

Contents

- v Friedrich-Ebert-Stiftung in Southeast Asia
- vii *Editorial*
Axel Schmidt
- 1 Islam, International Peace and Security
The Honourable Abdullah Ahmad Badawi
- 9 Europe: Muslims and the Secular State
Mathias Rohe
- 27 The Secular Nature of Law in Islam: A Basis for Democracy
Mohammad M. Shabestari
- 33 The Evolution of the European Secular State
Donald Sassoon
- 43 Multiculturalism and Christian-Muslim Dialogue
Syed Farid Alatas
- 53 Multiculturalism in Malaysia and Europe: Creating or
Nurturing the Middle Ground?
Fazil Irwan
- 63 Amity and Enmity: Is Europe Ready for Multiculturalism?
Yeo Lay Hwee
- 69 'Islam Hadhari'—a Model for Islamic Countries?
Patricia A. Martinez
- 85 Social Democracy—Not Only in Europe
Thomas Meyer
- 97 Conference Summary
Pauline Puah

Friedrich-Ebert-Stiftung in Southeast Asia

Friedrich-Ebert-Stiftung has been present in Southeast Asia for more than 30 years. Its country offices in Bangkok, Jakarta, Manila and Hanoi have been active in implementing national cooperation programmes in partnership with parliaments, civil society groups and non-governmental organizations, academic institutions and 'think-tanks', government departments, political parties, women's groups, trade unions, business associations and the media.

In 1995, the Singapore office was transformed into an Office for Regional Cooperation in Southeast Asia. Its role is to support, in close cooperation with the country offices, ASEAN cooperation and integration, Asia-Europe dialogue and partnership, and country programmes in Cambodia and other ASEAN member states where there are no Friedrich-Ebert-Stiftung offices.

Its activities include dialogue programmes, international and regional conferences (e.g. on human rights, social policy, democratization, comprehensive security), Asia-Europe exchanges, civil education, scholarship programmes, research (social, economic and labour policies, foreign policy) as well as programmes with trade unions and media institutes.

Dialogue + Cooperation is a reflection of the work of the Office for Regional Cooperation in Southeast Asia of Friedrich-Ebert-Stiftung in Singapore: it deals with ASEAN cooperation as well as the Asia-Europe dialogue.

- *Dialogue + Cooperation* will tell you about our activities in Southeast Asia by publishing important contributions to our conferences and papers from our own work.
- *Dialogue + Cooperation* will contribute to the dialogue between Asia and Europe by systematically covering specific up-to-date topics which are of concern for the two regions.
- *Dialogue + Cooperation* will be an instrument for networking by offering you the opportunity to make a contribution and use it as a platform for communication.

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Editorial: Dialogue + Cooperation 1/2006

Dear Reader,

In 2002 the Friedrich-Ebert-Stiftung Office for Regional Cooperation in Southeast Asia initiated the Asia-Europe Dialogue of Cultures by connecting academics, policy makers, religious scholars, representatives from international institutions and civil society from east and west. The objectives of this ongoing dialogue are:

- to overcome cultural misunderstandings between the different civilisations in Asia and Europe and to deepen mutual understanding about problems and conflicts on both sides, their multiple cultural, political, socio-psychological, social and economic causes, as well as their anti-democratic, xenophobic, aggressive and violent expressions;
- to try to define common ground that allows civilisations in the east and the west to live together peacefully and at the same time enables them to remain 'different'; in other words, to think about how to avoid clashes within civilisations and clashes between civilisations on the basis of common values, such as democracy, pluralism, equality, trust and responsibility.

The 9/11 event gave Samuel Huntington's controversial prophecy of 'the clash of civilisations' new prominence. Therefore, the first Asia-Europe Dialogue of Cultures, held in Singapore in September 2002, examined the legitimacy of Huntington's theses and came to the conclusion that externalised clashes within civilisations are at the root of what, in a globalised world, many perceive as a clash of civilisations.

When one participant in the dialogue argued that 'the real clash is between tradition and modernity within every civilisation', his remark was taken as a lead for the second Asia-Europe Dialogue of Cultures, which the Friedrich-Ebert-Stiftung convened in March 2004 in Berlin. At the end of the second meeting, the participants concluded that tensions between 'tradition' and 'modernity' are a necessary condition for development and that 'culture' is not static but constantly changing. Whereas Asia and Europe share similar problems with regard to these tensions, they seem to be less controversial in Europe than in Asia due to a historically longer modernisation process. The participants called for a continuation of the dialogue and suggested as subject 'the concept of justice in Asian and European cultures' as a potential source for peace or conflict in or between civilisations.

When I took over our regional office in Singapore in February 2005, I inherited from my predecessor, Norbert von Hofmann, the task among others of preparing the third Dialogue of Cultures. This proved a challenge. The topic, 'the concept of justice in Asian and European cultures', suggested at a first glance that there might be different concepts.

After a lengthy research of the relevant legal, philosophical and theological literature, I felt somehow lost. Instead of enlightened, I had become more confused, and I wondered how to conduct a conclusive dialogue about justice and more specifically a dialogue about justice in different cultures. Then I discovered that I had embarked on my research with the wrong question. I read the literature with ontological lenses to find an answer for

'What is justice?'. My question about the nature, the essence, the very being of justice led nowhere. However, when I started to ask 'How do people perceive justice, how do they concretise and organise justice in daily life?', I opened a door to a myriad of answers. I had found common grounds for a cross-cultural dialogue about justice since justice is linked to political and legal systems, to belief and ideology as well as to human and social interaction. The concept for the third Asia-Europe Dialogue was born.

Furthermore, I discovered another phenomenon. Islam from its very beginning has seemed to be more concerned about justice than other religions. From my cursory reading of relevant Christian literature—and with due respect to some mediaeval and modern scholars—I had the impression that the theological discussion about justice somehow lost steam when Christianity became the state religion in the Roman Empire in 380 A.D. Therefore, I took the liberty to focus the third Asia-Europe Dialogue on Islam.

To evoke debate, I choose some subjects where I personally saw inconsistencies, contradictions or conflicts, either in the relationship between state and religion as organisers and 'guardians of justice' or between ideology and reality. I admit that I composed the programme of the third Asia-Europe Dialogue in a somewhat eclectic manner and that it resembled more a construction site than a perfect monument. Nonetheless, it provided for sufficient time and space so that the participants could scrutinise, accept, reject or rearrange the different 'building materials' I had delivered to them.

The current edition of *Dialogue + Cooperation* presents some selected papers, essays and discussions from the dialogue. Additionally, a speech of Malaysian Prime Minister Abdullah Ahmad Badawi has been included, which he delivered in Berlin on the occasion of his state visit to Germany in May 2005. Since it inspired to a certain extent the third Asia-Europe Dialogue of Cultures on 'How do we shape a more just world?—Exploring some concepts of justice in Asia and Europe', and since the dialogue was convened in Kuala Lumpur, Malaysia, I felt it to be more than appropriate to give Prime Minister Abdullah Ahmad Badawi's speech a prominent space in this issue. I would like to express my gratitude to the Office of the Prime Minister for the kind permission to reprint his speech in full, without changes or editing.

Justice is translated into reality through laws. Nowadays it is the constitutional state that claims the power to make and enforce laws through its government. One may assume that, in a state with a culturally and religiously homogeneous society, there are fewer conflicts about individual and collective rights than in a state with a culturally and religiously heterogeneous population, in particular if these different cultures or religions claim the application of their own legal norms and practices. In Europe, religion and state are in principle separated. However, there is a lively debate about a partial autonomy for Muslim communities in matters of family law or the right to display religious symbols in public institutions. Can the European secular state, in terms of fairness, allow the co-existence of legal orders? In his paper, the German law professor and judge at the Court of Appeal of Nürnberg, Mathias Rohe, points out how Muslims in Europe and particularly in Germany can pursue their religion. Only the secular state under the rule of law, he argues, can enable the freedom and plurality of religion and personal convictions. Even more, German courts may under certain circumstances apply Islamic rules in their decisions.

The Iranian revolution of 1979 established an Islamic state which prescribes in its constitution that all laws and regulations must be based on Islamic criteria. In recent years, there has been a growing debate in Iran about the separation of religion and state and about democracy as the *conditio sine qua non* for a prospering Islam. Iranian theologian Mohammad M. Shabestari, whose scientific work in Islamic jurisprudence has substantially contributed to this debate, argues in his paper that Islam and democracy can be reconciled. With a hermeneutical approach, he unveils the secular nature of Islamic law. In his opinion, this very nature provides Muslims nowadays with the theoretical possibility of reforming their legal system and establishing democratic secular states.

Considering how inter-faith or inter-civilisational dialogue has become fashionable in recent years, one might gain the impression that the two universal religions, Christianity and Islam, have rarely interacted in the past. In his paper, Malaysian sociologist Syed Farid Alatas traces the Christian-Muslim dialogue back to mediaeval times and shows us how Muslims influenced the establishment of institutions of higher education in the Christian world.

In its self-perception, Europe views the separation of state and church as a *fait accompli* and takes the freedom and plurality of faith for granted. In his paper, British historian Donald Sassoon takes stock of the state of secularism in Europe. Contrary to common belief, he finds that in Europe secularisation is a recent process which is not at all uniform.

Immigration from Africa and Asia has transformed western Europe in the 20th century into multicultural societies. Although many European states provide for certain multicultural accommodations, the 'autochthones' still view their national societies as centred on monocultural norms, whereas the 'allochthones' segregate and are being segregated into ethnic and/or cultural 'ghettos'. The murder of Dutch filmmaker Theo van Gogh in Amsterdam in 2004, the Madrid bombing in 2004 and those in London in 2005, all undertaken by immigrants or by children of immigrants, alleged to be Islamic militants, have triggered in Europe a heated debate over the desirability or practicability of a multicultural society. Oscillating between calls for national unity, recognition of 'European values' by minority groups or restriction of immigration on the one side and better integration, claims for cultural diversity and equal opportunities on the other side, the debate illuminates that multicultural western Europe suffers from identity problems. Furthermore, western Europe seems to have reached a stage in which parts of its societies seek remedies for objective discrimination or felt injustice through massive violence. These phenomena evoke the question of the constitution of west European civil society. Who belongs to it? How are the boundaries defined between 'us' and 'them'? How rigid are they?

By virtue of history or colonial rule, south-east Asian societies are multicultural. However, in terms of ethnic groups, beliefs, religions and value systems, they seem to be far more complex than western European societies. They are not free from tensions, and the reactions of minorities to discrimination range from uneasiness to open violence. How does south-east Asian civil society define its members? How does it draw the boundaries between the 'in-group' and the 'outsider'? Are the boundaries in south-east Asia more porous than in western Europe?

The controversy over the cartoons of the Prophet Muhammad published by a Danish

newspaper in late 2005, causing condemnation and uproar in Islamic countries, gives political scientist Yeo Lay Hwee the opportunity for a philippic against the, alas, so liberal Europe. As a global citizen with domestic ties to Denmark and Singapore, she excavates the roots of some current problems: half-hearted immigration and integration policies in Europe, double standards, discrimination and the striving for western cultural hegemony.

Malaysian political scientist Fazil Irwan looks into the 'mismanagement of cultural heterogeneity' from a different angle. In the case of Malaysia, with its Muslim Malay majority and its non-Muslim Chinese and Indian minorities, the inter-ethnic tensions result from Malaysia's contradictory nation-building process. Founded on Islam as the state religion and on Malay culture as the dominant one, Malaysia seems to have fortified intra-national ethnic boundaries instead of dissolving them and to have established Muslim Malays as an exclusive group. On the premise of a 'non-ethnic non-religious state as the fundamental criterion for a multi-cultural society', Fazil Irwan offers an alternative reading of Islam. Through the exegesis of some Arabic and Islamic key notions, he tries to lift the barrier between 'Muslim' and 'Dhimmi' (non-Muslim) and to overcome the 'ethnic divide' in Malaysia.

Globalisation, 'unleashed' market forces and 'libertarian' democracy seem to have become the idols of the new millennium. Propagated by a conservative US policy, they have caused uneasiness and fears of economic, cultural and political domination in other parts of the world. However, alternative programmes for governance seem to emerge.

In Asia, Malaysian Prime Minister Abdullah Ahmad Badawi promotes his vision of 'Islam Hadhari', roughly translated as 'Islamic civilisation'. The basic principle of this vision is the combination of social and economic development with Islamic ethics. His political project aims at economic competitiveness and social stability and national development that also take the individual into account. According to Abdullah Badawi, his political project is compatible with modernity, democracy and diversity. In her paper, Patricia Martinez, a Malaysian scholar in comparative theology, reflects upon the genesis of Islam Hadhari and places it in the current political context of Malaysia. With a note of caution, she gives Prime Minister Badawi credit for Islam Hadhari as a viable project for Malaysian society.

The appreciation of shareholder 'values' of some few individuals indebted to the general public and the crisis of the European welfare state have induced the social democratic movement in Europe to reconsider its position and to counter those values with a comprehensive political project that aims to rebalance rights and obligations in a globalised world. With his 'theory of social democracy' matured in years of empirical research and academic production, German scholar Thomas Meyer takes a stand against the current tide of 'free market radicals'. Not only for reasons of justice but also for reasons of effectiveness, Meyer argues in his paper for more state responsibility in shaping social structures, regulating the economy and conducting redistributive policies in order to implement the basic values of freedom and justice.

The 'mission impossible' to record all the vivid debates around the various papers was assigned to Malaysian journalist Pauline Puah. In her conference summary, she has captured the salient arguments brought forward by the participants.

All papers and statements reflect the opinions of the individual authors. The Singapore Office of the Friedrich-Ebert-Stiftung would like to express its sincere appreciation to all contributors to this issue.

The Editor
Friedrich-Ebert-Stiftung
Office for Regional Cooperation in Southeast Asia

Islam, International Peace and Security

Speech by the Honourable Abdullah Ahmad Badawi, Prime Minister of Malaysia, at the Bertelsmann Foundation, Berlin, 18 May 2005

More than 2,000 years ago, the Athenian historian Thucydides had already warned mankind that belief in the inevitability of conflict can be one of its main causes. Regrettably, it seems to be in vogue today to talk about an inevitable clash of civilisations between the Islamic world and the West. Quite clearly, it is now the duty of all people of goodwill to come forward and take steps to prevent this idea from becoming a self-fulfilling prophecy.

The twentieth century was indeed very bloody. Over 100 million people perished in armed conflict. Political violence claimed another 17 million human lives. For this twenty-first century, I hope we can be more optimistic. However, if the past few decades are any indication, I fear that we may have insufficient cause for optimism. Violent conflicts within national borders have continued to take place. Armed conflict between nation states has continued to happen. One thing is certain. The capabilities of inflicting destruction have become greater. Humankind can yet undo itself in this century.

For the nation states of the world, it should be quite obvious that there is actually no alternative but to seek and establish a world order that is peaceful and secure. In a globalised international environment such as it is today, no country can be totally immune to the effects of conflicts even if they occur far way from their geographical borders. Furthermore, in today's world, no state, however powerful, can protect itself on its own. This is stated by no less than

the secretary general of the United Nations in his report to the heads of state and government members of the United Nations for their summit meeting in New York in September 2005.

We must not be swayed by the doomsayers. Those who insist on the inevitability of a clash of civilisations are people who have lost trust in the rationality of the human person. This may be an extreme view in itself. It may be true, as the saying goes, that guns do not kill but people do. Therefore, when speaking about religious extremism, we must also accept the fact that no religion preaches extremism or violence. It is only the terrorists who perpetrate heinous crimes. The point is that no one should be pointing their fingers at the ascendancy of religions throughout the world as the cause for the rise in extremism and animosity between peoples. We should not forget that in many parts of the world, we have seen cases where religion at the hands of progressive activists has been used to liberate, rather than oppress, societies.

Nonetheless, extremism and radicalism have indeed become a scourge in many parts of the world. They must be condemned when they are manifested in the form of terrorism. However, it is not justifiable to associate terrorism with any particular race or religion. Throughout history, all religions and races have had their respective share of terrorists. The religious wars of Europe, for instance, had less to do with questions of faith and belief

and more to do with political power and the contestation over it.

We need to point out that terrorists who commit crimes in the name of Islam are violators of the tenets of Islam. They certainly do not serve the interests of the religion. Islam and Muslim countries should not be made accountable for them. Muslims as well as non-Muslims must also not fall prey to the confusion created by people who carry out dreadful deeds and later claim them as a religious Islamic obligation. Terrorists must be singled out only by their acts of terror and nothing else.

The fight against international terrorism must be an international effort, preferably under the banner of the United Nations. There must be unity in our approach and sincerity in our determination to fight and eradicate it completely from our daily lives. But, the fact remains that in order to defeat the enemy, we must first know the enemy. We must find and identify the root causes of terrorism.

Malaysia has, in the past, fought a long war against subversives who used terror tactics to intimidate the population and overthrow the government. The terrorists burned houses and rubber factories, derailed trains, ambushed passenger buses, attacked police stations, murdered innocent people and generally struck fear into the daily lives of the population. It took us some 20 years to finally defeat the terrorists and secure a formal surrender.

The important lesson to be learned from the Malaysian experience is the fact that the war was not won by the use of conventional military force alone. We secured victory by psychological warfare as much as we did by military action. We won the hearts and minds of the people. It is on the basis of this documented success that Malaysia has been calling for an understanding of the root causes of terrorism.

One of the most important foundations for creating a stable international world order is the prevalence of stability within national societies and nation states. In turn, it is my firm belief that good government is key to stabilising national societies and nation states.

I have been informed that there is much interest about the Islamic dimension to all of this. It cannot be denied that Islam has become an increasingly powerful imperative for Muslims to act today. Muslims find it compelling and obligatory to act in the name of God and for the sake of the religion. Sadly, this great imperative has resulted in actions that Islam prohibits and condemns. Killing innocent people and bombing harmless targets are all acts that have been wrongfully committed in the name of God.

It demonstrates, however, how powerful an imperative religion can be. In Malaysia, we believe that this compulsion to act because of religion can be directed towards good, towards progress, towards development. We call this approach Islam Hadhari, literally civilisational Islam, or an approach towards a progressive Islamic civilisation. Islam Hadhari is definitely consistent with the objective of creating a stable international world order.

It is not an approach to pacify the West. It is neither an approach to apologise for the perceived Islamic threat, nor an approach to seek approval from the non-Muslims for a more friendly and gentle image of Islam. It is an approach that seeks to make Muslims understand that progress and development are enjoined by Islam. It is an approach that is compatible with modernity and yet firmly rooted in the noble values and injunctions of Islam. It emphasises the importance of appreciating the role of science and reasoning in the lives of Muslims, just as it is important to understand the laws of Islam and its

traditions. It is an approach that values substance over form.

Islam Hadhari posits 10 fundamental principles which Muslim countries must demonstrate, namely:

- First, faith and piety in Allah;
- Second, a just and trustworthy government;
- Third, a free and independent people;
- Fourth, a vigorous pursuit and mastery of knowledge;
- Fifth, balanced and comprehensive economic development;
- Sixth, a good quality of life for the people;
- Seventh, protection of the rights of minority groups and women;
- Eighth, cultural and moral integrity;
- Ninth, safeguarding natural resources and the environment;
- Tenth, strong defence capabilities.

These principles are acceptable to our non-Muslim population or for that matter, to our non-Muslim colleagues in the Malaysian government. With these principles to guide us, with our consistent and continuing record of improving governance for the people, and by practising and observing a high commitment to public accountability, Malaysia offers a modest working model of renewal, reform and perhaps, renaissance in the Muslim world. We do not pretend that Malaysia has all the answers to the many problems of the Muslim world. We are also aware that different countries need different solutions to their problems but I do believe that Malaysia can be a showcase of what it is to be a successful, modern Muslim country.

This is the fifth occasion that I have spoken about Islam Hadhari to a mainly non-Muslim audience, in a non-Muslim country. I do so today because Germany abides by the culture of readiness to give others a hearing and because I consider Germany

an open country that is committed to defending the dignity of the human person and devoted to fostering peace and goodwill among nations.

Today, I speak also as the chairperson of the Organisation of Islamic Conference (OIC), a grouping of 57 countries, representing three continents, namely Asia, Africa and Europe.

Malaysia chairs the OIC at a critical juncture for the Muslim world. I believe that there are an increasing number of Muslim countries in the OIC that recognise the shortcomings and failures in the Muslim world. Some are embracing the initiatives towards good governance and an intellectually more open and vibrant *ummah*. But these steps cannot be taken in isolation nor can they only fall upon Muslim countries. Reforms in the Muslim world must be accompanied by visible and meaningful changes to the foreign policies of key Western countries, including their support for the policies of certain of their friends.

There are many priorities to consider, but Islam Hadhari places a high premium on the ability of the government to provide educational opportunities and on the capability of the people to have access to education. Indeed, the prominence given to education is nothing new in Islamic civilisation. In the 10th century, Baghdad had some 300 schools. Alexandria in the 14th century had 12,000 students. Universities such as Al-Azhar were established long before those in Europe.

Today, the acquisition of knowledge is key to elevating the poor from poverty. Furthermore, science and technology, as well as research and development, are key to uplifting countries and nation states to become developed and modern entities. Education and the power of knowledge is the greatest equaliser among individuals in

society and the greatest leveller that can bridge the divides among the nation states in this globalised world.

The eradication of poverty is a high priority of Islam Hadhari. In this connection, I have called upon the richer Muslim countries to take the lead in providing assistance to the poorer members under a new 'Capacity Building Programme for OIC Countries', which was launched in Malaysia earlier this year. The immediate purpose is to generate income and provide employment. The longer term objective is to assist these OIC countries in upgrading their governance and development efforts.

We in Malaysia feel that we are well placed to begin this journey of reform and renewal. This is because we can and should build upon the tolerance we already observe and the inter-faith co-existence which we already practise in Malaysia. We would like to show by example that a Muslim country can be modern, democratic, tolerant and economically competitive. Islam certainly does not enjoin us to turn our backs against the rest of the world. In fact, Islam teaches us to find success not only in the hereafter but also in this world.

We are confident that Islam Hadhari can help bring Muslims into the modern world and integrate them in the modern economy. Islam Hadhari promotes tolerance and understanding, moderation and peace, and certainly enlightenment. I might add that Islam Hadhari is entirely consistent with democracy because Islam Hadhari is about living peacefully and respecting each other in society.

I would like to re-emphasise that Islam Hadhari is meant for the benefit of all in Malaysia, regardless of their religious or racial identities. It is certainly an exhortation to the Muslims to treat their fellow non-Muslim citizens fairly in all their dealings.

I have always stated that the approach of Islam Hadhari would bring excellence, distinction and glory to all Malaysians, Muslims and non-Muslims alike.

Underlying the whole message of Islam Hadhari is a call for tolerance towards people of other faiths, in accordance with God's injunctions: for you your religion, for me my religion. In Malaysia, we have succeeded in bringing about nationwide cooperation between the different ethnic groups who profess different religions. This is the result of a common realisation by all Malaysians of various races and various faiths that there is really no alternative for us but to maintain inter-communal and inter-religious peace through dialogue and cooperation. We have succeeded in forging a common national purpose through a system of power sharing in the government. It is a system of governing that upholds the principle of decision making by consensus, so that the representatives of the minority in the government are never marginalised or outvoted. This is perhaps one of the greatest strengths of democracy in Malaysia which has worked ever since we achieved independence in 1957. The coalition government of 13 political parties, which represent different ethnic groups with different religions, and which has been in power in Malaysia since 1957, is the embodiment of tolerance in the pursuit of our national objectives. Ethnic and religious diversity had not been a liability for the country. In fact, we celebrate this diversity as a valuable national asset. It provides for domestic peace and stability while giving Malaysia a good name internationally.

Undoubtedly, the *ummah*, which is a collective term identifying all adherents of the Muslim faith, must also solve its own internal problems. Extremism must be renounced, radicalism eradicated and all sectarian violence must be stopped. Islam can tap into its own rich intellectual tradition and challenge directly the extremist

doctrines that have lately become linked, quite unjustifiably, to Islam. Muslim leaders and Muslim scholars must succeed in reviving fully the true spirit and the true teachings of Islam. The truth must prevail that Islam abhors extremism and condemns terrorism.

However, the Muslim *ummah* acting alone on its own will not be able to achieve total success. Islamophobia must also be removed at the same time. The international community must take a stand to stop actions that contribute, directly or indirectly, to the perpetuation of injustice, oppression or aggression against Muslim countries and the Muslim *ummah*, anywhere and everywhere. The international community has a clear duty to disallow the marginalisation of Muslims and instead enable them to take part in influencing and setting the international agenda. The increasing gulf and misunderstanding between the West and the Muslim world must be bridged. But it requires both sides to work in tandem to close the chasm.

In this regard, Germany has an important role to play. Germany has shown, over recent years, that there is in fact another approach to addressing certain problems in the international arena, and that the path to be chosen is not necessarily the path of unilateralism or violence. It is important to emphasise this point, for many parts of the Muslim global community seem to think that the West is a singular entity, with a singular voice and agenda. Germany's principled stand on certain matters, for example on the invasion of Iraq, is something that often gets forgotten in the Muslim media. It is important for Muslims to remember that there remain countries in Western Europe like Germany that have a different approach to dealing with international problems, an approach that emphasises multilateralism rather than unilateralism, passive dialogue rather than

the use of force.

Inter-civilisational dialogues can take place at the official level between governments as well as along the 'second-track' at the non-governmental level. This is possible because the subject of the dialogue concerns human relations between peoples of different creeds and religions. I believe Germany is one of the countries which is actively promoting such discussions. The non-Muslim world, especially the West, must be prepared to discard their prejudices against Islam and be willing to engage in genuine dialogue.

In the wider international dialogue to seek and establish international peace and security, let me point out to you that the 57 Muslim countries, members of the Organisation of Islamic Conference, would be worthy partners because they are important not only in the realm of international politics and diplomacy but also international economics and finance. The 1.4 billion Muslims in the world make up one-fifth of the global population. It is estimated that the financial surpluses of Arab and other Muslim countries in the USA and other Western banks, is around \$800 billion. OIC members provide 70 per cent of the world's energy requirement as well as 40 per cent of global raw material exports. The West can therefore look upon the Muslim world as a partner for development and prosperity, certainly not as an adversary.

As a contribution to this larger dialogue for establishing international peace and security, let me humbly suggest that we must begin by accepting the need to adopt a paradigm shift within our own thinking and in the formulation of security policies by nation states. I think we should work towards building a general consensus on certain core fundamentals for establishing durable peace.

I would like to dwell on five such fundamentals involving five fundamental shifts.

- First, a shift from a security order based on amorality to one based on moral purpose.
- Second, a shift from state security as the central object of the security order to people security as the central object.
- Third, a shift from the pursuit of narrow national interest to enlightened national interest.
- Fourth, a shift from conflictual security to cooperative security.
- Fifth, a shift from a focus on narrow military security to a focus on wider, comprehensive security.

Allow me to elaborate briefly on each of the above. First and foremost, among the fundamentals for a durable peace, I think, would be that the security order must be a moral order. It must be a fundamentally ethical order. The rule of law must prevail, protecting every man, woman and child without distinction as to race, religion or wealth. All states large and small, powerful or weak, shall be entitled to equal security and an equal say in common security. States shall pursue not only their own legitimate interests but also the common interests of the wider regional or global community. The question may be asked, how is moral purpose to be introduced into the international order? Governments can apply peer influence upon each other. Civil society within countries and across states can exert sustained pressures upon their own as well as other governments to conform to recognised moral standards and be accountable for these standards. In extreme cases, for outrageous breach of the basic moral standards, internationally approved sanctions should be considered if other means fail. The point is, we should shift moral purpose from the sidelines of international conduct to centre stage.

The second fundamental for durable peace, in my view, would be the absolute centrality of people's welfare in any order for sustainable security. The welfare of the people must lie at the heart of all our struggles, not least the struggle for security. In practice, this means many things. The legitimate interests of the people must be addressed and their legitimate aspirations fulfilled. The people must have basic freedoms. The economic and social security of the people must be accorded the highest priority.

Third, there needs to be a shift in focus from narrow national interest to enlightened national interest. This idea was best captured by Lord Acton when he asserted that in the life of states, there are no permanent friends, only permanent interests. I am not suggesting the abandonment of the primacy of the state and the primacy of the national interest in the conduct of international affairs. I am only suggesting that states should view their interests in more enlightened terms and pursue them accordingly. In this way, there will be a stronger impetus to discover common interest and seek common cause with others.

The fourth fundamental is a shift from a conflict approach towards security to a cooperative approach towards peace. Differences and conflicts of interests do not have to degenerate into violent confrontations and be resolved, if at all, by force. They can be resolved peacefully. The peaceful pursuit of security and the pacific settlement of disputes will be greatly enhanced if states begin to regard security as mutual, common and indivisible. When states begin to perceive that their security cannot be attained at the expense of each other but with each other, it will then follow that they will pursue peace through cooperative rather than conflict approaches. In fact, there is hope because the reality of interdependence in a

globalised world will tend to force states to consider the cooperative road to mutual peace and mutual prosperity not merely as an option, but an imperative.

I believe that the fifth fundamental would need to involve a shift from a narrow preoccupation with military security to a wider concern for comprehensive security. In essence, security encompasses the security of all the fundamental needs, core values and vital interests of the individual, the society and the state. When we begin to see our security in such comprehensive terms, the logic of cooperating for mutual security in an interdependent world will become even more persuasive and compelling.

Let me end by returning to what I said in the beginning. The predicted clash between civilisations need not be, and is not,

inevitable. The higher, true values of Islam are those adhered to by the many. No one should judge Muslims on the basis of the extreme deeds committed by the few. Muslims believe that if you have good intentions, God Almighty is always there to lend you a helping hand and assist you in your quest to do good. Differences in opinion must be accepted and tolerated. We must not cease to appreciate the differences that exist between peoples. The Quran states that God created the universe and caused it to be inhabited by men and women and peoples and tribes so that they may know each other. We must proactively seek peace between cultures and religions by deliberately seeking non-violent adjustments, dialogue and negotiations. Above all, we must not fear differences. The prophet Mohammed said, 'Difference in opinion is ... a sign of the bounty of God'.

Europe: Muslims and the Secular State

Mathias Rohe*

I. Introduction

Aristotle, who for centuries has been a highly regarded authority in both Europe and the Islamic world, defined justice as treating the equal equally and the unequal unequally.¹ The difficult task we face is therefore to define exactly what is equal or unequal. I am deeply convinced that today we can find common ground worldwide in saying that everybody's life, human dignity and right to self-determination are equal. Of course, circumstances will always exercise considerable influence on the practical application of these principles in different regions of the world. Creating peace in society, which might be the foremost task of any legal order, will have to take the *conditio humana*, the nature of human beings, into consideration. Every majority within a given organisational framework will claim dominant visibility and superior, if not decisive, influence on decision making. The predominance of Hindu temples in India, mosques on the Arabian peninsula and churches in Europe may serve as an example.

Nevertheless, the minority will agree to consensual, non-violent decision making and coexistence only if its essential interests are equally considered and protected. Thus, the existence of mosques and churches in India, the existence of mosques and Hindu temples in Europe and the ex-

istence of churches and Hindu temples in some Islamic states will contribute to a peaceful and fruitful coexistence between the majority (which is often far from truly homogeneous) and minorities. Weak minorities deserve more protection from the moral, but also from the legal, point of view, if the protection of human dignity is to be more than a nice idea to be discussed on a merely theoretical level.

Maintaining the human dignity of every individual equally in practice has to be done with regard to the factual and 'technical' framework given by the structure and the historical, social and cultural prerequisites of the respective states and societies. Therefore, we will always face slight differences between different states and societies in granting individual rights, due to the differences in these prerequisites. Nevertheless, there is and has to be a core corpus of rights to be respected and protected regardless of local differences. Freedom of religion and personal convictions is one these rights. Of course, every right is necessarily limited by the equal rights of others. Thus, the basic right to religious freedom is not to be exercised without restriction, particularly when religious practice has an effect on the (social) environment. For example, freedom of belief does not justify the religious indoctrination of pupils.² Nor does

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1. *Aristoteles*, Die nikomachische Ethik, 5. Buch "Wie sich die Sachen verhalten, so werden sich auch die Menschen verhalten. Sind diese nicht gleich, so werden sie auch nicht Gleiches erhalten. Daher kommen die Streitigkeiten und Prozesse, dass entweder Gleiche Ungleiches oder Ungleiche Gleiches haben und zugeteilt erhalten." (translation into German by O. Gigon, 2nd ed. 1967, p. 159).

2. Cf. Verwaltungsgericht Stade Informationsbrief Ausländerecht 1983, p. 117 (propaganda of violence in a Quran school).

the protection against blasphemy (e.g. provided by §166 of the German criminal code) entitle the victim to take the law into his/her own hands. Buildings used for religious purposes have to meet the common rules of security in construction.

In sum, every legal order has to be built on structures enabling the state and society continuously to negotiate and determine peaceful and well-balanced solutions for conflicting interests with respect to religious life. The crucial task will be to find the optimal balance in maintaining and enforcing the necessary amount of uniformity in defining rights and duties in order to stabi-

lise the state and its society in the long run on one hand, and in granting individual rights and thus diversity to a degree which meets the human rights standard of freedom of religion on the other hand. In Europe, the basic order, which is the democratic secular state under the rule of law, cannot be part of those negotiations, but has to be the starting point of further reflections. My thesis is that it is only the secular state under the rule of law that enables true freedom of more than one (i.e. the predominant) religion. In the following I will focus on the legal status of Muslims in Europe and especially in Germany.

II. Muslim Presence in Europe

The presence of Muslims in Europe dates back to the Middle Ages. Despite this, a stable presence of significant Muslim groups—now an overall number estimated at 10-15 million—in western, central and northern Europe is a relatively new phenomenon. Millions of Muslims now *voluntarily* stay in European countries whose majority population is non-Muslim. This presents a new situation for Muslims as well as for the countries they are living in and the societies they are part of.³ Most of these Muslims were born and grew up in Europe, or at least intend to stay here permanently. The former idea of a merely temporary stay for work or educational reasons turned out to be an illusion. Therefore, the days of provisional solutions in the organisation of individual and social life are over. More and more Muslims are reflecting on their identity and their status in European societies. At the same time, European legal orders have to cope with this new religious identity (or identities).

When it comes to the situation of Muslims

in Europe, one first has to keep in mind that the major problems concerning the lives of Muslims don't concern their belief as such or their religious needs. These problems concentrate on issues such as the lack of knowledge of the dominant language, a widespread lack of higher education and comparatively high levels of unemployment. Another problem is a certain suspicion against foreigners, who are supposed to threaten the ruling culture of the land—despite the fact that this culture intrinsically includes a far-ranging degree of pluralism. The psychological problems resulting from 9/11 and other terrorist crimes, leaving broad feelings of insecurity among non-Muslims and Muslims as well, have also to be taken into consideration. Besides that, one should avoid considering Muslims as well as non-Muslims to be groups of a single outlook. There is a lot of pluralism inside these groups, and many conflicts as well, which mostly are not rooted in religion. So, for example, the Muslim communities in Europe are not unified at all; there are still 'Turkish', 'Arab' or 'Bosnian'

3. Cf. Rohe, Mathias. 2001. *Der Islam—Alltagskonflikte und Lösungen. Rechtliche Perspektiven*, Freiburg/Br., 2nd ed. pp. 91; for modern views cf. also Philip Lewis *et al.* 1994. *Islamic Britain*, London: IB Tauris, p. 52 in particular.

mosques to be found, where only believers of a certain ethnic background pray.

Many Muslims in Europe still tend to seek practical solutions for organising their lives in accordance with the demands of European legal orders and Islamic religious commands. It is only within the last few years that Muslims have also tried to formulate theoretical statements to clarify their positions and possible conflicts between legal and religious rules, and to find adequate solutions for such conflicts.⁴ Furthermore, a considerable number of Muslims are not particularly interested in religious practices, while not denying their Muslim identity as such. Others are attached to *sufi* (mystic) beliefs and practices, considering the 'superficial' rules of mediaeval *fiqh* (Islamic

jurisprudence) of little importance.

Nevertheless, obviously increasing numbers of Muslims are eager to achieve more certainty in defining their position as European Muslims. On the other hand, there are undoubtedly significant problems for European societies resulting from the small but dangerous number of Muslim extremist activities and some larger tendencies of a harsh anti-Western attitude which may lead to a forced policy of self-segregation.⁵ The crucial question for Muslims is thus to define Muslim identity—including the practical fulfilment of Islamic rules—within the framework of European legal orders and societal needs.⁶ In this field, we have to distinguish between the application of religious and legal norms of Islam.

III. Secular European states and the protection of the freedom of religion

1. The application of Islamic religious norms (concerning the 'ibadat)

Applying religious provisions is fundamentally different from applying legal norms, due to the fact that in most European states religious freedom is far reaching. European constitutions, like Art. 9 of the ECHR,⁷ guarantee that people will not be deprived of the basic requirements for complying with the demands of their religion. No Muslim will be prevented by the state from

adhering to the 'five pillars', for example. Everybody may consult renowned Muslims or Muslim institutions for advice in religious matters,⁸ which opens up broad space for actively practising one's religion privately as well as in public.

Religious freedom in this sense includes all kinds of religions, not only those of the

4. Excellent studies on present developments are presented by Wasif Shadid and Sjoerd van Koningsveld, 'Religious Authorities of Muslims in the West: Their Views on Political Participation', in id. (eds.) 2003. *Intercultural Relations and Religious Authorities: Muslims in the European Union*, Leuven, Paris: Dudley, p.149, and by Waardenburg, Jacques. 2003. *Muslims and Others: Relations in Context*, Berlin, New York: Walter de Gruyter, pp. 241, 308 and 336.

5. Cf. the contributions in Berlin, Senatsverwaltung für Inneres (ed.) 2005. *Islamismus*, Berlin.

6. Cf. Rohe, Mathias, 'The Application of Shari'a Rules in Europe—Scope and Limits', in Rohe, Mathias (ed.), *Shari'a in Europe, The World of Islam*, Vol. 44 Issue 3, 2004, p. 323.

7. The wording is as follows:

Art. 9—Freedom of thought, conscience and religion:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

Freedom to manifest one's religion or belief shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

8. For an example, cf. Rohe, Mathias, 'The Formation of a European Shari'a', in Malik, Jamal. (ed.) 2004. *Muslims in Europe: From the Margin to the Centre*. Münster: LIT Verlag: pp. 161, 173.

majority of the population or established ones. Furthermore, according to this provision, religion is not restricted to the private sphere; its manifestation in the public sphere is protected as well. Nevertheless, there are some differences in the application between several European countries. This is due to different convictions on how great should be the distance between the state's activities and religions. France or Switzerland, for example, prefer a strict separation between state and religion. Therefore it is not allowed for officers to show religious symbols during their working time, e.g. in schools. The strict principle of laicism in France, in accordance with the 'unity of the republic', would also prevent schools offering halal food to pupils, because no group should be treated in a different way.

The situation in Germany is somewhat different. The most important provision to regulate religious affairs is Article 4, Sections 1 and 2, of the constitution.⁹ This article—as well as Article 9 of the ECHR, which is less far reaching in granting rights—is not limited to private religious conviction. It also grants the right of public manifestation of belief, and the state is obliged to ensure that this right is not unduly limited. Of course, there are legal limits for any rights, including religious ones. Nobody would be allowed to threaten others on religious grounds, for example.

Furthermore, Article 3, Section 3, of the constitution prescribes that no one may be

discriminated against, or given preferential treatment, because of their religious belief. These legal provisions prove that the secular legal orders in Europe don't reject religion; they are not at all anti-religious, as is often wrongly understood. To the contrary, they open a broad space for religious belief and life. It is only that the state itself has to be neutral and is prevented from interference in religious affairs. The most important result of this legal secularism is the equivalence of religions, including the freedom not to adhere to a religion or to change religion.¹⁰ According to unanimous understanding in Europe, this neutrality is an indispensable prerequisite of true religious freedom. A prominent French Muslim accordingly calls this system one of 'positive neutrality' (towards religion).¹¹ Some examples¹² concerning the German legal situation will illustrate that.

More than 2,000 mosques exist in Germany. Most are located within former factories, which were available for reasonable prices and situated near the living quarters of many of the believers. But there are also examples of very representative-looking mosques in several cities, with prayer rooms with space for more than 1,000 persons. Some of them have minarets, and in some cities the *adhan* using loudspeakers is allowed for certain prayers, e.g. the prayer on Friday noon.¹³

The construction of places of worship is privileged under German building law because of the constitutional guarantees of

9. The wording is as follows:

Article 4 [Freedom of faith, conscience, and creed]

Freedom of faith and conscience, and freedom to profess a religious or philosophical creed, shall be inviolable.

The undisturbed practice of religion shall be guaranteed.

10. For the intrinsic connection between full religious freedom and secularism, cf. Bielefeldt, Heiner. 2003. *Muslims im säkularen Rechtsstaat*. Universität Bielefeld, p. 15.

11. Bencheikh, Soheib. 1998. *Marianne et le Prophète—L'Islam dans la France laïque*. Paris: Bernard Grasset, p. 57.

12. For other issues, such as wearing headscarves in the public service, cf. Selbmann, Frank 'Developments in German Case Law Regarding the Freedom of Religion', *European Yearbook of Minority Issues* No. 3 (2003/4), pp. 199, 207.

13. Cf. Kraft, Sabine. 2002. *Islamische Sakralarchitektur in Deutschland*, Münster LIT Verlag; Leggewie, Claus *et al.* 2002, *Der Weg zur Moschee. Eine Handreichung für die Praxis*, Bad Homburg v.d.Höhe: Herbert-Quandt-Stiftung; Schmitt, Thomas 2003. *Moscheen in Deutschland. Konflikte um ihre Errichtung und Nutzung*, Flensburg: Deutsche Akademie für Landeskunde.

religious freedom. In rare instances, legal cases have been initiated on whether minarets could be built, and their permitted height. It is not too surprising that the very visible erection of minarets could cause some irritation depending on local circumstances. Some people consider the erection of minarets a symbolic attack on the predominant Christian culture. Such suspicions are very often formulated not by practising Christians but by people who maintain rather loose ties to religion in general, but in some cases also by small Christian fundamentalist and anti-Islamic sects like the so-called 'Christliche Mitte' (Christian Centre).

According to German building law, the form of places of worship has to fit into their surroundings, despite the generally privileged status of such buildings. Nevertheless, the Administrative Court of Appeal of Koblenz decided in a case concerning the erection of a minaret that there is no 'protection of the cultural status quo' under the law.¹⁴ Times are changing, and because Muslims now are an important part of the population, society as a whole has to accept this fact. Notwithstanding this favourable legal position, Muslims would be well advised not to enforce their rights with the aid of the judiciary before having patiently tried to convince the public of their peaceful intentions in building mosques and cultural centres. As a (part-time) judge in the Court of Appeal of Nuremberg, my experience is that a judgement in application of the law has to decide a case in favour of one of the parties, at least in part. But often it will not lead to a true and stable peace between the parties. The party whose claim was dismissed will often seek a new reason for continuing the battle, which is not a very convenient basis for

running a house of prayer or a cultural centre. In this kind of case, settlements are a much preferable solution; such settlements can be found in preliminary discussions with the authorities involved as well as with the general public. Fortunately, this has become the usual way of handling matters in Germany.

In a landmark decision, the Federal Constitutional Court on 15 January 2002¹⁵ ruled that the freedom of religion includes the right of Muslims to slaughter animals according to their religious commandments. This includes forms of slaughtering without pre-stunning of the animals, which is generally forbidden by the Law on the Protection of Animals. According to §4a of this law, a religious community may apply for a licence to slaughter according to such commandments. It should be mentioned that the Jewish community had a licence to slaughter without pre-stunning according to their religion until the takeover of the Nazi government in 1933, and again after the defeat of the Nazis in 1945. Concerning Muslims, there were two problems to be solved. First, some courts didn't consider the Muslim applicants to form a 'religious community' in a legal sense. They were following a—legally wrong—understanding of a religious community as necessarily having a structure similar to Christian churches. Muslims, who historically did not form comparable structures, would then be excluded from exercise of clear religious rights for superficial reasons. The Constitutional Court therefore held that a group of persons with common beliefs organised in any form whatsoever could fulfil the prerequisites of the law in that respect.

Second, the question was raised whether in fact Islam commands the slaughter of

14. OVG Koblenz NVwZ 2001, 933.

15. BVerfG NJW 2002, 663.

16. In this sense, see the statements of the *mufti* of Egypt and president of al Azhar University dated 25 February 1982 and the Islamic World League in Jiddah in 1989 and other authorities; cf. OVG Hamburg NVwZ 1994, 592, 595 ff.

animals without pre-stunning. According to a *fatwa* by the late mufti of Egypt in the 1980s and others,¹⁶ the methods of slaughter common in Europe would be acceptable for Muslims. Therefore, it was denied that rules of slaughtering without pre-stunning were imperative.¹⁷ This approach, however, was not consistent with the demands of the state's neutrality toward religions. The state and its courts are not entitled to decide between contradictory religious doctrines which are to be regarded as 'true' and therefore binding. It is up to the believers themselves to decide whom to follow. For this reason, the Constitutional Court pointed out that it will be sufficient for obtaining the above-mentioned licence if there are reasonable grounds for the required method of slaughter to be found in the religion. In my opinion, this was the most crucial point to the judgement, having far-reaching consequences for the status of Muslims in Germany as a whole. For the first time it was made clear that it depends only upon the Muslims in Germany to decide their creed and needs.

The intention of the law to protect animals was upheld as far as possible in this decision. Only persons who have proven ability to slaughter animals humanely like skilled butchers are likely to obtain a licence. The main federal organisations of Muslims in Germany then created a joint commission to work out a paper on the details and to cooperate with the relevant administrative bodies.

Nevertheless, there is an ongoing and largely very emotional discussion on this judgement.¹⁸ The protection of animals—a very important issue among large numbers of citizens—is considered to be consecrated

for 'mediaeval religious purposes'. It didn't even help that the Constitutional Court itself stressed the lack of evidence that expert slaughtering without pre-stunning would cause considerably greater pain for animals than the current methods, not to speak about the really cruel transport of animals for slaughter throughout Europe. It should also be mentioned that there is an interesting discussion on the need for slaughtering without pre-stunning among Muslims themselves.¹⁹ In the meantime, the big political parties in Germany agreed on amending the constitution to elevate the protection of animals to a constitutional aim.²⁰ It is not by accident that this initiative was started half a year before the federal elections. Since then, some administrations apparently tried to avoid the application of the court's rules—which are legally binding—by administrative means. Nevertheless, it will be interesting to see whether in the future Muslims and Jews will be prevented from halal/kosher slaughtering.

Another practical example concerns Muslim female employees wearing the veil (headscarf). In a number of cases, especially when their jobs involved dealing with the public, employers forbade them to wear the headscarf during working time. In a recent case in the state of Hessen, a Muslim clerk working in a warehouse in the countryside was given notice due to her refusal to work unveiled. There was a generally accepted rule within the company that everybody had to wear 'decent' clothes that would not give offence to customers. The employer stated that he himself did not care about the veil, but that there was some evidence that the mainly conservative customers would not accept being served by a veiled

17. Cf. BVerwG BVerwGE 99, 1; see also BVerwG NJW 2001, 1225.

18. Cf. "Lyrik für Wähler"—Tierschutz, Grundgesetz und die Union', *Frankfurter Allgemeine Zeitung (FAZ)*, 27 March 2002, p. 6.

19. Cf. Rohe, Mathias 2001. *Der Islam—Alltagskonflikte und Lösungen*, 2nd ed., Freiburg: Herder, p. 187.

20. Cf. 'Tierschutz im Grundgesetz', *FAZ*, 18 May 2002, p. 2. For details see Rohe, Mathias 2002, 'Das Schächt-Urteil des Bundesverfassungsgerichts vom 15. Januar 2002', *österreichisches Archiv für recht & religion*, p. 78.

clerk and would certainly change to competing warehouses. The appeal of the employee against the notice was dismissed by the Labour Court of Appeal of Hessen on the same grounds.²¹

There was considerable and in part understandable irritation among Muslims concerning this decision. But it has to be taken into consideration in such cases that it is the state alone that has to grant religious freedom, according to the constitution. In the field of private law, the constitutional rights exert a so-called 'indirect' influence on the rules of law. This means that they have to be taken into consideration without being enforced in a similarly direct and far-reaching manner as is the case in conflicts between individuals and the state. In these private cases, two constitutional rights are in conflict: the freedom of religion and the freedom of the individual to create and terminate contractual relations according to personal interest.

Nevertheless, the Federal Labour Court finally accepted the appellant's claim.²² It stressed the great importance of religious freedom, which cannot be overruled by mere suppositions of possible economic disadvantages to the employer. Even in case of proven disadvantage, the employer would first have to consider whether the employee could be employed in a less sensitive area before being entitled to terminate the contract. This judgement was affirmed by the Federal Constitutional Court.²³

Furthermore, as part of anti-discriminatory

legislation, the European Union promulgated a directive on employment law forbidding discrimination on religious grounds.²⁴ This directive is strongly supported by Muslims in Germany. I would like to recommend not being too optimistic about its possible results. I am almost certain that employers who continue to refuse the employment of veiled women will find ways not to employ them or to terminate their contracts for other, legally acceptable, reasons. Others could hesitate to employ any Muslim women, unveiled or veiled, to avoid any problems (of course without publicly declaring it). In my opinion, the true solution of this problem is not to be found within the law. As long as large parts of society as a whole, including a considerable number of Muslims, regard the headscarf as an instrument of oppression of women and of religious fundamentalism, contrary to the values of the democratic and humanitarian legal order, the problem will persist.

Religion has its effects even on the social security law. Courts have held that, in the case of financial need, social security funds have to pay the costs of a boy's circumcision,²⁵ for the ritual washing of the body of a deceased Muslim²⁶ or for the burial of the deceased in a Muslim cemetery in the state of origin, including the costs of transport, if there is no Muslim cemetery available in Germany.²⁷ On the other hand, the Administrative Court of Mainz dismissed the claim of a Muslim woman wearing a *niqab* (which leaves only the eyes visible) for social support, because this clothing

21. LAG Hessen 21 June 2001, NJW 2001, 3650.

22. BAG NJW 2003, 1685.

23. BVerfG NJW 2003, 2815.

24. Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ L 303, 2.12.2000, p. 16. Cf. Rohe, Mathias 'Schutz vor Diskriminierung aus religiösen Gründen im Europäischen Arbeitsrecht—Segen oder Fluch?', in Krause, Rüdiger, Winfried Veelken and Klaus Vieweg (eds.) 2004. *Recht der Wirtschaft und der Arbeit in Europa, Gedächtnisschrift für Wolfgang Blomeyer*, Berlin: Duncker & Humboldt, p. 217.

25. VG Berlin NVwZ 1994, p. 617.

26. VG Berlin NVwZ 1994, p. 617.

27. See OVG Hamburg NJW 1992, pp. 3118, 3119.

would prevent her finding employment, and she didn't produce an explanation of the necessity of wearing it.²⁸

German social security law treats polygamous marriages as legally valid provided that the marriage contracts are valid under the law applicable to their formation (of course, this kind of marriage fundamentally contradicts German and European legal standards,²⁹ and therefore cannot be contracted legally in Europe).³⁰ The reason is that it would not help the second or subsequent wives, who may have lived in such a marriage for a long time, to deprive them of marital rights such as maintenance. In this sense, paragraph 34, Section 2, SGB I (Social Code I) which contains provisions on social security, regulates the division of

pensions among widows who were living in a polygamous marriage.³¹ However, German law differentiates between mainly private aspects of marriage and predominantly public ones, especially those relating to immigration law. The latter would not provide more than the first wife with marital privileges, e.g. concerning residence permits.³²

To sum up, European law is consistent and immutable in its democratic and human rights-oriented principles, but it also leaves broad space for the religious freedom of Muslims. To be a democrat, an equal member of society and a Muslim therefore is not a contradiction in itself, but could serve as a model for Muslims as well as for non-Muslims at present and in the future.

2. The application of Islamic legal norms (concerning the mu'amalat)

When it comes to the application of *legal* rules, the conflict between possibly contradictory rules of the law of the land and the law of religious/cultural origin has to be resolved.

Most of the existing legal orders have a territorial basis: everyone within the territory of a specific state has to abide by the same laws. Only the state can decide whether and to what extent 'foreign' law can be applied and enforced on its territory. Thus the legal system is not 'multicultural' as far as concerns the decisive exercise of legal power. Therefore, the application of foreign legal provisions, including Islamic ones, is an exceptional case. However, this

does not mean that foreign legal principles and cultural influences are excluded. Nevertheless, the constitutional principles of the inviolability of human dignity, democracy, the rule of law with the binding force of state power, separation of powers, majority rule and minority protection, as well as the essential elements of constitutional civil rights, such as the equality of the sexes, freedom of opinion, religious freedom and protection of marriage and family etc., are among the basic principles that cannot be dispensed with. Within this framework, foreign legal provisions can be formally applied on three different legal levels. Aside from that, the state has no control of informal ways of application as long as its bod-

28. VG Mainz 26.02.2003 (Az. 1 L 98/03.MZ)—not yet published.

29. Perhaps there will be new developments on the basis of laws regulating registered partnerships. According to a recent report from the Netherlands, a male succeeded in registering partnerships with two female partners; cf. 'Mann wird "Partner" zweier Frauen', *FAZ*, 5 October 2005, p. 9. It is highly advisable to adjust these laws to centuries-old European standards.

30. Cf. LG Frankfurt a.M. FamRZ 1976, p. 217; LG Osnabrück NJW-RR 1998, p. 582; AG Bremen StAZ 1991, pp. 232, 233; Staatsanwaltschaft bei dem LG Muenchen I IPRspr. 1996 No. 62; VGH Kassel NVwZ-RR 1999, pp. 274, 275.

31. The English solution differs fundamentally from the German one. None of the widows is accepted as one legally. Cf. Court of Appeal in *Bibi v. Chief Adjudication Officer* [1998] 1 FLR 375.

32. Cf. OVG Koblenz 12.03.2004 (10 A 11717/03), not yet published.

ies are not called upon by one of the parties involved.

1. *Private international law* (the rules regulating the conflict of laws in matters concerning civil law³³) is a possible level of direct application of Islamic legal rules. In the area of civil law, the welfare of autonomously acting private persons is of prime importance. If someone has organised his/her life in accordance with a certain legal system, this deserves protection when the person crosses the border. However, it is also within the interest of the legal community that in certain matters the same law should be applicable to everyone resident in a particular country. This would especially be the case in matters touching the roots of legal and societal common sense, like the legal relations between the sexes or between adherents of different religions. The question whether foreign or national substantive law should be applied must therefore be determined, and this is done by private international law provisions (conflict of laws), which weigh up the relevant interests.

When it comes to the areas of family law and the law of succession, the application of legal norms in European countries is often determined on the basis of the nationality of the persons involved rather than by their domicile.³⁴ Other than in Canada or in the US,³⁵ European courts are therefore often obliged to apply Islamic legal rules. In this respect, it may generally be stated that Islamic law until today has a

strong position especially within these areas. This can be explained by the fact that Islamic law in this area has a multiplicity of regulations derived from authoritative sources (Quran and *sunna*). Furthermore, a powerful lobby obviously tries to preserve this area as a stronghold due to religious convictions as well as for reasons of income and the exercise of power (which was very similar in Europe in former times). The Tunisian lawyer Ali Mezghani states, 'In Islamic countries, it is difficult to deny that family law is the site of conservatism'.³⁶ This is true despite the fact that in several Islamic countries reforms have taken place and are still in progress.³⁷ In others, there is even a remarkable backlash to traditional standards.

However, the application of such provisions must comply with the rules of public policy. If the application of legislation influenced by Islamic law would lead to a result that is obviously incompatible with, for example, the main principles of German law, including constitutional civil rights, the provisions in question cannot be applied. The main conflicts between 'Islamic' and European legal thinking in family law concern constitutional (and human) rights such as equality of the sexes and of religious beliefs and the freedom of religion, including the right not to believe. Conflicts mainly arise from provisions reflecting classical Islamic law, which preserve a strict separation between the sexes with respect to their social roles and tasks as well as the far-reaching legal segregation of religions under the supremacy of Islam.

33. Of course, in the sphere of public law and especially of penal law, foreign law is not applicable. Public law regulates the activities of the sovereign; and penal law defines rules which are necessary to guarantee a minimum of common behaviour in the society.

34. For further details cf. Rohe, Mathias. 2003. 'Islamic Law in German Courts, *Hawwa*', *Journal of Women of the Middle East and the Islamic World*, No. 1, p. 46.

35. Cf. Foblets, Marie-Claire and Overbeeke Adriaan, 'Islam in Belgium', in Potz Richard and Wieshaider, Wolfgang (eds.) 2004. *Islam and the European Union*. Leuven, Paris, Dudley: Peeters, pp. 1, 25; Rude-Antoine, Edwige, 'La coexistence des systèmes juridiques différents en France : l'exemple du droit familial', in Kahn, Philippe (ed.) 2001, *L'étranger et le droit de la famille*, Paris, pp. 147, 161.

36. Mezghani, Ali, 'Le juge français et les institutions du droit musulman', *Journal du droit International*, 2003, pp. 721-22.

37. Cf. Rohe, *Der Islam, op. cit.*, pp. 53 and 112; for recent interesting developments in the Maghreb, cf. Nelle, Dietrich 'Neue familienrechtliche Entwicklungen im Maghreb', *StAZ Das Standesamt*, No. 9/2004, p. 253.

2. A further area of—indirect—application regulating such matters are ‘optional’ within a certain framework.

As an example we may note the fact that various methods of investment are offered that do not violate the Islamic prohibition of usury (*riba*, which according to traditional views means the general prohibition of accepting and paying interest³⁸). Concerning project finance, Islamic legal institutions like the *murabaha* or the *mudaraba* can be used.³⁹ These are certain forms of partnership intending to attract capital owners to participate instead of merely giving credit, the latter bearing the risk of contradicting the *riba* rules. Commerce and trade have already responded to the economic/legal needs of traditional Muslims. German and Swiss banks, for instance, have issued n:‘Islamic’ shares for investment purposes, that is to say, share packages that avoid companies whose business involves gambling, alcohol, tobacco, interest-yielding credit, insurance or the sex industry, which are illegitimate in Islamic law.⁴⁰ In the UK a special concept of ‘Islamic mortgages’ was developed, which allows Muslims willing to purchase chattel to avoid conflicts with provisions concerning *riba* (when paying interest on ‘normal’ mortgages).⁴¹ The ‘Is-

lamic’ mortgage consists of two separate transactions aiming at a single result. Until recently, each transaction was subject to taxation. Now a reform has occurred in which the key issue was abolishing the double ‘stamp duty’, because it prevented Muslims from investing in real property successfully. The German state of Sachsen-Anhalt recently placed an Islamic bond (*sukuk*,⁴² 100 million euros at the beginning), based on a Dutch foundation.⁴³ For traditionally oriented Muslims, the offer of such forms of investment in Europe is of considerable importance. To my knowledge, many of them have lost huge sums of money in the past to doubtful organisations from the Islamic world bearing a ‘religious’ veil, or to similar organisations based in Europe.⁴⁴

Tendencies to incorporate Islamic norms into optional law can also be identified in Germany in connection with matrimonial contracts. Thus contractual conditions regulating the payment of the ‘Islamic’ dower (*mahr* or *sadaq*) are possible and generally accepted by the German courts.⁴⁵ Other contractual regulations, especially those discriminating against women, could be void according to paragraph 138 of the civil code on the protection of good morals.⁴⁶ There are

38. Cf. Saeed, Abdullah. 1996. *Islamic Banking and Interest. A Study of the Prohibition of Riba and its Contemporary Interpretation*, Leiden, New York, Köln: E.J. Brill; Iqbal, Munawar (ed.) 2001. *Islamic Banking and Finance: Current Developments in Theory and Practice*. Leicester: Islamic Foundation.
39. Cf. Klarlmann, Reinhard. 2003. *Islamic Project Finance*. Zurich, Bâle, Genève: Schulthess; Bälz, Kilian, ‘A Murabaha Transaction in an English Court’, *ILAS* 11 (2004), p. 117.
40. Cf. Venardos, Angelo M. 2005. *Islamic Banking and Finance in South-East Asia: Its Development and Future*, New Jersey: World Scientific Publishing, p. 70.
41. Cf. Iqbal Asaria, ‘Islamic home finance arrives on UK’s high streets’, *Muslim News*, 25 July 2003 (No. 171), p. 6.
42. It is based on a combination of leasing contracts concerning the state’s real property. Cf. ‘Finanzmarkt: Islam-Anleihe aus Magdeburg’, *Die Bank*, 1 January 2004.
43. Cf. ‘Sachsen-Anhalt bereitet erste islamische Anleihe vor’, *FAZ*, 6 November 2003, p. 31; ‘Anlegen mit Allahs Segen’, *Handelsblatt*, 14 July 2004, p. 29.
44. Cf. the recent reports on doubtful investments in Turkey supported by certain organisations in ‘Neuer Markt auf Türkisch’, *SPIEGEL ONLINE* 29 January 2004 (viewed on 29.01.2004 at <http://www.spiegel.de/0,1518,283591,00.html>).
45. Cf. BGH NJW 1999, p. 574; OLG Celle FamRZ 1998, pp. 374.
46. §138 Section 1: “A legal transaction which offends good morals is void”; cf. Rohe, ‘Islam und deutsches Zivilrecht’, in Ebert, Hans-Georg and Hanstein, Thoralf (eds.) 2003, *Beiträge zum Islamischen Recht II*, Leipzig: Verlag Peter Lang, pp. 35, 51.

no court decisions on such issues so far published or known. However, to my knowledge some German notaries refuse to assist in formulating wills containing the classical Islamic regulation on half-shares for female heirs.⁴⁷

3. In addition to general rules of private international law and optional civil law, a few European states introduced *Islamic legal provisions* concerning family and succession matters, to be applied to the Muslim population. In Britain Muslim institutions may apply to be entitled to register marriages. Furthermore, according to the Divorce (Religious Marriages) Act 2002, courts are enabled to require the dissolution of a religious marriage before granting a civil divorce.⁴⁸ The Adoption and Children Act 2002 amended the Children Act 1989 by introducing a 'special guardianship' as a legal form of parental responsibility besides adoption, which is forbidden by Islamic law.⁴⁹ In Spain since 1992, Islamic rules regulating the contracting of marriage can be applied to Muslims.⁵⁰ In order to ensure the necessary legal security, there are provisions for the compulsory registration of these marriages.⁵¹ This kind of legal segregation is very limited, concerning mere formal regulations without any relevant material quality. Interestingly, also in Spain, the legislature has amended Article 107 of the civil code regulating the right to divorce. The

amendment enables women resident in Spain to get divorced even if the law of origin or of their matrimonial home prevents them from doing so. The legislature has stated expressly that this amendment was to solve problems especially of Muslim women.⁵²

Within the European Union, only in Greece are Muslims of Turkish origin still living under traditional *shari'a* rules for historical reasons,⁵³ while the Turkish Republic has continuously reformed its civil laws and since 2002 introduced the legal equality of sexes in family law. This can hardly serve as a model for Europe. Despite widespread tendencies in the Islamic world aiming to improve women's rights, many legal orders in this region are still far from the legal standard of equality of sexes achieved in Europe. It would simply be unacceptable to import such rules into the existing systems.

Nevertheless, in Britain the Union of Muslim Organisations of UK and Eire has formulated a resolution demanding the establishment of a separate Muslim family and inheritance law automatically applicable to all Muslims in Britain.⁵⁴ The underlying idea might to be found in the legal situation on the Indian subcontinent—the prevailing region of origin of Muslims in Britain—which was and still is ruled by a system of religious separation in mat-

47. The validity of wills does not depend on such assistance, according to German law of inheritance.

48. Cf. Lord Nazir Ahmad, 'Notes on the Judicial Situation of Muslims in the United Kingdom', in Schneiders, Thorsten G. and Kaddor, Lamya (eds.) 2005, *Muslims in Rechtsstaat*, Münster: Centrum für Religiösen Studien, p. 71; Khaliq, Urfan, 'Islam and the European Union: Report on the United Kingdom', in Potz and Wieshaider, *op. cit.*, pp. 219, 246.

49. Cf. Qur'an surah 33, 4. s 'tabanni', in *wizarat al-awqaf, al-mawsu'at al-fiqhiya*, Vol. 10, Kuwayt 1987; for present legal orders in the Islamic world, cf. Pearl, David and Menski, Werne, 1998, *Muslim Family Law*, 3rd ed. London: Sweet and Maxwell, ch. 10.

50. Cf. Mantecón, Joaquín, 'L'Islam en Espagne', in Potz and Wieshaider, *op. cit.*, pp. 109, 130.

51. Cf. Article 59 Código Civil in conjunction with the administrative provision of the general directorate of the Civil Registry and the Notary from 10 February 1993.

52. BOE 30-09-2003, Ley Orgánica 11/2003, de 29 de septiembre, de medidas concretas en materia de seguridad ciudadana, violencia doméstica e integración social de los extranjeros, 4.

53. Cf. Tsitselikis, Konstantinos, 'The Legal Status of Islam in Greece', in Rohe (ed.) *op. cit.*, p. 402.

54. Cf. Poulter, Sebastian. 1990. 'The Claim to a Separate Islamic System of Personal Law for British Muslims', Mallat, Chibli and Connors, Jane (eds.), *Islamic Family Law*, London: Graham & Trotman, reprint 1993, p. 147.

ters of family law.⁵⁵ The same is true for most of the Islamic states in the past and present. But introducing a religiously or ethnically oriented multiple legal system into Europe does not represent a realistic or even desirable option.⁵⁶ Such systems may have been helpful and historically even exemplary, if they granted minorities rights and freedoms that would otherwise have been lost. However, this will always result in problems in the form of an inter-religious conflict over laws, as can be seen outside Europe. The most powerful religious group will almost inevitably enforce the ultimate right of its legal system to adjudicate. This would lead to subordinating the minority to the rules of the majority religion in inter-religious relations. It would be impossible to establish such an ultimate right to adjudicate within the framework of European constitutional law. As well, freedom of religion includes the freedom to change one's religion or not to belong to any religion. This freedom would be unduly constrained by forcing people into a legal regime defined by religion. Furthermore, there is no identifiable uniform Islamic legal system of substantive rules. The Turkish Republic, the Muslim majority state that is the origin of Muslims in many parts of Europe, completely abolished the *shari'a* rules, and the vast majority among Turks would strongly reject the reintroduction of such rules in European countries.

Taking religious affiliation as the basis for civil legal relations would raise serious questions besides that. Clearly, several aspects

of Islamic law—in its various existing forms—would not be acceptable within the European legal-political context. Despite widespread tendencies in the Islamic world aiming to improve women's rights,⁵⁷ many legal orders in this region are still far from the legal standard of equality of sexes achieved in Europe (cf. above). The same is true for the ongoing inequality with respect to the legal position of non-Muslims in several Islamic countries, e.g. in matters of marriage, damages or succession (e.g. Art. 881 sect. 2 of the Iranian civil code⁵⁸). It would simply be unacceptable to import such rules into the existing systems. Instead of that, Muslims are entitled to create legal relations according to their religious intentions within the framework of optional civil law.

Other than in Canada (Ontario), there are no rules in European-based systems permitting arbitration in family law matters, except solely relating to monetary aspects. Nonetheless, within the scope of private autonomy, the parties concerned are free to create legal relations (limited by public policy) and to agree on the ways and results of non-judicial dispute resolution. In matters of family law, relatives will often be consulted first. As for Muslim immigrants, various research projects in Europe in recent years clearly demonstrate that considerable groups of them maintain the structures of family life current in their countries of origin.⁵⁹ Some of them are reluctant to use the legal remedies provided by the law of their state of residence because they believe that they are bound

55. Cf. Levy, Jakob T. 2000. *The Multiculturalism of Fear*, New York, Oxford University Press, p. 180; Poulter, *op. cit.*, p. 148; Lord Nazir Ahmad, *op. cit.*, p. 74, referring to the respective demands of the UMO and the Muslim Council of Britain.

56. Cf. Rohe, Mathias. 2003. 'Religiös gespaltenes Zivilrecht in Deutschland und Europa?', in De Wall/Germann (eds.) *Festschrift Link*, Tübingen, p. 409.

57. Cf. Rohe, Mathias. 2001. *Der Islam—Alltagskonflikte und Lösungen. Rechtliche Perspektiven*, Freiburg/Br., 2nd ed., p. 53.

58. Cf. Mehrpour, Hossein, 'An Overview of Inheritance in the Legal System of Iran', in Basedow, Jürgen and Yassari, Nadjma (eds.) 2004. *Iranian Family and Succession Laws and their Application in German Courts*, Tübingen, pp. 103, 106; Valavioun, Reza, 'Succession Laws of Religious Minorities', *ibid.*, pp. 111, 119.

to legal orders different from the law of the land. Others are simply unaware of the fact that in certain matters including family law (e.g. with respect to contracting marriages and divorce), the formal legal rules of the state of residence have to be observed; otherwise the intentions and acts of the parties involved are not legally enforceable. Thus, a marriage contracted solely according to traditional Islamic rules may be socially accepted within the community, but it deprives the spouses of legally enforceable rights in the state of domicile with respect to maintenance or inheritance usually connected to marriage. On the other hand, these women cannot obtain a divorce in state courts because they are not regarded as married according to the law of the land. Therefore they seek “internal” solutions within their community.⁶⁰ As well, some religious extremists and traditionalists openly argue that Muslims should not accept the legal norms and judgements of ‘infidels’. They should instead of that establish their own bodies of dispute resolution and elect their own judges.⁶¹ Would extrajudicial dispute resolution create a viable solution for weighing up the relevant interests of the parties involved, in a manner consistent with the community’s standards as well as with the indispensable principles of the law of the land?

In general, there is a remarkable shift towards means and bodies of extrajudicial

(alternative) dispute resolution (ADR) in many countries. The advantages of this are obvious. The necessary confidence in persons resolving conflicts and in the quality of their decisions may increase when they are explicitly and unanimously chosen by the parties involved. In addition to that, ADR may provide a relatively fast, cheap and confidential resolution. Specific reasons for ADR with respect to religious or other minorities with an immigration background were already mentioned. Muslims adhering to the rules of traditional Muslim family law would possibly feel ‘respected’ by society as a whole.

The key prerequisites for a successful and fair ADR are an agreement of the parties involved to prefer ADR voluntarily and for common reasons, and qualified arbitrators or mediators applying norms which equally consider the legitimate interests of both parties. The question remains whether the mere existence of such an agreement is sufficient. Certainly, within the scope of private autonomy, agreements between adult and mentally healthy persons are supposed to be valid and fair unless there is any specific evidence to the contrary. However, in the context of migration and societal segregation, formal freedom to agree or not to agree can be really restricted to only one option, if the relevant party has to expect substantial disadvantages in social life on choosing the ‘wrong’ option. In addition, according to oriental traditions, the ‘weaker’

59. Cf. Badawi, Zaki, ‘Muslim justice in a secular state’, in King, Michael (ed.) 1995. *God’s Law versus State Law*, London: Grey Seal; ‘Simonet, L’étranger entre deux droits : les facteurs d’adhésion des populations étrangères aux systèmes judiciaire et juridique français’, in Kahn (ed.), *op.cit.*, p. 118, n. 35, pp. 139 ff. ; Rude-Antoine, *op.cit.*, p. 161.

60. Cf. Shah-Kazemi, Sonia Nurin. 2001. *Untying the Knot. Muslim Women, Divorce and the Shariah*, London: Nuffield Foundation, p. 47.

61. Cf. Ibn Baz and Uthaymeen. 1998. *Muslim Minorities: Fatwa Regarding Muslims Living as Minorities*, Hounslow, UK: Message of Islam, esp. 71 ff.; the Fiqh Council of the Muslim World League on its 16th session in Mecca, reported in ‘A message from Muslim scholars to Muslim Minorities in the West’, *Daawah*, No. 4, 1422 A.H./Feb. 2002, pp. 8, 11. See also the comments of the Muslim lawyer Khaled Abou El Fadl, 2001, *Speaking in God’s Name. Islamic Law, Authority and Women*, Oxford: Oneworld Publications, p. 269 p. 170: ‘I confess that I find the virtual slavery imposed on women by the C.R.L.O. [the Saudi-Arabian Permanent Council For Scientific Research and Legal Opinions] and like-minded special agents to be painfully offensive and unworthy of Shari’ah. To claim that a woman visiting her husband’s grave, a woman raising her voice in prayer, a woman driving a car, or a woman traveling unaccompanied by a male is bound to create intolerable seductions, strikes me as morally problematic. If men are morally so weak, why should women suffer?’

party usually is not in the position to reject proposals given by the elder (male); therefore, silence does not necessarily mean consent.⁶²

Thus, if such pressure on the weaker party is not a merely theoretical threat, the official recognition of communitarian bodies for ADR and their decisions could prevent the weaker party from obtaining the protection granted by the law of the land and enforced by official courts. Formal equality under conditions of material inequality usually leads to the preservation of inequality. As mentioned above, despite various reforms in several Islamic states, Islamic law of personal status does not grant equal rights to females and non-Muslims. We should certainly reject the simplifying picture of Muslim women being suppressed and powerless victims in general. The German Supreme Court⁶³ has clearly stated that there is no room for the presumption of Turkish wives living in a “typical Muslim marriage” being deprived of autonomous decision-making in daily life. Nevertheless, remaining problems, often caused by cultural motivations, are obvious and openly discussed among Muslims themselves. The commissioner for women’s affairs of the Central Council of Muslims in Germany has stated in an interview: ‘Islam is not in need of a commissioner for women’s affairs. It is not Islam who suppresses women, but men. And therefore Muslim women are indeed in need of a commissioner for women’s affairs.’⁶⁴ In addition, it has to be noted that *shari’a* and ‘Islamic family law’ are far from being a clear and consistent body of rules in

practice. Different legal schools and opinions in the past and different legislation in the present Islamic world clearly demonstrate a wide range of substantially varying rules and solutions. For example, according to Tunisian private international law, the application of Moroccan rules of family law (before the reforms of 2003) contradicts Tunisian public order, notwithstanding the fact that both countries claim to have founded their codes of personal status on *shari’a* rules. In a broader sense, Taj Hashmi, a member of the Muslim Canadian Congress, has expressed concern that adopting *shari’a* law ‘may legitimise the excesses of *shari’a* committed elsewhere in the Muslim world’, and that *shari’a* in its present form is ‘neither Islamic nor Canadian in character and spirit’. On the other hand, the suggested application of a ‘watered down version of Muslim personal law’⁶⁵ would lead to the question: why not apply the law of the land and individually use its scope and means of private autonomy?

In the present situation in Europe, an extraordinary example of law influenced by Islam is England, where an ‘*angrezi shariat*’ (English Shari’a) is obviously developing.⁶⁶ This seems to be due to the fact that many Muslims in Britain still have strong family ties in their native countries on the Indian subcontinent governed by religiously oriented laws in matters of personal status.⁶⁷ In some cases, mainly concerning family relations, they seek socially acceptable solutions for legal problems within the Muslim community with the aid of accepted mediators. The Islamic Shari’a Councils in

62. This was already acknowledged by many Muslim legal scholars in the Middle Ages, discussing whether consensus (as a legal-religious source) can be achieved without explicit statements; cf. Jokisch, Benjamin, ‘Ijtihad in Ibn Taymiyya’s Fatawa’, in Gleave, Robert and Eugenia Kermeli (eds.) 1997. *Islamic Law. Theory and Practice*, London: I.B. Tauris & Co Ltd, pp. 119, 126; Salqini, Ibrahim. 1984. *Usul al-fiqh*, Damascus, p. 85.

63. BGH NJW 1999, 135.

64. “Verschleiert, aber selbstbewußt”, FAZ v. 27 February 2001, p. 14.

65. An expression used by Syed Mumtaz Ali, the main promoter of the establishment of an Islamic arbitration board in Ontario, Canada, in an interview on 2 February 2005 (‘Sharia for Canada’, viewed on 15 September 2005 at <http://www.abc.net.au/rn/talks/8.30/relrpt/stories/s1334120.htm>).

66. Cf. Pearl and Menski, *op. cit.*, ch. 3-81.

67. Cf. Shah-Kazemi, *op. cit.*, n. 60; Rohe, ‘Religiös gespaltenes Zivilrecht’, *op. cit.*, pp. 409, 415.

England, which have been established since 1980-82, seem to be examples of such a kind of mediation.⁶⁸ The councils do not have an official function, but are occupied especially with mediation in the area of the law of personal status. There are frequent cases in which a Muslim wife has obtained an English divorce which she now wants confirmed according to 'Islamic law' by the pronouncement of *talaq* (divorce) by the husband, which leads to the general acceptance of the decision in the social environment within or outside the country. Similarly, very often husbands refuse to divorce although the wife wishes to do so while being reluctant to start divorce proceedings in the civil courts.⁶⁹ Even if the matter does not go to the civil court, the council's decision may become important; it is not legally enforceable in England, but it seems to be recognised in the state of origin as well as within the religious community.⁷⁰ Convincing the husband to pay the *mahr* (dowry) constitutes a further possible task for the council. The decisions of the council appear to be based on a relatively reform-oriented approach to the legal sources, but maintain the traditional framework of Islamic law, including the unequal treatment of sexes and religions in general. Thus, the English legal system does not remain untouched by such proceedings: for example, in some Islamic states there is a possibility for wives to obtain a divorce in court on the basis of the *khul'*, which is a contractual or statutory right.⁷¹ The wife, however, must then pay back the dowry, which will very often have been intended to serve as an old-age pension. This somehow rewards the husband's persistence in refusing a divorce, which is not acceptable according to the standard of the law of the

land. Certainly, the individual personal status is a solely 'private matter'. Nevertheless, the institutions of the law of personal status and especially the balance of rights and duties among the persons involved do not only affect society as a whole, but reflect basic common convictions of this society concerning probably the most important part of social life. Therefore it is up to the local legislator to establish an order of personal status which fulfils the most prominent task of legal orders by granting peace in society. Thus, on one hand extrajudicial dispute resolution can serve as an instrument to achieve socially accepted solutions within a community living in far-reaching segregation from society as a whole. On the other hand, members of this community who refuse to use the community's special bodies for conflict resolution may easily face reproaches of undermining the community's position, of being a 'bad' member. Accepting such communitarian bodies would thus lead to an ongoing cultural segregation and to a 'culturalisation' of individuals seeking their individual ways within broader society.

It is remarkable in this context that the Central Council of Muslims in Germany declared in its charter on Muslim life in German society on 20 February 2002 ('Islamic Charta'⁷²) that Muslims are content with the harmonic system of secularity and religious freedom provided by the constitution. According to Article 13 of the charter, 'The command of Islamic law to observe the local legal order includes the acceptance of the German statutes governing marriage and inheritance, and civil as well as criminal procedure'. In the Swiss canton of Zürich, the Union of Islamic Or-

68. Pearl and Menski, *op. cit.*, ch. 3-81 ff., particularly 3-96; Badawi *op. cit.*, p. 75; Shah-Kazemi, *op. cit.*

69. Cf. Lewis, *Islamic Britain, op. cit.*, p. 119, regarding the circumstances in Bradford.

70. Cf. Pearl and Menski, *op. cit.*, ch. 3-100.

71. Cf. Rohe, Mathias, Die Reform des ägyptischen Familienrechts, StAZ 2001, pp. 193; Pearl and Menski, *op. cit.*, ch. 3-100.

72. An English version can be found at <http://www.islam.de/?site=sonstiges/events/charta&di=en> (viewed on 30 January 2004).

organisations in Zürich has expressly stated in its basic declaration that it does not intend to create an Islamic state in Switzerland, nor does it place Islamic law above Swiss legislation (Sec. 1).⁷³ The union also expressly appreciates Swiss law of marriage and inheritance (Sec. 5.). Similarly, the renowned French imam Larbi Kechat has stated, 'Nous sommes en harmonie avec le cadre des lois, nous n'imposons pas une loi parallèle'.⁷⁴ According to experiences in Belgium also, the vast majority of Muslim women living between the rules of Muslim family law and women's rights claim the protection of Belgian substantive law.⁷⁵ One of the few voices publicly demanding the introduction of Islamic law and Muslim arbitration in Germany is the extremist founder of an Islamic centre in Berlin. In a book on 'The Rules of Personal Status of Muslims in the West',⁷⁶ he constantly declares non-Muslims to be infidels and rejects German legal rules and judgements as 'rules of infidelity'.⁷⁷ Consequently, he urges Muslims in Germany to maintain the rules

of traditional Islamic family law. He even argues that the traditional punishment for adultery—flogging or stoning to death—should be applied to Muslim women in Germany (!) who are married to a non-Muslim, even if they are unaware of the 'applicability' of these rules in their cases.⁷⁸ He denounces the German system of social security as an evil, because it grants wives independence from their husbands' maintenance payments and thus enables them to 'disobey' their husbands.⁷⁹ The danger of empowering such persons by officially accepting them as arbitrators and opening ways for them to funds is obvious. In sum, except in the UK, the European way of dispute resolution among Muslims is not communitarian, but the 'common' way of either formal judicial or simply informal dispute resolution. The range of diversity granted by the law of the land itself seems to meet the needs and creeds of the overwhelming majority of Muslims in Europe quite well.

IV. Conclusion

European legal orders are facing the new challenges of religious diversity (mostly due to immigration) with a mix of elements

between the two poles of assimilation and segregation.

1. Aspects of assimilation/integration

The legal order territorially applicable in the country of immigration finally decides conflicts between its own rules and those of the immigrant's 'native' orders—a model of as-

similation/integration on the basis of secular legal orders bound by constitutional principles with respect to the protection of human rights, democracy and the rule of law.

73. Vereinigung der Islamischen Organisationen in Zürich (VIOZ), *Grundsatzklärung* v. 27.03.2005.

74. 'Larbi Kechat: le coran a été relevé au VIIe siècle: dans le contexte socioculturel de l'époque, entretien réalisé par Guy Gauthier', in *Panoramiques*, No. 29 (2e trimestre—1997), L'Islam est-il soluble dans la République, pp. 183, 189.

75. Cf. Foblets and Overbeeke, *op. cit.*, p. 34.

76. Salim Ibn VAbd al-Ghani al-Rafi'i, *ahkam al-ahwal al-šakhsiya li-l-muslimin fi al-gharb*, Riyadh 2001. Cf. Rohe, Mathias, 2005, *Islamisten und Schari'a*, in Berlin, Senatsverwaltung für Inneres, Islamismus, Berlin, pp. 98, 109 ff.

77. al-Rafi'i, *op. cit.*, p. 618.

78. *Ibid.*, p. 394.

79. *Ibid.*, p. 79.

The model of legal assimilation intrinsically implies legal protection of the minority, especially the protection of human rights, including freedom of religion against state interference, but to a certain extent also actively granting participation in society.

This represents a system of individual rights rather than a system of personality (legal segregation according to the adherence to a certain religious community) with respect to the application of religious rules.

2. Aspects of segregation/acculturation

With respect to 'international' concepts of living, in the field of private international law (conflict of laws), especially in family law and law of succession, the 'native' legal rules can be applied within the limits of public policy, which is a model of partial segregation. Given the fact that most of the immigrants to Germany and Europe intend to stay permanently in their new home country, legislation should consider this new residence to be the most appropriate connecting factor for the application of substantial law in civil matters rather than the state of origin.

Important parts of substantive private law (e.g. contract law, including matrimonial contracts) grant freedom of legal self-determination according to individual preferences.

In some areas of law, a number of European legal orders integrate former 'foreign' legal identities—a model of partial integration by legal segregation (e.g. 'Islamic marriage' rules in Spain, 'Islamic mortgages' in the UK, 'Islamic bonds' in the German state of Sachsen-Anhalt).

Regarding the self-definition of Muslims adherent to Islamic norms in Europe, there are two main aspects to be kept in mind. First, there is no body of legal or religious rules laid down in laws or canons of religious obligations, but rather a system of identifying rules and then applying them to

certain cases and situations. Even in the field of law, a large proportion of rules in both the traditional Sunni and Shi'i schools are founded upon secondary legal findings such as interpretation and conclusions on the basis of human reasoning. The statement that only God can be the legislator, which has been formulated by many academic lawyers, is thus very restricted in practice. From the early times of Islam, human beings interpreted the divine statutes and developed norms of application. It may be cautiously said that there is not a single binding provision in Islamic law that can be applied without such interpretation, and interpretations can change as human beings and their living conditions do.⁸⁰ The plurality of opinions within Islamic law is evidence for this. Furthermore, for more than 100 years and often in older times extensive efforts have been made to create a broad forum for the application of independent legal reasoning (*ijtihad*).⁸¹ This has allowed a certain reserve of flexibility, which is necessary for legal practice to be accumulated so that an adequate response can be made to the situation of Muslims in the diaspora. I would like to quote a European Muslim here: '... we had very vital, very alive, very evolving jurisprudential activities up to the fourth century of Islam. Then suddenly the community was declared to go brain dead. No longer are we allowed to develop our ideas. For it became doctrine that everyone must follow one of the present current schools. I believe that our crisis

80. Cf. Youssef Seddik, 'Avon-nous jamais lu le Coran?', *Espri*, t No. 239 (1/1998), p. 99.

81. Cf. e.g. Ramadan, T. 1999, *To be a European Muslim*, Leicester, pp. 82, 93.

starts from this point.⁸²

Second, Islamic norms are not necessarily considered valid and binding at every time and place, but are subject to interpretation whether and to what extent they have to be applied. Some, for example, applied only to the wives of the prophet of Islam, Muhammad; others are aimed at the non-Muslim population of the Arabian peninsula in the first century A.H. Only a relatively small number of rules are taken to be binding at any time and place. These rules mostly concern the individual relation between God and man, the core of belief itself—the so-called five pillars of Islam. But even in this field, Muslims have found and developed interpretations which allow them to arrange their living conditions in a society which is predominantly non-Muslim (e.g. in the field of delaying or contracting the obligatory prayers). Furthermore, these rules are not enforceable in this world and are therefore restricted to the relations between God and man.

In this sense, the task in Europe would be to define rules for Muslims there in accordance with the indispensable values of democracy, human rights and the rule of law governing European legal orders. Within the framework of these orders, Muslims have to be enabled to practise their beliefs

not only theoretically, but in daily life. The adversaries of this kind of constitutional order are to be found among Muslim extremist groups like *Khilavet Devleti*, *Hizb al-Tahrir* or *Murabitun* as well as among right- or left-wing radicals, extremist feminists, Christian fundamentalists and simple racists (who are sometimes to be found united in strange alliances). All Europeans should remember that freedom of religion and therefore religious pluralism is an integral part of liberal European constitutions, and that everybody who is willing to respect the rule of the land should enjoy this freedom

Let me end with the words of the former president of the European Commission, Romano Prodi, concerning the dialogue of cultures: 'It is not the matter just to passively experience events and to accept a cultural uniformity within which the values and the will of the strongest would be imposed on the rest. The European Union, a singular example of democratic constitution and integration of different cultures, can prove that there is an alternative formula to cultural uniformity or domination: a dialogue which respects different cultures and their representatives, as long as these different cultures are ready to respect the fundamental values of man.'⁸³

82. Badawi, *op. cit.*, p. 73.

83. 'Valoriser l'héritage culturel commun!', *Le Figaro*, 4 April 2002, p. 14. This would exclude racial, religious or political hatred, also of the sort to which I personally became victim two years ago—during the days of the terrible outbursts of violence in Palestine and Israel—in a metro station in Paris, when I was attacked by two North African youngsters with tear-gas because they supposed me to be an American, probably because I was reading a German (!) newspaper. I have to add that this obviously has nothing to do with religion, but with mere racism.

The Secular Nature of Law in Islam: A Basis for Democracy

Mohammad M. Shabestari*

'Islam and Democracy' is a wide-ranging and controversial subject. There are many Muslim and non-Muslim scholars and politicians who believe the two are irreconcilable. But there are also some scholars and politicians who see them as potentially compatible. Within this second group there are those who assert that the essential features and values of democracy can be largely found in Islamic texts and traditions. As a scholar, I find this latter opinion unsubstantiated. However, I do believe that with regard to a central concept in Islamic jurisprudence,

namely the concept of 'law', one may conclude that today's Muslims can indeed reconcile Islam and democracy. I am further of the opinion that the nature of law in Islam, seen historically and from a jurisprudential standpoint, can be understood as secular (here meaning mundane or intraworldly, and not the opposite of sacred). This rational understanding is firmly anchored in Islam and can, I believe, create for Muslims the possibility of building democracy while still retaining their traditions.

Differing Conceptions of Law

To back this assertion, I must offer some explanation as to the nature of law in Islam. Many have claimed that Islamic legal thinking has been historically preoccupied with law solely as the expression of God's commandments and prohibitions, that it belongs to God alone to determine the nature of law and that humans have no right to subject it to rational analysis and then act on it in light of this analysis. The nature of law is defined by God: this is an assertion made frequently by scholars in general and even scholars of Islam, and in my opinion it is wrong.

Islamic jurisprudence shows us that two differing conceptions of law have vied with one another throughout the history of Islam: a conception of law as emanating from

the reality of human life and through tradition, and a conception of law as duty prescribed by God. These varying interpretations belie any notion that Islamic legal thinking has always been homogeneous and solely defined by God. In the Quran, the prophetic tradition and the history of Islam, there are many indications that Islamic legal thinking has oscillated between definitions of law as a human matter and as an exclusively divine sphere.

The legal thinking of Muslims has varied over the course of history. Legal thinking during the time of the Prophet and his four successors (caliphs) was different from legal thinking after the ninth century CE. At the beginning of the 20th century, many kinds of legal thinking were occasioned by

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constitutional movements that arose through the offices of great scholars and which showed marked differences from traditional ways of viewing the law. In our day, we are faced with three new conceptions of the law, as represented by (1) those who derive a legal ruling from the five 'main goals' of the *shari'a* (the right to life and property,

religion, reason, and the institution of the family), (2) those who base everything on the dialogue between humans and scripture and (3) those who propose a modern hermeneutics of scripture. Although in all of these conceptions religion itself plays a major role, there also exist very real differences that cannot be ignored.

Justice: A Secular Concept

Let me explain what I mean. The Quran's repeated emphasis on justice indicates that the latter must have played a central role in the development of legal thinking during the time of the Prophet. The Quran's notion of justice as applied to human relations is a worldly idea based on reason, a secular legal concept that not only implies moral conduct towards others, but is also concerned with maintaining social order.

As with many other terms in the Quran—e.g. 'power', 'monarchy' or *shura* (advice) or *bay'at* (recognition of a person's authority through a binding oath of loyalty), as well as institutions such as marriage and divorce, and contracts such as bills of sale—the notion of justice embodies a completely secular legal concept that even in the Quran has no specific religious sense or meaning behind it. Muslims understood these terms as they were originally coined before the advent of Muhammad. For in the Quran, the world is viewed as acceptable to God, not as a condemned place that can be redeemed only through revelation.

Human life as well as the world's various cultures and civilisations are a sign of God's power and design. The Prophet did not come in order to change the world but to tell people to observe ethical principles for the sake of their human happiness and not to play God themselves. That was the message of the Prophet, and the Quran says that all prophets before Muhammad duly

pursued this goal. Predicated on this basic attitude of the Quran, therefore, all concepts relating to the ordering of human society, such as justice and injustice, have a completely secular sense.

There is a well-known saying of the Prophet that no one should harm others through his or her actions. Scholars have interpreted the word 'harm' as a secular legal term, and Islamic jurisprudence has constructed from it a juridical principle that over centuries has become a frame of reference for many legal rulings.

Regarding the post-Prophet period, we also find further historical indicators that the idea of justice was understood not in any moral-religious sense, but rather in a narrow secular-legal one. The acrimonious conflicts between the followers of Ali (fourth caliph) and those of Uthman (third caliph) pivoted on the issue of social justice. Abu Zarr, the famous follower and close affiliate of Ali, protested against Mu'awiya, the first ruler of the Umayyad dynasty, under whom social injustice and poverty were rampant (although some of Mu'awiya's friends and relations became very wealthy). Abu Zarr's protest was a clear fight for social justice in the secular sense understood by Muslims at the time. The idea of justice later played a decisive role in the origin of certain legal concepts, namely, the Arab notion of *haqq an-nas* (human law) and *haqq Allah* (divine law). Thus did Islamic

jurisprudence divide law or *haqq* (in its moral, not its juridical sense) into two parts.

Human law, of course, did not simply mean what we today understand as human rights. When Muslim theologians began to formulate an Islamic theology in the eighth century, the idea of justice in a human and secular sense played a major role. These theologians—later called *mu'tazilites*—established a theological principle which asserted that human actions were to be judged good or bad on the basis of reason and not on the basis of divine commandments or proscriptions. It is the rational judgement of all humans that dictates what we should or should not do. The *mu'tazilites* thought that all God's commandments were a religious support for this reason-based morality and ethics.

In the 10th and 11th centuries, there were other theologians—later known as *ash'arites*—who accused the *mu'tazilites* of having transformed the Islamic religion into a philosophy through an overemphasis on reason. They asserted that actions could indeed be judged good or bad based on God's commandments and prohibitions: justice was good only because God had commanded humans to be just. Unfortunately, over time this kind of thinking frequently led to a rejection by Muslims of the notion of justice in a secular, human and rational sense. After the ninth century, this non-reason-based thinking was used by

the Abbasid caliphs as the foundation of their religious reign. These rulers not only requisitioned jurists for their administrations so as to make important legal decisions, but they also were responsible for notions of justice and law shedding their secular and rational meaning in the larger part of the Islamic world.

The distinguished Islamic scholar Gotthelf Bergsträsser, who wrote much on the subject of Islamic jurisprudence,¹ believed that this divergent definition of law was helped along by political motives during a certain period of Islamic history:

In their legal rulings the first caliphs certainly had no notion of adhering to 'Islamic' law. The provisions of the Quran and other express principles of the Prophet were naturally respected and the new legal rulings were also in his spirit. But overwhelmingly [Muslims], like Mohammad himself, unhesitatingly followed the laws at home and in the newly conquered provinces insofar as religious and moral principles allowed.

And Bergsträsser adds: 'As always, law remained aloof from religion; it was religiously neutral. A continuation of this situation could have led to a law that was partly influenced by teachings on religious duty but one largely evolving from practical experience. This development was derailed by political conditions prevailing at the time.'

Law's Human Yardstick

Hence, the law's human meaning was sloughed off, and throughout the history of Islam many continued to assert that the law was only that which was defined by God as law. In order to trace the secular and rational meaning of justice and law in

the pre-Abbasid period and in those regions free of Abbasid influence, we must first examine Islamic civil law, from which jurists derived several principles. We must go to those laws that Muslim legal experts have assembled under the title *General*

1. See, for example, his *Grundzüge des islamischen Rechts*. Berlin: W. de Gruyter. 1935.

Principles of Islamic Jurisprudence (al-qawa'id al-fiqhiyya). There are several books on the *General Principles* by Islamic jurists. Many of these principles belonged to Islam's ritual religious duties, but they were mostly part of civil law. This civil law had nothing to do with religious belief, and was understood by Muslims precisely in the sense that non-Muslims understood it.

Muslim jurists who follow the five main principles of the *shari'a* in deriving their legal rulings believe that all prescriptions of the Quran and the prophets were intended to protect and preserve the five most important things: human life, human reason, the institution of the family, property and religion. In their opinion, every legal ruling in Islam (*fatwa*) should take into account the extent to which it is in accord with these five principles.

One can clearly observe in such legal rulings how human life was the yardstick for understanding religious prescriptions and a vital source of law in Islamic jurisprudence. This notion was first voiced by al-Ghazali (1058-1111) and al-Shatibi (d. 1388), and in our time has been put forward by various scholars as a method for reforming the Islamic legal system.

I would like here to look briefly at two developments that were important for the legal thinking of Muslims. The first is the constitutional movement that began in Iran almost 100 years ago, in which the great Shi'ite savants in Iraq and Iran split intellectually into two groups. The group under the leadership of Sheikh Fazlollah Nuri (a great scholar) believed that a constitutional order was a human invention that could not be reconciled with Islam and therefore had to be avoided. But the second group, under the leadership of Mohammad

Hossain Naini, who wrote a book on the subject,² believed that a constitutional order was indeed compatible with Islam. A closer examination of the negative disposition of Sheikh Nuri and the positive arguments of Naini reveals that these two scholars had two differing interpretations of the nature of law in Islam. Nuri believed that the form and meaning of the law could be revealed only by God, whereas Naini believed that humans have a right to choose their social order so long as there is no clear contradiction of religious commandments and strictures.

The second important development is the notion of 'dialogue' in Shi'ite legal thinking. The founder of this dialogical methodology was Sheikh Mortaza Ansari (d. 1864), who lived in what is now present-day Iraq and was a specialist and theoretician in the area of Islamic jurisprudence and legal rulings. His efforts to give a scientific basis to jurisprudential methods succeeded in establishing certain guidelines. He attempted to describe under what conditions God can speak to humans and oblige them to do his will. The principle he laid down was that humans are obligated to God only when they have attained an unambiguous understanding of his commandments or prohibitions.

Establishment of this principle generated many epistemological questions regarding legal rulings. In his famous book, *Methodological Principles of Islamic Jurisprudence (fara'id al-usul)*, Sheikh Ansari went into detailed discussion of these problems, arriving at the conclusion that humans are capable of achieving a fundamental and unequivocal understanding of at least some of God's commandments and proscriptions. He felt that this understanding should serve as a basis for the entire Islamic legal system. Sheikh Ansari clearly showed that

2. *Tanbih al-Umma via Tazik al-Milla* (Admonition to the community and exposition to the nation). 1909.

humans are important and that the nature of law is closely tied up with their ability to understand it; God can place no obligations on humans when human understanding can draw no indubitable conclusions regarding what precisely those obligations might entail.

In my opinion, it is precisely here that a certain legal thinking can emerge that seeks to pursue the nature of law on a hermeneutical basis; I see this as a dialogue between God and scripture and humans—a project, unfortunately, that has not yet been fully realised.

An Opening for Democracy

In conclusion, I believe Muslims today have the theoretical possibility of reforming their legal system and establishing democratic states based on the secularity and humanity of law in the Islamic tradition. Muslims have the possibility of regarding the present Islamic legal system as a historical legacy

open to criticism and reform. They can interpret their scriptures in such a way that Islam's divine revelation may be separated from their historical form. Through such a hermeneutical approach, they will find room enough in their world for democracy and human rights.

The Evolution of the European Secular State

Donald Sassoon*

1. The Official Story

In the present 'clash of civilisations' climate, the question of the relation between church and state has been declared resolved in contemporary European official narratives. The state, and with it democracy and human rights, has won. The era of obscurantism is over. Religion has been relegated to the sphere of private life, where it belongs. The democratic state defends religious rights, for these are human rights too, but it does not allow religion to impose its view of the world on all the citizens. Religious morality may have influenced public morality, but it has no greater right than the views of other groups. Individuals' rights to pursue the religion of their choice is defended, but religion has no purchase on public policy. Its status has been defined by Article 9 of the European Convention on Human Rights of 1951, which guarantees everyone 'the right to freedom of thought, conscience and religion; the freedom to change religion, the freedom of worship and observance'.

There may still be some disagreements as to when, historically speaking, the solution of the church-state relation was finally reached. And it is occasionally recognised that some aspects of this relation may need to be tidied up. Otherwise the good news is that the mission of the Enlightenment has finally been fulfilled. Reason has prevailed.

Blessed Europe—according to this view and if one can use such terminology—stands in sharp contrast to other societies in which

the forces of religion, above all Islam, determine laws and rights. Europe stands also in contrast to the United States, where powerful fundamentalist groups exercise a disproportionate hold on politicians. Imagine, it is often remarked, how poor would the chances of a future US presidential candidate be if he or she declared, 'Personally, I do not care much about religion'.

There is also another country which is Western in origin but which is seldom mentioned in such debates, probably because of Europe's guilty past: Israel, a country whose identity is based on religious identity, whose immigration policies are based on religious belonging and where disputes about boundaries are often discussed in terms of what the Bible says.

The religious question may be wide open in the Islamic world, it still inflames the hearts in America's heartlands, but, in Europe, all this is in the distant past, in the Middle Ages.

There are dissident voices who do not buy this rosy picture: post-modernists who are suspicious of the Enlightenment; historians who know that history seldom proceeds in a straight line. But, on the whole, the picture that prevails in the media and in the consciousness of the average European is one of rosy self-congratulation—not all of which is unwarranted.

The official story unfolds thus: nation-build-

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ing required a compromise between secular and religious authorities. In practice this compromise rested on the adoption, following the Peace of Westphalia (1648), of a principle of coexistence: the secular authorities offered protection to a state religion, granting determinate privileges while tolerating as subordinate or second-class citizens those belonging to minority religions. In most cases, both majority and minority religions were variants of Christianity.

Eighteenth century Europe knew three mono-religious areas: an Orthodox area in the east, a Catholic area mainly in the south and a Protestant one mainly in the north. To this we should add areas where there were competing loyalties. The map today is not remarkably different in spite of two centuries of secularisation. The stability of religions (though not the stability of religious feelings) is remarkable.

In the United Kingdom today, it has been estimated that Catholics are 10 percent of the population, Muslims 4 percent. In Switzerland and Germany, Catholicism and Protestantism are more or less equally balanced. Two-thirds of Hungarians are Catholic. In the Netherlands there is a small majority of Catholics. In the Czech Republic, Catholics prevail over Protestants by a ratio of 8 to one, but 37 percent of the population has declared themselves atheist. The existence of atheism as a category recognised in censuses and opinion polls is the main aspect that would distinguish a religious map of Europe today from one two centuries ago. The political map of Europe, by contrast, has changed enormously since 1806.

Post-Westphalia Europe gave considerable powers to dominant religions, for these either were already part of the political establishment or became part of it. Of course, matters never stand still. Where the political establishment was able to reform itself

and take into account developing aspirations of modernity, it often dragged religion along. Eventually the dominant religion lost only some of its privileges, but slowly and gradually. This was particularly the case in some of the Nordic countries as well as in the United Kingdom. But while in Scandinavian countries there were dominant state religions, in the United Kingdom the 'state religion', the Anglican Church, never succeeded in establishing its dominance in Scotland, Ireland and Wales. British nation-building had to be aware of this. It could use Christianity to build a nation and an empire but it could not use just Anglicanism.

In Ireland, of course, the existence of a Catholic majority (in the island as a whole) coexisting with a Protestant minority made nation-building difficult. The solution would have been to leave aside religious identity as a nationalist force—an unlikely prospect once Charles Parnell, the leader of Irish nationalism in the 19th century and a Protestant, was defeated—and later impossible without some form of partition or subjugation or ethnic cleansing. In Scotland a Presbyterian establishment emerged. In Wales the Anglican Church was disestablished in 1869 and was, anyway, always challenged by more popular forms of Christianity (the so-called 'non-conformists' such as the Methodist Church). While in the United States the plurality of religions led to the separation of church and state (so that no single religion would prevail), in Great Britain religious tolerance within a dominant church was a reflection of the weakness of the church.

But Europe has also a multiplicity of models. In two 'mixed-confession' countries where Catholics and Calvinists coexisted—the Netherlands and Switzerland—distinctive systems of power sharing system came to be established to avoid destabilising conflict.

In the 19th century, the main obstacle to nation-building, however, appeared to be the Roman Catholic Church. The nature of this obstacle could be seen by the prevalence of secular anti-clericalism as a 'state religion' in Catholic countries (Spain, France and Italy) and the *Kulturkampf* launched in Germany by Bismarck in the 1870s against the Roman Catholic Church.

There were exceptions: in Ireland, Poland and Belgium nation-building or, rather, nationalism, went hand in hand with allegiance to Catholicism against dominant powers or excessively powerful neighbours. For Irish nationalism, the enemy was England with its Anglican establishment; for Polish nationalism, it was the twin threat of Protestant Prussia and Orthodox Russia; and for Belgian autonomy, it was the Netherlands with its Calvinist establishment. Similarly, the strength of Orthodoxy in Bulgaria and Romania can be taken to reflect the importance of protecting ethnic and national identity against the Ottoman Turks.

In other words, religious conflicts were always connected to other political and social questions. This is clearly evident in the case of Italy. One of the most formidable obstacles to Italian unity was the papacy, which directly controlled large tracts of land in central Italy, including Rome. Pope Pius IX had asserted in the *Syllabus of Errors* (1864) that the church was a true and perfect society, that ecclesiastical power should exercise its authority without the permission of the civil government, that civil law could not prevail over church teaching and that there should be no acceptance of 'progress, liberalism and modern civilisation'. The unification of Italy was further condemned by the church when Italian troops marched into Rome in 1870. Peace between the Italian state and the church had to wait until 1929, when the Fascists made a compromise with the Vatican. This compromise was enshrined in the Italian

constitution of 1948.

In some cases, France and Spain for instance, the clash took violent, revolutionary forms (the French Revolution, the Paris Commune, the Spanish Civil War). In others, as in the United Kingdom, it was more gradual but more lengthy. In France the Declaration of the Rights of Man and of the Citizen (*Declaration des droits de l'homme et du citoyen*), the revolutionary manifesto adopted on 26 August 1789 by the National Assembly of France and written principally by a priest, Emmanuel Sieyès, gave equal rights of citizenship to Jews and Protestants. In Britain Catholics had to wait for the Catholic Emancipation Act of April 1829 to be allowed to hold political office. Jews had to wait longer: on 26 July 1858, Lionel Rothschild, who had been elected several times to the House of Commons but who had been unable to take his seat because he refused to swear allegiance 'as a Christian' was finally allowed, against the resistance of the House of Lords, to take his seat. The prime minister at the time was Disraeli, a Jew who had been baptised.

The democratic principle of equality was unacceptable to 19th-century religion because Orthodoxy, Catholicism and Lutheranism had a common prejudice: namely that those who resisted inclusion in the church and submission to its teaching should be excluded from society and subjected to numerous indignities and punishments. Each religion, of course, accepted the principle of the equality of all before God, as long as it was the 'right' God. The history of the clash between religion and secularism thus took the form of a political clash. Since the principle of equality was also rejected by the dominant classes, there was a real political and material basis for an alliance between dominant religion and dominant classes.

As Rokkan suggested more than 35 years ago in his pioneering *Citizens, Elections,*

Parties,¹ in western Europe the 'church vs. secular state' division became translated into a party system. Thus secularism never simply emerged to conquer all. At every historic turn it had to compromise. And it

is only relatively recently that Catholic, Protestant and Orthodox churches have accepted the idea of liberal democracy and human rights, realising that this guarantees them religious freedom.

2. The Reality

The optimistic version of the secularisation of Europe is not wrong, but it should be modified in two directions. Secularisation is a recent achievement and is not complete. Moreover, the existing compromise was one between well-established religions and new and old states. The compromise does not take into account the growth of an important religious minority in a number of European countries: Islam.

Far from being completed, the separation between church and state in Europe is neither uniform nor general, even though religion is on the decline in most of the continent. Here it should be said that the statistics we have to deal with are unreliable. Our main sources, opinion polls and census reports, often simply ask whether someone belongs to a religious denomination without distinguishing between nominal membership and active participation in religious practices. In France in 1986, 81 percent of the population called themselves Catholic, but it was evident that this identification did not entail Catholic religious practice. This became evident when another poll, conducted only eight years later, found that only 67 percent referred to themselves as Catholics (2 percent were Protestant, 1 percent Jewish, 2 percent Muslim and 23 percent without religion), and only 10 percent of the population declared that they practised a religion, while 44 percent said they never prayed. People often marry in church and baptise their children, but it is difficult to assess whether this is due to religious belief or simply a reflection of the

fact that a church is seen as a more exciting venue for rituals than the drab offices of many town halls. But even though statistics are to be taken with some caution, the overall trend (see Table 1) points to a decline of religion. The most visible exceptions can be easily explained. There are more Orthodox in 2000 than in 1970, and Catholicism appears stable over the last 30 years, but this is probably due to the reluctance of religious people to declare their allegiance when the official doctrine of the (communist) state was inimical to religion. It is now the case that there is a decline of Catholicism in Poland since religion has exhausted its main political function, that of galvanising popular opposition to the regime. There is also an increase in the small Muslim population, attributable, I assume, largely to immigration. Finally, there is a drop in the number of Jews due largely to the genocide of the second world war and, to a smaller extent, to greater assimilation attributable to the virtual disappearance of anti-Semitism in Europe.

There are many other indices that would seem to conform to the view that the appeals of religion are declining throughout the old continent. The birth rate in Italy, for instance, is now down to 1.3, below reproduction level. This is the lowest in Europe, perhaps the lowest in the world. It is obvious to all except the most naive that this is not due to a decline in sexual contacts but to the widespread use of contraceptives in disregard of the teachings of the church. Yet Italy is overwhelmingly Catholic.

1. Rokkan, Stein. 1970. *Citizens, Elections, Parties; Approaches to the Comparative Study of the Processes of Development*. New York: McKay.

Table 1: Confessional Adherence in Europe (%)			
Religion	1900	1970	2000
Christians	94.5	75.1	76.8
Roman Catholics	44.9	39.1	39.2
Orthodox	25.8	16.3	21.7
Protestants	14.8	12.5	10.6
Anglicans	6.2	4.5	3.7
Jews	2.5	0.7	0.4
Muslims	2.3	2.7	4.3
Pop. (m.)	402.6	656.4	728.9

Source: Barrett, D., G. Kurian and T. Johnson. 2001. *World Christian Encyclopedia: A Comparative Survey of Churches and Religions in the Modern World*. Oxford University Press, Tables 1–4

Everywhere in Europe, there is a growth of births outside of wedlock, a spread of magazines and newspapers showing scantily clad women and other manifestations of the kind of permissiveness that is condemned by religious people.

That Europeans are less religious is not doubted by anyone. Many, in fact, contrast this to the religious revival in the USA—the power of a fundamentalist lobby that is able to keep creationism on the agenda as an alternative to (or as coexisting with) the teaching of Darwin’s evolution in biology, the constant references to God by American politicians (in contrast to his virtual absence from the utterances of even Christian Democrats in Europe).

This contrast should be puzzling to those who regard themselves as heirs to the Enlightenment, since it was their belief that

religion would retreat before the inexorable advances of science, technology and material progress. If that were true, then there should have been a regress of religion in the USA as well.

Yet the truth of the matter is that the United States has a far greater separation between church and state than most European countries. In the United States no religious school receives any direct subsidy from the state, whether federal or state. In Europe the central government provides lavish subsidies to religious schools in Belgium, Denmark, Finland, Germany, Greece, Iceland, Norway, Spain, Sweden and Switzerland and indirect aid in the form of various special concessions in the United Kingdom, Portugal and Italy. France may ban religious symbols in state schools, but it also subsidises religious schools and religious hospitals. In fact, the separation of church and state is more prevalent in Turkey, where the vast majority of the population is Muslim, than in France.

In the United Kingdom, it is generally accepted that the number of actively religious people, leaving aside the Muslim community, is less than 2 million, fewer than those who regularly play darts in pubs.

Existing legislation protecting the Anglican Church, however, is slow to disappear. It was only in 2001 that the ban on the election of priests was lifted. The archbishop of Canterbury and 25 other senior bishops of the established church sit in the upper chamber of the legislature, the House of Lords. Recent proposals to reduce their numbers as part of an overall reform of the Lords were rejected. The queen is not only the head of state but also the ‘supreme governor’ of the Church of England; her coronation oath compels her to maintain the established Protestant religion in the United Kingdom. The archbishop of Canterbury is appointed by the prime minister (acting for the queen). The still valid 1701 Act of

Settlement decrees that only Protestants can succeed to the throne, and that no future monarch can marry a Catholic (the act does not specifically say they cannot marry a Muslim or a Jew, but this because such a possibility did not even enter the minds of the drafters of the law in 1701).

There are, in Britain, blasphemy laws which are applicable only to those who blaspheme against Christianity. To blaspheme against Muslims or Jews is okay. Each working day in Parliament starts with prayers. Christianity dominates all the religious programmes broadcast by the BBC.

In Germany the basic law of 1949 reproduced the articles of the 1919 Weimar constitution on the religious question, but while stating that 'there is no state church', it protects Sundays and religious holidays, prescribes religious education as a regular subject in state schools and collects a church tax from all members in the Catholic and Protestant churches and in synagogues. This is usually justified by the recognition of the positive role of religion in public life.

In France, where secularism is, more than elsewhere, a defining feature of the republican state, the long-term accommodation with religion meant that it was perfectly possible to be a practising Catholic and a good citizen, since all the state-approved national holidays happen to coincide with Catholic holy days (including Ascension Day, on the 40th day after Easter Sunday, commemorating the ascension of Christ to heaven). Minority religions, such as Judaism and Islam, have greater obstacles.

In 1980 only three west European states (Austria, France and the Netherlands, to which one should add Turkey) could be coded as secular in the sense that the state promotes neither religion nor irreligion, while many others were constitutionally committed to supporting religion and/or religious institutions. Ireland claims to be

abiding by the principle of the separation of church and state even though its 1937 constitution invokes 'the Name of the Most Holy Trinity, from Whom is all authority and to Whom, as our final end, all actions of both men and States must be referred', and, until 1972, also recognised 'the special position of the Holy Catholic Apostolic and Roman Church as the guardian of the Faith professed by the great majority of the citizens'.

In fact, most of the most important secular actions of European states are extremely recent. Divorce legislation was introduced for the first time in Italy in 1970, in the 1980s in Spain and Portugal and in Ireland only in 1997. Abortion was legalised in Europe only in the 1960s and 1970s or, in some instances, even later. In Ireland it is still banned.

Homosexuality was a criminal offence in Great Britain until the 1960s. So-called 'gay marriages' (the civil registration of homosexual relations with similar tax and inheritance rules as for married people) is very recent and exists only in a few European countries.

For a long time in Sweden, it was a criminal offence for a citizen to dissent from the Lutheran Church. Even in the 19th century, Baptists could be imprisoned, their children forcibly christened and their leaders exiled. Change there was a slow process. In 1860 the existence of other churches—particularly the Roman Catholic Church and the Methodist-Episcopal Church—was officially acknowledged, although they were regarded as 'foreign faiths'. Regulations requiring everyone to receive communion at least once a year were abolished in 1863.

The issue of separation between church and state was discussed in Sweden throughout most of the 20th century. The 1958 Church and State Commission produced volumes of studies of ecclesiology, religious liberty,

public registration, financial issues. By 1968 the investigation had been completed, and the final report drew up various models for the future relationship between the Church of Sweden and the state. A new commission was appointed and delivered its verdict in 1972. The actual change—a series of modifications of importance only to the clergy and to their ever dwindling followers—finally became law on 1 January 2000.

Examining the formal arrangements between church and state, however, is not a very good index of separation. There are, in fact, a large number of rival indexes grading European states on a continuum of secular versus religious, and they do not reach the same results, although most authors agree that France should be put on one end of the spectrum, and the Scandinavian countries on the other. Yet in France the state owns all church buildings erected before 1905 and is responsible for their maintenance. Chaplains, and the Protestant, Muslim and Jewish clergy working in prisons, hospitals and the army receive their salary from the state. Catholic church schools attract about 15 percent of the nation's students and receive public money.

None of this has prevented a growing secularisation even among minority religions. It is estimated that 70 percent of Jews marry non-Jews. As for the Muslim community, although, as usual, the more radical elements receive considerable press attention, the majority have become so 'republicanised' that opinion polls confirm that they are barely distinguishable, in political and social outlook, from other French citizens: fewer than 16 percent of Muslims go regularly to Friday prayers, although a majority observe Ramadan and celebrate *Id al-Kebir*—but then a majority of Catholics attend Christmas mass.

If one takes abortion legislation as an index of secularisation, then one is faced with

a more puzzling situation. The four countries in Western Europe with the most liberal abortion regime (Denmark, Finland, Sweden and Norway)—defined as the decision entirely belonging to the woman within a legally established period—all have established churches. Secular France and the Netherlands share with countries with a partially established church (Austria, Belgium, Italy, Germany, Switzerland, Portugal, Spain and Great Britain) a more restrictive legislation, which allows the termination of a pregnancy if the woman can claim a situation of social distress, leaving the final decision up to the woman, or basing it on legal criteria and others' (usually a doctor's) judgement if these criteria are met. Irish women still travel to the UK to have an abortion, but this is no longer illegal, as it was until recently.

Once again, excessive preoccupation with the letter of the law does not provide an indication of the extent of secularism. On paper, British legislation is a compromise: the law does not grant a woman the right to terminate her pregnancy, unless her doctor approves, but this coexists with a permissive practice largely due to the liberal attitude of doctors. The opposition to this compromise stems essentially from the established churches and sections of the Conservative Party. But opposition to abortion couched in religious terms is not prominent. Those who oppose abortion seek to restrict it and not abolish it completely and seek to buttress their case with reference to scientific norms (such as that abortion is more dangerous in the later stages of pregnancy or that viable life can be had before birth). It is this—the use by religious people of non-religious arguments—that indicates the extent of secularisation in Europe.

The low profile kept by the official churches is due to their realisation that they speak for only a minority. Thus opposition in France to abortion—when it was liberal-

ised in 1975—was organised by groups connected to the church but not by the church itself. The same was the case in Italy during the debates leading to the referendum on abortion, in which the church kept a low profile. This was not the case during the campaign against divorce in 1974, a campaign the church lost.

In Germany, however, opposition to a liberalisation of abortion by the main churches was more vociferous than in either Italy or Britain. The first attempt to reform the abortion law was introduced by the SPD-led government. The Constitutional Court ruled that the basic law obliged the state to protect human life, including unborn life. This, however, could not prevent a further liberalisation after unification, when, due to the existence of a very liberal rule and practice in East Germany (where an abortion law was passed in 1972), a compromise between the western and eastern abortion regimes was reached. This too was overturned by the Constitutional Court, until a compromise was reached in 1992, giving a broad right of the woman to have an abortion as long as she had counselling by lay experts or church representatives. Hypocritically, the Catholic Church in Germany, while rejecting the new ruling, and while it could not 'advise' any woman on any course of action except that of keeping the child, did not want to lose the opportunity to counsel women and receive state funding for it.

Secularisation is often seen as a legal and political process when it should be seen as predominantly a popular attitude. Furthermore, there is a difference when the separation between church and state is often a separation between the state and numerous churches—as is the case in the United States, where separation coexists with a pronounced religiosity.

Thus most people would agree that the

United States presents a far more rigid illustration of what a secular state should be. Yet its public rituals and manifestations contain far more references to God than is the case in Spain or Italy. The invocation of God ('In God We Trust'), although already on coins since the Civil War, was inserted on paper dollars only in 1956. The final lines of the national anthem, 'The Star-Spangled Banner' (1814), contain one of the earliest references to the phrase: '... *And this be our motto: "In God is our trust."*' At the same time, few would dispute that religion and the religious allegiance of politicians is a matter of overwhelming concern in all US elections, while the question is seldom raised in Europe.

In other words, in order to examine the level of secularisation, one would need to examine practices rather than formal rules. This is all the more evident when it is borne in mind that secularism is not a strong lobby in any European country, with the possible exception of France. In the United Kingdom, for instance, a last-minute addition by a group of religiously inclined members of the House of Lords inserted in the 1988 Education Act an obligation on headmasters to make some references to Christianity in daily assembly in schools. The reference is still valid today, even though it is often disregarded and subsequent legislation enabled headmasters in schools where a strong proportion of pupils are not Christian—as is the case in many urban neighbourhoods—not to make specific references to Christianity. Moreover, in Britain, unlike France and the United States, religious schools receive state funding.

The fall of the Berlin Wall produced a situation in which religious feelings could be freely expressed, but it also produced a situation of considerable complexity (compared to western Europe) since the region contains Catholics, Orthodox Christians, Mus-

lims and Protestants. In most cases, religiosity is a political indicator: religion is on the right, secularism is on the left. But this is not true everywhere, for instance in the Czech Republic, where the right too is dominated by secular, even anti-clerical forces. In some instances, such as Russia, supporters of traditional religious values are also part of the nationalist and communist camp—all aligned against the new godless society of money and markets. In Poland, as noted above, the church is likely to decline as the memory of the repressive anti-religious policies of the previous regime fade and the glorification of the West takes

the form of a glorification of godless modernity.

As this brief survey shows, the secularisation of the West, or, rather, of Europe, is the result of a very recent history, although its roots may be traced to the 19th century (there is no reason to invoke the Middle Ages). Secularism has benefited from a decrease in conflict in post-war Europe. In fact, where religion remains a significant force is precisely in areas where national conflicts have remained a major component of daily life—such as Ireland or parts of the former Yugoslavia.

Multiculturalism and Christian-Muslim Dialogue

Syed Farid Alatas*

The Importance of Christian-Muslim Dialogue

The history of the world during the last 1500 years is the history of the relations between Islam and Christianity. In this respect, three observations can be made. One, Islam and Christianity are the only two universal religions. While it is customary to refer to Islam, Christianity and various other religions as world religions, it is really only Islam and Christianity that have shown themselves historically to be universal in the sense that their respective messages have been received by people of varied ethnic, linguistic and social backgrounds over a long period of time and on a large scale. Two, Islam and Christianity are the only two civilisations that have interacted on a civilisational scale over a long period of time, sharing a geographical border and exchanging ideas and aspects of material culture throughout their history. Three, the two are the only civilisations that have conquered each other. On a related note, it is significant that the Muslims are the only civilisation to have conquered the Christian West.

Dialogue literally refers to a conversation between two people. What we have in mind here, however, is more than that. We mean a conversation on a subject of common interest between two or more individuals or parties whose beliefs are informed by differing world views. The ultimate aim of such dialogue is to achieve appreciation, understanding, interest and compassion for the views of the other. In facilitating this

dialogue, the human sciences have a role to play both in public discourse and in formal education. This essay will focus on their role in the latter.

There has always been a need for dialogue among civilisations; the events of 11 September and after have simply reiterated this need. Despite the fact that 11 September was not an attack of Islam against the West, it is often portrayed as such. Within hours of the attack, people were likening it to Pearl Harbor, as if to equate Muslims with those Japanese. Days later, Bush spoke of getting Osama bin Laden dead or alive, even though we were not sure if Osama bin Laden was the culprit. Pushing the imagery even further into the past, President Bush then referred to the war against terrorism as a crusade. Although it is quite likely that he did not have in mind a holy war and that he was using the term in a general sense, as it is used in everyday language, the term 'crusade' is as much misunderstood in the Muslim world as 'jihad' is in the West. For the record, he regretted the use of the term and went on to clarify that Islam is a religion of peace, not to be associated with terrorism. Italian Prime Minister Silvio Berlusconi did not help matters when he said in Berlin, 'We should be conscious of the superiority of our civilisation'. Neither did Alex Standish, editor of *Janes' Intelligence Digest*, who said on the BBC's *Hardtalk* (17 September 2001) that Islam is a military religion. Crucial for the un-

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derstanding of these views, which are not influential in Europe and the United States, is the element of historical consciousness.

Islam had been in conflict with Europe since the eighth century A.D. First there was the conquest of Spain and Sicily. The Arabs were in Spain for 700 years and in Sicily for 500. Then there were about 200 years of the so-called Crusades. Some centuries later, the Ottomans threatened to overrun Europe, making their way to Vienna. Even after the ascendancy of Europe and then America, Muslim civilisation continued to constitute a threat and a problem in the form of anti-colonial and other types of movements following political independence. Thus feelings of animosity and threat are deep-seated both in the West and among Muslims.

Therefore, there is a need for a type of discourse on Islam that emphasises its contributions to the building of modern civilisation as well as the history of interaction between Islam and other religions in order to establish a sound basis for inter-religious or inter-civilisational dialogue. I propose in this paper to indicate what such a discourse would look like by developing certain themes that emerge from a considera-

tion of the history of the interaction between the Muslim world and the Christian West. I do this by taking up a significant instance of this interaction, which revolves around the origins of the modern university. From the study of the origins of the university and the educational system that emerged around it, a form of proto-dialogue between Islam and Christianity can be seen. The types of relations between Islam and Christianity during the European Middle Ages, the period that concerns us here, as seen through the history of the university, suggest a number of themes of inter-religious dialogue. These are (i) the multicultural origins of modern civilisation, (ii) inter-civilisational encounters of mutual learning and (iii) the point of view of the other. My argument is that these themes formed the basis of dialogue and harmony between Muslims and Christians in the past and should be the basis of contemporary social science education in order to facilitate inter-religious dialogue. Dialogue here is not to be understood in the literal sense of a conversation between two sides but rather as a metaphor for peaceful and harmonious relationships founded on mutual trust and admiration. The three themes mentioned above would help to bring such dialogue about.

The Philosophy of Education in Islam

Education has been a central feature of Islam from the very beginning. Because of the centrality of the Quran as the word of God, Muslims have always been obliged to learn to recite Arabic. This applied even to peoples whose mother tongue was not Arabic, but who may have, nevertheless, used Arabic script for their languages. This was the case with the Persians, Turks, Afghans, Indians and Malays. As a result, the literacy rate was relatively high from the early days of Islam.

In the early 1950s, Syed Hussein Alatas

recognised that 'the most urgent problem for the world of Islam today is the formation of new elites who are very learned in the Holy Quran, the Hadith, the Sunnah of the Prophet, the Shariat, and last but not least, in the affairs of modern science and philosophy' and that the formation of such elites could take place only through education (Alatas, 1954).

This conception sees knowledge and education not merely as the acquisition of information or the capacity for explanation and analysis but also connects these proc-

esses to the nature of God and reality and a human ethic of responsibility, but it by no means implies that only what is in revelation is knowledge or that only what is apparently compatible with revelation is true knowledge. Muslims believe that all knowledge originates from God and reaches humans through various channels. Islamic epistemology—the study of the sources, limits and methods of knowledge and the nature of truth from the point of view of Islam—affirms the reality of existence and the reality of things and the possibility of knowledge of both. Such knowledge comes from God and is acquired via the authority of revelation, the authority of the learned, sense perception, reason and intuition. This in turn implies that both induction from observation and deductive reasoning are valid methods of knowledge acquisition (Al-Attas, 1990: 1).¹

Because knowledge in Islam is intimately related to belief, it can be said that the Islamic world view, that is, the world view that can be abstracted from the Quran and the sayings and traditions of the Prophet Muhammad (may peace be upon him), consists of both the creed or articles of belief and the various sciences. Together these form the total consciousness of Islam.

The Origins of the Modern University

By university, we mean the degree-granting institution that we find in Europe and America from the 12th century and which have been introduced to the rest of the world since the 17th century. On the other hand, colleges in Europe were charitable foundations established to help needy students. They were established in a university but were not themselves degree-granting institutions. Gradually they evolved to grant degrees—that is, they became

Knowledge, therefore, is part of faith. It is obligatory for all Muslims to pursue knowledge, and it is obligatory for Muslim societies to cultivate the various branches of knowledge. It is for this reason that the various sciences (*'ulûm*) were studied, developed and promoted by Muslims for centuries prior to the European Enlightenment.

The Muslim contributions to the world of learning are well known. Their contributions even extended to the building of institutions of learning. The modern university owes its origins to Muslims. The idea of the degree most likely came from Islam. In 931 A.D. the Abbasid Caliph al-Muqtadir had all practising physicians examined, and those who passed were granted certificates (Arabic sing. *ijâzah*). In this way, Baghdad was able to get rid of quacks (Hitti, 1970: 364).

The *ijâzah* was the principal means by which scholars and Sufis passed on their teachings to students, granting them permission to continue them. Although the learned scholars of Islam taught in formal institutions of learning such as the *maktab*, the *kuttab*, the *madrakah* and the *jâmi'ah*, the degree was personally granted by the scholar to the student.

more like universities (Makdisi, 1980). According to Makdisi and others, the European university emerged spontaneously in Europe in the 12th century. Makdisi is of the view that the European university is 'strictly a product of Western Europe in the Middle Ages' but acknowledges that the European college, a boarding house of sorts for students requiring financial assistance, is Islamic in origin (Makdisi, 1980: 27).

1. Al-Attas here draws our attention to al-Taftâzânî's commentary on the *'Aqâ'id* of al-Nasafî, which contains the creed of Islam rendered in concise form and which contains the epistemological position of Islam.

Makdisi's argument is that the *madrasah* and the Western college are essentially the same type of institution. The *madrasah* was established as a charitable trust (*waqf*) founded by individual Muslims, which legally bound the founder to run it as a *madrasah*. It had the legal status of an institution but was not a state institution (Makdisi, 1980: 36). According to Makdisi, there are two arguments in favour of the idea of the Islamic origins of the college. One is the *waqf* or charitable trust and the other the internal organisation of the college.

The earliest record of the employment of the charitable trust in England is from 1224, when it was used by the friars of the Franciscan order (Pollack and Maitland, 1952: 229; Cattán, 1955: 213; both cited in Makdisi, 1980: 39). Makdisi, following Cattán, suggests that the early English use of the charitable trust was derived from the Muslim *waqf*. This conclusion is based on the similarities between the two systems as well as the fact that the latter predates the former (Makdisi, 1980: 39).

In the internal structure of colleges there were also striking similarities with the Islamic counterparts that predated them. Muslim colleges had the *sahib* (fellow) and *mutafaqqih* (scholar). The Latin equivalent of *sahib*, *socius*, an exact translation of the Arabic, was employed in colleges (Makdisi, 1980: 40).

For Makdisi, the university, strictly of European origin, absorbed the functions of the college, which had Islamic origins. He also notes that when colleges attained university status, they preserved those characteristics that were of Muslim origin (Makdisi, 1980: 42). This being the case, we could go further to say that the Islamic educational institution, whether *madrasah* or *jâmi'ah*, was also the origin of the European university and not just the European college.¹ The following

are points in support of this position.

The term *universitas*. Although the Latin term *universitas* predates Islam, its use to refer to an educational institution in Europe appears for the first time in 1221 (Gabriel, 1989: 12: 282, cited in Wan Mohd Nor, 1998: 182). According to European accounts, the term was used to refer to the organisation of students into a union. Another theory, however, relates *universitas* to the Muslim *jâmi'ah*. The term *jâmi'ah*, meaning 'universal', was used to refer to Al-Azhar in the 10th century. The idea of the *universitas* as the site where the branches of knowledge of a universal nature are taught (hence *jâmi'ah*, *universitas*) appeared only after the *madrasahs* and *jâmi'ahs* in the Muslim world.³

The *ijazah*. The Islamic educational institutions were degree (*ijazah*) granting. This predates degree granting in medieval European universities. In this regard, there have been some interesting discussions on the origins of the term *baccalaureus*. In the 1930s, the renowned orientalist Alfred Guillaume noted strong resemblances between Muslim and Western Christian institutions of higher learning. An example he cited is the *ijazah*, which he recognised as akin to the medieval *licentia docendi*, the precursor of the modern university degree (Guillaume, 1931: 244). Guillaume suggested that the Latin *baccalaureus* may have originated from the Arabic *bi haqq al-riwâya* (the right to teach on the authority of another) but was unable to go beyond this speculation (Guillaume, 1931: 245n). Later, Ebied and Young, aware of Guillaume's suggestion, discussed the appearance of the exact phrase *bi haqq al-riwâya* as a technical term in documents called *ijazah* that conferred the right to teach on the recipient (Ebied and Young, 1974: 3-4). The theory is that the phrase

2. This was a point stressed by Syed Muhammad al-Naqib Al-Attas several times in personal communications.

3. Al-Attas, personal communications, various occasions.

bi haqq al-riwâya was assimilated to *baccalaureus*.

Makdisi points out that there are fundamental differences between the Western and Muslim systems of certification, that is, the *ijazah* and the *licentia docendi*. In Europe, the licence to teach was granted for a particular field of knowledge and conferred with the authority of the church. In the Muslim world, the right to teach was conferred by the teacher to the student for a particular work or works (Makdisi, 1970: 260) and was not dependent upon the institution or state.

The European notion of *facultas* (faculty) may be a direct translation of Arabic *quwwah*, referring to the power inherent in an organ.⁴ According to Al-Attas, '[T]he university must have been conceived in emulation of the general structure, in form, function and purpose, of man' (Al-Attas, 1979: 38, cited in Wan Mohd Nor, 1998: 181). This seems to be the sense in which *facultas* was used in the medieval European university. This is in line with the suggestion that the term faculty in the beginning referred to a branch of instruction rather than its present meaning of professional body.

Muslim-Christian Relations: the Emergence of Dialogue

The earliest form of dialogue between Islam and Christianity can be said to have taken place in the Quran, where Christian doctrine is referred to in explicit terms. For example, the verse 'He begetteth not nor was begotten; And there is none comparable unto Him' (Al-Ikhlâs: 3-4) is clearly a reference to the Christian doctrine of the Trinity. Within the first three centuries of Islam, several works refuting Christian doctrines had appeared. The *Kitâb al-Fihrist* (The Catalogue) of Abu al-Faraj Muhammad ibn Ishâq al-Nadîm (d. 995 A.D.), an index of books written in Arabic, lists the works of several authors that dealt with Christian theological doctrines, none of which have survived (Thomas, 1992: 32). Among them are Dhirâr bin 'Amr (*Kitâb al-Radd 'alâ al-Nasârâ* – The Book of Refutation of the Christians), Hafâ al-Fard (*Kitâb al-Radd 'alâ al-Nasârâ* – The Book of Refutation of the Christians), Bishr bin Mu'tamir (*Kitâb al-Radd 'alâ al-Nasârâ* – The Book of Refutation of the Christians), 'Isâ bin Subîh al-Murdâr (*Kitâb al-Radd 'alâ al-Nasârâ* – The Book of Refutation of the Christians), Abû al-Hudhayl al-'Allâf (*Kitâb 'alâ al-Nasârâ* – Book on the Christians) (al-

Nadîm, 1988: 184-185; 203-204; 206-207; 214-215; 229-230).

Among those that have survived are four works of the same title (*Radd 'alâ al-Nasârâ*) by 'Alî bin Rabban al-Tabarî, Abû 'Uthmân al-Jâhiz, Abû Yûsuf al-Kindî and al-Qâsim ibn Ibrâhîm al-Hasanî (Thomas, 1992: 32).

The discussions of Christianity were not always one-sided. There were often exchanges between Muslim and Christian scholars. Among the first Christians to enter into polemics with Muslims was St. John of Damascus (Sahas, 1972, cited in Thomas, 1992: 31). There was also a debate between the Nestorian patriarch, Timothy I, and the Caliph al-Mahdî (Mingana, 1928, cited in Thomas, 1992: 31), and between the Shi'ite theologian Hishâm ibn Hakam and a Christian patriarch, Barîha (Thomas, 1988).

Thus the earlier contact between Islam and Christianity was in the form of debates and polemics. More significant for dialogue were the later developments that brought about a new kind of relationship between

4. Al-Attas, personal communications, various occasions.

5. *Catholic Encyclopedia*, <http://www.newadvent.org/cathen/11495a.htm>, accessed 1 March 2005.

Christians and Muslims. This is the relationship of Christian cultural borrowing from Muslims. This borrowing to a large extent revolved around the Muslim universities. The influence of Muslim universities on the medieval West and the cultural borrowings of Christians from Muslims in these institutions suggest three themes of inter-religious dialogue that began to emerge in the 13th century, during the period of the rise of the Western university. These themes are (i) the multicultural origins of modern civilisation, (ii) inter-civilisational encounters of mutual learning and (iii) the point of view of the other. The relations between Muslims and Christians that revolved around the Muslim university provide concrete examples of each of these themes.

The multicultural origins of modern civilisation. The story of the origins of the medieval university and its Islamic roots is a case in point. To the extent that Muslim educational institutions such as the *madrakah* and *jâmi'ah* influenced the rise of medieval universities and colleges in Europe, the modern university must be seen as a multicultural product.

Inter-civilisational encounters. The university was also the site of inter-civilisational encounters. For example, Frederick II (1194-1250 A.D.), Holy Roman emperor of the Hohenstaufen dynasty, came into contact with Muslims in Sicily and during the Crusades. He was so impressed with the culture that he adopted Arab dress, customs and manners. More importantly, he admired their philosophical works. He was apparently able to read these works in the original Arabic (O'Leary, 1939: 280). In 1224 A.D. Frederick founded the University of Naples. This was to specialise in translating the scientific works of Muslims from Arabic into Latin and Hebrew

(O'Leary, 1939: 281). It was through the encouragement of Frederick that Michel Scot spent time in Toledo in 1217 and translated some works of Ibn Rushd (Averroes) on Aristotle (O'Leary, 1939: 281). The great Christian theologian St. Thomas Aquinas himself had studied at the University of Naples, was exposed to the works of the Muslim philosophers and their commentaries on Aristotle there and frequently entered into theological debates with them (O'Leary, 1939: 285-286). By the middle of the 13th century, almost all the philosophical writings of Ibn Rushd had been translated into Latin. A peculiarly Christian appropriation of Ibn Rushd began to develop in Europe and came to be known as Latin Averroism, establishing itself in various European universities such as Bologna, Padua and Paris (Oo:'Leary, 1939: 290-291, 294).

The point of view of the other. The inter-civilisational encounters between Muslims and Christians, whether these were direct and personal or indirect via texts, would have developed in some the ability to view reality from the point of view of the other. The example that I have in mind is the historic meeting between St. Francis of Assisi and Sultan Malik al-Kâmil of Egypt during the Fifth Crusade. St. Francis and a companion named Illuminatus set off for Egypt with the aim of converting Sultan Malik. According to Christian accounts of this event, the Sultan was eager to listen to what St. Francis had to say about Christianity and, although not inclined to leave Islam, developed a deep admiration for St. Francis. He invited St. Francis to visit a mosque, where he asked the latter to pray for him, as he would for St. Francis. St. Francis, for his part, was able to see the humanity of Islam and modified his pre-conceptions of the religion (Bonaventura, 1260/1950: 361-363).⁶ For the Catholics,

6. Sermon at Christ Church, Freemantle, Southampton, St. Francis of Assisi Day, celebrated on 10 October 2004, http://www.realmail.co.uk/~storyline/francis_islam.htm, accessed 2 March 2005.

and the Franciscans in particular, St. Francis had entered into a true spirit of dialogue with Islam and was sincere about the positive values that were to be found in that religion to the point of being inspired. For example, after witnessing the *adhân* or call to prayers in Egypt, St. Francis suggested

that his people should praise and thank God every sunset after an appropriate signal was given by herald or in some other way (Wintz, 2003). The case of St. Francis and the sultan clearly illustrates what results from a realisation of the point of view of the other.

Bringing Themes of Inter-Civilisational Dialogue to Education

I have attempted to put into practice some themes that I believe should inform the dialogue among religions in a course that I teach at the University Scholars Programme of the National University of Singapore, entitled 'Islam and Contemporary Muslim Civilisations'.

This is an introductory course to Muslim civilisation. Emphasis is on the historical, cultural and social context of the emergence and development of Islam, and the great diversity that exists in the Muslim world, from Morocco in the west to Indonesia in the east. The course is divided into five sections. The first, consisting of two lectures, provides an introduction to the study of civilisations in general, defines Islam as belief and practice, creed and civilisation, and briefly discusses its origins. The next set of lectures discusses the spread of Islam and the encounter between Islam and the West in the past. This part of the course introduces the major cultural areas within Muslim civilisation, that is, the Arab, Persian, Ottoman, Moghul and Malay, and covers topics such as the Muslim conquest of Spain and Sicily, the Crusades and the Islamisation of south-east Asia. The third part of the course examines the cultural dimension of Muslim civilisation, with particular emphasis on the religious and rational sciences that developed among the Arabs and Persians, their contact with the Greek heritage and the impact that Islam had on medieval European philosophy and science. Also discussed in this part of the course are the literary and artis-

tic dimensions of Muslim civilisation. The fourth part focuses on current issues in the contemporary period (post-World War II). Particular emphasis is given to the emergence of orientalism in Europe and the Islamic response to it. This section also provides an overview of the political economy of the Muslim world, setting the stage for discussions on a number of contemporary problems and issues such as gender, underdevelopment, Islamic revivalism and imperialism.

All this seems a lot to cover in one course. It would be if the objective of the course were to impart knowledge of the facts and events concerning Islam as a civilisation. But this is not the dominant aim. The main objective is to bring students to an understanding of what I see as the three central themes of the study of civilisations.

(1.) *Inter-civilisational encounters.* The study of Islam is one case of encounter between civilisations. As Islam was the only civilisation to have conquered the West and to be in continuous conflict with the West, it is important that people be introduced to the idea that such encounters are not always negative. The Crusades, for example, resulted in much scientific and cultural borrowing between Muslims and Europeans. The experience of St. Francis and Sultan Malik al-Kâmil is extremely important in this regard.

(2.) *Multicultural origins of modernity.* Modern civilisation is usually defined in West-

ern terms. But many aspects of modern civilisation come from Islam and other civilisations such as India and China. The university is an example of this. The notion of a degree-granting institution of learning was developed and put into practice by the Muslims by the 10th century and adopted by the Europeans in the 13th century. This includes the idea of the hierarchy of teachers and scholars and the idea of the degree. When we add to this the examination system developed by the Chinese, we get the modern university.

(3.) *The variety of points of view.* The study of Islam provides us with an opportunity to experience the multiplicity of perspectives from which any one fact or event can

be viewed. For example, most works on the Crusades provide accounts from the point of view of the European crusaders. The perspective of Muslims who fought the crusaders and then lived among them when European soldiers settled in and around the Holy Land between Crusades is instructive because it helps complete the picture of an otherwise fragmented reality. Another example of this concerns the *hijab* or head covering worn by many Muslim women. While in some settings it co-exists with the oppression of women, in others it is a symbol of liberation. It is important, for example, to expose students to the experiences of Muslim women who took to the *hijab* in order to escape the critical gaze of the fashion and beauty industry.

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Multiculturalism in Malaysia and Europe: Creating or Nurturing the Middle Ground?

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Both Asia and Europe have recently been the centre stage of violent conflicts: the invasions of Afghanistan and Iraq, the vilification of Iran and the appalling terrorist attacks that were responsible for the deaths of hundreds of innocent civilians throughout the Western and Asian worlds. This worrying trend seems to shed a bad light on the democratic struggle and to declare the model a failure. With the recent Islamic revolt that has spread around the globe due to the printing of caricatures denigrating the prophet Muhammad, there is an urgent need to contemplate our position. There is a compelling need to question our approach towards the Islamic issue and how best to deal with the issue of multiculturalism. In this regard, Asia and Europe share the same predicament.

Multiculturalism is not, and never has been, a problem that beset societies. There has never really been a society in history or today marked by cultural homogeneity. In fact, multiculturalism is part and parcel of every living society. The real problem is rather the failure to manage this heterogeneity. Let us take a look at Malaysia as a case for Asia. The Malaysian socio-political landscape is very much a product of indirect British rule through the residential system. Not only were different races, particularly the Malays, Chinese and Indians, organised in so as to segregate the races according to economic function in the nascent colonial economy, but more importantly, the colonial administration failed to deal with the newly found multicultural society.

Instead of liberating the government and state from partisan politics, the system rendered the political landscape uniquely ethnic in character. The federal constitution not only made the sultans believe that they were the actual rulers of the country, but also affirmed the special privileges of the Malays. In a newly established multicultural society, such an arrangement is bound to breed its unique problems. The first sign of the problem can be seen in the political arrangement of the country, which survives until today.

Unlike many other nation-states, Malaysia's politics are predominantly based on ethnic groupings, in which its ruling coalition comprises several ethnically based parties, with UMNO being the first among equals. This setting reinforces in a fundamental way how the Malaysian nation is to take shape. Although it can be argued that the ruling coalition is governed by equal ethnic parties, in practice this is not so. Because of the fact that UMNO is the first among equals, government policies tend to have a bias in favour of the Malays. This can be seen in the overwhelming presence of Malay Muslim cultural insignia all across the mass media channel, obscuring the presence of other cultural symbols. The most telling example yet is the NEP policy, which ensures a 30% chunk of national wealth in the hands of the 'natives' of the land (*Bumiputera*), which includes Malays and the aboriginal peoples. How does this, together with other similar policies, affect—or more specifically impede—the creation of a true national identity?

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In 1971, the government formulated a national cultural policy for the creation of a national identity. Even at this preliminary stage, there were huge problems as Islam and Malay culture were demanded to be the basis of the national culture. The features of other ethnic cultures can be incorporated as long as they do not come into conflict with these core elements (Kahn and Loh Kok Wah, 1992). Indeed, the consequences were strict controls and permit requirements for non-Muslim non-Malay

cultural festivities. Concurrently, the number of TV programmes depicting Malay cultural and Islamic religious activities, such as the *adhan* (call to prayer), Quran reading competition and Islamic theological discussions, increased rapidly, fuelling widespread concerns about the direction of Malaysian national identity (Daniels, 2005). This impasse has not changed much since the 1970s. Malaysia is still finding its national soul and the ethnic divide shows no signs of real improvement.

'Culturalisation' of Islam: distinction between 'religion' and 'culture of religion'

This paper holds as its main theoretical foundation the importance of a non-ethnic, non-religious state as the fundamental criterion for a multicultural society. In this context, I would like to draw upon the significance of Islam as the main source of Malay cultural knowledge and also the solution to the social impasse. For this, I would like to chart out the Malaysian socio-political landscape and how Islam is exploited to justify the ethnic divide.

Islam, as we understood it, is one of the world's major religions and a crucial component in the politics of a number of Asian countries, particularly those in which Muslims constitute a significant proportion of the population. Yet in Malaysia, the significance of Islam is very much enmeshed with the issue of ethnicity. With an urgent need to build a common nation in a uniquely multicultural society, this predicament constitutes one of the greatest obstacles to meaningful integration among the various ethnic groups.

Since the discourse concerns the building of a certain 'nation-state', it is crucial for an analysis of the Islamic discourse to be understood within such a context. A successful nation-building agenda must possess the ability to nurture a common goal and

identity among the various ethnic and religious groups in society. This can be attained only when the role of the state transcends the potentially conflicting tendencies of society, of ethnic groupings for example. As such, the understanding of Islam that one must be concerned with here—considering a multitude of interpretations of the religion—should be congruent with this national vision.

In Malaysia's context, Islam is often perceived through an ethnic lens, which, more often than not, creates an exclusive interpretation of the religion. The association of the Islamic religion with a vague domain called the 'Islamic world', and in Malaysia, with the Malay race, is a telling example. The reasons for this 'culturalisation' or 'ethnicisation' of Islam can be traced back to the era of the Sultanate of Malacca, when colonisation was starting to establish a firm ground. Unlike the classical period of the Malaccan sultanate, when religion, language and custom (*adat*) did not constitute ethnic boundaries, these same concepts become the rallying banner of Malay identity today. It is thus important to understand how, specifically during the colonial period, these features became prominent in defining a Malay. This paper argues that the intrusive nature of the colonial powers, and

the unprecedented influx of labour from China and India, facilitated the crystallisation of the Malay ethnic features. How then, we ask, did Islam become the most crucial ethnic boundary, superseding other defining elements like language and customs? How did it become the most formidable feature distinguishing Malays from the other ethnic groups?

The government's attempt to nationalise the Malay language and customs impedes the consolidation of the Malay category in an important way. Facilitated by the constitutional definition of the Malay, it dissolves the boundaries of language and customs as exclusive ethnic features. This can be shared by all other ethnic groups. But this creates another problem. Because religion (in the conventional sense of the term) is not an easily shared component, Islam has increasingly become an emotive and formidable force of Malay identity up to the present. This newly found vigour inevitably found its way into political Islam.

The pertinent threat that this phenomenon poses to Malaysia's multicultural society comes in the form of an aspiration for an Islamic state, as we understand it today. Thus, in light of the nation-building discourse, it is worth elaborating the kind of nationhood that political Islam aspires to and in what way it obstructs the creation of a common nationhood in Malaysia's multicultural society.

But what is the Islamic state, according to them? An Islamic state is a regime which operates under laws derived from the two conventional sources of Islamic knowledge, the Quran and Sunnah. In this state, the caliph must act as the representative of God on earth and rule the subjects by the divine law, the *shari'a*. Instead of deriving the sovereignty of power from the citizens, power is irrevocably found in God and His law. The people who call themselves Muslims must abide by this divine law, whereas those

who do not, can choose not to abide by it. This is Malaysia's definition of an Islamic state in a nutshell.

Now, this leads us to a **natural** question. Since Islam is in essence a universal (*ad-deen al-shumul*), **natural** religion, and laws that come from its body of knowledge must essentially be **natural**, that is to say **naturally** accepted by humans, why does it apply only to a certain kind of people called Muslims and not to others? Shouldn't a **natural** religion embodying a **natural** law that is **naturally** accepted by people, be applicable to every human being, regardless of their race or religio-cultural orientation? It is from this premise that we should start to question the Islamic state (any religious state for that matter) and our understanding of the Islamic religion.

Such an unnatural understanding of Islam creates an unnecessary problem: the inseparability of state and religion. In fact, this has been the crux of the Islamic Youth Movement ABIM's ideology that since Islam is the way of life, it cannot be separated from the state. Because of the fact that an Islamic state necessarily embodies Islam as its governing ideology, it cannot separate state and religion. But let us turn to the interpretation of Islam as a natural religion by scrutinising its epistemological definition.

As all Muslims would readily concede, Islam is the *ad-deen al-fitrah* (the natural religion or the natural way of life). But what does this crucial phrase mean? And what is its implication? Since it is a natural way of life, logically, it should be generally accepted by human beings as a whole. But is this the case in Malaysia? Is this the case for Islam on the global scene? Islam and the Islamic state that we know today are anything but natural or universal.

However, many scholars would point out that a pristine model of the conventional

Islamic state began in the 7th century with the prophet Muhammad's rule of Medina in 622 AD. The features of this Islamic state, according to a majority of scholars, are contained in the Medina Constitution (*Al-Dustur Al-Madinah*). The constitution can be summarised thus. First, all tribal and ethnic ties are replaced by Islam, and all Muslims are to be categorised as one 'nation' or *ummah*. Second, all decisions are to be guided by the Quran and Sunnah. Third, decisions must be made in consultation and consensus (*shura*) involving the leadership and the people. Fourth, the principles of equity and justice are paramount in state affairs, applying to all constituents, both Muslims and non-Muslims (*dhimmi*) (Mutalib, 1993).

A close scrutiny of this constitution seems to lead us to the conclusion that the state of Medina is a strictly civic state—one that corresponds with the citizen and that is free from any religious or ethnic bias. What may seem to obscure these civic elements, however, is essentially the categories of Muslim and non-Muslim. It is due to this categorisation that the Islamic state as understood today remains partisan in nature. But was this originally so?

History and language tell us otherwise. For if we were to analyse closely the language that created these contentious terms, i.e. Islam and Muslim, we would discover a completely different story.

From an epistemological perspective, Arabic is one of the richest living languages, boasting a regular and structured grammatical system and an extensive semantic network of words. Because words are connected with each other by a common essential meaning, the Arabic language constitutes the most powerful language for research (Menocal, 2003)

In the context of our discussion, *Islam* is derived from the root verb *aslama*, which

means to submit to the will of God. Islam is a domain, a metaphysical space, wherein its constituents, who are called *Muslim*, submit to one single cause, the will of God. This is how *Muslim* derives its semantic connection with *Islam*. This leads us to the next question: what does submission entail?

A conventional interpretation today suggests that submission to God is determined by the five pillars of Islam, which consists of:

1. Faith or belief in the oneness of God and Muhammad as the messenger of God
2. Establishment of the five daily prayers (*salat*)
3. Giving alms (*zakat*) to the needy
4. Fasting during the month of Ramadhan
5. Hajj pilgrimage to Mecca

This appears to imply that man's natural tendency is to acknowledge all these pillars as intrinsic to his nature. But are they? Do the Tukano Indios in Brazil's Amazon naturally know that they have to go to Mecca, or pray five times a day? Do these pillars supersede the importance of the common goal of humanity to preserve peace, justice and protection of God's mother earth? Even if these are deemed important, they must logically be a part of a bigger goal in this natural view of Islam. What is that bigger goal?

As we have conceded earlier, Islam is *ad-deen al fitrah*, the natural religion or natural way of life. What this crucial phrase means is that Islam corresponds to the natural world, where a natural system exists. We are born into this pre-existing natural system and are part of it from the day we were born. Hence epistemologically, we *are* Muslim, we don't *become* Muslim. Although today, the term Islam carries a negative connotation in many parts of the world, its

true meaning at the epistemological level simply denotes our shared world and the natural system that is established. Every living being—animals, humans and plants—engages in the natural system in their own specific way according to their specific nature. It is when we humans violate this natural system, committing acts that depart from what is naturally humane (e.g. genocide and destructive propaganda) that we necessarily situate ourselves outside the fold of Islam. Thus far, we can now see a new definition of Islam and a whole new categorising of people as Muslims and non-Muslims which revolves around a natural order, the natural state of being. Chandra Muzaffar affirms this eloquently:

‘Islam is the natural religion of man. By this is meant that it is the way of life, the code of conduct that is most harmonious with the development of man’s humanity. And man’s humanity is intrinsic to his nature. The right social conditions must be created to enable man’s nature to blossom. By linking Islam to man’s nature, the commonality of all humans is unequivocally established. All humans are essentially the same—as far as their basic nature goes. It is this that makes them equal. It is this view of Islam ... that defies its classification as a religion in the conventional way in which the term is used in Western anthropology.’ (Muzaffar, 1989)

The term *salat*, conventionally defined as prayers, is another pertinent case in point. In the Quran, the term *salat* seems to have meanings very different from what we understand today. Take just one good example, in Chapter 24, verse 41:

‘Do you not see that everything in the heavens and the Earth glorifies God? Even the birds in formation; each knows its *salat* and

its glorification. And God is fully aware of everything they do.’

If we were to subscribe to the conventional interpretation, this verse does not make sense. However, if this verse is analysed within the new context, a broader meaning emerges. To establish *salat* (*aqim as-salat*) in Arabic has a broad meaning of adherence, commitment, obedience to a certain framework, covenant or social contract, which in turn is supposed to preserve the natural order. In simple words, all living beings, who are constituents of this natural world, should establish a commitment towards preserving it. The act of committing to such a social contract or framework means to establish *salat*. Thus, epistemologically, a person who establishes the *salat* thus submitting to the will of God, is a Muslim.

So far this analysis has provided new definitions and a new way of looking at Islam and *salat*. With these new definitions, the Medina Constitution seems to paint a completely different picture. In actual fact, the ‘Islamic state’ in Medina more than 13 centuries ago was nothing more than a civic state, whose leaders and people were bound by a social covenant—a *salat*—wherein its constituents abide by the rule of law and the leaders govern the subjects equally in all fairness, regardless of colour, race or cultural orientation.¹ As such, *Muslim* and *Dhimmi* cease to mean two impenetrable categories. The former simply denotes a person who abides by a framework that preserves the natural order, whereas the latter is a person who might not yet be ready to enter into such a framework, but is guaranteed protection by the state insofar as they are citizens of the state. The only way one can escape both of these categories, from a citizenship perspective, is when one threatens

1. Even the name Madinah has a close epistemological connection to Islam and *salat*. This is why it is not a special name. Makkah is a special name, but not Madinah. This explains why there is a definite article “the” or *al* in Arabic for Madinah—Al-Madinah. (See Al-Attas, 1978, for a detailed explanation)

the integrity of this social framework by committing criminal acts against the state or its citizens, in such a way as to jeopardise the natural order. In this case, one is no longer a protected citizen but a threat to society. Thus, in the Malaysian context, as

long as a person abides by a social framework which preserves God's natural order, to restore common justice, regardless of how one manifests submission (Buddhism, Christianity, 'Islam') then one is, in every sense of the term, a Muslim.

Creating or Nurturing the Middle Ground?

This leads us to the question of how to solve the present political quagmire in Malaysia. Is there something wrong with our approach to the Islamic question? To date, there has been a plethora of efforts to try to reconcile the various religions in Malaysia. The most recent and prominent case was the Interfaith Commission (IFC) saga. This initiative was proposed during a two-day conference in February 2005 that was coordinated by groups including the Bar Council of Malaysia and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism and Sikhism (MCCBCHS). The objective of the proposed commission is to create a formal framework for interfaith dialogue and a mechanism for the shaping of coherent interfaith policy in the country, both of which are absent in Malaysia. At present, the only method of dispute resolution is by legal action in the courts, which in the interests of peaceful coexistence should be the last resort in disputes (Bar Council Malaysia website).

The response to the proposal from the Islamic NGOs was overwhelmingly negative. In fact, the Allied Coordinating Committee of Islamic NGOs accused the IFC of attempting to bypass and usurp the powers of state Islamic religious bodies, and eventually infringe on the rights of Muslims to practice Islam according to teachings of the Quran and Hadith. This is despite the fact that the draft bill does not contain such provisions.

Why did an effort to create a middle ground

in Malaysia fail to come to fruition? The answer seems to lie in the structure of the commission, namely the framework in which the dialogue was to be shaped. The advocates of the idea, including enlightened Muslims, felt that the existing inter-faith dialogue framework was inadequate simply because the MCCBCHS did not include Muslims as members. This was the underlying reason behind the commission's proposal.

However, the new proposal was exactly the same in that it seeks to create a mechanism for dialogue between the different faiths. To create means to bring into being something which has not existed. This is an incorrect approach. Based on the new definitions above, all humans already have something in common to start with—an innate inclination to preserve peace and justice that restores the natural order. If we can agree at this level of understanding, then we can see that efforts at conciliating the various 'religions' must be seen as a returning to our common nature. To return to something that we already have in common—a natural inclination towards peace and justice. Any effort in trying to establish such a pact, is to establish *salat*. Those who refuse to engage by implication have deviated from their original nature, and as such have no place in the benign effort to preserve God's natural order. This is the kind of mind-set that we have to agree on.

The next question is: if there are many religions, how can we return to one common

religion? In fact, there has always been only one natural religion, a universal framework that encompasses every living being. The situation in which we find ourselves today (i.e. many different 'religions') is the result of the cultural adaptation of the one common religion. In reality, human societies, in order to embrace universal values, tend to negotiate the existence of these values with their culture. This explains the Arabic cultural origin of the conventional Islam that we know today, and the Middle Eastern-Roman influence that we can see in conventional Christianity. While this is perfectly acceptable as a natural product of societal evolution, the categorisation of these adaptations as 'the one true religion' has been the main source of bloody conflict all throughout history, the Crusades being a case in point.

That is the compelling reason that the success of any civilisation, in the past, present or future, rests upon this delicate distinction between 'religion' and 'culture of religion'. For only when these cultural adaptations are relegated into the realms of society can the government and the state be free from partisan orientations. Only then can a truly civic state emerge.

A pertinent example would be the kingdom of Al-Andalus in what we call Spain today, which began in 756 A.D. when the Umayyad prince, Abd Al-Rahman I, became the governor of the old city of Cordoba (Qurtaba) thus establishing an authentic continuation of the Umayyad dynasty (Menocal, 2003). A truly cosmopolitan kingdom that hosted a range of different cultures including the Moors, Jews, Gypsies, Hispano-Romans and Christians, Andalusia was also widely known as a centre of European civilisation. Arts, poetry and music developed remarkably in Andalusia and in this cosmopolitan environment, the famous flamenco dance and music were cultivated. People from vari-

ous allegiances, cultures and religions flocked to Andalusia from all over Europe to study in its prestigious universities and academic institutions. All these developments inevitably created a melting pot of cultures that ultimately characterised the citizens of the kingdom. This unique cosmopolitanism made Andalusia one of the greatest civilisations of all times.

But what contributed to the cosmopolitan nature of this kingdom? Toledo, an ancient ecclesiastical capital of the Iberian peninsula, close to the capital city of Madrid, was known as *Ne:La Ciudad de Las Tres Culturas* (the City of Three Cultures). These three cultures were 'Islam', Christianity and Judaism. Today, the same three cultures are known as religions. This small shift in meaning creates a whole difference in approach. For only when these divisive tendencies are assigned to the communal sphere can there be a justification for a unitary civic state. Indeed, the ideal multicultural society rests upon 'the distinction between the public and private domain, in which a society is unitary in the public domain but which encourages diversity in what are thought of as private and communal matters' (Rex, 1996).

Indeed, Al-Andalus witnessed a remarkable blend of cultures in which Jewish and Muslim scholars were able to work closely with their Christian counterparts from the various Christian kingdoms. The works of Muslim and Jewish scholars such as Ibn Rushd (Avveroes), Ibn Bajjah (Avempace), Ben Maimon (Maimonides) synthesised with the works of Christian philosophers like Thomas Aquinas, Duns Scotus, and Albertus Magnus. The Andalusians were pivotal in translating the Greek texts into Europe. They were the key to providing the intellectual impetus to nurture European civilisation out of the Middle Ages into the Renaissance. The new flow of ideas, which translated the Greek philosophical

texts into a more universal understanding of life and God, initially pervaded the northern Italian trading republics of Genoa, Firenze, Venezia and Sienna. This was the beginning of the 'quattrocento', 'cinquecento' and 'seicento' of the Renaissance, which laid the foundation for the Enlightenment in Europe. This inevitably resulted in the liberalisation, or rather 'democratization' of the Christian religion, whereby the monopoly over religious knowledge was substantially eroded, giving new powers to the democratic civic state that survive to today. This was Christian theological evolution in a nutshell.

If this was the case, why is Europe facing a huge political problem today with regards to Islam? If democratisation of the state from the various 'religions' necessarily creates a unitary civic state able to mitigate the divisive influences, how does it explain the current Islamic uprising that has beset European societies for decades?

Thus far we have been exposed to a political model whereby, as explained by John Rex (1996), a society is unitary in the public domain but encourages diversity in what are thought of as private and communal matters. Does the present Western secular model reflect these features? Although there is no denial of the strictly secular nature of the Western states, is this model able to tolerate and accommodate diversity in its societies? Many Western models seem to embrace these features, but the Islamic uprisings seem to suggest that many of these secular models still are not able to deal with diversity in a multicultural context.

This phenomenon seems to indicate that secularism today has become an authoritative 'religion' in itself (Al-Attas, 1978) and is not able effectively to accommodate other religio-cultural orientations. The former Iranian President Mohammad Khatami, in the February 2006 conference on Islam that took place in Kuala Lumpur, called the West

self-centred and determined to see the entire world adopt its values. He blamed the West for fuelling Islamic radicalism (BBC News, 'Iran's ex-leader sees new Islam', 11 February 2006). This radicalism is manifested in the widespread frustrations over Western domestic and foreign policies, which are seen as intolerant of other cultures. The unsanctioned invasions of Afghanistan and Iraq, the humiliating abuse of prisoners in Abu Ghraib, the unlawful detention of and denial of the right to trial to suspected militants in Guantánamo and the secret CIA detention centres across Europe, all reflect this rigidity.

This being the case, it is imperative for the West to rectify its position with regards to its domestic and foreign policies lest the divide between Muslims and the West grow into a huge chasm, as Dato' Seri Abdullah Badawi said in his keynote address to the February 2006 conference. The West and Muslim governments have a joint responsibility in ensuring that the right people speak for the true Islam. There is a compelling need to do justice to the term Islam, to revive its universal or natural qualities that give it the label *ad-deen al-fitrah* (the natural way of life).

Let us ponder the words of Prime Minister Abdullah Ahmad Badawi at the recent KL conference, calling on all the bridge-builders between the West and the Muslim world to multiply their efforts in order to 'destroy the walls erected by those who are hell bent on keeping them apart. The bridge-builders must be developed through the family, education, the media and tens of thousands of men and women who could be critical of the weaknesses and wrongdoings of one's civilisation and at the same time empathetic towards "the other" civilisation. When the bridge-builders reached a critical mass, their collective power would become so overwhelming that it would destroy the walls created by the extremists on both sides. At that point, when the bridge-

builders reign supreme, the people of the West will speak for Islam and the Muslims will speak for the West. Certain voices in both the West and the Muslim world share a common perspective on some of the critical challenges facing both civilisations and the world at large. Both are opposed to hegemony, reject violence and terror, yearn for a just and peaceful world, are united by

a common bond and it was this common bond that made them bridge builders.'

A common bond indeed already existed. We just have to know it. All of us generally possess an innate tendency to preserve peace and justice because we belong to the same God and natural order. Let us now work on this platform.

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Amity and Enmity: Is Europe Ready for Multiculturalism?

Yeo Lay Hwee*

The cartoons controversy may have caught some people by surprise, but it may be a catalyst for a long-awaited breakout of a clash between strong and divergent views inside Europe itself. Some people may think that the row over the cartoons validates Samuel Huntington's theory about the clash of civilisations. But I see this more as a clash between minorities and majorities within so-

cieties, between those who feel powerless and the ones who wield the power, between those who are losers (or feel that they are losers) in the process of globalisation and the winners of the race.

What are the issues and what can be learned from the cartoons saga?

Nothing Is Local, Everything Is Global

Some decades ago, a report touching on Islam and Muslim values in a Danish newspaper would hardly have attracted attention outside Denmark or Europe. Now, the growth of transnational links and the speed of communications mean that seemingly 'local' issues can have a global dimension. We are now living in a global village.

The mistake of the Danish editors was the failure to understand that when they write or publish anything, they are not addressing a local audience, but other inhabitants of the global village. As for the Danish government, there is also a failure to recognize the tremendous changes taking place within their own and Western societies, notably the growth of Islamic influence. Globalisation is not only about economics, but brings cultural and spiritual differences, and how to manage these differences needs careful thoughts and actions.

The refusal by the Danish government to meet with Danish Muslims fuelled the frustrations felt by the latter and reinforced their

views that the present government is prejudiced against the Muslim community. They then lobbied the Muslim ambassadors in Denmark for help. Eleven ambassadors from Muslim countries also asked to meet the Danish prime minister, but again, he refused. The Danish government lost the opportunity to engage in dialogue to get its views across and create the understanding needed to calm the issue. Instead, the perceived 'snub' enraged the 11 Muslim ambassadors, and instead of winning them as allies, created enemies. (This is a lesson about bad political judgement and lousy diplomacy, and reflect the stupidity of politicians who do not or cannot or are unwilling to see the greater implications of their actions.)

Muslim leaders in Denmark were instrumental in transforming what was supposedly a local row into an almost global confrontation. They were looking for some sort of pressure to force their government into dialogue and apology, and to address their grievances and discontents. Instead, this

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was used by governments and movements in the Muslim world to create a conflict between the West and the Muslim world. The spread of protests and the violent dem-

onstrations reflected this instrumentalisation and politicisation of powerful anti-Western sentiments in the Middle East.

The Issue Is One of Immigration, Integration and Identity

The publication of the cartoons raised not simply an issue of whether the Prophet Muhammad should be caricatured, but a broader debate on immigration and integration. Within Europe, immigration and the integration of migrants have become explosive issues. Electoral trends across Europe, even in traditionally liberal countries such as Denmark and Netherlands, show that people are reacting against the presence of immigrants, particularly those from different cultural and religious backgrounds. These anti-immigration sentiments are not just knee-jerk reactions from September 11 but a reflection of the difficulty of an old, homogeneous society in coping with the influx of immigrants from a very different background with different value systems and different conceptions of community. Such sentiments and debates on integration of course intensified after September 11 and then the Madrid train attack and the London subway attacks. What made Muslim young men who were born and bred in Europe rebel against their own adopted country and countrymen?

In response to these terrorist acts, more and more European politicians are calling for the formulation of rules on immigration and integration that essentially demand compatibility with 'European' values, and Muslim immigrants in particular have been singled out. The sentiments and tone of the debates reflected the difficulty of old, homogeneous society in struggling to cope with racial and religious diversities.

We hear, for instance, about the various changes in German law recognising the

presence of the Islamic community in the society and providing certain legal protection of Muslims. But when I was going through Professor Mathias Rohe's paper, one sentence caught my attention: 'Times are changing, and because Muslims now are an important part of the population, society as a whole has to accept this fact. Notwithstanding this favourable legal position, Muslims would be well advised not to enforce their rights with the aid of the judiciary before having patiently tried to convince the public of their peaceful intentions in building mosques and cultural centres.'

This in some way to me indicates the crux of the problem. At the legal level, there may be recognition of the Muslim faith, yet at the popular level, the West is perceived as 'biased' against Islam and Muslims. Muslims feel, rightly or wrongly, that they have become victims of double standards and selective persecution. They have to be the ones to exert more effort to prove themselves, to demonstrate to their fellow citizens their 'peaceful intentions'.

Yet at the same time, there is greater visibility of Islam in Europe. Muslims have managed to establish religious communities and to assert their identity in a more visible, public and, to some degree, more controversial, manner.

European Muslims seem to me to be placed in a rather difficult position. It is not easy to be a Muslim in Europe, with a different national and cultural background from the rest of the population. New generations are emerging that may not want to submit to

specific versions of Islam, but they also do not want to become completely secularised and to abandon Islam. Rather, they want to legitimise Islam's presence in the social and public spheres. But their efforts to do this in a context in which religion, or at least some religions, are completely delegitimised in the public sphere create misunderstanding and fuel tensions between the majority and minorities.

The question that needs to be asked is: can Europe truly embrace cultural globalisation

and integrate its Muslim minorities?

This tough question has to be answered. Will Europe hark back to tradition and aim to cement its traditional 'European identity, which, according to yesterday's discussion, would be essentially based on a Judaeo-Christian heritage, or is it willing to adapt to make room for cultural minorities, with the inevitable imperative to adjust traditional European values to become more multicultural? This is a tension that has to be addressed within the European community.

The Rise of Prejudice and Intolerance and the Politicisation of Debates

Prejudices are deep rooted. This is because Islam arrived in the West through two means—conquest and post-colonial immigration—which both reflected an unequal relationship. The relationship between Islam and West has never been one of equals, but based on domination and subordination. As Farid Alatas pointed out in his paper, Islam had been in conflict with Europe since the eighth century.

The inability of some Europeans to accord respect and equality to the "other" in the socio-psychological sense is due in part to a rising sense of fear and insecurity brought about by globalisation, which magnified the impact of actions perpetrated by an essentially small group of Islamic extremists. The events of September 11 accentuated this fear. Despite the fact that the attack was not an attack of Islam against the West, it is often portrayed as such.

The rising tide of Islamic extremism is met by the rise of extremist political agendas in the Western world. Many politicians are unwilling to address the real issues of immigration and integration, and more importantly the challenges brought about by globalisation and the new technology. They

choose to use religion and culture to fuel fears and suspicions. Xenophobia and intolerance towards "others" are resulting in right-wing political groups such as the National Front of France and the Danish Folk Party coming into the forefront of politics in Europe. Populists capitalise on the inability of mainstream politicians to provide serious answers to the various attendant problems brought about by globalisation—loss of jobs due to economic competition, rising crime because of high unemployment, increasing diversities within society, increasing alienation.

The US neo-conservative agenda belief in the triumph of one value over another, and the use of any means to spread this value, elicit strong responses from those who feel they are targeted. Politicians in the targeted states tried to counter this agenda by politicising the issue to make it look like a 'clash of civilisations' and an affront to sovereignty and identity. It is interesting to note that at the height of the cartoons crisis, in response to the violent protests, the burning of Danish flags and attacks on European embassies, the Danish prime minister reportedly said that not only Danish but also European society and sovereignty were under attack.

Such feelings of their identity being under siege and sovereignty being threatened have long been held by Muslims in Europe and Muslims outside Europe in the face of what was perceived as Western cultural hegemony and political and economic dominance. Hence the battle line is drawn—of a cultural nature but really more political. Cultural, because the potential for a ‘clash of civilisations’ lies in the deep differences between European and Islamic cultures and traditions. Political, because there are always those who seek to deepen these differences and turn them into insurmountable gulfs instead of inspirations for a richer life, for political reasons of their own.

The cartoons controversy has given an opportunity for extremists in both the Islamic and Western worlds to set their agenda. As Karen Armstrong, a leading British academic on religious affairs, commented, it was criminally irresponsible to publish the cartoons. They have been an absolute gift to the extremists in the Muslim camp: they show that the West is incurably Islamophobic. The violent demonstrations that followed in turn strengthen the hands of the extreme right in Europe. Therefore, what is likely to happen even after the fu-

reore over the cartoons dies down is the hardening of attitudes of extremists of both camps.

The lesson from the controversy is the need for all sensible people to work towards mutual respect, tolerance and better understanding. As the former foreign minister of Denmark, Uffe Ellemann-Jensen, noted, ‘We must avoid situations where different values are confronted with each other in ways that trigger violence. Instead, we must try to build bridges between religions, ethics and norms. Call it self-censorship if you wish. But self-censorship is practiced all the time by sensible people. If you wish to stay in the same room as other people, you try not to offend them through unnecessary provocations. The room we are talking about now is the global village.’

Whether we can prevent an escalation of confrontation that could well deteriorate into a ‘clash of civilisations’ depends on what the moderates in both camps do. The future relationship between the Western world and the Muslim world will be determined by whether the extremists manage to carry the day or whether the moderates gain the upper hand.

What Can We Do?

It is necessary to find and define the principles of co-existence and to fund initiatives to improve the lot of the majority of Muslims in the Muslim world and the minorities living in Western societies.

To fight the prejudices and intolerance promoted by extremists, we have to continue with initiatives for better understanding and find principles of co-existence for different cultures and civilisations. Dialogues simply to promote understanding and awareness will not be sufficient. This is because participants in these dialogues are generally the elites. They are not repre-

sentative of the majority of the population.

The belief in dialogue also depends on the assumption that no idea is worth fighting over to the death, and that we can always reach a position of accommodation if only we sit down and talk it out. However, if either side believes its values or beliefs cannot be questioned and wants those beliefs to prevail, then dialogue on cultures and civilisation is meaningless. Unfortunately, there will be people who are not open to values other than their own. They want confrontation and continued animosity.

These people will not participate in dialogues and will not be receptive to the message spread by those who did participate.

Dialogue, instead of focusing mainly on promoting mutual understanding of beliefs and values, should be broadened to finding ways to co-exist. The reality is that we are now living cheek-by-jowl with one another in a global village. We have to learn to live side by side. The question is 'co-existence or no existence'. We need to understand that to co-exist, there must be certain 'red lines' that cannot be crossed. Tolerance and broad principles of co-existence need to be agreed upon. The moderates from both communities must also seek ways and devise united strategies to counter any groups whose aims are to denigrate, demonise and destroy others.

But more importantly, to really stem the tide of extremism and intolerance, to prevent people being recruited to the ranks of the intolerant and the extremists, is to address humiliation: the fears and insecurity of significant numbers of people brought about by globalisation (which is perceived by the majority of Muslims as Westernization). The key is really to undertake initiatives that will improve the conditions of the majority of Muslims in the Muslim countries and the minorities living in Western countries. If this is successful, the platform for support to extremists will wither away.

Internationally, a first step is to end the perceived double standard and discrimination applied by some Western countries in the political and economic arena. In this respect, the coincidence in the timing of the cartoons controversy and several other events could not have been worse. The republication of the pictures showing torture of prisoners in Abu Ghraib, the sentencing of British historian David Irving to three

years' imprisonment for denying the Holocaust, the threat to cut off aid to the Palestinian Authority following Hamas' election win, the uproar in the US about the purchase of P&O, which would result in the control and running of six US harbours by a Dubai state-owned enterprise, reinforced the perception of Western hypocrisy and double standards.

For someone who looks at issues more from an international relations perspective, the interesting question for me is whether the cartoons case will move the US and Europe towards or away from each other, and what all this will mean for the role of Europe in the world and in its policy towards near neighbours.

But to return to the question: what practical initiatives can be taken to improve the living conditions of the majority of Muslims? Internationally, European countries should step up their economic engagement of the Muslim countries, investing more in these countries so that the fruits of economic globalisation can be more broadly distributed. Domestically, much more needs to be done to integrate the different communities through a focus on better education, and also better access to the labour market. Perhaps some sort of affirmative action needs to be taken to address access to the labour market.

No one should presume all these initiatives are going to be easy to implement. They would of course run into opposition from European hardliners not wishing to pay more, and from the dogmatic parts of the Muslim community who want to 'keep out' Western influence in any form, whether economic or diplomatic. But something needs to be done to find a way forward for both Europe and the Muslims in Asia and Europe.

'Islam Hadhari'—a Model for Islamic Countries?

Patricia A. Martinez*

The title of this paper was given to me, and I must admit that I was somewhat troubled by the phrase 'a model for Islamic countries' and its implications of a 'one-size fits all' Islam for the enormous diversity that constitutes Muslims and their contexts. I am always concerned about the hegemony implicit in any prescription, so I offer none about whether Islam Hadhari is suitable for other nations to adopt. This is also because whether Islam Hadhari becomes a suitable model for other nations is really up to those Muslims who live elsewhere, and surely their acceptance of it depends most of all on the reality—the substantive outcome—of the Islam it enables or evolves in Malaysia. But the question mark at the end of the title gave me a reassurance about latitude in interpretation, for which I thank the organisers.

Therefore, this paper examines what Islam Hadhari is about from a variety of perspectives. First, as described by the prime minister of Malaysia, who has been its prime mover, as well as what others in his government and outside of it have described it as. The paper also reflects on elements of Islam Hadhari's genealogy and context, then describes how the concept has been invoked and reacted to, and concludes by offering

some perspectives about the future of Islam Hadhari.

In the dynamic of 'authenticity', which is sometimes another name for narrow conservatism and the power of the self-appointed mediators of Islam, detractors claim that the notion of Islam Hadhari does not exist. Indeed it does not in Arabic. But the term is Malay, and it has been variously translated as progressive Islam or civilisational Islam. But increasingly, in the face of critique, it is not translated but referred to as an 'approach'—such as in the web site of the Prime Minister's Department. The term *Al Hadara al-Islamiyya* in Arabic implies Muslim civilisation, and one finds reference to *Al hadara al-Islamiyya fi l-qarn al-rabi al hijri* (Islamic civilisation in the fourth century), *Al Injazat al-Ilmaniyya fil Hadara al-Islamiyaa* etc., with many of these references pointing to what is considered the 'golden age' of Islam. The fourth century AH (10th century CE) is regarded as one of the most brilliant periods of Islamic civilisation, when Muslims reached the peak of intellectual progress in ideas, the sciences, interaction and dialogue with the non-Muslim world, among other achievements. It is this element of knowledge attainment, peace and pride that Islam Hadhari implies or borrows from.

The Concept/Approach that is Islam Hadhari

The explanation of Islam Hadhari on the web site of the Prime Minister's office states:¹

Islam Hadhari is an approach that emphasizes development, consistent with the tenets of Islam and focused on enhancing the

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1. http://www.pmo.gov.my/web_site/webdb.nsf/is_frameset?openframeset.

quality of life. It aims to achieve this via the mastery of knowledge and the development of the individual and the nation; the implementation of a dynamic economic, trading and financial system; an integrated and balanced development that creates a knowledgeable and pious people who hold to noble values and are honest, trustworthy, and prepared to take on global challenges.

Islam Hadhari is not a new religion. It is not a new teaching nor is it a new mazhab (denomination). Islam Hadhari is an effort to bring the Ummah back to basics, back to the Fundamentals, as prescribed in the Quran and the Hadith that form the foundation of Islamic civilization. If Islam Hadhari is interpreted sincerely and understood clearly, it will not cause Muslims to deviate from the true path.

As a government that is responsible for ensuring Muslims are able to meet current challenges without deviating from their faith, the doors of ijtihad must remain open, so that interpretations are suited to the developmental needs of the prevailing time and conditions. Policies must be balanced and broad-based development that encompasses the infrastructure and the economy; human resource development via a comprehensive education programme; the inculcation of noble values through spiritual development and assimilation of Islamic values.

Principles of Islam Hadhari

Islam Hadhari aims to achieve ten main principles:

- Faith and piety in Allah
- A just and trustworthy government
- A free and independent People
- Mastery of knowledge
- Balanced and comprehensive economic development
- A good quality of life
- Protection of the rights of minority groups and women

- Cultural and moral integrity
- Safeguarding the environment
- Strong defenses

The web site further explains:

These principles have been formulated to ensure that the implementation and approach does not cause anxiety among any group in our multiracial and multi-religious country. These principles have been devised to empower Muslims to face the global challenges of today.

Islam Hadhari is complete and comprehensive, with an emphasis on the development of the economy and civilization, capable of building the Ummah's competitiveness. The glorious heritage of Islamic civilization in all aspects must be used as reference and become the source of inspiration for society to prosper.

A change in mindset among the Ummah requires action that is encompassing, drastic and systematic, regardless of sector or partisan loyalty. It requires society to change their tasawwur (worldview). Consistent with this, the concept of life as service to God and the concept of work as worship, humans as caliphs and the obligation to seek strength in every aspect of life must be accentuated, in particular, by the objective of maqasid al Syariah which seeks to safeguard, dignify and empower religion, intellect, life, property and progeny.

A consistent effort to ensure lasting success must be prepared. Any thinking that confuses and is inconsistent with Islamic beliefs must be rejected in order to allow the Ummah resilience and thought to be built. A change in attitude and culture requires ijtihad and jihad (struggle). The concept of jihad must be given a broader interpretation, covering all aspects of life, including the pursuit of knowledge, the mastery of science and technology and economic activity. This improvement in quality (itqan) must become part of our

culture. Ijtihad that can build the Ummah in the modern day must be acknowledged.

Society must be given Islamic understanding that enables the appreciation and provides the ability to inherit a vision of a global civilization, in order to be more successful global players. As a strategy to improve competitiveness, the spirit of brotherhood and sisterhood (ukhuwah Islamiah) must be inculcated and expanded to create a strong social network. Society must appreciate self-sufficiency and reduce dependence on others. Negative traits and values must be changed to accommodate the values of the *tasawwur*.

The Ummah must be a society that embraces knowledge, skills and expertise in order to build capacity. Islam makes it compulsory for Muslims to embrace knowledge in all fields. The misconception that there exists a difference between so called secular knowledge and religious knowledge must be corrected. Islam demands the mastery of science and technology and the enhancement of skills and expertise. Many verses in the Quran that touch on the need to master science and technology should be studied. All Muslim students should be aware of Islam's contribution to science and technology that brought about the birth of the Renaissance in Europe. Initiatives to produce more Muslim scientists who are capable of making new discoveries must be intensified.

Life on this Earth is a journey that requires us to discharge our responsibilities to society in an honest, transparent and trustworthy manner. Mankind will not fully benefit from this life if their attitude and worldview is not as it should be; because Allah created Man to be leaders on Earth. It is therefore imperative for mankind to arm itself with knowledge and with skills, to enable them to succeed.

It is important for the Ummah to be guided in understanding and practicing Islam as a comprehensive way of life as a means to building a civilization. A wholesome way of life will create the balance between our responsibilities in this world and the Hereafter. Islam is not merely a ritual, because ritualism is meant solely for the Hereafter. The government has never practiced secularism that rejects the Hereafter and focuses solely on worldly matters. Islam must be lived as a system that integrates the worldly life and preparations for the day of judgment.

“But seek, with that (wealth) which Allah has bestowed upon you, the home of the Hereafter; and forget not your portion of lawful enjoyment in this world; and do good as Allah has been good to you, and seek not mischief in the land. Verily, Allah likes not the *Mufsidun* (those who commit great crimes and sins, oppressors, tyrants, mischief makers, corrupters.)” (Al Qasas : 77)

The Context of Islam Hadhari in Malaysia

Why Islam Hadhari in Malaysia? It is important to understand the context into which Islam Hadhari has been introduced in Malaysia, and which is defined by the following characteristics (among others that I will not have time to cover):²

- Unlike Indonesia, Islam in Malaysia has been definitive in how the nation has been imagined, and an Islamic self-consciousness is mainstreamed in public discourse and public life.
- This was never more so than during the

2. For more detailed discussion, see Martinez, Patricia A. 'The Islamic State or the State of Islam in Malaysia', *Contemporary Southeast Asia*, Vol.23, No.3, December 2001, and Martinez, Patricia, 2004. 'Perhaps He Deserved Better: The Disjuncture between Vision and Reality in Mahathir's Islam', in Welsh, Bridget (ed), *Reflections: The Mahathir Years*. Washington DC: SAIS, Johns Hopkins University.

administration of former Prime Minister Tun Dr. Mahathir Mohamed. Upon taking office in 1982, he coopted the Islamic revivalism that was sweeping the world for his modernising agenda of achieving technological progress and economic development to enable Malaysia to rank among developed, First World nations. He did this by describing and showing how Islam and its tenets and practices were compatible with modernity, wealth and development. However, he did not foresee that the constant public discourse on Islam would also serve to heighten Muslims' self-consciousness about identity and fidelity, opening the way for others—beyond him and his government—to prescribe this identity and fidelity.³

- Islam has been ethnicised, conflated with Malay ethnicity largely because the constitution of Malaysia in Article 160 (2) defines a Malay as a Muslim and the two terms are sometimes even used interchangeably.⁴ Therefore and unfortunately, non-Malays' grievances over elements of public policy that are deemed discriminatory are sometimes transferred to their perception of Islam.
- Islam is invoked and wielded for political legitimacy by the two Muslim political parties—the United Malays National Organisation or UMNO in the ruling coalition Barisan Nasional, and Parti Islam SeMalaysia or PAS in the opposition—whose constituencies are the Malay-Muslim electorate. The discourse on Islam is often strident and polemical because so much is at stake.
- Combating PAS's overwhelming onslaught about more Islamisation and the need for an Islamic state, in September 2001 Dr. Mahathir announced that Malaysia was indeed an Islamic state.

This promptly provoked challenges for his administration to show how legitimately Islamic Malaysia actually was, and heightened or even intensified the Islamisation of politics and governance, as well as protest from the significant non-Malay population.⁵

In this context and with the approach of the 11th general elections which were ultimately called in early 2004, Mahathir's successor Abdullah Ahmad Badawi and his team changed strategy. They switched from only attacking PAS's version of Islam, to a more constructive dynamic—which is always more attractive during an election campaign—of offering a model of Islam to compete with PAS's vision of Malaysia as an Islamic state (the ultimate articulation of which was very general and muted about more trenchant demands for *shari'a* as the main law, *hudud* legislation and such). That model or vision of Islam being offered by the new administration under Abdullah Badawi to Muslims in Malaysia was Islam Hadhari.

But contrary to most of the narratives around the origins of Islam Hadhari in Malaysia, the concept was first mooted during the administration of Mahathir Mohamed. On 30 December 2002, the front page of the Malay newspaper *Utusan Malaysia* reported that then Prime Minister Mahathir had attended a closed-door dialogue with Muslim thinkers, in a meeting organised by the Department for Special Affairs in the Ministry of Information, which was described in the report as also being responsible for managing the issue of Malaysia as an Islamic state. It is relevant to note that the newspaper described the department as also being responsible for purification of the excellent Malay strug-

3. Martinez, 2004. *op. cit.*

4. See Martinez, Patricia, 2001. 'Mahathir, Islam and the New Malay Dilemma', in Ho Khai Leong and James Chin (eds), *Mahathir's Administration: Performance and Crisis in Governance*. Singapore: Times Books International.

5. See Martinez, Patricia, 2004. 'Islam, Constitutional Democracy, and the Islamic State in Malaysia', in Lee Hock Guan (ed), *Civil Society in Southeast Asia*. Singapore: ISEAS

gle as well as the concepts of gratitude, unity, and good works ('*Selain itu, jabatan berkenaan turut bertanggungjawab dalam soal permurnian perjuangan Melayu gemilang, konsep bersyukur, konsep perpaduan, akhlak*'). The report stated that there was one forum entitled 'Islam Hadhari' and others entitled 'The Jihad of Facing the Challenges of the Modern Age', 'Islam and Excellent Living and Malaysia' and 'A Progressive Islamic

State through the Islam Hadhari Struggle.' One already discerns some of the context and characteristics of Islam Hadhari and its role in enabling Malays under the rubric of the affirmative action policy, and not just Muslims, to embrace modernity, technical progress, wealth and well-being, as well as legitimating UMNO's claims to fulfilling an Islamic polity and governance.

What the Prime Mover of Islam Hadhari Says about it

It is useful to note how the Prime Minister has explained Islam Hadhari, and what elements he has chosen to highlight. He has described it as "an approach towards achieving a progressive Islamic civilisation",⁶ and within this mantra are the key words that the West and the rest would be able to empathise with—I do not write this cynically, but in terms of Abdullah Badawi as a bridge-builder between Muslims and the West, in the context of how he has specifically explained that Islam Hadhari is not an approach to pacify the West nor is it apologetic. Islam Hadhari is targeted primarily at Muslims, in an intra-communal conversation about how 'progress and development are enjoined by Islam.'⁷

He has repeatedly emphasised the following:

- Islam Hadhari is an approach that emphasises technological progress and economic development, consistent with the tenets of Islam and focussed on enhancing quality of life.
- It aims to achieve this via the mastery of knowledge and the development of individual and nation.
- It is an approach that is compatible with modernity and yet firmly rooted in the

noble values and injunctions of Islam. 'It emphasises the importance of appreciating the role of science and reasoning in the lives of Muslims, just as it is important to understand the laws of Islam and its traditions. It is an approach that values substance over form.'⁸

- Islam Hadhari is not a new religion, a new teaching or a new school of law (mazhab), but rather an effort to bring the Ummah back to basics, to the fundamentals as prescribed in the Quran and Hadith, which formed the foundation of flourishing Islamic civilisation in the past
- The glorious heritage of Islamic civilisation in all aspects must be used as a reference to "become the source of inspiration for the Malay race to prosper".⁹ This indicates a continuity with the previous administration's deployment of Islam for nation-building, as yet another way to enable Malays to be comfortable with progress and development, reassured that these are compatible with growing self-consciousness about their Muslim identity and fidelity to Islam.

The way Islam Hadhari is being disseminated provides more useful insights into

6. Abdullah Ahmad Badawi, speech at the PERDANA Global Peace Forum Dinner, 16 December 2005.

7. *Ibid.*

8. *Ibid.*

9. Abdullah Ahmad Badawi, speech at the UMNO General Assembly, September 2004.

what is being focussed on and how the concept is being conveyed. The Information Ministry has set up coordinating committees in every state to inform the public about government policies and programmes, and these now include Islam Hadhari. Public institutions and the government administration have in-house seminars on Islam Hadhari. For the public, there are ongoing seminars by IKIM, for example, which have been held at different locations. The titles of the seminars are informative:

- Islam Hadhari: An Understanding of Cultural Integrity Relating to 'Malay Proverbs, Traditional Malay Corpus and the Development of a New Muslim Mind' (January 2005)
- Islam Hadhari: Understanding the Concept of Moral Integrity (March 2005)
- Islam Hadhari: The Understanding of the Quality of Family Life (April 2005)
- Islam Hadhari: Defence of an Islamic State: The Application of Science and Technology (May 2005)
- Islam Hadhari: An Understanding of the Concept of a Trustworthy and Just Government (May 2005)
- Islam Hadhari: An Understanding of the Conservation of the Environment (June 2005)
- Islam Hadhari: An Understanding of the Concept of Freedom (June 2005)
- Islam Hadhari: An Understanding of the Quality of Life of Youth and Adolescents (June 2005)
- Islam Hadhari: Reintroducing and Mastering Branches of Abstract Sciences among Muslims (July 2005)
- Islam Hadhari: Economic and Social Policies for Income and Wealth Redistribution in Muslim Countries (August 2005)
- Islam Hadhari: An Understanding of the Concept of Faith and Piety to the Almighty (August, 2005)
- Islam Hadhari: An Understanding of Religious Tolerance, (September 2005)
- Islam Hadhari: The Structure of Islamic Education in Malaysia (September 2005)
- Islam Hadhari: An Understanding of the Concept of a Balanced and Comprehensive Economic Development. (September 2005)

In addition, Islam Hadhari workshops have been conducted:

- Work Ethics: Towards Faith and Piety to Allah (February 2005)
- Benefits of Working as a Team (June 2005)
- Seeking Knowledge, Innovation and Continuous Improvement (August 2005)
- Quality Living: Quality Place of Work (September 2005)
- Cultural and Moral Integrity (December 2005)

How others explain Islam Hadhari

Apart from the way Islam Hadhari is envisioned by the prime minister and his administration, it is useful to take a quick look at how others have depicted it before examining reactions to the concept.

Because of the exigencies of time and space, I offer selected highlights. These are sourced mostly from newspaper articles (especially

in the Malay press), as well as some seminar papers:

- The minister for Islamic Affairs in the Prime Minister's Department, Datuk Dr. Abdullah Md. Zin, gave an extensive interview to the English language newspaper *New Straits Times*. In it, he stated, 'Islam Hadhari is about the crea-

tion of a progressive, civilized and tolerant society. We believe in the sharing of power and in religious freedom".¹⁰ He clarified that there was no need to amend the constitution to declare Malaysia an Islamic state, because '65% of the population is Muslim. We lead the OIC or Organisation of Islamic Conference. All these indicate that we are a Muslim country ..."¹¹

- Ustaz Datuk Nakhaie Haji Ahmad is the director of YADIM or the Malaysian Foundation for Islamic Mission and one of the small group involved in formulating Islam Hadhari. In a speech entitled 'Islam Hadhari's Mission in National Development', he said: 'At this time, there is no effective model of development, other than modernity. Even though modernisation began to grow and develop in the West, but that guidance of the realisation towards modernisation itself has close ties with the Islamic world. This is because the resurgence of Europe itself was produced by the influence of the Islamic civilisation and the interaction of the European society with that civilisation ... Continual modernisation changes the balance of power between the Western society and the non-Western society. It also increases the strength of the relationship and commitment with the national culture. Therefore, in the beginning, Westernisation eases the path to modernisation, but in the ensuing process, modernisation facilitates the process of separating oneself from westernisation and the path towards the formation of national culture becomes clear.' Elsewhere in the same speech, he made the link between Islam Hadhari and

national development policies. He said that Islam Hadhari has to be implemented as the nation's policy of continual development, that it cannot be different from or distanced from the progress aimed at in the national development efforts of Vision 2020 (the programme and the target date for achieving developed nation status). "In fact, this policy of Islam Hadhari is the continuation of the policies implemented previously",¹² confirming that the endeavour to deploy Islam for encouraging and exhorting Malay-Muslims to embrace technological progress and economic development started during the Mahathir administration and continues under the rubric of Islam Hadhari.

- Ustaz Nakhaie's deputy, Datuk Abdul Manaf Ahmad, weighed in with an article entitled, somewhat curiously, 'The essence of Islam Hadhari is research'. He wrote, 'This is the first time in Malaysian history that a winning party that formed the government wants to implement Islamic teachings in its administration. This promise must be fulfilled because they won on the promise of Islam Hadhari to the Muslims and the promise of power-sharing to the non-Muslims. In truth, power-sharing is also an Islamic concept'.¹³
- Astora Jabat, a regular columnist (who is sometimes controversial with the *ulama*¹⁴) in the leading Malay newspaper *Utusan Malaysia*, has written a number of articles reflecting on Islam Hadhari and trying to explain it for his readers. In an article published on 25 April 2004, he took on the critique of Islam Hadhari as divisive, as against the notion of *tauhid* (unity with God, a dy-

10. 'A balanced approach that is Islam Hadhari', *New Straits Times*, 1 August 2004.

11. *Ibid.*

12. Datuk Haji Mohd. Nakhaie b. Haji Ahmad, 'Misi Islam Hadhari Dalam Pembangunan Negara', speech at the seminar 'One Year in Putrajaya: Changes within the Frame of Continuity; 'The Plan for Future Wellbeing'', Kuala Lumpur, 20 November 2004.

13. Datuk Abdul Manaf Ahmad, 'Inti Islam Haadhari ialah penyelidikan', *Utusan Malaysia*, 28 May 2004.

14. *Ulama* is the plural of '*alim*', which means a person knowledgeable about Islam, the faith. It is a largely self-invoked and community-maintained title.

namic also sometimes invoked for the unity of the Ummah). He wrote, 'Many ask why divide Islam into Hadhari, not Hadhari and others? Is not Islam One? They are right. The true religion of Islam is just one, but its contents are varied or have many elements ... apart from Islam (worship) there is Islam (politics), Islam (economics), Islam (knowledge) and many others ... all these are elements of Islamic teaching or are at least permitted in Islam. This means that Islam Hadhari is complete Islam ...'¹⁵ Later in the article, he also described Islam Hadhari as the brainchild of Ustaz Nakhaie, and traced how it was Abdullah Badawi who launched Islam Hadhari even when he was still deputy prime minister, with a focus on reform and revival. Astora Jabat then chided his readers for being too focussed on worship and ritual to the exclusion of all else, and stated, 'Islam Hadhari has been advocated by many reformers in Islam, such as Jamaluddin al-Afghani, Muhammad Abduh, Rashid Rida',¹⁶ invoking the formative modern thinkers whose work has been translated into Malay and whom Malay Muslims are more familiar with than classical *mufasssirun* (exegetes) and *fuqaha* (jurists).

- In an article dated 13 June 2004, Astora Jabat dealt with the accusation that Islam Hadhari is an invention. He first chided the government for poor explanations at all levels, and then explained that Arabs themselves have discussed the term and its potential. He quoted from an article by Dr. Fahmi Jidan in the magazine *Al-Arabi*, No. 519, February 2002. Astora Jabat wrote that Dr. Fahmi stated that if Muslims want to return Islam to its true and good image, they

must hold fast to the theory, words and implementation of Islam Hadhari, which includes 'demands that missionaries and Muslim activists avoid using words or actions that may be construed to hurt Christians because they too have rights and responsibilities like Muslims. Islam does not allow Muslims to cause evil and endanger Christians. Dr. Fahmi's views are directed at Muslim nations with Christian Arab populations, as in Egypt. In the Malaysian context, we can extend the views of Dr. Fahmi to all non-Muslims. To do this, in this writer's view, we have to become civil through equipping ourselves with a clear and correct understanding of Islam'.¹⁷ Here, Astora Jabat enlarged the relevance of Islam Hadhari to the reality of Malaysia's multiracial and multi-religious population.

- An editorial from *Utusan Malaysia* in May 2004 advised the government to clarify the confusion among people regarding Islam Hadhari, and anticipated hopefully the long-awaited book explaining Islam Hadhari. The editorial endorsed existing government policies as being "in line with Islam Hadhari" and described the concept as "the continuation of the practice of the Islamic tradition in this country ... we also see Islam Hadhari as having its own unique relevance in terms of Islam always being connected with negative elements such as violence, backwardness, conservatism, oppression and ignorance".¹⁸
- Datuk Dr. Ismail Ibrahim, the chairman of the National Fatwa Council and former director-general of IKIM, has written a number of articles about Islam Hadhari in *Utusan Malaysia*. He has described Islam Hadhari as an "Islam

15. Astora Jabat, 'Malaysia model Islam Hadhari', *Utusan Malaysia*, 25 April 2004.

16. *Ibid.*

17. Astora Jabat, 'Beza Islam Hadhari, Tamadun Islam', *Utusan Malaysia*, 13 June 2004.

18. Lidah Pengarah, 'Serious Laksanakan Islam Hadhari', *Utusan Malaysia*, 4 May 2004.

which is dynamic and civilised ...' He wrote after the 11th general elections, when the prime minister was swept into power with one of the largest mandates ever, that what was needed in imple-

menting Islam Hadhari was a national integrated strategic plan, asking 'How do we work for an Islam that is dynamic, open, progressive and based on knowledge?'¹⁹

The reactions to Islam Hadhari

Despite the Information Ministry setting up coordinating committees in every state to inform the public about government policies and programmes, including Islam Hadhari,²⁰ many of its target audience do not really understand the concept. In a survey I conducted in December 2005 of 1,000 Malaysian Muslims (random sample determined with Department of Statistics, using the 2000 census data), 94% of respondents indicated that they had heard of Islam Hadhari. However, in response to the subsequent question, 'Do you know what Islam Hadhari is?', only 43% replied that they did.

There are a few web sites that still feature Islam Hadhari, although it is no longer so topical. One which ran a recent poll on the concept received 1,014 responses to the question 'What is Islam Hadhari from your point of view?' The options given for response were 'abuse of religion' (*penyelewengan agama*), which received 19.13% of votes, 'an interpretation/exegesis that is suitable for this time' (*tafsiran sesuai dengan zaman sekarang*)—19.03%, 'political propaganda' (*dakyah politik*)—43.10% and 'not understood' (*kurang faham*)—18.74%.²¹ The majority viewed Islam Hadhari as political propaganda.

In part this is due to the opposition political party PAS's extensive and constant at-

tacks on Islam Hadhari, perceiving it—I believe accurately—as a threat to its platform of offering authentic Muslim leadership and 'true' Islam. PAS has described Islam Hadhari as 'a new religion that is no longer Islam', as 'new propaganda by UMNO so as to retain power' and as meaningless because UMNO does not practise 'true' Islam since concerts with women singing are allowed and the *shari'a* is not implemented as the main law of the nation. It argues that only PAS struggles for the 'true Islam to establish its completeness as the way of life that covers all aspects of living based upon the Quran and Hadith'.²²

The Chinese Press in Malaysia barely covers Islam Hadhari, perhaps deeming it relevant only to Muslims—yet, as more Malaysians are discovering, Islamisation of the administration has a very real and significant impact on non-Muslim Malaysians. In a search of the *Sin Chew Daily* newspaper from December 2004 to 2005 (the university archives did not have January–November 2004), there were only two articles on Islam Hadhari, both translations of an article by Farish Noor that will be discussed later.

Many Malaysians of other faiths have experienced and/or perceived some of the Islamisation policies of both the Mahathir and Abdullah administrations as slowly but

19. Datuk Dr. Ismail Ibrahim, 'Bagaimana untuk merealisasikan Islam Hadhari?', *Utusan Malaysia*, 11 April 2004.

20. 'State Coordination Committee to implement information programmes', *Utusan Malaysia*, 10 May 2004.

21. Masej Online, Memandu Kebangkitan Ummah, 20 February 2006.

22. Islam Hadhari features in many PAS speeches, its web site and newspaper, *Harakah*. See for example, 'Islam Hadhari dakyah UMNO', and 'Kemuncak Kehancuran Islam Hadhari di Malaysia' in *Harakah*, 16–31 July 2004.

surely impacting adversely on their freedom of religion and right to practise their religions, which the constitution guarantees. Some have perceived Islam Hadhari in terms of their reality, and not as the prime minister describes it, 'It does not in any way discriminate against non-Muslims because the 10 principles of Islam Hadhari, which include good governance, justice and caring for minorities and women, are acceptable to all ... there is not one principle that I could think of that discriminates against people of different faiths'.²³ For example, the first principle of Islam Hadhari is, 'Faith in and piety to Allah', but since there is legislation in every state in Malaysia that criminalises the use of the word 'Allah' by those who are not Muslim (although 'Allah' is a pre-Islamic term and Arab Christians pray to 'Allah' in their services), it is difficult for those who are not Muslim to 'see' themselves in Islam Hadhari.

Prominent Malaysians, both Muslims and those of other faiths, have also expressed views on Islam Hadhari. This has mostly been in terms of understanding Islam Hadhari as promoting progressive and moderate Islam (and the hope therein for dealing with the complexities of a diverse nation) rather than expressing their reactions about how they think Islam Hadhari as progressive and moderate is succeeding or failing. Since most people express themselves only over problems and are silent when all goes well, a majority of the responses have not been complimentary, but the assumption that Islam Hadhari is a good concept despite the problems is a consistent sentiment. Again, I can only highlight some examples selected to show the diverse ways in which the concept is being received, understood and translated from a variety

of positions. These views include, in chronological order:

- One of many letters in *Malaysiakini*, the on-line newspaper, before the elections of 2004. In it, reader M. Jegathesan expressed his hope that Islam Hadhari would enable fairness and justice to all. The letter quotes extensively from the prime minister's statements and speeches, concluding with the one in which Abdullah Badawi states, 'We want the promotion of Islam in moderation with various races living together in harmony'.²⁴
- A statement by the Democratic Action Party (DAP, an opposition party) chairman, who was then Mr. Lim Kit Siang. He expressed his continuing reservations and resistance to Malaysia being described as an Islamic state, pointing out that "the spiral of competition between UMNO and PAS to out-Islamise and out-Islamic state each other to win Malay votes has become a daily occurrence with serious consequences".²⁵ He continued, 'A Malay journalist asked me what is the meaning of "hadhari" and this journalist claimed he had never heard of it. I checked and I cannot find it in any of the dictionaries issued by the Dewan Bahasa dan Pustaka. All we know, both Muslims and non-Muslims, is that it means more Islamisation, and it is not always done in the best way to serve democracy, our constitutional guarantees and fundamental human rights'.²⁶
- The government of Terengganu (the north-eastern state whose electorate returned the Barisan Nasional to power in the March 2004 elections, after a brief period with PAS as the state government). In response to a reporter's

23. *New Straits Times*, 4 May 2005.

24. *Malaysiakini*, 9 March 2004, www.malaysiakini.com/letters/2004030900114412.php.

25. Lim Kit Siang, media conference statement in Penang, 10 March 2004.

26. *Ibid.*

question about what kind of entertainment would be allowed, after PAS had cut down severely on even Malay cultural performances as 'un-Islamic', the then new chief minister, Idris Jusoh, was quoted as stating, 'What is important is that as long as it is not against religion and the concept of Islam Hadhari, we will allow it when necessary'.²⁷ Nevertheless, on 13 February 2006, the Terengganu state Islam Hadhari Development Committee deputy chairman, Muhammad Ramli Nuh, was quoted as saying that celebrating Valentine's Day 'could be regarded as recognising the enemies of Islam because Valentine or Valentinus collaborated in attacking Cordoba, once the centre of Islam in Spain, causing its downfall'.²⁸ Why an Islam Hadhari Development Committee is making pronouncements on Islamic history and practice raises the question of who has appropriated Islam Hadhari and for what purpose.

- A sultan also endorsed Islam Hadhari. He is from the same state, Terengganu, where Islam Hadhari seems the most firmly rooted because it was a part of the Barisan Nasional manifesto to win back Terengganu with the catchy slogan, 'Islam Hadhari, Terengganu Bestari' (Islam Hadhari, Terengganu Excels), offering Islam to an electorate that had chosen PAS in the previous election. Sultan Mirzan told his people to 'make Islam Hadhari a way of life ... implementation of this concept is in line with global needs, particularly of Muslims who are powerless to deal with various forms of threats'.²⁹
- A letter to the *New Straits Times* was entitled 'Confusion about Islam Hadhari'. The writer began by describ-

ing the UMNO-PAS polemic about the term, then asked for Islam Hadhari to demonstrate its effectiveness by action, proposing 'a clampdown on the *mungkar* [whatever is forbidden in Islam] elements and images we see on TV' and urging more censorship.³⁰ This letter is indicative of the variety of responses that Islam Hadhari is evoking, beyond those anticipated by its promoters.

- Rita Sim, the deputy secretary-general of the Women's Wing of the Malaysian Chinese Association, a political party which is a member of the ruling coalition, wrote an article about Islam Hadhari in the *New Straits Times*. She began by stating that non-Muslim Malaysians had been following closely the development of the prime minister's Islamic Hadhari programme, because it was a central campaign issue in the elections and was seen by many as UMNO's answer to PAS's vision of an Islamic state. She then wrote: 'The basic elements of the programme, including striving for progress, development, and tolerance in a multi-religious, multi-cultural context, are welcomed also by non-Muslim Malaysians. Thus their support for the universal character of Islam Hadhari, and the common values which it represents, will be critical for its (Islam Hadhari's) success at the national level ... Non-Muslims certainly find a comfort zone in the articulation of an alternative to what is generally perceived as PAS' more archaic and even regressive vision of Islam, but the modern, tolerant, progressive face of Islam Hadhari should be closely monitored and nurtured by non-Muslims'.³¹
- In August of 2004, the DAP chairman, Lim Kit Siang, issued a press statement

27. 'Terengganu to issue guidelines on entertainment outlets, activities', *Utusan Malaysia on-line*, 3 June 2004.

28. 'Valentines not for Muslims', *New Straits Times*, 14 February 2006.

29. *Utusan Malaysia*, 7 June 2004.

30. I.I., 'Confusion about Islam Hadhari', *New Straits Times*, 22 June 2004.

31. Rita Sim, 'Islam Hadhari and PM's aspirations', *New Straits Times*, 26 June 2004.

specifically on Islam Hadhari. Stating that there were more and more references to Islam Hadhari in the media and by national and state UMNO leaders, Lim asked that the government not release the promised 60-page document on Islam Hadhari as a definitive official document, but as a consultative paper allowing for debate and discussion by Muslims and non-Muslims alike, including parliament and the various state assemblies. His call, stating that it appeared yet again that only a small group of people were defining the Islam that all had to live with, resonated with growing numbers of Malaysians—both Muslims and people of other faiths.

- Farish Noor, a Malaysian political scientist who lives abroad and writes extensively about issues in Malaysia in his books, and also for the on-line newspaper *Malaysiakini*, blogs and web sites, invoked Islam Hadhari as 'progressive Islam' in a feature entitled 'Race, Racism and Islam Hadhari'. Pointing out that the championing of race and Islam were an oxymoron, he wrote: 'From an Islamic point of view it is to be noted that the concept of "race" has no place in either the theology or praxis of the religion. To suggest that race can be the basis of politics, or more bizarre still, the politics of Islam Hadhari, is a contradiction as embarrassing as a Socialist party trying to promote Capitalism! The Prime Minister has said time and again that he wishes to present Malaysia to the world as the face of moderate, progressive Islam that is plural and tolerant. We wait with bated breath for the arrival of this new school of thought, while some of the leaders of his own party should perhaps be sent back to

school.'³² He continued, addressing the emotional and what some deem racist outburst at the September 2004 UMNO General Assembly by Badaruddin Amiruldin, the deputy chairman of the assembly, 'To suggest that any country "belongs" to a particular "race" is tantamount to overturning the principle of *tauhid* itself. This should be clear to any Muslim with even a modicum of Islamic instruction, though ironically it seems an alien concept to some of the leaders of UMNO—the very party that claims to be the defenders of Malays and Muslim interests in Malaysia!'³³ Many months later, the *Sin Chew Daily* picked up Farish's article and published it in Chinese on 3 July 2005, one of the newspaper's only two features on Islam Hadhari in 2005.

- Across the causeway in Singapore, Muhammad Haniff Hassan of the Institute of Defence and Strategic Studies wrote an article entitled 'Islam Hadhari points way for Malaysia'. His review was mixed, seeming resigned to a PAS Islamic state 'because the demographics are changing'. Nevertheless, he did concede that 'Muslim scholars say, theologically, it is difficult to fault the concept of Islam Hadhari. Indeed, many see the premier as having co-opted their rhetoric'. He also conceded that Islam Hadhari 'could in fact be a paradigm for how Malaysian Muslims should see Islam in the context of a multiracial Malaysia in a changing world'.³⁴
- M. Bakri Musa is another Malaysian who writes extensively about Malaysia but lives abroad as a surgeon in the USA. Quoting a Malay proverb that poverty invites impiety, he dismissed Islam Hadhari. He wrote that Malay

32. Farish A. Noor, 'Race, Racism and Islam Hadhari', *Malaysiakini*, 2 October 2004, www.malaysiakini.com/columns/30474.

33. *Ibid.*

34. Muhamad Haniff Hassan, 'Islam Hadhari points way for Malaysia', *Singapore Straits Times*, 30 October 2004.

leaders should craft coherent and effective policies for the pressing problems facing their people, and 'what they should do instead is consult competent economists for solving persistent poverty, for example, instead of clinging to the certitude emanating from religious authorities who are otherwise ignorant of worldly realities'.³⁵

- On the US web site Foreign Policy in Focus, Australian academician Clive Kessler, who has studied Malaysia for more than 40 years, wrote about the fate of the proponents of Islam Hadhari being the same as that of religious modernists and progressives who have been 'long targeted by Malaysian Islamist activists, seeking not so much to argue with or against them as to stigmatize them as un-Islamic, apostates, and renegades'. He described how the onslaughts 'do not come only from the supposedly "backward" and "regressive" elements in Malay society, they also came, in September 2005, from an organization known as the Muslim Professionals' Forum which held an all-day event to give unbridled rein to such criticism of the Prime Minister's religious orientation and supporters under the banner "Liberal Islam: A Clear and Present Danger"'.³⁶
- In 2006, two years after Islam Hadhari had erupted prominently in public discourse in Malaysia, it was being invoked again but in the context of what many deemed, not progressive, but regressive Islam. A new version of the Islamic family law that was rushed through parliament raised the ire of women senators, women's NGOs, both Muslim and non-Muslim, and even ordinary Malaysians including, significantly, non-Muslims who protested the

injustice to their sister citizens. A letter in the *New Straits Times* from 'S.P.C.', an article by senior journalist Jacqueline Surin of *The Edge*, an article by Philip Bowering of the *International Herald Tribune* and another by Baradan Kuppusamy for *Asia Times* all invoked the promise of justice and fairness, moderation and reform that Islam Hadhari had promised. Jacqueline Surin wrote, 'When our government promises to act according to Islam Hadhari's worthy principles, then reneges, and when our courts will not uphold the Constitutionally-guaranteed rights of all, how are Malaysians expected to trust the government and the system that has been put in place?'³⁷ A *New Straits Times* editorial also invoked Islam Hadhari on the same issue, stating about the Islamic family law uproar, 'If there's one issue to test the mettle of Islam Hadhari's prescribed infusion of institutional religion with understanding, compassion and kindness, this is it'.³⁸

- Most recently, Islam Hadhari was invoked beyond a Muslim issue, in a public discussion among Malaysian elites on the state of racial unity after 49 years of nationhood. Tan Sri Ramon Navaratnam, a former very senior civil servant currently serving on the Malaysian Human Rights Commission or SUHAKAM, was reported to have complained in an article about the fact that in the government-commissioned Panel on National Unity, 'we have some politicians still harping on the old ways, and not understanding the Prime Minister's vision or even his concept of Islam Hadhari and the moderation and tolerance of racial and religious difference that it carries'.³⁹

35. Kessler, Clive, 'Islam, the State, and Freedom of Religion in Malaysia', 16 November 2005, www.fpfif.org.

36. Kessler, Clive, 'Islam, the State, and Freedom of Religion in Malaysia', 16 November 2005, www.fpfif.org.

37. Surin, Jacqueline, 'Keep the word on justice, fairness', 9 January 2006, www.sun2surf.com/article.cfm?id=12525.

38. 'Reviewing the Situation', *New Straits Times*, 13 January 2006.

39. Tan Sri Ramon Navaratnam, 'Practise what we preach', *New Straits Times*, 20 February 2006.

One analysis is that Islam Hadhari is less about an Islam already entrenched in Malaysia, and more, as even the Prime Minister has said, about the exemplification of an Islam that should exist, evolve or be

enabled. All sorts of Malaysians have empathised with this dynamic and the hope he offered in 2004, but some now bemoan the fact that they do not see it materialising yet, particularly in more recent issues.

Is Islam Hadhari a Model for Other Muslim Nations?

I have no prescriptions, but the prime minister has spoken abroad to Muslims about Islam Hadhari, and he himself admits that he thinks it could assist better governance in some Muslim nations. He said so, for example, at the Jeddah Economic Forum in Saudi Arabia in February 2005 and at the Arab Strategy Forum in Dubai in 2004. At both meetings and elsewhere in his capacity as leader of the country that heads the Organisation of the Islamic Conference, he was courageous in pointing out to Arabs what ails the Muslim world, and then offered Islam Hadhari as a civilisational Islam, an approach that values substance over form and seeks to make Muslims understand that progress is enjoined by Islam.

Speaking as the chairperson of the OIC, a group of 57 countries with a population of 1.4 billion people or one-fifth of humanity, he has described the woes that beset many Muslim nations:

Despite some post-colonial successes in some parts of the Muslim world, there is also much cause for dismay. The sheer weight of the problems that face the Muslim world today is tremendous. Many Muslim countries are synonymous with poverty, illiteracy and malnutrition. Some stand out because of oppression, tyranny and injustice... only a small minority of the 57 Muslim countries—five to be exact—is deemed as having high human development by the UNDP ... 28 or half

the Muslim world are classified as having low human development ... educational standards are low, illiteracy is high, and corruption is a problem. We fare extremely poorly in Transparency International's Corruption Perception Index. Of the 133 countries surveyed in 2003, the Muslim country with the best record could only rank 26th, four Muslim countries occupied the last 10 rankings.⁴⁰

As he has at home in Malaysia, he has told Muslims elsewhere that Islam Hadhari is an approach that is 'compatible with modernity, yet remains firmly rooted in the noble values and injunctions of Islam'. He then points out that the pursuit of knowledge is an important hallmark of Islam Hadhari, without which meaningful progress and advancement cannot be achieved. He adds, 'The position of women is likewise safeguarded and enhanced. Malaysia therefore stands committed to human development. We know our economic prospects are inextricably tied to the quality of human capital ...'⁴¹

Apart from exhortations and offering Malaysia as an example, as chairperson of the OIC, the Malaysian prime minister has initiated efforts to implement a programme of capacity building for several countries. The Islamic Development Bank is involved in the programme.

Arabs have, over the past few years, lauded

40. Abdullah Ahmad Badawi, speech on the conferring of an honorary degree of Doctor of Laws, International Islamic University of Islamabad, Pakistan, 17 February 2005.

41. Abdullah Ahmad Badawi, 'Human Development: The Engine of Economic Growth', keynote address at the Arab Strategy Forum, 15 December 2004.

Malaysia's leaders when they have visited the Middle East, asking about the nation's success in development. However, there is often a paternalism that is also implicit in the Arab media, which often describe Malaysia as an 'ideal non-Arab Muslim nation', in a clear privileging of the heartland of Islam—the Middle East—as superior. Therefore it is difficult to envisage whether or to what degree Islam Hadhari can be a model for other Islamic countries. In fairness, it must be acknowledged that many south-east Asian Muslims themselves subscribe to such a dynamic in what I have described elsewhere as a core-periphery syndrome, where south-east Asian Muslims as the periphery privilege virtually anything and anyone in the Middle East, thus giving enormous power to those who claim knowledge of Islam and Arabic as the mediators of Islam.⁴²

In an interview with CNBC on 22 May 2004, Abdullah Badawi was asked, 'If Islam Hadhari can win the hearts and minds of the people at home, can it be a model for Islam, say in the Middle East, one that is more palatable, one that is more accept-

able, to Western nations?' Here already one sees a problematic agenda: that it is an Islam that is 'palatable' and 'acceptable' to Western nations, instead of a model that is viable and relevant for Muslim nations. Nevertheless, the prime minister replied courteously—as he usually does, 'Well, in pursuance of our own Islam Hadhari, what we do here, has resulted in us doing things better, has resulted in the Muslims here being progressive, well educated and doing well in business, in life, in whatever occupation they pursue. That we are respected because we know how to respect others, that we are befriended by good people because we are ready to befriend others too. In some ways, I think it does create ... attract attention. As it is, I have already met many people, Muslim leaders, non-Muslim leaders who also want us to do something about it to the Muslims in their country. So with that, we can share our experience'.⁴³ Elsewhere he has introduced the concept of Islam Hadhari in the context of 'Malaysia's own experience of the reality of Islam ... in our own context, as well as that of an ever-changing world, fraught with challenges and developments'.⁴⁴

Concluding Perspectives

Islam Hadhari—progressive, coherent with modernity despite its flaws and limitations, embracing pluralism, seeking reform and renewal, embedded within the sources of Islam and 'seeking for solutions within the framework of Islam'⁴⁵—is quite logically one of the panaceas the Muslim world needs. Indeed, the justice, well-being and peace it envisions and enjoins are not just common to all humanity, but are imperatives for our

troubled world. But for citizens of modern nation-states to embrace constructive paradigms, they have to see themselves reflected in the evolution and objectives of these paradigms; they have to be involved. Not just in implementing them, but in identifying and creating them.

A small group of people working hard to create a concept and then telling a mute

42. See Martinez, Patricia, 2005, 'Is it Always Civil Society versus Islam', in Nathan, K.S. and Mohammad Hashim Kamali (eds), *Islam in Southeast Asia: Political, Social and Strategic Challenges for the 21st Century*. Singapore: ISEAS, pp. 137-139.

43. Transcript of CNBC interview, http://www.pmo.gov.my/website/webdb.nsf/is_frameset?openframeset.

44. Abdullah Ahmad Badawi, speech at the Third Extraordinary Session of the Islamic Summit Conference, Makkah, Saudi Arabia, December 2005.

45. *Ibid.*

audience what it is about and why they should follow it has been proven by management experts to be relatively ineffective. But it is very much the paradigm in newer postcolonial nations, with some elites continuing colonial paternalism, believing that only a few are capable of steering the nation, forgetting that nations evolve. And after 49 years of enlightened leaders who privileged education over arms, pragmatism over ideologies, Malaysia has an educated, informed and internationalised citizenry who want to be more involved. Also, Malaysians have to see those who created, explained and exhorted Islam Hadhari live its ideals in policies, in governance, in the justice meted out by the law and its implementers—and thus *experience* Islam Hadhari's real potential and possibilities. The prime minister of Malaysia cannot do it alone.⁴⁶

The stakes are high for us in Malaysia to make Islam Hadhari a viable model for our nation, and perhaps even beyond. Abdullah Badawi explained why it is Malaysia that has formulated Islam Hadhari: 'We in Malaysia feel that we are well placed to begin this journey of renewal and reform. This is because we can and should build upon the tolerance we already observe, and the interfaith coexistence which we already practise in Malaysia. We would like to show by example that a Muslim country can be modern, democratic, tolerant and economically competitive. Islam certainly does not enjoin us to turn our backs against the rest of the world. In fact, Islam teaches us to find success not only in the hereafter but also in this world.'⁴⁷

The prime mover of Islam Hadhari continues to hope, and so could we.

46. For a more detailed analysis of the problems and potential in the Abdullah Badawi Administration see Martinez, Patricia A. 2005, 'Malaysia in 2004: Abdullah Badawi Defines his Leadership', *Southeast Asian Affairs 2005*. Singapore: ISEAS.

47. Abdullah Ahmad Badawi, speech at the PERDANA Global Peace Forum Dinner, 16 December 2005.

Social Democracy—Not Only in Europe

Thomas Meyer*

1. A Universalistic Approach

Neither liberal nor social nor libertarian democracy is a local, cultural specialty of the 'West'—whatever that may be supposed to mean—and certainly not in the sense that the forms they developed in the West must necessarily serve as models for the rest of the world. Social democracy in its core institutions and basic values is a universal political culture, as movements in

favour of basic social and economic rights and democracy around the world testify. Indeed, genuine cultural traditions the world over have the best chance to develop and flourish unimpeded in the framework of a democracy that is liberal in its formal constitution and social in its deep structures and contents.

2. Two Opposing Concepts of Democracy

In the global arena and within most present day societies, two opposing varieties of democracy are competing for spiritual and political dominance: *libertarian* and *social* democracy. Both claim to be appropriate strategies for the institutional implementation of freedom and justice but contradict each other in all relevant institutional options beyond the minimum requisites of the institutions of liberal democracy. Thus they represent two different ways to give the concepts of freedom and justice rel-

evance and meaning in social, economic, cultural and political life.

The distinction between libertarian and social democracy in today's world is of crucial importance for both democratic theory and practical politics in each particular country and in the global order as a whole. It accounts for a substantial part of the differences over how to shape globalisation as it is occurring in the world today.

3. Libertarian Democracy

From the scientific point of view, libertarian democracy is characterised by the fact that although the state itself is structured along democratic, constitutional lines, the shaping of economic and social living conditions is for the most part regarded as a private domain which should remain beyond the reach of political intervention and structuring.

According to this conception, in a constitution that guarantees freedom, the politi-

cal institutions of liberal democracy find their societal equivalents only in a free market economy combined with free ownership of private property and the individual responsibility of citizens for their own social and economic well-being.

Claims for an overall responsibility of government to shape social structures, regulate the economy and conduct redistributive policies in order to implement the basic val-

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ues of freedom and justice for the less well off are perceived as an illegitimate invasion by the state into the citizen's private domain of freedom. In this conception, civil rights and democratic freedom of choice in political life correspond in the realm of social and economic life with unhampered freedom of ownership, private autonomy, private contracting and the self-regulating market. The most recent formula to give an operational meaning to this conception of democracy is the Washington consensus.

Experiences with the practical performance of this model where it has been practised in real life in the course of the last two centuries speak unambiguously in all cases. Since there are always wide differences in the social, educational and personal prerequisites of individuals in any society, libertarian democracy results in a series of violations of universal basic rights when put into practice.

First: In social and economic life, its results are substantial and often steadily growing disparities in the opportunities and choices open to different classes of people. Large parts of such a society are then denied the social goods of a decent life.

Second: Regularly a large segment of the

population is doomed to a state of economic and social dependency and want, thus being excluded from large parts of societal, social and cultural life.

Third: Economic dependency and want of large groups of citizens assume such proportions that those who are affected by them cannot exercise their democratic civil rights in real terms. The result is a defective type of democracy that denies relevant parts of the citizenry their civil and political rights.

Hence, libertarian democracy tends to become an elite *or delegative* type of democracy (Guillermo O'Donnell) that restricts the opportunities for full democratic participation to a limited number of well-to-do citizens. Usually tendencies toward social disintegration occur in such societies, with rising costs for a variety of more repressive ways of integrating them. In times of crisis, the high degree of societal disintegration always tends to be a risk for democratic stability and sustainability.

It needs to be stressed here that libertarian democracy is not equal to 'Western democracy' because, since the middle of the 19th century, in practically all European societies, it has been successfully challenged by its opponent: social democracy.

4. The Claim of Social Democracy

Social democracy today is not just an idea of how to overcome the weaknesses and flaws of libertarian democracy, but is basically a reality in a variety of European countries.

The historical experience with the shortcomings and contradictions of libertarian democracies in 19th century Europe led to the conception of social democracy and its increasing majority support in most Euro-

pean countries, in particular after the second world war and the experience of the world economic crisis that had paved the way for it.

This model has been constantly in a process of change and modernisation throughout its lifetime, but on the basis of a well-defined set of basic values and rights, institutional preferences and guidelines for policy making.

4.1 Basic Rights

The starting point of the concepts of social democracy in its modern form is the United Nations Covenant on Basic Rights of 1966. This document—which is a valid part of international law—declares five groups of basic rights: civil, political, social, economic and cultural.

The first two groups of rights are well known. They form the foundation of liberal democracy. Civil rights are those such as the freedom to speak and the freedom to associate and to assemble; political rights are those such as the right to form political parties and to vote. But the other three groups are considered to be of equal importance and validity: social rights are rights to social protection, social security, education, health care and the like; economic rights concern the rights to work, to fair payment, to decent working conditions; and cultural rights protect the opportunity to participate in the culture of one's society and to give expression to one's own cultural identity.

The idea behind this five-dimensional concept of basic rights is that freedom and the opportunity for personal development and full participation in social life should

be guaranteed to every human being completely independently from his/her social status and wealth.

The covenant declaring universal civic, political, social, economic and cultural basic rights has been ratified by 148 countries from all cultural zones and stages of development. It represents the normative basis of modern social democracy. In all cases where the basic rights of persons are jeopardised by risks for which political authorities should reasonably assume responsibility, the state has a *prima facie* duty to act. It must ensure that the life chances of citizens subject to such risks are not inferior to those of citizens who have not been victimised by equivalent risks.

Indeed, in the first instance the state has an obligation to prevent such risks from occurring at all. If it cannot do that, it must compensate 'losers' for the consequences of the risks they have undergone. But all citizens are likewise obligated to make whatever contribution they can toward avoiding or compensating for such risks by their own efforts. Social democracy, thus, is about social citizenship (Thomas H. Marshall).

4.2 A Rights-Based Welfare State

The state fulfils its obligations to act on several levels. It offers social protection against risks that violate its citizens' basic rights; it guarantees them equal educational opportunities, not only for acquiring skills, but also for partaking in broader cultural life; and it safeguards their dignity in economic and social contexts. To accomplish these ends, it may need to regulate markets in a capitalist economy and guarantee a functioning public sphere, among other things.

Social democracy is basically characterised

by a comprehensive social welfare state that ensures protection of the basic rights alluded to earlier as well as maintaining a just distribution of life chances. It likewise contributes to economic efficacy and growth as well as to social cohesion and political stability. The social state acts as a kind of shock absorber, damping the insecurities generated by market capitalism by underwriting state-sponsored security guarantees that are independent of the market.

It provides a minimum income to individuals and families, while offering effective

protection against sickness, poverty in old age and unemployment. Moreover, it provides a range of social services such as child supervision and care for the aged.

In the economically advanced democracies, there are three types of social state: the *universalistic* social state on the Scandinavian pattern, the *conservative* version well represented in continental Europe and the *liberal* model characteristic of the Anglo-Saxon countries. These types of social state may be distinguished in part by ascertaining whether and to what degree they have institutionalised social civic rights.

One condition for the achievement of social democracy is that there must be a constitutionally guaranteed civic right to social services. The liberal social state, in which there is only a form of poor relief, without any legally binding claim on the part of recipients, would thus fail to meet

4.3 A Regulated Social Market Economy

Since employment, fair salaries and workers' participation are—in terms of these basic rights—considered to be crucial political objectives, the social regulation of markets is a political must. Government responsibility for the broad outcome of the economic process and for the treatment of the individual in economic life can not be avoided. All must be given the chance to participate in economic decisions concerning their fate and dignity.

In practice, the political economy of social democracies may accommodate a wide range of variations. The relationship between politics and the market is everywhere characterised by specific areas of tension: productivity and growth, flexibility and innovation are constantly pitted against the principles of social justice and social security. Hence, the fundamental goal of political economy in a social democracy is to

the criterion for social democracy. The other two variants, by contrast, clearly have institutionalised social civic rights.

Citizens also have certain obligations that complement their basic rights: not simply to accept the dignity of all human beings, but actively to assume responsibility for their own lives. Every citizen is obliged to request the aid of the community only to the extent that his or her own efforts to earn a living have not met with success. This is a precondition for the maintenance of the entire social security system.

Thus each government is committed to ensure equality of opportunity and justice not only in the political realm but also in economic and social life. Providing the basic opportunities in life to people is a political responsibility of the democratic state. In order to do this, the state needs to be organised as a *rights-based welfare state*.

harmonise the market's operation with the policy requirements generated by liberal, political, economic and social basic rights.

Of course, the functional capacity of the market should ideally be maintained in all of its productive aspects. Yet the goals of rising living standards and free consumer choice have to be balanced against those of full employment, ecological sustainability and long-term economic growth prospects. The coordinated market economy is therefore a more appropriate arrangement for social democracy than the liberal market system, since the latter often lacks the institutional means to balance productive against social aims.

For the political regulation of markets to succeed, a suitable legal framework must be created, and various micro- and macro-economic strategies for managing supply and

demand need to be instituted, in order to ensure the primacy of the common good and basic rights over individual private interests. In principle, the political community must be in a position to influence the market sub-system so as to minimise potential conflicts between the rationality of individual economic decisions and goals that have been politically defined as in the interest of the entire society. Yet economic enterprises need to have sufficient latitude to continue and enhance the socially desirable

entrepreneurial activities they engage in.

Although the level and type of welfare state and social market economy depend on the degree of development of a country and its cultural traditions, the principles of the political economy of social democracy need to play a constitutive role under all conditions and at any level of development. How best this is facilitated is a matter of concrete political decision in the specific situation.

4.4. Societal Democratisation and Participation

Essentially a democracy always has three different approaches with which to achieve public goals (models of governance):

Through the market, when it is a question of procuring goods and services against payment.

Through the state, when it is a question of public goods that will benefit all and must, if necessary, be procured through instruments of power.

Through civil society, when it is a question of collective goods whose procurement is facilitated through a—voluntary—act of solidarity on the part of society.

Deciding which of the three approaches should be used for realising which social tasks is in itself a matter that can be settled only through democratic means. It is in the very nature of a vibrant democracy that an optimal balance be reached time and again, depending on experiences gained using each of these three approaches in turn. Obviously, this largely depends on the extent to which the citizens themselves are willing to involve themselves in the public welfare.

For social democracy, societal democratisation and an active civil society play a crucial role. In the enterprise and at the shop

floor level, this means an appropriate kind of workers' co-determination. In most other sectors of society, it requires forms of participation of the workforce that allow for both the protection of the human dignity of the individual worker and employee and sufficient degrees of effectiveness in the output of the respective societal sub-system (administration, schools, health services and the like).

Most important is the building up of an active civil society. Not only does this offer opportunities for citizens to advance their own interests and exert a democratising influence on representative procedures, but it also allows for the provision of supplementary social support. Furthermore, civil society promotes the political socialisation of the citizenry, and assumes important society-wide steering functions.

Another fundamental element of social democracy is an open, discursive political public sphere. That requires freedom of the press and the other mass media together with the freedom for every citizen to express one's own opinion. This is one of the essential conditions for success in the political integration undertaken by social democracy. A functioning public sphere not only provides the individual with information and arguments but also enables citizens to reach agreement about the values

that will shape their commonwealth, for example in matters of educational, economic and social policy.

A free, multifarious and vibrant civil society forms an indispensable basis for a strong and effective democracy. Civil society is the sum of all initiatives, unions, associations, organisations and networks in which people are voluntarily engaged with the objective of pursuing the welfare of the community apart from their own.

Experience has shown that dictatorships, once they have torn down a democracy, invariably aim at quickly regulating, curtailng or altogether smothering the life of civil society. The mere presence of several political parties does not for the most part result in a functioning democracy, if these parties do not have their roots in an active civil society. These insights are as old as democracy itself, although more often than not they are not adequately considered.

In this understanding of civil society it is important to note that it is not just voluntary association that defines civil society but also the incorporation of public welfare. Thus, a band of robbers or an anti-democratic group does not form part of a civil society in this definition.

Active engagement in a neighbourhood action group, human rights group, environment protection group, citizens' organisation or religious or social group is in a way on a par with state action. Like the state, it is aimed at public welfare, although, unlike state action, civil society engagement is voluntary. In another respect it is akin to economic action, for it is also voluntary and oriented to securing benefits, though engagement is on an honorary basis.

But apart from guaranteeing public goods through voluntary action, civil society has

four other directly political functions that make it indispensable for democracy:

1. Citizens engaged in small community initiatives also acquire the capacity to act in the political field. They learn how politics function and acquire useful information for successful action and the skills for goal and success-oriented community action.

2. With this political expertise and the ability to assert themselves, civil society organisations steadily and consistently work on the political parties closely linked to their goals. They encourage them to act in a goal-oriented manner. Many active members of civil society involve themselves in parties so that they re-establish the parties' linkage with social interests and values. Through the public pressure they exert from outside, civil society initiatives also act as a constant check on the actions of the parties.

3. Civil society initiatives can also consistently check whether party and government action actually brings about the desired results in society and whether parties and governments are directly involved in the achievement of these results.

4. As lobby groups too, civil society is for the most part respected in the initiatives and roles it assumes vis-à-vis state administrations, parliaments and governments as well as economic enterprises.

Where civil society is vibrant and multifarious, parties, administrations and governments quickly realise that their words must be followed by deeds.

They learn that their programmes must be effective and that substandard action and corruption pose a threat. Civil society is therefore the most potent, effective and flexible link between the living world of society and the world of big politics, including the parties. Civil society is certainly no

substitute for either the parties or the large economic associations, let alone the institution of democracy. Yet the quality, meas-

ure and stability of a democracy are crucially determined by the efficacy of civil society.

4.5 Social Democracy and Cultural Divergence

The claim to universal legitimation raised by social democracy is not undermined by the multiplicity of the world's cultures. To the contrary, every tradition provides some support and embellishment for it. Moreover, the alternative values and interests that challenge and oppose social democracy are to be found not only in 'other' cultures of the world, but in the 'West' itself. Thus, the rights-derived universalism that social democracy asserts cuts across national and cultural boundaries.

It is nevertheless true that the theory of social democracy has always had a problem devising appropriate strategies for dealing with ethnic, religious and linguistic differences, since these are by nature quite distinct from the economic inequalities generated by the market. On the one hand, it must be acknowledged that citizens are in fact defined and shaped by more than just their membership in social classes. On the other, if we think through the implications of this insight, we arrive at an expanded conception of social rights. For if there can be social rights for the economically disadvantaged, especially for those who are poor, unemployed or in need of social assistance, then why not also for the members of ethnic minorities or language

groups, religious nonconformists and indigenous peoples? But this conclusion has so far not been drawn in the literature of social democracy.

Cultural and social differences have been either ignored or downplayed. But now the sphere of social rights evidently must be expanded to include cultural differences. Only such a policy of recognition of differences can meet the conditions of equal citizenship expressed in all five groups of universal basic rights: civic, political, social, economic and cultural. It should combine three strategies.

First: Recognition of differing cultural identities.

Second: Recognition by all cultural collectivities of an obligatory framework of democracy based on the rule of law and universal basic rights. This would entail the emergence of a common political culture committed to the rule of law.

Third: The equal right of all individuals and cultural collectivities to share in the social and economic resources and opportunities afforded by society.

5. Theory and Practice

Social democracy is not just a theory or a utopia but good practice in a variety of European societies and—in its own way—also in an Asian society like Japan. The policies of these countries insure their citizens against social risks and grant social and political participation. It turns out that a culturally universal model of democracy

finds fullest expression in social democracy, since all five categories of basic rights are most effectively secured by it. Social democracy should therefore be considered a condition for the achievement of full participatory and sustainable democratisation. By contrast, libertarian democracy, which is concerned exclusively with the assign-

ment of civic and political rights while ignoring social and economic ones, deserves to be labelled a 'defective' democracy. It

can neither ensure the efficacy of basic rights in the real world nor secure the equality and political autonomy of its citizens.

6. Progressive Globalisation

Social democracy is not only a model for the nation-state but also a project for progressive globalisation. It guarantees the efficacy of democracy even under conditions of social and economic globalisation. In the current phase of globalisation, the tussle between the proponents of libertarian democracy and social democracy is one of the major issues in the international political arena and in each society. There are two questions that figure on the agenda everywhere:

Should social democracy be retained even in an era of global market competition or relinquished for alleged competitive advantages?

Can the international political arena be politically shaped at all? If so, is this only in terms of minimum political coordination or does it also apply even for a macroeconomically regulative social and ecological fixing of the markets?

While the advocates of libertarian democracy contend that globalisation has to a large extent destroyed the meaning and possibilities of social democracy, the champions of social democracy point to another aspect: there are not only limits to the welfare state from globalisation but also social limits to globalisation.

Since the 1970s there has been a strengthening of tendencies towards the global integration of economic markets and transnational social linkages in areas as important as information technologies, communication, travel, environmental pollution, the spread of disease and migration, among others. The democracy of a nation-state loses any scope it may have had to

influence developments to the extent to which the causes of politically significant impacts felt in the country (such as environmental damage, unemployment, immigration, spread of disease) increasingly lie beyond its borders.

The basis for the functioning of a democracy, which is essentially the capacity to address politically all the problems in its area of jurisdiction, is lost. Where democracy is no longer in a position to solve the basic problems for which it has been established, it loses its significance and *raison d'être*.

For a host of problems, though not for all, a globalisation that is merely economic proves first and foremost to be a process of silent de-democratisation.

In order to reacquire democratic powers of decision making, the reach of democratic decisions must be just as great as the reach of interlinked problems whose resolution majorities demand. To the extent that interlinked problems cross national borders, democracy must again tackle them in adequate measure if it is not to be devalued. This involves the creation of instruments of political action in order to facilitate the social and ecological re-embedding of markets on a global scale after they have crossed the national domain.

Thus, what the globalised world needs is political decision-making structures, forms of transnational cooperation that meet the requirements of actual globalisation. For the transnational level, democracy must be reinvented.

The European Union constitutes an experi-

ment in this direction. Other associations of regional cooperation such as SAARC and ASEAN have likewise trodden the path of regional political cooperation. The expansion of these associations of regional cooperation, their progressive democratisation and the establishment of linkages between them are all important constituents in the process of establishing a global democracy.

Global democracy needs effective forms of uninterrupted cooperation while safeguarding the natural sources of life and ensuring financial stability, balanced economic growth, the satisfaction of basic needs worldwide and decent working and living standards. At the same time, we cannot shut our eyes now or in the future to massive human rights violations beyond our own borders. There is something like a common body of world citizens' rights in which every citizen can claim protection for his/her basic rights from all other citizens, even though the political organisation of the nation-state and the region will continue to remain primarily responsible and in charge.

Discussions on this aspect have been going on since almost two decades ago and the first practical steps for the globalisation of democracy. They are by no means adequate, although many of them point in the right direction. A global government seems neither realistic nor desirable as a solution to the problem of global democracy. It is not realistic because sooner or later important and influential nation-states would refuse to accept this solution; it is not desirable because the growing distance of the economic centres from the societies affected by their actions will serve only to further reduce chances of democratic influence, in more respects than one.

As a model for a solution, the concept of global governance is the most highly approved internationally, stands the best chances of being realised and offers the best

prospects of solving the most weighty problems of globalisation effectively.

Governance means steering or regulating through political means, that is to say, by involving governmental action but without this being confined to action by governments alone. Global governance means simultaneously expanding four different forms of political coordination and regulation which are again linked to each other, complement, monitor and influence each other:

1. The expansion of the global political organisation, the United Nations, into a body that can discuss social and economic issues, reach agreements and influence their implementation. Thus, for instance, there is talk of setting up a World Security Council for economic affairs.
2. Increasing and improving regional political cooperation between states, such as in the European Union, ASEAN or SAARC. These associations could—on a broad regional scale—collectively address a significant proportion of the social, economic and ecological problems that crop up in individual countries. With their enhanced leverage, they could in turn play a role in the global shaping of economic, ecological and social developments.
3. Enhancing, improving and most importantly democratising transnational regimes. The term 'regime' refers to transnational political regulation in a specific area that poses problems, such as the liberalisation of global trade, ecology, basic social conditions or the exploitation of the seas. The WTO is an example of such a regime. A transnational regime sets down a binding transnational settlement of the problem of concern in a contract, with an independent authority and a well-regulated procedure of arbitration also being established for the same. A global social democracy is concerned not just with the democratisa-

tion of existing regimes but also with the enhancement or re-establishment of regimes that address issues such as working conditions, social standards, global financial flows or the eradication of unemployment.

4. Transnational civil society has proved itself to be an influential political network. The initiatives of civil society could on the one hand link the interests of the people in their living environments with the actions of large political institutions in a manner that is more immediate than is the case with political institutions. As lobby organisations and watchdogs, they could condemn the actions of concerns and organisations that go against the interests of the popula-

tion, thereby ushering in changes. But on the other hand, they can also solve a series of problems on their own through their coordination.

In a world of global markets and global social influences, democracy also calls for globalisation.

Negative globalisation involving the mere dismantling of borders for market expansion must be balanced by a positive or progressive globalisation of establishing political structures of responsibility. In this age of globalisation, the latter is on the agenda of all true democrats. It is what social democracy means in the world of today.

6. Conclusions

To sum up, three conclusions can be drawn in order to mark the characteristics of social democracy:

First: Social democracy is neither a system nor a patent remedy for all social and economic diseases nor a ready-made model that could be exported to everywhere in the world. It is a pragmatic approach to give equal value and importance to all five basic rights in the framework of liberal democracy. Its institutions need to be shaped to suit the concrete conditions of individual countries under the influence of economic globalisation.

Second: There are undisputable successes in the dimensions of welfare protection, social justice, the expansion of democracy, economic performance and democratic stability in those countries that embark on the way of social democracy. Social democracy is an approach that works but needs permanent endeavours and readjustments.

Third: In an era of globalisation, social democracy requires simultaneous implementation at both levels: in individual countries and in the global arena.

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Conference Summary

Pauline Puah*

The third Asia-Europe Dialogue of Cultures, entitled 'How do we shape a more just world?—Exploring concepts of justice in Asia and Europe', was convened by the Friedrich-Ebert-Stiftung in Kuala Lumpur, Malaysia, from 28 February to 1 March 2006.

About 40 local and international participants—academics, opinion leaders, politicians and representatives from civil society—participated in the discussions and debates over several issues raised in the two-day conference.

The organiser deemed the discussion on concepts of justice necessary because it could be a potential source for peace or conflict in or between civilisations.

Discussions in the conference noted that there is no unique and universally shared definition of justice. However, there is a common perception that justice means the fair, moral and impartial treatment of all persons and that justice is shaped through personal behaviour or 'values', together with laws, policies and politics.

Justice plays a prominent role in different areas of life, in particular in living together

(social justice), in selection procedures (equal opportunities) and in reconciliation (equality) between groups based on gender, generations, culture or religion.

It is undeniable that there are new problems, needs and aspirations—poverty, ageing societies, reduced sovereignty of states, migration and cultural self-determination—that challenge the traditional application of justice.

Eight papers were presented in four sessions, followed by comments from the discussants and other participants on how state and society react to those challenges. The focus of the dialogue was on several current trends, public debates and features of justice in order to gather what people perceived as 'just' or 'unjust'. How to create a dialogue between the West and the Islamic world continued to be in the limelight of the conference.

Not surprisingly, also widely debated were the controversial caricatures of the Prophet Muhammad first published in a Danish daily and reprinted by a few other European newspapers, which sparked worldwide protests and violence among Muslims.

Guardians of Justice

In the first session of the conference, the arguments were on whether the secular state under the rule of law will allow true freedom of more than one religion and whether secularism is in the tradition of Islam.

Minority Muslims in Europe are searching for practical solutions to organise their lives in accordance with Islamic religious commandments and simultaneously fit into the demands of the European legal orders. The challenges in European legal orders today,

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therefore, would be religious diversity and a mix of elements between assimilation and segregation. Secular laws in Europe were seen as helping minorities to defend their rights.

A presenter argued that historically and from a jurisprudential point of view, the nature of law in Islam could be understood as 'secular'. 'Justice' is a secular concept; Muslims today should reform their legal system and establish democratic states based on secularity and humanity of law in the Islamic tradition. The major problem in the Muslim world today is that Islamic laws have been defined as God's rule.

Another obstacle faced by Muslims today is that most of the Muslim countries are considered not democratic.

Muslims in Europe or Asia should obtain modern knowledge to reform the current

legal system. To reform the Islamic legal system, it is vital to identify who has the power or authority to interpret Islam. 'What is the source of justification in interpreting a particular law?', asked a participant.

In Europe, one important issue that needs to be addressed is the widespread fear that Islamic extremism will become a mainstream.

One participant said that Islamic laws are often stereotyped as rigid and not in line with development. Citing the history of the Ottoman Empire, the participant said Islamic laws were in fact highly flexible to accommodate the interests of an individual or a community.

Different opinions should be allowed to be discussed in a public sphere and everyone should have a chance to take part in the discussions.

Myths and Realities

The second session focussed on the historical development and evolution of the Islamic and the secular state.

The secularisation of the West or Europe is a result of a very recent history, although its roots can be traced to the 19th century. The compromise was between well-established religions and new and old states. The compromise, however, did not take into account the growth of Islam as an important religious minority in a number of European countries.

While nation building in Europe required a compromise between state and religious authorities, in south-east Asia, liberation movements and nationalism were strongly driven by religious sentiment and ideas, for instance in Malaysia and Indonesia.

The separation between church and state in Europe was neither uniform nor general even though religion is said to be on the decline in most of Europe. Secularism has benefited from a decrease in conflict in postwar Europe. Religion remains a significant force in areas where national conflicts have remained a major component of daily life, such as Ireland and parts of the former Yugoslavia.

One discussant pointed out that democratisation in Europe has led to weaker individual commitment to religious practice.

It was noted that Christian-Muslim dialogue had long existed and permeated daily life, but unfortunately only conflicts were highlighted.

Three central themes of the study of civilisations would be inter-civilisational encounters, the multicultural origins of modernity and the variety of points of views.

Islam is the only civilisation to have conquered the West and to have been involved in continuous conflict with the West, but civilisational encounters are not always negative. For example, the Crusades resulted in much scientific and cultural borrowing between Muslims and Europeans.

Modern civilisation is usually defined in Western terms, but many aspects of modern civilisation come from Islam and other civilisations such as India and China.

The perspective of Muslims who fought the crusaders and then lived among them when European soldiers settled in and around the Holy Land is instructive, helping to complete the picture of an otherwise fragmented reality.

However, a discussant said the historical existence or the evolution of an Islamic state had been absent from the discussions.

A significant point was raised that histori-

cally the political background in Europe has always been heavily dependent on the history of Christianity. Thus the secular movement in Europe does not mean that the Christian heritage there has lost its influence and importance. To understand Christian culture, one must be able to understand the theology of Christianity.

The same principle should apply if one would like to understand Muslim culture. Otherwise, it is impossible to form a dialogue.

A participant pointed out that the meaning of *jihad*, which is not well-understood, especially by non-Muslims, was also absent from the session. Since dialogues should look not only at collaboration but also at conflict, the participant said that therefore it is important to consider the meaning of *jihad* and who should interpret it.

Another participant noted that relying on dialogues to promote understanding and awareness will not be sufficient because those involved in the dialogue are generally elites and thus are not representative of the majority of the population.

Civil Society between Amity and Enmity

Session three of the conference cited two countries, Denmark and Malaysia, to depict civil society between amity and enmity.

The Danish caricatures debacle was not the clash of civilisations promoted by Samuel Huntington but rather a clash triggered between minorities and majorities within societies, between those who felt powerless and those who wield power, between those who are losers (or feel that they are losers) in the process of globalisation and the winners of the race.

It is not easy to be a Muslim in Europe,

with a different national and cultural background from the rest of the population.

There is also the emergence of a new generation who may not want to submit to specific versions of Islam, but at the same time also do not want to become completely secularised to the point of abandoning Islam. Rather, they want to legitimise Islam's presence in the social and public spheres. But their efforts to do so in a context where religions, or at least some religions, are completely de-legitimised in the public sphere create misunderstanding and fuel tensions between the majority and the minorities.

The question that needs to be asked is: 'Can Europe truly embrace cultural globalisation and successfully integrate its Muslim minorities?' The inability of some Europeans to accord respect and equality to the 'other' in the socio-psychological sense is due in part to a rising fear and insecurity brought about by globalisation, which has magnified the impact of actions perpetrated by a small group of Islamic extremists. The events of September 11 accentuated this fear.

The rise of Islamic extremism was met by the rise of extremist political agendas in the West. Many politicians were unwilling to address some of the real issues about immigration and integration, and more importantly the challenges brought about by globalisation and the new technology. They chose to use religion and culture to fuel fears and suspicions.

The cartoon controversy has given extremists in both the Islamic and Western worlds an excuse to set their agendas. One participant deemed the caricature debacle not a clash between the West and Muslims but rather a clash between the fundamentalist and liberal in each religion.

Conflicts exist and people rebel not because of hunger but because of injustice. Therefore the focus must be on a profound interaction of civil society. Europeans should fight to live in diversity with laws and protection of human rights. Discussions should be based on respect for different groups and not insulting others.

The interfaith dialogue should be formed

Visions of Justice

The final session of the discussion sought to visualise justice under the concept of social democracy as well as the concept of Islam Hadhari in Malaysia discussed by

not only between the West and the Muslim world but to include members of other religions. The dialogue between Europe and Asia should focus on how to define multiculturalism in Asia and Europe.

Another participant expressed the view that liberal and progressive groups should know how to control and shape the public space so their ideas will be supported.

Public outrage is vital to uphold justice. Individuals must confront extremists existing in their own community.

Lack of policies to deal with minorities who decline to integrate, especially in Europe and Denmark in particular, was the cause of the problem in Europe today.

In Malaysia, Islam was often perceived through an ethnic lens, which more often than not creates an exclusive interpretation of the religion. In a socio-political landscape dominated by Malay Muslims, Islam has been exploited to justify the ethnic divide. Today, because religion is not an easily shared component, Islam in Malaysia becomes an emotive and formidable force of Malay identity.

In postwar Bosnia, people can live together now due to the real connections between different ethnic groups. In Bosnia, multiculturalism means managing the heterogeneous nature of society. Malaysia is not a good example of a solution because it is still finding a national identity. While an interfaith commission and policies are still absent in Malaysia, Bosnia already possesses a very successful interfaith commission based on practical, not theoretical, methods.

Prime Minister Abdullah Ahmad Badawi.

The concept of social democracy is a commonly accepted format of the 1966 United

Nation Covenant of Basic Rights, which provides for five sets of basic rights, namely civil, political, social, economic and cultural.

The first two sets are shared by different variants of democratic theory, viz. libertarian and social democracy. But the former deserves to be called 'defective' for not including social, economic and cultural rights in its articulation of democratic reforms, treating them as belonging to the private domain.

Without a combination of all these five sets of rights, democratic participation will be limited to a small group of well-to-do citizens. Social democracy is more important than ever as the world is increasingly integrated through market-dominated globalisation. The state and civil society actors must be included to 'harmonise the oppressive elements of the market'. This is not to suggest that productivity and growth are not important, but that there should be a balance between concern for profit and collective social needs.

Social democracy should also be simultaneously implemented at both domestic and international levels to foster cooperative actions that uphold the dignity of human beings and general welfare.

Cultural diversity will also find fullest expression in a social democracy that effectively secures all five categories of basic and universal rights.

Terrorism is best averted through the provision of equitable social and economic rights for all, which will undercut support for violence. While many who participated in terrorism were from middle class backgrounds, the roots of their support can be traced to social and economic injustices.

One participant suggested that it is time to reflect on why European social democratic

parties were in crisis and the British variant, the British Labour Party, was particularly an embarrassment. The term 'social democracy' was used as a label for a certain variant of democracy and not as a name of a political party. For instance, most European countries implement some form of social democracy.

Another participant argued that the UN Covenant of Basic Rights is the product of influence by a particular ideological view of the 1960s which may not be shared now.

The term 'Islam Hadhari' is Malay and has been variously translated as progressive Islam or civilisational Islam. In the face of a critique that Islam Hadhari can not be directly translated, it is increasingly not translated but referred to as an 'approach'. The official version of the concept states that Islam Hadhari 'is an approach that emphasises development, consistent with the tenets of Islam and focussed on enhancing the quality of life'.

It 'aims to achieve this via the mastery of knowledge and the development of the individual and the nation; the implementation of a dynamic economic, trading and financial system; an integrated and balanced development that creates a knowledgeable and pious people who hold to noble values and are honest, trustworthy, and prepared to take on global challenges'.

Islam Hadhari is not a new religion, new teaching or a new *mazhad* (denomination). It is an effort to bring the Ummah back to basics and the fundamentals as prescribed in the Quran and the Hadith, which form the foundation of Islamic civilisation. Islam Hadhari was deemed as 'progressive, coherent with modernity despite its flaws and limitations, embracing pluralism, seeking reform and renewal, embedded within the sources of Islam and seeking solutions within the framework of Islam'. On whether Islam Hadhari is a model for other

Muslim nations, no prescription was given.

A discussant said the concept of Islam Hadhari was in fact very political in nature. Unlike the concept of class in Europe, race or ethnicity is the essence of the political landscape in Malaysia. As the number of Muslim voters is increasing, the concept of Islam Hadhari is now focused on development the better to woo votes. Islamisation has been interpreted as a Muslim developmental agenda to deal with the multiracial society and to win over non-Malay voters.

It is crucial to have a dialogue in the multi-racial setting and have a better understanding of the importance of a tolerant society. One participant noted that although Islam Hadhari is a good concept, it is doubt-

ful that it can be used to justify current social democracy and a capitalism that is going in a wrong direction.

Another participant said the concept cannot justify justice in Malaysia because there are not equal rights for every ethnic group.

Several participants pointed out that although Islam Hadhari or social democracy were both brilliant concepts, the pivotal point is how to implement them. Otherwise, the concepts will be mere political rhetoric.

Before the conference came to an end, it was proposed that the next Asia-Europe Dialogue of Cultures should focus on the mutual prejudices, stereotypes, clichés and images of Asians and Europeans.