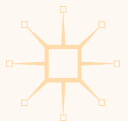




A Contemporary Perspective

QUR'ANIC GUIDANCE FOR GOOD GOVERNANCE

Edited by Abdullah al-Ahsan and Stephen B. Young



Qur'anic Guidance for Good Governance

Abdullah al-Ahsan · Stephen B. Young
Editors

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Introduction

Abdullah al-Ahsan and Stephen B. Young

Good governance is a fundamental prerequisite to human civilization and society. Yet interestingly the concept of good governance as a subject of debate in international relations, particularly in the area of public administration, has emerged only recently. In recent times international donor organizations and agencies such as the World Bank (WB), International Monetary Fund (IMF), and numerous other international and national, governmental and non-governmental, institutions have raised the issue of good governance in international politics. Why has the question been raised now? This is perhaps because the sharp rise of communication facilities and technological innovations has turned the world into a global village where nobody can ignore accomplishments and undertakings of anybody in any part of the world. With the rise of extremism around the world, insistence on good governance seems to have gained further momentum.

The present and worrisome deficit in good governance can be seen in individuals, corporations, political parties, leaders, families and especially in state structures of repression and exclusion. There can be no time in

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our lives when good governance is not relevant. The best of humanity cannot flourish unless there is good governance of the person, the family and the community. As Qur'an enjoins "let there be among you a Community which shall call for righteousness, insist upon justice, and forbid evil," (3: 104) this book seeks to fulfill this Qur'anic teaching.

This book has been designed keeping the need for addressing the question of good governance in the present context. However, one must note that throughout history philosophers and theologians and in modern times humanists and social scientists have debated this issue. In this work, we shall examine some aspects of this historical debate into consideration.

DEFINING GOOD GOVERNANCE

The concept of good governance may be understood as some fundamental administrative principles aimed at gaining trust and cooperation amongst people. These principles are usually value-based and are necessary for organizing institutions, organizations and societies. However, conflict arises when these values are narrowly defined on the basis of securing specific interests and denying universal human dignity. We shall clarify the concept by addressing some of its fundamental characteristics.

Accountability: Institutions of governance must be accountable for all decisions they make and their consequences. A government's primary obligation is to be accountable to the community it represents, but it is also answerable to the wider public for the sake of clarity and transparency. This is necessary for the sake of harmony, sociability and good neighborliness in today's globalized world.

Transparency: People should be able to follow and understand the decision-making process of all governments be the government local, regional or global. In other words, people should know who, why and how a decision is made and it is implemented. Decision makers must take responsibility for their actions and their consequences. Also, the decision-makers must ensure that the decisions have been made on the basis of proper information and in consultation with all stakeholders.

Rule of Law: Good governance also means that people responsible for running the administration follow stated laws in a transparent manner. Justice and equality should be fundamental pillars of rule of law. Law must ensure that no discrimination is made on the basis of caste, color, gender, race or religion.

Participatory: The decision-making process must be participatory. Decisions made at the top and then pass it to lower echelon for

implementation can't be good for any institution. Good governance demands participation of all stakeholders which could be ensured through democratic means. However, good governance also demands that the democratic process is fair and transparent and is not corrupted by the rich and powerful.

Responsive, Equitable, Inclusive, Efficient and Effective: Good governance should always try to serve the needs of the entire community by balancing competing interests in an open manner. All members must feel a sense of belonging where even most vulnerable would have the opportunity to participate in the decision-making process.

In this book, we shall try to relate these principles of good governance in our daily lives. We shall examine governance in political institutions, economic and financial institutions, family governance and other forms of societal associations in the following chapters.

GOOD GOVERNANCE AND RELIGIONS

Many noted historians have held the view that religious ideas have played a key role in the formation and expansion of human civilizations in the past. It is commonly believed that civilizations demand good governance and history bears the witness that civilizations have been born, flourished, transformed and declined because of good governance or the lack of it. That is why in our discussions we take religious ideas on the subject seriously. But unfortunately in contemporary discourses on the subject, religious ideas rarely find any space in a positive sense. In our view, both civilization and religion are important components for any discussion on good governance. One must not underestimate the power of religious ideas only because in history the poor and weak have often been exploited in the name of religion. In fact, history has witnessed distortions and exploitations by guardians of religions. But should one ignore ideas that have had remarkable influence in history? Shouldn't one explore possibilities of relevance of those ideas in our so-called modern times?

These are important questions particularly at this juncture of history when international relations are fraught with tensions associated with the clash of civilizations thesis. It seems a great deal of confusion arises in this context not only because of misuse of religious ideas by extremists and guardians of religions alike, but also because these ideas are not accurately understood in humanities and social science literature. For this reason, we feel the need for some clarification of our position on the question. Interestingly we have found a good partner in our venture: A

few years back we came in touch with Caux Round Table (CRT) which stands for “an international network of experienced business leaders, who work with business and political leaders to design the intellectual strategies, management tools and practices to strengthen private enterprise and public governance to improve our global community.”¹ This partnership between academics of International Islamic University Malaysia (IIUM) and realistic and successful business leaders of CRT has been very productive and valuable one. We at IIUM found a group of ethically and morally committed business leaders, mainly from the Western world, interested in innovative ideas for good governance and progressive growth. And the CRT found fascinating ideas for good governance in the Qur’an through us. We held a number of workshops at IIUM and at Harvard Divinity School, Cambridge, MA and formulated ideas of common ground. We developed a research cluster and made presentations at Center for Strategic and International Studies (CSIS), Washington DC and at the House of Lords, Westminster, UK and jointly published *Guidance For Good Governance: Explorations in Qur’anic, Scientific and Cross – cultural Approaches* in 2008 which was reprinted in 2013.

Over the past few years, we have held discussions and workshops, conferences and seminars in various parts of the world about universal religious teachings, their implications in our daily lives and their relations with science and the human nature. We have tried to relate those ideas with contemporary crisis of good governance. This current work is an outcome of these discussions. In humanities and social science disciplines the debate about religious ideas invariably demands considerations on rationalism and science. Are religions irrational and unscientific? Karl Marx (1818–1883) and Sigmund Freud (1856–1939), two intellectual giants of modern Europe who have made considerable impact on contemporary perception of religion, have branded religion as illusion. How could one take illusion seriously for positive societal developments then? Can one even perceive illusion at all? If one is confused about an idea, how can one even contemplate on learning from a mystifying phenomenon? The question of seeking guidance for solution to any problem becomes absolutely redundant. This question becomes complex when one wants to know about early civilizations. Why should one learn from early civilizations? In our view, one has to learn from early civilizations because we know that civilizations demand human cooperation, and if we are interested in saving the humanity of today from clashes and conflicts, we need to understand how the earlier human communities ensured

that cooperation. We also know from our knowledge of history that religious ideas played pivotal role in organizing early human societies. As Christopher Dowson puts it, “the great religions are the foundations on which great civilizations rest.”²

The issue becomes even more complex when the question of human evolution appears. This brings natural sciences into the picture. Did human beings on their own naturally learned by confronting challenges of the nature? Or there has been any extraordinary power from which they have acquired certain knowledge? How do human beings acquire knowledge? Are our brains programmed to pick up new knowledge from the nature? If so who programmed our brains? These questions have given rise to studies such as cognitive neuroscience and other related subjects. Some scientists believe that human brains have been hard-wired with certain capabilities so that they are able to grasp natural phenomena and enrich themselves with new knowledge. On the other hand, the theory of evolution has given birth to philosophical and scientific studies such as methodological naturalism and metaphysical naturalism. Some others have developed the concept of intelligent design. While all these are important themes for an understanding of the human nature, and develop a perceptive view about how early human beings came to cooperate with one another to organize and govern the first civilization, our main problem is that we have little credible evidence and information from early civilizations to formulate a universally acceptable insight about their form of government. Yet interestingly all historians agree that religious ideas permeated all early civilizations. But we are also aware of the fact that although religions have guided mankind with values for good governance in history, guardians of religions have manipulated ideas to serve their selfish motives. Are some business and political leaders today doing the same? In our work, we attempt to undertake the task of differentiating between religiosity and pseudo-religiosity and identify positive religious/Qur’anic teachings for good governance in today’s context.

Historians have had difficulties in relating scriptural stories with those of the conventional works of history. The Babylonian king Hammurabi (1792–1750 BC), who many modern historians consider as the first law-giver in history, claimed that his laws originated from divine sources. This claim is based on writings and paintings found in archeological discoveries. But critics have pointed out weaknesses and authenticity of those sources: were those materials produced during the lifetime of Hammurabi? Who produced those tablets? Did Hammurabi personally

verify them? But interestingly many of Hammurabi's codes resembled Biblical and Qur'anic teachings. Could Hammurabi be considered one of the early prophets as indicated in the scriptures? It would be hard to suggest this mainly because archeologists and historians are not able to verify when the clay tablets were produced and how long after the event the story was written.

Similarly, both the Bible and the Qur'an mention about a huge flood during the time of Prophet Noah, a flood that inundated the whole known world. Interestingly this story is also mentioned in the world's first known epic account known as Gilgamesh. Does this mean that the story of the flood could be authenticated by the story of Gilgamesh? Amazingly this story of the flood could also be verified by fossil evidences in ancient Mesopotamia and yet it would be difficult to ascertain the details of the story. When exactly it happened? Who were the main actors in the event? In other words, it is very difficult to scientifically relate stories of divine guidance to real history. Yet one may safely suggest that in history historical personalities existed who claimed to have divine connection and who have contributed to establishing peace in society and thus in the rise and growth of civilizations.

ISLAMIC GOVERNANCE

Islam is first and foremost an ethical, practical and spiritual understanding of the world and the cosmos mediated by the concept of the absolute unity of God (*tawhid*). By subscribing to unity of God one undertakes a covenant with himself, his Creator and his surroundings. His belief in unity of the Creator calls him to be responsible not only to himself and fellow human beings, but to everything in the plant and the animal world and the overall environment, as everything in the universe is created by the same God, and there is a purpose of the whole thing. In order for man to understand this purpose, the Qur'an repeatedly asks mankind to observe, ponder, and use reason. (Consider, for example, 4: 82; 23: 68; 38: 29; 47: 24).³ The emphasis on the role of reason in determining man's relationship with everything in the universe is central to man's ability to utilize it for the benefit of humanity. By highlighting rights and obligations of God over man, and man over man, the Qur'an establishes the point that man serves God mainly by serving humanity.

In this journey of life, one is happy and successful when one enjoys one's life in an orderly and civilized manner. It gives spiritual satisfaction

when one fulfills one's responsibilities to God and the society. In this process the individual will not only satisfy his material and spiritual needs, but also contribute positively to human civilization. Naturally for the realization of this vision of human life, good governance becomes a pre-requisite. Therefore an individual may seek happiness and success in his personal life by obtaining guidance from the Most Merciful—the Creator of the universe—to fulfill his obligations toward the society. The Islamic worldview integrates the role of the individual in absolute terms with the overarching concern for peace and general human well-being.

The human beings are a special creation of God. God has created man as His representative (*khalifah*). God has created everything else in the universe subservient to man, and if he utilizes them positively, he participates in God's continuous process of creation. This participation is neither by chance nor optional, but a responsibility—the purpose of one's very life and existence. God has not left man empty-handed to fulfill his responsibilities in this life. He has endowed man with reason, physical and intellectual capabilities, knowledge and resources. These potentialities and resources—including one's very own life—are given to man as a trust (*amanah*). Hence he is not the absolute owner of any one of them. Even his own body and life has been given to him on trust; hence, he is not allowed to abuse them or harm himself. That is why drug abuse and suicide are forbidden (*haram*) in Islam. Potentially there is an enormous prospect for innovative creativity and growth in this process of creation. But this cannot occur without a direct and active role of man. Since human beings have been endowed with the ability to think, rationalize and understand, they must strive to cultivate their potentials in order to qualify to be contributors to this process of creation and growth initiated and spearheaded by God. Thus the underlying principle guiding man's life and relationships with all the other creations is that everything in the universe is a trust (*amanah*) from God to man, and as representative of God on earth, mankind has been assigned to establish a peaceful society and civilization.

God has fashioned the nature—*fitrah*—of every human being in such a way that no one can survive alone.⁴ In other words social organization is vital for mankind, and no human organization can be established without some form of universal principles accommodating interests of all or most members of a given group. Therefore it may be safely suggested that some form of political organization existed from the very beginning of human history. But unfortunately very little information is available

about the early formation of ancient civilizations. The Qur'an tells that, originally mankind belonged to one community (*ummah*), and God has guided them by sending prophets with glad tidings and warnings, but they disagreed among themselves for selfish motives and about their way of life (*din* or religion); this led to division in the society (2: 213). These divisions occurred because some "holders of religion" sold the sacred message "at a cheap price" (2: 102–103) for their personal worldly gains. Every individual is free to choose between an ethical life and a life motivated by selfishness, greed, and evil desires.

The challenge for mankind is to overcome this negative power and if he succeeds in this, it contributes to the growth of civilization. Good governance is indispensable for the peace and prosperity of human civilization. We believe that with the passage of time human beings have grown more mature and they have acquired greater enlightenment to understand proper purpose of life. They are also supposed to have acquired better judgment and self-control to understand Divine guidance. Primarily the essence of Qur'anic guidance on good governance is the understanding of the concept of *amanah* (trust) and *'adalah* (justice) within the framework of the Islamic worldview. These two concepts provide a framework for the main practical concepts (i.e., *shari'ah* and *shura*) of good governance in the Qur'an. The principles of *shari'ah* and *shura* are open to human understanding based on reason. In fact, the concepts of *amanah* and *'adalah* provide the ontological basis of *shari'ah* and *shura*, and furnish the practical mechanism for Islamic polity.

This development in history has been referred as Islamic humanism by some scholars. Islamic humanism manifests itself in a significant way in the formulation of principles central to the establishment of Islamic political institutions. An understanding of Islamic humanism necessitates both a deep look into Islamic history and development of an Islamic theory of knowledge. The *maqasid* (objectives) of *shari'ah* are meant to preserve religion, life, reason, progeny and wealth, an overarching principle of all policy making (political, legal, economic, social, environmental etc.) that emerges from these objectives is *maslaha* (public interest). Public interest is defined (in simple words) as promoting and preserving the things that are beneficial to society and preventing the things that are harmful to it. This book has been designed to highlight Qur'anic guidance in various aspects of life.

THE STRUCTURE OF THE BOOK

This book contains ten chapters. The chap. 1 explains the contents of the book and explains how Qur'anic guidance helps us understand change in history. The next chapter compares the Qur'anic approach with “rational and scientific” approaches to historical changes elucidated in Darwinian and Freudian methods of studying history and civilizational transformations. It validates the Kantian believers' approach as pure rational and scientific and adopts of fourteenth-century historian Ibn Khaldun's method in interpreting and understanding historical changes.

In so many ways the anxieties and confrontations in our contemporary world order reflect the tensions between a nineteenth-century social construction of a secular, rational enlightenment sponsoring scientism in all fields of human thought, industrialization and capitalism, and rational/legal modes of bureaucratic sovereignty and more timeless intuitions about permanent transcendental truths, which we most often refer to as religious insights. In particular, a compelling form of anthropocentric scientism was launched in 1851 by Herbert Spencer (1820–1903) in his book *Social Statics*. Spencer's centralizing moral and ethical teachings in the human person's drive for individual mastery in a struggle for survival came to be called Social Darwinism. Social Darwinism along with Marxism and other social and cultural norms derived from the Continental Enlightenment tried hard to push religious conviction off the center stage of human striving for justice and dignity. But by so elevating the personal and the individual, such scientism through its presumed anthropocentric hegemony in sourcing norms and beliefs, did not adequately constrain the human tendency towards selfishness and deviation from the common good, from what in the Christian tradition is called “original sin”.

In Qur'anic terms, such scientism and anthropocentric thinking constitutes *shirk*, or the hubristic arrogance of placing ourselves as the equal of God, or even as superior to the Divine itself. Thus Qur'anic guidance which restrains us from *shirk* is most contemporary, very relevant to the crises of our times and helpful to all humanity in its search for more dignity and better justice for us all.

In the subsequent chapter, Doran Hunter identifies scientific foundations of some Islamic teachings. He sketches out some of the conclusions being reached by social anthropologists and evolutionary psychologists

with regard universal human culture, values and virtues, and how these investigations are changing our views about human nature. He then takes a look at how Qur'anic concepts of *fitrah*, *amanah* and '*adalah*' play roles in good governance and how the application of these principles is compatible with the findings of contemporary science regarding the essence of human nature. He then elucidates how contemporary biological and social sciences are auguring for a new frame of mind when looking at differences between civilizations.

In Chap. 4 Abdul Rashid Moten describes the development of idea of good governance in history and explains how Islamic teachings and values ensured human cooperation and helped the growth and expansion of Islamic civilization from the seventh to the eleventh centuries. It analyzes the Islamic foundation principles and values underpinning the field of governance and elucidates a "good governance" framework through a value-shaped dynamic model as found in *Al-sisyasah al-shar'iyah*. This is followed by an analysis of the attempts made in Malaysia and Turkey to construct societies ordered by religious based moral precepts.

Stephen B. Young in Chap. 5 examines performance of American financial enterprises Enron, Bear Stearns, Lehman Brothers and Wells Fargo and argues how applications of Qur'anic guidance by the boards and chief executives of the relevant American corporate enterprises could have minimized the likelihood of what became notorious failures of free market capitalism. He takes into consideration the Qur'anic principles of *Khalifah*, *amanah*, and *shura* and argues how these concepts through the application of Islamic legal source *ijtihad* prudential management of capitalist enterprise could be established.

In Chap. 6, Muhammad Arif Zalaullah examines economic governance and the political economy of the 2008 US financial crisis and highlights the severe conflict of interest between the selfishness of private business and the security and well-being of the society. After analyzing various actors in corporate and state governance he describes how and why the regulatory architecture failed to keep greed in check and the market failed. The author prescribes socially responsible regulations and supervision of the US financial sector to ensure economic stability and protection of long-term interests of society. And guidance for such regulations might be found in religious teachings.

Zaleha Kamaruddin in Chap. 7 examines implications of Qur'anic guidance in family governance. The family as an institution, she argues, has undergone radical transformations in response to the changing

socio-economic environment, albeit with little consideration from the perspective of good governance. She analyzes state intervention in Malaysia for developing mechanisms for protecting family institution and highlights the role of Qur'anic guidance in this respect.

In the Chap. 8, Syed Serajul Islam outlines Qur'anic guidance on environmental issues. He first defines the meaning of sustainable in the context of current developments in international affairs on the issue and then highlights Islamic teachings on the subject in the search for ethical guidance sustainable development. He then conducts a comparative analysis between Islamic teachings on the subject and principles of international law demonstrating their compatibility and points out how the international community could benefit from Qur'anic guidance on sustainable development.

In the last chapter, Abdullah al-Ahsan examines the role of the Organization of Islamic Cooperation (OIC) in conflict resolution. He discusses the role of the institution in conflict resolution since its inception in the beginning of 1970s and analyzes its role in handling various internal conflicts including Iran–Iraq war of 1980s. He identifies OIC's failure in resolving the conflict in its baffled method. Instead of following Qur'anic guidance, the institution seemed to have been motivated by national interests of powerful member states, he demonstrates.

NOTES

1. "Caux round Table", accessed March 9, 2017, <http://www.cauxroundtable.org/>.
2. Christopher Dawson, *The Dynamics of World History* (NY: Sheed and Ward, 1956), 128. Also see Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (NY: Simon and Schuster, 1996), chapter 2, 40–55.
3. There has been a lively debate on the conflict between reason and revelation in early Islam. The Qur'an places priority to reason in accepting the divine message. With the passage of time it became clear that Islamic rationality would never accept a conflict between reason and revelation. If any such conflict occurred, it must be due to an incorrect interpretation of revelation or because of a misunderstanding of reason. Therefore, pure reason would never contradict authentic revelation. The debate reached its climax with the contributions of Ibn Rushd and al-Ghazzali. Then Ibn Taymiyyah gave the most moderate and rational explanation of the issue. For detailed discussion, see Taqi al-Din Ibn Taymiyyah, *Dar Ta'arud*

al-‘Aql wa al-Naql (Riyadh: Imam Muhammad Ibn Sa’ud University Press, 1979); and George F. Hourani, *Reason and Tradition in Islamic Ethics* (London: Cambridge University Press, 1985).

4. This is a key concept both in Islamic ethics and theology. For a detailed discussion, see Muhammad Al-Tahir Ibn Ashur, *Maqasid al-Shari‘ah al-Islamiyyah* (Amman: Dar al-Nufais, 1999), 189–195.

Guidance for Good Governance and Civilizational Transformation: Lessons from History, Religion and Science

Abdullah al-Ahsan

INTRODUCTION

Changes with the passage of time and civilizational transformations are facts of history. Since man (human being) is the only evident actor in all these phenomena, any explanation for changes in history must incorporate a fair understanding about the human nature. The idea of human nature has been heavily debated by ancient philosophers as well as modern humanists and social scientists. In our view it is necessary for us to develop a fair understanding of this phenomenon for a fair perception of civilizational transformation. Numerous rational philosophers and performing scientists in history have participated in discussions related to this broad subject. In their discourses some have raised questions about the role of religious beliefs; others have tried to underscore the human nature scientifically. Do we really know how the earliest human civilization in history was established? Unfortunately we simply do not know

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much about earliest growth of civilization. Due to lack of information about how the earliest human civilization evolved, both the faith and the scientific approaches have involved a degree of conjecture. Should conjectures or even assumptions be allowed to play any role in such a complex and vital subject? Wouldn't a certain degree of assumption and conjecture be necessary for the formulation of a hypothesis? Will the rational and scientific methodology acknowledged within the current social science discourse allow such an assumption? Could the assumptions be formulated on the basis of certain observations and experience? We shall discuss these questions below. In order to focus our discourse to a perceptive, rational and scientific view of civilization in history, we shall deliberate mainly on contributions of fourteenth-century historian Ibn Khaldun (1332–1406) and nineteenth-century psycho-analyst Sigmund Freud (1856–1939) in this essay.

In his discussion on “Civilizations in History and Today”, Samuel P. Huntington states that, “Human history is history of civilizations.”¹ Scholars have debated to find a suitable definition of the term civilization, but like many other terms in social sciences and humanities, the term civilization demands an elaborate treatment, mainly because this involves a wide variety of culture, language, people as well as space in history. Civilizations involve governing all affairs of societal developments such as beliefs, ideas and politics dealing with human relationship. Civilizations also involve extra-human conducts of life such as human relationship with the environment, the nature, and even the metaphysical world. One would also find multiplicity of characteristics of this phenomenon during the long lifespan of a civilization. During this long period of life civilizations go through diverse stages. We shall explain various meanings and their implications below.

Based on our understanding of history, we may suggest that civilizations must ensure a mechanism in which an individual would feel secure within a group. This individual/group relationship is the key to understanding the life of a civilization. Civilization must develop rules and regulations in order to accommodate needs of both—the individual and the group. An individual, however, may belong to more than one group. He/she may belong to a family, tribe, nation or a cultural or a linguistic group, or an ethnic or racial group, or to a geographical territory and/or to a professional, ideological or a religious body. Civilizations, therefore, need to accommodate many groups within a larger body. In fact, civilization is required to ensure sociable relationship between the individual

and different groups. This not only complicates the individual and group relationship; it also enriches the civilization. In order to ensure an orderly society, civilization requires sets of rules and regulations to govern and regulate human actions and behavior. Good governance, therefore, is a part and parcel of every civilization. How does a civilization warrant cordiality between individuals and groups? Can this be achieved through cooperation? or does civilization impose this by means of coercion? We shall address the phenomenon of civilization by raising more questions and by analyzing them below.

We begin our analyses by raising more questions. How did civilization originate in history? Everybody knows that no human being survives alone, but how did human beings relate to one another during the original formation of human society? How did it set in motion? The main dilemma in this regard is that we simply don't have adequate information about the rise of the most ancient civilizations. Historian Fernand Braudel in his book *A History of Civilizations* quotes Arnold Toynbee saying, "Arnold Toynbee offered a tempting theory [about the growth of civilization]. All human achievement, he thought involved challenge and response. Nature had to present itself as a difficulty to be overcome. If human beings took up the challenge, their response would lay the foundations of civilization."² Braudel himself attempted to understand the term civilization by studying the historical use of the term in European languages in the eighteenth century, and concluded that the study of civilization involved all social sciences. He explained the concept in terms of 'civilizations as geographical areas', 'civilizations as societies', and 'civilizations as ways of thought.'³ Although Braudel provides a good insight into the term, he provides little understanding about the process of its origin and growth. His treatment of the subject does not explain how human beings originally set the motion in societal progress to lay the foundation of the earliest civilization in history.

FORMATION OF CIVILIZATIONS IN HISTORY: THE FREUDIAN PERSPECTIVE

We begin our discourse with an observation by psycho-analyst Sigmund Freud. We undertake study of this subject from the psycho-analytical perspective first mainly because we have no historical information about early formation of human society. That is why we take shelter in

an understanding of the human nature, which in our opinion, although might have progressed with the passage of time, reserved certain perpetual fundamental characteristics. Freud believed that coercion was the main power behind civilization. Did individuals volunteer or were they forced to form groups to set up civilizations? According to Freud, the decisive step of civilization occurs with the replacement of the power of the majority of individuals formed as community, which is set up as 'right', against the power of the individual, which is condemned as 'brutal force.'⁴

Although Freud subscribed to history as a source of knowledge, he made the above observation from his understanding of the human nature, which he claimed to have grasped scientifically. One should note here that almost no historical information is available about the origin of human civilization. Freud lays the foundations of his knowledge on civilization through perceived first acts such as the use of tools, such as gaining control over fire and construction of dwellings, opening up paths followed by man ever since. He hypothesize "the first acts of civilization" which "were the use of tools" (and) "the gaining of control over fire and the construction of dwellings." Then he argues that, "Among these, the control over the fire stands out as a quite extra-ordinary and unexampled achievement, while the others opened up paths which man has followed ever since, and the stimulus to which is easily guessed."⁵

Interestingly, Freud, in a footnote, takes recourse to conjecture while attributing the origin of man's control over fire, an "extra-ordinary and unexampled achievement," to the satisfaction of an infantile desire of putting out fire with a stream of his urine.⁶ In his interpretation of human behavior Freud claims to have taken the "inner psychic reality" into consideration, but he seems to be over obsessed with the role of sex organs in human life. "Civilization depends on relationships between a considerable number of individuals," he explained.

When a love-relationship is at its height there is no room left for any interest in the environment; a pair of lovers are sufficient to themselves, and do not even need the child they have in common to make them happy ... we can quite well imagine a cultural community consisting of double individuals like this, who, libidinally satisfied in themselves, are connected with one another through the bonds of common work and common interests.⁷

Freud's overall thesis is that human beings derive their highest pleasure from sexual fulfillment but unrestrained sexuality drains off psychic

energy needed for creative acts for civilizational progress. Therefore, he believes, civilization requires the repudiation of instinctual gratification and the mastery over animal instincts. It is amazing to note that in Freud's conjectural psycho—analyses the need for sexual gratification appears before want for food, shelter and other challenges posed by the nature. Moreover, there is no role for moral discipline in his thought: how did the early couples determine sex partners? This is a question of moral discipline. For many, this discipline differentiates humans from animals. No primitive or modern human society is known to have practiced or even approved sex between parents and children—an act common among animals. Does this phenomenon make any sense in a reasonable understanding of the human nature? Traditionally, civilizations took lessons on this issue from religions, and religions, in general, have held the view that human beings were a special creation. Freud, however, has a different perception about religion.

Freud rejects the Christian idea of “Thou shalt love thy neighbor as thyself,” which is generally considered the golden rule of religions, as “strange to mankind.”⁸ He identifies men as being largely instinctively aggressive, and “not gentle creatures who want to be loved.” In this light, a neighbor is not simply a potential helper or sexual object, but also a stimulant for meting out aggression to cause pain, torture or even kill.⁹ In other words, Freud seems to have been persuaded by Social Darwinism—an idea that was viewed by many in Europe as scientific and made deep impact on many intellectuals during the latter half of the nineteenth century. Interestingly, although new research in behavioral sciences has challenged such views of the human nature,¹⁰ today's Wall Street culture is still run by this same culture. Our aim here, however, is not to evaluate the impact of social Darwinism on Freud; we would rather examine the impact of Freud's psycho—analyses upon the concept of the beginning of human history and civilization.

When studying Freud's psycho—analysis one can't ignore his obsession on taking stand against those of established religions—a reflection of which one finds in his observation of the “golden rule.” On religion he endorsed the Marxist expression and predicted its future.¹¹ An unbeliever, as his translator and biographer calls him¹²; Freud tried to comprehend the origin of religion from his knowledge of history and what he called the science of psychology. He believes that religion originated in history out of man's perplexity and helplessness in the face of nature's dreaded forces. He says, “I have tried to show that religious ideas have

arisen from the same need as have all the other achievements of civilization: from the necessity of defending oneself against the crushing superior force of nature.”¹³ He continues suggesting that, “this body of religious ideas is usually put forward as a divine revelation. But this presentation of it is itself a part of the religious system, and it entirely ignores the known historical development of these ideas and their differences in different epochs and civilizations.”¹⁴

Referring to one of his earlier works on the origin of child’s fear of father, in *Totem and Taboo* (1913), Freud employs tools of psychoanalysis to explain the formation of religion in a similar light, a creation he believes arose out of man’s need for protection against the consequences of his human helplessness.¹⁵ It is noteworthy that Freud finds the origin of religion, which he believes is full of illusion and mystery, in perplexity and helplessness of man. Why didn’t the helpless and perplexed man try to get assistance from other men around him? Was there no man around the helpless and perplexed man that he had to look for the unseen? This is clearly a major dilemma in Freud’s psychoanalytical science.

Assumptions and conjectures seem to have been the main problem in Freud’s thought. After critically evaluating the literature on ideas about decline in Europe in recent history one author has suggested that, “our real problem is not that our popular culture is filled with obscenities or trivialities, but that no one seems able to present the necessary intellectual grounds for an alternative.”¹⁶ The author blames the nineteenth-century social sciences for hosting “deterministic assumptions” for understanding history.¹⁷ In our opinion, this seems to be the fundamental problem in understanding the role of religion in history. The problem of nineteenth-century social science methodology will be clearer if we take our question to a more specific area of historical studies. The deterministic assumption seemed to have become formal in social science disciplines with the introduction of Darwinian assumption about the origin of man in history.

THE PROBLEM OF DARWINIAN VIEW OF MAN

Although the idea of evolutionary growth of life on earth was speculated by Greek philosophers, and was followed by Muslim thinkers, the Darwinian view of evolution dramatically changed the perception of man and his place in history. Charles Darwin (1809–1882) wrote, “The early forebears of man were ... probably furnished with great canine teeth,

but as they gradually acquired the habit of using stones, clubs, or other weapons for fighting with their enemies or their rivals, they would use their jaws and teeth less and less. In this case, the jaws together with the teeth would become reduced in size.” Quoting this statement from Darwin’s *The Descent of Man* (1871) one anthropologist explains that Darwin argued that intense social interaction between these primitive creatures demanded more intellect, which gradually increased over time to more intelligence, which in turn gave rise to technological and intellectual sophistication. This hypothesis of linked evolution by Darwin eventually became a cornerstone to the development of the science of anthropology.¹⁸

Darwin’s views have not only influenced the science of anthropology; they have also influenced the science of history. As historian E. H. Carr claims that, “Darwin made another scientific revolution; and social scientists, taking their cue from biology, began to think of society as an organism ... Evolution in science confirmed and complemented progress in history.”¹⁹ But this science failed to comfort social scientists on the question of the origin of man. Darwin’s view that the human being is continuous to the animal kingdom had a severe implication for his society of late nineteenth-century Europe. As one observer notes, “Darwin deprived people of the privilege of being God’s special creation, thereby contributing to the feeling of anxiety that characterizes the twentieth century.”²⁰

This observation has been made in the context of Judeo-Christian tradition of Europe which advocated the idea that human beings are a special creation of God and God had a specific purpose behind this creation. This view also introduced the idea of human accountability which had a direct link to social and political systems in all civilizations in history. In this context, one must admit that the Darwinian belief shook the foundations of European society in the nineteenth century. The question, therefore, the student of history must ask: Were the pre-Darwinian European views of creation and purpose of life totally unscientific? How scientific is the Darwinian view of creation? Will it be scientifically sensible for a historian or a social scientist to subscribe to such ideas as pre-Darwinian Europeans had believed? Or there is any effect at all of pre-Darwinian or post-Darwinian beliefs on the historian or the social scientist? Let us examine both beliefs in the present context.

Although Darwin believed that, “there exists a Creator and Ruler of the universe,” he claimed that there was “no evidence that man was

aboriginally endowed with the ennobling belief in the existence of an Omnipotent God,” saying that there was ample evidence of the existence of numerous races which did not have any idea of one or more gods, and even lacked words in their languages to express such an idea.²¹ Darwin further argued that the tendency in savages to imagine natural objects and agencies as being animated by spiritual or living essences was similar to that of the unconscious and unsophisticated reasoning by animals, which he illustrated with the possible reason behind his dog growling fiercely every time an open parasol was moved by a slight breeze; perhaps the dog barked because no one was standing beside it, and that movement without any apparent cause perhaps indicated the presence of some unwelcome stranger living agent. Darwin posits this belief in spiritual agencies as being an easy precursor to belief in existence of one or more gods, and a natural consequence of savages attributing to spirits the same passions, love of vengeance, justice, and the same affections felt by themselves.²²

Who are these savages that Darwin refers to? Animals like Darwin’s “full-grown and very sensible” dog? Man in the jungle? Or a ‘native’ in one of the colonies? Whatever one may think in response to such questions, Darwin’s views shook the foundations of religious beliefs in Europe. As Darwinian views were adapted by most scholars and scientists in the nineteenth century and it was “argued that man is not only continuous with the animal kingdom and subject to the laws of nature; they also asserted that his mental, moral, and spiritual qualities evolved by precisely the same process that gave the eagle its claws and the tapeworm its hooks.”²³ It is precisely because of such assertion on mental, moral, and spiritual qualities of human beings that Darwinism emerged as a rival to established religions.

Freud clearly subscribed to the Darwinian method in his understanding of early human society. On the validity of religious ideas, however, Freud raises interesting observation. He says that the claim to believe in religious ideas is founded on a threefold answer approach—these were the beliefs of one’s primal ancestors, these primal ancestors handed down proofs for their belief, and it was completely forbidden to question their authentication. Dismissing these answers, he laments former and present attitudes towards those questioning such ideas.²⁴ Freud made these observations as a believer in the Enlightenment philosophy, but unlike Enlightenment philosophers he did not believe in any role of God in the process of creation. Yet he tried to conceptualize a believer’s conviction in God, and he attempted to do so by subscribing totally to the Enlightenment methodology—experiment and observation—as

the foundation of his own belief. Yet, citing problems of relying on information from history he accuses that religions have imposed restrictions on raising inquiry about the validity of doctrines. He accused religions of containing contradictions, falsifications and bearing marks of untrustworthiness. This, he says, contributed to the neglect of authentication of elements of cultural assets which deal with solving the riddles of the universe and reconciliation with the sufferings of life.²⁵ He then declares religion as an illusion which, according to him, is “derived from human wishes” and is a kind of “psychiatric delusion.”²⁶ Some of Freud’s observations might be legitimate and might involve working out a methodology to differentiate between genuine religiosity and pseudo-religiosity in what has come to us as religion. Such elaborate treatment of the subject, though, does not fall into the scope of this chapter. We shall, however, undertake the question about rationality of religious views about beginning of human history.

KANT’S PERCEPTION ON THE BEGINNING OF HUMAN HISTORY

It is interesting to note that the most celebrated rationalist philosopher of the Enlightenment tradition, Immanuel Kant (1724–1804), ventured into a sketch of the beginning of human history on the basis of teachings of the Old Testament. Like Freud, he also called this venture “conjectural beginning of human history.” Kant’s rational mind justified this conjecture by saying, “what may not legitimately be ventured with regard to the progression of the human actions may be attempted with regard to their first beginning.”²⁷ Conjectures, he points out, are no match for history in terms of the standards and the value of actually recorded occurrence, and are at best only permissible exercise of the imagination guided by reason, in the absence of the latter. Due to this difference, and the absence of recorded historical documents in the beginning of man, he prefers to venture on a pleasure trip based on the route sketched out in the Old Testament.²⁸ After making his “pleasure trip” based on the map sketched in the Old Testament, Kant goes on to point out certain aspects of the human nature in order to understand progression in human history. Emphasizing on the usefulness of following this map of the Old Testament, Kant focuses on the lessons that can be learned from the biblical version of the beginning of man, especially the fact that man is taught that he must not blame his misfortune on Providence or attribute his offence to the original sin. Instead, more

importantly, man learns that under similar circumstances, and despite nature's advice to the contrary, he would have exactly acted like his first parents, i.e. abuse reason in the very first use of reason. Once the realization sets in of the need to take responsibility for the evils which spring from the abuse of reason, and the blame for moral evils is correctly laid where it belongs, it will help mankind on the course of gradual development from the worse to the better. Kant believes that this "is the lesson taught by a philosophical attempt to write the most ancient part of human history: contentment with Providence, and with the course of human affairs, considered as a whole."²⁹

Our aim here is not to scrutinize whether there was an evolutionary growth of earliest human beings or it happened due to direct intervention by Providence, our goal is to understand the human nature as described in the Old Testament. Interestingly according to the Old Testament the first human couple ran to cover their physical bodies when they discovered that they had lost God's special favor on them, and they were in the state of nudity (Genesis 3: 7). This behavior seems to be more consistent with normal human behavior that we witness today. The first couple appears to have been motivated by self-esteem and a sense of dignity. Such conclusion raises many questions however.

The first question that arises is whether or not human beings are created by a creator God or they are just like any other species, as quoted earlier and held by some nineteenth-century scientists, where it was said that, "man is not only continuous with the animal kingdom and subject to the laws of nature; they also asserted that his mental, moral, and spiritual qualities evolved by precisely the same process that gave the eagle its claws and the tapeworm its hooks." Although an examination of the scientific theory of evolution does not fall into our scope here, we can't avoid analyzing some implication of this theory in our understanding of the human nature and its impact on good governance and organization of human society. In this context one must recognize Freud's reference to religion. We shall, however, limit our discussion on the impact of the human nature in rises and falls of civilizations only. We shall avoid any discussion on the validity either of religions or of the theory of evolution.

We have already suggested that a rational and scientific mind would subscribe to the idea that organizations and institutions, which would be essential for the growth of civilizations, could not have been achieved through coercion; it had to be attained through cooperation. And in order to accomplish this requirement, civilizations must have

cultivated certain values in the individual. One must have a sense of dignity and security of one's identity to be a part of any institution or organization. This may begin from the family and with the passage of time may extend to surroundings providing other identities to an individual. On its part the idea of dignity demands equality and justice. We have also indicated earlier that recent findings in cognitive neuroscience, behavioral genetics, evolutionary psychology and evolutionary biology have demonstrated evolutionary growth in the understanding of certain aspects of the human behavior through certain observable facts that are "hardwired" in the human brain. But before we undertake a comparative study of the human nature depicted in the traditional religious beliefs and in contemporary evolutionary beliefs we would like to highlight medieval Muslim historian Ibn Khaldun's perception of the human nature and its role in his explanation of the growth and decline of civilization.

IBN KHALDUN'S PERCEPTION ON GROWTH AND DECLINE OF CIVILIZATION

It is interesting to note that four centuries before Kant, historian Ibn Khaldun (1332–1406) adopted a rational but believer's approach in understanding civilization and societal change. He has provided a simple but profound perception of the term civilization. However, Ibn Khaldun's explanation of the term requires some understanding about the Arabic language, and Islamic civilization. It also involves re-interpretation of some of Ibn Khaldun's original ideas.³⁰ Ibn Khaldun used the term *'Umran* which is derived from the three letter verb *'a-ma-ra* meaning (according to dictionary) to live long, to thrive, prosper, flourish, flower, peopled, populated, civilized, cultivated. The word *'Umran* has been translated as inhabitedness, activity, bustling life, thriving, flourishing, prosperity, civilization, building, edifice, and structure. *'Umran* is a continuous progressive process that mankind naturally achieves through cooperation and striving.³¹ Ibn Khaldun held the view that the "human society is a must. Philosophers express this by saying that man is political by nature; meaning, he cannot do without social life which is civic in nature." He explains the formation of human society as being due to the needs which cannot be adequately fulfilled by any one single individual, such as the preparation of food by bakers and cooks, craftsmen such as blacksmiths, carpenters and potters, or the help of fellow humans

for defense purposes. This society of men is the basis on which *‘Umran* is achieved and spread.³²

Thus man establishes *‘Umran* in order to satisfy his basic needs. Men then gradually develop activate their rational mind for better living, says Ibn Khaldun. He then explains:

Crafts, especially arithmetic and writing, bestow a certain mind on those who practice them. ... Rational soul exists in man only potentially. Its emergence from potentiality to actuality is depicted by the rise of new sciences and perceptions derived first from the world of senses, then what is acquired afterwards by the speculative power, until it becomes active perception and pure intellect.³³

However, the society needs to provide an individual with peaceful and cordial circumstances for him to utilize his rational mind. The society could ensure such circumstances only through close cooperation within the human community. Ibn Khaldun develops another key concept to explain such co-operation. Ibn Khaldun explains, “The defensive and protective action (of mankind) is not effective unless they have a common *‘asabiyyah* or fellow feelings of having common descent, with this they become strong and powerful... It leads to their solidarity and mutual support, and increases the fear of their enemy ... , (and when it comes to fighting) it won’t do without *‘asabiyyah*.”³⁴

Ibn Khaldun strongly believed that in history, kingdoms and dynasties were attained through *‘asabiyyah*. Even the “religious causes can’t succeed without *‘asabiyyah*.”³⁵ Therefore *‘asabiyyah*, which originates with the family and tribe, grows in strength and scope with the passage of time. It is a state of mind that has a natural defensive mechanism of survival and accommodates emotional aspect. It also could transform into a tool of conquest and expansion.

In history, whenever the forces of *asabiyyah* succeeded in establishing a kingdom, the population was provided with peace and security. On their part, the people were happy and were engaged in productive and progressive activities. In other words, with increased security and protection the *‘umranic* (civilizational) attention was diverted to co-operation among people for growth and production. It is *‘asabiyyah* that provided the people with the capacity for protection, defense, and other collective action. Even those people, who do not belong to the ruler’s blood group, develop working relationship with the ruling group. The society

then moves from production of necessities to production of luxuries. According to Ibn Khaldun, this improvement in the circumstances of the working class is accompanied with the accumulation of wealth and comfort, leading to a life of ease, tranquility and prosperity, with increasingly better food and clothing, and bigger houses, and elaborate towns and cities.³⁶

Ibn Khaldun makes a distinction between two types of *‘Umran*: rural *‘Umran* is generally the result of production of necessities while urban *‘Umran* is the result of production of luxuries. With increased security and freedom people get involved in competition and activities of economic production and growth, and as a result, *‘Umran* further increases and flourishes: Old cities are re-built, and new cities are constructed. Ibn Khaldun also points out that the government increases its finance by tax revenue. For this the government needs to ensure justice for its population.³⁷ The government can collect tax only if it can ensure peace and security for its population. However, in urban areas, life became relatively easy. On this, Ibn Khaldun warns the urban population that they may become so immersed in habits of luxury and pleasure seeking that their souls could become stained with vices and corruption. If such happens, economic activities and growth suffer. He says that usually the government constituted the biggest market. From this market would flow the substance of *‘Umran*. If the ruler lacked or withheld the funds, the total spending would decline and mercantile profits would dwindle and overall income (of the government) would also decline. According to Ibn Khaldun, this is because the government’s revenues are generated from income generating activities such as industrial activities, business transactions, and people’s search for benefits and profits, the lack of which will ultimately affect the smaller markets and circulation of money in the market.³⁸

Ibn Khaldun warns the government against acts of force on the part of the ruler. He says that one man’s possession cannot be acquired by another except through proper exchange. Violation of people’s property kills their hopes of earning; and with their hopes shattered, they refrain from all striving to that end. In this connection Ibn Khaldun defines the Islamic concept of *zulm* or injustice as not just the seizure of property from the rightful owners without cause or compensation, but as something much wider in scope, “Whoever seizes someone else’s property, or forces work on him, makes unjust claims or imposes an obligation not required by law, he has actually oppressed him. Those who collect unjust

taxes are oppressors. Those who plunder property are oppressors.”³⁹ As a result of this, people’s hopes get lost, leading to ruin of *‘Umran* and ultimately a negative setback for the government.

Thus Ibn Khaldun discusses not only the method of the growth of *‘Umran* but also provides an insight into ways of its ruin. Following this definition of *‘Umran* or civilization, then one may argue, that the earliest villages such as Jerico in Palestine, and Catal Huyuk in Turkey which existed around 7500 BC or before were civilized societies. Archaeological findings in Catal Huyuk suggest that it was a locality of about 32 acres covered by solid wall where about 10,000 people lived for several hundred years in sun-dried brick houses. Earliest known textile fragments containers of wood and clay has been found in Catal Huyuk.⁴⁰ Establishment of such an organized and inhabited area could not have been possible without some form of formal government and a set of law. In this sense it would be a mistake to identify the river valley civilizations (Mesopotamia, Egypt, Indus Valley, and Yellow River valley China, all of which originated between the years 3500 BC and 2500 BC, as earliest civilizations).

However, Ibn Khaldun seems to have ignored the role of ideas in the formation of civilization. Braudel calls this aspect of the growth of civilization as the ‘awareness’ or ‘mentality’ of the people which act as catalyst in ensuring co-operation among themselves. Without any role of ideas *‘asabiyyah* becomes too deterministic. Also this concept alone does not explain why some tribes succeeded in utilizing their *‘asabiyyah* to create their state and government, and others failed. Braudel says, “In every period, certain view of the world, a collective mentality, dominates the whole mass of the society. Dictating a society’s attitudes, guiding its choices, confirming its prejudices and directing its actions, this is very much a fact of civilization.”⁴¹ The reason for Ibn Khaldun to ignore the role of ideas in the formation of civilization is, perhaps, the domination of Islamic civilization in world affairs for many centuries before the birth of Ibn Khaldun. He witnessed changes in politics and world affairs only through dynastic changes.

Could we apply Ibn Khaldun’s ideas of growth early civilizations in the context of the rise of nationalism in the last couple of centuries? Braudel seems to agree with the general thrust of Ibn Khaldun’s idea when he suggested that the growth of ‘liberty groups’ during the late medieval period paved the way to rise of Europe. According to him, “Liberties, in fact, were the franchises or privileges protecting this or that

group of people or interests, which used such protection to exploit others, often without shame.”⁴² Following the growth of city-states, under the ‘enlightened despots,’ nation-states emerged in Europe. *‘Asabiyyah* of race, linguistic and cultural divisions, and other material interests motivated the people in the formation of nationalities. By the end of the nineteenth-century Europe was already divided on the basis of nationalities.⁴³ This was followed in most other parts of the world following the two world wars in the twentieth century. The world of nations slowly provided the principal structure and laid down the foundation of today’s world system.

Our interest here, however, is to understand the earliest growth of human civilization and the impact of the human nature that might have played a role in this process. The specific question that we would like to raise here is whether or not Ibn Khaldun’s idea of the existence of the rational soul in every human being is a valid concept or not, and whether we could relate this concept which will assist us in understanding the human action that might have played any significant role in the formation of the earliest human civilization. In our opinion, with new findings about the function of the human brain, and how it is programmed to react positively to demands of civil society, it should be possible for us to develop hypothesis about the human nature and how it might have contributed in the growth of earliest civilization.

RATIONAL SOUL AND SCIENTIFIC STUDIES OF THE HUMAN NATURE

After examining his findings in the fields of cognitive neuroscience, behavioral genetics, evolutionary biology and evolutionary psychology, over the past few decades, Nevin Doran Hunter believes that these newly conceived scientific disciplines have initiated a re-examination the relationship between government and human nature, going beyond theology and metaphysics to relate the human nature to the art and science of ethics and morality.⁴⁴

Among these four disciplines, particularly cognitive neuroscience and evolutionary psychology are relevant to our current discussion. The discipline of cognitive neuroscience, as elucidated by Hunter, “studies the biology of cognition with a focus on mental processes and their implications for human behavior”, while evolutionary psychology attempts to explain “how the mind and behavior have been impacted by evolution”

Quoting Steven Pinker, Hunter says that such scientific tools aim to “apply evolutionary theory to the mind, with an emphasis on adaptation, gene-level selection, and modularity.”⁴⁵

Drawing from the research papers and books utilizing these contemporary behavioral and biological scientific tools Nevin Doran Hunter brings forth some very important observations. He explains that, “the human brain is “hardwired” to trust (to have faith and confidence in the reliability and actions of someone else); to have a natural sense of justice and fairness (to treat others as you want to be treated); to know the importance of cooperation (working with other people for a common end); to be conscious of the sense of benevolence (to be kindly and charitable toward others); to feel empathy (to share and understand the feelings of others); and finally, and most importantly, the human brain seems to be structured to know what is right and wrong.”⁴⁶

In our opinion, this is what Ibn Khaldun was suggesting, as quoted above, when he spoke of role of crafts such as arithmetic and writing in elevation the potentially rational soul of man. According to him, the rational soul’s “emergence from potentiality to actuality is depicted by the rise of new sciences and perceptions derived first from the world of senses, then what is acquired afterwards by the speculative power, until it becomes active perception and pure intellect.”⁴⁷ Obviously, with the passage of time and continuous practice, human ability has progressively grown and improved. But one must be careful in simplifying such view of progress. The twentieth-century historian of science, George Sarton in his *Introduction to the History of Science* has cautioned against the notion by some “that if mankind had walked humbly and constantly in their [Greek] footsteps, the progress of civilization would have been considerably accelerated.” Such notions are related to our lack of understanding of the nature of progress. Greek civilization, he observed, “ended in failure, not only because of the lack of intelligence, but because of the lack of character, of morality.”⁴⁸

It is this suggestion of morality of character that concerns us in this discussion, and it is here that the role of religious ideas that crops up in our present context. Although a systematic examination of the validity of religious ideas do not fall into the scope of this study, we shall undertake some elements of the teachings of religions in this context. It is important to note here that when Ibn Khaldun, a believer, suggests that a rational soul exists in human beings, he takes it for granted that this rational soul was planted (“hardwired”) in the human being by Creator

God. Evolutionary biologist Richard Dawkins, however, would challenge such a notion. According to him, “We [human beings] are biologically programmed to impute intentions to entities whose behaviors matters to us.”⁴⁹ He does not think that there is any role of any supernatural creator in this process of human evolution and declared religious beliefs as delusion. He suggests this in the context of humanizing trust which is necessary to organize the society and good governance. We, however, would like to devote our attention to the nature of those “hardwired” aspects of the human nature without falling into traps of the almost unending controversy between religion and science mostly in the context of the debate about the existence of God.

CONCLUSION

We would like to highlight the point that during the last over 5000 years of written history, all teachings related to morality and human responsibility have originated within religious teachings. Historians generally held the view that almost all civilizations in history are rooted in teachings of religions. Civilizations secured cooperation of people and their participation in the socio-cultural-political process through ethical and moral teachings. Our interest in religious ideas lies here. Our question is—if religious ideas were able to stimulate people to cooperate for growths and rises of civilizations in history, why can’t they do it now? This question, however, will demand assessment of religious ideas—which one of them contributed beneficially for humanity and which one negatively. In our opinion, evolutionary growth of human ability to reason every action should be able to do exactly that.

We would again like to return to Ibn Khaldun who explained his perception of man’s advantageous ability to think as being “the result of (special) powers placed in the cavities of his brain. With the help of these powers, man takes the pictures of the *sensibilia*, applies his mind to them, and thus abstracts from them other pictures. The ability to think is the occupation with pictures that are beyond sense perception, and the application of the mind to them for analysis and synthesis. This is what is meant by the word *af’idah* “hearts” in the Qur’an: “He gave you hearing and vision and hearts (16: 78).”⁵⁰

Interestingly the Qur’anic verse that Ibn Khaldun quotes continues suggesting that human beings should be grateful to God for His “hardwired” gifts to them. This seems to correspond well with Doran

Hunter's observation when, after surveying the literature on recent findings about the human nature, he suggests that, "[t]he human brain seems to be "hardwired" with a "moral grammar" that naturally inclines us to make "right" decisions; whereas, exponents of moral government stress the forms, processes, and principles that would facilitate the operations of a moral government."

In this regard, Hunter epitomizes the concept of intellectual humility in dealing with these concepts, ideas, and notions, warning that one needs to "remember that great minds and progressing science can make monumental mistakes and also assume too much credit for discovering what human experience has already declared to be acceptable or unacceptable."⁵¹

We end this essay by suggesting that sciences for governance and human nature must be guided by ethical principles. Earlier concepts based on science, such as Social Darwinism has been proven fatal in history, but now some new disciplines have made excellent progress and replaced the old way of the understanding of human nature and made substantial impact on social, political and economic institutions. Yet one finds many in the Wall Street motivated by Social Darwinist views.

It is pleasing to see new findings about the human brain, but very little has been discovered about the human heart which the Qur'anic verse (16: 78) refers to. In other words, this may lead scholars to conduct new researches about the human nature and its impact on good governance. In our opinion, one should not reject religious ideas as illusion only because in history such ideas have been exploited by the church, rather religious ideas should be taken seriously for new research. Religious ideas might have the potential for guidance in the world today.

NOTES

1. Samuel P. Huntington, *The Clash*, 40.
2. Fernand Braudel, *A History of Civilization*, trans. Richard Mayne (New York: Penguin Books, 1995), 11.
3. Ibid., 3–23.
4. Sigmund Freud, *Civilization and its Discontents*. James Strachey. tr. and ed. (New York: Norton, n.d.) 42.
5. Ibid., 37.
6. Ibid.
7. Ibid., 55.

8. Ibid., 56.
9. Ibid., 58.
10. See, N. Doran Hunter, "Human Nature, Science and Moral Government: An Exploratory Essay," in Abdullah al-Ahsan and Stephen B. Young (eds.), *Guidance for Good Governance: Explorations in Qur'anic, Scientific and Cross-cultural Approaches* (Kuala Lumpur: IIUM Press, 2008), 65–113.
11. Sigmund Freud, *The Future of an Illusion*, trans. and ed. James Strachy. (New York: W.W. Norton, 1961).
12. Ibid., xi.
13. Ibid., 26–27.
14. Ibid., 27.
15. Ibid., 30.
16. Arthur Herman, *The Idea of Decline in Western History* (New York: The Free Press, 1997), 450–451.
17. Ibid., 448.
18. Richard Leaky, *The Origin of Humankind* (London: Wedienfeld & Nicolson, 1994), 3–4.
19. E.H. Carr, *What is History* (New York: Alfred A. Knopf, 1962) 56–57.
20. Marvin Perry et al., *Western Civilization: Ideas, Politics and Society*. Vol. 2, 9th Edition (Boston: Houghton, Mifflin, 2009), 580.
21. Charles Darwin, *The Descent of Man and Selection in Relation to Sex*, Great Books of the World: 49 (Chicago: Encyclopedia Britannica, 1990), 302.
22. Ibid., 303.
23. Morton O. Beckner, "Darwinism," in *Encyclopaedia of Philosophy*, Vols. 1 & 2 (New York: Macmillan, 1967), 302.
24. Freud, *Illusion*, 33.
25. Ibid., 33–34.
26. Ibid., 39.
27. Immanuel Kant, "Conjectural Beginning of Human History" in *On History* (New York: Macmillan, 1963), 53.
28. Ibid., 53–54.
29. Ibid., 68.
30. Ibn Khaldun's ideas are extensive and complex; they demand separate treatment. However, attempts will be made here to simplify some of his ideas for this article.
31. See Abdurrahman Muhammad bin Khaldun, *Muqaddimah Ibn Khaldun*, 3 vols. 2nd ed. (Beirut: *Lajnatul Lubnan al-Arabi*: 1965). *Al-Muqaddimah* or The Introduction has been translated and used by many authors. The complete and most acceptable one is *The Muqaddimah: An Introduction*, tr. Franz Rosenthal, 3 vols. (New York: Pantheon Books,

- 1958). We use Rosenthal's translation with some changes wherever necessary.
32. Rosenthal, I: 89–92.
 33. Ibid., II: 406.
 34. Ibid., I: 263.
 35. Ibid., I: 322.
 36. Ibid., I: 249–250.
 37. Ibid., II: 95–96.
 38. Ibid., II: 102–103.
 39. Ibid., II: 106–107.
 40. For detailed work on the subject, see Ian Hodder, *The Leopard's Tale: Revealing the Mysteries of Catalhöyük* (London: Themes and Hudson, 2006) and James Mellaart, *Catal Hüyük: A Neolithic Town in Anatolia* (London: Themes and Hudson, 1967).
 41. Braudel, *History of Civilization*, 22.
 42. Ibid., 316.
 43. Although foundations of these nationalities were claimed to be scientific, they were never final. A number of new nations have emerged in Europe even in the 1990s, and a number of other “nationalities” are struggling to achieve the status of nationality.
 44. Nevin Doran Hunter, 67–68.
 45. Ibid., 68.
 46. Ibid., 70.
 47. Rosenthal, II: 406.
 48. George Sarton, *Introduction to the History of Science*, 3 vols. (Baltimore: The Williams and Wilkins Company for Carnegie Institution of Washington, 1927), I: 9–10.
 49. Richard Dawkins, *The God Delusion* (New York: Houghton Mifflin, 2006), 183. Also quoted in Hunter, 76.
 50. Rosenthal, II: 412.
 51. Nevin Doran Hunter, 112–113.

Science, the Qur'an and the Moral Community

N. Doran Hunter

With anti-Western diatribes radiating from radical Islamic organizations, Western armies invading Islamic countries, and seemingly unbridgeable cultural and religious disparities separating the Christian West from the Islamic Middle East, it appears to be impossible to begin building bridges between the two civilizations. With Samuel P. Huntington predicting a “clash of civilizations,” Pope Benedict XVI’s university lecture in 2006 triggering riots in Muslim lands from Somalia to Turkey, and the violent reaction in England to the suggestion by former Archbishop Rowan Williams that *Shari’a* Law might have a part to play in the domestic law of that country, all revealed a wide gulf between the Western civilization and the Islamic world.

The reaction to this state of global affairs is predictable: Academics of good will advocate ways for both sides to understand each other better, and governments and cultural leaders will emphasize the need for reconciliation and mollification. Religious leaders will look for scriptural references and theological texts that stress similarities of religious belief and tolerance for dissimilarities. Political and cultural leaders will call for

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student exchanges, encourage tourist travel, and increased diplomatic activity between the two civilizations. Philosophers and ethicists will reinterpret the historic texts of both civilizations and hold international conferences where quotations will abound, differences highlighted, similarities celebrated, and grand syntheses created. All of these activities will be valuable but not determinative. The missing ingredient is observational, experiential, experimental, and verifiable empirical science.

In the following sections of this chapter, I will suggest a new way to examine the similarities between the Western and Islamic civilizations. Instead of looking exclusively for similarities between the Bible and the Qur'an, or finding comparisons between the political, economic, and social systems of the two civilizations, I will lay out the relationship between the new sciences of neurobiology, evolutionary psychology and game theory, and how these new investigations are changing the views scientists have of human nature. The point of view will center on the fact that through these new sciences, there emerges a perspective contending that there are certain universal human values, virtues, and rational viewpoints regarding the relationship between the community and the individual, and also a universal human outlook regarding the basic elements of what could be called a moral polity. The idea is that even though religion, culture, and forms of government may be different between the Islamic and Western worlds, there is a common humanity that binds all peoples of the world together. This enterprise will be undertaken in three sections.

Section [“Is Science Discovering a Universal Human Culture?”](#) will sketch out some of the conclusions being reached by social anthropologists and evolutionary psychologists regarding universal human culture, values and virtues, and how these investigations are changing our views about human nature.

Section [“Qur’anic Principles of Good Governance, Science and a Moral Community”](#) takes a look at four basic Qur’anic principles of good governance and how the application of these principles is compatible with the findings of contemporary science regarding the essence of human nature. Section [“A Scientific Framework for Understanding Different Cultures”](#) looks at how contemporary biological and social sciences are arguing for a new frame of mind when looking at differences between civilizations. Of course, the subject is large and space is small, and one must always remember the words of Sir James M. Barrie: “Life is a long lesson in humility”—and certainly this body of learning is just in its beginning phase.

IS SCIENCE DISCOVERING A UNIVERSAL HUMAN CULTURE?

In a world of cultural, racial, ethnic, religious, and economic differences, it is a little more than odd to suggest that contemporary biological and social science is finding a new unity out of such human diversity. Perhaps a good place to start looking for unity out of diversity is within the phenomenon of culture; certainly, there is nothing more diverse than the various cultures of the world. David Brooks, *The New York Times* columnist, has defined culture as “a collection of habits, practices, beliefs, arguments, and tensions that regulate and guide human life.”¹ Culture is defined by G.W.F. Hegel, the great German philosopher, as the “Spirit” of a people as reflected in their law, values, constitutions, arts, sciences, technologies, religion, and social organizations.² Summarizing bodies of studies on the subject of culture, Daniel P. Moynihan, the American social scientist and public intellectual, stated that the “Central conservative truth is that it is culture, not politics, that determines the success of a society.”³ Is there any scientific way to investigate cultural diversity throughout the world while looking for universal human values and virtues? In other words, could worldwide cultural diversity be grounded upon a set of universal human values? Are there traits and characteristics that define a common human nature?

The answer to these questions, as reported by social scientists, is “Yes”! After exhaustive research throughout the world, Harvard University-based social scientists Lawrence E. Harrison and Samuel P. Huntington reported, in an important book entitled *Culture Matters: How Values Shape Human Progress*, that most peoples around the world were anticipating political and economic leadership that would bring to their homelands “human progress.” The phrase “human progress” was interpreted to mean “a movement towards economic development and material well-being, social economic equity, and political democracy.”⁴ In the same study, Harrison and Huntington found that certain values seemed to be universal: Life was better than death; freedom was better than slavery; prosperity was better than poverty; education was better than ignorance; and justice was better than injustice.⁵ If one defines culture as a set of values, as Harrison and Huntington are arguing, then the most important universal cultural values are as follows: personal safety, freedom, economic security, knowledge, and fairness (justice).

Donald E. Brown, a University of California, Santa Barbara anthropologist, has identified hundreds of other universal human values

exhibited by most populations around the world. Through his cross-cultural studies, Professor Brown has identified evidence for the evolution of moral emotions that lead to a common set of human cultural behavioral patterns, and has created the groundwork for development of social, political, and economic institutions. Some of the 373 universal human moral emotions discovered by Professor Brown were as follows: *affection* (key to cooperation), *attachment* (key to friendship), *empathy* (key to moral sense), *fear* (foundation for guilt), *self-control* (moral behavior), and *shame* (moral sense). These moral emotions become the bases for personal values necessary for community success. Without community cooperation, personal friendship, sensing another's emotions and thoughts, feeling personal shame, and self-control, life within a community would be chaotic.

Some universal moral emotions and behaviors, which are translated into community values, and necessary to community survival, were as follows: *hierarchy* (unity of command), *collective identity* (community defense), *conflict mediation* (moral judgment), *etiquette* (enhance social relations), *gift giving* (reward for cooperation), *institutions* (rule enforcement), *law* (rights and obligations), *sanctions* (social and moral control), and *turn-taking* (conflict prevention). Some economic universal emotions that morph into economic values were as follows: *cooperative labor* (required for task specialization), *fairness and equity* (equal pay for equal work), *judging others* (labor competition), *pride* (job well done), and *redress for wrongs* (conflict resolution). The idea is that emotions are the foundation for human values, behavior, economic, social, and political actions. Universal human emotions become incased in a system of universal human values, which then become institutionalized, acted upon, and subject to reasoning processes. These values are something of worth and are to be preserved.⁶

Of course, all of the previously mentioned values can be found one way or another in sacred scripture, the history of customs and traditions, or squeezed out of rational models that philosophers, historians, and economic thinkers have produced over the years. Jonathan Haidt, an evolutionary psychologist at New York University, in a book entitled *The Happiness Hypothesis: Finding Modern Truth in Ancient Wisdom*, has created an evolutionary view of morality by tracing its roots to a basic truth about human nature. Subscribing to the Brown thesis, he agrees that morality starts with emotions, which are adapted and become customs and traditions, and then formed into stated values, institutionalized, and

practiced by communities of people. Morality, then, becomes a set of standards (values, virtues, and ethical codes) that allow people to determine what is right and wrong. But the whole process begins with the basic emotions with which all people are born.

Professor Haidt begins his analysis by describing the most basic of universal human emotions: moral dumbfounding. The concept of moral dumbfounding describes the phenomenon of strongly *feeling* that something is wrong but not being able to define why. Activities such as incest, ingesting vomit, urine, feces or contaminated foods, or engaging in behaviors that are seen as not separating animals from human beings are all considered to be disgusting. Observing a healthy human being attacking a sick person with a stick for no reason evokes a sense of disgust and anger over such an action. The medieval practice of aristocratic landowner “first night privilege” directed toward a newly married yeoman or serf couple awakens the emotion of disgust. One’s emotion of disgust in each of these cases is pronounced; it is a feeling or a sense that somehow doing such things is morally wrong. The sense of moral dumbfounding is a moral intuition established throughout evolutionary history before the creation of articulate human language. After the development of language, people were able to effectively express why these kinds of behaviors were disgusting, and that led to systems of values and moral principles that could be used to make moral judgments.

After exploring the literature of anthropology and evolutionary psychology, Professor Haidt found five ingredients that define morality for most peoples throughout the world. The first ingredient is personal and public safety: A communal system, whether archaic or modern, requires a system of government and other institutions that protect its members from personal harm and outside attack. The second ingredient is language, and practices and institutions that promote reciprocity and fairness regarding human interactions within the community. The third and fourth ingredients are loyalty to the community and respect for authority and hierarchy—a kind of social glue that holds the community together. And finally, the fifth ingredient is a sense of purity or sanctity for the community. The ingredient of purity simply means a personal moral sense that the community should refrain from acting like animals, should control selfish desire and act in the public interest, and follow the traditional moral principles of the community. These ingredients of morality are universal and are represented in all civilized human communities.⁷

From the studies of these social scientists, and many others, it appears there is surfacing a scholarly judgment that there is something called a common humanity. That common humanity seems to partake of a set of universal values, a common culture, if you will, that moves people into a universal set of moral principles. Some of those values and moral principles are as follows: personal and public safety, material well-being, social and economic equity, political democracy, cooperation, friendship, guilt and shame for wrongdoing, self-control, communal unity and defense, rule of law, reciprocity and fairness (justice), conflict resolution, the need for social and political hierarchy and authority, and a recognition that selfish interests can be subordinate to the public interest. All of these universal human values are grounded on human emotions and now have been studied by social scientists without going to the usual sources of scholarship: literature, history, philosophy, scripture, and theological texts. Of course, these sources of knowledge about the human condition are excellent and are to be treasured and continuously used. There are many points of convergence between these nonscientific materials and the wellsprings of new knowledge coming from the social and biological sciences.

QUR'ANIC PRINCIPLES OF GOOD GOVERNANCE, SCIENCE AND A MORAL COMMUNITY

What is the connection between the principles of good governance (personal, social, governmental, and economic) as found in the Qur'an and the universal human emotions and values as discovered by contemporary social and biological scientists? Is a moral community an oxymoron or a real possibility grounded on new scientific findings about human nature? Leaving aside the forms and procedures that a particular community would exhibit, what are some of the governing principles to which a moral community would need to conform?⁸

Fitrah

Under the guiding principle of *Fitrah*, man is a social and political creature. He, by nature, associates with other men. He, by nature, builds social, economic, and governmental institutions. These organizational arrangements are characterized by the principles of hierarchy, specialization of function, centralization of control, by formal rules of action, and

by standardization of decision-making. Outside of an organization man is a cipher; within an organization (community), man has the possibility of achieving his potential: talents, propensities, abilities, and capacities. Human potential is God's gift to each man. For each man to achieve his potential is his gift to God. The principles by which organized human beings are to be governed individually, socially, economically, and politically are found in the Qur'an. To follow those principles allows each man to achieve his potential.⁹

Contemporary biological and social science has demonstrated that, through the phylogenetic process, *Homo sapiens* are social and political creatures. From families, clans, tribes, kingdoms, city-states, empires, and other organizational arrangements, human beings created ever more complex organizations. It is only within these arrangements that human progress can be made. Through natural selection certain human characteristics evolved, which allowed for the building of communities of ever more complexity.

James Q. Wilson, America's most respected social scientist, in his important book entitled *The Moral Sense*, demonstrates that "Nature has placed within all individuals the instinctive predisposition towards specific forms of virtue." These forms are as follows: sympathy—"the capacity for being affected by the feelings and experiences of others"; fairness—refers to a common sense of fair play, or "notions of preference, property, entitlement or equity"; self-control—which is the "habit of controlling or moderating the bodily appetites"; and duty—which is the "disposition to honor obligations even without hope of reward or fear of punishment." These instincts or intuitions are central to the proper functioning of a complex society, and they are products of the evolutionary forces of natural selection.¹⁰

To give a simple example of one of these senses or instincts at work, consider the instinct (emotion) of sympathy. Sympathy enables us to imaginatively put ourselves into the place of others and to sense their feelings, as life happens to them, as we would sense the same thing happening to us. We sense their fear, their happiness, their concern, and their disgust. This sense allows us to commiserate and understand where someone else stands in any situation and helps us make decisions as if we were in their shoes. This individual instinct builds a sense of community, we are in this situation together, and how he would react is the way we would react, and so the community reacts as a unit. This sense is a personal glue that holds the community together. The genes that give

us this sense of sympathy are necessary for community survival and have adapted to different environments over the eons of time.

Evolutionary psychologists, through many experiments, have also scientifically found an important connection between the capacity of one human being to read the mind of another human being, and then to feel the sense or emotion of sympathy or empathy for others in the community. One such experiment, the Menzel's Guesser-Versus-Knower test, was conducted on children within a variety of settings. Researchers discovered that children obviously did not know what each thought about various subjects, but they could observe what others know and what others have seen concerning a particular event. One application of the Menzel's test went as follows: Child A hides chocolate in a drawer and then he goes away. Child A's mother accidentally moves the chocolate to another place. Where will Child A be looking for the chocolate when he returns? Will it be where the children know the chocolate actually is (where the mother put it) or where Child A last saw it (in the drawer)? Most children observing this scenario took Child A's perspective even though they knew their decision was wrong. The point is: Sympathy trumped fact. Sympathy overcame observation.¹¹

An example of how natural selection has led us into community relationships, and drives us into even more complex organizational structures, relates to the morphology of the human eye. In all mammals, with the exception of human beings, the sclera, which is the white layer of the eyeball and is continuous with the cornea, is either black or very dark, and this fact prohibits most mammals from seeing what the eyes of the other mammals are seeing, and thus makes it very difficult, because of a lack of peripheral vision, for a determination of intention. Action and reaction to threat or opportunity is based on direct observation or reaction to the movements of the leader of the community. The human eyeball, on the other hand, with its white sclera allows others in the community to determine the intention of those being observed and, given a wide peripheral vision, human beings don't have to rely only on instinct or the actions of a leader of the community, but rather can make an independent decision on how to react to a particular situation. This phenomenon then requires a collective decision-making regime, which would become engaged with all of the attendant organizational needs and demands. The human eyeball is simply a reflection of the forces of natural selection pushing human beings into collective arrangements for survival and successful reproduction.

Of course, there are many other examples from contemporary biological and social science to make this simple point: Man is by nature a social and political creature. Most systems of Western political thought subscribe to this point of view, and certainly, science is verifying what Islamic scripture makes clear concerning the governing principle of *Fitrah*.

Amanah

Under the guiding principle of *Amanah*, God endows each individual with talents, abilities, propensities, and the capacity to think and to understand. This great human potential guides each man when interacting with others, and the environment within which he lives. The relationship between man and God is one of the Trustor (God) and the trustee (man). God creates man, gives him potential and resources, establishes the purposes of His creations, and then outlines the principles by which His purposes are to be carried out. Man becomes a trustee or agent with no power to change the nature of the trust relationship, but with great power and personal responsibility to implement the provisions of the trust arrangement. God is sovereign and man is the subject acting for and in behalf of God. The question is: Has God endowed mankind with a natural attribute or characteristic that would allow him to successfully discharge his responsibilities as God's trustee?

Neurobiology is demonstrating that the emotion or feeling of trust (faith and confidence in the reliability and actions of someone else) is critical to the ongoing success of any society. Cognitive neuroscientists, using functional magnetic resonance imaging (fMRI) techniques that measure blood flow and oxygen levels in different parts of the brain, and electroencephalogram (EEG) tests that, through sensors placed on the scalp, record electric signals transiting through the brain, have demonstrated through numerous experiments that the human brain is "hard wired" to trust, at least initially, the actions of other people, and to be trusted to react affirmatively to the trusting actions of other people. Researchers have begun to uncover how the human brain determines when to trust someone, and they are now finding that an ancient and simple molecule made in the brain—oxytocin—plays a major role in the process.

Oxytocin is a short protein, or neuropeptide, which is composed of nine amino acids, and is produced in the following areas of the brain: subgenual area of the anterior cingulate, the hypothalamus, the nucleus accumbens, and the amygdala. These four brain structures share the

following three features: They have dense fields of oxytocin receptors, which convey oxytocin's messages to nerve cells; they control emotions and social behavior; and they modulate midbrain dopamine release, which makes people feel good and so rewards and reinforces specific behaviors. Researchers are finding that in social, political, and economic settings, where personal security and safety are provided, where life, health, personal freedom, prosperity, justice, and education are protected and promoted, are the very societies in which oxytocin levels in tested subjects are high and, of course, the opposite is also true. To put the point in another way, where the basic universal emotions of human beings are allowed to flourish, oxytocin levels are high, human potential blossoms, and community trust binds individuals together. There is a vast body of data on this point.¹²

In order to see what behaviors trigger the production of oxytocin, and therefore raise or decrease oxytocin levels, Paul J. Zak and Robert Kurzban of the Claremont Graduate University designed the Trust Game, which has been replicated hundreds of times during the last few years. The game is played as follows: Subjects are recruited who earn \$10 each if they agree to spend an hour and a half with the researcher. The researchers assign the participants randomly into pairs in which the two do not see or communicate directly with each other. Each pair is asked to make decisions about sharing their money with the partner. In each pair, one person is designated subject 1 and the other subject 2. Both persons in the pair are told how the game works. First, subject 1 is prompted by a computer to decide whether to send some of the \$10 participation payment to the other person. The amount is then tripled in an account for subject 2. If subject 1 decides to part with \$6, for instance, subject 2 will end up with \$28 ($6 \times 3 + 10 = \28), and subject 1 will be left with only \$4. In the next step, the computer informs subject 2 of the money transfer and allows that person to return some amount of that money to subject 1, with the proviso that none need be sent back and the assurance that the participants' identities and decisions will remain confidential. Whatever money subject 2 returns is debited from his account on a one-to-one basis. No deception is permitted and the payments are actually made based on these choices. Immediately after the participants make their decisions, they are asked to provide blood samples so the researchers can measure oxytocin levels.¹³

The consensus view among neuroeconomists is that the initial transfer of money measures trust, whereas the return transfer of money gauges trustworthiness. The researchers have found that in about 85% of the

time subject 1 game players sent some money to their partners. Of the partners who received the money, 98% then went on to return some money to their subject 1 partners. Interestingly, people typically could not articulate why they were trusting or trustworthy. But the researchers suspect that being trusted by a subject 1 would induce an oxytocin rise and that those who received a greater sum from their subject 1 partners would experience even greater oxytocin increases. The studies have found that subject 2 partners' brains produced the oxytocin neuropeptide when they received money from their partners and thus felt trusted by those strangers. In addition, when people were shown greater trust in the form of more money, their brains released more oxytocin.

It was also shown that subject 2 partners with high levels of oxytocin were more trustworthy, that is, they sent more money back to their subject 1 partners who had trusted them in the first place. Receiving a signal of trust appears to make people feel positive about strangers who have trusted them. A possible evolutionary explanation for the strong release of oxytocin in these experimental settings is that human beings have a long adolescence and that natural selection favored people who could bond strongly with others over a long time, or at least until youngsters grew up and were able to manage on their own.

It seems that oxytocin is the communitarian neuropeptide. It is the brain molecule that binds families, clans, tribes, larger communities, and nation-states together. Statistical studies and mathematical models of nation-state communities have demonstrated that the social glue of trust is the strongest predictor of a countries' material wealth, personal and territorial security, educational attainment, scientific progress, democratic stability, labor-management tranquility, rule of law, and social justice. Countries with low levels of trust are poor with uneducated populations and unjust systems of governance, and the models display the primary reason: The inhabitants undertake too few of the long-term investments necessary to create jobs and raise incomes. Such investments depend on mutual trust that both sides will fulfill their contractual obligations.¹⁴

One could argue that God when creating mankind made sure, through the making of a communitarian brain molecule, that mankind would become a true trustee or agent for all of His creations. Man should understand that God has trusted him to be a good trustee, and that God-given trust should be enough to inspire man to actualize this responsibility. The God-given emotions with which human beings are born (see Sect. [“Is Science Discovering a Universal Human Culture?”](#)) all seem to lead in the

direction of communities of people being trustees for each other and the larger society. Public safety, reciprocity and fairness, loyalty and respect for authority, and self-control and following the basic principles of morality all require a degree of trust in each other and the collective. The neurobiologist would argue that through natural selection, *Homo sapiens* developed the brain molecule called oxytocin, which was of critical importance for the development of ever more complex organizational arrangements, which in turn were important for the survival of the species. The game theorist might argue that Islamic scriptures are confirming what the game theorist has proclaimed as a true characteristic of human nature: It is natural to initially trust the actions of others, to be a trustee or agent in carrying out the purposes of the community, and to be trustworthy when responding to the trust others place in your activities. The Islamic scholar might argue that game theory is simply confirming what God has decreed in the Qur'an. Whichever argument one accepts, the brain chemical oxytocin is one of mankind's most important attributes or characteristics and is critical for the formation and success of any society.

‘Adalah

With the concepts of *Fitrah*, man is a social and political creature, and *Amanah*, man is God's trustee on earth, it would seem natural that the social and political arrangements surrounding an Islamic society, or any society for that matter, should be guided by the concept of justice, or *Adalah*. Justice is one of those words that summons up lots of meanings. From the Qur'an it is associated with *Amanah*. Man is God's trustee on earth and his responsibility is to carry out God's plan for the earth and for His greatest creation: Man. God's plan is for each individual to achieve his potential. Human potential can be achieved only within a just society. A simple but accurate synonym for the word justice is fairness. Assuming the existence of a government providing for the safety and security of the people, most would agree that the basic purpose of a just society is to create institutions that could do for the people what they could not do for themselves (social justice). A society guided by the ideal of justice would operate the government within the framework of a constitution and rule of law, and would operate institutions and processes so the people could make collective decisions on matters of general interest. This society would establish a system of courts where the government and individual citizens could plead cases before independent judges who

have the authority to make binding decisions (procedural justice). This just society would provide institutions and processes whereby citizens could experience material wealth (economic justice), and where all citizens could achieve their talents and abilities (personal justice). There is nothing that I can find in the Qur'an that would negate this set of definitions for the word '*Adalah*' or justice or the more simple word: fairness.

The sense of justice (to treat others as you want to be treated) seems to be a natural attribute of the human condition. Neuroscientists, evolutionary biologists, and game theorists have often raised the question about the origins of our natural sense of justice or fairness. Is the answer to be found in culture, religion, or experience, or is there a genetic or evolutionary answer to the question? Sarah Brosnan, an evolutionary biologist and anthropologist, has suggested that the human preoccupation with being treated fairly by others has an evolutionary foundation. In studying brown capuchin monkeys, genetically close to human beings, she and her associate researchers found an advanced sense of fairness that led to strong social bonds and some cooperative behavior regarding food gathering and sharing. When, through a series of experiments where the monkeys were treated fairly, future cooperation was assured, socially discordant behavior decreased, and group activity increased. On the other hand, when the monkeys were treated unfairly (giving food to some and not others), no cooperation occurred, the monkey community became discordant, and group life diminished. These activities sound very much like human reactions to being treated unfairly.¹⁵

Dr. Marc Hauser, a widely published neuroscientist, has suggested that justice (fairness) assumes the practice of reciprocity. Eons ago reciprocal behavior was practiced [only] with genetically related individuals. The question is: How did the brain evolve the mechanisms that led to a natural sense of reciprocity with ungenetically related individuals? When I give you a \$5 loan, the expectation is that you will repay the loan. When I give you a piece of my orange, why do you feel the need to give me a piece of your apple? Why does everybody get angry when someone crashes the long line at the movie theater? When your neighbor borrows your lawn mower why do you expect him to return it and to loan you his lawn mower when you need one? There appears to be no specific gene or part of the brain that would explain where justice (fairness) and its relative reciprocal altruism reside, but the fact remains that the brain seems to be "hard wired" to react to actions that are fair (just) or to respond to actions that require reciprocity.¹⁶

The neuroscientist and game theorist Collin Camerer, in his book *Behavioral Game Theory*, has concluded through a number of experiments that the sense of fairness is one of the most important aspects of human behavior and critical to the functioning of a successful society. One game, the Ultimatum Game, plays out as follows: In this two partner game, one partner (A) is given \$100 to divide as he sees fit with partner (B). Whatever the division of the \$100 by partner (A), if partner (B) accepts it, both will be richer by that amount. If partner (B) rejects the offer, then both players of the game receive nothing. If partner (A) suggests \$90 for himself and \$10 for partner (B), both are richer by that amount. If partner (B) is a rational, self-interested, utility maximizing, and free willing, he will not turn down a free \$10. However, after hundreds of applications of the game, it has become clear to the game theorists who practice this particular game that the division where partner (B) receives less than \$30, with partner (A) keeping \$70 or more, will be rejected by partner (B). Since partner (B) is receiving free money why would in almost all cases partner (B) not take anything less than the proffered \$30? In interviews and questionnaires, partner (B) respondents answered in unison—because it isn't fair! The researchers have concluded that the demands of reciprocal altruism and fairness require that the exchange partners be treated fairly. I will scratch your back if you will scratch mine. Exchange partnerships work only if partner (B) knows he will be treated with something close to parity. In other words, the moral sense of fairness is “hard wired” into our brains and is an emotion human beings seem to share with other primates. Trust and fairness seem to be an integral part of the human personality and natural makeup. No society can be successful without large doses of these emotions permeating the social, political, and economic fabric.¹⁷

Science seems to confirm what the Holy Qur'an makes clear: Acting justly is part of *Amanah*. The earth is for man's use and he must use it to expand and exercise his potential. That potential can be achieved only within a just society. A just society is one where all people are treated fairly by each other and by the government. Contemporary biological and social science is demonstrating that human emotions are in accordance with the strictures and requirements of Islamic scripture regarding the importance of embracing and implementing the principle of *Adalah*. The sense or emotion of justice (fairness) is a natural attribute of human nature. Being treated fairly by other people and the government leads to cooperative group life; reciprocal altruism and personal reciprocity create

community stability; and the natural human emotion to trust, and not to be discriminated against, is an ideal difficult to attain but mandated by God and by the normal and common attributes of human nature.

The Moral Mind

The Holy Qur'an makes it clear that God created man out of "potters clay of black mud" and "breathed into him of My Spirit." Whatever God creates, including man, must be good. God "Breathed" into man His own spirit. Man must be, regarding his own basic nature, therefore, not only good but also as possessing some of the basic or inherent attributes or characteristics of God, all of which would be defined as moral. Today, neuroscientists are demonstrating that man possesses a moral mind, which seems to be an idea that is counterintuitive until one looks at the evidence.

Michael S. Gazzaniga, in his book *Human: The Science Behind What Makes Us Unique*, summarizes a vast body of scientific knowledge on the subject of the moral human mind. He begins by stating that there are about 7 billion people on the planet today. If we assume that 1% are "rotten eggs," this means that 70 million people can cause real problems. If 5% are really bad people, then 350 million people are creating difficulties for the rest of humanity. The rest of us are getting along just fine, thank you. "We are left with the amazing fact that somehow at least 95% of us ... possess some kind of common mechanisms that guide us through the social morass or complexities of everyday life." Why do human beings have an intuitive judgment about what kinds of social exchange are good and what kinds are bad? Many neurobiologists have investigated this question and there are a number of interesting answers.¹⁸

Professors J. Call and M. Tomasello have studied the notions of "intention" and "cheating" among primates, including *Homo sapiens*, regarding social exchange. We seem to intuitively grasp the difference between a social exchange, where a person is not reciprocating by accident, this is not cheating, and a person intentionally not reciprocating, and this is cheating. Call and Tomasello report that "Three-and-four-year children will judge an action in a story of social exchange as being 'naughty' if the behavior was on purpose, but not if it was done by accident." They also have found, through their experiments, that "Chimpanzees can judge intention: when someone is trying to grab some food for them but can't reach it, they don't get upset, but they will

get upset when someone can reach it but won't." It is through human intuition that judgment about whom to trust, who does not reciprocate by accident, and who does not intentionally reciprocate, that human networks of social exchange are built, or the social glue that holds a society together dissolves. The moral mind seems to have an integrated sense of right and wrong regarding social interaction or exchange.¹⁹

Taking a cross section of scientific studies on the subject of the moral mind, there seems to be forming a consensus that *Homo sapiens* are possessed by something called moral intuition or moral emotion, which is the driving force for successful group life. To put the point another way, human beings are emotionally equipped to make a moral decision but that decision can be changed by reason, and also by the will to do something immoral, but the standard of what is moral and what is not moral is a driving force in everyday life. Neurobiologist Robert Trivers has verified that the emotion that seems to prompt moral behavior is reciprocal altruism (if you do something for me I will do something for you).²⁰ We tend to participate with those we trust and we trust those who engage in reciprocity. Michael Gazzaniga puts the point succinctly: "Individuals who didn't like being cheated and did something about it, and individuals who felt guilty if they cheated and didn't like the feeling, were the ones who were necessary to allow reciprocity to exist—by creating a society in which the honest would not be outnumbered by the cheaters."²¹ Political, social, and economic exchange can successfully thrive only when the emotions of trust and reciprocal altruism are cementing human relationships.

As reported in the scientific literature, the basic moral emotions associated with reciprocal altruism are as follows: sympathy, empathy, contempt, anger, guilt, embarrassment, shame, and gratitude. These basic human emotions are critical to a well-functioning and moral society, and any kind of exchange within society would be impossible without them operating at a high level. Sympathy and empathy (putting yourself in someone else's shoes) lead to understanding and mutual cooperation; anger (emotional state of displeasure, indignation, and a need for revenge) leads to a desire to punish cheaters who are unfair in exchanges; contempt (disrespect for those who are hypocrites or don't fulfill obligations) leads to personal actions to address reasons for personal and community contempt; gratitude (emotion of contentment at punishment of cheaters) expressed in feelings of fairness; guilt (emotion of culpability for breaching standards of conduct) leads to adhering to community

standards; embarrassment (emotion of discomfort because others are displeased with your behavior) leads to taking corrective action; and shame (associated with guilt, humiliation, and disgrace) leads to either corrective action or community rejection. This automatic processing of the emotions of reciprocal altruism is confirming the requirements of a successful and well-functioning society: Debts are paid, cooperation is assured, cheaters are punished, and the important values of justice (fairness), trustworthiness, and social peace and security are practiced and assured.²²

Contemporary biological and social science has revealed that human emotions are the foundation for values, and values are the basic building blocks for principles of morality, and morality is necessary for good governance of societal, political, and economic systems of exchange in a vibrant and progressing society. The Qur'an reveals that God created man, gave him the moral emotions that guide his actions and decisions, and authorized him to become a trustee for His purposes and to govern all things with justice in order to provide man with a more moral community. Contemporary science and the Qur'an both attest to the possibility of human emotions simply uncloaking what God and science know to be true of human nature: God's creation is constructed to live within peaceful, just, and moral communities guided by the principles of good governance as found within the sacred scriptures or identified by human experience, scientific knowledge and understanding.

A SCIENTIFIC FRAMEWORK FOR UNDERSTANDING DIFFERENT CULTURES

The great philosophers and theologians of Western civilization have argued ad nauseam about human nature. The Greeks and Romans wrote eloquently of the inherent human traits of reason, courage, spirit, passion, self-control, and duty. The Christian theologians of the Medieval period discussed the phenomenon of natural law, grounded on human reason and common inclinations, directing mankind to avoid evil and to seek the good: self-preservation, family life, to know the truth, and to abstain from harming others. The period of "enlightenment" gave the West a secular version of the natural law, which celebrated human reason and its capacity to know what to do to preserve self and the community. In other words, man was born with an inherent nature that, if identified and acted upon, would create conditions for a continuously improving

community life. Another strain of Western thought emerged during the nineteenth and twentieth centuries that led to a completely different view of human nature. John D. Watson and B.F. Skinner, both psychologists, investigated the foundations for human behavior and argued that human beings were truly made of plastic, to be molded and manipulated, and were endowed with no inner core or inherent attributes other than the basic biological urges of the baser quality. People could be programmed by varieties of stimuli to respond in predetermined ways giving the instigator of the stimulus power over the individual and removing free will from human actions. Karl Marx, the nineteenth-century economist and political philosopher, summed up this stimulus/response psychology the best by writing in his famous long essay, *A Contribution to the Critique of Political Economy*, the following words: "The mode of production in material life determines the general character of the social, political, and spiritual processes of life. It is not the consciousness of men that determines their existence, but, on the contrary, their social existence determines their consciousness." It is through the economic or material forces of production that social relationships develop, which then create the basic aspects of social culture that cause men to think and to act. The point of view is clear: There is no human freedom but only social, economic, and political forces conditioning human beings to think and act in predetermined ways. This nature/nurture argument has been engaged generally using the instruments of human observation and statistics, the interpretation of religious texts using scholastic methods, or by philosophers, historians, and philologists using hermeneutical methods. Although these methods and practices are valuable for understanding human nature, they do not allow for the rigor of the new scientific techniques for literally looking into the human brain to see what is going on when people sense, perceive, think, and act. Neurobiology (neuroscience), behavioral genetics, and game theory are using the following tools for observing the actions of human beings: fMRI (the technique for looking inside the brain and measuring blood flow and oxygen levels in various parts of the brain). This technique allows researchers to see which parts of the brain are operating when actions are taken. EEGs (a technique for tracing electric impulses through the neurocircuitry of the brain) give scientists an opportunity to observe the movement of electronic impulses from one neuron to another neuron. Diffusion tensor imaging (a technique for observing molecules—water, etc.—moving along axons and dendrites) lets scientist look at tissue connectivity

and the movement of hormones from one place to another in the brain. These new scientific tools are giving scientists an opportunity to see which parts of the brain serve which purposes for human action and are creating a new investigative frame of mind when thinking about the tricky subject of human nature.

Using these new empirical tools, biological and social scientists are discovering the basic attributes and characteristics of human nature: There is an inner human core and part of that core nudges men toward moral behavior. What are some of the elements of that inner core that might be called human nature? First, given all of the differences in physical appearance and cultural practices, there is a kind of psychological unity based on a common set of emotions and values. Second, the human mind is a mechanism of astonishing intricacy, and even though it does not work perfectly, it does provide men with the instrument they need for survival. Third, the moral emotions and intuitions that *Homo sapiens* possess do allow for improving social, economic, and political situations. Fourth, men are social and political creatures: We do treat others on the basis of emotions and not by referring to some rational ideology. Fifth, we have a natural empathy for the misery and maltreatment of others and an aversion to the blandishments and rationalizations of the powerful. Sixth, we sense when we are being led down the road of totalitarianism by reformers who are denying us our natural pleasures as defined by our emotions. Seventh, our emotional intuition seems to naturally embrace the institutions of rule of law and democracy as forms of governance. Eighth, the insights of the ancient artists, philosophers, theologians, and the writers of literature concerning the human condition seem to be confirmed by the findings of contemporary biological and social scientists. The new scientific frame of mind reflects the wisdom of the ages regarding human nature.²³

CONCLUSION

Immanuel Kant once wrote: "Two things fill the mind with awe and wonder ... the starry heavens above and the moral law within me." Contemporary biological and social science is confirming that there is a set of moral emotions and intuitions that constitute the inner core or inherent hypostasis of human nature. These moral emotions become the physical setting for the definition of values, virtues, and standards for human conduct. These standards of human conduct become ideals that are used to create the great systems of social, economic, and political

philosophy and theology. From custom, practice, usage, and hard-won experience, and from the application of the values, virtues, and standards of human conduct found in the writings of social and political thinkers, most systems of governance throughout the world have been constructed. Of course, war, economic collapse, crime, nation-state conflict, ideological differences, and other forms of deviation from the standards of human conduct are part of the human condition.

The Qur'an makes clear that God gave to mankind the emotions that build the moral sense and intuition that lead to the values and virtues that constitute the foundation for good governance of personal and community life. Men are social and political creatures (*Fitrah*) possessing a moral sense; they are God's trustees (*Amanah*) on earth and so have moral responsibilities to each other, and to God; men are to exhibit in thought and deed the principle of justice (*'Adalah*) in their individual and social lives; and they do share with all humanity the phenomenon of a moral mind, with all of its personal and social obligations. What the Qur'an makes clear contemporary biological and social science is confirming; namely, that human beings are equipped with the necessary tools to govern societies with justice and equity. When things go wrong it isn't human nature that is to blame, it is the selfishness of a few human beings who have violated their God-given biological heritage.

NOTES

1. David Brooks, *The Social Animal: Hidden Sources of Love, Character, and Achievement* (New York: Random House, 2011), 148.
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3. As reported in: Lawrence E. Harrison and Samuel P. Huntington, *Culture Matters: How Values Shape Human Progress* (New York: Basic Books, 2000), xix.
4. Harrison and Huntington (2000), xv.
5. Harrison and Huntington (2000), xxxvi–xxxvii.
6. Donald E. Brown, *Human Universals* (New York: McGraw-Hill, 1991), 142. The examples used in this section of the essay are taken from: Michael Shermer, *The Mind of the Market: Compassionate Apes, Competitive Humans, and Other Tales from Evolutionary Economics* (New York: Times Books, 2008), 118–120.
7. Jonathan Haidt, *The Happiness Hypothesis: Finding Modern Truth in Ancient Wisdom* (New York: Basic Books, 2006).

8. I use the word "Man" and "He" in the generic sense as the terms relate to both men and women.
9. My understanding of the terms *Fitrah*, *Amanah*, *Adalah*, and a Moral Mind concerning the Qur'anic principles of good governance comes from: Al-Ahsan and Young (eds.), *Guidance for Good Governance*.
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Al-Siyasah al-Shar'iyah: Good Governance in Islam

Abdul Rashid Moten

Islam is a religion and a way of life. To Muslims, religion is not simply “an ideology founded upon a set of doctrines, but also to a blueprint for organizing the social and political affairs of human society.”¹ Islam is not simply a question of belief but, more importantly, a question of living according to the belief. Islam is “not so much a noun but a verb, an action.”² Islamic values impact all areas of society. Islamic set of moral principles is good for all mankind, regardless of race, ethnicity, gender, or origin.³ If properly applied, these principles should pave the way toward good governance and a peaceful and cooperative world order.

There exists consensus among Muslim scholars that these principles did operate in the Madinah state established by Prophet Muhammad in 627 CE. To that end, he issued *Mithaq al-Madinah*, the first written Constitution in the world.⁴ The Prophet demonstrated that Islam is a faith in the realm of the public. From its emergence in the seventh century, Islam has provided its followers with a vision of an ideal polity to shape a Muslim identity for citizens who “submit” to the will of Allah. This study analyzes the Islamic foundation principles and values

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underpinning the field of governance and elucidates a “good governance” framework through a value-shaped dynamic model as found in *al-siyasah al-shar’iyyah*. This is followed by an analysis of the attempts made in Malaysia and Turkey to construct societies ordered by religious-based moral precepts. This study is warranted by the fact that good governance in Islam is under-researched in revealed and human sciences.

GOVERNANCE AND GOOD GOVERNANCE

“Government” and “governance” are used synonymously.⁵ The term “governance” has been used only sporadically in the literature until the term became popular and became part of the global interest in the 1990s.⁶ However, there is a discernible difference between government and governance and that the two forms of activity coexist.⁷ Analysts argue that governance arises from a lack of capacity on the part of governments, acting alone, to effect desired changes.

Governance “... refers to the development of governing styles in which boundaries between and within public and private sectors have become blurred. The essence of governance is its focus on mechanisms that do not rest on recourse to the authority and sanctions of government....”⁸ Stoker points out that the outputs of governance are not different from those of government; it is instead a matter of a difference in processes.⁹ The term “good governance” was coined, by the World Bank in 1989 in a report on Sub-Saharan Africa, in response to widespread corruption, bad policies, and nepotism hindering economic development.¹⁰ In an oft-cited quote, former UN Secretary-General Kofi Annan noted that “good governance is perhaps the single most important factor in eradicating poverty and promoting development.”¹¹ K.R. Hope defines good governance as the existence of efficient and accountable political, judicial, administrative, economic, and corporate institutions, as well as “entrenched rules that promote development, protect human rights, respects the rule of law, and ensures that people are free to participate in, and be heard on, decisions that affect their lives.”¹² According to United Nations Development Program, good governance advances sustainable development for three reasons. First, good governance ensures human development by promoting political freedom and participation in decision-making which are fundamental human rights. Second, good governance helps to protect people from economic and political catastrophes. Third, good governance empowers citizens to

influence policies that can promote growth and prosperity.¹³ The UN Commission on Human Rights has identified several characteristics of good governance including transparency, responsibility, accountability, participation, and responsiveness to the needs and aspirations of the populace. Additionally, good governance is characterized by minimal corruption, empowering the minorities and dispossessed and responsive to the present and future needs of society.¹⁴ Two major attributes of good governance are participation and accountability as all the enumerated attributes depend upon participation and accountability of the system.

In the name of good governance, most international development agencies have been requiring loan-recipient countries to fulfill several conditions and to adopt institutions which resemble those found in liberal democracies. In promoting good governance, these agencies may in fact be promoting democratic government as practiced in the West. Some scholars dub it as “a neo-liberalization agenda,” with its structural adjustment and economic reforms, aimed at fashioning the aid-recipient countries in the image of the West.¹⁵ To Majid Rahnema, good governance agenda is neocolonialism aimed at undermining the “other’s” way of life.¹⁶

Al-Siyasah al-Shar'iyah

The concept of good governance in Islam is embodied in the term *al-siyasah al-shar'iyah*, or “government in accordance with the revealed law.”¹⁷ To Khallaf, *al-siyasah shar'iyah* “denotes administration of public affairs in an Islamic polity with the aim of realizing the interests of, and preventing harm to, the community in accordance with the general principles of the *shari'ah*...”¹⁸ The policies may be in any sphere of government including fiscal, judicial, constitutional, or foreign relations. To Ibn Qayyim al Jawziyyah, “any measure which actually brings the people closest to beneficence (*salah*) and furthest away from corruption (*fasad*) partakes in just siyasah...”¹⁹ Fathi Uthman, however, looks at it comprehensively and refers *siyasah shari'ah* to the practice of administration and constitutional law, the authority of government, including the caliph (ruler), members of the consultative assembly, right of the individual, public interest, and others.²⁰ Muslim scholars, for instance, Al-Mawardi and Ibn Taymiyyah, have written books dealing with good governance in Islam. Al-Mawardi’s *Abkam al-Sultaniyah* is a legal exposition of salient aspects of public authority. Ibn Taymiyyah’s work is entitled *al-Siyasah*

al-Shar'iyah which is concerned with rules and governance according to shari'ah which implies ruling according to justice.²¹

Thus, literally *al-siyasah shar'iyyah* means governance in accordance with Islamic principles. *Al-siyasah shar'iyyah* lays down the guiding principles to be followed by the government and the individual in the society. It allows the ruling authority to ascertain the manner in which the state should be administered. It empowers the executive and legislative bodies to enact laws and policies in the best interest of the people. It encompasses policies in areas like domestic or foreign relations, constitutional, administrative, or judicial affairs. In short, it refers to administration of public affairs in an Islamic polity with the aim of realizing the interests of, and preventing harm to, the community in accordance with the general principles of the Shari'ah. These policies must be in public interest, i.e., protecting religion, life, mind, lineage, and property. *Siyasah Shar'iyyah* is value-oriented as well as rules-driven.

The root of the Islamic worldview and system of values is *tawhid* which refers to the unity and sovereignty of Allah. *Tawhid* implies that Allah is one in His essence (*dhat*), one in His attributes (*sifat*), one in His names (*asma*'), one in His works (*af'al*), and the only object of worship. It represents the ultimate truth or reality, which is known in Islam as *haqq* in their life. According to Davutoglu, Allah is mentioned 2800 times in the Qur'an and the word *rab*, the Owner of the universe, occurs 950 times. The Qur'an (17:23) declares: "Your Lord has decreed that you shall worship none but Him..." and that "Sovereignty belongs only to God; He has commanded that you shall not serve any but Him. That is the right religion..." (Qur'an 12:40). Allah "... fashioned [the human being] in due proportion, and breathed into him something of His spirit "(*wa nafakha fihi min rubi*)." Allah has bestowed dignity on all humans irrespective of religious beliefs. It is, therefore, obligatory to honor and protect the dignity bestowed on all human beings, without prejudice or discrimination against a person in terms of race and religion, and prevents oppression and denial of due process of justice.²² The Qur'anic vision of dignity for the human race has also been upheld for the Muslim community (Qur'an, 63:8), which is declared as "a community of moderation" (*ummatan wasatan*, Qur'an, 2:143), committed to the promotion of good, and prohibition of evil (Qur'an, 3:110), and dedicated to the vindication of truth and justice (Qur'an, 3:103).

Tawhid also implies the equality and unity of all human beings in their relation with God. He is the Lord of all human beings. No one

has any special relationship with Him; He is not the God of a specific community which may enjoy special privileges over other communities; all are equal before Him. "O mankind, We have created you male and female, and appointed you nations and tribes, that you may know one another. Surely the noblest among you in the sight of God is the most God-fearing of you..." (Qur'an, 49:13). Finally, *tawhid* implies the unity and the universality of God's message (revelation) which permeates all aspects of human life; it is comprehensive or *shumul* which "permeates time in totality, life in totality, and all aspects of human life in its entirety ... It is a thesis for mankind in every aspect of life."²³

As such, the Qur'an (2:208) enjoins: "O you who believe! Enter into Islam completely." Islam serves as the intrinsic guidance on how to live and conduct oneself as part of the means to worshipping Allah (Qur'an, 64:1; 22:18). Islam makes no distinction between religion and state (*al-islam din wa dawla*). This is not to deny the de facto separation between the sacred and the profane, between the *'ibadat*, revolving around faith and worship, and the *mu'amalat*, referring to economic, political, and other aspects of life. The *'ibadat* are eternal and immutable, and the *mu'amalat* can be adapted to the changing circumstances, with the proviso that the results conform to the *shari'ah*. Government and politics are part of the *mu'amalat* that are to be regulated so as to realize the common good (*al-maslaha al-'amma*) .

Al-Nizam al-Islami

The political system (*al-nizam al-islami*) must adhere to the *shari'ah*, the principles found in the Qur'an and *sunnah*. These principles include, most notably, justice (*'adl*), mutual consultation (*shura*), equality, freedom, and the struggle in the path of God (*jihad*). *Shari'ah* is the cornerstone of an Islamic order. It emphasizes participation and accountability as the two prime requisites of good governance.

Islam obligates the believers singly and collectively to be active and take part in the affairs of the state. The Qur'an obligates the believers to promote virtue and prohibit vice (*'amr bil-ma'ruf wa al-nahy 'an al-munkar*). The oft-quoted prophetic saying *al-Din al-Nasihah* (the din is good counsel/sincere conduct) refers to the responsibility of Muslims to acquire knowledge about Islam and then help others in the affairs of their din and this world by word and action, and doing everything possible for the benefit of the community. These injunctions and sayings make

political commitment and participation a religious duty of every single individual as well as the entire community.

The most compelling argument for people's participation is the principle of *shura* which is both required and binding (*wajibah* and *mulzimah*). *Shura* is mentioned three times in the Qur'an as a praiseworthy activity. The verse 2:233 encourages parents to decide family affairs by mutual consultation. The verse 3:159 asks the Prophet to consult believers, and the verse 42:38 declares *shura* to be the praiseworthy lifestyle of a successful believer. Thus, the fundamental characteristic of believers is to consult among themselves in all matters of common concern. The key word in the verses is *shura* or "consultation" which is presented as the ideal way in which a true believer should conduct his/her affairs. This principle was applied in letter and spirit by Prophet Muhammad in all his dealings. This *sunnah*, which according to Fazlur Rahman, is a "living tradition," can be used in contemporaneous issues of Muslims within a wide range of changing circumstances.²⁴

Shura, as a principle of governance, is predicated, as suggested by Abul A'la Mawdudi, on three precepts. First, that all persons affected by a decision and/or those who are assigned to implement the decision should take part in the decision-making process. Second, that *shura* governance prevents an individual or group of individuals from imposing their will upon others. And third, the principles of justice, equality, and human dignity demand from those in decision-making authority to resort to consensus decision-making.²⁵ *Shura*, therefore, is "the correct method recommended by the Holy Qur'an for running the affairs of the state."²⁶ The system of *shura* "provides the procedure whereby Muslims sit together and deliberate upon important matters to arrive at and bound by conclusions in the light of the philosophical concept of justice."²⁷ The Qur'an mentions *shura* on the same footing as establishing prayer and paying *zakah* (wealth tax). *Shura* ensures not merely the participation of the people but it also acts as a check against tyrannical rule. *Shura* must be resorted to in choosing the proper leadership, in establishing checks and controls over them and arriving at decisions accepted and appreciated by the public. *Shura* has no other meaning except that the members of the executive and the legislative assemblies are elected in a free and fair election; that the ruling elite are popularly elected and those who fail to win and retain the public support "should be removed from their position of authority"; that there exists an opportunity to render the government accountable to the governed; and that the public at

large are fully informed about the condition of the country without any distortion so that they could make up their mind on contemporary political and socioeconomic issues.²⁸

It is an essential condition and consequence for an effective *shura* that people should be in possession of freedom “to act according to one’s own moral convictions, to make ideological or intellectual choices, and to make decisions on the basis of these convictions and choices.”²⁹ Freedom, especially freedom of thought and expression, is essential for discovering the truth and upholding human dignity. As for the speech or expression, the believers are enjoined in the Qur’an to talk straight without deception (33:70); to shun false and deceitful statements (22:30); to speak politely (31:19); to use civilized language (4:5); and to be just when voicing an opinion (6:152). This freedom, to be used for the propagation of virtue and truth, “is not only a right in Islam but an obligation One who tries to deny this right to his people is openly at war with God, the All-Powerful.”³⁰

Freedom, as outlined above, presupposes equality of all, especially equality in rights, liberties, opportunities, and public duties. These are to be enjoyed by all irrespective of race, language, and other considerations. There is no room for special privileges under a system which subjects all to equality and identical laws. This was highlighted by the Prophet in his farewell sermon: “Aristocracy of yore is trampled under my Feet.” All people in Islam are equal as the teeth of a comb as they are alike the children of Adam.³¹

The second element of good governance is accountability or *muhāsabah* which is applicable not merely to those in authority but to each and every individual. This is clearly stated in the prophetic saying: “Every one of you is a shepherd and is responsible for his flock.”³² Expectedly, the accountability of those in authority has been emphasized in the Qur’an and the *hadith*. Quite often scholars refer to the Qur’anic injunction (4:59); “Obey Allah and Obey the Messenger and those in authority among you” (*wa uli al-amr minkum*).³³ By meaningfully omitting the verb “obey” only in case of those having “authority,” the verse makes obedience to them conditional and subservient to Allah and His Prophet.

Declaring the government as a trust, the Qur’an enjoins the leaders to govern with justice (4:58), to avoid cruelty (3:159), to promote public interest, to take care of the needy, and not to benefit the rich at the expense of the community (59:7). By issuing commands contrary to the

Qur'an and the Sunnah, the ruler forfeits his claim to obedience from the people. There are several passages in the Qur'an which categorically forbid obedience to him who follows "the dictates of his own desires" (18:28) and "who oversteps the limits set by Allah" (26:15). Indeed, the Qur'an makes it obligatory upon the believers to rebel against injustice; to defend themselves whenever tyranny afflicts them (13:39); and "to fight in the cause of Allah and of the utterly helpless men, women and children" who are oppressed (4:75). The Prophet has warned of dire consequences if the Muslims refuse to resist a wrongdoer:

Nay, by Allah, you must enjoin right and forbid wrong, and you must stay the hand of the wrongdoer, bend him to conformity with justice (*al-haqq*) and force him to do justice - or else Allah will set the hearts of you all against one another.³⁴

Islamic governance is founded upon the conditions underlined by the *shari'ah* which is a complete system of life and all-embracing social order. The *shari'ah* is "the epitome of the true Islamic spirit, the most decisive expression of Islamic thought, and the essential kernel of Islam."³⁵

The purpose of government is to defend Islam and to establish conditions in which the believer could fulfill his/her true destiny. Al-Mawardi explains the purpose of an Islamic political system as continuations of the functions of the prophethood in "the defense of the faith and the administration of the world."³⁶ Ibn Taymiyyah adds that the greatest goal of the political authority is to make sure that Islam as a religion and a way of life extends to all of life and humanity and that "Allah's word be supreme." The basis of the political authority is the Ummah. The ruler is not the sovereign but a *primus inter pares*, first among the equals. Within the Ummah, the ruler and the ruled are on an equal footing. The ruler, known in the early literature as *khalifah*, *imam*, *amir*, etc., must be elected. There is diversity of opinion on the method whereby the imamah is established. Al-Mawardi, Abu Y'ala, and al-Baghdadi, for instance, speak of election by the notables (Abu Bakr's case) designation by the incumbent (Omar's case), nomination by an electoral college (Uthman), and the direct election by the people (Ali) as the valid forms of instituting an imam. The *imam* must also be endowed with qualities which would enable him to fulfill his responsibilities. Consequently, it is difficult to find a single Muslim scholar of note who has not dwelt at length on the virtues the chief executive. Al-Mawardi, for instance, lays

down seven conditions beginning with justice (*adalah*) followed by knowledge (*'ilm*), physical and mental fitness (*salamah*), sound judgment (*ra'y*), courage and determination (*shaja'ah wa najdah*), and descent from the Quraish (*nasab*). Al-Ghazali enumerates similar qualifications with some modifications. Ibn Khaldun reduces them to five: *'ilm*, *adalah*, *kifayah*, *salamah*, and *nasab*.³⁷ Muslim scholars insist that the electors give careful consideration to the merits of the candidate before electing him as the chief executive. Ibn Sina went to the extent of saying that "the electors become unbelievers (*faqad kafaru billah*), if they are guilty of a wrong choice."³⁸ This view, though unjustified, shows the significance attached to the question of a right choice of the head of state. The *imam* is subject to the rule of law in exactly the same way as other members of the community. He can be sued in a court of law, is bereft of any special privileged treatment, and is liable to deposition for gross violation of Shari'ah injunctions.

The *imam* works in consultation with the legislature which manifests the concepts of *shura*, *ijtihad*, and *ijma*. This consultative or legislative assembly has the right to interpret and apply the law (*ijtihad*) which would then constitute the authoritative consensus of the community (*ijma'*). Muslim scholars conceived of the legislature in terms of the *ahl al-hal wa al-aqd* "the people who loose and bind" and *shura*. These two institutions, i.e., *shura* and *ahl al-hal wa al-aqd*, have mostly been two distinct institutions; the former was smaller in size than the latter. The two bodies occasionally merged to perform the executive and deliberative functions.

The judiciary, called *Qada*, is independent of the executive and is to adjudicate in strict accordance with the *Shari'ah*. The ruler "enjoys no special immunities and can, therefore, be prosecuted or sued for anything he does in his private or public life."³⁹ He is elected to establish the ordinance of the law, to secure its sanctions, and to ensure compliance with all the matters contained in it. The community backs him to translate the law from the sphere of potentiality into actuality. "It deposes him and replaces him by another, if he commits any act that would justify his removal from office."⁴⁰ The best exposition of the people's right to deal with an evildoer *imam* is provided by Muadh b. Jabal, one of the companions of the Prophet:

Our leader is one of us; if he implements among us the teachings ... of the Qur'an and the Sunnah, we shall have him over us. If he goes against it,

we shall depose him. If he commits theft, we shall amputate his hand; if he commits adultery, we shall flog him He will not hide himself from us, nor will he be self-conceited He is a person as good as we are.⁴¹

There is general consensus among the Sunni Muslim jurists and thinkers that the *Khulafa al-rashidun* did adhere strictly to the normative standard found in the Qur'an and the Sunnah. This era of "righteous excellence" was characterized by legitimacy and justice. Obedience was made conditional upon the ruler's observance of the Shari'ah provisions. In his keynote speech, the first caliph, Abu Bakr declared: "Help me if I do well and straighten me if I do wrong Obey me as long as I obey Allah and His Prophet. In case I contravene the injunction of Allah and His Prophet, you owe me no obedience."⁴² His successor, Umar, declared: "Verily, I am one among you; I do not desire that you should follow anything out of my caprice."⁴³ The third caliph Uthman not merely followed the Qur'an and the Sunnah, but Muslims bound him further to follow the footsteps of his two illustrious predecessors. The fourth caliph, Ali, refused to become the *khalifah* in secret or without the approval of the masses. None of the caliphs believed in the Divine Right of Kings and none solicited unconditional obedience from the masses.

In sum, the Qur'an, as Khaled Abou el-Fadl rightly maintains, did not specify a particular form of government.⁴⁴ It, however, did identify certain social and political values to guide the Muslim polity. The Prophet and the *Khulafa al-rashidun* did follow these values and principles in running the affairs of the state. The application of values enshrined in the Qur'an and the *sunnah* such as promotion of justice, consultation, and accountability of the ruler to the ruled would make an Islamic polity resemble democracy as a form of government. In fact, Islamic polity, in "contemporary universal language" is a democracy which promotes justice, protects human dignity, and obligates the believers to enjoin virtue and forbid vice.⁴⁵ As argued by Sherman Jackson, in an Islamic democracy, "Islamic law, and thus Muslim jurists, will play an integral role." However, "contrary to popular belief, neither Islamic law nor Muslim jurists need to be viewed as enemies of democracy...."⁴⁶ This is illustrated by governments in Malaysia and Turkey.

ISLAMIC GOVERNANCE IN THE SECULAR TURKISH REPUBLIC

Turkey was formally proclaimed a republic in October 1923 with Mustafa Kemal Atatürk as its president who ushered in “a single party regime” (1925–1950). Turkey began a transition in 1950 but marked by periodic instability. It oscillated between civilian semicompetitive regimes and direct or indirect military rule. The Adalet ve Kalkınma Partisi (AKParti) or the Justice and Development Party with its agenda of “conservative democracy” brought some stability to the country.⁴⁷ It came to power after winning two-thirds of the seats in the parliamentary elections held in 2002. It managed to increase its majority in the parliament in the 2011 election. It received 34.28% of the vote in 2002, won 46.58% in 2007, and scored 49.90% in 2011.⁴⁸ Recep Tayyip Erdoğan was elected Turkey’s prime minister in 2003, and he won a third term in office in 2011 with 50% of the vote. On July 1, 2014, the AKParti members of parliament in the Grand National Assembly nominated Erdoğan as its candidate in the Presidential election which he won with 51.79% of the vote. He assumed office as the 12th President on August 28, 2014. He is the first president elected by direct voting for a term of office of 5 years and can be reelected only once.

Turkey has an estimated population of 75.5 million, of whom 99.8% are Sunni Muslims. Article 2 of the existing 1982 Constitution declares that “The Republic of Turkey is a democratic, secular, and social state governed by the rule of law” The constitution establishes Turkey as a unitary centralized state with the President as the head of state and the Prime Minister elected by a majority of votes in the Grand National Assembly along with other members of his cabinet. Islam which was driven out of the public sphere but it resurfaced since the 1950s and particularly in the aftermath of the 1980 military coup, and the country saw the introduction of standardized religion classes in the schools. Islam was rationalized as one of the many subjects that help the students develop their personalities. Certain aspects of religion were rationalized. For instance, ablution helps one keep clean; prayer inculcates discipline and time management; fasting is good for health; and correct teaching of Islam makes it “practically useful”⁴⁹ as it inculcates socially acceptable morality and spirituality that will help students face the challenges of everyday life.

The AKParti, under the leadership of Recep Tayyip Erdogan, believes in promoting Islamic ethics and values in the secular republic. Its aim is not to establish an Islamic state but to be Muslims in a secular republic. It believes in promoting justice and other Islamic values through legislative processes, participation in political or judicial institutions, and extensive engagement with civil society and the media. “No Islamic party has been as moderate and pro-Western as the Justice and Development (AKParti) party, which catapulted into government in 2002 promising to lead Turkey into the European Union.”⁵⁰ Turkey is a secular state with a Muslim majority population but with no constitutionally approved religion. It is successfully run by Muslims who promote Islamic ethics and values through democratic procedures without proclaiming an Islamic state or shari’ah as the source of law.

In the sphere of human development, the AKParti focuses on educational institutions to increase the literacy rate and “to raise pious generations.” The success of government’s policies in this respect may be judged by looking at the enrollment rate of children between 36 and 72 months of age in preschool institutions that increased to 39.7% in 2012. Enrollment in primary school levels registered 98.86% and secondary education enrollment levels recorded approximately 70% of students in 2012. These developments gave rise to demand for higher education which led to the establishment of 97 new higher education institutions. Consequently, approximately 950,000 students secured university admission in 2008⁵¹ (Çelik and Gur 2013: 154–156). The government has ensured the installation of nearly one million computers in classrooms and launched in 2011 the “Fatih project” to improve the technological infrastructure of classrooms and provide all students with tablet computers. In terms of funding, the education system experienced considerable improvements increasing from 2.84% of Turkey’s total GDP in 2002 to 3.99% in 2013. As a result of these policies, the World Bank concluded that there have been “improvements in education outcomes including curriculum reform, phased modernization of teaching and learning materials and practices, stronger focus on measuring learning outcomes through large scale national and international assessments, and enhanced monitoring and evaluation systems.”⁵²

To inculcate ethical values, Turkey’s education council has recommended to introduce religious classes to all primary school pupils, as well as to add an extra hour of obligatory religious classes for all high school students. The government has mandated, for example, the

inclusion of some religious references in school textbooks. The government has also taken steps to expand Imam Hatip (religious vocational) schools. The number of pupils in such schools increased from 65,000 in 2002 to almost 1 million in 2012. This increase is attributed to the government's decision in 2010 to transform general high schools into vocational schools. Such schools increased dramatically from 493 to 936. In 2012, it legislated to allow middle schools to also operate as Imam Hatips (Christie-Miller 2014). During 2011–2014, the Ministry of National Education is said to have converted 1447 schools to Imam Hatip schools.⁵³ It is stated that in 2004, 90,000 students attended 453 Imam Hatip high schools but in 2014, some 474,000 students attended 952 such schools. Critics of AKParti argue that such an increase of Imam Hatips is not in line with people's expectations and described it as a "top-down process." However, a survey of 2689 people in 26 provinces, conducted in 2012 by the Turkey Imam Hatip Alumni Foundation (TİMAV), found majority of Turks holding positive views about Imam Hatip schools.⁵⁴

Another legislative initiative, a regulation issued by the Ministry of Education in 2005, allowed religious schools' students to earn regular high school diplomas by studying for a single semester (or through completing correspondence courses) at a secular institution. However, the Council of State suspended the regulation in 2006. Nevertheless, the victory for the AKParti came in 2009, when the Higher Education Board's General Council decided to move away from the coefficient system, a method of calculating applicants' scores in university entrance exams. The system discriminated against the graduates of Imam Hatip schools as it restricted the admission of these graduates to nontheology faculties like public administration and law majors. The abolition of the coefficient system means that the graduates of Islamic schools are accepted into secular universities on equal terms with the graduates from secular high schools.

The AKParti pledged to remove the ban on the wearing of headscarves in all domains when it came to power in 2002 arguing that the ban is an infringement of women's rights to free expression. In the face of severe challenge from the secular bloc, the AKParti had to fight hard to nullify the headscarf ban. While the wives of the top party leadership, including Erdogan and Gül, were seen in public wearing headscarves, there were very few attempts to legitimize headscarf use. Finally, a law granting amnesty to students previously expelled from universities

due to headscarf use was ratified in 2005. The major turning point in the headscarf debate came in February 2008 when two articles of the Constitution were amended to allow universities to accept veiled students. However, the Turkish Supreme Court soon struck down these changes as unconstitutional. Thereafter, the use of headscarves on university campuses has been unofficially permitted allowing students to remain veiled on campus.⁵⁵ In 2010, a memo from the Turkish Higher Educational council appeared to lift the headscarf ban in universities.⁵⁶ The ban was also lifted from public institutions including the parliament. The AKParti has taken several other steps to promote ethics and values in the institutions of higher education in Turkey.

In the area of economics, Erdogan champions capitalism. His rule has been associated with a rapid economic growth, the reduction of inflation, and decreases in the budget deficit. The AKParti has deregulated the economy, which grew threefold from 2002 to 2007, and has shown robust economic growth since then. During the early years of AKParti rule, per capita income increased from \$2598 in 2002 to \$5477 in 2007 and to around \$10,000 in 2011.⁵⁷ The place of agricultural sector fell from about 30% of Gross Domestic Product (GDP) employing 77% of the labor force in the 1960s to 15% of GDP and 35% of labor force in 2008. Turkey has become a “trading state” whose foreign policy is increasingly shaped by economic consideration. Turkey’s foreign trade grew from less than USD 20 billion in 1985 to about USD 30 billion in 2010. Economic investment from other Muslim countries, most notably Saudi Arabia, has grown. The number of Islamic businesses and businessmen has significantly increased. The AKParti has kept especially lax track of the developments within the Islamic business sector, while replacing nearly every member of the banking regulatory board with officials from the Islamic banking sector. The shadow economy and the flow of illegal money have also significantly increased.

Islamic banking is growing in Turkey. The industry is garnering both domestic and international interest, with Turkish citizens increasingly adopting Islamic banking services. However, due to the secular nature of the constitution, Islamic banking is named as “Participation Banking.” The services offered by Participation banks follow Shari’a guidelines and allow customers to transact within an Islamic framework. Until 2005, Participation banks, previously known as “Special Finance Houses,” were excluded from Turkish banking law. The Banking Law of 2005 was the first time where Participation Banking gained legal recognition.

Currently, the banking system in Turkey consists of deposit-taking banks, development and investment banks, and Participation banks. There are some Participation banks in Turkey working on an interest-free basis and according to Turkish banking law.

In the social sphere, the AKParti has discouraged the use of alcohol. The government has passed legislation allowing cities to adopt ordinances prohibiting the use of alcohol, and during the first 4 years of the AKParti's rule, the tax on alcohol has been increased by 450%. The use of alcohol was gradually banned in certain cafeterias and state agencies, and its availability in public space has been restricted. Interestingly, the party commonly justifies its opposition to the use of alcohol in the public sphere by citing alcohol's negative impact on health, not by appealing to Islamic values. However, due to these reforms, "there are no fewer bars, nightclubs, alcohol-serving restaurants or bikini-rich beaches."⁵⁸

To sum up, the government of Turkey has turned from the vaguely socialist policies of its predecessors to capitalism and from the staunchly secular policies to religious and Muslim world-centered policies. The AKParti has displayed a tendency to compromise on its religiopolitical convictions and engage in pragmatic politics. It has tried to remain ideologically committed, yet it has given into pressures from other power centers in the country and the European Union (EU) to stall some of its initial initiatives, such as criminalization of adultery. The AKParti has endorsed cooperation with the EU and enacted more legislative changes necessary for Turkey's accession to the EU than any secular government in the past.

ISLAMIC GOVERNANCE IN NONSECULAR MALAYSIA

Malaysia is a federation of 13 states and 3 federal territories with a parliamentary government and a constitutional monarchy. The Independence Constitution of 1957 envisaged a multiethnic Malaysia because of its "highly variegated ethnic mix."⁵⁹ Of an estimated population of 31.7 million, Malays constitute about 51% of the population.⁶⁰ Chinese (mostly Buddhists combining Taoist and Confucian practices) make up about 26% of the total. Indians, mainly Hindus with a small number of Sikhs, Muslims, and Christians, comprise about 7% of the population. Various indigenous groups, mostly situated in the Borneo region, Eurasians, and migrant workers account for the remaining 16% of the population.

The Constitution of Malaysia must be read minutely to understand the Islamic elements properly. Indeed, the Constitution gave recognition only to Islam as a religion of the Federation. The Constitution also instituted a constitutional monarchy in which the King (Yang di-Pertuan Agong) acts as head of state. The King in Malaysia is a Malay-Islamic political institution who, understandably, is also the Head of Muslim religion. Likewise, the Sultans (rulers) act as the heads of Islam in their respective states. These and many more provisions in the Constitution give Malaysia an Islamic color without declaring it to be an Islamic state.⁶¹ It has been pointed out by many that the first Prime Minister of Malaysia was justifiably preoccupied with ensuring national security and maintaining racial harmony in a multiethnic country with “reinforcing cleavages” and hence downplayed the role of Islam in public life. He, however, served Islam in his own way and established the Persatuan Kebajikan Islam Malaysia (PERKIM, Islamic Welfare Organization) in 1960, founded International Qur’an recital competition in 1961, and held the International Islamic Conference in Kuala Lumpur in 1969. He was also active in the Organization of Islamic Conference and became its Secretary General in 1971.

With the advent of Mahathir Mohamad as the fourth Prime Minister of Malaysia in 1981, the logic of Islamic governance became more sharply defined. He had “an intense desire to locate Islam at the heart of the Malaysian social-political orbit”⁶² Hence, Mahathir administration established a religious bureaucracy, Jabatan Kemajuan Islam Malaysia (Department for the Advancement of Islam in Malaysia, JAKIM) , under the auspices of the Prime Minister’s Office to conduct training and sponsor research on Islam-related issues. The Shari’a and Civil Technical Committee within the Attorney General’s Chambers was given the responsibility of preparing the draft bills of the new or revised Shari’a laws. The Office of Islamic Religious Affairs was divided into three institutions: the Shari’a courts, the Office of the Mufti (to issue religious edicts), and Islamic Religious Council.

In many of his speeches, Mahathir delineated the parameters of Islamic governance which was couched in developmentalist language and repeatedly emphasized that there is no tension between modernization and “true Islam.” He aimed at striking “a balance between the spiritual and material” which would proceed with “incremental, moderate implementation ... taking into account the sensitivities of the non-Muslim

population.”⁶³ The government equated Islam with modernity, economic development, material progress, and rationality.

The government of Malaysia adopted since 1970s a conscious effort at improving the quantity and quality of education at all levels. Education is free for school-level students but is not compulsory. The philosophy of education is stated to be “developing the potential of individuals in holistic and integrated manner so as to produce individuals who are intellectually, spiritually, emotionally and physically balanced and harmonious, based on the firm belief in and devotion to God” (Ministry of Education 2013: E-4). A wide spectrum of options is available for Islamic religious education. Over 90,000 students are enrolled in federal religious schools, the state religious schools, or in schools jointly controlled by the federal and state religious authority. These schools teach not merely Islamic studies and Arabic but also science, mathematics, and technology-related subjects. Thus, the subjects taught in these schools are not exclusively religious but broad enough so as to equip students with adequate knowledge and confidence to compete in the human resource market and to face the challenges of contemporary society while upholding Islamic values. However, “these schools maintain their uniqueness by offering specialized Islamic studies which are not available in other schools.”⁶⁴ Non-Muslim students are taught compulsory moral education, instead of Islamic education, with emphasis on a set of 16 moral values such as compassion, humility, respect, love, justice, freedom, courage, physical and mental cleanliness, and honesty.

The government also embarked upon a policy of increasing access to higher education by setting up more public and private universities, colleges, as well as branch campuses of overseas universities. In 2007, there were a total of 20 public higher educational institutions with 382,997 student enrolment, 27 polytechnics, 37 community colleges, and 488 private colleges.⁶⁵ All the public universities offer courses and degrees in Islamic studies. For example, Universiti Malaya, established in 1962, has an Academy of Islamic Studies offering postgraduate degrees in Islamic studies, shari’ah and Usuluddin. Similarly, Universiti Kebangsaan Malaysia (the National University of Malaysia) has a faculty of Islamic studies offering Master and Ph.D. in Islamic studies. However, Mahathir’s major initiative in the realm of Islamization was the establishment, in 1983, of the International Islamic University Malaysia (IIUM). Built around the concept of the “Garden of Knowledge and Virtue,” the

curriculum of IIUM is based upon Islamic principles, and its aim is to integrate reason and revelation in every field of study and research.

On the economic front, Mahathir experimented with what is described as a new hybrid economic model which has characteristics of Islamic and capitalist market systems. Mahathir found this model of double economic regime to be efficient for both financial and commercial sectors. His economic policies led to a transition toward a more multisector economy. The country's GDP, during 1957–2005, grew with an average 6.5% per annum.⁶⁶ The government pursued privatization of government enterprises like airlines and utilities and telecommunication firms from the early 1980s. The country also witnessed the establishment of the car manufacturer Proton in cooperation with Mitsubishi which, by the end of the 1980s, became the largest car maker in Southeast Asia. In 1991, Mahathir Mohamad outlined his "Vision 2020" which aimed at ensuring Malaysia's status as fully developed country, economically, politically, socially, spiritually, and culturally, by 2020.

Mahathir administration, however, continued Islamization efforts by taking several initiatives. In 1983, the government began issuing a non-interest-bearing certificate *Qardh al-Hassan* (benevolent loan) "... to enable the government to undertake projects or provide services to the benefit of the nation."⁶⁷ Most importantly, the government established an Islamic bank to enhance the process of Islamization of the economy. The Islamic bank, according to Mahathir, will allow Malays to "seek wealth in a moral and legal way" and to "obtain prosperity in this world and hereafter."⁶⁸ The first Malaysian Islamic bank, Bank Islam Malaysia Berhad (BIMB), began operation in 1983. It provides an alternative financial system operating according to Shari'ah, the Islamic law. Within 4 years of its establishment, the BIMB became the third largest bank in Malaysia. BIMB is a world pioneer in introducing Islamic financial instruments. In 1984, the government licensed Syarikat Takaful Malaysia Berhad which commenced operations in 1985. Takaful is a form of cooperative insurance based upon the principle of *al-mudharabah* (Profit and Loss Sharing). However, the Governor of the Central Bank made it clear that:

[t]he decade of 1990s would not be the decade for replacing the Malaysian financial system with the Islamic financial system. The conventional financial system will continue to play its role of fostering economic growth and influencing monetary policy in Malaysia. The non-Muslims, should

therefore, not be alarmed. They could ... choose between the two alternatives so as to maximise their benefits.⁶⁹

In an attempt to change “the attitude of the Malays” in conformity with the requirements of Islam in the modern age, the government enacted many policies. In 1981, the government adopted the policy of the “assimilation of Islamic values” (*Penerapan Nilai-Nilai Islam*) in the administration. Mahathir adopted the slogan of *Bersih* (clean), *Cekap* (efficient), and *Amanah* (trustworthy) which may be considered the symbolic aspect of the Islamization program. For framing the practice of Islam in the daily life of Malay Muslims, JAKIM issues *halal* (Islamically permissible) certification for food products distributed in Malaysia. Muslims would thus buy and consume food items which carry JAKIM’s *halal* logo. Malaysia has, in fact, emerged as a global player in the production of certified *halal* products. Another think tank, the IKIM, is working to elevate the understanding of Islam among the general public by publishing articles mostly in the local Malaysian media.

The government has also made it obligatory for Muslims intending to marry to attend a 2-day premarriage course conducted by institutions licensed by state Islamic authorities. A certificate is issued to those who complete the course. These premarriage courses address the needs and expectations of contemporary couples preparing for marriage from an Islamic perspective. They explain the nature and meaning of marriage, handling conflict, anger management, and the like from an Islamic perspective. These help couples strengthen and enrich their relationship and work on building a blissful and rewarding life together.

The government also invested money in constructing houses of worship for Muslims to congregate in prayer. Mosques can be found in almost every town and district in every state. Throughout the country, the *azan* or the call to prayer can be heard from these mosques five times a day. These mosques function as a vehicle for informing the public of government’s Islamic policies. They also carry out Islamic programs and activities to instill and strengthen the Islamic values among community members. Most of these mosques are managed by salaried officers appointed by the government as well as the mosque committees that include some members of government agencies. Some of the mosques provide religious classes, sponsor events, and offer assistance for the performance of religious duties. *Lembaga Urusan dan Tabung Haji* (LUTH) or Pilgrim’s Fund in Malaysia, established in 1969, was

reenergized to help the Malaysians perform Hajj, pilgrimage, which is one of the tenets of their faith.

The government was aware of the influence of the radio and television in disseminating Islamic ethical and moral values to the public. The radio and television policies were revised to be in conformity with Islamic teachings thus giving Islam a “symbolic prominence.”⁷⁰ The radio and television started broadcasting *Azan* (call for prayer), recitation of the Qur’an, live coverage of sermon during the Friday congregational prayers, as well as numerous talks and forums on Islam and Islamic issues. The Ministry of Information ensured the implementation of the Advertising Code for commercial advertisements. No advertisement was allowed if it contained scenes of alcoholic beverages or pork products and statements or suggestions which might offend the religious, racial, or sentimental susceptibilities of any section of the community.

There were also demands for the implementation of shari’ah (Islamic law) for both Muslims and non-Muslims. Mahathir, however, refused to do so arguing that it was not practical to implement *hudud* in a multiethnic, multireligious Malaysia. Instead, the government upgraded the Shari’a court system from a lower court (Kadi court) to three levels of courts: the Shari’a Lower Court, the Shari’a High Court, and the Shari’a Appeals Court. Article 121 (1A) of the Federal Constitution was amended, in 1988, to delineate the separate jurisdiction of the Shari’a from civil courts. By virtue of this amendment, the judgments made by the Shari’a courts could no longer be appealed at the Federal Court level (the highest court of the land but considered secular). In matters of Islamic family and criminal laws, Muslims are subjected to the Shari’a courts.

Overall, the Malaysian government brought Islam into the mainstream national economy and helped to increase religious consciousness among the Malay Muslim middle class and profiled Malaysia among the Muslim countries as religiously vibrant, economically successful, and politically stable multicultural country worth emulating by the countries in the Muslim world.⁷¹ Non-Muslim countries perceived Malaysia as a Muslim country that they prefer to befriend and conduct trade with—religious but modern and moderate.

Mahathir used Islam as a positive ingredient in the development of the nation and its people without harboring any ill will toward the Chinese, the Indians, and other ethnic groups. His privatization policies, amid strong criticism, helped to propel Malaysia toward vision 2020.

Most of the policies Mahathir enacted were reinvigorated by his successors. Education continued to receive generous grants from the government. In 2012, the government allocated RM 36 billion, the largest share of the federal budget, 16%, for educational purposes. Student enrolment at the primary level reached 94% in 2011. Enrolment rates at other levels are equally impressive: 96% at primary, 91% at lower secondary, and 82% at upper secondary level. Private sector-driven economic growth is encouraged and promoted with satisfactory result. According to the sixth Prime Minister, Najib Tun Razak, "Malaysia has always been committed to implementing policies based on the true principles of Islam." To prove this point, he set up the Maqasid Syariah Index "to measure the government's efforts towards upholding Islamic virtues, teachings and principles in various sectors."⁷²

CONCLUSION

Government refers to the office and governance to the activity of governing. Governance is a set of decisions and processes aimed at creating the conditions for ordered rule which, under liberal democratic ideals, reflects the will of the people. Good governance refers to efficient and accountable institutions, as well as entrenched rules that promote sustainable development. The term "good governance" is relatively new and was promoted within the spirit of neoliberal discourse during the 1990s. The elements identified as constituting good governance may be found in cultures other than the West.

Islam defined governance, *ab initio*, as good governance which is represented by the term *al-Siyasah al-Shar'iyyah* which appears as well in the title of a book written by Ibn Taymiyyah. The definition and major characteristics of good governance as enumerated by the UN and other agencies appear as the central issues in the writings of Muslim scholars of note. They agree that the governance should be participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive, and follow the rule of law. All of these characteristics are summarized under the umbrella concepts of participation and accountability of the rulers to the ruled. Islam accords centrality to these activities with the difference that the political life has to be situated within the larger frame of the religious and spiritual life.

Good governance in Islam is enshrined, embodied, and absolutely epitomized in the Shari'ah and its proper and faithful implementation.

The fundamental value of *tawhid* and the famous Qur'anic verse enjoining the believers to obey Allah and to obey His Messenger and those in authority provides the basis not only for political obligations in Islam but also sets the limits of obedience to constituted authority. It stresses the need for the subordination of the chief executive to the law and the obligation of the governed to disobey an unlawful command. The Qur'an and the Sunnah are emphatic about this, and the practices during the period of *khulafa al-rashidun* amply demonstrated its feasibility.

Likewise, the Qur'anic exhortations of "promoting virtue and prohibiting vice," of upholding justice and other Divine values and criteria, require the participation of all members of society in the affairs of government toward ends clearly spelled out in the Qur'an and the Sunnah. The Qur'an condemns anarchy and disorder (2:205), and the Prophet stressed the need for organization and authority in society. The *rashidun* caliphs and their companions recognized that the divinely mandated vocation to realize the will of Allah in history was communal as well as individual. They held an organic, holistic approach to life in which religion was intimately intertwined with politics, law, and society. They concurred on the need for political leadership to rely on the consent of the community of the faithful and to subscribe to the priority of the Shari'ah governing the imam and the public alike.

Islam not merely emphasizes participation and accountability but goes one step further and adds ethical and moral dimensions to these characteristics. Good governance in Islam necessarily entails proclaiming and establishing the supremacy and sovereignty of Allah and His laws, enforcement of those laws, establishing worship unto him (*Salah, Zakah*, etc.) and enjoining righteous and moral conduct and prohibiting evil conducts, abomination, and all sorts of vices and immoralities like usury/interest, bribes, stealing, dishonesty, injustice, prostitution, homosexuality, lesbianism, abortion, etc. Islam rejects obligatory passivism and affirms instead the Ummah's obligation to disobey and oppose those leaders who do not comply with the Divine Law. Faithful implementation of values in the Qur'an and the Sunnah would lead to spiritual and material development and enable the human beings to reach noble heights of thought and action and rightfully claim the title of vicegerent of God on earth (*khalifatullahi 'ala al-ard*).

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Qur'anic Guidance and American Financial Enterprise

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In its “Year in Review 2008” article, the *Encyclopedia Britannica* states that, “In 2008 the world economy faced its most dangerous crisis since the Great Depression of the 1930s.” But why? What went wrong with the capitalist system? Could it have been prevented? This chapter presents a commentary that principles of Islamic governance applied to financial firms would have prevented the scandals of the early 2000’s and the collapse of credit markets in 2008.

Simply put, a case can be made that application of Qur’anic guidance by the boards and chief executives of the relevant American corporate enterprises would have minimized the likelihood of what became notorious failures of free market capitalism. The particular companies I have in mind are Enron, Bear Stearns, and Lehman Brothers. The egregious failure of each company was notable for its scale and produced well-regarded analytic and historical studies of just what had gone wrong. In each case large, presumably well-managed, strong market leaders collapsed in hurry, taking many by surprise over the size of their hitherto hidden vulnerabilities. Yet all three companies collapsed for a simple reason: they borrowed

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too much money. Their business models were too risky and in that they were too dependent on credulous providers of financial capital.¹

The Qur'anic principles that I have in mind which would have deconstructed the legitimacy of these business models are *Khalifa*-ship, *amanah*, and *shura*. In each of these Qur'anic standards, the application of *ijtihad* is implied, to make for a fourth Qur'anic guideline for prudential management of capitalist enterprise.

THE PARADIGM OF FAILURE

A common pattern can be discerned in the failures of Enron, Bear Stearns, and Lehman Brothers. The pattern can also be traced in AIG and Citigroup. For each firm, the dynamic of failure had the hallmarks of an asset bubble. The value of the company was unrealistically accepted by financial markets, which lent against an asset value that was vulnerable to sudden depreciation. For Enron, the bubble was in the price of its common stock, which was based on an assumption of strong cash flows. In reality, Enron was reporting as reliable income the proceeds of sales which were notional profits only. When the truth about the company's debt burden and reliable cash flow became known to financial markets, the company was driven into bankruptcy.

For Bear Stearns and Lehman Brothers, the mortal bubble was in securities which the firms owned or which they had purchased with borrowed funds. For the most part, these securities—securitized mortgages and collateralized debt obligations (CDOs)—were tied in various ways to sub-prime loans made to high-risk home owners. When the prices of the homes secured by such loans dropped, the prices of derivative securities dropped, and Bear Stearns and Lehman Brothers lost access to their creditors and had to pay more for whatever credit they could obtain, lost the ability to trade in securities, had customers demand the return of money on deposit, and could not attract new customers. In addition, securities they held as capital lost value, which reduced the capital available to the firms to meet cash calls and satisfy regulatory requirements. As its value bubble collapsed, Bear Stearns was sold for \$10 a share when just days earlier it had a book value of \$70 a share. But this sale was made possible only because of government intervention absorbing losses in securities in the order of US \$30 billion. Lehman Brothers could not find a buyer for its remaining assets and was liquidated in order to pay creditor claims.

DEBT

The first component of the formula for failure was excessive debt. The problematic aspect of debt is its proportionate relationships with firm income and net worth. Debt is very risk sensitive in that it is covariant with income: as income declines, the ability to repay debt also declines. Having substantial assets in reserves reduces a firm's dependency on income for debt repayment. The business model used by the firms that failed was one that accepted high levels of debt under circumstances where income was vulnerable to variation and decline or where reserve assets were also vulnerable to declines in present cash value.² When income was steadily ample and reserve assets values were reliably high, the debt assumed was not then actually excessive in the moment. But it became excessive when conditions changed and risk of non-payment became more probable. The possibility of a debt default in the future conditions the assessment of current debt levels as being prudent or as imprudently excessive.

With imprudent levels of debt, the firms made themselves "fracture critical." In other words, they made themselves more exposed to fracture and sudden collapse due to limited capacity to relieve stress gradually. With the sudden emergence of inadequate income and declining value of assets held in reserve, the firms had no ability to reduce their debt burdens. In the case of Enron, the assumption of debt was intentionally egregious. As the company's prime business model came to generate less and less cash flow from operations, Enron used notional income from the sale of assets to replace cash flow and arranged for borrowings to support high prices for the sale of assets. It was sleight-of-hand accounting to conceal from the public the company's actual financial position.³

In the infamous "Off books" transactions, a physical asset—say a power plant—was sold to a special purpose entity set up by Enron and capitalized with Enron stock and investments from outsiders. The entity would then borrow money to buy the asset from Enron, which recorded as income the capital gain on the asset. But the equity of the entity depended on the market value of Enron's stock. And Enron had contingent liabilities to pay off the debt if the entity could not. At the end of its life, Enron had some \$34 billion in debt which it could not pay.⁴ Then in other transactions, Enron also used debt to take the place of real earnings. Through understandings with Chase, JP Morgan and Citibank, Enron would enter into a contract for the sale of energy and book the

profits from the sale as income. However, the company would also enter into a separate agreement to buy back from the bank an equivalent amount of energy in 6 months for a much higher price. The price differential to Enron's disadvantage was in effect a punitive interest charge on the short-term use of money. But Enron was able to publicly present substantial figures for income earned. Shareholders lost nearly \$11 billion when Enron's stock price, which hit a high of US\$90 per share in mid-2000, plummeted to less than \$1 by the end of November 2001.⁵

The first Enron use of complex and opaque legal arrangements to enhance its reportable financial position was the setting up of a special purpose entity in 1991 called Cactus.⁶ In 1993, Enron set up a joint venture in energy investments with CalPERS, the California state pension fund, called the Joint Energy Development Investments (JEDI).⁷ The JEDI Company was an off the books branch of Enron in which CalPERS invested several hundred million dollars and Enron contributed shares of its stock. JEDI would finance producers of gas who would then sell the extracted gas to Enron.

Jeff Skilling pushed Enron to adopt for certain transactions a new accounting rule called "mark-to-market." Under this rule, a company can report the value of an asset, such as a long-term contract for the sale of gas, as having a present value equal to what it could be sold for to a third party. Thus, a 10-year contract for the sale of \$50 million of gas each year to Enron had a current face value of the cumulative profits to be earned over those 10 years to come. Should Enron sell the contract to a third party for a cash price that cash could be presented by Enron as earnings in the year of the sale. That market value was the asset value to Enron. And, if the estimated market value were to rise, Enron could book profit for the increase; and the reverse, if the calculate present value were to decrease. Enron would have to book a loss. Mark-to-market accounting works most securely where there is a real, public market for the assets to be valued. Then an asset can be priced against the prices of other assets for which there is a demand. When markets for an asset are thin, or there is no market, say for a single contract, then the valuation process, finding the "mark," becomes a theoretical calculation. Abuse of the calculation process produces illusory values, or what is called "mark-to-make believe."

Despite potential pitfalls, the U.S. Securities and Exchange Commission (SEC) approved the accounting method for Enron in its trading of natural gas future contracts on January 30, 1992. Thus, Enron began the practice of entering into long-term contracts, calculating the present value

of future payments under the contract, and book that amount as current earnings reported to investors. The strategic problem this created was that Enron did not actually receive that amount in cash during the year reported. Under the contract, the cash payments were only to come in future years. Enron reported that it was rich but actually was cash poor.

How could it find the cash to meet current operating expenses? A new Chief Financial Officer working with Enron's accountants at Arthur Anderson found a way: borrow money. Special purpose entities were created affiliated with Enron but not reported on Enron's books to borrow money and use the proceeds to buy assets from Enron. Enron reported the cash received as earnings but did not reveal the source of the money as debt that would have to be repaid someday. Enron thus entered into a business strategy that was similar to a Ponzi scheme: new borrowings had to be found to pay for operating expenses and the costs of past borrowings. Enron was living on credit cards, not on real money earned from legitimate sales.⁸ When lenders discovered in late 2001 how short of cash Enron was and how much debt it owned, they stopped lending money to Enron.⁹ The company very shortly went bankrupt and closed its doors. Thousands of employees lost their jobs and many investors lost money. Criminal prosecutions were brought against senior Enron officers, who were convicted of fraud for misleading investors about Enron's financial realities.

In 1997, Enron's COO Jeff Skilling asked CalPERS to join Enron in a separate investment. CalPERS was interested in the idea, but only if it could be removed as a partner in JEDI. However, Enron did not want to show any debt from taking over CalPERS' stake in JEDI on its balance sheet. Chief Financial Officer (CFO) Fastow developed the special purpose entity Chewco Investments L.P. which raised debt guaranteed by Enron and was used to acquire CalPERS' joint venture stake for \$383 million. Because of Fastow's organization of Chewco, JEDI's losses were kept off of Enron's balance sheet.¹⁰ In fall 2001, CalPERS and Enron's arrangement was discovered, which required the discontinuation of Enron's prior accounting approach for Chewco and JEDI. This disqualification revealed that Enron's reported earnings from 1997 to mid-2001 would need to be reduced by \$405 million and that the company's indebtedness would rise by \$628 million.¹¹

A second use of illusory independent companies to provide Enron with receipts that could be reported as income was the movement in 1999 of Whitewing Associates L.P. to an independent accounting status so that its profits and losses and debts would no longer show up on

Enron's public accounts. Whitewing was used to purchase Enron assets, including stakes in power plants, pipelines, stocks, and other investments using Enron stock as collateral. Although the transactions were approved by the Enron board, these transfers of titles to assets were not true sales to an independent third party and so payments to Enron should not have been publicly presented as income earned.

In 1999, Enron's Chief Financial Officer, Andrew Fastow, devised new entities LJM Cayman, L.P. (LJM1) and LJM2 Co-Investment L.P. (LJM2), for the purpose of buying Enron's poorly performing stocks and stakes to improve its financial statements. For an entity to qualify as independent from Enron it had to have someone own 3% of its equity. These LJM partnerships were set up to provide that 3%. The two partnerships borrowed around \$390 million from Wachovia, J.P. Morgan Chase, Credit Suisse First Boston, Citigroup, and other investors. This debt did not appear in public as a debt of Enron. But proceeds of the borrowings were passed on to Enron as the purchase price of Enron assets, permitting Enron under normal accounting rules to count such cash as income earned.

Then, Enron's financial managers created a series of entities known as the "Raptors." These legal devices were designed to help Enron avoid reporting losses on mark-to-market investments if their "market" price were to drop. These contracts were credit default swaps. Enron would issue more of its stock to an entity and it would guarantee Enron to make up losses in its investments.¹² Fastow, as noted above, also arranged with major banks in New York to have loans look like sales of gas. These transactions were called "pre-pays." Enron would sell gas to the banks with an agreement to buy the gas back later at a higher price, which functioned as an interest charge on the money the banks transferred to Enron.¹³

In the failures of Bear Stearns and Lehman Brothers, the dynamics of assuming excessive debt had two aspects: one borrowing short term to finance trading in securities and the other using fracture critical financial instruments as balance sheet assets. The two dynamics interacted. When asset values dropped, the firms had less access to borrowed money with which to trade so profits dropped and the reduced access to short-term money denied the firm cash with which to pay for securities already bought.¹⁴ Bear Stearns and Lehman Brothers ran out of real money when their access to debt dried up.¹⁵ A business model requiring so much debt was subject to collapse whenever access to borrowed money disappeared. Bear Stearns and Lehman Brothers, along with the other

Wall Street firms, relied on profits from trading to pay compensation to employees and keep the price of their stock high in the market. To trade more, money could be borrowed to finance desired purchases. When the securities were sold, in theory, there would be enough cash to repay the loans and leave a profit for the firm. However, the principal source of funds borrowed for trading used by Bear and Lehman was overnight money, so-called “repo” funds.¹⁶ In “repo” borrowing, the trading firm pledges securities for short-term money. When the loan is repaid the next day, the securities are returned to the firm, which can use them again to borrow more money for a second day, and so on *ad infinitum* as long as the market value of the securities provides sufficient security in the mind of the repo lender. As a matter of practice in the normal course, repo lenders rolled over their loans from day to day providing longer term financing. But long-term financing with a condition—the line of credit could be cut off at any time the lender feels insecure.

Bear and Lehman were huge users of repo lending. Toward the end of its life, Lehman had US\$197 billion in overnight Repo borrowings that had to be re-borrowed every day.¹⁷ On September 11, 2008 as it was in its death throes, Lehman had to borrow US\$230 billion in the overnight Repo market.¹⁸ In 2007 Bear had shifted US\$30 billion more into Repo borrowings to get cash for daily trading.¹⁹ If the Repo lenders were ever to refuse to extend credit, Lehman would have no money to buy and sell securities. And it would have to surrender the collateral posted with the lenders to pay them back, driving down the general market prices of those assets. In turn, Lehman would have to re-value at a lower level its remaining similar assets and take a loss, which would scare its customers and lenders even more about its questionable future as a solvent firm.

To make matters worse in its Repo borrowings, much of the collateral Bear and Lehman used to secure its borrowings had an Achilles Heel to its market value. The collateral had its value tied to expectations about sub-prime mortgages, which were dropping in value in 2007–2008. Thus, the repo lending used by the Bear and Lehman was very risky, subjecting them to denial of funds upon the collapse of collateral value. The Achilles Heel within much of the collateral used by Bear and Lehman was its dependency on home mortgages made to higher risk borrowers, the so-called “sub-prime” loans. These financial assets were also valued on a “mark-to-market” basis. If the potential Repo lender didn’t trust the “mark” as a reflection of sound market value, it would be reluctant to lend or would demand more and more collateral.

Loans made to individual home buyers in the United States could be sold by the lenders of first instance to investors who would assume the risk of default by the borrower. The proceeds of sale would be used to make more loans. Lenders took a fee up front from the borrower as their profit. Many individual home loans would be bought by a firm which would then sell them all as parts of one security with a large face value, taking a fee as compensation for putting together the package of loans. These were securitized sub-prime mortgage loans. Bear and Lehman held large dollar amounts of such mortgages. But many of the sub-prime loans were high risk. They had been made to borrowers without high incomes, without assets or steady jobs or on ridiculously easy terms for the first 2 or 3 years. By 2007, many of these borrowers began to default in payment. And the price of homes began to fall, making the security for the mortgages less and less valuable. These two developments caused the market prices of the mortgages to drop. During 2007 and the first 6 months of 2008, neither Bear nor Lehman took prudential measures to unwind their holdings of securities tied to sub-prime loans or reduce their trading volume and need for repo financing.²⁰

In addition to securitized mortgages, other contractual arrangements were made by Wall Street firms, especially by Bear and Lehman, and sold to investors. These were various kinds of CDOs—collateralized debt obligations. In these securities, an entity would buy fixed-income securities—say securitized sub-prime loans—and put the income from the various underlying mortgages into different categories called tranches and sell the tranches with different interest rates for different prices. The entities issuing CDOs also took in funds from buyers of the CDOs, including money borrowed by them, to buy the securities producing the income to be re-aligned and sold off. Then, Lehman Brothers issued commercial paper to money market funds in additional borrowing.

By the time of their failures in 2008, Bear had a debt to equity ratio of 35 to 1 and Lehman was so leveraged at 44 to 1.²¹ In times of financial difficulty, neither firm could ever hope to pay off such debt through earnings nor the sale of assets. The size and the kind of debt assumed by both Bear and Lehman denied each firm option when markets turned against them, making them brittle and subject to complete fracture. To hide the actual amount of its debt, in transactions eerily reminiscent of Enron deals, Lehman in London engaged in “Repo 105” sales.²² Under provisions unique to UK law, Lehman could sell billions of dollars of securities and pay off debt to reduce the amount of debt it had

to disclose to the public and then buy back the securities and re-assume the debt when no public reports had to be made. Use of this accounting dodge reveals that Lehman executives knew their debt was too high and constituted a strategic risk. Thus, they had to conceal Lehman's true financial position from the markets. Lehman had good reason to mask its true financial position. When the market value of its securities dropped, repo lenders would be less and less inclined to roll over its overnight borrowings.²³ And, those who smelled financial trouble for the firm seeing its ability to borrow atrophy would sell its stock short, helping to drive down its price and further undermining its reputation for being credit worthy over the long term.²⁴

AIG

While not one of the primary firms selected for this discussion of Qur'anic guidance and corporate management, the large insurance firm of AIG is noteworthy in any discussion of excessive debt as a cause of financial collapse. AIG established a subsidiary line of business to guarantee the asset prices of securities. These insurance contracts were called Credit Default Swaps where AIG "swapped" assuming the risk of a decline in asset value in return for a stream of payments. But AIG did not reserve against the possibility it would ever have to pay for losses on the securities subject to the risks of loss which it had assumed and sold vast amounts of such guarantees against loss. Many of the securities so insured (CDOs) were tied to the value of sub-prime home mortgages and other securities piggy-backed on those loans. Sellers of CDOs wanted enhancement of the credit worthiness of the securities they offered so they sold them with an AIG policy insuring their value. The staggering amount of contingent liabilities so assumed by AIG destroyed the firm's financial viability when markets turned and only investments from the United States Government prevented its liquidation in bankruptcy.

LACK OF QUALITY INCOME

As noted above, debt incurred when income is ample and secure is less of a risk to a firm. But in the cases of Enron, Bear Stearns, and Lehman Brothers, earned income had tenuous prospects.²⁵ Much of the income at Bear Stearns and Lehman depended on the issuance of securities tied to underlying home mortgages as assets and on the trading of such securities.

In 2008, some 40% of Bear's profits came from its sub-prime mortgage lines of business.²⁶ When the value of those securities collapsed, each firm lost its ability to sustain income and so placed itself in financial jeopardy with too little income relative to debt obligations.²⁷ Evidence for paucity of quality income in the case of Enron is provided by the accounting techniques used by the company to report what it had earned.

In Enron's original business of buying and transporting natural gas, the accounting had been fairly straightforward: for each reporting period, the company listed actual costs of supplying the gas and actual revenues received from selling it. However, when Jeff Skilling joined the company, he demanded that the trading business adopt mark-to-market accounting, which did not reflect actual cash received in any given reporting period. Enron became the first non-financial company to use the method to account for its complex long-term contracts. Under mark-to-market accounting, future income from projects could be booked as earned in the current reporting period, which exaggerated present financial as opposed to cash earnings. However, in future years, the earnings on the contract could not be reported—that would be double counting—so new earnings had to be found in new contracts to justify the market price of Enron's stock. As one Enron competitor pointed out, "If you accelerate your income, then you have to keep doing more and more deals to show the same or rising income."

Enron later expanded its use of mark-to-market accounting. In July 2000, Enron and Blockbuster Video signed a 20-year contract to introduce on-demand television programming as a stream of product for households earning a constant stream of earnings for the companies as if they were selling electricity to those households far into the future. After several pilot projects, Enron booked the current value of the contract at more than \$110 million in present earnings. When the project collapsed, Blockbuster pulled out of the contract but Enron continued to recognize a value in the contract.²⁸ James Bodurtha, Jr. has argued that from 1997 until its demise, "the primary motivations for Enron's accounting and financial transactions seem to have been to keep reported income and reported cash flow up, asset values inflated, and liabilities off the books."²⁹ It was reported that between 1996 and 2000 Enron's revenues increased by more than 750%, rising from \$13.3 billion in 1996 to \$100.8 billion in 2000. This extensive expansion of 65% per year was unprecedented in any industry, including the energy industry which typically considered growth of 2–3%

per year to be respectable. For just the first 9 months of 2001, Enron reported \$138.7 billion in revenues, which placed the company at the sixth position on the *Fortune* Global 500.³⁰

For Bear Stearns and Lehman Brothers, the inherent weakness in the profitability of their business model was a derivative function of their need to borrow in order to trade.³¹ These companies were traders only in this potentially profitable line of business; they produced no goods or services of inherent value, only buying or selling existing financial contracts. Their margins on trades were subject to fickle trends in the market for investment opportunities. Every time the market turned against whatever they had bought and were trying to sell, they took a loss. In other parts of their business model, these firms had no secure market into which they could sell product. They needed to come up with financial opportunities that owners of funds would buy. The products they offered to global investors in order to earn fees were too heavily dependent on financial investments resting on earnings from high-risk, sub-prime mortgages, and that financial investment was not a quality one over the mid-term.

For example, shortly before its bankruptcy, Lehman reported some US\$28 billion of equity capital at a time when its assets (real estate, sub-prime mortgages, CDOs) were overvalued by US\$60 to 70 billion.³² In other words, the company was in debt by at least US\$32 billion. The realistic asset values had declined because the expected earnings from those assets had vanished in comparison with earlier estimates of their future cash flows. Uncertain future income produces low asset valuations. By investing in poor quality earnings, Lehman bought itself only trouble in the future. US Secretary of the Treasury concluded that no company wanted to rescue Lehman's business by buying the firm because they did not want to become owners of Lehman's mortgage-backed securities, which declining values would drag them down too.³³ Many of the securities owned by both Bear and Lehman were carried on their books on a "mark-to-market" valuation because they were objects of trade and speculation. Their value was what they could be sold for immediately. Bear and Lehman used optimistic "marks" to set higher values on what they carried in inventory for trading. Other firms in the end did not trust these "marks" and did not want to buy the assets at the values or marks which Bear and Lehman had placed on them. That the assets were valued on a "mark-to-market" basis and not on a face value as issued or on a discounted cash flow basis revealed that the quality of future income

they promised was not good. The effective value of these assets was what others would buy them for. If prospective buyers had no faith in their capacity to earn income in the future and repay monies lent in sub-prime mortgages, then these assets had little or no real economic value. The financial position of Bear and Lehman was only a “house of cards.” An asset bubble followed by a bust in asset prices is a function of misperceptions about income. During the bubble phase of the boom/bust cycle, conventional wisdom overestimates the amount and certainty of future income, boosting asset prices. When a more sober truth emerges that such income will never be received, asset prices collapse. Bear and Lehman bet their futures on such a bubble without securing means of obtaining income when perceptions of asset prices changed for the worse.

COMPENSATION INCENTIVES

Another dynamic which contributed to the failure of Enron, Bear Stearns, and Lehman Brothers was compensation arrangements. In short, compensation was large and tied to short-term results. Managers and owners who created long-term risks were not charged for the potential of future loss. They were rewarded for presenting notional profits that fit within accounting conventions. However, their share of those profits in many cases was exchanged for cash which could be taken out of the company. In financial intermediation, fees and bonuses provide this disproportionate front-loading of rewards and back-loading of responsibility for losses. The incentive created by this scheme of compensation was to ignore future risks, thereby increasing the moral hazard associated with the business. Personal self-interest was used to minimize good judgment in decision-making.

At the ownership level of Bear Stearns and Lehman Brothers, the CEOs and others apparently believed that the United States Government would intervene with subsidies to prevent their firms from liquidation. They thought their firms were “too big to fail.” Relying on the government to protect their assets, they foolishly let their firms assume too much debt and risk. They adopted—seemingly without worry—a business model that was fatally flawed. Enron was notorious for providing large bonuses and for terminating managers who did not report large profits from their activities. The company culture was, in this regard, very transparent: since everything turned on reportable numbers, every effort was made to report pleasing results.

In August 2016 Wells Fargo Bank, at times the largest American bank by market capitalization after the 2008 collapse of credit markets, entered into a settlement agreement with the United States government and paid a fine of \$185 million.³⁴ Wells Fargo, it appeared, had fraudulently opened 1.5 million bank accounts for non-existent customers and had issued credit cards without customer authorization. Bank employees had booked these fraudulent transactions in order to meet their sales targets, which success influenced the amount of their compensation.

It was Wells Fargo's policy from the top to "cross-sell" financial products to its existing customers. Wells Fargo CEO John Stumpf adopted a sensible business plan in one respect: it is generally easier to sell more to an existing customer than recruit a new customer. For a bank, selling to existing customers additional products—home mortgages, second mortgages to support lines of credit, investment advice, etc.—is straightforward. The customers are already in contact with the bank and can be easily approached in many ways. Carrie Tolstedt, who was head of the Bank's retail operations since 2007, received bonuses of \$20 million from 2010 to 2015 for her performance.³⁵ The bonuses were given to recognize "strong cross-sell ratios in her division" as a "direct reference to the extraordinary number of accounts created by her division." Here was another instance where, it appears, compensation incentives directly led to illegal and unethical practices in a major financial institution.

BOARDS OF DIRECTORS

The Boards of Directors of Enron, Bear and Lehman did not provide adequate supervision of management.³⁶ They supinely, without questions or concerns, adopted business models presented to them and put at risk the long-term survival of the firms for which they were responsible. In the cases of Bear and Lehman, the Boards were not brought into the decision-making until it was too late and all they could do was rubber-stamp decisions either to sell the firm for a huge loss (\$70 per share book value on a Friday sold for \$2 a share on the following Sunday in the case of Bear) or to vote for bankruptcy and probable liquidation in the case of Lehman.³⁷

At Enron, the Board considered the succession of Jeff Skilling as CEO to Ken Lay for 15 min before lunch one day.³⁸ Skilling was the principal author of the business model that was leading Enron to self-destruction and he was then rewarded with the top executive position in the

company. The Enron Board had no foresight and was just along for the ride. At an earlier meeting, the Board looked over 15 pages of resolutions with no time to discuss the details. One detail was to authorize the company's CFO to issue guarantees—financial liabilities—up to 10 million dollars without approval.³⁹ At the crucial meeting for the Board to approve one of Fastow's first arcane legalities to permit Enron to book earnings and hedge risks, the Board was in over their heads. They asked a few unsightful questions and did what Lay had asked them to do—give an OK.⁴⁰ When no one would buy Enron's commercial paper—dramatic sign it was in serious trouble—the Board was not told of the danger.⁴¹ At a meeting of the Board's Finance Committee to approve a follow-on Fastow proposal, the Committee waived Enron's code of conduct to permit Fastow to be a paid employee of Enron with fiduciary duties to Enron but also at the same time to serve as the manager of the entity which would buy assets from Enron. The Committee asked for some assurance that Fastow would not act to Enron's disadvantage. He said he would not and so they approved the proposal under which he would make millions.⁴² That evening the full Board reviewed the recommendation of it Finance Committee. Board members were tired; with no debate they approved the recommendation.⁴³ The firms were led by chief executive officers in a command and control model of bureaucratic loyalty to the top echelons. On the board of Lehman Brothers served an actress, a theatrical producer, an admiral but not one person who understood financial derivatives.⁴⁴

BREACH OF FIDUCIARY STANDARDS

Analysis of business behavior using the paradigm of fiduciary responsibilities provides a summary explanation of why these selected firms failed. In short, they overlooked their responsibilities out of excessive concern for short-term self-gain.

LOYALTY TO SELF

The first duty of any agent—a trustee, a corporate director, an employee, a professional—is loyalty to the principal or the client.⁴⁵ Such loyalty at law demands submission of self-interest to the best interests of the one or ones to be served by our decision-making. Usually problems of lack of loyalty arise when a third party is favored over the intended beneficiary

of our concern on the principle that one cannot serve two masters. But in the area of misappropriation of corporate opportunities, an agent is not permitted to take for himself or herself advantages which come about only due to occupying the position of agent. Thus, corporate directors may not personally profit from transactions that come before their corporation, unless they disclose their self-interest and defend the reasonableness of the transaction. So, in the case of Enron, Andy Fastow needed to receive a waiver from the conflict of interest policy in order to both represent Enron in the selling of assets to special purpose entities and be a partner in those entities to personally profit from the transactions. In his personal capacity, his interest was to buy the assets at the lowest possible price but as an agent of Enron his fiduciary duty was to get the highest price possible for those assets. He was conflicted between these interests.

Generally however, in the cases of Enron, Bear Stearns, and Lehman Brothers, intense self-interest in personal compensation created conditions of moral hazard for the companies where their best interests were not well served and long-term risks to them were exacerbated by the short-term business decisions made by their employees. In this connection, it is important to remember that chief executive officers are only employees of the company owing it fiduciary duties of the utmost honor and rectitude. When employees scheme to manipulate company financials to provide essentially false impressions to the public about company prospects out of concern for their bonuses; when they agree to transactions that provide them immediately with fees and bonuses but that accumulate liabilities and risks for their companies, they cross a line separating responsible and loyal conduct from taking undue advantage of their employers. They are then serving two masters: self and company, which cannot easily be done. One master must suffer and that was the company.

LACK OF DUE CARE

The second core fiduciary duty of any agent is to act with due care. This is a standard of negligence and good judgment where foresight and common sense must influence decisions. The office of the fiduciary is to act wisely and prudently to further the interest of his or her beneficiaries. Making decisions that put at risk the survival and the capital of the firm, conflicts with the duties of such office. Only decisions that work to the

advantage, all things considered, of the firm are permitted. In the cases of Enron, Bear, and Lehman, the boards of directors, the chief executive officers, and many managers all made imprudent and unwise decisions. In the main, they enthusiastically adopted a business model that put the company at risk. This was not the exercise of due care on behalf of the owners of the company, its employees, and its creditors. The duty to use due care vis-à-vis employees and creditors derives from the fiduciary duty of boards and other company agents to the owners of the company. Due care in protection of owners' interests demands from company agents diligence and prudence in the management of employees and in provision for creditors, not to mention solicitude for customers to sustain profitable engagements for the firm. Making a profit for the owners of a corporation does not justify their agents negligently assuming risks for the firm.

QUR'ANIC GUIDANCE

Qur'an provides at least four major concepts which are to guide right thinking among people in their affairs. These are the position of acting as a *Khalifa*, holding power and wealth as an *amanah*, using our ability to reason, and subjecting our decisions to the thoughts of others. Had the boards of directors, the CEOs, and senior company officers of Enron, Bear Stearns, and Lehman Brothers been more diligent in the application of these concepts to their business model and their decision-making, one could argue soundly that they would have been able to prevent their firms from failing.

KHALIFA-SHIP

First, the Qur'an reveals that each human person has been given an office of *khalifah*, or vice-regent for God on earth. *"Just recall the time when your Lord said to the angels, I am going to appoint a vicegerent on the Earth."* (Qur'an, 2:30) The role and responsibilities of serving as *khali-fah* are not to be understood as reserved for only one person seeking to govern the Muslim Ummah, but as expectations for each human to contribute to the achievement of God's right order. *"O David, We did indeed make you vicegerent on earth: so judge you between men in truth and justice and not follow the lusts of your heart, for they will mislead you from the Path of God."* (Qur'an, 38:26) An important distinction can be

made between the image of human persons as agents of God—as *khalifah*—and an image of human persons as masters in their own right as a challenge to God’s dominion. The role of *khalifah*, something more than beasts but yet less than God, is as subordinate as an appointee and delegate who must turn for powers and direction to the principal and master. “*Did you not know that God has sovereignty over the heavens and the earth?*” (Qur’an 5:40) And, correspondingly, humanity is not to pick from within its own ranks those who will be given any such sovereign status. (Qur’an 96:9) “*He is God besides whom there is no other deity.*” (Qur’an 59:21) Humanity was given its proportion and form by God alone. (Qur’an 82:7–8) Mankind was created only to worship God, not itself. (Qur’an 51:56).

No American firm that failed as discussed above looked upon itself as having *khalifa* responsibilities. No firm that failed actually thought of itself as having a higher vision and mission than extraction of economic rents from the economy. In fact, Enron, Bear, and Lehman even looked upon their customers as a point of exploitation. The customers were in service to the company’s profit goals; the company was not in service to the customers and so earned a right to profit from doing well and good through such service. The leadership of these firms saw themselves as masters—operating with an arrogance seeking to impose their own dominion over others—not as fiduciaries seeking to enhance the common good through their private activities.

First, creating and selling more and more securitized sub-prime mortgages and CDOs in late 2006, through 2007 and into 2008 showed willful inattention to the state of the housing market in the United States. Bear and Lehman contributed to a housing bubble that could only collapse as the credit worthiness of borrowers deteriorated and the number of housing starts outpaced reasonable projections of customer absorption. One conscious of stewardship responsibilities would have been more cautious and would have wound down marketing efforts as home asset prices continued to rise. Providing excessive finance relative to market supply of sustainable demand is just selfish. Enron’s manipulation of energy markets in California was exploitation of the public by taking advantage of flawed public rules and regulations. One of the marks of good character in a steward—a *khalifa*—is self-restraint and not taking advantage of the weak in a manner inconsistent with norms of elemental justice. Enron’s misrepresentation of its true financial position—its debt and dodgy income—was the antithesis of fiduciary conduct. Where

self-interest exists, a fiduciary—a *khalifa*—carries the burden of making full disclosures of the truth. Where others rely on a steward to treat them thoughtfully, a similar burden of full disclosure is carried by the agent of their hopes. And, by adopting a business model that assumes too much debt in relation to equity under conditions of probable volatility of the firms that failed violated standard procedures for fiduciaries. Such business models did not pass the test of exercising due care. In AIG's case, issuing guarantees of payment in cases of loss (CDSs) that could not be met was an abuse of stewardship responsibilities vis-à-vis customers. Knowing that its customers relied on the company, AIG nevertheless put itself in a position where defaulting on its contracts became a real possibility. A responsible *khalifa* would have set aside proper reserves against such a contingency.

AMANAH

Qur'an relates that the abilities and potentials that the Creator afforded to humanity and to each human being are given in trust—*amanah*—so that God's purposes can be served on earth. *"We offered this trust to the heavens and the earth and the mountains but they refused to bear it and were afraid of it, the but man undertook to bear it. Indeed, he is unjust and ignorant."* (Qur'an, 33:72) *"Believers! Do not be unfaithful to God and the Messenger, nor be knowingly unfaithful to your trusts."* (Qur'an, 8:27) Of course, trust can be abused and many passages of the Qur'an discuss how humans do and most likely will abuse the various *amanah* given to them by God. According to Qur'an, evil doers are those who *"break [God's] covenant after accepting it, and put asunder what He has bidden to be united, and perpetrate corruption in the land."* (Qur'an 2:27) *"If, after all the knowledge you have been given, you yield to their desires, then you will surely become an evil-doer"* (Qur'an 2:145) *"If you obeyed the greater part of those on earth, they would lead you away from God's path. They follow nothing but idle fancies and preach nothing but falsehoods."* (Qur'an 6:116) *"And there are some among them who twist their tongues when quoting the Scriptures so that you may think it is from the Scriptures, whereas it is not from the Scriptures."* (Qur'an 3:78) *"Do not devour one another's property by unjust means, nor bribe the judges with it in order that you may wrongfully and knowingly usurp the possessions of*

other men." (Qur'an 2:188) "Believers, do not live on usury, doubling your wealth many times over." (Qur'an 3:130) "God does not love aggressors." (Qur'an 2:190) "...vanity carries them off to sin ... do not walk in Satan's footsteps; ..." (Qur'an 2:206, 2:208) "Do not make God, when you swear by Him, a means to prevent you from dealing justly, from guarding yourselves against evil, and from making peace among men." (Qur'an 2:224) "Men are tempted by the lure of women and offspring, of hoarded treasures of gold and silver, of splendid horses, cattle and plantations. These are the enjoyments of this life." (Qur'an 3:14) "God does not love arrogant and boastful men, who are themselves tightfisted and enjoin others to be tightfisted; who conceal the riches which God of His bounty has bestowed upon them ... and who spend their wealth for ostentation." (Qur'an 4:36, 37) "Whoever recommends and helps in a good cause becomes a partner therein: and whoever recommends and helps an evil cause, shares in its burden." (Qur'an 4:85) "So do not be lead by passion, lest you swerve from the truth." (Qur'an 4:135) "Do not allow your hatred for other men to turn you away from justice." (Qur'an 5:8).

Qur'anic guidance regarding holding wealth and power as a trust stands in parallel to serving as *khalifa*, or steward for God here on earth. What a steward holds in order to benefit others he or she holds as a trust, an *amanah*. What we hold in trust is not for our own selfish aggrandizement; nor is such possession designed to set ourselves up beyond the bounds of justice and responsibility.

With respect to Bear Stearns and Lehman Brothers, the capital they held contributed by their owners was held as an *amanah*. It was not there to be unreasonably risked or lost. Similarly, the power of the firms vis-à-vis their customers and society was there to be used responsibly, not to create conditions for a collapse of credit markets, and not to finance an unsustainable asset bubble in home prices. What wealth and power these firms held was in some sense under Qur'anic provisions not a fully private dominion to be used recklessly or willfully and others be damned. It came with responsibility to enhance opportunity and welfare for the greater community. The profit to be earned for self in execution of a trust, of an *amanah*, is a legitimate selfish right but it is only a consequence of serving the larger ends of the entrusting—putting wealth and power to proper mutual advantage.

SHURA

Qur'an recommends use of institutions of consultation—*shura*—as a means for the application of individual *ijtihad*. “Those who listens to their Lord, and establish regular prayers; who conduct their affairs through consultation (*shura*), who spend out of what We bestow on them for sustenance...” (Qur'an 42:38) “It was thanks to God's mercy that you were gentle to them. Had you been rough, hard-hearted, they would surely have scattered away from you. So pardon them, and pray for their forgiveness, and take counsel from them in matters of importance.” (Qur'an 3: 159). The wisdom and thoughts of others function as a check on the possible corruption and selfish biases our own minds are prey to out of temptation and petty jealousies. As our own use of *ijtihad* may be imperfect or biased, we can purify and correct our thinking by taking into account, as a responsible trustee does, the standards and conclusions of others. The Qur'an realizes only too well the limitations that may infect *ijtihad* with ignoble purpose or misunderstanding. We do not surrender our power of *ijtihad* to others in a process of *shura*; we only feed it with more raw materials of fact and opinion for thoughtful consideration as we assume personal responsibility for acting as God's agent—a dutiful and non-negligent *khalifah*.

In the case of the failed firms, the process of *shura* was not applied by the relevant boards of directors. They did not invoke their own powers of *Ijtihad*. Nor did they challenge the reports and business models proposed by their CEOs and other senior corporate officers. They did not seek out second opinions on major contingencies or hold retreats to ponder what levels of debt were prudent or how to better measure and manage the risks implied by the business model put to work for their firms. The boards allowed themselves to be led blindly into the path of self-destruction.

IJTIHAD

In addition, the Qur'an requires that, as each human executes his or her *amānah* and serves God as *khalifah*, he or she must use some of what has been given as part of the *amānah*—the capacity to observe, think, reason, and judge—in order to take proper and correct action. One of

the important capacities given to human persons by God is this faculty of *ijtihad*, or reasoning about reality and truth. *Ijtihad* is needed by human persons to distinguish between conjecture and truth. (Qur'an 10:36) "The meanest beasts in God's sight are those that are deaf, dumb, and devoid of reason." (Qur'an 8:22) Such beings have no capacity to discern truth or use *ijtihad*. How could they possibly serve God as a steward on earth, attending to his bounty and acting with moral purpose?

"We sent the former Messengers with clear Signs and Books, and now We have sent the Admonition to you (O Muhammad!), so that you should make plain and explain to the people the teachings of the Book which has been sent for them; and so that they (themselves) should ponder over it." (Qur'an, 16:44) *"And We bestowed the same favor upon David and Solomon: Remember the occasion when the two were judging a case regarding a field into which the goats of other people had strayed at night, and We Ourselves were watching their conduct of the case. At that time We guided Solomon to the right decision, though We had bestowed wisdom and knowledge upon both of them."* (Qur'an, 21:78–79) The capacity of *ijtihad*, or practical application of the human mind to the events and circumstances of reality, was given, it seems, in order that an individual's *khalifa-ship* can be successfully undertaken with wise use of all the various *amanah* held by that person.

All the firms that failed were deficient in the use of *Ijtihad*. They choose flawed business models. They assumed too much debt. They did not find a sustainable way to make profits. More than a few market players saw the beginnings of a collapse of the housing bubble in early 2007. Bear and Lehman did not draw the correct conclusions from the facts and continued as long as possible to make money from issuing and trading securities linked to sub-prime home mortgages. As Citigroup CEO Chuck Prince famously said: "When they play the music, you get up and dance. We are still dancing." That remark reveals the absence of independent judgment and its replacement by a slavish following of peers and fashion. Lemmings think this way as they head toward the cliff and death. Enron's failure to use *Ijtihad* lay in scheming to float a high market price of stock through the use of borrowed money re-packaged to be reported as income. It became something of a Ponzi scheme where only access to more and more invested funds provided the cash necessary to pay obligations. Genuine profits were illusory.

THE MYTH OF THE RATIONAL MARKET AND *FITRA*

An important intellectual foundation for the leadership of these failed firms to ignore the analogs in common sense to *khalifa*-ship responsibilities, *amanah*, *ijtihad*, and *shura* was a belief in the rationality of markets. Under this theory, for which a number of Nobel Prizes in economics were given, market participants absorb all known and relevant information and use it in setting prices. Thus, market prices have something akin to truth; they are reliable; they cannot lead one astray. Thus, to follow market prices—even into a bubble—is to be prudent and responsible.⁴⁶ The collapse of credit markets in 2008 revealed a fatal flaw in this theory. Events occur—Black Swans or probabilities with “fat tails” in the language of statistics—come along that do not fit with predictions. The formulas used by all financial firms to trade and to predict risk of loss—to their collective detriment it turned out—assumed normal distributions of expected results. Such normality is an illusion.⁴⁷

Human nature lies at the root of many eventualities. If the motivations and utilities ascribed to market participants are illusory, then predictions of price movements will be off the actual mark set by events. Unfortunately, rational market theory uses a restricted understanding of the human person, an intellectual construction known as “*homo economicus*” under which human behavior is always self-seeking in material terms, where risk and reward can be calibrated to uncover the most profitable monetary outcome. It is a theory of human nature that eliminates much use of moral reasoning or ethical sentiments.

Such a construct is inconsistent with Qur’anic guidance. Implied in Qur’an is a universal anthropology for the human species that rests on possession of moral faculties. This attractive tendency for people to seek more than material satisfaction in blindly self-seeking ways is called “*fitra*.” It is cognate to the “moral sentiments” of Adam Smith and the humanism of Mencius. Both those thinkers presumed powerful human tendencies to place ourselves in relationships with others and to condition our behaviors by the demands of those relationships. Qur’an provides us with a similar framework for understanding the human person, and that is the fact of *fitra*, or our essential orientation toward life. That orientation is to be able to be moral, ethical, and responsible; to listen and to cooperate; to be fair and just, and control our worst instincts and passions. We were shaped by God, Qur’an instructs, to receive his teachings and have it in our power to live as we should. The operation of our

fitra permits us to subordinate our will—appropriately—to a higher purpose such as the stewardship obligations flowing from personal *khalifa*-ship or the loyalty and due care needed to execute a specific contractual office of trust responsibility.

Related to the rational market hypothesis and also derived from the assumption that we are no more than “*homo economicus*” is the positing of the so-called “agency problem.”⁴⁸ Briefly put, the “agency problem” is said to be an inherent dysfunction in all principal/agent relationships, a dysfunction so powerful that such relationships can never fully achieve their stated objectives. The “agency problem” exists on the agent side of the relationship: agents can’t be trusted to be diligent or faithful to their principals. Agents, it is said, are always out for themselves and are constitutionally unable to put loyalty and service to their principals above their self-interest. Thus, any business structure that relies on agency will always be a substantial risk to a principal. There is no said cure for the agency problem so that concepts of fiduciary duty are irrelevant as they cannot happen.

If there is indeed an agency problem, then Qur’anic guidance is useless. No human can hope to be a proper *khalifa*; no human can properly execute an *amanah*; no human can selflessly use his or her *ijtihad*; and no human will constructively submit to the rigors of *shura* if the advice received goes against one’s self-interest. The behaviors of the failed firms and their leaderships, when seen from the perspective of the agency problem were necessary and unavoidable. We are condemned, this theory implies, to suffer regularly from dysfunctional outcomes from rational markets and can merely hope to make the best of bad times.

As long as we believe that the “agency problem” exists and is insurmountable, we have placed before us a conceptual roadblock to corporate social responsibility. Business enterprise is indeed little more than a complex network of principal/agent relationships, established by various forms of express and implied contracts. Owners of corporations are principals to the boards of directors who manage them; senior company officers are agents of the boards and the companies; all employees are agents of their employers; banks, insurance agents, accountants, investment managers, lawyers are all agents to some degree for others. If the “agency problem” exists, then every relationship in this network is infected with the risks of negligence and betrayal. Social Darwinism or dog-eat-dog wariness would seem to be the only rational approach to a life in such an environment. It would be foolish, or worse, to expect such

an environment to ever promote responsibility to the common good. The cause of corporate social responsibility or business ethics is then rather hopeless in the world of real enterprise and finance. Advocates of corporate social responsibility must, therefore, presume something other than the “agency problem” as an immutable fact of business life. Corporate social responsibility, corporate philanthropy, corporate citizenship, all ask of business and business decision-makers a showing of responsibility to others. Usually the responsibility of business is stated as having respect for the interests of stakeholders: customers, employees, owners, creditors, suppliers, competitors, and communities, including the environment.

THE PROBLEM OF FAITHLESS AGENTS

If we want a more moral capitalism, we have to solve the “agency problem” or, at a minimum, contain its virulence. Modern capitalism generates wealth through specialization of function and division of labor. This fact was Adam Smith’s great insight into the nature and origin of the “wealth of nations” as he called it. But, as labor is more and more specialized, each component subunit of the economic system becomes more and more dependent on all the other parts. In today’s world of high technology, dependency on specialized machines and the skills of professional experts is higher than ever in human history. For example, our modern world is also completely subservient to reliable flows of electricity. When the electric grid breaks down, our lives come to a jarring end to normalcy. The Turkish Airlines plane that recently crashed short of the runway at Schiphol Airport outside of Amsterdam did so because its altimeter was faulty. Nine people died as a consequence of the pilots’ relying on a mechanical device for guidance in landing. When the Air France Airbus 330 fell from mid-air to the Atlantic Ocean on its flight from Brazil, and when the Malaysian airlines mysteriously dropped off radar screens and apparently crashed in the Indian Ocean, everyone aboard was totally dependent on the machinery of that aircraft working as it should. Without trust and reliance on what we cannot control, our economy cannot function. We are all in some sense principally dependent on others; thus we need reliable agents.

If the “agency problem” is all powerful and all pervasive, then modern capitalism is constant at risk of failure because the dependency relationships that flow from specialization are prone to intentional or negligent

abuse on the part of those who thus dishonor the reliance and trust placed on their competence and their integrity. A market place of lying sellers and conniving buyers will never grow very prosperous. When faith and trust evaporate, so does capitalist wealth. The current meltdown of global financial markets is a good case in point. But, the seriousness of the “agency problem” has been overstated. If it were truly dominant in the business world, modern capitalism with all its relationships of interdependency and mutual benefits would not have emerged to produce the wealth that we enjoy today—even in these months of a serious global recession. Thus, we can infer that there are some countervailing forces that constantly nibble away at the “agency problem.”

Good governance is the remedy for the agency problem; good governance permits trust and reliance in human communities and makes possible more successful human endeavors. Good governance is the basis for human civilization. Qur’anic guidance on Khalifa-Ship, Amanah, Sura, Ijtihad, and Fitra supports good governance and minimizes the agency problem.

TWO RECENT NOTABLE FAILURES OF CORPORATE GOVERNANCE

I have focused this discussion on failures of corporate governance in finance which illuminates the wisdom of Qur’anic guidance for market capitalism as a voice for ethics or business responsibility. However, more recently two notable failures of responsibility in manufacturing firms deserve our quick attention for they too buttress the case for the relevance of Qur’anic guidance in many secular settings of business enterprise.

First was the decade-long failure of General Motors to replace ignition cylinders in its cobalt passenger cars. The cheap and appropriately so poor quality of the ignition cylinders installed on these low-end vehicles malfunctioned. Slight taps to the cylinders or too much weight pulling down ignition keys entered into the cylinders would cause them to turn off the engine, causing accidents. Some 112 people were killed over a number of years due to these malfunctions. The Board of Directors of General Motors was not aware of the problem until it became a public scandal and the company’s senior management similarly was “asleep at the switch” when it came to learning of the problem and resolving it.

Why was this so? The investigative report of May 29, 2014 by Anton Valukas pointed to failures not only of structure and organizational

practices, but to the culture of General Motors. In short, values and poor habits were at the root of the failure.⁴⁹ In particular, the Valukas report uncovered two cultural practices of the “GM nod” and the “GM salute.” The “GM nod” was an employee practice that, when a tough issue or problem was brought before a group everyone would sagely and seriously nod their heads in agreement—yes, they so indicated, there is a problem. But that was the extent of their willingness to take remedial action or even explore options related to improvement of outcomes. The “GM salute” was to similar effect. When a problem or an issue was tabled for action, everyone present would point to someone else as having responsibility. In short, all saluted others as having the lead and so avoided stepping up to action themselves. In the end, no one assumed responsibility and no dispositive or effective action was taken.

Qur’anic guidance that we are to be responsible in our actions as God’s *Khalifa* and to hold our powers in trust as an *amanah* should have positioned all in General Motors to take seriously the dangers posed by the defective ignition cylinders and immediately replace them. The decision-making process within the company at all levels did not fully develop the ethical approach of *Shura* to bring to our minds all relevant considerations on the uses of our powers. Finally, the skills of technical sophistication and awareness of consequences implicit in the use of *ijtihād* were not deployed by the company’s managers and employees.

A more serious case of failure to act faithfully toward one’s stewardship obligations was Volkswagen’s intentional deceit of customers and government regulators with respect to the environmental impact of certain of its diesel-powered automobile engines.⁵⁰ “Volkswagen [in 2015] admitted to misleading environmental regulators and consumers by installing illegal emissions-cheating software on nearly 600,000 diesel-powered vehicles in the US. In June, it agreed to a separate civil settlement to pay regulators and consumers up to \$15 billion.”⁵¹ The Wall Street Journal reported that “Volkswagen set aside roughly \$21 billion to deal with fallout from using defeat-device software that duped government emissions tests and allowed vehicles to breach legal pollution limits on the road, the company has said. The Environmental Protection Agency disclosed the cheating” last September, leading to the resignation of Volkswagen’s chief executive and sparking litigation, investigations and fines across the globe. Volkswagen’s civil settlement affected 475,000 diesel-powered vehicles with 2-l engines containing software

allowing cars to appear clean during government tests but emit nitrogen oxides far above allowable standards on the road.”⁵²

The intentional decision by Volkswagen’s CEO with the willing assent of his subordinate senior managers involved in the planning and development of special software to deceive United States environmental regulators was too wrong-headed to be accepted as mere negligent avoidance of the duties imposed by *Khalifa* stewardship and *amanah* trust responsibilities to God’s creation, including the company’s customers. It was an avoidance of *shura* consultation in order to optimize one’s benefit to creation and the willful use of *ijtihad* to violate basic standards of stewardship in the use of power and authority. Any such intentional fraud on the public flagrantly abuses power for selfish advantage. It was a policy adopting flagrant disregard of agency responsibilities.

WHAT CAN WE DO ABOUT FAITHLESS OR NEGLIGENT AGENTS?

The problem is not a new one. In the Judeo—Christian tradition, the prophet Samuel warned the leaders of tribes of Israel not to put their faith in kings, for, as he predicted, kings would turn against their trust and abuse power for their own selfish advantage. Later, Jesus stated that one could not serve both God and Mammon. The Common Law of England over the centuries fashioned many legal responses to minimize the effects of the “agency problem.” These rules and practices constitute what is called the law of fiduciary duties. Also, the English courts of equity contributed to fiduciary law with their own set of procedures and requirements designed to remedy abuse of legal power and prevent fraud and oppression in the marketplace.

The basic device used by the Common Law to minimize the effects of the “agency problem” was to define what was expected from agents as duties to their principals and give principal-specific remedies for breach of those duties.⁵³ This was a practical approach that sought to structure incentives so that agents would be more inclined to stick to the punctilio of their responsibilities and principals would be induced to assume the risk of trusting agents. Other words used in the Common Law to resolve the agency problem were fiduciary, trust, and beneficiary of the fiduciary trust. The fiduciary or the keeper of the trust was, in effect, the agent and the beneficiary was, in effect, the principal.

First, the agent was burdened with duties of loyalty and due care. When the self-interest of the agent was suspected of causing harm to the

principal, the burden of proving loyalty was placed on the agent. The agent had the burden of coming forward with sufficient evidence to prove his or her loyalty. With respect to negligence on the part of the agent, the principal had the burden of proof but could hold the agent accountable when an objective standard of care had not been observed in management of the business consigned to the agent. The Common Law thus turned the relationship of principal/agent into a status for the agent. Agency was an office; so was being a partner, a trustee, a corporate director, etc. With office came specific responsibilities. Failure of performance was transformed from a difference of private opinion between agent and principal over the quality of performance into a notorious setting of public expectations. Principals could deny their own liability for acts of the agent when the agent had acted contrary to the terms of the trust, leaving the agent exposed to face the consequences. The behavioral theory used by the Common Law judges appears to be a conviction that when we are made accountable in public, our pride tends to keep us more scrupulous and diligent than when we can act in secret. Exposure and transparency were devices used to reduce agency problems. Second, in its courts of equity, English jurisprudence fashioned a number of rules that principals and beneficiaries could use. They could seek an accounting of monies had and received, with the burden on the agent to account for every penny received; principals could ask for the imposition of a constructive trust on money and property in the agent's possession and name when fraud and abuse had occurred; agents had to have acted with clean hands if they sought to recover from principals on their agency contracts; agents could be prevented (estopped) from entering claims and evidence in their favor if they had acted inequitably.

USE OF SELF-INTEREST

A second basket of remedial responses to the "agency problem" lies in self-interest. It is in one's best interest to avoid faithless agents. Over time, therefore, faithless agents will not find employment as their reputation for negligence or disloyalty becomes generally known. This is why reference checks are so frequently relied upon. Generally, market-based solutions to the "agency problem" rely on this mechanism of self-help. But it can be of limited utility where agents or those upon whom we rely for professional expertise have market power or are polished performers

adept in the arts of lulling our suspicions with their smoke and mirrors—like Bernie Madoff to his investors.

USE OF CHARACTER

Another approach to minimizing the “agency problem” is to promote good character, the habits of living up to the virtues of trustworthiness, integrity, diligence, transparency, and reliability.⁵⁴ This agenda for securing better prospects for corporate social responsibility and business ethics—for avoiding asset bubbles and financial bubbles—and for putting in place the cultural foundation for specialization of function and division of labor operates at the level of the individual. We must engage individuals to act as we would want if we want responsible and faithful agents. Such socialization, obviously, begins in the family, continues in school, and is finished in conditions of social engagement. We are concerned for the “presentation of self” in everyday life and Irving Goffman wrote about our dysfunctions in organizational settings.⁵⁵ We want a good self to be presented, not a greedy, abusive, stupid, or negligent one. Having good character is one reliable ground for good stewardship behaviors. The moral sense within us is a public good in that it promotes trust in our communities and reliance on our business performance. Trust and reliance form the substructure of successful modern capitalism. That human persons possess a moral sense that distinguishes them from beasts and other earthly creatures is increasingly a postulate of evolutionary studies, neuroscience, and brain research. Thus, we must not presume that the “agency problem” is intractable and a permanent obstacle to responsible business decision-making. Rather, we should assume in us all an inherent capacity for reliable agency performance.

CONCLUSION

If there is no agency problem, then there is no inherent impediment to following Qur'anic guidance in acting as *khalifa* during our days on earth, on being honorable and wise in the execution of our trusts, in applying our *ijtihad* in loyal ways seeking actions suffused with due care, and engaging in constructive dialogue with others. Such behaviors, if actualized, might well have prevented the failures of Enron, Bear Stearns, Lehman Brothers and Wells Fargo. But the failures of Enron, Bear Stearns, and Lehman Brothers cannot be undone. Good governance

cannot be applied in retrospect other than conceptually in speculation about “what if?” Yet, if we look forward from this point in time, how might good governance from a Qur’anic perspective constructively shape the outcomes of global capitalism, especially finance?

First let us consider the use of debt. In 2017 global accumulations of debt is staggering. Total debt obligations exceed three times world GDP. China keeps its huge economy from collapse through the creation of more and more liquidity by government. Chinese banks hold some US\$2 trillion in receivables which are not called “loans.” No reserves are kept by the banks in case such receivables cannot be collected. The Baby Boomer generation in the United States, as it approaches retirement and old age, carried great amounts of debt and insufficient savings. The obligations of the US government to pay for retirement income and health care costs of aging Baby Boomers are massive and unfunded. Projections are that both the Medicare and Social Security obligations of the American Federal Government will become unfundable within a decade. Use of excessive debt both violates the Qur’anic injunction to avoid debt—*Riba*—and Qur’anic guidance to use property and wealth justly as a trust—*Amanah*. The injunction to be steward-like in the use of one’s property would lead to moderation in both the extension of credit unwisely and the assumption of credit obligations imprudently.

This rule for good governance of economic undertakings would shift funds away from speculation and trading of all financial instruments, including options, derivatives, and swaps, toward investment in real assets of production—factories, machinery, and social and human capital through education and cultural institutions. Such a shift would lower returns for those who have financial assets and other sources of wealth such as real estate which gain in nominal value with government creation of liquidity. Such a shift would favor the middle and lower classes and those who are entrepreneurs over passive investors and those in the top 10% of recipients of income and wealth. Today a handful of people own more than half of humanity.

In the management of corporations, Qur’anic guidance to uphold high fiduciary standards would empower boards of directors over top managers and would reduce the risk of loss-creating scandals such as at Volkswagen, General Motors, and Takata in the automobile industry.

Third, as we look to the employment of human capital in the coming years of more automation, use of robots, and application of computers and information technology, Qur’anic standards of stewardship and

consultation would elevate the status of workers and employees. Use of such standards would also favor a shift in work toward circumstances providing more personal pride and a sense of purpose in life.

NOTES

1. This commentary relies for its facts primarily on the following works: National Commission on the Causes of the Financial and Economic Crisis in the United States, *The Financial Crisis Inquiry Report*; Henry Paulson, *On the Brink*; Andrew Ross Sorkin, *Too Big to Fail*; Gretchen Morgenson and Joshua Rosner, *Reckless Endangerment*; William D. Cohan, *House of Cards*; Lawrence C. McDonald, *A Colossal Failure of Common Sense*; David Wessel, *In Fed We Trust*; Alan Greenspan, *The Age of Turbulence*; The Institute for Responsible Investment, *Handbook on Responsible Investment Across Asset Classes*; Michael Lewis, *The Big Short*; Charles R. Morris, *The Trillion Dollar Meltdown*; Kurt Eichenwald, *Conspiracy of Fools*; Scott Patterson, *The Quants*; Justin Fox, *The Myth of the Rational Market*; Benoit Mandelbrot, *The (mis)Behavior of Markets*; Robert Shiller, *Irrational Exuberance*.
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8. Kurt Eichenwald, 57, 67, 170, 171, 371, 405.
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11. *Ibid.*, 579.
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14. *Financial Crisis Inquiry Report*, 280.
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Economic Governance and the Political Economy of the 2008 US Financial Crisis: A Taxonomic Essay

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INTRODUCTION: THE HISTORICAL DEBATE ABOUT ECONOMIC GOVERNANCE

There is long-standing debate about the extent to which private business and society are in conflict. On the one hand, the objective of private business is to maximize profits and single-mindedly pursue its self-interest. Private business is also rewarded for undertaking risk; in doing so it creates jobs and produces goods and services. At the same time, the creativity and innovation of the business sector brings efficiency, quality, comfort, development, and prosperity to society. Indeed, incentive and fairness considerations demand that private business must be allowed to reap the rewards for its contributions to society. On the other hand,

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sometimes private business can inflict grave damage on society when it selfishly pursues its own self-interest. For example, in the interest of keeping costs low and profits high, private businesses sometimes prefer to pollute the environment instead of safely disposing of toxic waste, leading to health problems within the population. Damage to society can also be inflicted by deposit-receiving financial institutions if they chase high profits by investing in high-risk assets which subsequently fail. In all these cases, there is severe conflict between the self-interest of private business and the interests of the society. Such conflicts must be resolved under a system of economic governance using a criterion that protects the interests of society, while also being fair to all parties involved.

Socialism claimed to resolve this conflict by establishing a system of economic governance which gave the state complete control of the economy and disallowed private ownership of factors of production. Under socialism, the state was assumed to represent and protect the interests of the society. As demonstrated by the fall of socialism, these assumptions turned out to be false in reality.

In Islam, private business and entrepreneurship are encouraged. This stands in stark contrast to socialism. Indeed, at one point Prophet Muhammad (peace be upon him) was employed by a well-off Makkan businesswoman to manage her business. The Islamic ethics of economic governance are founded on the principles of Islamic jurisprudence (Shari'ah). It allows private ownership and the free market system, as well as the pursuit of profit and self-interest by the private business. Importantly, the objectives of Shari'ah (i.e., *Maqasid* of Shari'ah) resolve the issue of the conflict between the interests of the society and private business. According to Zein et al., "the Objectives of Shari'ah are meant to preserve religion, life, reason, progeny and wealth. An overarching principle of all policy making (whether related to the political, legal, economic, social, or environmental spheres) that emerges from the Objectives of Shari'ah is *Maslaha* (public interest). Public interest can be simply defined as promoting things that are beneficial to the society and preventing the things that are harmful to it".¹ Thus, in the Islamic tradition, economic stability, full employment, growth, and socio-economic justice are integral to public interest (i.e., the greater good of society), which is given priority over private interest.

The inherent logic of the Islamic position is clear. It holds that if society's interests are harmed, the pecuniary and non-pecuniary costs to the society could be extremely high. As a consequence, innocent citizens

could suffer irreversible permanent adverse dislocation in their socio-economic lives. The Islamic position is also concerned that private business, being a subset of the society, will also be hurt in the long run, if it harms the interests of the society. These Islamic principles envision a system of economic governance rooted in free market but at the same time ensures the protection of public interest through government intervention, market regulation, etc. Historically, the *Maslaha* philosophy has guided economic governance in the Islamic civilization. However, due to the lack of democracy, rule of law, strong civic institutions, guarantees of human rights, and accountability, the contemporary approach to economic governance in a majority of Muslim countries remains far from the spirit and practice of *Maslaha*. In his book *Moral Capitalism*, Stephen Young also emphasizes the need for reconciling private and public interests.²

Using the concepts of rational behavior, self-interest, and invisible hand, Adam Smith advocated the convergence of the interests of private business and the interests of society. This allowed him to recommend a system of economic governance that had the laissez-faire market system as its cornerstone, free of government intervention and regulation. In fact, government intervention and regulation were seen as causing inefficiency in the system and stifling creativity and innovation. Moreover, advocates of this paradigm argue that a pure laissez-faire market would allow private businesses to utilize their resources and opportunities to the maximum extent—at minimum cost. In their view, such a system would not only enable business to maximize profits, it would also deliver high growth rates, enhance the efficiency and well-being of society at large while conforming to the public interest at the same time.

At the time of Smith's writings, Britain was on the verge of the industrial revolution, while many European economies were still operating under mercantilism. The hallmarks of mercantilism were protectionism and heavy-handed government intervention in the economy. Adam Smith's book, *The Wealth of Nations* (1776), helped marry the idea of laissez-faire market with the industrial revolution which had by then gripped Britain. The success of the laissez-faire market-based industrialization in Britain led to the birth of laissez-faire capitalism in nineteenth century Europe. Interestingly, the spread of the nineteenth century European idea of laissez-faire capitalism across the Atlantic paralleled the spread of John Locke's social contract theory earlier. Locke's ideas of life, liberty, private property, and social contract, developed in seventeenth century Europe, became a source of excitement across the

Atlantic, and helped create the American Revolution in the eighteenth century. In a similar fashion, the nineteenth century European idea of *laissez-faire* capitalism also became a source of excitement across the Atlantic in the early twentieth century. Indeed, it was the adoption of *laissez-faire* capitalism that delivered the ‘Roaring Twenties’ to the US economy in the second decade of the twentieth century. But, in 1929, the *laissez-faire* capitalism-based US economy collapsed, and resulted in the Great Depression of the 1930s. Interestingly, the revival of *laissez-faire* capitalism was the hallmark of the US economy in the 1990s—and again the US economy suffered a severe break down not long thereafter with the financial crisis of 2008. The burning question is: How did the 2008 financial crisis happen, and what lessons can we learn from this tragedy?

UNDERSTANDING THE GREAT RECESSION OF 2008

While much has been written about the events of the 2008 great recession, little attention has been paid to the ideas that set the stage for the well-known events of the financial crisis. Given the serious magnitude of the crisis, the situation demands a comprehensive understanding of the ideas and philosophical paradigms that generated events of such breathtaking scale. It is for these reasons that this paper attempts to briefly discuss the ideas, the process, and the factors that strengthened the forces which produced the events of 2008. In the absence of such an analysis, our understanding of the crisis would be incomplete, and, in fact, superficial—much in the same way as a discussion of capitalism would be incomplete without understanding the ideas of Adam Smith or a discussion of the American Revolution without understanding the ideas of John Locke and the idea of democracy.

Led by the dot-com boom, the 1990s were a decade of remarkable growth and employment for the United States. The scope of this boom can be gauged by the fact that for more than quarter of a century (1970–1997) the US annual budgets had consistently suffered huge deficits—indeed, the 1992 budget alone had a deficit of \$290 billion. Yet, beginning in 1993, the economic boom began generating large revenues that started to reduce the federal deficit. Indeed, in 1998, 1999, 2000, and 2001, the US enjoyed budget surpluses of \$69 billion, \$126 billion, \$236 billion, and \$128 billion, respectively.³ However, what started as an economic boom eventually became an economic bubble.⁴ In the year

2000, the dot-com bubble burst, causing a serious downswing in the economy. With the tragedy of 9/11, the US plunged into a recession.

In response to the recession, the Federal Reserve lowered interest rates. These low interest rates were maintained over a number of years to encourage businesses and investors to invest and stimulate the economy. Banks were particularly eager to take advantage of this low interest rate environment by lending large amounts of money to maximize their profits. As competition among banks intensified, the US banking industry identified the domestic housing sector as a key market with great borrowing potential. Of particular interest to the banks was the so-called ‘subprime’ market. This market consisted of borrowers who had a high chance of default because they often had low incomes, lacked steady employment, and had poor credit ratings. Banks found it extremely profitable to lend to subprime borrowers, because banks themselves were able to borrow money at low rates and then lend it to subprime borrowers at much higher interest rates. At the same time, subprime borrowers—who had historically found it difficult to borrow from banks—were delighted by the opportunity to borrow easily from banks. Thus, banks and subprime borrowers happily embraced each other. As Akerlof and Shiller note, “lenders were successful in placing these loans among some of the most vulnerable, least educated, and least informed members of society. While such behavior may not have been illegal, we think the more egregious instances definitely deserve to be called corrupt”.⁵ While such behavior may not have been illegal, it is likely that these practices were exploitive.

For several years, the strategy paid off for borrowers and for banks. The money pumping into the housing market pushed home prices ever higher. This enabled borrowers to profit by buying houses and ‘flipping’ them by selling them soon thereafter at higher prices. All seemed safe—indeed, the underlying conventional wisdom was that housing prices could not fall; they could only rise. Thus, it was rational for borrowers to borrow as much as possible now, and profit when property prices rose in the future. Borrowers were thus encouraged to borrow. The collective result of this activity was the formation of a classic asset price bubble. Thanks to the creation of exotic credit derivatives markets, banks were also able to record enormous profits. Indeed, banks that made mortgage loans did not want to wait many years and gradually record profits on their lending activities. Instead, their desire was to report enormous profits as soon as possible. The credit derivatives market enabled them to

do just that. Using specialized Mortgage Backed Securities (MBS), the original lending banks were able to sell their mortgages to other investors, thereby shifting the risk to third parties locally and around the world.

Credit rating agencies played a key role in certifying these derivative securities. In theory, the role of rating agencies is to evaluate and provide an unbiased opinion on the level of risk and quality of these securities. However, since the banks were paying the rating agencies to rate the MBS, the rating agencies often gave these securities very high ratings. The impact of these high ratings was that buyers bought them with the assurance and confidence that they were sound investments and did not carry high risk. Akerlof and Shiller highlight that, “The subprime packages were in fact rated very highly—80% AAA and 95% A or higher. These ratings were in fact so high that they would be bought into by bank holding companies, money market funds, insurance companies, and sometimes even depository banks themselves that would never have touched any of these mortgages individually”.⁶ Since AAA is the highest possible rating, securities marketed as AAA appeared to be extremely low risk. As a result, MBS securities were in high demand, and banks were able to transfer the risk of their mortgage lending to other investors.

These aggressive lending activities resulted in a booming housing market, and property prices shot to unrealistic highs in the United States. Reinhart and Rogoff observe that the Case–Shiller housing price index shows that, “since 1891, when the price series began, no housing price boom has been comparable in terms of sheer magnitude and duration to that recorded in the 2007 subprime fiasco. Between 1996 and 2006 (the year when prices peaked), the cumulative real price increase was about 92%—more than three times the 27% cumulative real price increase from 1890 to 1996!”⁷ The party ended as the Federal Reserve raised interest rates. As interest rates rose, many borrowers found that they could not pay their mortgage installments to banks. Millions of homeowners declared bankruptcy, and the formerly AAA-rated MBS securities which contained their mortgages recorded large losses. Moreover, since these securities had been purchased by financial institutions all over the world, there was a ripple effect throughout the global financial system. By 2008, the credit crisis was in full swing. Banks were hit particularly hard, as frightened bank depositors rushed to withdraw their deposits from banks. Liquidity dried up, and the banks themselves ran into liquidity shortages. The problem became even more acute

because the banks themselves had borrowed short term to make these long-term mortgage loans, thus creating large exposures to short-term fluctuations in the cost of borrowing.

As the credit crunch progressed, many big financial institutions faced insolvency and either went bankrupt or were taken over by other institutions at very low prices. Household names such as Merrill Lynch, Lehman Brothers, and Bear Stearns vanished, seemingly overnight. This created an earthquake in the global financial system. Spooked consumers began spending less, triggering a slowdown in the global economy as countries around the world entered recession. The US economy shrank substantially, causing a recession that was so deep and prolonged that there were fears of the repeat of the Great Depression of the 1930s. Hence this recession also came to be known as the Great Recession. Unable to pay their mortgage installments, millions of homeowners had to surrender their houses and became homeless overnight. What happened raises a host of issues from the point of view of economic governance that will be discussed in the following sections.

RATIONALITY AMIDST A CRISIS

A fundamental assumption in economics, business, and finance is that economic agents are rational. Thus, the first question that arises in this episode is whether the economic agents involved were rational. Were the borrowers, lenders, rating agencies, executives, managers, and board members involved in the decision-making that led to the crisis, acting rationally? The evidence suggests that the answer is: yes, they were acting rationally. The definition of rational behavior is that the agent maximizes one's self-interest at the minimum cost. Indeed, for many years, banks were able to report enormous profits by issuing mortgages and then creating AAA-rated derivatives to transfer the risk to other parties. Hence, the behavior of banks was consistent with rationality and the maximization of self-interest.

Rating agencies were also acting rationally. The ratings industry was highly competitive since rating agencies competed for the same deals. If a rating agency gave poor ratings to the securities of a bank, there was a strong possibility that the bank would simply go to another rating agency and get a better rating. Thus, the agencies adopted a policy of giving inflated ratings, seemingly irrespective of the level of risk involved. It was in the self-interest of the rating agencies to keep their clients

happy and ensure that they did not lose their clients. This behavior, too, is consistent with rational behavior by rating agencies. Executives and managers were also acting rationally. Their incentives were to report increasing profits and growing revenues, and in the process earn lucrative bonuses and promotions to higher positions. Corporate boards were acting as cheerleaders for executives, who were single-mindedly focused on business expansion and profit maximization. Thus, the boards were also rational. After all, for many years, the strategy worked, business flourished, and everyone prospered.

In a nutshell, all the economic agents acted rationally. The mortgage lending boom and the accompanying explosion in the derivatives could not have happened without the convergence of the self-interests of all parties involved. Indeed, the aggressive, single-minded pursuit of self-interest closely paralleled what had happened in the 1920s, when the rational pursuit of self-interest by economic agents ultimately led to the Great Depression. This naturally begs the following question: Had the US learned any lessons from the devastation of the Great Depression of the 1930s?

The question of learning lessons from past experiences and improving the economic system is important from the point of view of economic governance in general. We use the term economic governance in the context of capitalism operating in a democratic system. In a democratic society, elected public leaders (i.e., those in the legislative and executive branches of the government) have to make decisions on various economic policies and the nature of the regulatory architecture pertaining to the running of the economy. Thus, when a democratically elected government is involved in legislation, and execution of policies influencing the running of a *laissez-faire* economy, it is the subject matter of economic governance.

LESSONS FROM THE GREAT DEPRESSION FOR ECONOMIC GOVERNANCE

Prior to the Great Depression of the 1930s, the US economy was the closest to the pure *laissez-faire* model (henceforth ‘Purist model’) which led to an economic boom. This is why the decade of the 1920s came to be known as the ‘Roaring Twenties’ in American economic history. Yet, from a long-term economic governance point of view, one of the major reasons for the collapse of the US financial system and the

Great Depression in the 1930s was the dominance of Purist economic policies.

The Purist economic model advocates the view that since economic agents are rational, the public interest (i.e., economic efficiency, growth, stability, and employment, etc.) can only be achieved if markets are free of government intervention and regulation. In other words, Purist advocates argue that the self-interest of economic agents and the invisible hand of the free market will always direct resources to their most productive and efficient use, along with a full commitment to the public interest. Given this vision of universal rationality, a Purist economy would guarantee the greater good of the society by automatically ensuring growth, full employment, and stability of the economy. Hence, laissez-faire individualism (LI) rooted in the universal rational behavior of economic agents is the cornerstone of the Purist philosophy of economic governance. In a democratic society where economy is based on the Purist philosophy, the government policy makes sure that the markets are free and deregulated because the economic agents are believed to be rational and socially responsible. The underlying assumption of this philosophy is that there is no conflict between the self-interest of economic agents and the public interest. In fact, the belief is that the rational pursuit of market participants' self-interest always promotes the greater good of the society. However, the Great Depression brought to light the devastating consequences that Purist policies can have not only on financial institutions, speculators, and producers, but also on innocent citizens and the labor force. Indeed, the prolonged economic downturn of the 1930s seriously challenged the orthodoxy which had strongly advocated economic governance under the Purist system.

This challenge led to a critical review of the dominant Purist paradigm. It was the lack of institutional supervision and regulation of markets that was at the root of the Great Depression. In 1936, John Maynard Keynes published *The General Theory of Employment, Interest and Money*. Although Keynes believed in private ownership and the market as the fundamental mechanism in the economy, he argued that the market could not be left to itself because it had an inherent tendency to run into disequilibrium and lead to calamities such as the Great Depression. From the point of view of economic governance, episodes like the Great Depression harm public interest and even threaten the very existence of capitalism itself. It was due to these inherent destabilizing tendencies of free market that Karl Marx (1818–1883) predicted

the doom of capitalism. He argued that free market capitalism contained within it the forces of its own destruction. Indeed, catastrophes like the Great Depression could destroy capitalism from within.

Keynes (1883–1946) wanted to save capitalism and protect it from its own self-destructive tendencies. Hence, he advocated an activist role for the government in the economy to ensure full employment and stability while maintaining private ownership and the market framework for profit maximization, competition, efficiency, creativity, innovation, and growth. For the sake of simplicity, this study would say that Keynes advocated a philosophy of mixed *laissez-faire* (ML) model of economic governance.

The US indeed learned valuable lessons about economic governance from the Great Depression. In fact, the US Presidential election of 1932 was actually a referendum on Purist versus ML models. Under the ML the government could adopt activist fiscal and monetary policies to ensure full employment, stability, and growth in accordance with promoting the public interest. If the self-interest of the rational private business sector came into conflict with the public interest, the ML allowed the democratic system to regulate and monitor the markets to protect the interests of the society. In the 1932 Presidential election, Franklin D. Roosevelt, the candidate of the Democratic Party, presented a platform based on ML, which he called the ‘New Deal’. Since the New Deal maintained private ownership and the market mechanism, it was evident that Roosevelt was committed to protecting and maintaining capitalism while at the same time adopting ML philosophy. This was to ensure that capitalism would not succumb to its self-destructive forces—as predicted by Marx and experienced under the Great Depression. Roosevelt won the election and implemented the New Deal. The New Deal enacted legislation for regulation of various sectors of the economy. The goal of this exercise was to create a system of economic governance that could rescue and revive the US economy that had sunk deeply due to the Great Depression and ensure that in the future, downward trends could be combated early on through policy activism.

The New Deal was implemented through a combination of activist fiscal and monetary policies. These policies were complemented by a wide-ranging architecture of laws and institutions which regulated various sectors of the economy. Given the focus in this paper on the financial crisis of 2008, we limit our discussion to the highlights of the regulatory architecture of the US financial sector under the New Deal. The centerpiece of the financial regulation under the New Deal was

an infrastructure of Financial Regulations, Statutes, and Institutions (FIRSTS). The purpose of the FIRSTS was to prevent excessive speculation by banks and financial institutions, which had fed the bubble that preceded the Great Depression and resulted in a loss of confidence in the banking system once the bubble burst. While space constraints prevent us from discussing the details of the FIRSTS, it must be noted that the Glass Steagall Act (GSA) of 1933 and the establishment of the Securities and Exchange Commission (SEC) in 1934 were central to the FIRSTS created by the New Deal.

The GSA prohibited commercial banks from participating in investment banking activity. Historically, these two activities had been integrated. This integration had allowed deposit-receiving commercial banks to undertake investment banking by dealing in non-governmental securities and bonds. This exposed banks to high risk, and had led to the failure of several thousand banks during the Great Depression. Kindleberger and Aliber note, "Real estate loans in default, not failed stock brokers' accounts, were the largest single element in the failure of 4800 banks in the years from 1930 to 1933".⁸ The GSA sought to separate commercial banking from investment banking. This meant that commercial banks were not allowed to deal in non-governmental securities. The Act also prohibited commercial banks or their employees from affiliating with investment banking institutions. The GSA also brought commercial banks under the jurisdiction of the Federal Reserve and the investment banks under the supervision and regulation of the SEC.

Thus, in light of lessons learned from the Great Depression, the New Deal established a framework of laws and an infrastructure of powerful institutions to regulate, monitor, and stabilize the financial sector. The purpose of this regulatory architecture was to ensure the protection of the public interest, while keeping the greed of the financial sector in check and simultaneously allowing rational economic agents to pursue their self-interest within the framework of the market system and private ownership. This arrangement, in principle, subjected LI to the public interest of the society, which is the cornerstone of ML model.

THE FATE OF FIRSTS UNDER THE ML MODEL

Following the Great Depression, the US economy functioned reasonably well with the FIRSTS under the ML philosophy. Naturally, there were exceptions, such as the stagflation episode of the 1970s, which had

been caused by a supply shock in the form of an energy crisis.⁹ Similarly, there were times when the economy boomed—but thanks to the safeguards introduced by the FIRSTS, unstable bubble-like conditions were promptly kept in check. There were also times when the economy went into a downswing (as had been predicted by Keynes), but thanks to the activist role of the government advocated by Keynesians, the government was able to avert deep and long recessions. In fact, while there were recessions over the 30-year period from 1960 to 1991, recovery from these recessions was generally rapid. As Rajan notes, “from trough of the recession the average time taken by the economy to recover to pre-recession output levels was less than two quarters, and the lost jobs were recovered within 8 months”.¹⁰ Hence, the effective implementation of the ML model during these three decades proved to be successful in protecting the public interest.

In the decades that followed the Great Depression, there was widespread recognition that under the ML model, the potent mix of New Deal and Keynesian economics could effectively and quickly mitigate economic downswings. This paradigm won a high degree of legitimacy. Such was the acceptance of the Keynesian activist economics that in 1965, *Time* Magazine quoted Milton Friedman as saying, “we are all Keynesians now”.¹¹ Milton Friedman’s 1970 paper titled *A Theoretical Framework for Monetary Analysis* was seen by many economists as very similar to the standard textbook Keynesian theory.¹² As we will see, however, this convergence around the New Deal and Keynesianism was short-lived.

Thanks to the revival of the Purist ideology in the 1980s and 1990s, the GSA was gradually dismantled and the FIRSTS were significantly eroded. This culminated with the repeal of the GSA in 1999, which effectively dismantled the safeguards put in place by the FIRSTS. Perhaps not surprisingly, the repeal of the GSA coincided with the creation of a massive financial bubble in the late 1990s, and the US was plunged into a recession shortly thereafter in 2001. Moreover, another, even deeper recession occurred just a few years later, with the bursting of the housing bubble in 2008. There is little doubt that the dismantling of the FIRSTS and GSA safeguards has indeed proven to have had grave and unprecedented global consequences.

From an economic governance point of view, the key question is: if FIRSTS had been effective in protecting the economy from instability,

then why were they weakened? For example, were it because the argument in favor of the Purist model had gained wide support purely on practical economic merit, like the argument for New Deal and FIRSTS in the 1930s, or were there other factors responsible for the dismantling of the FIRSTS? If so, what were the motives that triggered it? In short, the answer is that the trigger was twofold. First, in the post-WWII period, the rise of countries like Germany, Japan, etc. was challenging American manufacturing and by 1980s the US auto industry was in severe crisis. There was a strong view that the situation could be improved through Purist laissez-faire policies (i.e., aggressive expansion of the free market) and increased deregulation of the US economy as it would enhance competition, lower costs, and improve efficiency. The second trigger was the distrust of the government activism on social and religious grounds. It was this distrust that became a powerful movement and strengthened the forces in the political arena which ultimately led to the demolition of the FIRSTS. This is explained below.

A CLASH OF VALUES AND THE PURIST RESURRECTION: THE RISE OF THE RIGHT

The ML model and New Deal had a regulatory architecture that was not acceptable to the Purist market advocates right from the beginning. This architecture was opposed by big business, the financial industry, and Purist economists. “Banks began lobbying Congress as early as the 1960s to loosen the restrictions of Glass Steagall”.¹³ But the collective weight of this opposition to ML model in the American democracy was light—it lacked grassroots support in the country’s democratic system due to the fresh memories of the Great Depression in the minds of the masses. Thus, Purist ideology did not have strong backing in Congress and remained a minority view for nearly half a century since the election of President Roosevelt in 1932. The challenge for big business and Purist advocates was to make it a majority view among the masses at the grassroots level. They knew that if it became a majority view at the grassroots level, it would help more pro-Purist politicians get elected to Congress. Once that happened, it could gain strong support in Congress as well. The events of the 1960s, interpreted as a clash of values, were capitalized on by advocates of Purist ideology to rally mass support in favor of their agenda. Moreover, the lasting impact of the events of the

1960s would change this congressional balance of power in favor of Purist ideology.

First, some background. Since colonial times, slavery was prevalent in America—especially in Southern states. The Southern states even rebelled and engaged in a civil war (1861–1865) against the Union to preserve slavery. However, the South was defeated and Abraham Lincoln (a Republican) emancipated slaves in 1863, and Americans were proud of the abolition of slavery. Although slavery was abolished in the 1860s, a century later, in the 1960s—even after the defeat of the racist Nazi regime in World War II—there was still rampant racism against African-Americans in the US. Blacks were still not treated as equal citizens, and the Civil Rights movement was strongly resisted, especially in fresh water (i.e., inland) states in the South.

Finally, in 1964, President Lyndon Johnson (a Democrat) managed to get Civil Rights legislation passed. The Civil Rights legislation made the Democratic Party unpopular in the South. This was acknowledged by President Johnson, who said “we have lost the South for a generation”.¹⁴

Moreover, matters of church and state contributed to the acceleration of tensions between conservatives and liberals in the 1960s. In the early 1960s, the US Supreme Court abolished the school prayer, using the principle of separation of church and state. This practice was a matter of concern to other religious minorities, and debate over this issue had raged for a long time. In fact, since the eighteenth century, Bible reading and prayer were included in public schools.

The Supreme Court’s decision stunned the devout and the fundamentalists in the American Christendom. Around the same time, the federal government approved the commercial production of the birth control pill.¹⁵ Easy access to the pill created a sexual revolution in society and emboldened the women’s rights movements. Traditionally, women who performed the same job as men were paid less than men. In contrast, women’s rights movements were now demanding the government to enact laws guaranteeing equal pay for equal work. Many saw these developments as hitting the very roots of traditional morality, and this onslaught of liberal ideas led to widespread gloom among the religious right. They realized a clash of values was occurring—a clash in which they felt like an isolated minority in their own home country. Every one of them was struggling with a fundamental question: Am I right? Is the government wrong?

For many, this question was finally answered when, in 1973, the US Supreme Court legalized abortion. This ruling infuriated social conservatives and the religious right, and they concluded beyond doubt that they had always been right and the government had been wrong all along. Hence, the government could not be trusted. They felt that this was the moment for them to stand up and defend their values and religious liberties.

FORMATION OF A NEW COALITION BASED ON TRUST IN GOD, FAITH IN RELIGIOUS FUNDAMENTALISM, AND SUSPICION OF THE GOVERNMENT

This distrust of the government made millions of religious fundamentalists, social conservatives, and right-wing radicals around the nation uneasy. They now came to believe that any kind of government regulation or policy activism was a threat to their way of life and a challenge to their world view. Thus, distrust of the government became an article of fundamentalist faith across religions and denominations in the country. At the same time, the Republican Party's political strategists—who were committed to pro-business Purist model LI—were watching these developments with keen interest.¹⁶ It was a pivotal moment for them, as they had been championing the cause of Purist laissez-faire market ideology, but had been unsuccessful in generating popular support for this cause. Thus far, the LI had only been popular among groups that were pro-business, anti-New Deal, fiscally conservative, and opposed to economic regulation and activism of the government. But collectively, in the American democracy, these groups were a small minority. As a result, the LI advocates had remained on the sidelines due to a lack of mass support.

The Republican strategists realized that LI supporters and religious fundamentalists could be (ideologically) married because of their common distrust of government activism and regulation. These strategists believed that this union would widen the party's mass support, and increase its vote bank—and ultimately enable the party to win elections on a more far-right platform. This would enable the party to have greater influence on the US Congress and the White House, and eventually enact legislation to restore the dominance of Purist laissez-faire ideology in the country's economic governance. A critical stumbling block was that religious fundamentalists were not united—nor did they have

any coordination among them. Indeed, they were scattered and divided due to differences in religion or beliefs. For example, within the religious right, there was little cooperation across religious lines, such as between Catholics, Jews, Protestants, Mormons, Baptists, Evangelicals, etc.

To address these problems, Republican strategists took up the mission of creating a coalition of fundamentalists across faith and belief lines. They set out to convince frustrated fundamentalists to participate in politics on a common Republican platform. The argument was that political success from this platform would empower them to stop or even reverse the government activism that was threatening their values-based way of life and vision of America. Thus, the philosophy of Fundamentalist Empowerment (FE) through united political action was developed. In other words, the Purist pro-business LI philosophy was married with the FE philosophy, resulting in the politics of LIFE. To realize these goals, Republican strategists reached out to leading fundamentalist and evangelical figures including Reverend Jerry Falwell, Billy Graham, and others. These efforts resulted in the *Moral Majority* movement which united religious fundamentalists of diverse faiths and shades.¹⁷ As predicted, the united fundamentalists became an integral part of the Republican Party, where pro-business LI forces were their natural allies, bound by a common mission. With a support base now expanding beyond Wall Street and encompassing religious fundamentalists around the nation, the LIFE coalition had both mass ballot box political muscle and enormous dollar power. The injection of this new-found elixir rejuvenated the Republican Party—and the Purist model was born again.

The so-called ‘freshwater states’ (i.e., mainly inland states of the South) were the bastion of the rise of religious fundamentalism. Their values clashed with the liberal values of ‘saltwater states’ (i.e., mainly coastal states), which celebrated the Civil Rights movement, supported women’s rights, and recognized the abolition of school prayer as part of the separation of church and state. It is thus no coincidence that macroeconomics also got divided into two major factions: freshwater economists (mainly at inland universities) advocating Purist ideology and saltwater economists (mainly at coastal universities) advocating Keynesian activism.¹⁸ This ideological debate became so polarized that, “in 2005 the right-wing magazine *Human Events* listed Keynes’s *General Theory* among the ten most harmful books of the nineteenth and twentieth centuries, right up there with the *Mein Kampf* and *Das Kapital*.”¹⁹ The freshwater economists refined the Purist model of the economy and

advocated lower taxes, government spending cuts, as well as the elimination of government intervention and regulation. Meanwhile, advocates of Keynesian activist economics had natural allies in the social liberals of the saltwater states.

IBN KHALDUN, LAFFER CURVE, AND REAGANOMICS

By the 1970s, the Moral Majority movement had successfully merged religious fundamentalists into the Republican Party and given birth to LIFE politics. In the 1980 Presidential election, Ronald Reagan (Republican) won against the incumbent President Jimmy Carter (Democrat). At that time the US economy was suffering from high unemployment and high inflation. Reagan was influenced by the economist Arthur Laffer's advocacy of the need for tax cuts in the US economy. Laffer was inspired by the fourteenth century Arab thinker Ibn Khaldun, who in his *Muqaddimah*, had argued that after reaching a certain maximum a further increase in taxes would generate lower revenue because of its negative impact on the motivation of business and labor. In such circumstances, a decrease in taxes would increase total revenue because of its positive impact.²⁰ Laffer had given this idea a graphic form that became to be known as the Laffer curve and is at the center of supply side economics. In fact, Reagan campaigned on a platform explicitly advocating trimming the size of the government by tax and spending cuts, deregulation, commitment to balancing the budget, greater reliance on the pro-business Purist model, and support for family values. This platform generated enthusiastic support from religious fundamentalists in the LIFE politics coalition and Reagan won the election.

The pro-LI Purist component of the LIFE alliance pressed for tax and spending cuts, as lower taxes favored big business and the rich. Meanwhile, the religious fundamentalist (FE) component of LIFE alliance wanted tax and spending cuts for their own religio-cultural concerns. For example, they were concerned that the government would spend their tax dollars to fund birth control or other causes which they opposed. Reagan implemented tax cuts and deregulation policies and the US economy not only recovered but enjoyed high growth and employment. These achievements popularly came to be labeled as Reaganomics. In fact, although Reagan had promised a balanced budget, under his administration, the US accumulated a huge budget deficit due to increased government spending. Thus, he only partially implemented

his agenda, although he did reduce taxes and deregulated various sectors of the economy. In addition to tax cuts, he demonstrated his support for big business through his administration's strong resolve to weaken labor unions. He took numerous measures to appease religious fundamentalists, including the establishment of full diplomatic ties with the Vatican in 1984.

With the widening fundamentalist power base, increasing ideological zeal, and aggressive role of the LIFE coalition in the South, Republican Party moderates found their ground roots support waning. Over time, increasing numbers of far-right Republicans were elected to the Congress. This transformation of the party bore fruits. In 1987, President Reagan appointed Alan Greenspan as the Chairman of the Federal Reserve. Mr. Greenspan calls himself "...a lifelong libertarian Republican".²¹

SMALL GOVERNMENT CONGRESS, DEREGULATION, AND THE DEMOLITION OF THE FIRSTS

The appointment of Mr. Greenspan as Chairman of the Federal Reserve was a clear signal that the Purist model had been revived, and that the banking industry would witness deregulation in the years to come. The tenure of Mr. Greenspan as Chairman of the Fed from 1987 to 2006 is (so far) the second longest in history. He served four US Presidents (Reagan, Bush Senior, Clinton, and Bush Jr.). It is pertinent to note at this stage that the mission of the Fed is to ensure economic stability and growth (i.e., public interest) via monetary policy and financial stability through the active supervision, monitoring, and regulation of the banking and financial system. At the same time, through their national network of places of worship, televangelist ministries, and family values-based organizations, fundamentalists were actively mobilizing public opinion in favor of the *Politics of Small Government*. Under the small government model, politicians are committed to cutting taxes, reducing government spending, expanding deregulation, and curtailing government intervention in the economy and in social and cultural spheres while at the same time aggressively expanding the Purist agenda.

LIFE politics delivered the goods when, in the elections of the 104th Congress (1995–1997), the Republican Party achieved a majority in both chambers of Congress during the Presidency of Bill Clinton (Democrat). It was the first time in four decades that Republicans had

gained full control of the entire US Congress. Thus, it was not a surprise that this Congress was committed to small government. Led by the libertarian Mr. Greenspan, the Fed felt emboldened by these Republican electoral victories. It seized the moment and took a daring step toward deregulation of the financial sector by issuing a ruling in 1996 which reinterpreted the GSA. As Sherman notes, this ruling allowed, "... bank holding companies to own investment banking operations that accounted for as much as 25% of their revenues. The decision rendered Glass Steagall effectively obsolete, since virtually any institution would be able to stay within the 25% level".²² After a 60-year ban under the FIRSTS of the New Deal, this 1996 ruling allowed commercial banks to enter investment banking again.

These developments were not merely a reversal of the New Deal. In fact, it reshaped the US financial sector and was a statement that the Fed leadership was leading the US banking system to return to a Purist framework—similar to the one that existed in the pre-Great Depression era. Thanks to LIFE politics over the 12-year period from 1995 to 2007, the Republicans continued to enjoy full control of the entire US Congress by maintaining a majority in both chambers. This consistent show of ballot box power in favor of small government advocates eventually led to the complete demolition of the GSA. This was achieved in 1999, when Congress passed the Gramm-Leach-Bliley Act (GLBA). This Act is also called the Financial Services Modernization Act of 1999.

While discussing GLBA, Sherman comments, "The Act repealed all restrictions against the combination of banking, securities and insurance operations for financial institutions. The deregulation was a boon for national commercial banks, allowing for the formation of 'mega banks'. Indeed, the GLB Act was the crowning achievement of decades and millions of dollars worth of lobbying efforts on behalf of the finance industry. The repeal of Glass Steagall was a monumental piece of deregulation, but in many ways it ratified the status quo of the time".²³ Celebrating the passing of the GLBA, a jubilant Greenspan wrote that historians would view it, "...as a milestone of business legislation and I'll always remember it as an unsung moment of policy making for which there ought to be a little song".²⁴ Shortly thereafter, in 2000 Congress passed the Commodity Futures Modernization Act (CFMA) with the Clinton Administration on board. The CFMA "...prevented the Commodity Futures Trading Commission from regulating most over-the-counter derivative contracts, including credit default swaps".²⁵ The banning of

over-the-counter regulation proved to be, "... a key turning point in the march toward the financial crisis".²⁶

The status quo of the time was dominated by adherents to the *Politics of Small Government* model, who were actualizing the Purist economy. To them, this was the ideal system of economic governance in the American democracy—one in which every person as a citizen has the right to participate and influence the democratic process to push his or her agenda. Under this model, corporations are treated as persons. Thus, US corporations are allowed to influence the democratic process in the same ways as individual citizens. Short of voting or running for public office, businesses and corporations are afforded the same rights and privileges as citizens, and businesses can lobby politicians and government agencies. It is perfectly legal for them to contribute funds to election campaigns and causes championed by politicians (subject to certain legal guidelines). Hence they spend hundreds of millions of dollars every year lobbying politicians—more so during Congressional and Presidential elections.²⁷

The GLBA of 1999 effectively lifted all restrictions on the integration of commercial and investment banking. However, the investment banks found the SEC's regulations and monitoring onerous. In 2004, when Republicans controlled both the chambers of the US Congress and the White House (under the G.W. Bush administration), the banking industry succeeded in convincing the SEC to introduce a system of 'Voluntary Regulation'.²⁸

Under this system, the requirements for investment banks to hold capital in reserve were substantially reduced. This meant that banks could increase leverage and take more risk with less reserve capital. In essence, the SEC was convinced by investment bank lobbyists that the investment banks would regulate themselves to ensure that they did not take excessive risk. This retreat of the SEC from its duty as a watchdog and its immediate replacement by financial institutions' voluntary self-regulation was a perfect example of the government's trust in the rationality of economic agents and its faith in the Purist economy. As a result of this deregulation, by 2007, "...the five major investment banks—Bear Stearns, Goldman Sachs, Lehman Brothers, Merrill Lynch, and Morgan Stanley—were operating with extraordinarily thin capital. By one measure, their leverage ratios were as high as 40 to 1, meaning for every \$40 in assets, there was only \$1 in capital to cover losses. Less than a 3% drop in asset values could wipe out a firm. To make matters worse, much of

their borrowing was short-term, in the overnight market—meaning the borrowing had to be renewed each and every day”.²⁹ The government’s reliance on the voluntary self-regulation of the financial institutions was also in line with the libertarian philosophy of Mr. Greenspan who argued that, “it is critically important to recognize that no market is ever truly unregulated...The self-interest of market participants generates private market regulation”.³⁰

Once the SEC surrendered its mission to the market participants, the de facto outcome was massive and blanket deregulation of the US financial sector. This was celebrated by Mr. Greenspan as making the financial system more efficient and resilient than the one that existed a quarter century ago.³¹

The supporters of private business and advocates of the small government philosophy believe that deregulation and the establishment of Purist laissez-faire markets are necessary. In addition, they believe that it is equally important to curtail the ability of the government to spend.

An effective way to constrain the government is to lower taxes and cut spending. The unwritten commandment behind this strategy is that if there are budget surpluses, the government should not be allowed to utilize them for public sector agenda items. Instead, any budget surpluses should be refunded back to the taxpayers. This is imperative because if the surpluses remain with the government, then the government would spend them, thereby defeating the goal of reducing government activism and spending. As mentioned earlier, after more than a quarter of a century of continuous annual budget deficits, the United States achieved its first budget surplus in 1998 under President Clinton, a Democrat. The Clinton Administration, by working closely with the Congress, was able to maintain annual budget surpluses consistently for 4 years (1998–2001).

The total accumulated surplus for these 4 years amounted to \$559 billion.

There was considerable debate on how to use this accumulated surplus. Many decades of budget deficits had accumulated a national debt of \$3.7 trillion and the Clinton administration wanted to use bulk of the surplus to pay down the debt.³² In 1999, the Republican-dominated Congress proposed tax cuts of nearly \$800 billion dollars over the next 10 years.³³ This ambitious tax cut proposal was based on the projections by the Congressional Budget Office (CBO) that over the next 10 years the US would accumulate a budget surplus of \$5.6 trillion.³⁴ The irony

was that though the ‘R’ word (i.e., recession) was being commonly used for the state of the US economy at the time, the budget surplus projection of \$5.6 trillion was still based on the growth model of the dot-com boom³⁵ (Greenspan 2007, p. 380–382). As this debate was taking place, the Monica Lewinsky scandal took President Clinton by storm. The Clinton White House was both weakened and distracted by this scandal. Thus, the debate remained unresolved.

The Supreme Court verdict on the controversial Presidential election of 2000 brought President G.W. Bush (a Republican) into the White House. Besides gaining the White House, the Republicans were also able to maintain their control of both chambers of Congress in this election.³⁶ President Bush had run on a platform to cut taxes. He was inaugurated into the office in January 2001 and on June 7 of that year he signed \$1.35 trillion tax cuts into law. According to Mr. Greenspan this was “...record time for a major budget initiative”³⁷ (Greenspan 2007, p. 399). Not only was the Clinton Administration’s position of using part of the existing surplus to pay down the national debt forgotten, but starting 2002 the annual budgets began piling up deficits again. The persistence of deficits in an economy ensures that the ability of the government to spend would continue to weaken.

REALIZATION OF THE IDEAL OF SMALL GOVERNMENT AND ITS AFTERMATH

The well-organized efforts of the small government-focused Congress, religious fundamentalists, big business, the finance industry lobby, the radical right, and freshwater economists reversed the New Deal regulatory infrastructure of the financial sector. This successfully actualized the ideal of the Purist paradigm. Sherman points out that “In a completely deregulated market, derivatives trading expanded quickly, increasing from a total outstanding nominal value of \$106 trillion in 2001, to a value of \$531 trillion in 2008”.³⁸ One of the chief objectives of financial regulation was to ensure the protection of the public interest by preventing excessive risk-taking in financial asset creation. This was done by implementing the New Deal-based ML model of economic governance. Once the regulations were abolished, it was left to the rational behavior of the individual economic agents to pursue their respective self-interests in such a way that the greater good of the society, including

macroeconomic and financial stability, full employment, and growth were also protected.

Most of the legal framework (i.e., the FIRSTS) to regulate the financial sector had been demolished in the 1990s. Since 2004, the SEC had also relaxed restrictions on the investment banks by allowing them to voluntarily regulate themselves. Thus, the LI under the Purist framework was in full swing. Under this model, the greater good of the society was supposedly fully secure, since the self-interests of the economic agents were assumed to be in harmony with the public interest.

In reality, however, there may be situations when there is a clash between the micro-level interests of economic agents and the macro-level interests of society. The motivation of economic agents to maximize micro-level interests became infinitely high because of the incredible short-term reward structure in the financial sector. As Rajan notes, “in 2007 the hedge fund manager John Paulson earned \$3.7 billion, about 74,000 times the median household income in the United States”.³⁹ Short-term reward structures and incentives often dwarf considerations of the long-term consequences of one’s actions. In the absence of a robust regulatory infrastructure, the short-term maximization of profits was the driver of the poor quality subprime mortgage loans made by the banks. The same forces were at work in the creation of trillions of dollars of derivatives and their aggressive marketing, which was aided by the short-term perspective of the rating agencies who rated these derivatives over-optimistically. Once interest rates were eventually raised and borrowers found themselves unable to pay their mortgage installments, the self-destructive forces of Purist *laissez-faire* capitalism demonstrated their power beyond doubt by wrecking the global financial system within a relatively short period of time.

GOVERNANCE IN A PURIST ECONOMY: FOR WHOM, AND BY WHOM?

While the 2008 financial crisis can be studied from a variety of perspectives, this paper focuses on the perspective of economic governance in the context of political economy. Indeed, it is the politics, corporate culture, institutional framework, and rules and regulations of the governance of the economy as a whole that determines the nature of corporate governance in an economy. It is worth noting that corporate governance

is only a subset of the overall governance of the economy as a whole. This is exactly what happened in the case of the US starting in the 1980s when the LIFE politics dominated the US political scene. This politics translated the Purist laissez-faire philosophy into legislation and policies that determined the level of institutional vigilance and accountability in the entire economy. The dominance of Purist philosophy and its execution through LIFE politics was taken as a signal by the finance industry that it was “tone at the top”⁴⁰ that mattered. The rationality of the players in the finance industry told them that actions at the top speak louder than the golden words written in the corporate governance manuals.

From a corporate governance perspective, it is true that corporate boards of directors had their mission and vision, and corporate executives were trained to perform their duties professionally with a sense of corporate social responsibility and a consciousness of accountability. However, in this case, few adhered to the principles of corporate social responsibility (and ethics of corporate governance) that they were required to uphold and follow. This happened because legislation had either lifted or weakened safeguards and withdrawn institutional monitoring built into the system by the New Deal to protect the public interest. This irony is acknowledged by the Economics Nobel Laureates George Akerlof and Robert Shiller when they wrote, “The old story about capitalism is correct: it gives us what we think we want. But capitalism does not act as its own policeman if we fail to watch over it and give it proper direction. It actively, competitively, seeks the most profit-maximizing opportunities. Capitalism will follow such opportunities wherever they lead us”.⁴¹ In light of the above discussion, we can now identify the following universal issues that have serious implications for corporate governance:

- (i) A system of governance where funds from corporate entities and financial institutions can exert enormous influence on legislation and political leaders has the potential to be abused by big business. Such a system can lead to breaches of ethical principles and good corporate governance practices. In other words, corporate governance is subservient to the system of political governance of the country. If big money from big business can systematically influence Big Brother (i.e., the legislative and executive branches of the government), then the private sector would not hesitate to violate the rules of corporate governance and business ethics to maximize its profits.⁴²

- (ii) A lack of sense of personal responsibility and accountability. The financial sector operates in a highly skewed manner. When financial institutions earn high profits, there are huge rewards for individuals making those decisions. But when wrong decisions are made, the individuals who made those decisions are often not held responsible. The pain and sacrifice is instead often borne by shareholders, lower level employees, and society at large.⁴³
- (iii) A lack of professionalism by the rating agencies. In theory, rating agencies should provide unbiased, credible assessments of the risk and value of financial securities. As the financial crisis revealed, however, the rating agencies were often highly biased in their opinions, and issued overly optimistic judgments of security values which aided in maximizing their profits.
- (iv) Opponents of government activism also know that they may not always have the political clout to force Congress to cut taxes and government spending. Hence, they endeavor to establish a system of economic governance on the basis of the Purist model so that the government activism will be permanently disabled.

FINDINGS AND CONCLUSIONS OF THE FINANCIAL CRISIS INQUIRY COMMISSION (FCIC) REPORT (2011)

The US federal government appointed a 10-member Financial Crisis Inquiry Commission (FCIC) to investigate the causes of the 2008 financial crisis. They reviewed millions of pages of documents and interviewed more than 700 witnesses. The commission produced a comprehensive report consisting of more than 500 pages. Some highlights of the report's major findings and conclusions are as follows⁴⁴:

- (i) This financial crisis was avoidable: It was caused by human action and inaction. Neither Mother Nature nor computer models were responsible for it. It would be a great tragedy to believe that nobody could have seen it coming and hence nothing could be done. If this argument is accepted, the tragedy would repeat itself.⁴⁵
- (ii) Widespread failures in financial regulation and supervision proved devastating to the stability of the nation's financial markets.⁴⁶
- (iii) The use of dollar power by the financial industry: The report says that if the regulators felt they lacked authority, they could have

sought it, but they lacked political will to do so. The inquiry found that the financial industry had used its wealth and power to bend the system in its favor. The report states that during 1999–2008, the financial industry spent \$2.7 billion in reported federal lobbying expenses and more than one billion dollars in campaign contributions.⁴⁷

- (iv) The claim that under Purist laissez-faire market system rational decisions by economic agents to promote their self-interest will always be in harmony with the public interest was proven untrue. Though it was harmful to the public interest, yet too many institutions took too much fatal risk with too little capital while depending on overwhelming short-term funding.⁴⁸
- (v) Failures of corporate governance and risk management including reward for short-term gain without proper consideration of long-term consequences were a key cause of this crisis.
- (vi) According to the report, the ‘avoidable’ disaster resulted from widespread failures in government regulation, corporate mismanagement, and reckless risk-taking by Wall Street (including shoddy mortgage lending and the excessive sales of risky securities to investors).
- (vii) Numerous financial institutions including rating agencies demonstrated greed, ineptitude, social irresponsibility, and a lack of professionalism all of which contributed to the crisis. “This crisis could not have happened without rating agencies”.⁴⁹
- (viii) The report concluded that a combination of excessive borrowing, risky investments, and lack of transparency set the system on the course of crisis. The report identified that the main policy making institutions: the Treasury Department, the Federal Reserve Board, and the Federal Reserve of New York which were best positioned to monitor the markets were ill prepared for the crisis as “They thought risk had been diversified when, in fact, it had been concentrated”.⁵⁰
- (ix) The report identified a systematic breakdown in accountability and ethics, and erosion of standards of responsibility and ethics as factors that further aggravated the crisis.
- (x) The report found that collapsing mortgage-lending standards, mortgage securitization, and over-the-counter derivatives ignited and spread the contagion and crisis.

- (xi) The report found that the SEC, “failed to require big banks to hold more capital to cushion potential losses and halt risky practices...”.⁵¹ As such, there was a shadow banking system with heavy reliance on short-term debt deliberately hidden through off-balance sheet entities and an overall lack of transparency.
- (xii) The report concluded that the Federal Reserve “neglected its mission”.⁵²
- (xiii) Mr. Greenspan was criticized for his negligence in checking the flow of toxic mortgages. The report was also critical of Mr. Greenspan’s advocacy of deregulation.
- (xiv) The report acknowledged that once the crisis broke out and the economy was destabilized, there were many who worked hard to stabilize the US economy and the financial system, among them the report identified the following by name: Secretary Paulson, Chairman Bernanke, and Timothy Geithner who later served as Treasury Secretary.
- (xv) The decision in 2000 to shield the over-the-counter derivatives from federal and state regulation was criticized. The report called it “a key turning point in the march toward financial crisis”.⁵³

CONCLUSION

A scientific investigation deals with questions like: What? When? How? Why? When it comes to the financial crisis of 2008, there is plenty of literature available on what happened, why it happened, and when it happened. Economists and experts in finance have contributed invaluable studies on how it happened. As far as the timing of when it happened, everybody knows that it happened in 2007–2008. However, it would be prudent to keep our focus on the following two central issues:

- (i) Why did it happen in 2007–2008, and not before?
- (ii) Studies in economics, finance, or corporate governance, when analyzing the crisis, use the factors from those disciplines only. The studies in these or similar disciplines give excellent analyses from their respective perspectives. However, they fall short of explaining the *greater reality* behind principles of economics, finance, or corporate governance that led to the crisis. The basic

scientific fact is that our failure to identify and understand that *greater reality* would inhibit our ability to take the measures that would be effective in successfully preventing the repeat of such disasters in the future. Consequently, our response to such crises could be any of the following (or a mix thereof):

- a. The crisis could not have been seen by anyone and was thus unavoidable.⁵⁴
- b. The crisis was caused by human greed which is innate to humans and therefore unavoidable.

Any understanding of the crisis along the lines (a) and (b) above, would keep the doors wide open for a repeat of these events, because it fails to identify and recognize the *greater reality* behind the forces of economics, finance, and corporate governance that was the major cause of this crisis. In fact, an effective system of economic governance enshrines checks and balances on human greed while simultaneously maintaining an efficient market mechanism. The report identifies, in no uncertain terms, those *responsible (i.e., public leaders, professionals and technocrats entrusted to run regulatory agencies, chief executives of companies with positions of significant responsibility and obligation)* for failing to account for human weakness.⁵⁵

The above conclusion of the report places a special burden of responsibility on public leaders. In a democratic system ‘public leaders’ are elected members of the government. The Inquiry Report specifically acknowledges the role and influence of the dollar power of the Wall Street on the elected politicians in removing the legal safeguards that had been protecting the greater good of the society for decades. In this regard, the Inquiry Report says:

More than 30 years of deregulation and reliance on self-regulation by financial institutions, championed by former Federal Reserve chairman Alan Greenspan and others, supported by successive administrations and congresses, and actively pushed by the powerful financial industry at every turn, had stripped away key safeguards, which could have helped avoid catastrophe.⁵⁶

While studies of the 2008 financial crisis in the domains of economics, finance, and corporate governance are essential, a key problem arises when advocates of good economics and good finance assume

the existence of good and responsible politics. If this assumption were true, the Inquiry Report would not have placed special responsibility of the crisis on public leaders and officials entrusted to run the regulatory agencies.⁵⁷ Thus, if the root causes of the crisis are to be eradicated, it is imperative that our understanding and analyses should take into account the overall dynamics of the link between the power of big money and politics (*Polifinance*). This point is underscored by Rajan as follows:

We also have to recognize that good economics cannot be divorced from good politics: this is perhaps a reason why the field of economics was known as political economy. The mistake economists made was to believe that once countries had developed a steel frame of institutions, political influences would be tempered: countries would graduate permanently from developing-country status. We should now recognize that institutions such as regulators have influence only so long as politics is reasonably well balanced.⁵⁸

It is for these reasons that this study addresses the causes of the 2008 financial crisis within a wider framework. This approach enables us to see the roots of the problem. It should be noted that this study in no way claims to be exhaustive. The spirit of this study is to widen the scope of analysis to capture the political economy dynamics of society (i.e., *the greater reality*) that brought the American economy to near-collapse. This approach allows us to identify a number of important factors that played a key role in setting in motion the forces that systematically brought down a system of checks and balances that had been put in place on the basis of lessons learned from the Great Depression of the 1930s.

Unfortunately, conventional wisdom today suggests that the crisis happened because of free market forces and human greed. The argument goes that since markets should be kept free and since greed is part of human nature, such events are inevitable. It is true that greed was a factor and will remain a factor as long as humans are humans. But to say that nothing can be done about it is overly simplistic. The combination of Purist market philosophy and human greed caused the Great Depression of the 1930s. But the lessons learned from that crisis had led to the creation of architecture of regulation and supervision of financial markets within the framework of the ML model. This regulation and supervision kept the markets stable for more than three decades (1960–1991) despite natural fluctuations. But, as discussed above,

most of these regulations were repealed in the 1990s, and the ban on over-the-counter derivatives was removed in 2004. Given the dismantling of the regulatory architecture that had kept markets effective while keeping greed in check, one must admit that what happened next was only natural. To underscore this dimension of economic governance, the study attempts to address relevant questions such as: When and why were these restrictions created in the first place? Why were they removed? What was the process by which they were removed? What justification was given for their removal? Who were the immediate and ultimate economic beneficiaries of their removal? Who were the immediate and ultimate victims of their removal?

Besides the belief that humans by nature are greedy, there is also the belief that humans are rational beings. However, some take the assumption of rationality too far and argue that the rational pursuit of self-interest by individual market participants is always in harmony with the public interest. Advocates of this position argue that any governmental regulations or restrictions on Purist laissez-faire markets harm human creativity, innovation, and motivation, thereby causing inefficiency and suboptimal outcomes. Hence, politicians and regulators who believed in the Purist laissez-faire ideology as the most efficient way to realize the potential of capitalism ensured that regulations were lifted. The fall of socialism in 1989 had further deepened their faith in Purist capitalism. They were now committed to ensure the full and speedy implementation of the Purist model on the American financial sector. The Financial Inquiry commission report found that in some ways the Federal Reserve also apparently took a similar path.⁵⁹

Thus many leaders and regulators were more committed, knowingly or unknowingly, to implementing their ideology of Purist laissez-faire markets than to fulfilling their mission of protecting the public interest. Naturally, the dollar power of Wall Street lobbyists and the push from the radical right and religious fundamentalist groups for anti-regulation policies also rolled the legislative and executive branches of the government down the slippery slope of deregulation and cutting the size of government. They were all sincere in their intentions for the good of the business sector, the economy, and the society as a whole but unfortunately they overlooked the unintended consequences of deregulation and the weakening of the regulatory framework. This opened the floodgates of unintended abuse. This created a new structure in which, according to the Inquiry Report, “We had a twenty-first century financial system

with nineteenth century safeguards”.⁶⁰ Even today, the situation remains grave, as the American financial sector “...is now more concentrated than ever in the hands of a few large, systemically significant institutions”.⁶¹ Indeed, markets are still largely deregulated. If effective regulatory and supervisory measures are not adopted, the next crisis could be colossal on a global scale and may severely undermine the world’s trust in the US economy.

Hence, there is a dire need to restore, adopt, and implement socially responsible regulations and supervision of the US financial sector to ensure economic stability and protection of long-term interests of society. As the twenty-first century progresses, the US would face even more severe challenges in the global economy due to the increasing multi-sectoral competition from the rise of new economic powerhouses starting with BRICS countries. The challenge before policymakers is to maintain a fine balance between Purist market efficiency and responsible monitoring and regulation to ensure the protection of the public interest (i.e., stability of the financial system and the economy, etc.). In the twentieth century, socialism was condemned because it suppressed human nature and caused inefficiency. This criticism was valid, and that is why it fell. Both capitalism and democracy were applauded for their potential of making the best of human rationality, creativity, innovation, and entrepreneurship through the market mechanism working in parallel with liberal democracy. Humans are the best of all creations (Qur’an, 95: 4). They are created in the image of God (Hebrew Bible, Genesis 1: 27). At the same time, humans have wild and selfish instincts too, which sometimes clash with the greater good of society. Failures to create a system of economic governance to discipline, monitor, and check these instincts can harm the entire society. For millennia, the world’s great religions and moral philosophers have recognized the need for this discipline both at the individual and societal levels.⁶² In response to the 2007–2008 financial crisis, the US Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act, which became law with the signature of President Obama in 2010. The Dodd-Frank Act establishes new sets of regulations to ensure the stability of the financial system. But its critics say it does not go far enough. In a recent article, Mr. Gordon Brown, former British Prime Minister (and Chancellor of the Exchequer) warned the world of the next global crash in the absence of new regulations.⁶³ In order to ensure effective regulation of financial markets, Senator Bernie Sanders, the Democratic hopeful for the 2016 US Presidential election,

promises to separate investment banking from commercial banking if elected to the White House.⁶⁴ At this juncture, it is pertinent to remind ourselves of the advice—and warning—of the Inquiry Report, “this is our collective responsibility. It falls to us to make different choices if we want different results”.⁶⁵ Thus, in the final analysis, it boils down to the choices we make as a society. We conclude with the following two pieces of advice on the issue of making choices. The first is from the authors of the Inquiry Report, who warn that “*if we do not learn from history, we are unlikely to fully recover from it*”.⁶⁶ The second is from the Qur’an, which says: “*Verily never will God change the condition of a people until they change it themselves (with their own souls)*” (Qur’an, 13: 11).

NOTES

1. Ibrahim M. Zein, Abdullah Al-Ahsan, and Muhammad Arif Zakaullah, “Qur’anic Guidance on Good Governance,” in *Guidance for Good Governance: Explorations in Qur’anic, Scientific and Cross-Cultural Approaches*, ed. Abdullah Al-Ahsan and Stephen Young (Kuala Lumpur: International Islamic University Malaysia and Caux Round Table, 2008), 13.
2. Stephen Young, *Moral Capitalism: Reconciling Private Interest with the Public Good* (San Fransisco: Berrett-Koehler Publishers, 2003).
3. The federal budget surplus figures quoted here are from “Table 1.1 Summary of Receipts, Outlays and Surpluses or Deficits (Total) 1789–2018,” *Office of Management and Budget (White House)*, accessed on February 8, 2014, www.whitehouse.gov/omb/budget/historical.
4. The term ‘bubble’ is a generic term referring to the increases in asset prices during periods of economic euphoria in the business cycle. These prices cannot be explained in terms of the economic ‘fundamentals’. See: Charles P. Kindleberger and Robert Aliber, *Manias, Panics, and Crashes: A History of Financial Crises* (New Jersey: John Wiley & Sons, 2005).
5. George A. Akerlof and Robert J. Shiller, *Animal Spirits: How Human Psychology Drives the Economy, and Why It Matters for Global Capitalism* (Princeton: Princeton University Press, 2009), 36.
6. *Ibid.*, 37.
7. Carmen M. Reinhart and Kenneth S. Rogoff, *This Time is Different: Eight Centuries of Financial Folly* (Princeton: Princeton University Press, 2009), 207.
8. Kindleberger and Aliber, *Manias, Panics, and Crashes*, 118.
9. Stagflation is a situation when unemployment and inflation rise at the same time.

10. Raghuram G. Rajan, *Fault lines: How Hidden Fractures Still Threaten the World Economy* (Princeton: Princeton University Press, 2010), 14.
11. Paul Krugman, *End This Depression Now!* (New York: WW Norton & Company, 2012), 101.
12. Ibid.
13. Mathew Sherman, *A Short History of Financial Deregulation in the United States* (Washington D.C.: Center for Economic and Policy Research (CEPR), 2009), 9.
14. Alan Greenspan, *The Age of Turbulence: Adventures in a New World* (New York: The Penguin Press, 2007), 246.
15. The approval was given in 1960 by the Food and Drug Administration (FDA), an agency of the Federal Government of the United States.
16. These strategists themselves were from different faiths and denominations. For example: Howard Phillips is Jewish, Phyllis Schlafly is conservative Catholic. See: William Martin, *With God on Our Side: The Rise of the Religious Right in America* (Oregon: Broadway Books, 1997). Weyrich is Jewish, Robert Billings and Tim LaHaye are Fundamentalist Baptists. See: Steve Bruce, *Rise and Fall of the New Christian Right: Conservative Protestant Politics in America* (New York: Oxford University Press, 1988). McAteer is Fundamentalist Baptist from the Bellevue Baptist Church, Tennessee. See: Tom Hamburger and Jim Vandehei, "Chosen People: How Israel Became a Favorite Cause of Christian Right," *Wall Street Journal*, May 23, 2002, accessed September 20, 2016, <http://www.wsj.com/articles/SB102211454629041640>.
17. Martin, *With God on Our Side*.
18. Krugman, *End This Depression Now!*
19. Ibid., 94.
20. Roy D. Adams, "Tax Rates and Tax Collections: The Basic Analytics of Khaldun-Laffer Curves," *Public Finance Quarterly* 9, no. 4 (1981): 415–430 and Arther Laffer, "The Laffer Curve: Past, Present and Future," *Heritage.org*, accessed September 20, 2016, www.heritage.org/research/reports/2004/06/the-laffer-curve-past-present-and-future.
21. Greenspan, *The Age of Turbulence*, 208. Like any other ideological community, the libertarians are not unanimous in defining their ideology. Though Libertarianism does have some main features, differences among its adherents arise due to the differences in the relative importance attached to these features by each group.
22. Sherman, *Financial Deregulation in the United States*, 9.
23. Ibid., 10
24. Greenspan, *The Age of Turbulence*, 199.
25. Sherman, *Financial Deregulation in the United States*, 2.

26. The Financial Crisis Inquiry Commission, *The Financial Crisis Inquiry Report: Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States* (Washington: Govt. Publishing Office, 2011), xxiv.
27. Jane Mayer, *Dark Money: The Hidden History of the Billionaires behind the Rise of the Radical Right* (New York: Doubleday, 2016).
28. Sherman, *Financial Deregulation in the United States*, 2.
29. *The Financial Crisis Inquiry Report*, xix.
30. *The Financial Crisis Inquiry Report*, 474.
31. Krugman, *End This Depression Now!*, 54.
32. Greenspan, *The Age of Turbulence*, 185.
33. *Ibid.*, 186–190.
34. *Ibid.*, 213–218.
35. *Ibid.*, 213–215.
36. Out of the total 435 seats of the House, the Republicans captured 221 and Democrats got 212, while there were two independents. The 100 seats of the Senate were equally divided (50/50) between the two parties, but since the Vice President of the U.S. is the Chairman of the Senate and has a tie-breaking vote, the Republicans had a de facto working majority of 51 votes in the Senate as well.
37. Greenspan, *The Age of Turbulence*, 223.
38. Sherman, *Financial Deregulation in the United States*, 11.
39. Rajan, *Fault lines*, 8.
40. *The Financial Crisis Inquiry Report*, xxiii.
41. Akerlof and Shiller, *Animal Spirits*, xi.
42. See: (1) Editorial, “The Cash Committee,” *The New York Times*, August 17, 2013, accessed September 20, 2016, http://www.nytimes.com/2013/08/18/opinion/sunday/the-cash-committee.html?_r=0 and (2) Thomas B. Edsall, “The Political-Monetary Complex,” *The New York Times*, October 15, 2013, accessed September 20, 2016, <http://www.nytimes.com/2013/10/16/opinion/edsall-the-political-monetary-complex.html>.
43. Jed. S. Rakoff, “The Financial Crisis: Why Have No High-Level Executives Been Prosecuted?” *The New York Review of Books* 61, no. 1, 2014.
44. *The Financial Crisis Inquiry Report*, xv–xxviii.
45. *Ibid.*, xvii
46. *Ibid.*, xviii
47. *Ibid.*
48. *Ibid.*, xviii–xix.
49. *Ibid.*, xxv.
50. *Ibid.*, xxi.

51. Ibid., xviii.
52. Sewell Chan, "Financial Crisis was Avoidable, Inquiry Finds," *The New York Times*, January 25, 2011, accessed September 20, 2016, <http://www.nytimes.com/2011/01/26/business/economy/26inquiry.html>.
53. Ibid.
54. Ibid.
55. *The Financial Crisis Inquiry Report*, xxiii.
56. Ibid., xviii.
57. Ibid., xxiii.
58. Rajan, *Fault lines*, 19.
59. *The Financial Crisis Inquiry Report*, xxiii.
60. Ibid., xx.
61. Ibid., xxvii.
62. See, Ibrahim M. Zein, Abdullah Al-Ahsan, and Muhammad Arif Zakaullah, 39–63.
63. Gordon Brown, "Stumbling Toward the Next Crash," *The New York Times*, December 18, 2013, accessed September 20, 2016, <http://www.nytimes.com/2013/12/19/opinion/gordon-brown-stumbling-toward-the-next-crash.html>.
64. Richard Eskow, "5 Reasons Glass-Steagall Matters," *BernieSanders.com*, November 16, 2015, accessed September 20, 2016, <https://berniesanders.com/yes-glass-steagall-matters-here-are-5-reasons-why/>.
65. *The Financial Crisis Inquiry Report*, xxviii.
66. Ibid., xv.

A Malaysian Perspective in Qur’anic Governance: Family Autonomy Vs. State Intervention

Zaleha Kamaruddin

INTRODUCTION

‘Good governance’ is considered a crucial element for peace and development of societies, because it implies good order and good policies. In the context of the family institution, this is a must in order to ensure that the basic unit of society is protected from destruction. In relation to this, most scholars have acknowledged that all over the world, the family has undergone radical transformations in response to the changing socioeconomic environment. However, the breadth and depth of this change in the realm of good governance has often been neglected. This article begins by examining contemporary challenges confronting the family institution. Justifications for State intervention through the existing family laws in Malaysia as one of the mechanisms in protecting the family will also be analyzed. To ensure that family stability can be maintained and developed, ‘Qur’anic governance’ is proposed as a mechanism for social transformation.

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The main argument in this preliminary study is that the notion of good governance should not be excluded from the area of family, since the family institution is very important for the growth and continuity of human civilization at large. To ensure that family stability can be maintained and developed, a framework based on Qur'anic governance is proposed as a mechanism for social transformation. This article is divided into five parts. The first part briefly examines some general principles of good family governance as a background discussion to other salient issues discussed in the paper. The second part discusses the Qur'an and the principle of good family governance. The third part examines current challenges facing the family institution which includes various changes in the family structure, norms, values, and behavior. It suggests answers to one important question: to what extent does Malay custom (*adat*) which is seen by many Malays as based on the religion of Islam, but which also has strong pre-Islamic currents,¹ influence the structure of the applied family law? This social transformation is the basis for the proposal of an *alternative* framework that is based on religion and appropriately named as Qur'anic governance. The fourth part is an exploration of the role of the individual as *khalifah* ([God's] vicegerent) and the duty of man as head of the family. The discussion is based on governance at the individual level and its relation with the family, community, and State level. The fifth part highlights the extent of State intervention in family matters in the context of marriage. Some relevant principles of Islamic jurisprudence are briefly addressed to justify the discretionary power of the State (in the name of good governance) to intervene for the purpose of preserving the family institution.

GENERAL PRINCIPLES OF GOOD FAMILY GOVERNANCE

Good family governance not only transcends intergenerational heritage of wealth but also includes the development of core values that have societal implications. Generally, the family governance literature is full of numerous case studies on successful governance of wealthy families through a close focus on multigenerational family businesses.² A holistic approach to family governance will involve different aspects of life with some additional communal and State responsibilities embedded. One should admit that "good family firm governance" is "the result of good family governance too".³ Good family governance lays the foundations

for family cohesion and harmony which does not only relate to financial issues but also social, emotional, and spiritual well-being of the family.⁴

According to Barbara R. Hauser, 'family governance' may be defined as "the way in which a family makes decisions: the way the family governs itself. Just as with country governance, decisions can be made by a dictator, a king, or a democracy. Just as with country governance, the individual members of the group can be content and satisfied or protesting and rioting".⁵ Before contextualizing the discussion on good family governance within the Malaysian milieu and exploring the Qur'anic principles, it is pertinent to briefly examine the lasting family governance plan process introduced by Harry F. Martin. He identified six key steps in the plan process based on certain values and practices.

1. Culture and structure of open family communication
2. Valuing overall family over individual or family branch needs
3. Importance of demonstrated competence in assigning responsibilities
4. Effective generational succession plan for survival of family and its wealth
5. Creation of family conflict management processes
6. Creation and maintenance of an effective family governance plan⁶

These principles may form the conceptual framework of good family governance generally but contextualizing these within the modern Malaysian society requires further in-depth analysis.

It is important to closely examine the last of the above six principles which primarily focuses on the need to create and maintain an effective family governance plan. Such a comprehensive plan will usually have a unique underlying philosophy which serves as the basis of an effective family governance plan. "Effective family governance consists of and requires for its success so many distinct family value models, so many family structural procedures, so much persistent hard work and selfless commitment from many family members over succeeding generations".⁷ One must add with caution here that there is no universally acceptable family governance model except for certain civilizations that have clear-cut rules on family governance which literally apply across borders regardless of their geographical location. For instance, the Islamic civilizational model presents a unique framework for family governance in its

primary sources—Qur'an and Sunnah—which are functionally applicable to Muslims macros the world, i.e., one-quarter of the world's population who live in different continents. Though such family governance model is enshrined in the primary sources of the Shari'ah, the effect of legal acculturation is felt in most communities across the world where the customary practices of Muslims have overshadowed the Islamic legal prescriptions. This led to the discrepancies in the family governance model in Muslim communities across the world. Nevertheless, one must not shy away from the fact that a private family governance plan is necessary but it must be based on some cardinal principles be it religious, cultural, or social idiosyncrasies. As Martin concludes, regardless of the underlying philosophy of a family governance plan, it should be able to "prevent the shirtsleeves-to-shirtsleeves syndrome while creating family harmony. It demands enormous commitment, patience, and hard work from the family".⁸ This however depends on the extent of intervention of the State in matters that are ordinarily supposed to be decided by the family itself.

THE QUR'AN AND GOOD FAMILY GOVERNANCE

How do we develop a model of good family governance appropriate for contemporary families? There are a range of approaches but a reliance on Qur'anic-based theories holds a number of advantages. One of the reasons for that is, practically, it will be more acceptable by the States in determining family governance. Another basis would be that the distribution of power and resources within the family will shape those of the larger community. The family serves as one of society's primary sources of moral education. It is in the family that we first encounter issues involving power and justice. Because of the primacy of family life as the determinant of social structure, individual values are crucial to the formulation of family governance.

As pointed out above, in both Malay societies through the practice of *Adat Perpatih* and *Adat Temenggung*, the position of primary authority in a family is put on the man as head of the household. The Malays' image of their society is such that the husband is regarded as the primary authority. This concept is actually based on the Qur'an where Allah has created man as His representative (vicegerent; *khalifah*). He has endowed man with reason, physical and intellectual capabilities, and knowledge. These potentials are given to man as a trust (*amanah*). Ibrahim Zein has rightly pointed out that as *khalifah*, they are supposed

to have acquired better judgment and self-control to understand Divine guidance. He highlights the concept of trust (*amanah*) which determines the individual's relationship with the family, society, State, and government and the humanity at large. Man is said to be attached to these institutions both materially and spiritually. He further elaborates that *amanah* establishes man's responsibility toward his kin, other human beings, and sociopolitical institutions. This concept resolves the issues pertaining to the rights and responsibilities of individuals in every facet of his life. He summed it up as "someone's right is someone's responsibility".⁹

Applying the same concept of *amanah* as stated by the Qur'an as the cornerstone to the establishment of institutions to govern society, the family as the smallest unit of society would be the first institution to practice it. This idea is founded on the fact that the fourth chapter of the Qur'an (known as *al-Nisa*, 'The Women'), which deals with 'good governance', describes the idea of The Qur'an revealed that *amanah* must be fulfilled with '*adalah* (justice) [4: 58]. Another important component for good family governance is *shura*—consultation among family

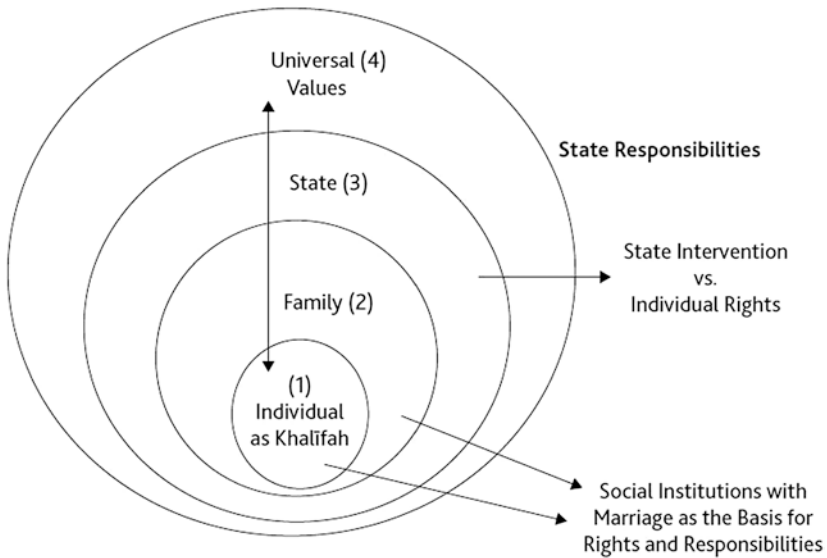


Fig. 7.1 'Qur'anic governance' on the family

members. The Qur'an emphasizes this in various issues of governance [3: 159; 42: 38]. The concept of *shura* underlines the participation of all members of the family. extending these explanations in the context of the family, the man as head of the household has a 'contract' with his family through the trust given to him by his family members to fulfill that trust. This responsibility is heavy and would necessitate cooperation from his family members through *shura*. The community as a whole also becomes responsible for the accomplishment of the trust. However, no meaningful, extensive, and long-lasting cooperation is possible without effective governance. Extension of this would be another alternative mechanism for effective governance, i.e., through law. Figure 7.1 shows this relationship and its connectivity to Qur'anic guidance.

THE MALAYSIAN SOCIETY, GOOD GOVERNANCE, AND CURRENT CHALLENGES TO THE FAMILY

Good governance is a necessary requirement for the family institution which is a very important component for the growth and continuity of human civilization. In the Malaysian context, informal governance is made through the primary social unit of Malay-Muslim society, that is, of the family. Prior to the country's independence from Britain in 1957, this was often the extended family rather than the nuclear family as found in the West. Malay-Muslim society is 'unusual' in that there is almost a complete lack of a formal structure binding the Malays together. The only substantial social organization is that of the village (*kampong*), often made up of closely related individuals on an extended family basis. The manifested interaction is that of small close-knit communities in which organization, administration, and other social and cultural activities are regulated on a communal basis. To the Malay-Muslim community, the family is a basic component of a loosely structured kinship system. A complex series of linkages based on blood, marriage, and other putative relationships brings together a number of individuals into a common universe of kinship containing various categories and groups of kinsmen. Malay kinship is governed by two sets of *adat* (custom): *Adat Temenggung*¹⁰ and *Adat Perpatih*.¹¹ Both represent Malay conceptions of law, and the legitimacy of these traditions can be said to derive from moral principles as well as from custom and long usage.¹² The tradition of the *Temenggung* has been described as more autocratic and less

democratic because it places power and authority solely in the hands of the ruler. The latter tradition centers on the principle of collective responsibility; the ruler is sovereign but the authority and power of the ruler is within the limits that have been laid down in its code. Family structure under the *Adat Perpatih* is explained in the following sayings:

The world has its kings, the *luak* (civet) has its chief; the tribe has its head-man, the family has its elders.

The matrilineal system is composed of traditionally corporate groups of increasing inclusiveness viewed from the smallest unit, the family. A group of families interlinked by descent from a common ancestor constitute the group, called *perut*. A group of *perut*, affiliated to each other by actual or putative descent, constitutes a *suku* (clan). District and State traditional political and administrative organization was based on this larger kinship structure. These factors, therefore, have varying normative and moral influences on the behavior and organization of a family group, being a small unit within a whole corporate system, without, however, impinging on the basic autonomy of the family. More often than not, the extended family type exerts greater influence on the running of its component family units, thus affecting the internal process of decision-making. It is, therefore, useful to be aware of the larger frame of kinship structure in any evaluation of a family system to understand fully some of the background factors affecting its organization and function.

The Malay family has a reciprocal kinship or moral obligation with other groups of kinsmen. This network affects the family in varying degrees depending very much on various factors of closeness or remoteness, in terms of descent, residence, and generation status. Therefore, the general rule is: The closer the link, the greater the degree of influence. In the context of the marriage system under the *Adat Perpatih*, it is a system of exogamy within their tribes. This means that the preference is for a person to marry outside the clan but within the tribes. It is also 'matrilocal', that is, it is compulsory for a husband to live in the wife's place, if not with the wife's family.¹³ The *Perpatih* tradition has made marriage an institution through which the whole host of relations and tribal organizations are bound into a cohesive whole. An example of family governance is the following:

Warder of the wife is the husband,
Warder of the husband, his wife's family.¹⁴

In both Malay societies that practice *Adat Perpatih* and *Adat Temenggung*, the position of primary authority in a family falls on the man. The father is head of the household, but the woman may manage the actual running of the household. The Malays' image of their society is such that the husband is regarded as the primary authority. The traditional Malay family conformed more to the norm of an extended family whereby two or more family units, together with other kin members, lived together as a domestic or household unit. However, internal developments within the family, economic ability, conflict of interests, and optimum residential capacity have split the family and thus a new domestic, autonomous, and independent family unit has developed. After independence, urbanization, industrialization, and educational developments have pushed and attracted younger families into urban areas. These factors have exposed young men and women to wider sections of the population as a 'field of choice'. According to traditional norms of close agricultural societies, spouse selection was more or less set within the general organization of the family, kinship, or community at large. Marriage was regulated by religious teachings. While this remains true now, the field of choice depends on individual contacts and preference.

At the present time, marriage is increasingly based on romantic love and customs are not fully adhered to in every case. The traditional function of marriage brokers in the arrangement of marriages has almost died out. While no general data are available on the current general pattern of spouse selection, the present situation has affected the mean age at first marriage for women, which has risen from 17 to 23 years. The delay in marriage is closely related to the current family structure. High mobility and higher cost of maintenance have encouraged the formation of nuclear families, living away from parents and free from kinship constraints. This will eventually force households to be founded more on conjugal relations through law than on kinship linkages, especially when the married partners are strangers to each other prior to marriage. The urban setting greatly stresses the need for greater social mobility, higher attainment, and comfortable living. The strong family constraint which was once highly regarded does not operate anymore. As a response to the general pattern of development, the erosion of traditional values and the radical changes occurring in the family, a kind of sociocultural reaction has emerged. Materialistic affluence has led to the breakdown of a more familiar pattern of social relations, aspirations, and beliefs. Specifically, the emergence of the industrial era, the assertions

of individualism, the passion for freedom and liberty, the change in the cultural and social climate, and the women's liberation movement, have all contributed in molding the attitudes of the Malay-Muslim society toward marriage. These changes in Malaysian Muslim family life over the past 53 years after independence are profound and dramatic. For example, after the Second World War, the States of Kelantan and Terengganu recorded some of the highest rates of divorce in the world (seven out of ten marriages ended in divorce).¹⁵ However, this has declined over the last two decades to only 10–16%. Researchers have shown that divorce among Malays is culturally rather than religiously determined.¹⁶ The age of Muslim couples at their first marriage has increased from 17 to 25 for men and 15 to 23 for women. Due to social changes, more women are petitioning for divorce compared to men. Changes in the values and perceptions of the spouses in relation to the family institution are based on varieties of social, cultural, political, and economic factors. The increasing enthusiasm for higher education (professional education) and the employment of women played a vital role in influencing the values of men and women, thus changing their attitude toward marriage and divorce.¹⁷ These changes have not only contributed considerably to the breaking of traditional structure of Malaysian marriages but also to the increase in the rate of divorce in Malaysian society. The development of urban living has led to uprooting and greater social isolation. Marriage has changed from being institutional to companionate. Freeman describes this as “two individuals rather than two lineages, on the child-centered household, on the quasi-emancipation of women, and on the structural isolation of the nuclear family from the kinship system and the community”.¹⁸

The revolution that has taken place in the recent past in relation to the family which is considered at one time a holy matrimony from the *shari'ah* point of view and this branch of the law is a striking example of how the law is keeping pace with the needs and aspirations of modern society. These factors justify the alternative method, i.e., using the legal mechanism—Islamic family law—to govern Malay-Muslim society. Reasons for doing so are as follows: first, as many scholars have argued, families are not really private or autonomous institutions. Families exercise authority over an important set of functions with relatively minor supervision from the State, but the boundaries of family membership and the boundaries of family jurisdiction are defined by Islamic law. This was true even before the introduction of the Islamic Family Law Act in 1984. Second, times

have changed. The traditional conception no longer corresponds with contemporary views of the family as a social institution with a particular structure and function. The tradition that families should be autonomous, self-governing, and independent still has emotional force, but it is based on an increasingly outdated and inaccurate depiction of family life.

ISLAMIC FAMILY LAW

The *shari'ah* has instituted a just, sound, and sublime rule for the regulation and functioning of the family. The most important principle underlying any legislation for the family should consist in consolidating the bonds of marriage and kinship. It has been one of the most important objectives of the *shari'ah* to give special attention to marriage, because it constitutes the basic principle of the family.¹⁹ In Malaysia, a significant shift in legal authority over family life has ushered in the transformation of Islamic family law. Family law is the province of State governance, and the States are evidently sovereign in this area. The federal government played a major role over the past three decades in transforming and codifying the *shari'ah* in relation to Islamic family law. The Technical Committee in Civil and *Shari'ah* Laws under the Department of Islamic Development, Prime Minister's Department has drafted extensive legislative family laws since the 1980s. These laws which are based on the *shari'ah* are readily adopted by the States as model laws. A focus on family governance will enable us to highlight the relations between certain areas of the family law. All these areas derive their sources from the Qur'an. However, as part of a larger set of changes in family law, an emphasis on individuals as *khalifabs* as pointed out earlier is significant as it highlights the concept of responsibility. All these reforms have been characterized as 'proto-responsibility', because responsibilities and rights coexist with one another. The law based on the *shari'ah* is that the husband as the ruler of the household has the right to be obeyed by his wife and children. The obligation of his wife and children were contingent on the proper exercise of his authority. For a successful implementation of family governance, having adequate laws relating to marriage is pertinent. In the next section, the legal provisions relating to marriage under the present Islamic family law are outlined before commentaries are made. From a liberal approach, there is a movement to introduce stricter laws which have affected marriage patterns in Malaysia. Below are regulations relating to marriage.

MARRIAGE

(a) Void marriages:

Section 11 of the Act provides that a marriage shall be void unless all the conditions necessary according to a ruling of the *shari'ah* (*hukm shar'i*) for the validity thereof are satisfied. The Federal Territories Act does not detail the conditions for a valid marriage. These are however given in the Kelantan Islamic Family Law Enactment of 1983. The details of these various conditions are also set out in the Schedule to the Enactment. *Hukm shar'i* is defined in the Federal Territories Act as the laws of Islam in the Shafi'i, Hanbali, Hanafi, and Maliki 'schools' of Islamic jurisprudence, but this definition is not included in the Kelantan Enactment, which seems to follow more closely the laws of the Shafi'is.

(b) Marriage in contravention of the Act:

Initially, Section 12 of the Act provides that a marriage in contravention shall not be registered under the Act, but later amended it to provide that a marriage which has been solemnized contrary to any provision of Part II of the Act, but is otherwise valid according to a *hukm shar'i*, may be registered under the Act with an order from the court and payment of the penalty provided by the Act. Section 40(2) of the Act provides that any person who marries or purports to marry or goes through a form of marriage with, any person contrary to any of the provisions of Part 11 of the Act (dealing with marriage) commits an offense and shall be punishable with a fine not exceeding RM 1000 or with imprisonment not exceeding 6 months or with both such fine and imprisonment.

(c) Consent

Section 13 of the Act provides that a marriage shall not be recognized and shall not be registered under the Act unless both parties to the marriage have consented thereto and either:

- (i) The *wali* or legal guardian of the woman has consented thereto in accordance with the *hukm shar'i*, or
- (ii) The *shari'ah* judge having jurisdiction in the place where the woman resides or any person generally or specially authorized

in that behalf by the *shari'ah* judge has after due inquiry in the presence of all parties concerned, granted his consent thereto as *wali raja* in accordance with the *hukm shar'i*. Such consent may be given wherever there is no *wali* by *nasab* (blood relationship) in accordance with the *hukm shar'i* available to act or if the *wali* cannot be found or the *wali* refuses his consent without sufficient reason.

(d) Persons ascribing to religions other than Islam:

Section 10 of the Act provides that no Muslim man shall marry a non-Muslim except from what is referred to as *kitabiyah* (in usual parlance a Christian or Jew), while no Muslim woman shall marry a non-Muslim. Strangely, the Shafi'i 'school' of law has adopted a rather restrictive and narrow definition of *kitabiyah* (and which is not shared by the followers of the Hanafi 'school', numerically the strongest 'school' among the Sunnites):

- (i) a woman whose ancestors were from *Bani Ya 'qub* (that is, a Jewess);
- (ii) a Christian woman whose ancestors were Christians before the 'call to prophethood' of Muhammad (one remembers, an event that is believed to have taken place in the seventh century CE, i.e., about 1400 years ago!); or
- (iii) a Jew whose ancestors were Jews before the prophethood of Jesus Christ.

(e) Persons by whom marriages may be solemnized:

Section 7 of the Act provides that a marriage in the Federal Territories shall be in accordance with the Act and shall be solemnized in accordance with *Hukum Syara'* by:

- (i) the *wali* in the presence of the Registrar of Muslim Marriages;
- (ii) the representative of the *wali* in the presence of and with the permission of the Registrar; or
- (iii) the Registrar as the representative of the *wali*. Where a marriage involves a woman who has no *wali* (guardian) in accordance with the *hukm shar'i*, the marriage shall be solemnized only with the *wali raja*, i.e., guardian delegated by the Sultan.

(f) Minimum age of marriage:

The current provision, i.e., Section 8, discourages marriage between parties where either one or both are below the age of 18, except where the *shari'ah* judge has granted his permission in writing in special circumstances. In the Federal Territories, it is provided that a marriage in contravention of the Section, if nevertheless valid under Muslim law, can be registered with the permission of the court, subject to the imposition of the penalty provided by the Act. The policy of the law in discouraging teenage marriages will in effect reduce the number of divorces which are brought by young people who do not understand the heavy commitments a marriage entails.

(g) Permissions to marry:

Section 27 of the Act provides that the Registrar, on being satisfied of the truth of the matters in the application for permission to marry and where the man is already married that the permission of the *shari'ah* judge required by Section 23 has been granted shall at any time after the application issue to the applicants his permission to marry in the prescribed form.

(h) Polygamous marriage:

Islamic law allows a restricted form of polygamy. In Malaysia, polygamy is controlled through Family Legislations in the States. No man who has already married may marry again, except with the prior permission of the *shari'ah* judge. The court may only grant permission if satisfied that:

- a. the proposed marriage is just and necessary, having regard to such circumstances, as among others, the following, that is to say, sterility, physical infirmity, physical unfitness for conjugal relations, willful avoidance of an order for the restitution of conjugal rights, or insanity on the part of the existing wife or wives;
- b. the applicant has such means as to enable him to support as required by the Muslim law all his wives and dependants, including persons who would be his dependants as a result of the proposed marriage;
- c. the applicant would be able to accord equal treatment to all his wives as required by the Muslim law;

- d. the proposed marriage would not cause harm affecting the existing wife or wives in respect of religion, life, body, mind, or property. In all these interventions, often the legislation seeks to codify the law, but for its interpretation, the *shari'ah* court will refer to the sources of Islamic law, including the Qur'an, the *Sunnah*, and the views of the jurists. For example, Section 11 of the Islamic Family Law (Federal Territories) Act provides that a marriage shall be void unless all the conditions necessary, according to the stipulations of the *shari'ah*, for the validity thereof are satisfied. This provision shows the necessity to refer to the sources of Islamic law to ascertain the conditions necessary for the validity of marriage. The provisions outlined above show the extent of intervention by the State on family matters relating to marriage. However, this intervention is considered valid as its authority is authorized by the *shari'ah*. The principles of *siyasa shar'iyyah*, *maṣlahah*, and *sadd al-dhara'i* are used interchangeably to denote discretionary power of the State. The balance of interests in family matters and the spirit of the *shari'ah* must be maintained, and for this reason the role and intervention of the State becomes more important.

CONCLUSION

In this chapter, we have attempted to explore the implications of the Qur'anic guidance in governing the family as an institution among Malaysian Muslims. It is not a conclusive document, because understanding the role of the *shari'ah*, its unique approach, and the ways in which statements of the *shari'ah* are codified into contemporary law, and how best courts interpret the law, pose important questions requiring careful articulation. This is especially true in cases where justifying the autonomy of the family, we could no longer rely on the tradition of the past where it is said that the Muslim government had a very limited function. Reason for this is simply because the Muslims were spread out over such a wide territory that the State then could not reach them. Others also opined that Islamic government is a very limited one. First, not every aspect of Islam is entrusted to the government to enforce. It is assumed that it is the nature of a Unitarian religious order of society that the individual should enjoy a wide degree of autonomy. Moreover, not everything is practically capable of enforcement through government law.²⁰

The present Malaysian Islamic Family Law Act of 1984—a federal law for the Federal Territories—is a codified law containing provisions which are *shari'ah* compliant in the sense that their sources are derived from the Qur'an and the *Sunnah*. Because of this, the *shari'ah* attaches great importance to fulfillment of Muslims' obligation toward their legal government. There is a *hadith*, related by Nafi', according to which 'Abd-Allah b. 'Umar has heard from the Prophet: He who withdraws his hand from obedience [to the *amīr*; i.e., the ruler] will have nothing in his favor when he meets Allah on the Day of Resurrection. The *shari'ah* attaches great importance to fulfillment of the Muslims' obligation toward their legal government and considers it as a religious obligation. However, 'Abd al-Rahman Taj has rightly pointed out that no policy can be called *siyasah shar'iyah* unless it observes the limits of moderation, which errs neither toward severity nor to laxity, for both, will lead to injustice and the loss of rights.²¹ *The State, therefore, must be extra careful in its intervention* because it has to ensure equilibrium of reasonable balance between the autonomy of the family and the State and also to understand the extent of the role that religion plays in public life.

NOTES

1. *Adat Bersendi Hukum, Hukum Bersendi Kitabullah*; see Mohamed Abdul Rahman, *Dasar-Dasar Adat Papatih* (Kuala Lumpur: Pustaka Antara, 1964), 39.
2. Harry F. Martin, "Is family governance an oxymoron?," *Family Business Review* 14, no. 2 (2001): 91–96. Also see, Randel S. Carlock and John L. Ward, "Family Governance: Family Meetings and Agreements," In *When Family Businesses are Best*, (UK: Palgrave Macmillan, 2010), 196–222.
3. Fabrizio Colarossi, Marco Giorgino, Roberto Steri, and Diego Viviani, "A corporate governance study on Italian family firms," *Corporate ownership & control* 5, no. 4 (2008): 95.
4. Randel S. Carlock, and John L. Ward. "Family Business Governance and the Role of the Board of Directors," In *When Family Businesses are Best*, (UK: Palgrave Macmillan, 2010), 175–195.
5. Barbara R. Hauser, "Family Governance: Global Issues and Trends," *Private Wealth Management Feature Articles 2010*, no. 1 (2010), accessed on March 12, 2017, <http://www.cfapubs.org/doi/full/10.2469/pwmn.v2010.n1.9>.
6. Martin, 91.
7. *Ibid.*, 96.

8. Ibid.
9. Ibrahim M. Zein, Abdullah Al-Ahsan, and Muhammad Arif Zakaullah, 9–37.
10. *Adat* or custom is an indispensable institution in Malay sociological analysis. It represents the formal and conscious beliefs of the Malays which often predate their conversion to Islam and from which one could trace cultural and social production of ideas and relations in the wider society.
11. The matriarchal *Adat Perpatih* in its traditional statement which is known as *perbilang* or customary saying. It has been handed down from generation to generation and governs land tenure, lineage and the election of various traditional chiefs. As far as rules relating to marriage are concerned, this community follows Islamic law.
12. Richard James Wilkinson, "Law: Introductory Sketch and the Ninety-Nine Laws of Perak," in *Papers on Malay Subjects*, ed. Richard James Wilkinson et al., (Kuala Lumpur: Federated Malay States Government Press, 1908), 2.
13. Mohamed Abdul Rahman, *Dasar-Dasar Adat Perpatih*, 39.
14. "Kunci bini laki; Kunci Semenda tempat semenda"; the translation quoted is that of A. Caldecott, "Jebebu Customary Songs and Sayings," *Journal of the Malayan Branch of the Royal Asiatic Society* 78 (1918), 3–41.
15. Yoshihiro Tsubouchi, "Islam and Divorce Among Malay Peasants," in *Southeast Asia in Nature, Society and Development*, ed. Shinichi Ichimura, (Honolulu HI: University of Press of Hawaii, 1977), 28.
16. Zaleha Kamaruddin, "Divorce Laws in Malaysia (Civil and Shari'ah)," *Malayan Law Journal* 21, no. 2 (2005).
17. Ibid.
18. M.D.A. Freeman, "Legal Responses to Marriage Breakdown," *Current Legal Problems* 31 (1978), 121.
19. For a detailed discussion, see Ibn Ashur, *Maqāṣid*, 189–195.
20. Hasan Turabi, "Principles of Governance, Freedom, and Responsibilities in Islam," *The American Journal of Islamic Social Sciences* 4, no. 1 (1987), 6.
21. Mohammad Yusuf Abdul Kadir, "State Intervention in Marriage: Does It Infringe Human Rights," in *Islamic Family Law: New Challenges in the 21st Century*, ed. Zaleha Kamaruddin (Kuala Lumpur: International Islamic University (IIUM) Malaysia, 2004), quoting 'Abd al-Rahmān Tāj, *Al-Siyāsah al-shar'īyyah wa-l-fiqh al-islāmī* (Cairo: Maṭba'ah Dār al-Ta'līf, 1953), 34.

Sustainable Development in Islam and International Law: An Investigation

Syed Serajul Islam

INTRODUCTION

In the twenty-first century, our major concern has been the ‘sustainable development’ in the world by having a balance of economic, social and environmental policies. In a relatively short time over the last quarter of a century, this concept has become firmly established in the globe. Since the 1980s ‘sustainability’ has been used more in the sense of ‘human sustainability’ on planet. The ‘earth sustainability’ has emerged as a result of significant concerns about the unintended social, environmental and economic consequences of rapid population growth, economic growth and consumption of our natural resources. With the increasing population and affluence in the world the challenge of sustainable development has created increasing concerns. According to one estimate, if the world’s economic growth rate is not quadrupled from the current rate of natural resource composition, humanity could consume an estimated 140 billion tons of minerals, ores, fossil fuels and biomass per year by 2050, that is,

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three times higher than its current amount. Thus, the recognition of the concept of 'sustainable development' has received global prominence.

This demands an analysis of the challenges and the means of getting rid of these challenges of sustainable development. Amartya Sen asserts that, capitalist ethics is not capable of providing solutions to the problems, which lie outside the market mechanism such as environmental crisis.¹ He further argues that contemporary capitalist market economy cannot deal with the challenges of issues like public goods such as environment and such challenge should call for institutions, which will take us outside the capitalist market economy.² Here Amartya Sen's concern for environmental crisis points out to the need of an ethics and an institutional body such as, the UN which will provide regulation, international law, etc. regarding environment protection. But what would be the source for ethical guidance necessary for this purpose? In the light of the challenges surrounding environment, many scholars have begun to search for religious teaching in creating an approach for environmental protection. Some scholars believe that Islam can play a crucial role in this emerging conflict between development and environment.³ To make the discourse of sustainable development more functional and committed to environmental ethics, Islamic scholars can question and contribute to this sector in the light and deep reflection of the higher objectives of Islamic law (*maqasid al-shari'ah*).⁴ This chapter examines relevance of Qur'anic teachings on the subject. The purpose is to examine four questions: what is sustainable development? What are the principles of Islamic religion regarding sustainable development? What are the principles of modern international laws for sustainable development? And how are they similar or different from each other? In the final analysis, this chapter will conclude by drawing a comparative analysis of both Islamic and International principles regarding sustainable development.

SUSTAINABLE DEVELOPMENT?

The concept of sustainable development has been defined from a variety of academic writings as well as from international declarations, treaties and conventions. According to Asheim, sustainability is "a requirement of our generation to manage the resource base such that the average quality of life that we ensure ourselves can potentially be shared by all future generations. Development is sustainable if it involves a non-decreasing average quality of life."⁵ The International institute for

Sustainable Development (IISD) provides an interesting definition of sustainable development as “an open and participatory process of environmental, social, economic, cultural and political change that can be achieved through protecting and enhancing ecosystems, transforming the direction of investments and the orientation of technology, and re-designing institutions to ensure current and future potential to meet the needs and aspirations of communities.”⁶ However, the most widely accepted definition of sustainable development has been offered by the *Brundtland Commission of the United Nations* on March 20, 1987: “sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”⁷

This definition highlights two basic points. First, development must be geared toward meeting basic human needs. It must seek to end poverty. Second, there are limitations imposed by the state of technology and social organization on the environment’s ability to meet present and future needs. The opposing objectives of development and environmental limits are bridged through the concept of ‘sustainable development.’⁸ Hence, the goals of economic and social development must achieve sustainability. The common threads in the definition of sustainability are three: (a) economic growth, (b) environmental protection and (c) social equity. Development involves transformation of economy and society. Sustainable development clearly requires economic growth in places where such needs are not being met. However, the economic activities cannot destroy the environment. Necessary steps have to be taken for environmental protection and management. But growth and environmental protection are not enough. High levels of productive activity and widespread poverty can coexist and can endanger the environment. Hence, sustainable development requires that societies meet human needs both by increasing productive potential and by ensuring equitable opportunities for all. It primarily indicates the alleviation of poverty because according to the Brundtland report, “poverty is a major cause and effect of global environmental problems. It is therefore futile to attempt to deal with environmental problems without a broader perspective that encompasses the factors underlying world poverty and international inequality.”⁹ Thus in order to achieve a sustainable development, we must eliminate our contributions to “(1) the *systematic increase* of concentrations of substances extracted from the heavy metals and fossil fuels; (2) the *systematic increase* of concentrations of substances

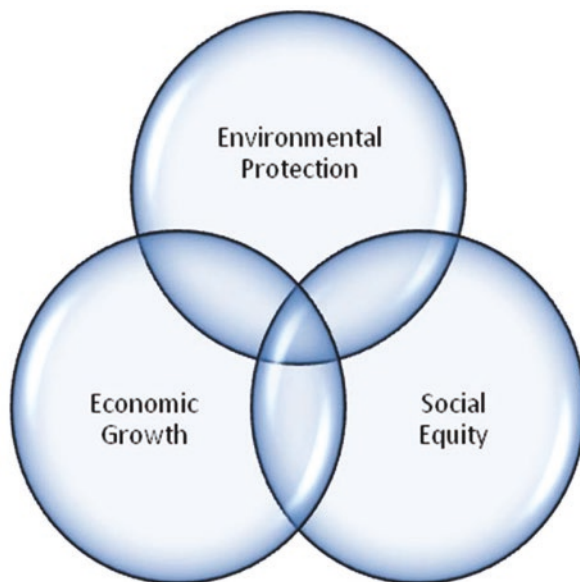


Fig. 8.1 Sustainable development

produced by plastics, dioxins, PCBs and DDT; (3) the *systematic* physical degradation of nature and natural processes over harvesting forests, destroying habitat and overfishing; and (4) conditions that *systematically* undermine people's capacity to meet their basic human needs like unsafe working conditions and not enough pay to live on.”¹⁰

From the above analysis, it appears that sustainable development is based on a simple principle, that is, the world is one system that connects all its parts and our survival in this world depends on the protection of our natural environment. We have to continuously make sure that at present as well as in future we will have all of our necessities by protecting our environment. Thus, as reflected in the following figure, sustainable development requires, on the one hand, economic growth but, on the other hand, development of the conditions which balance human needs and nature in such a harmonious way that meet the social, economic and other needs of present and future generations (Fig. 8.1).

Sustainability in Islam

Although such terms, as ‘environment and sustainability’ are modern-day inventions, the Qur’an and the Hadiths (sayings of the Prophet) provide a complete environmental ethic. Along with Qur’anic principles, a closer reading of the Hadiths, the body of work that recounts significant events in the Prophet’s life, reveals that he was a staunch advocate of environmental protection. From all accounts of his life and deeds, one could read that the Prophet had a profound connection to the four elements—earth, air, water and animals. He was a strong proponent of the sustainable use and cultivation of land and water, proper treatment of animals, plants and birds, and the equal rights of users.

Islam adopts a holistic approach regarding sustainable development. It believes in a fundamental link between all natural elements and bases its teachings on the premise that the whole world will suffer if mankind abuses or exhausts one element of the natural world. Islam is based on the paradigm of *tawhid* (i.e., the Oneness). This concept has many dimensions, but the root of this concept is that those creatures are all linked together in unity. Everything out there is created, sustained and cherished by the same God. “God the Ultimate reality is One, and everything other than God comes from God and is related to Him. No true understanding of anything is possible unless the object in view is defined in relationship to the divine. All things are centered on God.”¹¹ The Holy Qur’an mentions in several places regarding sustainable use of natural resources and environment. It has highlighted some principles and ethical guidelines on sustainability. They are:

- a. *Amanah* (trust), which means God, has given us this planet as a Trust and we are obliged to protect the planet and use it appropriately. Qur’an says, “We offered the Trust to the heavens, the earth and the mountains, yet they refused to undertake it and were afraid of it; mankind undertook it—they have always been inept and foolish (33: 72).”
- b. *Khalifah* (stewardship), which means God has created us directly from the earth and we must be stewards of the earth (Khalifa)—taking care of it, protecting it and managing it in a sustainable way. “It is He made you successors on the earth and raises some of you above others in rank, to test you through what He gives you [Prophet], your Lord is swift in punishment, yet He is most forgiving and merciful (6: 165).”

- c. *Adl* (justice), which means maintenance of justice in governing human relationships and other living creatures. Qur'an says, "God commands justice, doing good, and generosity toward relatives and He forbids what is shameful, blameworthy, and oppressive. He teaches you, so that you may take heed (16: 90)."
- d. *Mizan* (balance), which means maintaining a balance in the relationships between humans and environment, nature and all species. The Qur'an says, "He has created man. He has taught him speech and intelligence. The Sun and the Moon follow courses (exactly) computed. And the herbs (or stars) and the trees both prostrate to Allah. And the Firmament has He raised high, and He has set up the Balance of (justice), in order that you may not transgress (due) balance. So, establish weight with Justice and fall short not in the balance. It is He who has spread out the earth for (His) creatures... (55: 3-10)."
- e. *Wassat* (middle path), which means living a simple and moderate life style by choosing the middle path in all aspects of our life "We have made you (believers) into a just (a middle nation) community, so that you may bear witness (to it) before you (2: 143)." "...and eat and drink [as We have permitted] but do not be extravagant: God does not like extravagant people (7: 31)."
- f. *Rahmah* (mercy), which means testing all of God's creation with mercy from human relationships to all living animals, plants and insects and the natural environment. Qur'an asserts, "There truly is a message in this for the servants of God! It was only a mercy that we sent you (Prophet) to all people (21: 106-107)."

Along with the above principles of the Qur'an, the Prophet offered many guidelines different times during the course of actions in his life times. Those could be considered as the Prophet's environmental philosophy. They are reflected around the three pillars of environmental concerns: (a) use of land, (b) use of water and (c) treatment of animals.

USE OF EARTH'S LAND

The Prophet considered earth as subservient to human. But he cautioned that it should not be overexploited or abused, and that it had rights, like the trees and wildlife living on it. Man's superiority, control and power over nature, and the rest of creation were a part of the trust

that God entrusted on humans. Upon taking this responsibility each human being has to keep the trust and not to misuse that power conferred upon them. If it happens then that is betrayal to the entrusted trust by God. According to Qur'an, "...He was indeed unjust and foolish (33: 75–76)." God gives humans all the lands as a trust and nothing more. Nasr points out, "His right of domination over it (is) only by virtue of his theomorphic make up, not as a rebel against nature."¹² In the Islamic worldview, the relationship of man with the land should be like that of a just ruler with his subjects. It is true that the ruler has power over his subjects, but he is expected to act in a responsible way (as defined by the revelation) toward them. If he misuses and abuses his power then he turns into a tyrant, rather than leader and its end result is nothing but a revolt against the tyrant. This is precisely what is happening currently between man—the tyrant and the nature—all are tyrannized.¹³ According to a verse in the Qur'an, "corruption has appeared on land and sea because of what the hands of men have earned, that He (God) may make them taste a part of that which they have done, in order that they may return (by repenting to God and begging His Pardon)... (30: 41)."

Consequently, due to the grid and corruption, environmental pollution degradation has taken place in the earth, which has become a reservoir for resource extraction at all costs. We must resist our greed that leads us to abuse God's resources for one day the earth will unburden itself and tell all: "when the earth is shaken violently in its [last] quaking, And the earth reveals what burdens her, And man says: what has befallen her? On that day she shall tell her story... (99: 1–4)." The Qur'an is clear and unequivocal in that we must be, not just "friends of the earth but its guardians and equal partners" as well. We have same type of responsibilities to the earth, other creation and the environment as we have responsibilities to our families and other human beings. Thus, once the Prophet advised his disciples, "the earth is a mosque for you, so wherever you are at the time of prayer, pray there."¹⁴ It implies that treating the earth is equally same like treating a mosque. We must take care of the planet as we take care of our mosque. He meant that this is a sacred place, a holy place, so we should not act in a disrespectful way toward it. We should not abuse anything on the face of the earth.¹⁵

In order to protect the planet, the Prophet prescribed that the earth should be divided into two kinds: '*hima*' and '*haram*.' *Hima* applies particularly to wildlife and forestry, and usually designates an area of land

where grazing and woodcutting are restricted, or where certain animal species are protected. *Haram* areas are often drawn up around wells and water sources to protect the groundwater table from over-pumping.¹⁶ The Prophet encouraged the sustainable use of fertile lands only. He advised his followers to make our unused land productive by planting a tree, sowing a seed and irrigating dry lands. He said, "Whoever brings dead land to life, that is, cultivates wasteland, for him is a reward therein."¹⁷ The Prophet furthermore said, "Every one of you is a guardian, and will be asked about his subjects."¹⁸ God and a project of Satan sanction any kind of disfiguration and distortion. The Prophet strongly stated "If the Judgment Day comes when one of you is holding a seeding in his hand, if you are able to plant it before the Day arrives, do so."¹⁹ In other words, even when all hope is lost for mankind, one should sustain nature's growth and share the earth's resources. The Prophet believed that nature remains always good in itself.

USE OF WATER IN THE GROUND

Our planet is at a tipping point where wars might be fought over access to clean water. Water is a precious gift from God. It is the source of all life on earth. The Qur'an emphatically made it clear that God "*made from water every living thing* (21: 30)." In many pages of the Qur'an, we are constantly reminded the significance of water in our life: "*consider the water which you drink. Was it you that brought it down from the rain cloud or We? If We had pleased, We could make it bitter* (56: 68–70)." "In the Water which God sends comes down from the sky to give life to the earth when it has been barren (2: 164)." Hence, we have a special relationship with water as an essential element of purification. The Qur'an gives the origin and indispensability of water. "...He sends down water (rain) from the sky, and the valleys flow according to their measure... (13: 17)." The Qur'an also tells us that water will replenish us, "... (We) sent down rain from the heavens; and brought forth therewith fruits for your sustenance... (2: 22)."

With regard to water, two issues were significant to the Prophet: saving water and safeguarding the purity of water. He spoke about the haram zones in the vicinity of water resources for the sustainable use of water. The way we use water seems that water is abundant or unlimited but the Prophet was aware of limitedness of water. Therefore, he always advocated thriftiness. An example of his recommendation was that he told his

believers not to take more water than necessary, no more than the three times, at the time of performing ‘*wudu*’ (ablution), even if they were near to a flowing spring or river.²⁰ The Prophet said: “*Muslims share alike in three things—water, herbage and fire,*”²¹ and he considered it a sin to withhold water from the thirsty. “*No one can refuse surplus water without sinning against Allah and against man.*”²² All this indicates we have to ‘care for water,’ ‘conserve water responsibly’ and ‘consume water wisely.’

TREATMENT OF ANIMALS IN THE PLANET

Islam is very strict not only in the proper use of land and wisest use of water but also in the proper treatment of animals, which is essential for sustainable development. Qur’an testifies in many places that in order to maintain harmony and balance among all parts of the planet, we have many responsibilities toward our animals. According to one verse in Qur’an, “there is not an animal in the earth, nor a flying creature flying on two wings, but they are communities like unto you; We have neglected nothing in the Book. Then unto their Lord they will be gathered (6: 38).” According to one Hadith, “If anyone wrongfully kills even a sparrow, let alone anything greater, he will face God’s interrogation.”²³ The Prophet was extremely sensitive when traveling with his companions. He used to say, “Do not encroach on the trucks on the habitat of these wild breasts and animals.”²⁴ For example, he told his believers that those who travel on camel backs they cannot create any discomfort on the camels or cannot treat the camel backs as chairs and even “many who are ridden may be better than the riders themselves.” In other words, “these camels glorify Allah and are subservient to you, they may be much better than you are. Do not abuse them.”²⁵ There are many Hadiths and stories about man’s relationship to animals. The Prophet taught us that even one has to show great gentleness and sensitivity at the time of slaughtering animals. In slaughtering animals he recommended using sharp knives so that the animal could have a quick death with as little pain as possible. Furthermore, he suggested not to slaughter any animal in the presence of other animals, or letting the animal witness the sharpening of blades because that will be equal to “slaughtering the animal twice” and he emphatically condemned such practices as “abominable.”²⁶ All these words reflect the Prophet’s great reverence, respect and love for the animals. He strongly believed, since animals are God’s creation, they should be treated with dignity.

Besides the textual sources (i.e., Qur'an and Hadith), contemporary Islamic legal tradition is also putting environmental concern at the forefront. In the classical Islamic legal tradition, scholars classified the objectives of Islamic law (*maqasid al-Shari'ah*) in three levels, which are necessities (*darurat*), needs (*hajiyyat*) and luxuries (*tahsiniyyat*). The highest objectives known as necessities (*darurat*) are preservation of faith, soul, wealth, mind and progeny. All these objectives were included from the need of an individual perspective.²⁷ None of these three levels included preservation of nature as an objective, which was a social concern. May be this was because preservation of nature was not a big challenge at that time. Though concern for nature was marginal in Islamic legal tradition, it was integrated in Islamic worldview, art and spirituality. But contemporary scholar Tariq Ramadan calls for integrating ethical dimension to the Islamic legal tradition and puts preservation and promotion of nature as the core objectives of Shari'ah shifting the focus of legal tradition from individual concern to social concern. He reformulated the classical structure by putting protection of "global conception of life and death (ad-din)" and "common good and interest (*al-maslaha*)" at the highest level and at the second level protection of life, nature and peace.²⁸ Such a reformulation of Islamic legal tradition will make Islam more contributive to contemporary concern for global environmental crisis. Islamic civilization is a great illustration of how nature was an integral part of its advancement and activities in different fields such as metaphysics, theology, science, art, architecture, urban development etc.²⁹ Islamic art and architecture, urban development in Islamic civilization took into account the concept of Unity (*Tawhid*). All these reflected a harmony with nature and a great concern for the protection of nature.³⁰ Unlike Western science, Islamic science did not alienate man from nature and did not want to plunder and devastate nature. Islamic science explores the nature to develop consistent knowledge which made man and nature integrated.³¹

SUSTAINABILITY IN INTERNATIONAL LAW

Although sustainable development is not a legal concept, the international law has been playing a major role in attaining this objective. The central role of international law is to come up with a set of rules and principles that states have themselves agreed to follow and respect. The journey though started in the immediate post-World War II period, the

use of the term 'sustainable development' in international law certainly became more prevalent in the 1990s as a consequence of 1987 and 1992 the UN Conference on Environment and Development.

BACKGROUND

The concept of 'sustainable development' was undertaken by international law much before 1990s. In fact, this concept can be traced back much further in a number of pre-1992 treaties. Even in the eighteenth century scholars debated on the link between environment and development.³² Initially sustainability was used in two senses: (a) resource conservation and (b) economic growth. The term was itself extremely contradictory and had no scope outside its own boundary. Three conventions took place for resource conservation. They were: (1) 1946 International Convention for the Regulation of Whaling; (2) 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas; and (3) 1982 UN Convention on the Law of Sea. All these attempts were primarily meant to manage natural resources. However, 'sustainability' was used in another senses as well, such as, 1947 General Agreements on Tariffs and Trade (GATT), 1957 European Economic Community (EEC) and 1960 Organization of Economic Cooperation and Development (OECD). These organizations were primarily designed to ensure sustainable and non-inflationary highest economic growth respecting environment.³³

The operation of each of these conventions and organizations was no doubt confined to specific areas, yet, there was an undoubtedly an implicit recognition of the need to balance economic growth and environmental considerations. Consequently, a new approach for reconciling both conservation and economic growth began to emerge. In 1972, United Nations Organizations (UNO) organized a conference on human environment at Stockholm that came to be known as The 1972 UN Stockholm Conference on Human Environment. The Declaration did not use the term 'sustainable' but included 26 principles highlighting concerns for environment. The principle 21 became most well known which confirms the sovereign right of every state over its own natural resources but each state has to ensure that activities under each state's jurisdiction or control cannot damage the environment of other states or areas outside the borders of its jurisdiction. Furthermore, the principle 10 demanded that environmental policy should be adopted in such a way

that it would enhance rather than diminish the economic development of the developing countries.³⁴

It is true that the term ‘sustainable development’ was not used in the above conferences, but many of their points were adopted in international laws on sustainable development 20 years later at Rio de Janeiro and 30 years later in Johannesburg Conferences. A direct consequence of 1972 Stockholm Conference was the establishment of UNEP—United Nations Environmental Program with the headquarters at Nairobi, Kenya and the adoption of World Charter for Nature by the UN General Assembly in 1982 for conservation and better management of living natural resources. More importantly, in 1974, the UN General Assembly met in a special session to address the issue of commodities and development. It adopted a Declaration and Action program on the Establishment of a New International Economic Order. They mainly addressed the following issues:

- Sovereignty over natural resources—land and sea.
- Regulation of foreign investment and activities of multinational corporations.
- Commodity Agreements.
- Increase of the Trade Potential of Developing Countries in International economic Decision-making.
- Exploitation of the deep seabed on the basis of the principle of the common heritage of humankind.
- Environmental Protection as a responsibility of all states to the international community.

Following the 1974 Resolution of the UN General Assembly, the Third UN Conference on the Law of the Sea ended in 1982 that adopted the UN Convention on the Law of the Sea. This Convention limited various maritime zones and brought about a major change in the distribution of the wealth of the Oceans. The Convention also adopted a comprehensive set of provisions regarding the protection of maritime environment and various arrangements for financial assistance to the developing countries.

With the growing consciousness of the international community about the environmental disaster, the UN Institute for Training and Research (UNITAR) conducted a study in 1985 regarding the achievement of international community so far for formulating international laws relating to environmentally sustainable development. It concluded

that the world agreed on following two fundamental principles: A. *Sovereign Equality*: (1) The Right of the states to choose their own economic system; (2) Permanent sovereignty over natural resources; and (3) Participation of developing countries on the basis of equality in international economic relations. B. *Duty to Cooperate in Close Conjunction with Other States*: (1) Preferential treatment of developing countries; (2) Stabilization of export revenue of developing countries; (3) Right to take advantage of science and technology; (4) Right of developing countries to development aid; and (5) Common heritage of humankind.³⁵

The gradual concern for environmentally sustainable development led the UN General Assembly to appoint a World Commission on Environment and Development (WCED) in 1983 that popularly came to be known as Brundtland Commission. The Commission was primarily responsible for (a) proposing long-term strategies to achieve sustainable development in and after 2000 and (b) recommending a road map through which greater cooperation could be achieved between developed and developing countries. The Brundtland report was submitted in 1987 entitled "Our Common Future" which popularized the term 'sustainable development' indicating "the key element of sustainable is the recognition that economic and environmental goals are inextricably linked."³⁶

The Brundtland report led the UN to convene a second global conference on *the United Nations Conference on Environment and Development (UNCED)* in Rio de Janeiro in 1992. In brief, the Rio Declaration emphasized "the protection of the environment and the advancement of development giving priority to both, and calling for social and economic development processes to take the environment into account."³⁷ The main principle of the Rio Declaration were as follows: (1) the right to healthy environment and the right to development for present and future generations of human kind; (2) sovereignty over natural resources; (3) a close coordination of development and environmental conservation; (4) international policy measures aimed at reducing unsustainable patterns of production and consumption improving research and development; and (5) other principles: (a) principle of common but differentiated responsibilities, (b) state responsibility for environmental damage, (c) the precautionary principle, (d) timely notification and consultation, (e) protection of environment during armed conflict, (f) peaceful settlement of disputes and (g) the obligation to cooperate in implementing those principles.³⁸

The UNGA endorsed the Rio Declaration and established a UN Commission on 'Sustainable Development' in 1993. The post-Rio period was marked by a considerable progress in the field of conservation and management of Maritime Fisheries. In 1995, the Food and Agricultural Organization (FAO) adopted the Agreement to Promote Compliance with International Conservation and Management. In 1995, the code of conduct for Responsible Fisheries was adopted which established principle and standards applicable to the conservation, management and development of fisheries.³⁹

Then in 1997, the Kyoto Protocol to the Climate Change Convention took place which specified the obligation of industrialized countries (OECD), the Central and East European countries to reduce their emission of greenhouses and formulated these obligations into legal terms. Article 3 in Kyoto Protocol provided that during the period of 2008–2012 the emission of six types of greenhouse gases should be average 5% lower than in 1990. The main goals were the promotion of 'sustainable development' and avoiding dangerous change in the climate claim.⁴⁰

Five year later, the World Summit on Sustainable Development was held in September 2002 in Johannesburg of South Africa. The summit was attended by 193 countries and more than 100 Heads of states. The objective was to review the 1992 UNCED principles and reconfirm the global commitment for sustainable development. The Summit adopted two main documents: the Johannesburg Declaration on Sustainable Development and the Johannesburg plan of Implementation. The first one outlines the path, highlights challenges, expresses commitment to sustainable development and underscores the importance of multilateralism for implementation. The second one, the plan for implementation, is designed as a framework for action to implement the ten commitments which were included in 11 chapters in the Declaration: (1) Poverty eradication, (2) Changing unsustainable patterns of consumption and production. (3) Protecting and managing the natural resource base of economic and social development, (4) Sustainable development in a globalizing world, (5) Health and sustainable development, (6) Sustainable development of small island developing states, (7) Sustainable development in Africa, (8) sustainable development in West Asia, Latin America, the Caribbean and Europe. (9) Means of implementation and (10) Institutional framework for sustainable development.⁴¹ The overall focus of the Johannesburg Declaration was not only 'environmental

protection' but also an integrated environmental, social and development agenda, with attention for poverty eradication, sanitation and health.

PRINCIPLES OF SUSTAINABLE DEVELOPMENT IN INTERNATIONAL LAW

After going through decades of debates, the international law association (ILA) identified substantive and procedural principles of international law for sustainable development. In 2002 in New Delhi declaration of the ILA committees on the legal aspects of sustainable development identified seven principles of international law on sustainable development.⁴² These are:

1. the duty of States to ensure sustainable use of natural resources;
2. the principle of equity and the eradication of poverty;
3. the principle of common but differentiated responsibilities;
4. the principle of the precautionary approach to human health, natural resources and ecosystems;
5. the principle of public participation and access to information and justice;
6. the principle of good governance; and
7. the principle of integration and interrelationship.⁴³

The Duty of States to Ensure Sustainable Use of Resources

This is a well-recognized principle in international law that every state has its sovereign rights on the natural resources within its jurisdiction but also international law obligates each state to ensure not to damage the environment of other states while using its own resources. Every state has to use resources in a rational, sustainable and safe way so as to contribute to the development of its own people at present but must take into account the needs of future generations.

The Principle of Equity and the Eradication of Poverty

This is considered to be the central principle to the achievement of sustainable development. Equity refers to both 'inter-generational equity' and 'intra-generational equity,' the equity of rights between future and present generations. The resources have to be used by current generation

in such a way that future generation will be benefitted equally while to ensure the eradication of poverty as recognized by the Charter of the United Nations.

The Principle of Common but Differentiated Responsibilities

This principle requires every state to cooperate with each other and global institutions for environmental protection and global sustainable development. Developing countries and developed states have differentiated needs but all of them have common responsibilities for sustainable development. International law demands common but differentiated responsibilities from all states of the world.

*The Principle of the Precautionary Approach to Human Health,
Natural Resources and Ecosystems*

This principle requires protection of health, environment and ecosystems for sustainable development. Sustainable utilization of natural resources obliges every state to accountability for harm caused by its decisions. Each state has to adopt appropriate precautionary approach based on up to date and independent scientific judgment.

*The Principle of Public Participation and Access to Information
and Justice*

This principal is very significant for sustainable development. It is a precondition for responsive, transparent and accountable governments. This empowers humans to hold and express opinions, and to seek, receive and impart ideas. In the context of sustainable development, this also requires access to effective judicial or administrative procedures in the state.

The Principle of Good Governance

It is essential for the progressive development and codification of international law relating to sustainable development. It commits every state and international organizations: (a) to adopt democratic and transparent decision-making process and financial accountability; (b) to take effective measures to combat official or other corruptions; (c) to respect due

process in their procedures and to observe the rule of law and human rights; and (d) to implement a public procurement approach according to the WTO code on Public Procurement.

The Principle of Integration and Interrelationship

The principle of integration means the interdependence of social, economic, financial and environmental and human rights as required by international law. Global, national, regional or local—all levels of governance should implement the integration, which is essential for the attainment of sustainable development.⁴⁴

Finally, on September 25, 2015, in the UN General Assembly 193 countries adopted a set of 17 goals to end poverty, protect the planet, and ensure prosperity for all, called “transforming our world: the 2030 Agenda for Sustainable Development.” Each goal has specific targets to be achieved over the next 15 years. These were: (1) poverty in all its forms and dimensions will be eradicated; (2) hunger will be ended; (3) global maternal mortality ratio will be reduced to less than 70 per 100,000 live births; (4) free quality primary and secondary education will be ensured to all boys and girls; (5) all forms of discrimination against all women and girls everywhere will be eliminated; (6) universal and equitable access to safe and affordable drinking water for all will be achieved; (7) universal access to affordable, reliable and modern energy services will be ensured; (8) per capita economic growth and 7% gross domestic product in at the least developed countries will be sustained; (9) quality, reliable, sustainable and resilient infrastructure, including regional and trans border infrastructure, to support economic development and human well-being will be developed; (10) income growth of the bottom 40% of the population at a rate higher than the national average will be progressively achieved; (11) access for all to adequate, safe and affordable housing and basic services and upgrade slums will be ensured; (12) the sustainable management and efficient use of natural resources will be maintained; (13) resilience and adaptive capacity to climate-related hazards and natural disasters will be strengthened in all countries; (14) marine pollution of all kinds, in particular from land-based activities, including marine debris and nutrient pollution will be prevented and significantly reduced by 2025; (15) the conservation, restoration and sustainable use of terrestrial and inland freshwater ecosystems and their services, in particular forests, wetlands, mountains and

dry lands, in line with obligations under international agreements will be ensured by 2020; (16) illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime will be reduced by 2030; and (17) domestic resource mobilization, including through international support to developing countries, to improve domestic capacity for tax and other revenue collection will be reduced.⁴⁵

Consequently, on December 11, 2015, after lengthy overnight negotiations and two weeks of touch-and-go discussions, delegates at the UN climate talks in Paris adopted a climate-change pact. The final text of the Paris Agreement—considered being the world’s first universal climate agreement.⁴⁶ This agreement authorizes the Secretary-General of the United Nations to be the Depositary of the Agreement and invites the Secretary-General to convene a high-level signature ceremony for the Agreement at the United Nations Headquarters in New York from 22 April 2016 to 21 April 2017. Thereafter, this Agreement shall be open for accession from the day following the date on which it is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary. The five key points in Paris Agreement are the following:

1. *Limiting temperature rise ‘well below’ 2 C*: The agreement includes a commitment to keep the rise in global temperatures ‘well below’ 2 C compared to pre-industrial times, while striving to limit them even more, to 1.5 degrees.
2. *Legally Binding Agreement*: It is the world’s first comprehensive climate agreement, with all countries expected to pitch in. Under the previous emissions treaty, the 1997 Kyoto Protocol, developing countries were not mandated to reduce their emissions. Canada signed on to Kyoto, but later backed out in 2011.
3. *Helping poorer nations*: The deal also calls on developed nations to give \$100 billion annually to developing countries by 2020. This would help these poorer countries combat climate change and foster greener economies. The agreement promotes universal access to sustainable energy in developing countries, particularly in Africa. It says this can be accomplished through greater use of renewable energy.
4. *Publishing greenhouse gas reduction targets*: Countries will be tasked with preparing, maintaining and publishing their own

greenhouse gas reduction targets. The agreement says these targets should be greater than the current ones and “reflect [the] highest possible ambition.” These targets will be reviewed and revised every 5 years starting in 2023. The agreement also says that each country should strive to drive down their carbon output “as soon as possible.”

5. *Carbon neutral by 2050*: The deal sets the goal of a carbon-neutral world sometime after 2050 but before 2100. This means a commitment to limiting the amount of greenhouse gases emitted by human activity to the levels that trees, soil and oceans can absorb naturally (Watters 2015).

A COMPARISON

The preceding discussion indicates similarities between Islamic and International principles regarding the environmentally sustainable development. It appears as if many of the modern international laws are derived from the Islamic principles and the Prophet’s environmental philosophy.

First, while international law speaks about each state’s sovereignty over its natural resources, Islamic law ensures sovereignty of God over the resources of the entire world. If we could accept this philosophy that Qur’an itself asks human kind to maintain a balance (*mizan*) in the use of resources so that another state is not harmed, there would not have been any necessity of human international law. The international community is currently trying to achieve this objective of balance in the use of natural resources that Qur’an has already guided us indicating that God entrusted this earth on humans and upon taking this responsibility each human being has to keep the trust and not to misuse that power conferred upon him.

Second, in order to maintain social equity and to eradicate poverty, international law highlights some obligations for each state. But if we look at Islamic principles of ‘*zakat*’ (to distribute 2.5% of total savings every year) and all humans follow these guidelines then we will not have to shout today for eradication of poverty. Haider writes, “Qur’an ordains spirit of *Zakat* is to be sensitive to others’ needs and to share from that which one has and others might not. This caring and giving can be in monetary, physical, emotional, educational and special form. Charity that has ongoing social benefit (*Sadaqa-e-Jariya*) is much better than

sporadic charity.”⁴⁷ The idea of moderation and not to be extravagant in eating and drinking is also a clear indication of maintaining social and economic equity.

Third, Qur’an clearly states that as a believer, one should be aware of the responsibilities in the use of earth’s natural resources and the care of the environment. While only recently each national government and international community are trying to enact laws for waste management, God has made waste management an obligation for Muslims more than 1400 years ago, by providing samples of recommended (*Halal*) and forbidden (*Haram*) practices in waste management.

Fourth, the international community is emphatic about the use of water. According to the 2015 UN world Water Development Report, the world could suffer a 40% shortfall in water in just 15 years unless dramatic changes are made on the use of water. Underground water resources are running low. However, water is a significant theme in the Qur’an. The Prophet warned us in the seventh century about the proper use of water. He asked us, to ‘care for water,’ ‘conserves water responsibly’ and ‘consumes water wisely.’

Finally, the international organizations have many laws in recent years for protecting animals and species. However, as we have already noted that Islam obliges all humans to treat all animals humanly. It says that all animals are communities like us. They are creatures of God and if anybody kills any animals even by mistake that individual will face punishment on the Day of Judgment.

CONCLUSION

Environmentally sustainable development is certainly a challenge of contemporary international community. The contemporary economy is facing the problem of environmental degradation. Consequently, the environmental movement is gradually becoming popular. Many governments have adopted policies regarding recycling and pollution control. The notion of ‘sustainable development’ has been a cornerstone of international aid donor agencies. Each state is being compelled by international laws to incorporate environmental concerns into the state economic policies. The steps that are directed to follow today for sustainable development have already been ordained in Islam. The religion of Islam already made us cautious for the environmental protection. Unity, trusteeship and accountability that is, *tawhid*, *khilafah* and *akhirah* are three

pillars of the environmental ethics of Islam. They constitute the basic values taught by the Qur'an, emphasized by the Prophet and are enshrined in the *Shari'ah*.⁴⁸ These values provide a true Islamic alternative to the environmentally destructive thought and actions, which dominate the world today. *Shari'ah* could be taken as the vanguard for environmental legislation. At the theoretical level, the rise of Islamic ecological paradigm (IEP) in countering the contemporary environmental crisis is influencing Muslim activism in the west as well as in the Muslim majority countries. Thus an ontological alliance with the west is forming since the west is reconsidering its relationship with nature due to contemporary environmental crisis.⁴⁹ Though Muslim activism is less visible in the field of animal rights, IEP is shaping the mindset and expected to play a major role in the coming era.⁵⁰

The concern for sustainable development and environmental protection is not just a scientific problem, it is a moral issue as well—consequence of a deep, inner crisis of the soul. It appears that the laws regarding sustainable development appeared in the Qur'an in the seventh century much before the initiation of contemporary international laws. Parvez Manzoor observes, “can we...check this threat to our planet simply by introducing stricter legislation against pollution, industrial waste and nuclear spill? Can we reverse the degradation of our environment by adopting conservationist policies on both national and international levels? Or could it be that the whole ecological imbalance betokens the spiritual and teleological crisis of modern civilization itself? Does it require fundamental revision of our own way of life, our cherished goals, indeed our very conception of ourselves and the world?”⁵¹ Thus to conclude this paper is to agreeing with Prince Charles who rightly said in a speech on June 9, 2010, “the solution to all of our worldwide crises does not lie simply in more and better technology but in the recovery of the soul to the mainstream of our thinking. Our science and technology cannot do this. Only sacred traditions have the capacity to help this happen... We need to return to our sacred sources, Qur'an and Prophetic traditions, as well as the example of our righteous predecessors to recalibrate our relationship to the Earth, its environment and all of God's creation.”⁵² Nasr rightly emphasized on the need of a sacred science that will take care of the nature, environment and integrate nature to the epistemological level as an unity of reality rather leaving it only as an object of study and eager to gain power, domination and mastery over it.⁵³

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Conflict Resolution in Muslim Societies: Role of the OIC

Abdullah al-Ahsan

INTRODUCTION

Intra-Muslim conflict has always been there in history but the rise of the group called “Islamic State of al-Iraq and al-Sham” (ISIS) or *Da‘esh* in Arabic, also known as Islamic State of Iraq and Levant (ISIL) or simply Islamic State (IS) is phenomenal and paradoxical. The group seems to be opposed to all other Islamic groups as well as all minorities in Muslim countries, and yet they claim to stand for Islamic rule in the form of caliphate. In international relations, it has put the United States, Russia, and Iran, on the same boat—a scenario completely inconceivable a couple of decades ago. They seem to love attracting international attention by deliberately creating intimidation and terror. Dangerously, the group seems to motivate some Muslim youth born and brought up in Western democracies. How has the Muslim community reached to such a catastrophic state of affairs? The entire Muslim community has come under international pressure due to the rise of this group, and naturally due to global communication growth, these developments have made

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impacts on contemporary global affairs. Recently the United Nations Security Council (UNSC) has adopted a number of resolutions (2235, 2249 and 2254) recommending measures to combat international terrorism in connection with Syria. Earlier, in a conference on “Countering Violent Extremism” President Obama has called for collective international action to confront this threat (February 17, 2015). Graham Fuller, a former CIA official, immediately responded to President’s call in a blog saying, “Muslims must themselves be the ultimate force against ISIS.”¹ Fuller is right, because outside interference would complicate this already complex matter further. But can the Muslims resolve their internal conflicts internally? Can Qur’anic teachings on the subject play any role in resolving those conflicts? Can the Organization of Islamic Cooperation or the OIC, the only political institution that has brought most nation-states under one political platform, undertake challenges of internal conflicts and resolve them on the basis of Qur’anic teachings? This chapter first highlights OIC’s achievements in resolving intra-Muslim conflicts ever since its establishment in 1969 and then it analyzes the question of the rise of *Da’esh* in recent times and recommends a realistic method of addressing it.

The OIC, formerly known as the Organization of Islamic Cooperation, was founded in a Cold War atmosphere to achieve cooperative developments among member states. Fifty-seven independent and sovereign nation-states, mostly with Muslim majorities, joined for “promoting and consolidating the unity and solidarity among the Member States.”² Interestingly, the OIC legitimizes its foundation citing Islamic teachings. This makes the OIC a unique political institution in modern times that deals not only with sovereign nation-states that are outcome of modern European thought, but also relates itself with the religious and traditional universal faith of all Muslims. It has also involved Muslim international NGOs in its activities. This institution has become particularly relevant in the context of *Da’esh*’s demand for the revival of the caliphate—an institution that has historically claimed loyalty of all Muslims. It is for these reasons we have chosen the OIC to examine the questions of unity and conflicts among Muslim in the world today and study whether institutions such as the OIC could play any significant role in resolving conflicts within Muslim societies today. However, examining the rise and function of *Da’esh* would pose difficulty in treatment of non-state entities. The OIC is composed of nation-states while *Da’esh* is a non-state body without any known structure or background. But again,

in our view, there is no other institution that could undertake activities encompassing Muslims all over the world.

Since its establishment, the OIC has witnessed many conflicts among member states. In recent years, situation in a number of Muslim countries have deteriorated to the extent that some observers are portraying many OIC member states as failed states. This led the OIC to establish in March 2013 a specialized component called “Peace, Security and Mediation Unit (PSMU) at the OIC General Secretariat in Jeddah, Saudi Arabia. It declared that, the PSMU initially would focus on its capacity building, after which it would be expected to function principally through monitoring current and potential crisis situations to identifying and analyzing major root causes of conflicts and determining means to resolve them.”³ In order to promote task further, the OIC established a Wise Persons Council (WPC) with the aim of identifying “mechanism for conflicts resolution and peace building, strengthening the role of the Organization in the field of mediation and preventive diplomacy.”⁴

In light of recent developments in many Muslim countries where civil unrests are on the rise, this step by the OIC is very significant. Interestingly, even before the establishment of this office conflicts have occurred among member states and the OIC has been engaged in mediation efforts. How has the OIC addressed these conflicts? Since the OIC claims its legitimacy on Islamic ideas, we shall examine how it has made use of Qur’anic guidance on the subject? In this paper we shall examine the role of the OIC in resolving conflicts among member countries and extend this study to scrutinize OIC’s potential role in tackling the rise of extremism within the community. The recent discreet brawl between Iran and Saudi Arabia, which according to many observers threatens the very foundation of the Muslim community (Ummah), is also relevant to our discussion here. We shall now examine OIC’s potential role on this longstanding conflict.

PLO—JORDAN CONFLICT

The first internal conflict that the OIC encountered was the conflict between the PLO and Jordan in 1970. The PLO was not a regular member of the OIC at that time, but was an emerging force against the Israeli occupation of Palestine representing a significant segment of the Palestinian population. Jordan, however, had accommodated a huge number of Palestinian refugees and claimed to be the legitimate political

representative of the Palestinian people. On the other hand, the PLO at that time had a revolutionary approach to confront Israel, while Jordan was more pragmatic in dealing with Israel. This difference in approach brought the two parties into a direct armed conflict in 1970. An understanding of the conflict demands some references to recent history of the area.

The establishment of the state of Jordan can be traced to the First World War period in the region. The British defeated the Ottoman sultan with the support of some local tribesmen under the leadership of Sharif Hussein who came to prominence as the representative from the Hijaz to Ottoman parliament. In 1921, his son Abdullah was installed as the Amir of Amman with a grant of £5000 subsidy by the British. The British also helped Abdullah to create an army and with the British approval in 1946 he was declared king of the area called Trans-Jordan. In recognition King Abdullah played a passive role in the British effort to establish the state of Israel in the area. He also strongly opposed the Arab League proposal of creating the state of Palestine in 1948. Instead, he formally declared the creation of the Hashemite Kingdom of Jordan in 1949. Israel found an argument that no Palestinian nationhood had existed and Jordan was the nation of Palestinians where many Palestinians took refuge after 1948 war. In 1951, Abdullah was assassinated by a Palestinian gunman. Most Palestinians were irritated at Abdullah's role in creating the state of Israel in the area.

Following the 1967 war, many more Palestinians took refuge in Jordan. Some of them wanted to continue their struggle against the Israeli occupation of their homeland, and attempts were made to use Jordan as their base to attack Israeli targets. On its part, Jordan was not willing to let Palestinians use its land. In the process, the differences between Jordanian and Palestinian identities were becoming clearer. By then, the Palestinians had formed the Palestine Liberation Organization (PLO) to streamline their struggle against Israeli occupation. By 1970, the Palestinian militants and the Jordanian armed forces fought a number of skirmishes, and by the end of the year the conflict reached new heights. It was at this juncture that King Faisal of Saudi Arabia and President Abdul Nasir of Egypt intervened using the platform of the OIC and the Arab League. The conflict was resolved when Jordan renounced its desire to represent the Palestinians and the PLO agreed to move out of Jordan. Palestinian nationalism triumphed and the PLO moved its office to Lebanon. Both parties received specified roles

in Palestinian politics. The PLO gradually received international recognition as the sole representative of the Palestinian people. In a resolution, the OIC expressed its appreciation for the efforts of Egypt and Saudi Arabia in seeking to reconcile two of its members. Almost no information on the process of mediation was made public, but from the OIC resolutions on the subject, it was clear that Egypt and Saudi Arabia used their good offices to reconcile between the two conflicting parties. In a resolution the OIC noted the need for coordinated efforts by both the Kingdom of Jordan and Palestine Liberation Organization.⁵

Clearly the personalities of King Faisal of Saudi Arabia and President Abdul Nasir of Egypt positively played the most significant role in the negotiation. Both leaders were genuinely concerned about the Palestinian problem, and conflicting parties were convinced about their sincerity. As a result, the conflict was resolved to the satisfaction of both parties.

BANGLADESH—PAKISTAN CONFLICT

The OIC encountered another challenge among “brotherly Muslim peoples” almost immediately after its birth. In 1971, a civil war broke out in Pakistan between Bengali-speaking East Pakistanis and the people of West Pakistan. In resolving this conflict, the OIC played a very vital role. The conflict between the two countries originated when these two entities constituted one independent and sovereign nation-state between 1947 and 1971. Muslims from the extreme western and extreme eastern parts of the British India jointly fought against the British colonial administration and the anti-Muslim Indian nationalism. After independence, however, the military and bureaucratic elite, who came mainly from western Pakistan, gained control over Pakistani politics, and deprived the common people of their legitimate rights. Freedom minded East Pakistanis were the first to rise against the military-bureaucratic oligarchy of Pakistan. As early as 1948, it was reported in the *Constituent Assembly Debates* that, “a feeling is growing among the Eastern Pakistanis the Eastern Pakistan is being neglected and treated merely as a colony of Western Pakistan.”⁶ Soon, East Pakistani representatives in the Constituent Assembly identified two issues of disagreement with West Pakistani representatives. East Pakistanis felt that, by declaring Urdu as the only official language of Pakistan, the importance of their native language (Bengali) was being diluted. Some also believed that attempts

were being made to transform the numerical majority of the Bengalis in Pakistan to a minority status.

The claim for Urdu being the only national language was supported by the fact that Urdu was the only language that was generally understood in all regions, while it was not the language of any particular region. On the other hand, the argument of the supporters of the Bengali language was that Bengali was the language of the majority of the population of Pakistan and in many respects was a more developed and internationally recognized language than Urdu. Therefore, many Bengalis expected their language to be one of the official languages of Pakistan. Most leaders, however, seemed to have been more concerned about the unity and stability of the new country since it consisted of two separate regions divided by an enemy territory. They believed that a linguistic division would only set the two geographically divided territories further apart. There was little discussion in the Constituent Assembly on the question of language and the bureaucracy-dominated central government attempted to resolve the issue by coercive methods.

This eventually led to a civil war in 1971. During the civil war, the OIC Secretary General visited both parts of Pakistan in an effort to find a political solution to the conflict. The Secretary General was accompanied by representatives from Kuwait and Iran. When the OIC delegation attempted to visit India, where most of the leaders of *de facto* Bangladesh had taken political refuge, the Indian authorities prevented them on the grounds that the OIC had earlier expelled the Indian representative from its First Islamic Conference in 1969. The mission failed.⁷

The OIC renewed its effort to mediate, now between the two independent Muslim nations, after Bangladesh became officially independent at the end of 1971 following the military defeat of Pakistani armed forces. The general approach of the OIC clearly indicated its commitment to democratic values. In a resolution, the OIC decided to entrust the Secretary General with the duty of contacting prime ministers of both countries for a meeting between them and a delegation of six members, of the Islamic Conference of Foreign Ministers consisting of Algeria, Iran, Malaysia, Morocco, Somalia, and Tunisia. The OIC demanded the meeting to bring about agreement, conciliation, and brotherhood between the two elected leaders in an atmosphere of Islamic brotherhood, freedom, and dignity, as well as to study ways and means of assisting both the leaders to solve the problems.⁸

The Secretary General first attempted to arrange a meeting between the Bangladeshi and Pakistani leaders in Makkah during the annual pilgrimage, but the former declined to sit until the latter officially recognized Bangladesh as an independent country. The Pakistani leader, on the other hand, was experiencing public demonstrations opposing the idea. He, however, took the advantage of calling for an OIC Summit Conference to discuss the outcomes of the 1973 war between Israel and a number of Arab countries. The Second Islamic Summit Conference was called in Lahore in February 1974, and in the process the Pakistani leader recognized Bangladesh as an independent nation and invited its leader to the conference. Bangladesh responded positively, and since then both Bangladesh and Pakistan have been active participants in OIC activities. In the process the OIC gained legitimacy in the eyes of many Muslims. However, in recent years, Bangladesh–Pakistan relationship has again deteriorated with a new Indian-backed government in power, but the OIC has not taken any notice of the conflict.

IRAN–IRAQ WAR

The OIC acted quickly in a mediating effort between Iran and Iraq when the hot war began between them in the early 1980s. Foreign Minister's Conference of the OIC met in an extraordinary session in New York during a UN General Assembly. A goodwill mission, headed by the Pakistani President Ziaul Haq, was formed "in the hopes of bringing the warring parties to negotiations." Ziaul Haq immediately visited Tehran and Baghdad to persuade the leaders of the two countries to settle their dispute peacefully. Ziaul Haq was joined by the PLO leader Yasser Arafat. Their attempts failed.

The OIC continued with its efforts during the Third Islamic Summit Conference, held in Makkah/Taif in January 1981. The mission was reshuffled and renamed: under its new name—the Islamic Peace Committee now headed by the Guinean Revolutionary leader Ahmad Sekou Toure was composed of the heads of governments of Bangladesh, the Gambia, Pakistan, the PLO, Senegal, and Turkey. After the death of President Sekou Toure in 1983, the Gambian President Dawda Kairaba Jawara was entrusted with the leadership of the Islamic Peace Committee. The Summit Conference called both the parties to cease hostilities and declared that the OIC had agreed to "form an Islamic emergency force entrusted with the task of ensuring the implementation

of the ceasefire, should the need arise.”⁹ Iran had already announced its decision to boycott the conference on the grounds that it would never sit with the representative of what it called the “aggressor Iraqi regime.” The Iraqis, on the other hand, not only tried to convince the Summit Conference that Iran was responsible for the conflict, but also succeeded in getting the OIC’s approval to host the following Foreign Minister’s Conference in Baghdad.

The Islamic Peace Committee, however, went on with its efforts to bring the war to an end. The powerful Committee visited both capitals, and made a number of proposals based on the principle of nation-state sovereignty. It identified that the *Shatt al-Arab* waterway was the main issue of disagreement between the two countries. It, therefore, proposed that the decision on the waterway be placed to a committee composed of OIC members acceptable to both parties; it also proposed to continue negotiations for peaceful settlement of other disputes between the two countries. The Committee proposed a cease-fire date with a timetable for the withdrawal of Iraqi troops from Iranian territories. The Committee also proposed that the cease-fire and the withdrawal would take place under the supervision of military observers drawn from member countries of the OIC. It urged both countries to exchange declarations of noninterference in internal affairs of the other country. The Peace Committee firmly affirmed that the “OIC countries will guarantee the observance by both sides of the commitments undertaken on the basis of the package peaceful settlement and, if necessary, maintain observers on both sides of international frontier for a certain period.”¹⁰

Neither Iran nor Iraq paid much attention to these proposals. The Iranians demanded the OIC first, identify the aggressor in the conflict and punish them accordingly. And Iran wanted the OIC to do this without participating in its meetings. Iraq, on the other hand, remained part and parcel of the OIC system. The 12th Foreign Minister’s Conference was already scheduled to be held in June, 1981 in Baghdad. The Iranians requested a neutral venue for the conference, but the request was rejected on the grounds that Iran had earlier boycotted the Third Islamic Summit Conference, which was held in Makkah/Taif, Saudi Arabia. At the inaugural session of the 12th Conference of Islamic Foreign Ministers, the Iraqi President declared that “Iraq is relieved of any moral or legal responsibility for the continuation of the conflict: the responsibility lies squarely on the officials of Iran, for they have so far not exerted any serious and sincere efforts to halt the conflict and reach a peaceful,

just and honorable settlement in this dispute.” At the end of the conference, the OIC decided to make the statement of the Iraqi president a part of its official document because it contained “useful guidance for the Organization.” Thus, the OIC lost its credibility as a mediator. Yet the OIC continued its moribund efforts to bring an end to the war.

Outside of the OIC’s official efforts, one of its member states, Algeria, attempted to mediate between the two conflicting parties as soon as the war began. Its Foreign Minister, Muhammad Benyahya who had earlier brokered a major agreement (1975) between the two countries, was killed in a plane crash in Iranian air space when he was traveling from Istanbul to Tehran to discuss the matter with Iranian authorities. As a result, the effort collapsed at a very early stage of the initiative.

Other than the OIC, the UN was also involved in bringing an end of the war. The UN Security Council adopted a number of resolutions beginning with Resolution 479 of September 1980 calling for the cease-fire. It too took almost 8 years to really make the cease-fire effective, through Resolution 598 of 1987. In a resolution of its own, the OIC expressed its “satisfaction on ending the war,” and “hoped that they [the conflicting parties] redouble their efforts in their direct negotiations under the auspicious of the UN Security Council and their strong determination to implement it thoroughly.”¹¹ The OIC also expected a “just, permanent, and comprehensive settlement of the conflict.” It emphasized the urgency for the release of POWs in accordance with the Geneva Convention through the UN and other relevant international bodies. Thus, the OIC acknowledged its inability in resolving a major conflict in Muslim society. On its part, Iraq took full advantage of Iran’s international isolation to promote the idea that Iraq was fighting for self-defense. Eventually the war ended in August 1988 because of the importance of safe shipping through the Gulf. Now, for an analysis it is necessary to highlight some quick sequence of the conflict.

BACKGROUND TO IRAN—IRAQ CONFLICT

Some historians would like to trace the origin of the problem very early,¹² but the historical differences in the relations between Arabia and Persia seem to have been exploited in the conflict between Iran and Iraq more than what they really were.¹³ Realistically, however, the origin of the Iran–Iraq conflict should rather be traced in the twentieth century. Like Jordan, contemporary Iraq also was curved by the British

colonial administration following the First World War. In the process, certain communities such as the Kurds were denied statehood. Also the question of *Shatt al-Arab* waterway was not settled to the satisfaction of either Iran or Iraq. As a result, the countries in the region took advantage of their relative strengths and the weaknesses of their neighbors to define their international borders. In 1975, the former Iranian King Muhammad Reza Shah took the advantage of his cordial relations with the United States to “negotiate” a treaty with Iraq by adopting the Thalweg principle in *Shatt al-Arab* waterway, although traditionally Iraq had controlled the waterway. Since most of the waterway flows from Iraq, Iraqi leadership seemed to have accepted the treaty as an “interim solution” only.¹⁴

Within years (February 1979) Iran witnessed an Islamic revolution; and that changed the perception of both countries on the issue. Iraq seemed to have found an opportunity to revise the 1975 treaty, for Iran now was explicitly against the United States, and therefore, had no military and diplomatic support from the US or any other Western powers that it had earlier enjoyed. Iraq began to accuse Iran of provoking them and preparing the grounds for an all out assault. One pro-Iraqi author claimed:

Iran first launched a series of assaults on a number of cities within Iraqi territory ... (then caused) the sudden explosion of a bomb at a peaceful gathering of students at the University of Mustansiriya in Baghdad on April 1, 1980. Very soon, this was followed by attempts of the lives of Tariq ‘Aziz, Deputy Prime Minister, and Latif Nasif Jasim, Minister of Culture and Information.¹⁵

This claim clearly seemed to have been concocted as another author observed that the “total absence of any Iranian military preparation was unmistakably obvious in the first few weeks of the war.”¹⁶ To demonstrate their point, Iraqi authorities arrested a *Shi’a* religious leader, Ayatullah Baqir al-Sadr and his sister accusing them of being involved in anti-state activities. Baqir al-Sadr reportedly died in an Iraqi prison a few weeks later. This created a heavy tension among the *Shi’a* population in Iran.

On their part, the revolutionary leaders in Iran seemed to have been busy consolidating the revolution; they were still fighting against whom they considered internal enemies of the state. At the same time, however, they continued with their rhetoric not only against the United States,

but also began to raise their fingers against the regimes in most neighboring countries. Iraq seemed to have taken full advantage of this situation. One observer summarizes the Iraqi perception before the war as follows:

- The Iraqi leadership believed that the regular Iranian armed forces were in disarray following the revolution, and they were in no position to defend the country.
- The Iraqi leadership wanted to take advantage of this situation of the Iranian revolutionary government to alter the 1975 agreement to reestablish total Iraqi sovereignty over *Shatt al-Arab* waterway, and also to take control over a number of islands in southern gulf.
- Iraq also believed that the people of the Iranian territory of Khuzistan, who spoke Arabic and which Iraq officially called Arabistan, would welcome an Iraqi “liberation” of their territory.
- The belief that Ayatullah Khomeini’s regime would collapse soon.
- The Iraqi regime also expected to become a regional power by championing the “Arab cause” after defeating Iran.¹⁷

In public, however, Iraq justified the attack on Iran claiming that it was carried out in self-defense. In supporting its action, Iraq cited a case in international law saying that its behavior was “a necessity of self-defense, instant, overwhelming, leaving no choice of means and no moment of deliberations.”¹⁸ Iraq had been building up its troops along the Iranian borders since April 1980. On September 4, 1980 the Iraqi president officially accused Iran of violating and bombing Iraqi territories, and dispatched troops to capture one of the islands in the Gulf, and on September 7, he sent a warning note to Iran on the subject. The all-out formal Iraqi assault began on September 22, 1980. This background information is important for fair understanding of the conflict.

OTHER MEDIATION EFFORTS

We have already mentioned some unsuccessful mediation efforts on the part of the OIC. The Non-Align Movement also attempted to mediate in the conflict, but like the OIC its efforts were met with failure. It has also been pointed out that the war at last ended through mediation by the United Nations. Let us now examine in further detail the way the issue was handled by international bodies.

The UNSC met 4 days after the official beginning of the war (September 26). Two days later it adopted Resolution 479 calling for a cease-fire, but the resolution lacked persuasive wordings to convince the warring parties to adhere. In fact, as one observer has pointed out that, “during the first 6 years of the Iran-Iraq war, most of the actions of the Security Council varied between leaving things much as they were or making them worse.”¹⁹ The Security Council even refused to use the term ‘war’ to describe the state of affairs between the two factions. It used the term ‘situation’, perhaps because it wanted to avoid “the Security Council’s responsibility under the UN Charter to determine if an aggression had occurred.” Under such circumstances, it would have to identify the aggressor, which it wanted to avoid. Powerful members of the Security Council “concluded that their interests could best be served by letting the two regimes exhaust themselves on the battlefield.”²⁰

Resolution 479 also failed to call for Iraqi withdrawal from Iranian territories, which the UN Security Council normally performs under such circumstances. It may be pointed out that during the early days of the war, Iraq made significant gains in capturing Iranian territories. This indicates a clear bias in favor of Iraq by members of the Security Council. Quoting a United Nations source, the same author noted that, the Iraqi Ambassador to the UN was able to delay the first formal Security Council meeting on the war by promising that Iraq would quickly ‘solve’ the problem. However, some Arab sources who were in contact with the Iraqi leadership in the 1st days of the war were reported to have claimed that Iraq’s war strategy was consciously modeled on Israel’s 6-day campaign in 1967.²¹

Officially, the UN Secretary General Kurt Waldheim, after consulting the President of the Security Council, appealed to both parties to “exercise the utmost restraint and to do what they could to negotiate a solution to their difficulties” and to “desist, as a first step toward a solution of the conflict, from all armed activity and all acts that may worsen the present dangerous situation and to settle their dispute by peaceful means.”²²

Iraqi responses to these calls were more prompt and diplomatically mature compared to those of Iran. The Iraqi representative to the UN secured an invitation to address the members of the Security Council even before Iran had formally responded to their proposals. In his speech, the Iraqi ambassador attempted to diplomatically corner Iran by accusing them of violating the 1975 Algiers Agreement, and for

attacking Iraqi territory. In his response to the Secretary General's letter, the Iraqi president took a diplomatic offensive and explained Iraq's willingness to abide by the cease-fire proposal and became a "morally upright member" in the eyes of the members of the Security Council. On its part, Iran responded to the letter a few days later rejecting the resolution and squarely blamed Iraq for imposing the war on Iran. Iranian leadership also demanded punishment for the perpetrators in the conflict. Iran seemed not to care for diplomatic sophistication at all. It rather antagonized many international observers by continuing its revolutionary rhetoric not only against the United States and Israel, but also against the neighboring Muslim countries.

Within a few years, however, the Iranian leadership recognized the need for sophistication in diplomatic activities. In 1984, a diplomatic offensive was launched with a briefing by the leader of the revolution to officials of Iranian foreign missions, but that was of little use. Meanwhile Iraq seemed to have become desperate in achieving military victory. It launched indiscriminate attacks on Iranian cities targeting mainly civilians and used chemical weapons to achieve its goal, but the international community hardly took any notice. The Security Council condemned the use of chemical weapons, but took no action against such a heinous crime. Also when the US shot down an Iranian commercial aircraft, Iran was not able to muster enough support at the UN to condemn the US. In the battle field both Iran and Iraq gained occasional victories throughout 8 years of the war, but none of them were really able to translate them into permanent gains and impose a military solution to the problem.

Eventually, the war ended because of the importance of safe shipping through the Gulf, and to secure a steady oil supply from the region. Both countries were compelled to accept UN Resolution 598 of 1987 to end the war. Yet it took more than a year for both parties to officially accept the Resolution. The main issue of conflict, the question of *Shatt al-Arab* waterway, was left for the countries involved to resolve. In April 1990 (perhaps when he was contemplating an attack on Kuwait), the Iraqi President wrote to the President of Iran inviting the latter to negotiate the final status between the two countries. The Iranian President responded positively saying that, "In truth, had the issues raised in your letter been considered 8 years ago, and in lieu of soldiers, messages had been dispatched, today the two countries of Iran and Iraq and possibly all the Islamic Ummah would not have been confronted with such

tremendous loss and disaster.”²³ Through a number of correspondences between the two presidents, without any single face to face meeting, both countries agreed to follow the 1975 treaty. But that was too late for the OIC to a breakthrough in resolving the conflict.

WHAT WENT WRONG WITH OIC ATTEMPTS?

Why has the OIC failed to mediate between Iran and Iraq? In order to evaluate this question, one needs first to highlight the successes of the OIC in mediating between Jordan and the PLO, and between Bangladesh and Pakistan. We have already pointed out that all OIC mediations succeeded only after military defeat of one of the warring parties. Therefore, one may suggest that the OIC succeeds only when the conflict has been resolved militarily. One should, however, not underestimate the role of the OIC in cultivating brotherly relations between the two warring factions. For, it was only after resolving the conflict between Jordan and the PLO that gradually the latter received world recognition as being the only legitimate representative of the Palestinian people. In the case of Bangladesh and Pakistan, both countries became actively involved in international diplomacy. In the case of the Iran and Iraq, failure of military victory by any party might have been the main cause of failure of the OIC’s mediation effort. However the issue demands further assessment for a deeper understanding.

The nature of PLO-Jordan and Bangladesh-Pakistan conflicts were different from the Iran-Iraq conflict. As compared to the latter, the former two conflicts were not deeply rooted in history. Jordan was curved as a nation-state by the British following the First World War in order to please one of the latter’s supporters during the war. The Palestinians never considered themselves as a part of the British created Jordan. Also after the occupation of their lands by Israel, Palestinians became radical in regaining their lands from the occupiers, but Jordan never approved such radicalism. As a result, it was easy on the part of the arbitrators to develop working relations between the two warring factions. In the case of the Bangladesh-Pakistan conflict, after the military defeat of one of the parties, it was not difficult to bring the two parties to negotiations as both were eager to reestablish relations. The Pakistani leadership was having a conscience of guilt for imposing a civil war on the Bengali-speaking East Pakistanis. And the Bangladeshi leadership was eager to get closer to the Muslim world for which it was necessary to mend

relationship with Pakistan. Also the then Secretary General of the OIC, Tunku Abdul Rahman—a former Malaysian Prime Minister and a number of other member countries—played a significant role on bringing the two parties to negotiations. As a result, handling of the conflict became relatively easier. However, the Iran–Iraq conflict was deeply rooted in history, law, and contemporary international politics and one needs further deeper analyses of the situation.

The OIC started well: The Islamic Peace Committee was composed of six serving presidents and heads of governments. The OIC also prepared a very comprehensive proposal for a lasting solution of the conflict. The proposals were based on clearly stated principles of national sovereignty and some interim measures for navigation in the *Shatt al-Arab* waterway. The UN General Assembly passed a resolution in October 1982 endorsing the OIC proposals. Yet the OIC failed to persuade the conflicting parties to adhere to its proposals.

Let us first examine Qur’anic guidance on the subject. Peacemaking, from the Qur’anic perspective, is a sacred act. It demands sincere desire for peace for all parties involved. These include not only the conflicting parties, but mediators as well.²⁴ The relevant Qur’anic verse says:

If two parties among believers fall to fighting, make peace between them; but then, if one of the two [groups] goes on acting wrongfully towards the other, fight against the one that acts wrongfully until it reverts to God’s commandments; and if they revert, make peace between them with justice, and deal equitably [with them]: for verily, God loves those who acts equitably. (49: 9)

The Qur’an uses the word *sulh* for reconciliation. In most other places where the Qur’an uses the word *sulh*, it is generally followed by the word repentance (*tawba*) after theft (5: 39) or after committing a hypocritical act (4: 146) or after committing an undesired deed out of ignorance (6: 54). The above quoted verse is followed by the one that declares, “All believers are but brethren. Hence, [whenever they are at odds,] make peace between your two brethren, and remain conscious of God, so that you might be graced with His mercy (49: 10).” In other words, from the Qur’anic perspective, the real reconciliation between the two conflicting parties would emerge only when there is a genuine intention on the part of the conflicting parties and the mediators to achieve peace. Also from the Qur’anic perspective, peace is intimately tied with justice. It says,

“O You who believe! Stand out firmly for God, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to piety: and fear God. For God is well-acquainted with all you do” (5: 8.) The Qur’an also says, “O You who believe! Stand out firmly for justice, as witnesses to God, even as against yourselves, or your parents, or you kin, and whether it be against rich or poor: For God can best protect both. Follow not the lusts of your hearts, lest you swerve, and if distort justice or decline to do justice, verily God is well-acquainted with all that you do” (4: 135).

Did Iran and Iraq really want reconciliation? One may also ask whether the mediators were sincere in achieving long-term peace. Both Iraq and Iran, like small babies, accused each other of starting the conflict. The Chairman of the Islamic Peace Committee, Ahmad Sekou Toure, said at the beginning of the mission that the Committee would not act as a court because “judgment on the existing differences would be a very difficult job.” But “the war has grieved us deeply;” therefore, “this war should be ended through just and speedy measures.” He added that, “the devil separates the human beings from each other, but Islam unite them.” In response, the Iranian President asked the Committee to “decide who the devil in this case” and “to punish him according to Islamic principles.” In reply Sekou Toure is reported to have said that the OIC leaders were not there to answer any question and they wanted to convey the message that the Muslim Ummah wanted peace and an end to the war.²⁵ Was Sekou Toure realistic about the purpose of his mission? How could any party in a conflict seek reconciliation with the other when one acts wrongfully not only toward its rival, but also toward any genuine reconciliation effort? Pointing out to the hostile attitude of the Iraqi regime toward a reconciliation effort, Gary Sick has rightly pointed out Algeria’s effort that “Algeria, which had not only brokered the original 1975 border agreement but had also demonstrated its diplomatic skills by mediating the release of US hostages from Iran in January 1981.” But when Algerian Foreign Minister launched a major effort in early 1982 to seek a diplomatic settlement of the war, his aircraft was “shot down by an air-to-air missile from an Iraqi fighter, killing the foreign minister and all the members of his entourage. An Iraqi pilot captured by Iran years later indicated that the Iraqi objective was to blame Iran for the attack and thereby exacerbate its relations with Algeria.”²⁶

In spite of such clear evidences of Iraqi violations of normal norms of behavior, neither the Islamic Peace Committee nor the OIC ever raised

any question about Iraq's conduct during the war. On the other hand, Iran initially took a very hard line: the Iranian Prime Minister stated, "[Iran would] accept neither mediation, nor reconciliation, discussion or anything ... Our dispute with [Saddam Hussein] is a dispute between Islam and blasphemy, and as long as Saddam remains in his blasphemy it is essential for us to continue this *jihad*." Such a strong position espoused by Iran had put the OIC at a very intricate situation as mediator.

The President of Iraq attempted to depict the conflict as one between the Arabs and the Persians. In his effort, he received direct and indirect support from a number of Arab countries. Jordan was most supportive of Iraq from the very outbreak of the war. As compared to Jordan most of the Gulf Cooperation Council (GCC) countries maintained a low profile. Although the Saudis officially maintained that, "they (Iranians) were never an enemy in the past. Iran is not an enemy of the Arab people now,"²⁷ privately, however, they are reported to have supported Iraq's financial needs during the war. Kuwait was, perhaps, most supportive of all in helping Iraq financially. The media in these countries clearly backed Iraq.

Outside of these countries, Morocco and North Yemen clearly supported Iraq. Egypt was unmistakably fearful of Iran's revolutionary stance in international politics. Since most of these countries constituted the backbone of the OIC, it is not difficult to understand why the OIC became partisan and failed to follow the Qur'anic prescription to "fight against the one that acts wrongfully." Was the OIC prepared to investigate the matter in order to find out who initially acted wrongfully in this conflict? An examination of the stand of the OIC's Islamic Peace Committee headed by Sekou Toure clearly suggests that the Committee was not in favor of any such investigation. How could then the OIC have mediated in this conflict? The main impediment in the mission was clearly the idea of national sovereignty. Yet question arises as to how and why the OIC succeeded in resolving the crises between Jordan and PLO, and between Bangladesh and Pakistan, and miserably failed in resolving the conflict between Iran and Iraq? The answer to this question lies in the leadership: In the two success cases the organization was led by the former Prime Minister of Malaysia, Tunku Abdul Rahman, who was able to exercise his personal influence and diplomatic skills successfully to draft the conflicting parties to negotiations in resolving the crises. Also the personality of former King Faisal of Saudi Arabia played a significant

role in resolving both crises. The former Egyptian President Abdul Nasir played an important role in resolving the crisis between Jordan and the PLO. Such towering personalities were missing during the Iran–Iraq war. Did they interfere into internal affairs of the conflicting parties? In a sense, yes, but this was for a positive result, and the parties involved agreed to such interference. Therefore, in resolving the crises, the presence of the Qur’anic principles were not the only factor, a combination of those principles and sincere and capable leadership acted together. The commonly accepted leadership factor, however, was missing in the case of Iran–Iraq conflict.

CAN THE OIC PLAY ANY EFFECTIVE ROLE NOW?

The overall situation in the Muslim world has deteriorated drastically in recent years. Decades of bad governance, corruption, pseudo-religiosity and misuse of ideas of democracy and progress have produced frustration among the common people. On top of these internal quandaries, foreign intervention in Afghanistan, Iraq, and many other parts of the Muslim world in recent decades has become catalyst for the rise of extremist groups such as Al-Qaeda, ISIS, ISIL, or *Da’esh*. These groups have become increasingly more extreme. The Muslim youth seems to have lost hope. All the evidences suggest that the so-called war on terror has fuelled extremism and interestingly most extremist activists and suicide actors, according to most reliable studies, have not been known for their religious devotion. Many of these activists happen to be recent converts to Islam. According to one study published in the science magazine *Nature*, “religion is not the trigger,” rather “resentment is the common ground” for the growth of extremism.²⁸ The study also suggests that, “terrorism breeds in the prison” and “in poor and neglected suburbs.” Perhaps these young men and women have only known hypocrisy and double standards in the name of democracy and human rights but have not been exposed to Qur’anic guidance and prophetic practices under similar circumstances. In other words, the issue has many dimensions: while it demands cultivation of a good understanding of the Qur’anic guidance in life, it also demands serious undertaking of issues such as political injustice, insecurity, and hopelessness among the Muslim youth. Since the Arab uprisings of 2011, the general situation has further worsened. The situation in Syria has particularly exposed the weakness of the Ummah.

The OIC seems to be aware of the gravity of the situation. In a statement in response to President Obama's call, the Secretary General of the OIC has said, "Soul searching and looking into our inner individual, national, ideological, and religious self to identify that black hole within all of us is the beginning of our road to salvation."²⁹ But what sort of soul searching would the OIC be undertaking? The conflict seems to have taken a sectarian formation and the OIC does not seem to have taken any lesson from the failure of Iran–Iraq conflict of the 1980s. In the last Islamic Summit Conference (13th, held in Istanbul, 14–15 April 2016), the OIC has "deplored Iran's interference in the internal affairs of the States of the region and other Member States including Bahrain, Yemen, Syria, and Somalia."³⁰ Earlier Saudi Arabia established a 34 nation "anti-terrorism coalition" with the participation of a number of OIC countries. One may ask whether or not Iran is the only OIC member state interfering into internal affairs of other member countries. OIC's WPC, which met following the Summit Conference, did not ask any question about the rise of sectarianism within the Ummah.

Iranian-American academic Vali Nasr has argued that although Iranian revolutionary leader Ayatullah Khomeini "fashioned himself as pan-Islamic leader," he "was dismissed by a growing number of Sunnis as a Shi'ite cleric."³¹ However, it would be unfair to suggest that most Sunni clerics were opposed to Khomeini's approach toward Islamic unity, although many establishments oriented Sunni clerics did oppose Khomeini's approach. Surprisingly Nasr misses the point that following the Iran–Iraq war, the Iranian government continued to cultivate their line of thinking in other Muslim countries. As a result, there are now significant number of Shi'a population in countries such as Indonesia, Malaysia, Nigeria, and many other Sunni majority countries where almost no Shi'a existed before the Islamic revolution in Iran. Nasr is also wrong in his assessment of *Dae'shr*: he thinks that "the rise of the Islamic State—a violent sectarian army that has fashioned itself as the sword of the Sunnis pointed at the heart of the Shi'ite world and the West." Hasn't the terrorist organization terrorized many Sunni populated areas including Istanbul and Gaza? In other words, as the Nature article points out, one has to look for the rise extremism elsewhere, not in sectarian differences.

As for the OIC, the question is whether or not the OIC would have the courage to undertake the challenges that the Ummah faces today. Challenges arise not only from internal soul searching, questions will also be raised about the role of external interference in the Muslim world.

Will the OIC be able to address those questions? Externally, the OIC must raise questions such as, are Afghanistan and Iraq better off following the UN and NATO interventions? Hasn't extremism increased manifold since those interventions? Could the OIC demand trials for those Western leaders who lied in the name of weapons of mass destruction and imposed a war on Iraq as a result of which almost million perished and millions became refugees? Could the OIC demand trial in the International Court of Justice of Israeli leaders who frequently conduct massacres on the people of Gaza? These are relevant questions in the context of the rise of *Da'esh*. These are necessary questions not only for determining relationship between Islam and the West, but also for intra-Muslim relations.

The OIC is best placed to address these issues. However, keeping in view the UN and NATO interventions in Afghanistan, Iraq, and more recently in Libya resulting in catastrophic consequences, the OIC may seek intervention of UN peace-keeping forces with active participation of Muslim countries. Past experiences have not been encouraging. In 2001, Pakistan was coerced to join the US actions in Afghanistan. Pakistan carried out only what it was asked to do. The OIC must raise the question in the current context—why Pakistan has become a target of more US drone attacks under the Obama administration in recent years. Are the drone attacks legal or moral? Shouldn't the perpetrators be brought to justice? As a member of the OIC and a country that has succeeded in generating hope among many Muslims in recent years, Turkey and Malaysia are better positioned to pursue a policy of empowering the OIC in addressing questions of conflict resolution and security. If these questions are raised and treated on the basis of Qur'anic principles and freedom of expression is maintained in a transparent manner, the OIC may perform near-miracle in the world today.

NOTES

1. Graham E. Fuller, "Interpreting Islam to Muslims," accessed on March 13, 2017, <http://grahamefuller.com/interpreting-islam-to-muslims/>.
2. See the OIC Charter, accessed on March 13, 2017, http://www.oic-oci.org/page/?p_id=53&p_ref=27&lan=en.
3. Peace, Security and Mediation Unit (PSMU) at the OIC General Secretariat in Jeddah, accessed on March 13, 2017, http://www.oic-oci.org/topic/?t_id=7863&ref=3192&lan=en.

4. "OIC Operationalizes its Conflicts Resolution Mechanism," accessed on March 13, 2017, http://www.oic-oci.org/oicv3/topic/?t_id=11205&t_ref=4407&lan=en.
5. Organisation of Islamic Conference, *Third Islamic Conference of Foreign Ministers*, Resolution No. 1/3, Jeddah, Kingdom of Saudi Arabia, February/March, 1972, accessed on March 13, 2017, <http://ww1.oic-oci.org/english/conf/fm/All%20Download/Frm.03.htm#RESOLUTION> No. 1/3.
6. See, Salahuddin Ahmed, *Bangladesh: Past and Present* (New Delhi: APH Publishing, 2004), 338.
7. For detailed information, see, "Two Months after the Islamic Conference: Psychological Warfare, the one which is more Serious" *Impact International*, June 9–22, 1972, 8–9.
8. Organisation of Islamic Conference, *Third Islamic Conference of Foreign Ministers*, Resolution No. 9/3, Jeddah, Kingdom of Saudi Arabia, February/March, 1972, accessed on March 13, 2017, <http://ww1.oic-oci.org/english/conf/fm/All%20Download/Frm.03.htm#RESOLUTION> No. 9/3.
9. Organisation of Islamic Conference, *Third Islamic Summit Conference (Palestine and al Quds Session)*, Resolution No. 6/3-E(IS), Mecca, Kingdom of Saudi Arabia, January 25–28, 1981, accessed on March 13, 2017. See, [http://ww1.oic-oci.org/english/conf/is/3/3rd-is-sum\(political\).htm#06](http://ww1.oic-oci.org/english/conf/is/3/3rd-is-sum(political).htm#06).
10. See, "Text: the OIC Peace Proposals." In *Impact International* (March 27–April 9, 1981), 12.
11. Organisation of Islamic Conference, *Seventeenth Islamic Conference of Foreign Ministers*, Resolution No. 22/17-P, Amman, Jordan, March 21–25, 1988, accessed on March 13, 2017, See <http://ww1.oic-oci.org/english/conf/fm/17/17%20icfm-political-en.htm#RESOLUTION> NO. 22/17-P.
12. See Majid Khadduri, *The Gulf War: The Origins and Implications of the Iraq-Iran Conflict* (New York: Oxford University Press, 1988), 14–28; and J.M. Abdulghani, *Iraq & Iran: The Years of Crisis* (London: Croom Helm, 1984), 1–25.
13. The Iraqi president referred to the conflict as the Battle of Qadisiya—the battle in which the Muslim army destroyed the Persian army in the year 635. Obviously this reference was made with the intention of exploiting common Arab Muslims.
14. The Iranians were earlier using the Kurds against the regime in Baghdad, which was a huge headache for the regime in Iraq, and according to the treaty Iran was supposed to stop assisting the Kurdish insurrection in northern Iraq. For a discussion, see Ami Aylon, "The Iraqi Iranian

- War,” in *Crisis and Conflicts in the Middle East: The Changing Strategy from Iran to Afghanistan*. ed. Colin Legum (New York; Holmes & Meier, 1982), 36–39. Also see a statement on the subject by the Iraqi president in Majid Khadduri, 101.
15. Majid Khadduri, 83.
 16. Gary Sick, “Trial by Error: Reflections on the Iran-Iraq War,” in *Middle East Journal* Vol. 43, No. 2 (Spring 1989), 233.
 17. Ibid., 234.
 18. Quoted in Ibid., 233.
 19. Gary Sick, 234.
 20. Ibid.
 21. Ibid., 235n.
 22. See the UN Security Council records quoted in Majid Khadduri, 87.
 23. *The Texts of Letters Exchanged between the Presidents of the Islamic Republic of Iran and the Republic of Iraq 1990*, tr. Maryam Daftari (Tehran: Institute of Political and International Studies, Ministry of Foreign Affairs of the Islamic Republic of Iran, 1995), 10.
 24. For a good discussion on the subject, see Flamur Vehapi, “Conflict Resolution in Islam: Document Review of the Early Sources,” *Dissertations and Theses*, Paper 1446 (Portland: Portland State University, 2013).
 25. See Majid Khadduri, 95.
 26. See Gary Sick, 236.
 27. Quoted in Ami Aylon, 45, by referring to an interview by the Saudi Foreign Minister with the American media CBS.
 28. Declan Butler, “Terrorism Science: 5 insights into jihad in Europe,” *Nature*, December 2, 2015, accessed on March 13, 2017, <http://www.nature.com/news/terrorism-science-5-insights-into-jihad-in-europe-1.18923>.
 29. Organisation of Islamic Conference, “Statement of the OIC Secretary General at the First Session of the Global Summit on Countering Violent Extremism, Washington DC, USA,” February 19, 2015, accessed on March 13, 2017, http://www.oic-oci.org/topic/?t_id=9790&t_ref=3888&lan=en.
 30. Organisation of Islamic Conference, *Thirteenth Islamic Summit Conference*, Final Communiqué, Istanbul, Turkey, April 14–15, 2016, accessed on March 13, 2017, <http://www.oic-oci.org/docdown/?docID=14&refID=5>.
 31. Vali Nasr, “The War for Islam: Amid a roiling Middle East, Iran and Saudi Arabia are fanning the fires of sectarianism and playing politics in a zero-sum proxy war of religious fervor,” *Foreign Policy*, January 22, 2016.

Conclusion

Abdullah al-Ahsan and Stephen B. Young

The Qur'an claims to be a book of guidance and holds the view that the way in which Prophet Muhammad received the divine message was the same way earlier prophets such as Abraham, Moses, Jesus, and many others received divine guidance throughout human history. Although the Qur'an mentions names of only those prophets who lived in the West Asian region, it holds the view that all communities in history have received divine guidance for their worldly livelihoods (16: 36). The same Qur'anic verse also indicates how some communities in history deviated from God's guidance and ruined themselves. The Qur'anic claim corresponds with historical experience well. Today we clearly see traces of the rise and fall of civilizations although historical evidence doesn't manifestly put forward how they occurred. Undoubtedly, the rich and powerful have exploited assertions of having divine guidance for their advantage. In the Chinese tradition, this idea has been introduced as *t'ien ming* or heavenly mandate which various dynasties have used for their legitimacy. In the Indian tradition, the original form is so lost that

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the pious Hindus only refer to *Sanatan dharma* to which most people don't have any access.¹

Historians generally hold the view that religious ideas permeated all aspects of life in all premodern civilizations. Government, law, cultural, and economic activities were all justified by reference to religious purposes. At the same time, wars also were fought in the name of religions, and that is why, many historians hold religions responsible for most conflicts in history. Unfortunately, scientific historical evidence about the process of how early civilizations arose has not survived. As one source describes, "we find ourselves dealing with the end of things rather than the beginnings."² Interestingly, historians and archeologists have found a lot of information, mostly business transactions, from the ruins of ancient civilizations but it is impossible to ascertain their authenticity because we don't know who wrote them and under whose rule they were written. History clearly bears evidence of human manipulation of religious guidance because of their greediness and selfish motivation.

However, an enormous compensation in this predicament is the intellectual and scientific growth which human beings have achieved through historical development and progress. That is why in this book, we have adopted a rational approach to examining Qur'anic principles of good governance and their relevance to various aspects of our contemporary realities. Contemporary biological and social sciences are confirming that there is a set of moral emotions and intuitions that constitute the inner core or hypostasis of human nature. These moral emotions become the physical setting for the definition of values, virtues, and standards for human conduct. These standards of human conduct become the ideals that are used to create the great thought systems of social practice, economic exchange, political philosophy, and theology.

Cursory glances at today's world reveal that decades of misgovernance have created lack of trust between ruling elites and common people. This has led to feelings of hopelessness among the youth, which can be particularly noticed in the Muslim world. Any observer of contemporary history can easily see two major realities in the world today: the rise of extremism in the Muslim world and Islamophobia in the Western world. An academic attempt to seek guidance in the Qur'an in this current context of cultural confrontation could be very sensitive. But we have undertaken this endeavor, as has been explained earlier, in the context of post-9/11 world affairs which were mired in the conceptual framework of the clash of civilizations thesis. Therefore, we have tried to identify

appropriate Qur'anic teachings about our concerns for good governance and their corresponding Western ideas and values. One does not have to be Muslim to recognize the relevance of Qur'anic values in the world today.

In fact, one may fairly ask whether or not most Muslims are following the Qur'anic principles of good governance. We hold the view that the Qur'an is a book of guidance but that God has granted human beings complete freedom to choose whether to follow the guidance or not. In Chap. 4, it has been argued that among contemporary Muslim nation-states, Malaysia and Turkey have successfully applied some aspects of Qur'anic teachings in governance, and any observer of current history would recognize that there is a general appreciation of these two countries among Muslims in the world today. If the purpose of nation-states is to ensure the general welfare of their people, then definitely these two states stand as best evidences of such achievements in the contemporary Muslim world. Interestingly, these two countries have been most interested in following Western democratic norms.

An academic approach would acknowledge only what is rational. In Chap. 5, for example, we have argued that, "Too much debt and too little reliable income creates the potential fracture of the enterprise. The aspects of poorly assumed debt which lead to critical vulnerability are too much and too short term. In the financial crisis of 2008, the prominent American firms which failed were Bear Stearns, Lehman Brothers and AIG." Does this observation clash with Western values? Doesn't this view make Qur'anic guidance for good governance relevant to twenty-first century needs? We here are only trying to identify the relevance of Qur'anic guidance in our contemporary milieu.

Have we really learned from 2008 financial crisis? No, public leaders, professionals and technocrats who are entrusted to run regulatory agencies, and chief executives of companies with positions of significant responsibility and obligation have not devotedly discharged their responsibilities. There is a dire need to restore, adopt, and implement socially responsible regulations and supervision of the US financial sector to ensure economic stability and protection of long-term interests of society. One major dilemma in today's society is that many people follow different standards in personal and work life and this approach has severe impact on all aspects of life. In a recently published book *The Accidental Executive: Lessons on Business, Faith and Calling from the Life of Joseph*, former Boeing executive Albert M. Erisman has argued that, "wholeness

is the key for a business leader as well. Living the same life at work as at home avoids the problem of leaving values at home when the leader goes to work. Integrity doesn't allow the people of faith to leave that faith, that call on their lives, outside the door of the office. Gaining wholeness, we will find, was vital for Joseph – and it is vital for us.”³ The author refers to the Old Testament character Joseph (ca. 1700 BC), whom the Qur'an refers to as Yusuf, as a role model for our times. Joseph started his career as a slave, was then a prisoner, but ended his career as the Minister of Economy for an alien government. The author references him for the wholeness in the character of a leader who was committed to human dignity and equality. Unfortunately, religious ideas such as wholeness hardly play any role in political, economic, or other worldly affairs in the world today.

Qur'anic teachings include guidance for governing families as well. Families constitute a basic foundation of civilizations, and all civilizations in history derived ideas of relationship within a family, gender correlation, and role from religious guidance. Good family governance lays the foundations for family cohesion and harmony, which does not only relate to financial issues but also social, emotional, and spiritual well-being of the family. The Qur'anic guidance demands absolute human equality in the context of the family. In the family, legally married man and wife are entrusted with the *amanah* of raising their children by providing maintenance, care, and education. The Qur'an reminds mankind that when *amanah* are fulfilled, it would bring good to himself. The concept of *khalifah*, which is governance at the individual level, encompasses the concepts of *amanah* (trust) and *'adalah* (justice) as the essence of Qur'anic guidance on “good governance.”

Similarly, the Qur'an contains teachings about the environmental protection, unity of God, trusteeship, and accountability; that is, *tawhid*, *khilafah*, and *akhirah*. These are three pillars of the environmental ethics of Islam. To make the discourse of sustainable development more functional and committed to environmental ethics, Islamic scholars can contribute in this sector under the light of, and with deep reflection on, the higher objectives of Islamic ethics. Although the Qur'an insists on reflection on itself, Muslim scholars hardly reflect on it based on the latest scientific findings. Thus, our approach seeks to deepen the reflective capacity of Muslim scholarship as called for by Qur'an.

One major bankruptcy of contemporary Muslim society is reflected on the role of the Organization of Islamic Cooperation (OIC)—the second

largest international organization composed of independent and sovereign nation-states. Its failure to resolve intra-Muslim conflicts, to a great extent, resulted in the rise of extremism in some parts of the Muslim world. Moreover, this has caused the rise of Islamophobia in the Western world. The clash of civilizations thesis seems to have matured in international relations: The idea appears to have attracted followers and policy makers both in the Islamic and the Western world. That is why, it is the responsibility for those who subscribe to a world for peace and harmony to identify common civilizational values and promote them.

In Islamic belief, the cosmic unity known as *Tawhid* is from God and binds human beings to God's purposes. Under a secular understanding of the human condition, Tawhidic awareness can arise from systems thinking, chaos theory, holistic intuition, or any other understanding of the webs of causation in which our lives unfold. Wisdom reveals that conceptions of free will, autonomous and unrestricted personal dominion, and individual mastery of self and fate exist within a bounded rationality constrained by a wider reality. Thus, our humanity cannot avoid context in which it must express itself. The Qur'anic appreciation of this reality is centered in the themes flowing through the chapters in this book: *Fitra*, *Khalifa*, *Amanah*, *Shura*, and *Ijtihad*. From this perspective, each person is born endowed with a capacity to experience context and navigate life in context—*Fitra*. This capacity permits subordination of the extremes of ego and anthropocentrism to the “other,” be it nature or the social constraints of friends, kin, or passers-by.

The standard of living as a steward in creation—*Khalifa*—links the person to the future through constructive engagement with responsibility and reality. Holding all things in trust not under a personal dominion—*Amanah*—establishes relationships between the person and his or her contexts at all times. Consultations and reflection on what is learned through discourse—*Shura*—informs and empowers a person's mind and heart, giving them a better appreciation in the moment of what context is fitting for them and linking them to a chain of being which commenced before them and will extend beyond their reach and understanding and even their little lives on earth. The use of thought and judgment—*Ijtihad*—permits personal understanding to respond to the opportunities provided by *Shura* and to grasp the necessities implied by holding things—including one's own ambitions—in trust. *Ijtihad* permits the person to serve as Khalifa wisely and justly.

The second decade of the twenty-first century had brought about through the complexity of things a destabilization of the human order sought after World War II. The Rule of Law and the United Nations mission of achieving peace among nations through nonaggression is being challenged. Global economic growth has produced anger among those suffering relative deprivation in the acquisition of income and wealth. Parochial nativisms seek subordination of others to tribal privileges. Fundamentalisms in religion are variants of such nativistic rejections of *Tawhid* and perversions of the aims and goals of *Fitra*.

The resulting violence within States and between States violates our Moral Sense and the norms of both decency and justice. Oppressive governments, exploiting investors, vicious activists caught up in their own hubristic idolatries—all speak to a lack of good government. The deficit in good governance can be seen in individuals, families, corporations, political parties, leaders, and state structures of repression and exclusion. There can be no time in our lives when good governance is not relevant. The best of humanity cannot flourish unless there is good governance of the person, the family, and the community. As Qur'an enjoin human beings, "let there be among you a Community which shall call for righteousness, insist upon justice, and forbid evil (3: 104)."

NOTES

1. Although the idea of divine guidance in other traditions has not been discussed, here it is being referred only to emphasize the point that such idea exists not only in Islamic tradition but also universally.
2. <https://sourcebooks.fordham.edu/ancient/hamcode.asp>. Accessed on March 12, 2017.
3. Albert M. Erisman, *The Accidental Executive: Lessons on Business, Faith and Calling from the Life of Joseph*. (Peabody, MA: Hendrickson Publishers, 2015). 5.

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