Conflict Investigation Commission) to seek ways of reconciling the two communities. Two famous Rakhine politicians, Dr Aye Maung and U Aye Thar Aung, sit on the commission. Despite this, Rakhine monks, men, women and university students have called for the segregation and deportation of the 'Bengalis' from Rakhine State. This emotionally-charged situation will not cool down soon and tensions will remain for some time.

Even though we can trace the Rakhine community's widely-felt hatred of the Rohingya from the 2012 riots back to the 1940s, the significantly improved role of the Rakhines in the current political landscape also explains the sudden emergence of Rakhine State-wide campaigns against Muslims. The Rakhine Nationalities Development Party (RNDP) headed by Dr Aye Maung won 35 out of 44 seats it contested in the 2010 general election, which was discredited by the international community as unfree and unfair. Among the fourteen Region or State Hluttaws or parliaments, the Rakhine State Hluttaw is the only one in which the national ruling military-backed Union Solidarity and Development Party (USDP) is not the majority party, which shows the RNDP's popularity among the Rakhines. The RNDP also has formed alliances with various democratic and ethnic parties in Parliament. This will make it very difficult for any present or future endeavours to change the law in order to grant citizenship to most or all the Muslims in Rakhine State.

Because of the Rakhine incident, the recent anti-Buddhist riots in neighbouring Bangladesh, anti-OIC protests across Myanmar, and the involvement of various Buddhist groups, mainly monks who hold a very high moral stature in Myanmar, hostile sentiments against the Rohingya are running high among the Buddhist majority. However, this hostility among the Buddhist majority now seems to indiscriminately target all of Myanmar's Muslims.

While the Myanmar authorities have repeatedly portrayed the issue as Rakhine-versus-Rohingya intercommunal conflict and toned down its religious dimension, i.e., Buddhists versus Muslims, many Buddhist monks and laypeople highlight it. For example, protests were held last week in many cities across Myanmar against the plan by the OIC to open an office to coordinate its humanitarian assistance to both communities in Rakhine. The demonstrations clearly showed the religious dimension in the placards which the Buddhist monks and laypeople displayed.

The most worrying developments in the increasing religious dimension on the Buddhist side are the four resolutions, or orders, made by the multi-body Buddhist organisation for defence and protection of Śāsana in Hpa-an, Kayin State, on 10 September 2012.

The orders are:

1. Don't sell, rent, or pawn Buddhist-owned properties (houses, lands and fields) to Muslims;
2. Buddhist women shall not marry Muslim men;
3. Buddhists shall only buy from the shops run by Buddhists;
4. Buddhists, under their names, shall not buy, build, or rent houses, lands, fields, or buildings for Muslims.

At the end of the orders, there is a warning that whoever violates them shall be punished, which effectively amounts to an enforceable law. The orders were endorsed by the Myanmar National Movement Committee, which comprises Buddhist monks and laypeople. The committee also said that it would make its own announcements based on the four orders and express its support through public meetings across the country. Highly inflammatory anti-Muslim pamphlets titled "Future Myanmar and Bengalis" referred to all Myanmar Muslims as Bengalis who have a secret mission to overwhelm the Buddhist Myanmar nation in every possible way. The pamphlets reportedly were circulated in the suburbs of Yangon. Because of threats from some civil society groups, the Myanmar Muslim Organization, which is composed of all the five government-registered and recognised organisations, announced that Muslims in Myanmar would not hold Eid al-Adha celebrations on 26 October, citing weak security and the ongoing conflict in Rakhine.

Possible Scenarios and Solutions

There are three possible scenarios for the future: the positive, the negative, and the most probable. The positive scenario is that people cool down and Rakhines start to recognise their neighbouring Muslims as their fellow citizens with whom they share the state of Rakhine. At the same time, the majority Myanmar Buddhist community, including the monks, laypeople and media, must clearly understand the distinction between the *cultural* other (Muslims versus Buddhists) and the *legal* other (Bangladeshis versus Myanmar Muslims); must revise their view of all Muslims in Rakhine as illegal Bengali Muslim infiltrators; and start to conceptualise the Rakhine versus Rohingya conflict just as an intercommunal conflict, not as one between indigenous Rakhine Buddhists and illegal Bengali Muslim infiltrators. Most importantly, the Myanmar government must state clearly to the country and the international community, without playing the communal card for political capital, that most, if not all, the Rohingya are eligible for Myanmar citizenship and that their citizenship applications will be processed without delay.

However, the negative scenario is that the people grow more and more emotional and the conflict erupts into large-scale country-wide anti-Muslim

protests or riots in the near future. That possibility will not be elaborated here.

The middle-way, or the most probable scenario, is that a small-scale anti-Muslim protest breaks out soon and the authorities get involved before it is too late. However, enforcing the rule of law (whatever is meant by that) alone will not be a long-term solution because Myanmar is now democratising with a freer press and a civil society that is politically and socially more active. Only when the larger society at least accepts the legal legitimacy of the presence of Muslims (both Rohingya and non-Rohingya) within Myanmar, will the issue be permanently solved. This will take much time and dedicated effort on all sides.

Note

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Why Pursue Negotiations with the Taliban?

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Despite the unprecedented international financial aid and military support to the government of Afghanistan, the scaled-up military presence of the United States and the variety of US and ISAF (International Security Assistance Force) tactics used in the ongoing effort to defeat the resistance and establish peace, security and the rule of law, the situation in Afghanistan has deteriorated. The resistance has grown, war and insurgency in Afghanistan have intensified, and the Taliban have expanded their activities, becoming a countrywide movement with territory gained in the north and west. Conversely, the United States is facing great economic challenges both at home and abroad, and there is pressure from Congress and the American public on President Barak Obama to bring American men and women deployed in Afghanistan back home.

The Pashtun insurgency, which is composed of multiple, seemingly infinite, local groups, is fed by what is perceived by the Pashtun people as a continued and sustained assault, going back centuries, on Pashtun land, culture, tradition and religion by internal and external enemies. The US and NATO presence and operations in Pashtun valleys and villages, as well as Afghan army and police that are led and composed of non-Pashtun soldiers and police, provide an occupation force against which the insurgency is justified.¹ The intensity of resistance varies from province to province, being the strongest in the south and east, yet resistance is expanding and has swept through many areas throughout Afghanistan.

The thinking of US and NATO decision makers seems to be that if the Pashtuns' political and economic capacities are weakened or diminished, resistance to the international occupying forces will also be weakened and will eventually diminish. However, eleven years of undiminished and mounting violence in Afghanistan have only proven the opposite. The more pressure applied and pain inflicted, the more their homes and farms are destroyed and their women, children and men killed, the more Pashtuns are encouraged to lend a supporting hand to the resistance movement. Therefore, to bring an end to the war—to bring about peace, stability, and sustainable political and economic development and improve the living standards of the Afghan people—the answer is not to prolong the war and try to weaken Pashtun capacities. Rather, the United States and its allies need to bring an end to the fighting and reach a political compromise with the Resistance. They should refrain from military aggression that only feeds the mounting political and social outrage. The United States along with its partners in the international community should focus its efforts on achieving a deeper understanding of Afghanistan's unique and resilient social values and political culture, and on meeting urgent economic needs. Failure to recognise such realities can only lead to the deterioration and eventual demise of the influence of the United States in Afghanistan.

The hostile feelings aroused by the continuing US war strategy amongst the Afghans, and particularly Pashtuns, feed popular support for the Taliban. The Taliban are not only supported by the rank and file, but increasingly also by the common man and the intelligentsia in the country and among expatriates. The war in Afghanistan has gone from a conflict between the Taliban and the US-led ISAF into a bitter struggle against foreign occupation and for survival and equitable representation. Mathew Hoh confirms this in stating that “the bulk of the insurgency fights not for the white banner of the Taliban, but rather against the presence of foreign soldiers and taxes imposed by an unrepresentative government in Kabul.”² This has transformed the Taliban movement from a purely military fighting force into much more of a politically conscious opposition resistance movement. The Taliban are no longer merely a religious-student militia organisation obsessed with applying their strict interpretation of the Shari‘ah, having opted for a return to power as a party open to inclusion and pluralism, respect and protection of citizen rights, and acceptance of education for both genders. This is a sea-change with possibly enduring ramifications for the future political system in Afghanistan.

An environment of trust must first be created in which Taliban leaders can feel secure enough to take part in negotiations. The Taliban leaders must feel convinced that engaging in negotiations and revealing their identity will not lead to their harassment and arrest. Once the scrutiny of those affiliated with the

Taliban living in Kabul and other key urban areas of the country ends, the Taliban in outlying areas and fighting in the front lines may themselves come to view their adversary, the United States, as being seriously and honestly interested in negotiating agreement through compromise.

At that point, negotiations could proceed in three stages. First, direct negotiation between the US and the Taliban could aim at reconciliation with patient efforts pursued to promote a sustained dialogue. In this initial stage both the United States with its allies and the Taliban should seek agreement on a cease-fire, with the US releasing Taliban prisoners from Guantanamo, Bagram, and other prison or secret ‘rendition’ facilities and removing names of Taliban leaders from any blacklist or watch-list. An agreement between the two sides could be reached through negotiation, and with the outcome approved by the Taliban leadership, especially Mullah Mohammad Omar, the rank and file would follow.

After this, negotiations could move to the second stage, which should include the United States, the Taliban, the Afghan government, and other key actors such as Gulbuddin Hekmatyar and the Haqqani Group (if the latter were not included among the Taliban interlocutors in the first stages). Since this stage involves intricate negotiating among Afghans, a non-partisan independent peace team needs to be put in place to arbitrate between the conflicting parties and shepherd the process. This team should not include members of the government, any political parties affiliated with the government, the Taliban or opposition parties, nor Jihadi groups and commanders. The objective should be to create a process aiming to create institutions for sharing and dividing power among conflicting parties. This power-sharing framework would increase the prospects of building momentum toward an enduring peace.

Notes

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Educational Horizons of Contemporary Pakistan¹

*Syed Nomanul Haq**

When we glance at the intellectual horizons of Pakistan, what appears before our eyes is an intractable *mêlée* of inconsistent and often conflicting systems, riven by deep fissures and pervasive discontinuities. This situation, not unlike that in practically any contemporary Muslim society, does not mean that there is any inherent or actual intellectual inferiority in these societies. Pakistan itself can boast a vast treasure of talents, skills, and rigor of intellect. But it does engender a marked fragmentation of the country's population.

The Literacy Gap

Before proceeding, let us set the backdrop with some concrete facts. Pakistan's population is roughly 160 million people, some 70 per cent of whom live in rural areas. The overall literacy figure—and this includes the barely literate as well as those who have learnt to read and write their names—is 57 per cent. Looked at from the darker side, some 43 per cent of Pakistani reading-age citizens are utterly illiterate. In a recent UN Development Program educational survey of 132 countries, Pakistan was ranked abysmally at 126th in GDP spending on education, as compared to Malaysia, which was the 10th in rank. The number of Pakistani graduates from a “modern” university is a mere 6.3 per cent of the total population. As for the non-university educated population (see below), no complete or reliable figures are available—but it has been asserted that this figure, most surprisingly, is much lower, by some counts as low as 1.3 per cent of all enrolled school children.²

The picture is bleak indeed. But it becomes even bleaker when we see the incoherence and mutual isolation of “educated” Pakistanis. To begin with, a gross classification divides the literate population into three groups which exist practically in mutual intellectual isolation: liberals, conservatives, and those who just cannot explain themselves, denied the ability to articulate their own condition or their own bearings in history. But here is a word of caution: the labels “liberal” and “conservative” are only to be roughly employed in this case; they do not necessarily denote clearly thought-out, informed, or learned doctrinal positions. The safest thing to assume is that Pakistanis so labelled speak in that particular idiom—whether clearly understood or not—which one finds in the named ideologies or philosophical stances.

But this is a gross classification. As we refine it, we see that the picture becomes messier and messier. The “liberals” are generally—but not exclusively—educated

in what in standard parlance would be called “modern-secular” institutions, in other words western or western-style educational entities, particularly mainstream colleges and universities. The official press and the vocal partisans of this mainstream group refer to them charitably and approvingly by descriptive appellations such as “forward-looking”, “rational”, “reasonable”, “scientific”, and of course “modern”. The “conservatives” on the other hand, lying on the periphery in terms of official power and authority, particularly those who have a degree of explicit and often rather unsophisticated ideological rigidity, are generally but not exclusively schooled in madrasahs. Madrasahs have now become a familiar phenomenon of the Islamic world, especially those in Afghanistan, Pakistan, Bangladesh, and Indonesia. They are privately-supported non-government educational institutions with a whole spectrum of curricular structures of their own. They are funded essentially by private donations, charitable gifts, and pious endowments, and are generally run by creed-based associations or alliances. This is all notwithstanding the US administration’s mounting anxieties about them after the fateful events of 11 September 2001.

It ought to be noted at the very outset that madrasahs undertake not only purely academic instruction, offering along with it—now necessarily—a range of professional training for the performance of religious functions such as leading congregational ritual prayers, pronouncing legal rulings based on a specific body of articulated religious law (*fiqh*), carrying out funerals or performing wedding ceremonies. But at the same time they also aim to provide moral education: this dual educational-moral function is declared by them expressly, openly, and emphatically. Often misleadingly called “seminaries”, madrasahs operate with a consciously forged Islamic identity with a view to producing better Muslims. Unlike mainstream college and university graduates, as we remarked above, madrasah trained groups are largely the disenfranchised segment of the population, lying on the periphery of the authoritative power of state institutions. Despite some small political representation of these non-university trained people in the parliament through the ballot, they have no direct role in the administrative, judicial or legislative operations of the state—they are effectively disenfranchised citizens.

This leads us to a further taxonomic complication: the three “literate” communities we have identified and loosely labelled—namely, liberals, conservatives, and the inarticulate voiceless—reflect almost perfectly Pakistan’s socio-economic classes. Enrolments in standard official institutions of the educational mainstream practically always comes from the elite down to the lower middle classes—that is, from those classes constituted by feudal lords through urban entrepreneurs and high state officials, all the way underneath to the likes of lower-level army recruits, small marketplace vendors, and office clerks. It is hard

to imagine well-to-do businessmen or government ministers, diplomats, lawyers, or journalists even thinking of sending their children to a madrasah for their main education. Only the downtrodden, the orphans, the daily-wage labourers—the economically poorer and socially lower classes—look to madrasahs as a source of education for their young. The third fragment—the voiceless—are produced from either of these two systems of schooling: mainstream institutions and peripheral madrasahs. This will become clear as we identify dangerous internal fragmentation within these two systems.

Shift in Madrasah Focus, Ideology Formation and Deepening Contrasts

These divisions do not of course correspond to any differences in people's abilities, talents, intelligence, or creativity. Nor do these classifications necessarily or essentially mark any hierarchy or gradations of what one would call academic or intellectual excellence in its purest sense. Thus, counter-intuitive as it may seem, one of the most formidable scholars of Pakistan, perhaps *the* most formidable to gain an international reputation, was Fazlur Rahman—himself a madrasah product and son of a madrasah-educated mosque *imām*. This founder of the famous Islamic Research Institute in Islamabad rose to the stature of Harold H. Swift Distinguished Service Professorship of Islamic Thought at Chicago University and received the prestigious Levi Della Vida award for excellence in scholarship presented by UCLA. In the entire history of Pakistan, no scholar of the humanities trained throughout in an official college or university has so far attained such high academic station. There are other similar cases as well.

In the same vein, we need to understand that vocational work has only recently become the mainstay of madrasahs, for example, training of *imāms* for ritual services, or running a supply line to provide professionals such as Qur'ān-Hadīth-Fiqh teachers in the mainstream schools where "*Islāmiyyāt*" (Islamics) is a graduation requirement; or preparing *mufītīs* to pronounce Islamic legal rulings. Traditionally, while the production of this kind of religious service personnel had certainly remained an integral part of the madrasah curriculum, it was not its chief calling. Rather, the main focus had been intellectual, to rear and groom a body of 'Ulamā', literally, 'learned scholars'. Indeed, certain madrasah-based schools of thought preoccupied themselves exclusively with rational and philosophic disciplines and did not earn their livelihood as religious functionaries at all, taking no actual interest in tactical politics or even in the affairs of state, and involving themselves in rituals no more than any other ordinary Muslim. They were primarily thinkers and intellectuals. An eminent case of this rational theoretical trend is the redoubtable Khayrabadi logical-philosophical school,

which has all but disappeared now and is all but forgotten as well. The writings of Muhammad Qasim Zaman of Princeton and Asad Ahmed of Berkeley are most instructive here.³

So it ought to be kept in view that a major shift in madrasah focus has taken place in most recent times, particularly after the USSR's invasion of Afghanistan at the turn of the decade of the 1980s. Today, with a few exceptions, madrasahs are not typically generating an alternative intellectual class, a class arising from a non-Western curricular world. They are giving to the society only what may be called vocationally-trained personnel for carrying out rituals and religious services, prepared without any rigorous academic quality control. Strictly speaking, and notwithstanding certain notable exceptions, these contemporary madrasah products are not really 'Ulamā', although they are generically referred to by this title. Small wonder, then, that there exists today a sharp contrast between a university graduate and a madrasah graduate—the latter turns out to be inarticulate in comparison, rather ill-trained, and does not seem to speak in the current idiom of our globalised era. This only deepens the intellectual and social divide in Pakistani society, yielding the fragmentation referred to above.

Given the correlation between socioeconomic status and enrolment in madrasahs, the second thing to take note of is this: the ideologies formed in these institutions today, disenfranchised as they are, arise in the context of poverty, powerlessness and often the lack of nurturing family support. In this regard, it is important to keep in view that, unlike mainstream public educational institutions and the majority of private ones, a high percentage of madrasahs are residential schools charging nominal fees, if at all, providing full board to their student body—and therefore they exercise a more profound and an all-embracing impact on the lives of students. Indeed, given their dual educational–moral role, madrasahs teach an entire lifestyle ranging from personal physical appearance and rules of dress, food, topics of conversation and manners, to performance of rituals, extracurricular duties, homework and examinations. Again, this contrasts sharply and most significantly with the mainstream educational institutions.

Typically, madrasahs are also involved in works of social welfare. They collect alms and charity for their own use and for distribution to the needy, sometimes help widows financially, arrange funerals for the dead among the indigent, and here and there even run free medical clinics for the treatment of the sick in the neighbourhood. Above all, these madrasahs, especially those existing in rural settings, frequently provide shelter to orphan boys and less frequently to pre-teenage orphan girls. Generally, as soon as they come of age, girls are married off to local families, while boys continue their education and training until the time of graduation when they are certified by their teachers formally as qualified religious service professionals, 'licensed' to become teachers themselves. All this

further deepens the contrast between this peripheral educational–moral world of madrasahs and the world of Pakistan’s mainstream educational system.

Apartheid within Apartheid: Mainstream School Educational Systems

Thus, madrasahs and the mainstream institutions constitute a yawning dichotomy of two incommensurable universes—manifesting a quasi apartheid in world-view and self-awareness. Furthermore, there exists an intractable apartheid *within* this apartheid. To begin with, when we come to the mainstream universe, we find two further fissures: on the one hand, public institutions run by the government, funded by the Education Ministry in the case of pre-college schools, and by the Higher Education Commission in the case of post-secondary school educational centres. On the other hand, a massive parallel body of private institutions, either run by entrepreneurs for making profit, or by philanthropists for serving the cause of education. By far the most prominent among the latter is certainly Syed Babar Ali who is the chief founder of Lahore University of Management Sciences (LUMS), but one must not fail to mention Hakim Muhammad Saeed, who founded the less successful Hamdard educational enterprise in Karachi.

As for public primary and secondary schools, their condition could be described as pitiful. There exist on paper many primary government schools, particularly in rural areas and small towns, which lack a proper building fit for human use; if they do have buildings of their own, they stand precariously in dilapidated disrepair and abject neglect. Sometimes there is no electricity, no water supply, no roof and not even a concrete floor. Multiple classes are sometimes held in the same room simultaneously, and basic supplies including chalk sticks for blackboards are a hard find. Teachers and young children in large numbers must travel for miles to get to these ‘schools’, no transport arrangements whatsoever being available for them. While the quality of teaching is abysmal in these schools, there also exist virtual schools: schools which do not even have teachers. The story of government-run secondary schools is slightly less heartrending, but only slightly.

The fees charged by public schools in Pakistan are nominal indeed, as they cater to the lowest rungs of the lower middle class. But when we turn to the private primary and secondary schools, more complications arise. Pakistan has a plethora of mainstream private schools, found virtually in every urban alley or in every town neighbourhood, sometimes housed in purpose-built accommodations but more often in converted residential buildings in densely populated areas. Very frequently many of these are found to be unregistered and thereby ‘illegal’, and occasionally but not always they are closed down upon discovery. The quality, mission, and fee structure of these private sector institutions vary enormously;

they display what statisticians would describe as a very high standard deviation. In other words, there exist those private schools whose fee is just a few times larger than those of their public counterparts, while there exist elite academies affordable only by the very wealthy whose fees are as high as a massive 140 times that of a typical government school.

Among these private educational enterprises, one finds those that are barely any better than the public ones. Yet at the same time there are those high-class private schools whose academic quality, discipline, and social training are uncompromisingly rigorous and superior, comparable to any top school in the Western world. The private sector mission varies widely as well: some are run by Christian missionaries; some continue to operate as leftovers from British colonial times serving as exclusive schools for the upper classes which were originally meant to prepare higher level civil servants, now in Anglicized Pakistani hands; others are unashamedly for-profit commercial enterprises, while yet others came into existence through a gesture of philanthropy. Their products show equally wide variations in the value of their training, their subsequent career, and their ideological leaning. The loudly advertised fundamental claim of the ‘distinction’ of private schools is that they are English medium institutions, where instruction is given not in the national or any regional Pakistani language but only in English. This stands in contrast to government Urdu medium schools for the lowly commoners’. However a new trend in the latter is visible these days: some provincial governments have vowed to translate their public schools gradually into English medium institutions. This abrupt emulation of the private sector is creating academic, social, and ideological dislocations of drastic proportions.

Pakistan’s Pre-University Curricular Market Place

The apartheid within apartheid goes even deeper. While madrasahs and mainstream schools differ entirely from each other in their curricula and testing systems, within mainstream schools themselves there are to be found not one but as many as six different, incompatible curricular systems, examination mechanisms, and certification policies. Most government schools and quite a large number of private schools, especially the lesser ones, follow the state-designed curriculum leading to a Secondary School Certificate and then to a Higher Secondary Certificate. The examinations are administered by the Board of Intermediate and Secondary Education. Nevertheless, some schools also offer non-academic vocational training which is separately designed, administered, and certified.

When we turn to the more expensive elite private schools, we do not find a single or unified integrated system either. Most of these institutions teach the well-

known British Ordinary (O)-Level and Advanced (A)-Level curriculum, all in English except for the language-specific literature courses. This imported system, based both conceptually and administratively outside of Pakistan's cultural boundaries, is governed from afar by the prestigious Cambridge University which is its examining authority. The examinations are administered locally not by the schools themselves but by the British Council in Pakistan, an official UK body with a Royal Charter. But there is even more in this Pakistani education market place. There exist in the country some private schools which take yet another route: that of the International Baccalaureate (IB), a Geneva-based system that was developed privately in the late 1960s and now operates from Switzerland by an NGO recognised by the Council of Europe. Again, while the teaching of the IB curriculum is carried on inside Pakistan, examinations and certification are controlled and conducted directly by the Swiss IB Organization, away from Pakistan both in terms of physical distance and in terms of its civilisational distance from indigenous culture.

There is a fifth system operating in the mainstream. Certain elite schools and those United States Embassy-affiliated academies constitute the genre of 'American Schools' in Pakistan. While these establishments follow curricula conceived and taught in United States, institutionally they operate fully within Pakistan, given that there is in general no centralised school examination-certification authority in the US, and such schools are run as practically autonomous bodies. Finally, there is yet another product in the mainstream school education market: the Aga Khan Board. This private Board run by the Ismā'īlī religious community headed by the Aga Khan is conceived with a non-sectarian secular vision and offers its own matriculation system.

The Fragments

When we include madrasahs in our rough and broad survey, we observe seven different basic educational systems running in Pakistan. If we bear in mind also that madrasahs themselves severally follow a whole variety of curricula, with their many rival creed-based leanings, the number of these systems will swell manyfold in our reckoning. As we have noted above, in terms of academic quality there exists an intractable complex web with an enormously wide spectrum of gradations within and across the systems.

Out of this chaotic field, four major incommensurable communities vie in the embodiment of Pakistan's literate minority: the elite English-medium private school graduates; those who emerge from the lower-standard Urdu medium government schools; the Madrasah-educated community; and finally those inarticulate barely educated crowds who attend the lowest quality academies,

whether public or private or of the madrasah genre. These four groups inhabit what are virtually four different universes—they speak in different idioms, they move in different social groups, the food they eat and the clothes they wear are dissimilar, and their careers and life aspirations manifest deep class divides. The formal language of one of them, the elite, is English, whereas the language of the rest is the national language Urdu. This is a portrait of a fragmented society.

Notes

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- 1. This is my summary of a lecture which I delivered this past summer at IAIS. As it stands, it has two limitations that need to be pointed out at the very outset: (1) The study refers to, but does not examine in any detail, the official higher educational systems in Pakistan. It is limited to a consideration of basic education offered in mainstream pre-university primary and secondary schools, and in madrasahs that lie on the peripheries. (2) The account is impressionistic and essentially qualitative; it moves without citing much supporting statistical data.
- 2. I have drawn upon the following sources for these statistics: "Education Statistics: Education Spending (% of GDP) (Most Recent) By Country," *Nation Master*, available online at http://www.nationmaster.com/graph/edu_edu_spe-education-spending-of-gdp; "Literacy Rate & Education Statistics," *Pakistan Literacy*, available online at <http://pakistanliteracy.wikispot.org/Statistics>; "Population of Pakistan – Statistics," *Population Association of Pakistan*, available online at <http://www.pap.org.pk/statistics/population.htm#tabfig-1.1>; "Madrassas vs Private Schools in Pakistan," *Irtiqa: A Science & Religion Blog*, 8 July 2009, available online at <http://www.irtiqa-blog.com/2009/07/madrassas-v-private-schools-in-pakistan.html>; A good body of statistical data appears in Tariq Rahman, *Denizens of Alien Worlds: A Study of Education, Inequality and Polarization in Pakistan* (Karachi: Oxford University Press, 2004).
- 3. See Asad Ahmed, "The Place of Logic in the Curriculum of the Khayrabadi School: From Imam-i Haqq to Muntakhabul Haqq" in: Michael Cook, Najam Haider, Intisar Rabb and Asma Sayeed (eds.), *Law and Tradition in Classical Islamic Thought: Essays in Honor of Professor Hossein Modarressi* (New York: Palgrave Macmillan, forthcoming); Muhammad Qasim Zaman, *The Ulama in Contemporary Islam: Custodians of Change* (Princeton NJ: Princeton University Press, 2002).

Cultural Roots of Islam in Bangladesh and Islamisation

*Golam Dastagir**

No culture can flourish without engaging with other cultures. As Gandhi stated, “No culture can live if it attempts to be exclusive.” The interaction of religion and culture intertwined in society nourishes each major civilisation and inspires and moulds human life. This is well exemplified in the emergence of Islam with its process of Islamisation in the Indian Subcontinent generally, and in Bengal (present day Bangladesh) in particular. Many Bengali Muslims who only several centuries ago may have been Hindus or Buddhists often feel uncertain about their national identity and search for a basis in Islamic faith, state nationalism, the spirituality of Sūfism, or even ancient Hindu-Buddhist traditions. Bangladesh has a population of 150 million people today of whom 90 per cent are Muslims, 9 per cent Hindus, 0.3 per cent Christians, and 0.3 per cent Buddhists. Although Bangladesh is now a culturally homogenous country, diversity is not in any way de-emphasised. Assorted races of Dravidians, Asiatics, Negroids and Aryans with their subsequent intermingling have given rise to plural ethnicities which have augmented the degree of tolerance historically witnessed in Bangladesh. This nation has a long legacy of mystic and mythic religious traditions including those practices by *Dervish*, *Faqir*, *Sadhu*, *Yogi*, *Pir*, and *Baul*, with distinctive mystic and folkloric teachings cultivated by way of spiritual songs, music, dance, poetry, and literature.¹

From Diversity and Tolerance to Politicisation

Islam had penetrated into the Subcontinent by the mid-tenth century CE, reaching seaports of Bengal through Muslim traders arriving in the eighth and ninth centuries. By the mid-eleventh century Islam spread into the interior mainly by means of immigrant Sūfi saints from Arabia, Yemen, Iraq, Afghanistan and Persia. These flag-bearers of Islam established religious centres where local Hindus and Buddhists imbibed Islamic spiritual traditions. They assured the growth of the Muslim population at large by accommodating local customs and reinforcing their charismatic presence. Regarding the contribution of Sūfis to the conversion process, the Sūfi saint al-Hujwiri (known as Data Ganj Bakhs, d. 1077 in Lahore) stated, “*Through the blessing of their advent the rain falls from heaven, and through the purity of their lives the plants spring up from the earth, and through their spiritual influence the Muslims gain victories over unbelievers.*”² Over the following six centuries learned Sūfis and scholars

continued to arrive in Bengal. With the conquest of Bengal by Muḥammad ibn Bakhtiyār Khaljī in the beginning of the 13th century establishing political domination lasting over five centuries, this conversion process accelerated. Of the many Sūfi Orders (*ṭuruq*) four are prominent today in Bangladesh and India: Naqshbandiyyah, Mujaddidiyyah, Qādiri and the Chistī. With respect to the process of mass conversion and Islamisation Richard Eaton developed his thesis of “Religion of Social Liberation,” emphasising the liberating message of social equality preached by Sūfis to oppressed castes seeking to escape the yoke of Brahmanic oppression.³ Bengali civic culture always maintained profound values of religious tolerance for over a millennium, being well-known for its assimilative and accommodative character, particularly in the context of popular Sūfi Islam.

Traditional Bengali spiritual tradition has influenced the nature and characteristic of Islamisation in Bangladesh. On the fifteenth of Sha‘bān, Bengali Muslims celebrate the “Festival of the Bestowal of Fate”, known as *Laylat ul-Barā’ah* or *Laylatun Nisf min Sha‘bān* in the Arab world, and as *Shab-e-Barāt* in the Subcontinent, illuminating homes and graves with candle lights, distributing food to the poor and relatives, and praying to God during the whole night. It is an observance nowhere else seen in other parts of the Muslim world, though the positive social impact of this controversial celebration may be considered to be in a some sense a gift of Islam. This is a popular custom deemed to derive from Hindu practices at *Diwali* (Festival of Lights). The rural folk, who are mostly hapless peasants, often visit shrines and *dargahs* for acquiring blessing without heed for which religious community the shrines belong to. Surprising as it may seem, non-Muslims outnumber the Muslim visitors at some popular Sūfi shrines or *dargahs* on certain occasions, because regardless of their political affiliation and religious denomination, people generally crave blessings (*du’a*) from elderly people, teachers, parents, saints, shrines and *pirs* as necessary means for effective accomplishment of any business or other affairs in daily, religious and social life.

The impact of traditional culture on the religious life of the God-fearing people is such that they usually do not intend to begin any new turn in life or business without taking prior blessing from God. After making a pilgrimage to a Sūfi shrine or arranging a *Milād-mahfil* (religious gathering), Muslims both rich and poor usually inaugurate major social events such as marriage ceremonies, launching a new business, buying a new house or shifting to a new place for living, travelling abroad, even circumcision and naming children, with such a gathering. If any such success transpires, they credit it to divine blessing. But even if not, they still hold hope that something better might still come up, and bear in mind that something worse did not happen. A popular adage says, “Bad is better than worse.” If failure or misfortune follows in any venture of life, when

no pilgrimage to a shrine or offering (*manat*), in cash or in kind, was made, the devotees feel discontented that it would not have happened if a proper measure of offering had been made.

In the modern era Islam's increasing politicisation for national mobilisation changed Bengal's social values and cultural tradition of tolerance. After having lost their political independence to the British colonisers, Indian Muslims imagined (in error) they had lost their Islamic identity as well. Under the British, they had refused to learn English and adhered to Persian and Arabic, and were thus left behind in the power competition with Hindus who cooperated with their British masters and acquired the lion's share of the colonial administrative structure. In 1947 Bengal Muslims had voted for Jinnah's Two Nation theory in a bid to uphold what they understood to be Islamic identity, but soon realised this was nothing but exploitation in the name of their religion. In less than a year after independence from Great Britain, Bengal Muslims were dealt a severe blow by their Pakistani leaders. Although 56 per cent of people spoke Bengali in 1948, their mother tongue was not acknowledged as one of the recognised state languages by authorities in Pakistan, who sought to interpose Persian and Arabic words into Bengali literature. This attempt at linguistic reform was intended to dilute the cultural backbone of Bengali Muslims, whose celebration of Bengali cultural festivals was perceived to be a revival of Hindu tradition.

Nevertheless, the long search for a specific Bengali Muslim identity through the prism of diverse races, cultures, religions and languages eventually led to a form of Bengali nationalism on the basis of which the Bengalis *en mass* fought for independence in 1971. The first post-liberation government of the nationalist political party which had led the liberation war endeavoured to rebuild the shattered country politically, economically and culturally – especially through the constructs of national socialism blended with selected content derived from Islamic values. Horseracing was banned, the Islamic Foundation established, relations with the OIC renewed, and Madrasahs (public and private religious primary and secondary schools) were founded. The national TV channel of Bangladesh (BTV) commenced and closed its daily programs with recitation of the Muslim's *Qur'an*, the Hindu *Bhagavat Gita*, the Buddhist *Tripitak* as well as the Christian *Bible*.

Islamisation

However, the rulers who led the nation after this second independence instrumentalised Islam for political benefit and personal gain, particularly the military regimes (1975–1990) of General Ziaur Rahman and of H. M. Ershad. As John Esposito states, “Both these military rulers have interpreted Islam in order to enhance their legitimacy and policies.”⁴ With respect to the intensified

Islamisation process accompanying construction of nationalist identity, these steps have included founding a state-run Islamic University, making Islamic studies mandatory for Muslim students in primary and secondary schools, and establishing thousands of Madrasahs and mosques across the country, often funded by Saudi donors and NGOs. During the late twentieth century there occurred a largely unregulated expansion of Madrasahs which grew from roughly 4,100 schools in 1986 to possibly as many as 64,000 schools by 2005. According to a UNDP report of 2005, while the number of secondary and higher-secondary educational institutions in the nation increased by 16 per cent over a twenty year period, the registered Madrasahs increased by 27.9 per cent.

Of the two major types of Madrasah – *Aliya* [*‘ālīyah* ‘higher’] and *Qawmī* [*qawmī* ‘people supported’] – the former is governed by the state’s Bangladesh Madrasah Education Board: this awards accreditation to degrees granted, and teaches science, history, agriculture, and literature (apart from religious instruction) in its syllabus, reflecting the traditional Calcutta higher education tradition. The latter type *Qawmī* follows no specific academic syllabus, but to a large degree privileges an indigenous simplified Deobandi-style syllabus⁵ or the older *Dars-i Nizāmī* curriculum, and until recently (beginning in 2006 with the Bangladesh *Qawmī* Madrasah Education Board) lacked any official state accreditation or supervision.⁶ The *Qawmī* Madrasahs reject state funding, being supported almost wholly through private donations (so-called ‘*qawmī*’, in the sense of ‘people supported’) – including from Islamic NGOs allegedly linked with the Kingdom of Saudi Arabia and certain Arab Gulf countries who “have acted as a conduit for political Islam.”⁷

Bangladesh is one of the few countries in the world with a separate ministry called *Ministry of Religious Affairs*, which operates several trusts for the welfare of all faith communities (e.g., “HINDU BUDDHIST CHRISTIAN WELFARE TRUST”), not to mention provisions for organising and monitoring all events and festivals related to Islamic affairs. Mosques, temples, and churches are built and repaired not only by the community concerned but by the subsidy and patronage of the government as well. Established in 1975, the ISLAMIC FOUNDATION is the largest Islamic think tank in Bangladesh, an autonomous organization under the *Ministry of Religious Affairs*. It is supported by six divisional offices and sixty-four district offices, as well as seven *Imam Training Academy Centers* and twenty-nine *Islamic Mission Centers*.

Public and private organisations are named after the names of Islamic scholars, scientists and physicians as a mark of respect for their contribution to Islamic civilisation. Commonly seen across the country are institutions such as Ar-Razi Clinic, Ibn Sina Hospital, Darul Ihsan University, Bangladesh Institute of Islamic Thought (BIIT), International Islamic University in Chittagong, Islamic

University of Technology (IIT) in Gazipur (a subsidiary organ of the OIC), with some being NGOs. Furthermore, many government and autonomous enterprises in the country are named after prominent Sūfi saints, such as Khan Jahan Ali Ferry, Shah Sūfi Enayetpuri Ferry, Shah Makhdum Ferry, Shah Amanat Airport in Chittagong, Hazrat Shah Jalal Airport in Dhaka, etc. Islamisation has penetrated into almost every sphere of life and business affairs, but Islamic values which might protect against moral bankruptcy have not. The heads of major political parties commence their election campaign with a visit to a respectable Sūfi shrine. Public and private Islamic schools, colleges, universities, Islamic banks, Islamic insurance companies, Islamic hospitals, Islamic clinics, and other enterprises have been set up across the country. At the same time, each and every aspect of social and religious life in Bangladesh is politicised and polarised, especially education, which is not only politicised but also one of the major corrupt sectors in society. The *Ulama* are also politically divided, and their role may best be described as mouthpieces for the political parties they are affiliated with. Politicisation of Islam has given birth to militarism in Bangladesh. It is noted that “since 1988, a tide of religious militancy has been rising.”⁸ In the first decade of the twenty-first century (early 2001) those that came under frequent attacks by bombs and grenades, allegedly perpetrated by so-called banned militant outfits, include Sūfi shrines and churches, the Ahmadiyyah Muslim community, progressive political parties, liberal intellectuals, Bengali cultural structures and festivals, civil judges, cinema halls, theatres, and musical soirees. Militant outfits including *Ḥarakat ul-Jihād al-Islāmī Bangladesh* (HUJI) and *Jamā‘ah ul-Mujāhidīn Bangladesh* (JMB) are accused of these heinous atrocities, according to the probes undertaken by the caretaker government in 2008 and more recent investigations. In broad daylight on 17 August 2005, over 500 small bombs were detonated simultaneously in 300 locations at 63 districts out of 64 districts across the country, killing three people and wounding over a hundred. According to different news reports, “Those arrested included many teachers and students from *qawmī* madrasas.”⁹ It is alleged that “the BNP-Jamaat-led four-party-alliance government patronised the organisation [HUJI] and its leaders.”¹⁰

Globalising Culture

Identity that is nationalistic and externally-formalist in nature leads one to fear that authentic Bangladeshi Islamic characteristics, shaped by Arabo-Persian cultures which were then embedded in Hindu-Buddhist spiritualist traditions, are gradually losing any presence in Islamic ethical norms and ideals and are rapidly shifting into the Westernising mode of secularisation. English-medium schools and private universities are replete with Western thought and culture, coupled

with increasing trade and commerce with Europe and America. The effects of British colonisation for almost two centuries, scholarship exchange programs, higher education in the West for the elites, unleashed satellite cable TV showing non-stop Indian soap operas and Western movies, along with unlimited access to the Internet and electronic media, video games and the like have largely promoted the growth of secularisation in every sphere of life.

Remembering Bangladesh's Islamic history, we observe that before the emergence and spread of Islamist extremism, there was not a single incident of sectarian violence targeting civic structures, cultural events, secular political parties, religious minorities and folk-religious practices. Islamist radicals seek to turn Bangladesh into a conformist Islamic state by abolishing social values and demolishing cultural entities cultivated for long centuries. This appears to be a futile exercise as long as democratic values are being realised, religion is purified of nationalist politics, and the country enjoys rule of law without fear or favour. Bangladeshi people are poor, yet religiously sensitive, politically conscious, socially secular in outlook, and culturally rich in their diversity. The roots of Bengali culture are embedded in traditional spirituality developed through Sūfi Islam, and influenced as well by the colonial legacy, and this is now threatened by the spread of Islamic radicalism. Nowhere has culture been so much entangled with religion as it has been in Bangladesh. From a closer scrutiny of the way of life of the common people—their language and dialects; ways of thinking and expression; their social practices marking birth, marriage and death; religious and cultural festivals; and all their cultural artefacts from food to music, we understand that Bengali Muslims are characterised as Bengali first, then Muslim. Against this backdrop, what Bangladesh requires is the understanding and implementation of a contemporary Islamic consciousness alive to timeless values yet fully engaged with modernity. There is an example grounded in the Malaysian model of *Islam Hadhari* or “Civilisational Islam” advocated by the former Prime Minister Tun *Abdullah bin Haji Ahmad Badawi*.

Notes

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- 1. Hasna Jasimuddin Moudud, *A Thousand Year Old Bengali Mystic Poetry* (Dhaka: University Press Ltd., 1992). She gives extensive research on the genre of Bengali mystic poems termed *Caryagiti* composed over one thousand years ago.

2. ‘Ali al-Hujwiri, *The Kashf al-Mahjub [Revelation of the Veiled]*, trans. Reynold A. Nicholson, 2nd ed. (reprint, London: Luzac, 1970), 213.
3. Richard M. Eaton, *The Rise of Islam and the Bengal Frontier, 1204-1760* (Berkeley: University of California Press, 1993), p. 56.
4. John Esposito, *Islam, the Straight Path*, 3rd ed. (London: Oxford UP, 1998), 223.
5. [Deoband is the town near Delhi in India where the seminary (*dār al-‘ulūm*) founded in 1867 propagated a literal austere version of Sunnī Islam, and which played an active role against British colonial rule. Now the ‘Deobandi’ world-view has proliferated in South Asia *via* informal networks of private schools, sometimes marked by an intolerant exclusivist mindset and propensity for *jihād*. – Editor]
6. [While figures for the actual number of *Qawmī* private schools in Bangladesh are hotly contested, plausible estimates are that in 2006 there were ca. 15,000 registered *Qawmī* schools with over four million students; yet if unregistered schools are included then the total number may be as high as 64,000. (Note that in 2004, the number of official Aliya schools was 25,201.) Further see: Mumtaz Ahmad, *Madrassa Education in Pakistan and Bangladesh* (Honolulu: Asia-Pacific Center for Security Studies, 2005); and Mohammad Niaz Asadullah, Nazmul Chaudhury, and Syed Rashed Al-Zayed Josh, *Secondary School Madrasas in Bangladesh* (Washington D.C.: The World Bank, March 15th 2009). – Editor]
7. Aminur Rahim, “Bangladesh’s Deadly Waltz with Political Islam,” *Viewpoint*, December 13, 2005.
8. *Janakantha*, 9 March 2005; quoted in Aminur Rahim, “Bangladesh’s Deadly Waltz with Political Islam” in *Viewpoint*, 13 December 2005.
9. Abdul Mannan & Farzana Mannan, “Quomi Madrasa: Time to remove the stigma,” in *The Daily Star*, Independent Day Special, Dhaka, 26 March 2010.
10. Julfikar Ali Manik, “Huji emerged with open declaration,” in *The Daily Star*, Dhaka, 30 October 2007.

VIEWPOINTS

Ethical Dimensions in Islamic Finance: The Way Forward

*Tun Abdul Hamid Mohamad**

At a seminar organised by the Securities Commission about two years ago on the financial crisis in the West, I asked a professor from Australia whether the crisis was a result of the system itself, or of the abuse of the system. He replied, “Abuse.” Then I said, “Well, if it is abuse, then abuse may also happen in the Islamic system.” He agreed, but argued that there was a difference because the Islamic system is faith-based.

Islamic finance is faith-based, but it is a big mistake to think that because of that all players will be religiously ethical. If the prohibition partaking of the *haram* (that which is prohibited) is in practice breached much of the time, even by Muslims ourselves, what ethical behaviour might one expect when money is involved?

In Malaysia we read about customers, allegedly assisted by someone from within, cheating Al-Rahnu and a non-Muslim CEO of a company allegedly fraudulently obtaining funds from an Islamic bank and leading to the default of millions of ringgit. We have seen employees of Tabung Haji being charged for criminal breach of trust. We have seen both Muslim and non-Muslim customers who have defaulted to raise a defence that the transaction was not Shariah-compliant, hoping to avoid the obligation to pay their debts. Crossing the border, we have seen a bank that had offered a Shariah-compliant product turn around to say that it is not Shariah-compliant, in an attempt to avoid the obligation under the contract.

There is a tendency amongst Muslims to assume that if they do something which they believe to be “Islamic” and in the name of Islam, everything will turn out fine: Allah Most High will take care of everything. They forget that “*sunnatullah*” applies to all and that you have to do the right thing to get the right result. They forget that even the Prophet and his troops lost the Battle of Uhud, not because of lack of piety or wavering intention, but because the archers deserted their positions and prematurely rushed for the spoils of war.

When it comes to Islamic finance, why do things happen such as those that I have mentioned?

Thirty years is not a very long time in the history of banking and finance. The first Islamic bank in Malaysia was established to provide non-riba (non-interest yielding) based banking to pious Muslims. At that time both the bank

and the customers were concerned about compliance with the Shariah in their transactions. However, within a short period, Islamic banking and Islamic finance have grown into a trillion-dollar business.

As a result, people and banks that otherwise would have nothing to do with anything “Islamic” became interested in Islamic banking and Islamic finance. Non-Muslim customers joined in, attracted by the fact they would not be subject to penalties and compound interest. Competition amongst the industry players and the desire to increase profits to levels comparable with the conventional counterpart adds, ultimately, to the dilution of the faith factor.

We have to be realistic. We must remember that we are dealing not just with pious customers, employees or bankers. We are also dealing with crooks. We should not be naïve.

What is this “Islamic ethics” that we are talking about? Muslims are very fond of using the word “Islamic” as a brand name. Hence we have Islamic banking, Islamic finance, Islamic clinic, Islamic medicine, Islamic kindergarten, Islamic beard, Islamic tooth brush and so on – and the West has added others: Islamic bomb, Islamic terrorist, and Islamophobia.

Ethics boils down to two words: honesty and fairness. These cut across all religions, and a fair portion of them have been covered by the existing law that we have. It is a matter of implementation.

There may be areas not covered by civil or criminal law which we should be looking into. The focus should be on both parties: the Islamic financial institutions and their customers / investors must both be ethically accountable.

We should not waste our time trying to define Islamic ethics.

What do we do? We require people with experience and expertise from all relevant disciplines to sit together and formulate rules, regulations and guidelines. And consider how to best achieve compliance.

I think we should start working.

Note

- * Tun Abdul Hamid Bin Haji Mohamad read law at the University of Singapore and graduated with LL.B (Hon) in 1969, then joined the Malay Judicial and Legal Service for twenty one years in numerous capacities until his appointment in 2007 as the Chief Justice of Malaysia. He retired on 18 October 2008. Tun has served as Judge in all the courts in the country, Civil as well as Shari’ah, writing a total of 567 judgments on all aspects of law for the Superior Courts. He delivered the Abdul Razaq Al-Sanhouri Lecture at Harvard University in November 2008. Still active as Chairman of the Law Harmonizing Committee of Bank Negara Malaysia, and a member of the Shari’ah Advisory Council of Bank Negara and the Securities Commission, he is also a member of the Judicial Appointments Commission. In 2011 Tun was awarded an Honorary degree of Doctor of Philosophy in Shari’ah and Judiciary by Universiti Sains Islam Malaysia (USIM).

Ali Allawi's Perspective on Forging a Civilisational Presence

*Karim D. Crow**

Ali Allawi** is an Iraqi statesman who served in post-Saddam Iraq as Minister of Defense and then Minister of Finance and is currently a Senior Fellow at Harvard's Kennedy School of Government. In his book *The Crisis of Islamic Civilization*¹ he gives a wake-up call for Muslims "to muster the inner resources of their faith to fashion a civilizing outer presence." He questions the very possibility of the survival and continuity of Islam's "transcendental ideal" in the face of profound challenges brought by modernity, globalisation, and impersonal technological and marketising forces. He is convinced that the prevailing orthodoxies should be seriously challenged in order to renew the transcendent aspect of Islam and rectify the over-identification of Islam with its political and juridical components. He soberly argues: "The calls to reform Islam and the meaning of reformation in the context of established orthodoxies have been highly problematic" (xv).

This is not a dry scholarly disquisition, but a lively gripping narrative by an engaged public intellectual and former government official who carefully observes the world of Islam and is intimate with both Islam's textual traditions and western Islamic studies. Blending history and economics with philosophy and sociology, he offers an intelligent analysis of a civilisation in crisis. Allawi states: "This book is about Islamic *civilisation* – a universe which is recognisably Islamic, draws its vitality and inspiration from the inner and outer aspects of Islam, and is the bridge connecting the two. It is this world that is in danger of disappearing" (xvi).

He serves us bitter medicine to guard against such a fatal outcome: "A new Islamic civilisation can only be carved out from a harsh reality of years of inactivity, lassitude and indifference. ... The creative impulses of civilisation are now all in the domain of another world order" (272). He asks for Muslims today to hold up a mirror to themselves: "What that mirror would show was a fading of their own civilisational drive and an increasingly obvious indifference to, and often abandonment of, the foundational ethical and spiritual bases of the faith" (xii).

Allawi downplays the importance of political Islam which he treats as "only an aspect of the overall problem of Islam in the modern world, ...a manifestation of the ailment rather than the ailment itself. What concerned me was to discover the deeper roots of the crisis and, in particular, to find out whether Islam's apparent mismatch with the modern world is intrinsic to the religion itself or is

due to some other factors – including the decay of its defining and vital forces” (xviii-xiv). He thus laments the decay of inner Islamic spirituality which had “seamlessly integrated the sacred with the profane in the quotidian experience of a huge number of people” (270).

Allawi begins by posing three important questions:

First, could one speak of a single Islamic civilisation any longer, or had Islam broken down irretrievably into loosely connected cultural, national and ethnic units? Secondly, is a specifically Islamic civilisation a recurrent or repeatable possibility, or has it been, as the critics and sceptics would argue, forever lost? Thirdly, under what conditions can Islam’s civilisational presence return to the modern world? However, above all such concerns, there is a fundamental issue central to Islam and other world religions: can a modern society, with all its complexities, institutions and tensions, be built on the vision of the divine? (xiv)

He clarifies why the core of Islamic civilisation differs from other civilisations – especially from the dominant globalising world order.

Islam forged a civilisation which was unique and easily recognisable. . . . At its heart was an act of willing submission – the literal meaning of ‘Islam’ – to the divine reality from which all manifestations of its civilisation ultimately derived. This ideal has remained intact ever since the inception of the religion, and in the final analysis it has been the bulwark which has so far stood against the dissolution of Islam into modernity. The transcendental ideal has remained constant across the different cultural traditions which make up the world of Islam. This has been frequently overlooked: the fact of Muslims’ intrinsic diversity has overshadowed their unity. . . . Islamic civilisation, almost by definition, has to acknowledge the role of the transcendent (or the sacred, or the divine: call it what you will) in its make-up. If that element is absent, then Islam cannot be forced into the dynamics of modernity without its integrity being affected. (xiv)

He next provides in chapters 1–3 a historical overview of the shocks suffered by Islam over the past two centuries in its encounter with expanding Western powers followed by forces of technological scientific modernity. This part brings us up through the 1970s when the “counter-revolution of Islam” emerges aiming at “recovering the vital energies of Islamic civilisation”, an ongoing process with no final resolution in sight. Chapters 4–5 examine the transformation in the fundamental values of Islam that occurred during the past two centuries, when “Islam was gradually ‘de-sacralised’” affecting whole aspects of how Muslims think and believe. Chapters 6–10 treat in fascinating detail the external aspects of “the erosion of Islamic civilisational space on power, institutions, politics, values, economic life, and culture and society.”

While recent debates over the future of Islam have focused on these areas, Allawi also highlights “the ethical and spiritual dimension to the question of whether a uniquely Islamic order can ever be recreated again.” The thrust of his concise presentations of both *inner aspects* of ideas and values, and the *outer aspects* of institutions, laws, governance and culture, is to place before the reader the dire urgency now confronting Muslims. (xvi) “The inner dimensions of Islam no longer have the significance or power to affect the outer world in which most Muslims live” (xvi). Later he writes, “The quest for continuous material improvement, a rising standard of living, and an almost fetishistic belief in the power of science and technology is now a nearly universal condition. . . . Muslims can continue to rail against the excesses of the modern condition, but their objections are useless if their daily lives and aspirations are only a minor variant of the global standard” (271).

In his final pages, titled “What do Muslims Want?” (270–273), Allawi evokes the anguish experienced by Muslims over the loss of authenticity in their lives, their sense that immorality is increasing, and their inner ambiguity over the dominating influence of Western values in their societies. He points to the inherent contradiction of their present situation: “The majority of Muslims continue to resist a wholesale capitulation to the standards and values of modern western societies, but without knowing precisely what their resistance actually implies....The certainty of Islam becomes the only lasting element that is seen to be reliable and consistent. It is still embedded in the collective unconsciousness of all Muslims. Islam offers an inner certainty to Muslims, but its outer expression as a civilisation has been severely curtailed or abandoned. The inherent equilibrium demanded by Islam between the Muslim’s inner and outer lives has been disrupted.”

Allawi concludes: “So the entire argument as to whether Islam is in conflict with modernity or vice versa is false. The issue is whether Muslims want to create and dwell in a civilisational space which grows out of their own beliefs without disrupting the world of others. . . . The revolt of Islam is doomed to fail if it does not find an outer expression of the faith at all the levels of civilisation.” Reminding us of the pervasive secularising effect of increased affluence and economic power which reduces the cherished values of social virtues in practice to private personal ethics, he warns that reformists who call for “wholesale adoption of the institutions and processes of modern technological societies” would ensure a final break between the sacred and the profane in the world of Islam. This results in a hollow simulation of Islam “with a deceptive cultural distinctiveness, one which has effectively merged with the dominant order.”

If Muslims want the very things that modern technological civilisation promises, then “they have to acknowledge the roots of this civilisation in order to

become an active and creative part of it. Otherwise they will simply be a parasitic attachment to it.” However if Islam accepts these premises, “then the best that Muslims can do is to ‘package’ the final products of their civilisation in ways which may be culturally or politically acceptable to their own societies. They can even participate in the dominant civilisational order and accept the risks that it might fatally undermine whatever is left of Muslims’ basic identity and autonomy. This appears to be the path that the richer societies of the Muslim world have chosen for themselves.” Examples are the Arab Gulf and Malaysia.

On the other hand radical Islamists, as well as the ranks of conservative or rationalist Muslims, delude themselves by thinking that using the filter of Shari’ah to enable “picking and choosing from the menu of change, a happy compromise between Islam and what is acceptable from modernity can be fashioned.” Allawi correctly observes: “This approach, which has been entertained for over a century, has neither produced satisfactory material progress nor strengthened the foundations of Islamic civilisation in any way.” Why has this conventionally approved method missed the mark? Because “the change they are facing is a product of a different and ascendant civilisational order. It can only be internalised successfully if it is refashioned, and then transcended, in a uniquely Islamic framework.”

How best to regenerate a transformed Islamic civilisation? His final point: “*If Muslims want to live an outer life which is an expression of their innermost faith, they have to reclaim those parts of their public spaces which have been conceded to other world views over the past centuries.*” Otherwise, Allawi warns: “Islam will simply be another motif in a consumer-driven, self-obsessed, short attention-span global culture; another ‘player’ in the marketplace for ideas and religions. The retreat of Islam into the private, individual sphere will be complete.”

Notes

* Karim D. Crow, Principal Fellow at IAIS Malaysia.

** Ali Allawi graduated from MIT in 1968 with a BSc in Civil Engineering, with postgraduate studies at the London School of Economics in Regional Planning, then his MBA from Harvard University in 1971. Dr Allawi worked as an investment officer in the Capital Markets Department of the World Bank/IFC Group, consultant to the Arab Fund in Kuwait, and in 1978 co-founded the merchant bank Arab International Finance in London. He held research positions at ISTAC in Kuala Lumpur, and at St. Antony’s College, Centre for Middle Eastern Studies, Oxford University. He served in 2003 as Minister of Trade of Iraq under the Iraq Governing Council, then became Iraq’s first post-war civilian Minister of Defence in 2004. In April 2005 he was appointed Minister of Finance and held that post until May 2006 when he returned to private life. He has lectured widely on Iraq and served on numerous international political and economic forums from Davos to Chatham House, and received several notable awards for public diplomacy. He published the *Occupation of Iraq* (Yale University Press, 2007) and *The Crisis of Islamic Civilization* (Princeton University Press, 2009). He currently serves as Senior Visiting Fellow at the Carr Center, Kennedy School of Government, Harvard University.

1. *The Crisis of Islamic Civilization* (New Haven: Yale UP, 2009).

Child Education and Discipline

*Mohammad Hashim Kamali**

It is due largely to the Qur'an's sustained emphasis on learning (*'ilm*) that Muslim scholars explored the subjects of child education and discipline at an early stage and made significant contributions to the subject. They also placed a great deal of emphasis on virtuous conduct (*'amal saalih*), which can be seen as a concomitant aspect of Islam's outlook on education.

Leading Muslim scholars have in principle permitted light physical punishment as part of the discipline of the child, but have stressed that it should only be for a beneficial purpose, and that the parents should also be involved in any decision to apply it. When both parent and teacher agree that physical punishment is the only option they are left with, they may proceed to take that step. They are reminded, however, that the approach so taken should be disciplinary rather than punitive. Before making such a decision, teachers and parents should reflect on the purpose of punishment first. If they resort, for example, to caning, let them also make it as their last resort.

In his *Adab al-Mu'allimin (The Etiquette of Teachers)*, Ibn Sahnun al-Tanukhi (d. 854 CE) took the view that caning should be restricted to three strokes. Caning the child must also be with the permission of parents and should, in any case, be moderate. Exceeding that number should be restricted to specific instances of mischief, and light strokes should in all cases apply only to safer parts of the body, such as the feet, and should in no case exceed ten strokes. Parental involvement in child discipline is meant to help the child understand that the purpose is not to inflict pain for its own sake, but to curb recurrence of deviant behaviour.

Abu'l Hasan al-Qabisi (d. 1012 CE), who authored a book on pupil-teacher relations, wrote that the best approach to discipline is to communicate with the child with kindness and concern, in an effort to identify the causes of the issue and try to appeal to the child's understanding. For the child, despite his immaturity, is a human being who is, unlike an animal, endowed with the gift of reason and the ability to know the causes of things. One should not allow anger and emotion to enter into a decision to punish a child.

Ibn Sina (d. 1037) also advocated persuasive approaches to child discipline which he felt should include not only reprimand but also encouragement and

praise, whenever appropriate. Yet when all else fails, recourse may be had to physical punishment, preceded by a stern warning. Ibn Sina also took the unusual view that when the need arises to punish a child, let the teacher make the first punishment sufficiently painful to act as a deterrent and generate fear enough to prevent repetition.

Parents and teachers are role models for children. They are therefore advised to examine and refine their own methods in line with the socio-cultural attainments of their generation. If they don't change for the better, they should not expect their offspring and pupils to improve; negative behaviour patterns of the past are likely to persist.

Abu 'Uthman Al-Jahiz (d. 869), himself a renowned scholar, recounts that when the veteran Uqbah Ibn Abi Sufyan took his son to the teacher, he said to the teacher: "Before you start teaching my son, refurbish yourself first. This is because the students' eyes are tied to your vision. Good to them will be what you see as good, and bad to them will be what you see as bad. And be for them like a physician who does not rush in medication before diagnosing the sickness."

Abu Hamid al-Ghazali (d. 1111) advised that parents and teachers should not rebuke children frequently, for recurrent admonition and rebuke may adversely affect a child's ability to respond to "gentle advice and normal communication." The basic purpose of punishment is to deter repetition and create fear through infliction of some pain. Ibn Khaldun (d. 1406) endorsed this view and warned of the harmful consequences of severity in child discipline: Severity suppresses the child and robs him of the joy of childhood, just as it is likely to encourage laziness, recourse to lying and making excuses. Parents and teachers should not overwhelm children with education such that they are deprived of time and opportunity to play games that relax them and relieve them of the fatigue of schooling. Both al-Ghazali and Ibn Khaldun advise the parents and teachers to take a minimalist approach to punishment. Should persuasive methods fail, the teacher and parent of young children ought to limit physical punishment to three strokes.

Stress management is also a factor which can help curb deviant child behaviour. When parents and teachers are able to relax, they are in a better position to contain their stress. Children and students are in even greater need for relaxation, recreation and refreshment. Reports indicate that the Prophet Muhammad, peace be upon him, and his leading Companions conducted their own study circles and sermons at suitable intervals and reduced the frequency so as to avoid weariness. The Prophet went on record to say that "the most precious gift a father or a teacher can give to a child or a student is good education."

Al-Qabisi and Ibn Sahnun suggested that students should be given the weekend in which to relax. Their education regime should not be so strict or continuous

as to dull them with fatigue. Imam al-Ghazali used the word *irhaaq*, dullness of intellect, which is caused by suppressing the child with excessive learning and depriving him of play time. The child is entitled to good education as well as an enabling environment in which to learn ethical conduct (*adab, tarbiyah*). This combined approach to learning and *tarbiyah* is likely to preclude taking a facile approach to physical punishment and caning.

Notes

- * Mohammad Hashim Kamali, Founding Chairman and 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.

Islam, the Rule of Law and Human Rights

*Tengku Ahmad Hazri**

If one wishes to restore the substantive moral-spiritual foundation of the *sharī‘ah*, one must start from the premise that law precedes legislation and that the rule of law needs to go beyond any state-centred paradigm and engage greater self-governance. Human rights is one area that has always been regarded as an intrinsic component of the rule of law as can be gauged from various international documents and academic commentaries.

The United Nations Report of the Secretary-General on “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies” defines the rule of law as “a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are *consistent with international human rights norms and standards*” (emphasis added).¹

However, Muslim critics of human rights law consider that it is derived from “secular values and intended for a secularly-conceived man.”² Omar Jah and Omar Kasule have described *ḥuqūq al-‘ibād* (rights of the servant (of God)) as tantamount to “the opposite of human rights”. They stress that “the bureaucratic system of administering justice which is prevalent in [Muslim]

countries and which the colonialists and their agents imposed on Muslims was not known in Islamic civilisation.”³ Human rights based on secular values and principles are diametrically opposed to Islam and are inconsistent with the worldview of Islam, a worldview that includes both this world (*al-dunyā*) and the next world (*al-ākhirah*).⁴ The Qur’ān affirms that the neglect of God will bring about deconstruction of the nature of man itself and instructs, “And be not like those who forgot Allah so He made them forget themselves” (59:19). Where they deconstruct God, they will, ultimately, deconstruct man. Conversely, by the remembrance of God, He will remember man, “So remember Me; I will remember you” (2:152).

Criticisms of human rights law have also been advanced by the Malaysian-Muslim public intellectual, Chandra Muzaffar, with a view to enhancing Islam’s engagement with other civilisations based on shared religious and spiritual principles. Like Omar Jah and Omar Kasule, Muzaffar also takes Enlightenment philosophy to task, and his critique strikes at the core of human rights, the concept of the “human” through stressing that in the Qur’an an individual’s rights, roles, responsibilities and relationships are closely intertwined.⁵ But such criticisms are not unique to Islam or Muslims. For example, the rule of law is foreign to ancient China, ruled by the emperor. However, this did not give way to the arbitrary justice, anarchy or civil strife so often associated with the absence of the rule of law. Chinese society upheld certain checks on the power of the emperor, although not themselves derivative of law. Traditional Chinese doctrine considered it to be bad policy to enact laws. Laws cannot take into account the infinite variety of possible situations. A strict, mechanical application of law was therefore apt to adversely affect a man’s innate sense of justice. Similarly, in Japan, life’s essentials are the rules of behaviour (*giri-ninjo*) for each type of personal relation established by tradition and founded on the feelings of affection (*ninjo*) uniting those in such relationships.

Yet there are other limits to viewing human rights as substantive rule of law. While international human rights standards are seen to be central components of the rule of law, such standards are usually enshrined in official documents, charters and conventions, like the Universal Declaration of Human Rights or the International Covenant on Civil and Political Rights (ICCPR). States comply and commit to human rights standards if they ratify these documents. If they accept some provisions but reject others, they register “reservations” with regards to human rights: “a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State.”⁶ This in effect treats human rights as synonymous with official declarations and charters – paralleling the

identification of law with legislation and judicial precedents that was rejected by the substantive theory as envisioned by Hayek, with devastating consequences for pluralism and multiculturalism.

We may then ask: if human rights are synonymous with human rights charters, might they not then be regarded as a mere formality rather than a substantive matter of justice? That states officially ratify such documents is no guarantee that they will actually follow their provisions, but equally their refusal to ratify them need not be proof of a lack of commitment to human rights. Different societies may have their own vision and philosophy of human rights that may not been enshrined in international treaties. There have of course been alternative formulations recognised either globally or regionally, such as the African Charter on Human and People's Rights, the Universal Islamic Declaration of Human Rights and the Cairo Declaration on Human Rights in Islam. These initiatives have succeeded in bringing their distinctive philosophy to the global level: the African Charter, for example reflects the region's long-standing critique on European human rights as rooted in individualism, which militates against an African culture sanctifying collectivism. Yet these charters remain top-down with the state the principal actor and state officials drafting, ratifying, amending, implementing and enforcing them. Is this conducive towards the realisation of the rule of law as envisaged at the personal level – where rule of law begins in Islam? Connor Gearty, a contemporary human rights scholar, speaking recently at the London School of Economics (LSE), said

“Human rights” does seem to need to be based on truth, on being right, and on knowing we are right. The very term ‘human rights’ is a strong one, epistemologically confident, ethically assured, carrying with it a promise to the hearer to cut through the noise of assertion and counter-assertion, of cultural practices and relativist values, and thereby to deliver truth.⁷

It is not the charters, legislation or indeed state commitment to international treaties alone that should qualify as commitment to human rights, but also the values and virtues promoted at the individual, personal level, including spiritual disciplines that aim towards mastery of one's lower self. In Islam rule of law begins with the self, when the individual rules himself by the Law, i.e., the *sharī'ah*. The implication here is that human rights are varied and diversified; a single practice within a given tradition is rarely an isolated one, but is firmly connected to seamless networks of rights, responsibilities, roles and relationships within that tradition, and the alteration of one aspect will inevitably affect the rest. A state may not commit itself to particular international human rights treaties, but may defend its record by pointing out countless human rights initiatives of civil society groups and religious institutions.

What has been called positive human rights is a response to the predominant thinking which recognises only negative human rights, i.e. for the state to *refrain* from doing something rather than taking positive steps. We agree with the positive approach but stress that it need not be only the duty of the state but also that of individuals and groups.

According to the famous ‘*ḥadīth* of Gabriel’, *dīn* (religion) comprises three components of *islām* (submission), *īmān* (belief) and *iḥsān* (spiritual excellence). Of course there are bound to be overlaps between them given that they are all complementary and interrelated.

From this perspective, the exercise of right is *simultaneously* the fulfilment of responsibility. One who speaks out against state injustice is exercising his right to speak but at the same time fulfilling his responsibility as declared in a *ḥadīth*, “He who sees a wrong committed by a person should rectify it with his hand; if he cannot do this, he should do it with his tongue; if he cannot do this, then he should reject it with his heart; but verily, that is the weakest degree of faith.” In other *ḥadīths*, “the greatest jihad is speaking truth to an unjust ruler,” and “Faith has seventy branches; the least of it is the removal of obstruction from the path.”

Notes

- * Tengku Ahmad Hazri, an Analyst at IAIS–Malaysia, he obtained his LLB (Hons) from the University of London, then served at the International Movement for a Just World (JUST). He is pursuing post-graduate studies in Islamic thought at ISTAC in Kuala Lumpur; and is an active blogger on philosophical and contemporary issues, contributing his reviews to the Malaysian press, Amazon.com and other websites.
- 1. “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General to the Security Council (S/2011/634),” 12 October 2011, available online at http://www.unrol.org/files/S_2011_634EN.pdf (accessed 8 June 2012).
- 2. Omar Jah and Omar Kasule, “Human Rights in Islam: Judicial Rights, Sanctions and Penalties,” *Al-Shajarah* [Kuala Lumpur] 8, no. 1 (2003), 99.
- 3. *Ibid.*, 103, n. 40.
- 4. *Ibid.*, 91.
- 5. Chandra Muzaffar, *Rights, Religion and Reform: Enhancing Human Dignity through Spiritual and Moral Transformation* (London and New York: Routledge, 2002), chapter 4, “Judging Asia: Assessing Human Rights Conditionality”, 46.
- 6. United Nations General Assembly, Law Commission, “Third Report on Reservations to Treaties by Mr. Alain Pellet, Special Rapporteur. Addendum: Recapitulatory Annex to the Guide to Practice” (1998), available online at http://untreaty.un.org/ilc/documentation/english/a_cn4_491_add6.pdf (accessed 8 June 2012).
- 7. Conor Gearty, “To Work Its Magic: Human Rights Need Certainty”, *The Independent*, 15 November 2005, available online at <http://www.independent.co.uk/opinion/commentators/conor-gearty-to-work-its-moral-magic-human-rights-need-certainty-515397.html> (accessed 7 April 2011).

SIGNIFICANT EVENTS

3rd International Conference on Islam and Higher Education (Kuantan, Pahang, 1-2 October 2012)

Michael K. Scott, IAIS Malaysia

The 3rd International Conference on Islam and Higher Education (“3rd ICIHE”) took place 1-2 October 2012 at the Pahang State Foundation Complex in Kuantan, Pahang State, Malaysia. Over 25 conference papers focused the minds of conferees – hailing from a multitude of countries in South and Southeast Asia, the Middle East and Africa, Africa, Australia, Europe and the Americas – upon discovering the best means of empowering Muslim communities to manage and advance private higher education efforts throughout the world. These papers articulated the over-arching theme of the conference and explored it in depth: *The Role of Awqaf* (religious endowments) *in the Development of Islamic Higher Education: Past, Present and Future Prospects*.

The 3rd ICIHE, while building upon the cumulative efforts of the 1st and 2nd ICIHE, effectively increased the number of participants, expanded the diversity of their national and linguistic origins and sharpened the collective focus. That sharper focus was the close relationship between Islam’s vision of knowledge and its practice, as reflected in the institution of *waqf* (religious endowment). Participants were given a clear working brief to clarify the demonstrable linkages between theory and practice. In his opening remarks, Conference Chairman Emeritus Professor Osman Bakar welcomed the conferees, stressing that such a marriage of theory and practice would be the central objective of the conference, a priority that was shared, he observed, by the sponsoring Pahang State Foundation, IAIS Malaysia, IKIP International College, and the International Institute of Islamic Thought (IIIT) East Asia as well as in the personal interest and commitment of His Excellency Dr Adnan Yaakob, Chief Minister of Pahang, and Chairman of the Pahang State Foundation.

The conference aimed to “study our past history to learn important lessons for our lives today, and to take the best from our history and tradition and also from contemporary knowledge,” Professor Bakar emphasised. In his address, Founding Chairman and CEO of IAIS Malaysia Professor Mohammad Hashim Kamali thanked the sponsors for their continued commitment and support while urging the speakers and presenters to come up with actionable policy recommendations for decision makers in the government and industry. He confirmed IAIS Malaysia’s readiness to continue as the main academic sponsor of ICIHE for the fourth year running.

In discussing “Waqf in Shariah and its Contemporary Applications”, Professor Kamali underlined the extent to which *waqf* has played a key role in transfer of wealth from the wealthy to the needy, possibly even more substantial than that of alms-giving, or *zakat*. Throughout the conference proceedings, many examples were presented of ways in which the Islamic vision of universal enfranchisement resulted in phenomenal growth in the Muslim community and its institutions of higher learning, through the workings of the institution of religious endowment, or *waqf*.

Conference organisers had jointly put together an impressive programme spanning seven working sessions, with diverse specialist presenters in each session. Participants, whatever their specialisation or their origin, had been urged to make an effort to think of themselves as all being members of the global *ummah*. “We are all one body today, and the issue of *awqaf* is an issue for entire *ummah*,” Professor Bakar had stressed, adding that continuity and perseverance were key requirements to the success of any venture of the *ummah*, and acknowledging the 3rd ICIHE participants and guests for their contribution to the ICIHE in its third iteration. In a communication received subsequent to the close of the 3rd ICIHE, the University of Brunei Darussalam conveyed to Pahang State Foundation and IAIS Malaysia its formal interest in joining the other ICIHE sponsors as a permanent co-organiser of future conferences.

And turning to the future, in his farewell remarks Professor Bakar announced that employability of university graduates and leadership development would be a likely theme for the 4th ICIHE which would be held in November 2013 in the city of Madinah, in the Kingdom of Saudi Arabia, in cooperation with the Madinah Institute for Leadership and Entrepreneurship and its CEO, Dr Mohamed Moustafa Mahmoud. The latter presented the closing special address of 3rd ICIHE, paving the way for achieving the required continuity and convening 4th ICIHE in Madinah.

**Annual Conference of the Legislative Council of
the Judiciary of Malaysia
(Kota Bharu, Kelantan, 8-12 July 2012)**

Mohammad Hashim Kamali, IAIS Malaysia

The 46th Legislative Council of the Judiciary of Malaysia met on 8-12 July 2012 in Kota Baru, Kelantan in the course of its annual conference. On this occasion, Chief Justice of Malaysia Tun Arifin Zakaria requested IAIS CEO and Founder Professor Mohammad Hashim Kamali to address an audience of 126 judges

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

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

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

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

Mohammad Hashim Kamali, IAIS Malaysia

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

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

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

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

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

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

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

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

Karim D. Crow, IAIS Malaysia

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

The wide scope of inter-related topics ranged from *tadbīr* as good governance, fatwas on the “ethics of smiling” (a tongue-in-cheek performance by Khalid Masud), and an imaginative overview of Don Quixote in relation to *Maqāmāt* literature by Noman ul-Haq (LUMS, Lahore). As the ethical bedrock and glue of civilisation in all personal transactions and communal ideals, *Adab* remains perhaps the single most valuable resource possessed by Muslims to guide them amidst currents of transformation sweeping them towards an uncertain future.

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.

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