Essays on Education and Finance

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Essays on Education and Finance

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The papers presented in this book were written between 2010 and 2016. Most of them were published in Islam and Civilizational Renewal. They are reprinted as previously published. The papers represent work I did at IAIS Malaysia in education and finance.

The primary themes of the papers on education focus on student-centred learning, as well as for widening the breadth of research. The emphasis in the papers on finance is on the benefits of risk sharing as an alternative to risk transfer.

I taught for eighteen years, including five years at the Islamic Science University of Malaysia. While teaching, I explored different teaching approaches, particularly peer tutoring. I delved into additional areas, for example the appropriate blend of religious and present-day knowledge in education. Hopefully, the reader will find these papers of interest and perhaps useful.

Leslie Terebessy
Thomas Kuhn noted some years ago that every scientific paradigm (worldview) is only as credible as its underlying assumptions. Sometimes, unwarranted assumptions may become incorporated into a given paradigm. Such assumptions constitute anomalies within a given paradigm. Weaknesses within a given paradigm, however, eventually cause it to fail. The paradigm fails in the sense that, when “tested” in severe conditions, it is unable to explain new developments in a satisfactory way. This triggers the search for a new paradigm, or at least a rehabilitation of the old one.

The rehabilitation of a scientific paradigm requires first of all identifying all problematic assumptions and replacing them with alternative hypotheses, ones that are able to integrate new knowledge. If all goes well, a new paradigm emerges from the ashes of the old, discredited one. In other words, every crisis presents an opportunity to rehabilitate a flawed paradigm and bring it in line with reality.

While Kuhn was referring to the “hard” sciences, a similar conclusion can be drawn about economics. Success, whether in business or any other walk of life, requires first of all an ethical foundation. Where this foundation is lacking, due to whatever reasons, a crisis in one form or another can be expected to follow sooner or later.

The most recent example of such a crisis was the 2008 global financial crisis. This crisis was caused, first and foremost, by the way risk was managed and, more generally, in the way resources were allocated. Financing investment took place by way of lending at interest. Risk management was carried out mainly by means of risk transfer, inclusive of the sale of debt or the use of credit derivatives. Neither of these practices is notable for its conformity with ethical principles.

An early casualty of the 2008 crisis was the view that markets – at any rate credit markets – are efficient. The fundamental inefficiency of credit markets in the sense in which this term is

used in finance – was confirmed by the dramatic collapse in the prices of derivative securities known as collateralised debt obligations (CDOs), that were at the heart of the crisis. However, as this paper attempts to show, the damage inflicted on the existing paradigm went beyond the demise of the efficient market hypothesis. Another major casualty of the recent 2008 financial crisis is the view that the best way to manage risk is to transfer it to someone else.

The central question ahead is whether the right lessons will be drawn from the recent (2008) experience, and whether enough momentum can be generated to move to a new paradigm, one of risk sharing rather than risk transfer. This would ensure not only better protection for investors (a microeconomic objective) but also a more efficient allocation of resources (a macroeconomic objective), not only in the credit markets but especially where it counts most, the real sector markets.

**Risk**

Risk is the possibility of an adverse or disastrous outcome of a given action. Risk arises out of the fact that our knowledge, in particular our knowledge of the future, is limited. While the past may be relatively well known, future is unknown. It is tempting to predict the future on the basis of the past, according to the dictum, “history repeats itself.” However, no single model takes into account all variables that may influence the outcome of a given act.

The existence of risk implies a limit on our ability the control our fate. Some contingencies may be unforeseen. While science attempts to control the environment, inclusive of future events, history has shown repeatedly that human control is always incomplete. Complete control rests only with God.

Risks arise in all walks of life. A person driving through a red light takes a risk of getting involved in an accident. A smoker

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takes the risk of developing cancer. A gambler takes the risk of losing money. There is a risk of fire, or the risk of becoming a victim of crime. There is a risk of being kidnapped, being mistaken for someone else, or the risk of becoming an innocent victim.

There is also the risk of physical or psychological injury, illness or an outbreak of epidemic, on a local or a global scale. Natural disasters, such as floods, earthquakes or tsunamis also present risks. There is also a risk of war, civil war, or even a world war. There is a risk of political instability (rioting or a coup d’état). There is a risk of property loss or damage, or a risk of disgrace (damage to one’s reputation).

Everything from wearing protective clothing, starting a retirement fund, to spending on defence is a different way of shielding oneself or one’s community from risk and the fundamental insecurity that characterises all human existence.

Risks can be divided into avoidable and unavoidable. Avoidable risks, such as the risk of loss arising from gambling (qimar), are self-imposed. In order to avoid such risks one merely needs to abstain from the activities that give rise to them. Other risks, such as the risk of losses in business, may be unavoidable. In principle, unavoidable risks are permitted, but avoidable are not. Hence, risk taking is permitted in business but not in gambling.³

The fact that risk in business is unavoidable makes it fundamentally different from risks such as arise in gambling. In gambling, one party can win only if another loses. Gambling is thus a “win-lose” or “zero sum game.” By contrast, partners in business gain or suffer a loss together.⁴

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Finance

In finance, risks arise in both investment as well as in lending. The main risk in investment is the risk of losses. The main risk in lending is the risk that borrowers may fail to repay their loans to creditors. This risk is known as credit risk, also known as the risk of default or more simply as counterparty risk.

A common method of protecting against credit risk is simply to withhold lending from all borrowers unable to post acceptable collateral. At the company level another method is for lenders to purchase credit derivatives such as credit default swaps (CDS), effectively a form of insurance on debt.

Another risk that arises in lending is interest risk. This is the risk that interest rates may change in an unfavourable direction. A common method of protection against interest risk is to enter into interest rate swap (IRS) contracts.

Liquidity risk arises in both lending and investment. This risk arises from the fact that it may become difficult if not impossible to liquidate securities, whether stocks or bonds, at a time of crisis. Liquidity crises commonly take place when investors wish to liquidate their assets at the same time. Selling pressure drives prices down and makes it impossible to liquidate securities at any but rock bottom prices.

This is essentially what transpired during the recent 2008 global financial crisis, when a large number of investors became unable to liquidate their holdings of CDOs (collateralised debt obligations) as they all wanted to sell at the same time. Protection against liquidity risk commonly takes the form of

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6 CDOs are bundles or pools of debt, mostly bonds. CLOs or collateralized loan obligations are similar to CDOs, except that the former are bundles of loans rather than bonds. Torre, de la Ignacio, “The role of derivatives in the credit crisis,” p. 46, accessed online on 9 March 2013, <http://kantakji.com/fiqh/Files/Markets/B120.pdf>
portfolio diversification to ensure that little correlation exists between various investments in the portfolio.

Another risk that arises in both lending and investment is known as market risk. This risk is also known as systemic risk. This is the risk that entire markets may become adversely affected, thus causing losses to both investors as well as to lenders. Market risk presents a greater threat to short term speculators than long-term investors. One example of market risk is the risk that prices of bonds will change as a result of a change in interest rates.\(^7\)

Foreign exchange risk, also known as currency risk, arises from the fact that exchange rates may change in an unfavourable direction. This risk faces exporters and importers, as well as investors in foreign countries. It also affects parties that borrow in foreign currencies. The risk is that the value of a foreign currency relative to the value of the local currency may appreciate, thus obliging the borrower to repay more (in terms of the local currency) than what he borrowed in foreign currency. A common method of protection against this risk is to enter into foreign exchange swaps.

**Risk transfer**

Risk transfer takes place when a party that takes a risk “transfers” the responsibility for adverse consequences (losses) of a risky action onto another party. Normally, risk is transferred for a fee. Thus, risk transfer in principle amounts to the “sale” of risk. Risk transfer takes place when the party that transfers a given risk has faced the risk to begin with, even if only for a short period of time.

Thus, collateralised lending does not constitute risk transfer, because the financial institution does not face any risk to begin with. It may be more accurate to say that secured lending is characterised by risk aversion. Nevertheless, in so far as lenders do not share business risks with borrowers (entrepreneurs),

\(^7\) Bond prices are inversely related to interest rates.
collateralised lending in principle has the same effect as risk transfer: it burdens one of the counterparties (the entrepreneur) with the need to shoulder all of a given type of risk, in this case *business risk*.

There are many ways to transfer risk, depending on the type of risk. A widely used method of risk transfer – in particular the risk of default – is to sell loans to other parties. Risk transfer in the form of the sale of debt was used extensively from 2000 to 2006, in the lead up to the global financial crisis of 2008.

First, originators transferred the risk of default on the loans they made (subprime mortgages) by selling them to investment banks. Investment banks subsequently transferred the same risks to other parties by selling the same loans (this time on a wholesale basis) to institutional investors. The institutional investors included pensions funds, insurance companies and hedge funds. The loans were sold in the form of collateralised debt obligations (CDOs). These are pools of mortgage backed securities (MBSs) or mortgage bonds. The sales of the CDOs were facilitated by the fact that rating agencies assigned “AAA” ratings to them.\(^8\)

Another way to transfer the risk of default is to purchase credit default swaps, effectively a form of insurance on debt. CDSs are typically issued (sold) by investment banks and insurance companies. Sellers (writers) of CDS insure debt in exchange for a premium payment fixed in advance.\(^9\) CDSs oblige issuers (sellers) to compensate subscribers (buyers) to the extent of the latter’s loss, in case a borrower defaults or a credit event (such

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\(^9\) The standard practice is to hedge the sale of swaps by entering offsetting transactions (buying swaps or insurance) with other parties. This was the trading strategy employed by most investment banks, such as J.P. Morgan Chase. A trader would sell insurance on a given debt for say 5% per annum, and then buy offsetting insurance (CDS) from another party for 4.5%. The income to the investment bank would be the difference between what it earns (5%) and what it pays (4.5%). The 0.5% of income on a debt of $100 million would amount to $500,000 per annum.
as a downgrading) takes place. Most of the time, issuers are able to honour their obligations. There is no guarantee, however, that the issuer of the CDS will be able to live up to his obligations in case of a systemic crisis.

CDOs and CDSs are known as credit derivatives.\(^\text{10}\) Under normal conditions, they transfer all of a given risk, in this case the risk of default. Other credit derivatives such as interest rate swaps (IRSs) transfer only a part (half) of a given risk, the risk that interest rates may rise or fall. IRSs are traded OTC (over the counter) and make up the great majority of derivatives, currently at $548 trillion.\(^\text{11}\)

The reason why counterparties enter IRS contracts is because they expect interest rates to change in opposite directions.\(^\text{12}\) An IRS contract requires counterparties to exchange (swap) interest payments. Normally, a fixed rate is exchanged for a floating rate. Both rates are applied to a notional amount. The floating rate is determined in relation to a reference rate such as LIBOR (London Interbank Offered Rate). The fixed rate is agreed upon in advance. Should market rates rise, the party paying the fixed rate will gain, as the party paying the floating rate will have to pay more than before. Should the rates fall, however, the party paying the floating rate will gain, as it will be obliged to pay less than before.

Parties that enter IRSs become exposed to an additional risk that may arise from fraud, in the form of “fixing” the reference interest rate, as happened recently with LIBOR. This price

\(^{10}\) A derivative is a security whose value depends on the value of an underlying asset, which can be a real asset such as a commodity, another security such as a bond, or an index such as an interest rate. Derivatives include credit default swaps, interest rate swaps, futures as well as options.


\(^{12}\) Interest rate swaps trade in the unregulated “over the counter” (OTC) market, directly between counterparties.
fixing resulted in billions of dollars of losses on both sides of the Atlantic.\textsuperscript{13}

**Problems in risk transfer**

The chief of the problematic assumptions in conventional risk management approaches is the view that the best way to “manage” risk is to transfer it to someone else, presumably someone who is “willing and able to bear it.” However, being willing to bear someone else’s risk is not the same as being able to bear it, especially at a time of a systemic crisis such as a liquidity crisis.\textsuperscript{14} Secondly, while under normal circumstances risk transfer may decrease or eliminate risk for individual counterparties, it is clear that this takes place only at the expense of magnifying systemic risk.

Should a crisis occurs, the systemic risk rises and conventional risk transfer methods fail because at a time of crisis even asset prices that were previously not correlated suddenly become correlated and portfolio diversification ceases to serve as an effective hedge against losses.\textsuperscript{15} The only recourse then appears to take the form of government bailouts.

The recent 2008 global financial crisis showed that a willingness to bear risk does not yet guarantee the ability to bear it. There were plenty of institutions “willing” to bear risk – notably investment banks Lehman Brothers, Bear Stearns, and insurance giant AIG – but few that have actually able to do so

\textsuperscript{13} There have been many well known cases where major losses were experienced by parties that entered the swap agreements, When to this is added the fact the LIBOR rates have been manipulated by financial institutions, the case for avoiding interest rate swaps becomes even stronger.

\textsuperscript{14} Torre, de la Ignacio, “The role of derivatives in the credit crisis,” p. 47, accessed online on 9 March 2013, <http://kantakji.com/fiqh/Files/Markets/B120.pdf>

when they were called upon to do it.¹⁶ Thus, there is a need for a better way to manage risk than by transferring it.

Risk transfer effectively amounts to “a sale of responsibility.” This is problematic for a number of reasons. One, risk transfer severs the link between a given action and the need to take responsibility for it. In doing so, it not only undermines the principle of individual responsibility, but also causes injustice. Risk transfer causes injustice in that it imposes the responsibility for a given act on a party that did not perform it in the first place.

By transferring the responsibility for a given act to a person other than the one who carries it out, risk transfer provides an incentive for “irresponsible” or high-risk behaviour. In other words, risk transfer gives rise to a moral hazard. The fact that the party that accepts the risk does so voluntarily makes little difference. The injustice of a given act is not diminished by the fact that its victim voluntarily agrees to suffer it.

This is what in effect took place when subprime mortgage loan originators sold their loans to investment banks, which in turn bundled them together and sold them on to institutional investors. The risk of default (credit risk) was first transferred to investment banks, which subsequently transferred it to institutional investors, with the help of overly optimistic – and in retrospect misleading – “AAA” ratings from rating agencies.¹⁷

By providing investors with a false sense of security, risk transfer provided the incentive for many financial institutions to take progressively greater and greater risks with their

¹⁶ Other investment banks that overextended themselves included Merrill Lynch, Goldman Sachs, and others. These were either bought over by larger institutions, as Merrill Lynch was bought by Bank of America, or had to take other steps to ease their liquidity problems, as was the case with Goldman Sachs when it temporarily converted itself into a commercial bank in order to qualify for loans offered by the federal government to troubled institutions under TARP (Troubled Asset Relief Program).

¹⁷ Rating agencies have been taken to court by many investors who felt that the CDOs they invested in, which were given triple A ratings by rating agencies, were inaccurately valued, thus causing investors losses.
shareholders’ and depositors’ funds. The sum of individual risks, however, collectively translated into a high degree of **systemic risk**.

A major weakness of risk transfer, accordingly, is that while it may work in ordinary times, it rarely works in extraordinary conditions. At extraordinary times, parties willing to take on risks from others often prove themselves unable to their obligations, giving rise to the spectre of a systemic collapse. Thus, risk transfer contracts fail to protect investors precisely at a time when they most need protection, a time of crisis.

This is what took place in the last 2008 global financial crisis.18 The financial system nearly collapsed the way a ship may capsize when all its cargo is transferred from one side of the ship to the other. At a time of systemic crisis, even portfolio diversification no longer protects against asset price declines, as the prices of even unrelated assets tend to move (down) together.

At a time of crisis the counterparties in risk transfer contracts, like counterparties in risk sharing contracts, “sink or swim together.” The difference is that the utilisation of risk transfer contracts dramatically raises the likelihood of a systemic crisis. It does this by transferring risks that should ideally be borne by all, as in risk sharing contracts, to **only half** of the counterparties, those that feel “able” to take the risks.

A domino effect of systemic collapse was only stemmed by government intervention in the form of bailouts of troubled financial institutions, such as insurance giant AIG and

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investment banks that depended on it.\textsuperscript{19} However, the bailouts had the effect of transferring the risks to taxpayers.\textsuperscript{20}

Another problematic assumption in conventional risk management is the view that major catastrophes have a very low probability of taking place.\textsuperscript{21} According to conventional risk management models, the 1987 crash had “a negligible probability” of taking place, even over the entire lifetime of the universe.\textsuperscript{22} Another unwarranted assumption is the view that a very low or very high degree of probability can be for all practical purposes be identified with certainty.\textsuperscript{23}

Another questionable assumption is the view that risk can be measured while uncertainty cannot. The difference between risk and uncertainty is, however, quite arbitrary. Risk by definition can never be accurately measured. This was confirmed by the fact that the latest risk-valuation models failed to value securities, in particular the collateralised debt obligations or CDOs, accurately.\textsuperscript{24}

\begin{itemize}
\item As a result of their losses, a number of investors launched lawsuits against some of the rating agencies on the grounds that they wrongly assigned a triple “A” (investment grade) rating to the CDOs purchased by investors.
\end{itemize}
Leslie Terebessy

An additional problem arises from the fact that the risk of mispricing derivatives is greater than the risk of mispricing a common share or a bond. The reason is that pricing of derivatives requires the pricing of two securities and not just one, as is the case with ordinary securities such as stocks. The underlying security has to be priced accurately first. Then, the (derivative) security whose price depends on the performance of the underlying asset has to be valued separately. For this reason the error margin in the pricing of derivatives effectively doubles. It goes without saying that if the underlying security (such as a subprime loan) is mispriced, the price of the derivative security will also be inaccurate.

Another weakness in contemporary risk management is that intuition has been largely marginalised. Intuition takes into account – even if in an imprecise way – the presence of variables that may have been overlooked in purely mathematical models. Purely mathematical models by definition cannot account for any variables that do not lend themselves to quantification and therefore measurement. Managing risk by way of intuition simply means avoiding investments about which one may have a “bad feeling,” perhaps due to their inherent complexity and opaqueness, but cannot objectively articulate the source of the ill feeling.

Other problematic assumptions include the view that markets perform in the same way under normal conditions as in extraordinary circumstances, that credit markets operate fundamentally in the same way as other markets, and that trading (buying or selling) has essentially no effect on prices. The last 2008 financial crisis showed, however, that trading – in

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particular trading under duress – can significantly impact prices even in a relatively short period of time.\textsuperscript{26}

Another disadvantage of risk transfer is that its utilisation drains large amounts of resources from the real sector and channels them into the largely unproductive credit sector. This process is known as “financialization.” By drawing resources away from the real sector, financialization reduces the aggregate demand for goods and services, and thus reduces real economic growth.

Moreover, unlike risk sharing, risk transfer establishes different relationships between counterparties. Where risk sharing – \textit{because it requires sharing} – calls for a partnership relationship between counterparties, risk transfer establishes a win/lose relationship between counterparties. This type of relationship is at odds with the ethos of Islam, which emphasis brotherhood and sharing.

Because of the many weaknesses of risk transfer, a better way of managing risks needs to be found. Such a way is already available in Islamic finance.\textsuperscript{27} Islamic finance teaches that the best way to manage business risk is to \textit{share it}.\textsuperscript{28}

\textbf{Risk sharing}

Sharing is important in Islam. It takes place in many walks of life. Muslims share a common heritage and a common way of life. They also share many aspirations. Islam endorses sharing


as the believers are but one brotherhood.\textsuperscript{29} Islam recognises the essential dignity of man, and calls for sharing one’s knowledge (through teaching and missionary activities).

The Quran calls for sharing of one’s wealth, through charitable donations (\textit{zakah} and \textit{sadaqah}) and endowments (\textit{awqaf}). Man is viewed as a vicegerent (\textit{khalifa}) of God on the earth.\textsuperscript{30} Man enjoys property (\textit{al mal}) as a trust (\textit{amanah}) from God. Islam requires taking responsibility for one’s actions. We are held accountable, for our actions on Judgment Day, and rewarded accordingly.

Islam permits business risk taking and encourages risk sharing.\textsuperscript{31} Risk sharing is consistent with the idea of taking responsibility for one’s actions. Islamic law proscribes \textit{bay al dayn} (the sale of debt), as it entails a transfer of risk that amounts to a moral hazard. Risk transfer by contrast obliges one party to bear the burdens (risks) of another. By doing so, it creates a moral hazard, and may encourage recklessness. The need to share risk, on the other hand, restrains recklessness. Thus, risk sharing is fundamentally in accord with the teaching of Islam. Risk transfer is not.

Risk sharing in business is a way of taking collective responsibility for the outcome of a given investment. Risk sharing by partners in a business enterprise reduces the amount of risk faced by any one party.\textsuperscript{32} The greater is the number of partners sharing the risk the lower is the risk facing each partner. Partners can also offer advice to one another (\textit{nasiha}) on the most effective ways to reduce the risks facing their business enterprise. Consultation (\textit{shura}) should in turn enhance the level of trust among the partners.


\textsuperscript{30} Quran, 2:30.


When an investor takes on a single equal partner, he reduces his risk by fifty per cent. When three parties share the risk (equally) the risk is reduced by two thirds of what a singly party would have to bear. The greater the number of parties sharing the risk, the lower will be the risk facing each party. The amount of risk decreases as the number of partners sharing it increases.

Risk is a powerful deterrent. Investors are motivated by a hope of profits and restrained by the risks of losses. Thus, sharing risks promotes a balanced approach to investment. The possibility (risk) of suffering losses acts as a powerful incentive to investors to allocate resources wisely. Where investors feel there is little or no risk, they are more likely to commit resources on a scale greater than what is justified by a more accurate assessment of risks and the prospects of returns. Risk constitutes an important incentive for exercising due diligence, a *sine qua non* of an efficient allocation of capital.

One consequence of the underutilisation of risk sharing during the last 2008 global financial crisis was a misallocation of resources on a scale not seen before. This is evident in the millions of houses that were constructed in the US and financed by subprime mortgages. These houses have since been repossessed by financial institutions and are now being torn down due to dilapidation. Several trillion dollars have been wasted this way.

The need to face (share) risk filters out excessively risky investments. Ill-conceived projects are unlikely to attract funding. The fact that a given project is unable to raise funds by way of risk sharing shows that it should not be financed in the first place. Risk transfer by contrast produces an illusion of safety (low risk) and therefore a moral hazard. As a result of a false sense of security, investors may grow complacent and take progressively higher risks, while becoming oblivious to the larger systemic risks. As a consequence, “white elephant” projects may be financed, representing a significant waste of

33 Chapra, M. Umer *Towards a Just Monetary System*, The Islamic Foundation, 1985, p. 69.
resources that could have instead been used in socially useful ways.

**Benefits of risk sharing**

Risk sharing can be realised by entering partnership contracts.\(^{34}\) As partners, suppliers of capital share both risks and rewards with entrepreneurs.\(^{35}\) The terms on which capital providers supply investment funds to entrepreneurs depend on the type of partnerships they enter. A partnership can be active or passive. Where the investors actively participate in the running of the business, the partnership is known as a *musharakah*.

Partners share profits according to a pre-agreed ratio, but losses are shared in proportion to the capital invested. A partnership in which capital suppliers does not participate in the management of the business enterprise is known as *mudarabah* or profit-sharing partnership. Risk can also be shared by participating in a joint stock company. Investors are effectively owners of the business enterprise, and the share both profits and losses.

Different types of partnership issue different types of securities in exchange for investment funds. *Musharakah* partnerships issue sukuk *musharakah*. *Mudarabah* partnerships issue sukuk *mudarabah*. Conventional partnerships (joint stock companies) issue common shares. Participation in companies on the basis of shareholding is permissible under the Shariah because it requires investors to share not only profits but also the risks of business enterprise.

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Securities issued by partnerships are contracts between the providers of capital and its users, the entrepreneurs. The securities specify that in return for supplying investment funds, capital providers become co-owners, on a proportionate basis, of the profit generating assets or businesses. As co-owners, investors become entitled to a proportionate share of the profits generated by the assets or businesses. The first two types of partnerships are characteristically Islamic, while the third is used in both conventional and Islamic finance.

The activities of a *musharakah* partnership are governed by the *musharakah* agreement, which must include a detailed business plan. The agreement needs to be drawn up in such a way as to comply with the requirements of both the Shariah as well as the law of the country where the certificates are issued.

*Sukuk musharakah* are investment certificates that signify proportionate ownership in a pool of underlying assets, and the entitlement of the sukukholders to a proportionate share of the profits generated by those assets. Producing intoxicating

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38 The *musharakah* agreement must identify the *musharakah* partners, record the agreement of the partners to enter into the *musharakah* contract, specify the respective contributions of capital by the partners, identify the nature of the *musharakah* venture, specify the manner of profit and loss sharing, and provide details as to the dissolution date of the *musharakah*. Additional rights and obligations of the partners may be included, such as the frequency of payments, or the identity of the manager of the *musharakah* venture. N.a. *The Islamic Securities (Sukuk) Market*, Securities Commission Malaysia, LexisNexis, 2009, p. 23.
substances, pork, or providing services such as gambling is excluded.\footnote{A. Khaleq, Ayman H. and Todd Crosby, “Musharakah Sukuk: Structure, Legal Framework and Opportunities,” in Sukuk, Abdulkader Tomas, (ed.), Securities Commission Malaysia, Sweet and Maxwell Asia, Thomson Reuters, 2009, p. 197.}

Sukuk \textit{musharakah} are similar to ordinary or common shares, except that the sukuk certificates are issued for a specific period of time, while shares are issued without a maturity date. Both common shares and sukuk \textit{musharakah} can be traded in secondary markets.

The advantage of \textit{musharakah} is that partners do not go into debt. Another advantage is that they face no risk of default. Another advantage is that \textit{musharakah} partners are not obligated to pay dividends when no profits are earned. This is a major advantage of funding enterprise by \textit{musharakah}.


In the case of the \textit{mudarabah}, the capital provider (\textit{rabb al mal}) trusts another party, the manager (\textit{mudarib}) with faithfully discharging his duties and managing the entrusted capital to the best of his ability for the purpose of earning a profit.\footnote{Kapetanovic, Harun and Muhamed Becic “Mudharabah Sukuk: Essential Islamic Contract, Applications and Way Forward,” in Sukuk, Abdulkader Tomas, (ed.), Securities Commission Malaysia, Sweet and Maxwell Asia, Thomson Reuters, 2009, p. 226.}

For his efforts, the \textit{mudarib} gets a share of profits, according to a pre-agreed formula or ratio. This is his incentive for performing due diligence and investing wisely. The profit ratio is applied to profits earned rather than to the capital provided.
When the enterprise earns no profits, the *mudarib* is not rewarded.\textsuperscript{42}

As long as he acts in good faith, the *mudarib* is not responsible for any losses. All losses are borne by the capital provider. In case of wilful negligence or fraud, however, the *mudarib* becomes liable.

The capital provider is expected to leave the decision-making up to the managing partner, the *mudarib*. The *mudarabah* is typically set up for a specific period of time. Terms and conditions of the *mudarabah* partnership are set out in the *mudarabah* agreement, which is similar to the *musharakah* agreement, with some differences, however.\textsuperscript{43}

The advantages of *mudarabah* are similar to those of *musharakah*. The entrepreneur need not go into debt. This arrangement is suitable for parties where a capital owner may have neither the time nor the expertise to manage wealth, while the party capable of managing wealth has no wealth of his own to manage.

Common shares, also known as equity shares, likewise constitute risk-sharing securities. Shareholders become co-owners of the company that generates their profits. Their profits are proportionate to their shareholdings. Owners of common shares are not guaranteed any profits in advance. Because profits are not guaranteed, investors face risk. Effectively, they


\textsuperscript{43} The *mudarabah* agreement needs to identify the parties of the *mudarabah*, the capital provider (*rabb al mal*) and the manager (*mudarib*). It must also record their agreement to enter into the *mudarabah* agreement. In addition, it needs to state the purpose of the *mudarabah* and specify its date of dissolution. Moreover, the amount contributed by the *rabb al mal*, and the agreed profit sharing ratio should also be clearly specified. The agreement may also include an undertaking to re-purchase the *mudarabah* assets. All assets, however, can be repurchased only at the prevailing market prices. The amount to be paid for the remaining assets of the *mudarabah* cannot be determined in advance, as this would once again impart to the transaction a significant characteristic of loans, a guarantee of capital. N.a. *The Islamic Securities (Sukuk) Market*, Securities Commission Malaysia, LexisNexis, 2009, pp. 2127-128.
“share” the risks of the business enterprise with all other shareholders. They are paid dividends only when their companies earn profits.

When a company makes profits, shareholders benefit from any dividend payments and/or the appreciation of the value of their shares. The price of their shares, under normal conditions and over the longer term, generally reflects the addition of any retained profits to the assets of the company, thus increasing its net worth.\(^4^4\)

The total number of shares that a company is legally permitted to issue is known as “authorised capital.” The total amount of money that has been raised by selling shares to investors is known as “paid up capital.” In most jurisdictions, companies are legally permitted to issue new shares only in way that does not dilute the value of other shareholders.\(^4^5\)

Shareholders elect the board of directors, which in turn appoints the executives of the company to manage the company’s day-to-day affairs. All publicly traded companies need to hold annual general meetings (AGMs) and file yearly reports or financial statements. Privately owned companies are exempted from this requirement. Shares of publicly traded companies are traded on stock exchanges.

Common stocks are also known as “voting shares” or “ordinary shares.” Each common share certificate represents one share of the net worth of the company.\(^4^6\) The ownership of the

\(^{4^4}\) The net worth of the company is the difference between its total assets and its total liabilities.

\(^{4^5}\) Thus, executives would not be permitted to issues shares to themselves or other parties at a price that is lower than the weighted current average price of its shares. To issue such shares at a discount would be to dilute the value of the shares of the other shareholders.

\(^{4^6}\) The book value per common share is equal to the net worth of the company (total assets – total liabilities) divided by the total number of shares outstanding. This is not necessarily the same as the market price of the stock, which may be higher, lower, or equal to the book value of the stock, depending on market conditions and other factors.
productive assets entitles shareholders to a proportionate share of the company’s profits.\footnote{Over time, common stocks perform better than preferred shares as well as bonds, by a margin of 6% to 9% in real terms.}

In contrast to risk transfer, risk sharing has many benefits. The chief among these is that a partnership relationship required by risk sharing is more in keeping with the ethos of Islam than a creditor debtor relationship that characterises all forms of lending. Where risk transfer undermines the spirit of brothehood, risk sharing fosters it.

The fact that the payments of reward in risk sharing modes of financing depend on the performance (efficiency) of the enterprises being financed also results in a more efficient allocation of resources. It is also more in line with justice than a system where reward to investors are not linked in any meaningful way to the efficiency (profitability) of the enterprises they finance.

Partnership relationships do not introduce a win/lose relationship the way risk transfer strategies of risk management does. By spreading risk among a greater number of partners, another major advantage of risk sharing is that where risk transfer undermines systemic stability, risk sharing enhances it.

One reason why financial institutions hitherto may have shunned embracing profit and loss sharing partnerships more vigorously, apart from legal restrictions, may be the fact that the risks in financing business investment by risk sharing are perceived as simply too great. This is understandable. However, in light of the fact that current practice merely transforms individual risks into systemic risks, a way needs to be found that enables the participation of financial institutions in risk sharing, and the protection of depositors’ funds at the same time.
A solution may be found in offering “risk-free” accounts to depositors in the form of transaction (current) accounts for parties with a high aversion to risk, while offering a range of investment accounts to others who are willing to take risks in order to earn higher profits. Moreover, equity participation in industrial enterprise has been successfully practiced in some nations such as Germany, where financial institutions buy a stake in the very companies they finance with loans. This gives them the right to participate in the management of these companies, to the extent of their shareholding. It also gives them a powerful incentive to ensure that the businesses they finance become successful. Finally, few would dispute that financial institutions in Germany have proved themselves to be among the most stable in the world.

Conclusions and recommendations

The dominant paradigm of risk management has been severely tested in the last 2008 global financial crisis. It has shown itself to be wanting in many respects. Apart from magnifying systemic instability, it also caused a waste of resources on a scale not seen before.

The crisis of 2008 brought to light a number of anomalies, in the form of unwarranted assumptions. Of these, the view that the best way to manage risk is to transfer it to someone else, turned out to be perhaps the most damaging. Thus, it is necessary to adopt a new model or paradigm, one that is better equipped to meet the challenges presented new developments, such as the increasing financialization of economic activity. Such a model is available in the form of the risk-sharing paradigm. Thus, there is a need for a paradigm shift, from risk transfer to risk sharing.

The greatest disadvantage of risk transfer is that it does not permit risk sharing to take place. Thus, the many benefits of risk sharing – among them notably a more efficient allocation of resources as well as greater systemic stability – are lost when risk transfer methods of managing risk are used in preference
to risk sharing. Appropriate legislation needs to be passed to facilitate and reward the transition to risk sharing modes of financing and the corresponding phasing out of risk transfer.

Risk transfer reduces risks faced by some parties only by increasing them for everyone else, including taxpayers. The reason is that while risk transfer may reduce risks faced by some parties individually, it does so only by increasing the systemic risk all parties face collectively. In the case of a systemic crisis, even parties that might have been able to shoulder risks under normal circumstances are unlikely to do so under conditions of stress. When risk sharing is applied on a system-wide basis, the risk of a systemic collapse is reduced by the fact that a greater number of parties share the total risk. By obliging a greater number of parties to share risks, risk sharing disperses risks more widely than risk transfer.

From a social point of view, the most important benefits of financing investment by risk sharing comprise greater systemic stability and a better overall allocation of resources. Risk sharing ensures an efficient allocation of resources and a reduction of waste by providing investors with a powerful incentive – the risk of losses – to exercise due diligence. At the same time, by requiring a greater number of parties to share total risk, risk sharing enhances systemic stability. These constitute compelling reason for utilising risk-sharing contracts in preference to risk transfer modes of risk management.

• Banks and other financial institutions need to pay greater attention to systemic risks caused by risk transfer and apply risk sharing methods of financing more vigorously than has hitherto been the case.

• Inefficiencies in the allocation of resources caused by risk transfer also call for a reassessment of financing strategies.

• Financial securities need to be structured to share risk rather than to transfer it.
Leslie Terebessy

- A regulatory framework needs to be implemented that rewards and facilitates the issuance of securities that share risk rather than transfer it.
- Pilot projects could be organised to demonstrate the viability and benefits of risk sharing models.

Sukuk and bonds: a comparison

Introduction

On account of the prohibition of interest (riba), Islamic finance is generally considered – not only by Muslims – as more stable and equitable than its conventional counterpart.\(^\text{48}\) At the very least, financing on the basis of profit-and-loss sharing ensures that, unlike in conventional finance, no mismatch develops between the assets and liabilities of a financial institution as a result of poor performance or non-performance of any of its investments. The equilibrium or stability of the financial institution is assured because both sides of the balance sheet rise or fall in tandem. Any losses on the asset (investment) side of the balance sheet will be matched by an equal decrease in the liabilities (investors’ shares) of the financial institution. An additional advantage of financing on the basis of profit-and-loss sharing is that losses, if any, remain private. Unlike in conventional financing, there is no need in Islamic finance for costly bailouts using public (taxpayer) funds. This helps avoid adding to sovereign debt.

There are other benefits. The prohibition of interest in Islamic finance rules out making interest-based loans as well as trading in interest-yielding securities (bonds). The prohibition of interest protects people from having to pay back (in many cases

much) more than what they initially borrowed as a result of increases in debt due to interest charges. The prohibition of trading in debt (bonds) reduces unproductive speculation financed by interest-based debt significantly.

Financing on the basis of interest-based debt brings many disadvantages. Speculation in the financial markets only redistributes existing wealth and contributes little to the generation of new wealth. The elimination of excessive speculation in the financial sector, implied by the prohibition of interest-based loans, will free resources for utilisation in the real sector. Higher investment in the real sector means more jobs, stronger economic growth, a reduction in the pressure on prices to increase and a higher standard of living.

Interest-based debt adversely affects the real sector in other ways. Debt-based spending adds to inflation, eroding the purchasing power of currency. It increases the cost of living as well as of doing business. Spending financed by interest-based debt contributes to asset bubbles in the property, commodity and stock markets. Debt-financed growth takes place unevenly, in the form of boom and bust cycles.

The attendant social and personal costs of interest-based financing include large and growing levels of indebtedness, enormous burdens in the form of the need to service large debts, both personal as well as national, bankruptcies, and an uneven distribution of wealth. Deeply indebted businesses and households risk insolvency whenever expenses exceed income. The inability to pay debts on time necessitates debt restructurings and the repossessions of assets. A number of developed countries are experiencing difficulties paying off sovereign or quasi-sovereign debt.

It may well be worth to forego some of the (uneven) growth in return for greater stability, less debt and a more equitable distribution of income. A substantial decrease in speculation will lessen the swings of the boom-and-bust cycles, thereby enhancing overall stability.
From time to time, interest-based debt financing produces a massive waste of resources. The most recent evidence of this can be seen in the large surplus of empty houses in the US, a legacy of the construction boom financed by sub-prime mortgages. Many of these houses are now being torn down as a result of having become dilapidated due to being unoccupied for an extended period of time. Utilising alternative methods of financing, in particular profit and loss sharing contracts, can restrain overinvestment, provide more affordable financing, and reduce waste.

The need for ‘hedging’, used widely to justify speculation in the financial markets, merely transforms risks facing individual institutions into a collective or systemic risk facing all participants, in particular the taxpayers. The latter are routinely called upon to bailout overleveraged and poorly managed financial institutions unable to meet their obligations due to excessively risky ‘investments’, often made with depositors’ savings. The reduction of overleveraging for the purpose of speculation, implied by the prohibition of trading in debt, can be expected to contribute significantly to greater systemic stability.

During the recent economic and financial crisis, financial institutions borrowed heavily at low rates and purchased risky debt securities that offered – at least for a time – higher returns. This resulted in high debt-to-equity ratios for many institutions. The collateralised debt obligations (CDOs), purchased with borrowed funds were assigned AAA (investment grade) ratings, despite the fact that much of the ‘collateral’ backing a substantial portion of the CDOs consisted of subprime mortgages, an uncertain source of income under any conditions.

Dramatic rises in interest rates in the years leading up to 2007 caused widespread defaults in the adjustable rate subprime mortgages sector. Due to impaired cash flows from borrowers to creditors, rating agencies downgraded the CDOs. The downgrades triggered dramatic declines in their prices. Financial institutions were unable to sell the CDOs at prices
that would enable them to repay the money they borrowed to buy them in the first place.

In retrospect, the higher yields initially paid to the buyers of CDOs were dwarfed by the massive losses that resulted from the dramatic decline in their market values. Investment banks such as Lehman Brothers went bankrupt, while others nearly went bankrupt. The prospect of a systemic collapse became real. Only massive infusions of funds (bailouts) by central banks averted a domino-like financial collapse of institutions that have been allowed to become ‘too big to fail’ due to poor or non-existent regulatory oversight.

The progressively larger rescues of private institutions using public funds, however, by way of massive injections of liquidity to support institutions teetering on the brink of collapse under the weight of debt, sowed the seeds of the next round of inflation and the next, even bigger bubble, in a familiar cycle of boom and bust.

The most recent financial crisis (2007) inflicted less damage on Islamic finance than on its conventional counterpart, where losses by insolvent companies (and costs to the taxpayers including future generations) have been estimated in the trillions of US dollars. However, in light of some sukuk defaults and near defaults, there is now a significant “public

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49 This process is known as the ‘socialisation of losses’, as distinguished from the ‘privatisation of profits’.

scepticism concerning sukuk and the extent of the differences with conventional bonds”.

Some observers are concerned that the ‘conventionalisation’ of Islamic finance is gradually and imperceptibly eroding its distinctive character by assimilating it to, and making it more and more indistinguishable from, its conventional counterpart. This process is sometimes referred to as the ‘convergence’ of Islamic and conventional finance. One may ask, however, what is the point of having Islamic finance in the first place, if it is merely going to replicate its conventional counterpart, along with all the problems (including indebtedness and instability) that the latter brings in its wake?

While noting similarities between sukuk and bonds, this paper focuses on the differences between sukuk and conventional bonds. Contrary to some perceptions, important differences exist between the two. These differences arise out of the fact that (secured or risk-free) lending at interest differs in fundamental ways from investment that requires the entrepreneur to take risk in order to earn profit. The significance of the differences between sukuk and bonds goes beyond the structure of each instrument. The ways in which sukuk and bonds enable issuers to raise funds, and the ways in which the providers of these funds are rewarded for their respective contributions, have far reaching implications on society in general, and on how members of a given community will relate to one another, in particular.

**History of sukuk**

Early forms of sukuk were used as far back in Islamic history as the time of the caliph Omar. These sukuk entitled the bearer (typically a soldier) to collect a specified quantity of food (such as grain) at designated centres of distribution. The sukuk were marketable and were commonly traded at discounts. They were

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51 R. Wilson, ‘How expansive are the frontiers,’ in A. Thomas (ed.) *Sukuk* (Selangor: Sweet & Maxwell Asia, Thomson Reuters, 2009), p. 336.
directly exchangeable into a specific and intrinsically valuable asset, and they derived their value from the asset backing the sukuks, normally a specified quantity of a given commodity. When a person bought an asset-backed certificate of this type, he purchased not only the certificate, but also the underlying asset backing the certificate. If the sukuks were not exchangeable into the asset backing them, they would lose their value. These were the earliest examples of what we would today call ‘asset-backed’ sukuks.

The issuance of sukuks was spurred over the last few decades by the need to finance large infrastructure development in Muslim countries, including the construction of highways, ports, airports, universities, hospitals, power generating stations, distribution grids, telecommunication networks, railroads, housing, clean water supply as well as drainage facilities. The need to tap Islamic funds generated by the sales of oil in the Middle Eastern and other resource-rich Muslim countries contributed to the growth of the sukuks market. As Muslims are not permitted to issue, buy or sell interest-bearing securities, there was a need to find a way of raising and investing funds in the capital markets that would dispense with the need to pay or earn interest. This need was met by sukuks.

In Malaysia, sukuks made their first appearance in the early 1990s. They were known as Islamic Debt Securities (IDS). These included the murabaha sukuks in the form of the BBA (Bai’ Bithaman Ajil, deferred payment sales). Additional types of sukuks appeared after 2000. These included istisna, salam, ijarah, and intifa’. The IDS remained the most common type of sukuks up until 2004, when the market saw the emergence of

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53 According to one view, “sukuks started as the Islamic alternative to bonds or debt securities.” See Securities Commission Malaysia, The Islamic Securities (Sukuk) Market (Selangor, LexisNexis Malaysia), 2009, p. 16.
55 A forward variant of the ijarah contract.
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participatory sukuk such as the mudarabah and musharakah, as well as sukuk exchangeable or convertible into common shares.

By 1996, total sukuk issued in Malaysia amounted to RM2.3 billion. This rose to RM5.2 billion in 1997. There was a slowdown in the issuance of sukuk in 1998 and 1999 due to the Asian financial crisis. In 2000, total sukuk issued rose to RM7.6 billion, rising to RM13.2 billion in 2001. By 2003, the total amount of sukuk issued in Malaysia was RM 70 billion. By 2006, the total amount of sukuk outstanding grew to RM105.2 billion. By 2007 it stood at RM135.8 billion. As of September 2008, just before the recent financial crisis, the total outstanding sukuk stood at RM146 billion. In 2009, total sukuk issuance in Malaysia was RM32 billion. In 2010, sukuk issuance in Malaysia fell 30% from 2009 to RM22.4 billion. By the end of September 2011, sales of sukuk in Malaysia totalled RM 19.3 billion. By the end of July 2011, Malaysia had RM350 billion (US$112.3 billion) of sukuk outstanding, or 62.7% of the world’s total. “Bursa Malaysia’s total sukuk listings amount to US$27.6 billion, comprising 19 sukuk listed by 17 issuers, three of which are foreign issuers.”

Global *sukuk* issuance increased from slightly more than US$5 billion in 2001 to a record of US$32 billion in 2007.\(^\text{61}\) In 2008, issuance declined to US$14.9 billion.\(^\text{62}\) It rose again to US$24.7 billion in 2009.\(^\text{63}\) In 2010, global *sukuk* sales amounted to US$15.3 billion.\(^\text{64}\) By the end of July 2011, they reached US$18 billion.\(^\text{65}\) Most of the issues were sovereign (government) or quasi-sovereign (government-linked). The total amount of *sukuk* outstanding globally by the end of September 2011 was US$130 billion, of which 60% has been issued by Malaysia.\(^\text{66}\)

In 2002, Malaysia launched the world’s first US-dollar denominated sovereign issue of *sukuk ijarah*, worth US$600 million, with a five-year tenor.\(^\text{67}\) In 2003, Qatar followed with its own *sukuk ijarah* worth US$700 million. In the same year the Islamic Development Bank issued US$400 million worth of *sukuk istithmar*. In 2004, Dubai Civil Aviation issued US$1 billion of *sukuk ijarah*. 2005 saw the Emirates Airlines issue US$550 million of *sukuk musharakah*. In the same year Pakistan issued US$600 million worth of *sukuk ijarah*. In 2006, Khazanah Nasional of Malaysia issued the first tranche of

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\(^{66}\) Permatasari, ‘Malaysian sukuk may rebound’.

\(^{67}\) The lead arranger was HSBC Amanah. See Z. Anwar, ‘The emerging Islamic capital market’, in Thomas (ed.), *Sukuk*, p. 3.
US$750 million exchangeable sukuk musharakah. In the same year, PCFC and Nakheel issued US$3.5 and US$3.52 billion of sukuk musharakah and ijarah, respectively. In 2007, Al Daar Properties issued US$2.35 billion of mudarabah convertible sukuk. In the same year, Daar International issued US$600 million of ijarah sukuk. Khazanah Nasional of Malaysia issued its second tranche of musharakah exchangeable sukuk of US$750 million in 2007. In the same year, Malayan Banking issued US$300 million worth of sukuk. In 2009, Petronas of Malaysia issued US$1.5 billion of sukuk ijarah. In 2010, after a hiatus of eight years, Malaysia issued US$1.25 billion sovereign sukuk ijarah with a five-year maturity period. The sukuk yield 3.928% returns per annum. In 2011, notable issues included the RM600 million issue, the first tranche of a RM3.5 billion programme that ends in 2016, by Kuwait-based Gulf Investment Council (GIC). The sukuk were structured to yield 5.25% per annum. In the same year, Malaysia issued two tranches of sukuk wakala. The first was a US$1.2 billion five-year tranche yielding 2.99% per annum, and a US$800 million ten-year tranche yielding 4.65% per annum. Top originators currently include Nakheel, PCFC, Aldar Properties,

68 Securities Commission Malaysia, Islamic Securities (Sukuk) Market, p. 22.
69 ‘Malaysia’s Islamic capital market on road to recovery’, Sukuk.me (7 September 2009), <http://www.sukuk.me/news/articles/28/Malaysias-Islamic-capital-market-on-road-to-reco.html>.
71 The Royal Bank of Scotland Bhd (RBS) was the principal advisor and arranger of this issue, its third in Malaysia. See ‘GIC launches RM600m sukuk in Malaysia’, MyShare2u, Bursa Malaysia News Blog Archive (3 March 2011), <http://www.myshare2u.com/bursamalaysia/gic-launches-rm600m-sukuk-in-malaysia>.
DP World from UAE, SABIC from the Kingdom of Saudi Arabia, and Nucleus from Malaysia. Together these originators have issued about 31% of total world sukuk.\textsuperscript{73}

**Conventional finance**

Financing is the process of raising funds to pay for a given asset or an investment. The need for financing is experienced in all sectors of the economy. Few governments, businesses, or households have the funds to finance expenditures as and when necessary.

At any point in time, some parties possess surplus capital, while others experience a deficit. Those with excess (surplus) savings are generally willing – for a reward – to make those funds available to parties in need of financing.

The transfer of capital from those with a surplus of funds to those facing a shortage takes place by means of securities. A ‘security’ is similar to a receipt with various terms and conditions attached. It is a legally enforceable contract that stipulates the rights and obligations of the counterparties.

Parties in need of funds issue (sell) securities, while parties with surplus funds buy (subscribe to) them. Some securities are used for raising funds, while others are used for hedging (risk-reduction) purposes. The former includes shares, sukuk and bonds. The latter comprise futures, options, warrants, as well as interest-rate and credit default swaps.

Conventional finance utilises two types of securities for raising funds: common (ordinary) shares and bonds. Shares enable issuers to raise capital in the form of equity, while bonds enable issuers to raise capital in the form of loans (debt). Shares and

bonds come in a number of different forms, depending on the specific features incorporated into a particular structure.\textsuperscript{74}

Shares and bonds are traded in the share and bond markets respectively. Trading of shares in effect represents the trading of companies, while the trading of bonds represents the trading of debt. Prices of securities fluctuate according to market conditions.\textsuperscript{75} Because they are convertible into cash, shares and bonds are “liquid” securities.\textsuperscript{76} Currently, the size of the global bond market is US$82 trillion. By contrast, the size of the global share (stock) markets stands at US$44 trillion: “the world bond market exceeds the world stock market in size by a factor of nearly 2 to 1.”\textsuperscript{77}

While shares and bonds facilitate the channelling of surplus funds (savings) to those parties that experience a shortage of capital, they do so in fundamentally different ways. The different ways in which they do so in turn have different social implications.

**Shares**

Companies raise funds in the share market by inviting parties with excess savings to become shareholders in the issuing company. The “invitation” takes the form of an initial public offer (IPO) of shares, described in a prospectus (business

\begin{itemize}
\item \textsuperscript{74} Preference or preferred shares constitute a hybrid between bonds and shares. Preference shares pay fixed returns, characteristic of bonds, out of profits, a source of dividend payments to ordinary shareholders.
\item \textsuperscript{75} Share markets are also known as ‘stock’ or ‘equity’ markets, while bond markets are also known as ‘credit’ or ‘fixed-income securities’ markets.
\item \textsuperscript{76} The share (or stock) market is a market for the buying and selling of companies. The bond market is the market for capital.
\item \textsuperscript{77} ‘World stock and bond markets and portfolio diversity’, *Asset Allocation Advisor* (15 November 2009), <http://www.ohio.edu/people/prevost/FIN%20443/Chapter%201%20and%202/world_stock_and_bond_markets_nov2009.pdf>.
\end{itemize}
In exchange for share capital, investors become part owners of the company. As owners of the company, shareholders become responsible (liable) for its actions. This liability is normally limited to the amount that they have invested in the company. They bear the risks, on a proportionate basis, of their company’s activities. As such, they become eligible for a proportionate share of the profits, when profits are earned. They also become responsible for bearing losses, if any. The rewards or losses, if any, of the shareholders depend on how well they can manage their company. Good management generally brings profits; poor management generally results in losses. Thus, participating in business activity by investing in common shares maintains the link between responsibility and reward.

Each share certificate entitles a shareholder to one share of the total profits in the course of a given accounting period. In case of a bankruptcy of the company, the ownership of each share entitles the shareholder to one share of the net assets of the company (shareholders’ equity or the difference between total assets and total liabilities).

As owners of the company, shareholders are responsible for overall management. Shareholders elect representatives – members of the board of directors – at shareholder meetings. The board of directors in turn appoints the executive officers (day-to-day management). The management reports to the board of directors and the board of directors reports to shareholders. It is common for senior executive officers, as well as large shareholders, to be on the board of directors. This facilitates communication between the shareholders and the management of the company.

In order to earn profits, shareholders are required to share risk with other owners of the company. It is a basic characteristic of business activity that neither profits nor investors’ capital are guaranteed. All shareholders face the risk that the company

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78 Shares can also be placed (sold) privately (over the counter), without going (public) to the share market.
may fail to earn profits, or that they may lose their investments in toto. Risks of losses, however, are balanced by the possibility – and in the case of well-managed enterprises the probability – of earning profits. This is in keeping with the principle, “the earning of gain is justified by taking risk.” Profits are expressed as an x number of dollars and cents per share, not as an x number of per cent out of the total amount invested.

The risk of losses provides a strong incentive to investors to exercise due diligence before and after committing funds. Once funds are committed, investors need to participate on an ongoing basis in their company. The exposure of the investors’ capital to risk helps to ensure that only promising business plans will secure funding. This contributes to a more efficient allocation of resources and a reduction of waste. Efficiency – in the sense of supplying the required quantity and quality of products and services – is rewarded with profits. Inefficiency – providing products or services in excess of what is demanded by the market – is likely to result in losses.79

Investors share profits and losses on a proportional basis. Those who invest more become entitled to a greater share of the profit than those who invest less. Sometimes a part of the profits is retained for future investment. Shareholders do not lose if a company does not distribute dividends. Retained profits strengthen share prices and shareholders benefit from capital gain.80 The possibility of capital gain provides an additional incentive to investors to invest in shares.

Ordinary shares, unlike bonds or loans, do not come with income and capital guarantees. In particular, they do not come with ‘maturity’ dates. They do not require issuers to refund to investors their capital on a date specified in advance. This means that issuers of shares, unlike those of bonds, are not

79 Providing goods and service that are in demand by society is macro-economic (social) efficiency.

The micro-economic (business) meaning of efficiency is producing a product or service with the least amount of input (at the lowest possible unit cost), without sacrificing quality.

80 This assumes that share prices reflect company performance accurately, which need not always be the case.
under pressure to ensure that they have enough money return to investors their capital on the specified date. If investors wish to liquidate their investments, they can do so by selling their shares in the secondary market.

The prices investors may obtain in the secondary market may be higher or lower than what they originally paid for the shares, depending on how well or poorly the company has performed. If the company performed well – and no significant market failure (such as insider trading or share price manipulation) influenced share prices – it is likely that shareholders will obtain higher prices than what they initially paid. If the company performed poorly, it is unlikely that shareholders would obtain more than what they originally paid.

In order for investors to buy shares, they need to have the confidence that their investments are well managed. This requires good corporate governance, transparency, a sound regulatory regime and a level playing field. Tax laws that allow companies to treat interest payments as expenses, for example, put issuers of equity (shares) and equity-type instruments at disadvantage vis-à-vis issuers of bonds.\(^{81}\) Such laws provide an incentive to companies to raise capital in the form of debt, rather than equity. When tax laws are amended to create a level playing field between debt and equity, the issuance of equities and equity-like instruments can be expected to increase.

High ethical standards are required of all stakeholders to maintain interest in, and the credibility of, equity financing. This requires transparency and accountability in all corporate and regulatory matters. Shareholders may shy away from equities when they see the value of their shares diluted on account of insider trading, fraud, violation of minority shareholders’ rights, misalignment of the interests of executives and shareholders, conflicts of interest or opaque transactions.

\(^{81}\) Treating interest payments as expenses reduces the taxable income of companies that raise capital in the form of loans. Such laws discourage companies from raising capital in the form of equity.
Bonds

When issuing shares does not appear to be a viable option, conventional businesses may borrow. Businesses borrow to finance expansion, pay off debts, or raise working capital. They can borrow either by taking out bank loans or by issuing bonds.

A bond is an IOU (I owe you) or a written promise (contract), issued by a borrower to a lender. The IOU is issued in exchange for a sum of money (loan). The borrower promises to pay back the *principal amount* of the loan, along with an *extra amount* (interest), on a specified date in future (maturity). The extra amount constitutes the incentive for parties with excess savings to make their funds available to those who experience a shortage. The exact amount of interest, the magnitude of each repayment and the date on which the principal needs to be repaid are all *specified in advance*.

Unlike shareholders, bondholders know beforehand how much they are going to receive, when they are going to receive it, and when the principal amount of the loan will be returned to them. Unlike shareholders, bondholders receive rewards that have been determined and agreed upon in advance and therefore do not depend on the uncertainties (risks) of business enterprise. The fact that rewards paid to creditors are determined without any reference to the performance of the business they help to finance means that they are shielded from the risks facing those businesses. In other words, creditors do not share the risks faced by the enterprises they finance. It is for this reason that interest-based (collateralised) bonds are ‘risk shifting’ rather than ‘risk-sharing’ contracts. The terms of the interest-based loan contract ensure that all risks remain with the borrower. The fact that creditors are paid rewards that are independent of the performance of the businesses they finance also means that there is no meaningful link between the magnitude of the interest payments paid to creditors and the efficiency of the businesses they finance. For this reason, interest-based financing, unlike equity financing, is at odds with a fundamental principle of the free enterprise (capitalist)
economy, which is that reward needs to be linked to performance (efficiency).

As a result of having both their income as well as capital guaranteed, bondholders face little uncertainty (risk) compared to buyers of common shares. Unlike shareholders, bondholders do not play an active role in, nor take responsibility for, how the funds they provide in the form of loans are utilised. The responsibility for the use of the funds (with the corresponding risk) rests squarely on the shoulders of the borrowers. Secured lenders earn (interest) income solely for the service of providing a given amount of capital over a given period of time.

Bondholders invariably make their capital available to issuers on a temporary basis. They are legally obliged to return capital to creditors on a date or dates specified in advance. The amount of interest is expressed as a fraction (percentage) of the total amount borrowed. Interest is paid on a periodic basis: annually, semi-annually, monthly, or daily, depending on the terms of a particular agreement. The difference between ‘nominal’ and ‘real’ interest rates is due to inflation. If, for example, the inflation rate is 5% per annum, and the nominal rate of interest is 8%, the real interest rate is 3% \((8 - 5 = 3\%\)). Historically, real interest rate have been relatively constant in the longer term at about 3%.

Businesses issue bonds with the help of ‘underwriters’ or investment banks. The underwriting institutions, which initially buy the company bonds, resell them to parties interested in ‘fixed-income’ instruments such as pension funds, insurance companies, and some individuals. Banks retain bonds they are unable to sell on their own books. Privately placed bonds are sold directly to buyers without the assistance of financial intermediaries. Private placements are cheaper, because borrowers save on fees to investment banks for arranging and underwriting services.

Bonds are issued (sold) in primary markets and traded in secondary markets. A limited number of bonds, mainly those issued by corporations, are listed on exchanges. Most bonds
are traded over the counter (in a decentralised manner) or directly between broker-dealers and financial institutions. Participants in the bond markets include investment banks, hedge funds, insurance companies and pension funds. Buyers may be local or foreign.

Bonds are classified according to maturity, risk, liquidity, and whether they are secured or not. Bonds issued by corporations are known as ‘notes’ or (commercial) ‘paper’. Bonds can be of a long-term, medium term, or short-term nature. Long-term bonds range from 12 to 30 years, medium term bonds (notes) are issued for a period of 1 to 12 years, while short-term bonds, known as ‘bills’ or ‘money market instruments’ mature in less than one year.\(^\text{82}\)

Bond prices vary inversely with interest rates. When interest rates fall, bond prices rise. When interest rates rise, bond prices fall. This is known as ‘bond market volatility’. When bonds are traded at above their nominal (par) value, it is said that they are traded at a premium. When they are traded below their nominal value, it is said that they are trading at a discount. The market price of a bond in a secondary market is the *present value* of the future payments by the issuer to the bondholder, calculated at the current interest rate.\(^\text{83}\)

Returns on bonds are directly related to risk. The main risk facing bondholders is the risk of default. As risk rises, so does the yield. High-risk (and high-yielding) bonds are known as

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\(^{82}\) S Mokhtar et al., *Sukuk and the capital markets*, in Thomas (ed.), *Sukuk*, pp. 18-19.

\(^{83}\) The concept of present value can be understood by asking how much investment would one need to make in order to obtain all the future payments paid by a bond issuer, given the prevailing (equilibrium) rate of interest? Suppose the face value of a bond that matures in one year is $1,000.00. Assume next that the prevailing market interest rate is 8%. The present value of this bond will be \(x = 1,000/1.08\), which is equal to $925.92. Thus, the present value of a $1,000.00 bond that matures in year, given that the market interest rate for bonds with comparable risk profiles is 8%, is $925.92. This means that an ‘investment’ of $925.92 will bring returns equal to $1,000 – 925.92 = $74.07. The latter amount ($74.07) represents 8% of $925.92.
“junk bonds.” The risk of default can be mitigated by requiring borrowers to post collateral or security. Creditors can also mitigate the risk of default by purchasing credit default swaps, a form of ‘insurance’ on debt.

**Shares and bonds**

A major difference between fixed-income securities such as bonds and risk-sharing securities such as shares is that bonds come with legally binding income and capital guarantees while shares do not. This means that, in the context of risk sharing, the possibility of default simply does not arise. Issuers of common shares are under no legal obligation to ‘guarantee’ either profits or investors’ capital. The amount of profit paid to shareholders or partners by issuers of shares or equity like instruments is at the discretion of the issuers. No such discretion is available to issuers of debt or debt-like instruments. They have no choice in how much they will have to pay to creditors during any particular accounting period, as these amounts (as well as repayment dates) are commonly specified and contractually agreed upon by both parties in advance.

Raising funds in the form of conventional loans effectively obliges borrowers to promise contractual certainty on the basis of operational uncertainty. Parties that raise funds in the form of debt rather than equity are obliged to make specified payments at agreed upon times regardless of the profitability of the assets that they invested in using the borrowed funds, and regardless of the market conditions prevailing at any particular time. This means that borrowers are legally obliged to keep up interest and principal repayments even when the productive assets invested in using the borrowed funds experience losses.

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84 For this reason investors should beware of ‘high-yielding’ portfolios, as these are as a rule produced only by high-risk issues, where the risk of default on the repayment of the principal amount is high.
The need to guarantee both interest as well as principal means that should borrowers fail to make a promised payment on time, they will be in default. This may result in legal action against borrowers by creditors. The failure of a borrower to make a payment on time entitles lenders to seize whatever assets may have been pledged as collateral and possibly force borrowers into bankruptcy. The possibility of default thus puts borrowers under considerable pressure to ensure that their enterprises will earn sufficient profits to service the loans at all times.  

It is, therefore, hardly surprising that businesses that meet their financing needs by borrowing have a higher rate of failure than businesses that obtain financing by issuing profit and loss sharing instruments: “the probability of bankruptcy and financial distress are increased when debt-based financing is used.” This is in sharp contrast to issuers of common shares, who are under no legal obligation to pay profits to shareholders (dividends) when no profits have been earned. Thus, financing with the help of profit-and-loss sharing instruments, such as common shares, is more conducive to the success of the firm in the longer term, as such financing does not require issuers to make payments to the providers of capital even when the businesses financed by them experience losses.

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85 Some recent examples of well-known insolvencies include Enron, WorldCom, Global Crossing, Barings, Drexel Burnham Lambert, Long Term Capital Management and General Motors, whose debt of US$453 billion was downgraded to junk status in 2005. See A. Pettifor, *The Coming First World Debt Crisis* (Basingstoke: Palgrave Macmillan, 2006), pp. 10-13. Other companies that had to be bailed out, bought over or went into bankruptcy following the 2007 financial crisis included Fannie Mae, Freddie Mac, Countrywide Financial, Lehman Brothers, Merrill Lynch, Bear Steams, Northern Rock and AIG.


87 “In bad times, interest payments must continue at the same rate, while equity-based payments are reduced.” Ibid.
Interest and profit

The Arabic *riba*, translated into English as interest or usury, literally means ‘extra’ or an ‘addition’. Interest is an extra amount of money, paid by borrowers to creditors in addition to the repayment of the principal amount of a loan. *Riba* or interest is prohibited in the Quran:

> Those who swallow usury cannot rise up save as he ariseth whom the devil hath prostrated by (his) touch. That is because they say: Trade is just like usury; whereas Allah permitteth trading and forbiddeth usury.⁸⁸

In a conventional loan, a given amount of money is exchanged for another, larger amount. The larger amount is invariably delivered (paid) in future. In other words, an interest-based loan is a sale of a given amount of money for more money. The difference between the two amounts is interest (and a specified period of time). Since the total amount of interest paid by a borrower to a creditor over the lifetime of some loans (e.g., those extended to finance the purchase of houses) can be several times higher than the principal amount of the loan, the two amounts of money exchanged (counter-values) can be radically unequal. One can hardly help wondering about the fundamental justice or fairness of a transaction in which one party gives up so much and the other so little. Under normal conditions no one would willingly give up something of much greater value for something of much lesser value. Entering a contract with terms skewed so dramatically in favour of creditors hardly appears to be in the interest of borrowers.

*Riba* prohibited in the Quran is known as *riba al nasiha*. *Riba* mentioned in the prophetic traditions is known as *riba al fadl*. The latter is the excess (extra) value obtained by one party in a trade where assets (rather than money) of significantly unequal value are exchanged. The transaction can take place on the

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⁸⁸ Quran 2:275, trans. M. M. Pickthall.
spot or on a deferred basis. The party receiving the greater value in a transaction gives up a lesser counter value (‘iwwad) than the counterparty. The fact that two considerably unequal values are exchanged once again raises questions about the justice of this type of exchange.

The Prophet (Peace be upon him) stated that, “hardship shall be alleviated.” Interest-based lending, however, does not alleviate hardship. On the contrary, it increases it. Interest-based lending forces debtors unable to maintain payments deeper into debt, sometimes resulting in the wholesale indebtedness of families, communities and even nations. Compound interest, or interest on interest, increases the magnitude of debts at an exponential (accelerating) rate. It can multiply the original amount of the loan to the point where the debtor may be unable to repay it: “O ye who believe! Devour not usury, doubling and quadrupling (the sum lent).”

Great financial burdens have caused much harm, and continue to cause harm, to families as well as nations. The Quran says that people in difficulty should be given more time to settle their obligations. Indeed, the Quran recommends foregoing even the principal amounts by way of charity: “if a debtor is in want, give him time until his circumstances improve; but if you forego (the debt) as charity, that will be to your good, if you really understand.”

The difference between interest and profit arises from the fact that they are earned in fundamentally different ways. Interest is earned in the context of lending while profit is earned in the context of trading. Profit is earned by taking risk, while interest in (collateralised) lending is earned in a risk-free (guaranteed) manner.

Interest-based lending is generally extended only to parties able to post sufficient collateral. In other words, those who need help the most – the poor – do not qualify for loans due to their inability to post collateral. The value of the collateral is normally

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89 Quran 3:130, trans. M. M. Pickthall.
90 Quran 2:280, trans. A. Ali.
equal to or greater than the amount of the loan. In the event that a borrower obtains a loan and is unable to pay it back, the creditor is legally entitled to take possession of the asset pledged as collateral. By selling the collateral, the creditor is able to recover the value of the loan. In other words, the requirement for the borrower to post collateral eliminates the risk of non-repayment to the creditor.

Those unable to post collateral will be ineligible for loans. "Potentially very good investments would be passed up if the investor does not have enough collateral to guarantee repayment in case of an unfavourable outcome." Start-up businesses may find it difficult to obtain bank financing due to their limited ability to post collateral. "The current collateral-based system for financing business effectively locks the poor out of participation..." By withholding funding from start-up businesses due to inability to post collateral, conventional lending institutions contribute little to facilitating innovation in business enterprise.

The (secured) lender takes little risk in making his capital available for a period of time to a borrower. He does not make any contribution beyond providing capital, such as management expertise, to ensure the success of the business he finances. It has been argued that "reward should only be given for productive behaviour." In what sense, however, does risk-free (collateralised) lending of money at interest, which does not require the lender to take any responsibility for the outcome of the business enterprise he finances, qualify as productive behaviour that merits being rewarded? The entrepreneur, in contrast to a lender, has to take risk to earn profit. He needs to take full responsibility for the on-going management and therefore the outcome of the business enterprise. The entrepreneur has no guarantee that he will earn a profit, or

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91 In consumer finance, the collateral is usually provided by the very item that is purchased using the borrowed funds, in most cases a house or an automobile.
92 Zaman & Zaman, ‘Interest and the modern economy’.
93 Ibid., p. 71.
94 Ibid., p. 72.
even that he will be able to recover his capital. There is a direct correlation between the effort he makes and the reward he earns.

Entrepreneurs who qualify for loans can maintain loan repayments only as long as their businesses generate profits at least equal to, or greater than, the payments they need to make to repay their loans (interest plus loan). When profits fall below the level necessary to service loans, businesses may fail due to defaulting on their loan repayments. Creditors may force such businesses into bankruptcy. This can happen despite the fact that the business is still making profits, albeit insufficient to cover loan repayments.

This means that conventional lending can force even profitable businesses into bankruptcy. By contrast, this cannot happen to businesses financed by means of profit-and-loss sharing. They should be able to survive periods of low profits as long as contributing partners have the commitment to see their business through difficult times. This means that, on the whole, the prospects of success and long-term viability of enterprises financed on a profit-and-loss sharing basis are better than those financed by debt.

In collateralised lending the lender’s main concern is the protection of capital. In the vast majority of interest-based loans, debtors are required to provide capital and interest guarantees. Once the debtors commit themselves to guarantees, missing a payment constitutes ‘default’, which, from a legal point of view, constitutes a breach of contract. The creditor becomes entitled to claim the collateral posted and even force the debtor into bankruptcy.

While the main objective of lenders is capital protection, the main objective of entrepreneurs is the success (profitability) of the project being financed. The interests of the lenders and the entrepreneurs are thus not fully aligned. Secured lenders have little incentive, for example, to share information with their clients. The clients (borrowers) thus benefit little from the knowledge and expertise of bank officials:
Under conventional interest-based financing backed up with collateral, the bank has no real incentive to share its information – it is guaranteed a fixed return in any case. In the Islamic system, the return to the bank depends on the return to the investor and hence the bank will have great incentive to ensure that the new investor has the best possible information for planning.\textsuperscript{95}

By contrast, the interests of investors on a profit-and-loss sharing basis and the entrepreneurs utilising the investors’ funds are closely aligned. The counterparties share a common interest: to see to it that their (commonly owned) productive assets become and remain profitable.

**Social implications**

The way of life of a community imparts to it much of its character. A community, much like an individual, is made better by lawful activities and made worse by illegal ones. Lawful activities generate legitimate income, while illegal activities produce unlawful income. The Quran bids the believers to pursue only permitted (\textit{halal}) activities and to abstain from forbidden (\textit{haram}) activities. Trading (\textit{bay‘}) is permitted but lending at interest (\textit{riba}) is prohibited. Trading requires channelling resources into the provision of useful goods and services. By requiring people to pursue only lawful activities, Islam strengthens the community and helps to protect it from disintegration.

The ways in which people earn their sustenance introduce – as well as reinforce – different relationships among members of a given community. This applies no less to the earning of interest from lending, and to the earning of profit from trading. In business, profit depends on the skill and diligence of the trader. There is a link between effort expended and reward earned. In

\textsuperscript{95} Ibid., p. 72.
lending, as distinguished from trading, no meaningful link exists between effort expended and reward gained. For this reason, interest-based lending is inconsistent with justice, which requires that reward depend on, and indeed be proportionate to, effort (productivity).

Islam encourages sharing. This includes the sharing of risks as well as rewards, of profits as well as losses. The form of business enterprise best suited to enable sharing is the partnership. Trading and investment carried out by partnerships have many advantages. Partners can pool their resources and in this way increase the amount of capital at their disposal. They can also benefit from each other’s knowledge. Partners agree to share good times and bad, profits and losses. They have a common interest, the success of their business enterprise. Because profit and loss sharing contracts enable the sharing of profit, they contribute to a more equitable distribution of wealth. For this reason, partnerships are better suited for the realisation of the social objectives of Islam, in particular the alleviation of poverty and a higher quality of life:

Islamic finance is constructed upon the principle of brotherhood and cooperation, which stands for a system of equity-sharing, risk-sharing, and stake-taking. It promotes such sharing and cooperation between the provider of funds (investor) and the user of funds (entrepreneur).  

By contrast, sharing is conspicuously absent from relationships that one finds between creditors and debtors. Creditors generally remain aloof from the challenges (including risks) facing debtors, and are more concerned with timely payments


of loans and the preservation of their capital than with the success of the business enterprises they help to finance. The interests of the counterparties in a creditor/debtor relationship seldom coincide. There are exceptions, however.

European and Japanese banks, unlike their UK and US counterparts, often take equity interest in the enterprises they finance. The practice of the former is more in line with the Islamic worldview than that of the latter, as the banks take some risk by becoming shareholders of the businesses they finance. By doing so, banks have a strong interest in ensuring that the enterprises they finance (their clients) become successful. Thus, the interests of banks and the businesses they finance are more closely aligned.

Conventional financial institutions generally lend on condition that borrowers provide income and capital guarantees to lenders. These conditions ensure that wealth remains, and indeed over time increases, among the well-to-do. Income and capital guarantees ensure that the amount of capital that ‘trickles up’ in the form of loan repayments over the longer term will always be greater than any amount that may have ‘trickled down’ in the form of loans in the shorter term. For this reason, the use of interest-bearing bonds widens the gap between the rich and poor, and therefore fails to advance the social objectives of Islam, in particular an equitable distribution of wealth.

Making loans at interest is characteristic of a society where man is seen as an individual with few, if any responsibilities to his fellow man or to the larger community. In such a society, characterised by individualism, each person pursues his self-interest. A member of such a society is fundamentally indifferent to the fate of the ‘other’. He views life as a ‘war of all against all’ in which any party can win only if another loses. There is little that members of such a community have in common. Islam, by contrast, envisions a society whose

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99 Cf. Quran 7:59.
members have a common interest and even share a common destiny. It envisions an inclusive social structure in which no one lives outside the community. It is for this reason also that Shariah supports partnerships, rather than creditor/debtor relationships. Partnerships unify communities; creditor/debtor relationships divide them.

Borrowing establishes and reinforces different relationships among counterparties than business partnerships. Debt is a legally enforceable contract between one party (debtor) and another (creditor). Going into debt means that the borrower becomes beholden to the creditor. Debt effectively places the debtor in a position of service to the creditor, for as long as the debtor has to service the loan. Thus, being in debt represents a form of servitude. The need to repay debt reduces the borrower’s disposable income and his standard of living. It also limits his ability to participate in other activities, at least until the debt is repaid. With high interest rates this can take a long time.

Being in debt can be demoralising. A heavy burden of debt can reduce an indebted person’s confidence. A drop in the confidence level in turn may make it difficult for the indebted person to succeed. Paying off debt entails additional hardship when compound interest (interest on interest) is added to the loan. If the debtor is unable to pay the full amount of interest, he or she will slide deeper into debt. Such debt may become impossible to repay. The person may fall into and remain in a debt trap.

Going into debt entails risking one’s reputation. In case the debtor fails to repay a debt or to repay it on time, he would have broken his word. The failure to keep one’s promise brings disgrace. It may expose the defaulter to ridicule, contempt, blacklisting and other forms of social ostracism. Islam, while placing a high value on keeping one’s promises, also places a

\[\text{100 It may also result in a damaged credit rating, or in being blacklisted.}\]
high value on dignity.\textsuperscript{101} It requires Muslims to protect their dignity and to refrain from violating that of others.\textsuperscript{102}

A relationship among partners requires more trust (\textit{amanah}) than a relationship that obtains between creditors and debtors. The insistence on income and capital guarantees betrays a lack of trust by creditors in borrowers. Guarantees protect creditors from a possible failure by borrowers to repay their debts as promised. Partners, by contrast, have confidence in one another – and may even become friends – something that rarely takes place in creditor/debtor relationships. Indeed, many a friendship has come to end when a debtor failed to repay to a creditor. Friendship among partners, by contrast, need not terminate when partners suffer a loss, as they suffer it \textit{together}. Indeed, friendship among partners may grow stronger as a result of a loss because the loss is \textit{shared}. Thus, partnership is more in keeping with the spirit of brotherhood than a relationship that arises among creditors and debtors. Relationships between creditors and debtors tend to be adversarial; those among partners tend to be co-operative. Lending at interest destroys the spirit of brotherhood; investing on a profit-and-loss sharing basis strengthens it. The Quran states that “verily, this brotherhood of yours is a single brotherhood…”\textsuperscript{103}

Going into debt imposes a burden on current as well as future generations. This may be unfair to future generations, as they may not benefit as much as the present generation from current spending financed by debt. Borrowings ultimately have to be repaid using tax revenue. Higher taxes necessary to repay debts reduce private spending, and thus impede economic growth. Excessive borrowing also restricts the government’s ability to maintain existing social programs and finance new ones. Excessive government spending using borrowed funds can contribute to inflation by driving up product and resource prices.

\textsuperscript{101} Quran 17:70 and 5:1 respectively.
\textsuperscript{102} The protection of one’s dignity is one of the objectives of Shariah (\textit{maqasid al shariah}).
\textsuperscript{103} Quran 21:92, trans. A.Y. Ali.
For these reasons it is in the public interest (maslahah) to avoid indebtedness. Since profit-and-loss-sharing (PLS) instruments do not create debt, it is, therefore, in the public interest to utilise PLS rather than debt instruments for the purpose of raising funds in the capital markets. Savings generated by avoiding indebtedness can be used for the economic development of the community. They can be used to increase spending on education, research and development as well as for building infrastructure. This kind of social investment can be expected to generate valuable productivity gains, especially over the longer term. In other words, savings from avoiding indebtedness can be used in a variety of ways to enhance the overall quality of life of the people.

**Sukuk**

As issuance of conventional bonds requires borrowers to pay interest to creditors, this form of financing is not permitted in Islam, where “all loans must be interest-free”\(^{104}\). The interest-free loan is known as qard hasan (good loan). Not everyone, however, may be willing to lend a given sum of money without getting something in return. Accordingly, an incentive other than interest is required to reward people with surplus funds who make them available to those that need funds. This alternative incentive is profit. While Muslims cannot make or obtain loans at interest, they are permitted – indeed encouraged – to earn profit. One way to earn profit is by investing in sukuk.

*Sukuk*, literally means “certificates”\(^{105}\). They are certificates of investment, issued by parties that need funds to invest in a productive enterprise or need credit for the purpose of trading. *Sukuk* are purchased by parties willing (and able) to provide investment funds or credit and signify ownership of assets\(^{106}\)

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\(^{105}\) The singular form of *sukuk* is *sakk*.

known as the “underlying assets”.\textsuperscript{107} These assets generate the returns (profits) to investors. In other words, issuers of \textit{sukuk} obtain financing \textit{without the payment of interest}.

\textit{Sukuk} can broadly be categorised into sale-based and participatory. Sale-based \textit{sukuk} are used to finance trade, while participatory \textit{sukuk} are issued to finance investment.\textsuperscript{108} Sale-based \textit{sukuk} enable the issuer to obtain interest-free credit in contracts of exchange (‘\textit{uqud mu’awadat}), while participatory \textit{sukuk} enable issuers to obtain financing in contracts of participation (‘\textit{uqud ishtirak}').\textsuperscript{109} Participatory (profit-and-loss sharing) \textit{sukuk} are similar to ordinary shares.\textsuperscript{110} While both sale-based as well as participatory \textit{sukuk} are risk-sharing instruments, only participatory \textit{sukuk} enable the sharing of profits and losses.

The amount of profit paid to \textit{sukuk} holders (investors) on \textit{sukuk} in contracts of participation is determined differently than on \textit{sukuk} in contracts of exchange (trade). In the latter, profit is fixed in advance. With participatory \textit{sukuk} the profit is not generally fixed in advance, although attempts have been made to provide investors with ‘fixed’ or predictable returns, using equalisation payments accounts. The use of such accounts to top up payments of profits to investors at times of adversity by using surpluses accumulated during times of prosperity, have the effect of making the payments of profits resemble the payments of interest by conventional bond issuers to their creditors. The practice is problematic not only because of the resemblance of such payments to interest payments, but also because it runs counter to the idea of profit and loss sharing. In principle, with participatory \textit{sukuk}, investors become entitled to

\begin{footnotesize}
\begin{itemize}
\item ‘\textit{Sukuk} may be divided into two types: \textit{sukuk} that yield pre-determined returns, and \textit{sukuk} based on profit-and-loss sharing.’” M.H. Kamali, ‘A Shari’ah analysis of issues in Islamic leasing’, \textit{Journal of King Abdul Aziz University} 20/1 (2007), p. 13.
\item Mokhtar et al., ‘\textit{sukuk} and the capital markets’, p. 22.
\end{itemize}
\end{footnotesize}
a proportionate ‘share’ of the total profit earned by the underlying assets or pool of assets. Due to the uncertainties of business enterprise, this profit is not known in advance and can at best only be ‘projected’ or estimated.

_Sukuk_ issued to finance trade enable issuers (traders) to make payments (to sellers) or deliveries (to buyers) on a deferred basis. The type of _sukuk_ a trader issues depends on the type of contract he or she intends to finance. Trade-based _sukuk_ include _sukuk murabaha, salam, istisna_ and _ijarah_. In so far as they represent promises to deliver goods rather than funds on a future date, _sukuk salam_ and _istisna_ are also known as “non-monetary debt securities.”

The most popular trade-based instruments are _sukuk murabahah_. The expression _murabahah_ comes from _ribh_, meaning gain or profit. A _murabahah_ is a sale in which an asset is sold at a price that includes the cost price plus a mark up. The cost price of the item sold is made known to the buyer in advance. The price can be paid on the spot or on a deferred date or dates. When the price is paid on a later dates or dates, buyers of the asset issue _sukuk murabahah_ to evidence their debt to the sellers of the asset.

_Sukuk salam_ is a prepaid (or forward) sale, where payment is made on the spot and the assets (normally commodities) are delivered in future. The seller of the commodity issues _sukuk salam_ to the buyer of the commodity in exchange for cash paid on the spot. The _sukuk_ certificates evidence the obligation of the seller to deliver the receivables (commodities rather than cash) to the buyer on a specified future date. The price, quantity, quality and delivery date are all agreed upon in advance.

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111 An issuer (obligor) of _sukuk_ issued to finance trade is “a buyer in a sale contract with the subscribers”. See Securities Commission Malaysia, _Islamic Securities (Sukuk) Market_, p.12.

112 Ibid., p. 25.

113 The mark up is sometimes referred to as ‘profit’ to the seller, but is more accurately viewed as a _source_ of profit, as the trader still has to pay expenses before he can realise profit from the mark-up.
Buyers of the commodities realise a profit by reselling them for a higher price to third parties.

*Sukuk istisna’* is a manufacturing contract. A financial institution will buy an asset (not yet constructed) from a manufacturer for a cash price paid on the spot. The manufacturer will use the proceeds to construct the asset according to specifications. The financial institution will subsequently sell the completed project to a third party for a higher (deferred) price, to be paid in instalments. The third party buying the completed assets will issue *sukuk istisna* to the financial institution (investor) to evidence its obligation to make the promised payments over the course of the payment period.

*Sukuk ijarah* is a sale and leaseback contract of selected assets over a period of time. The originator (party seeking to raise funds) sells specific assets to a special purpose vehicle (SPV) that acts as a trustee on behalf of investors (*sukuk* holders). The buyers of the assets (lessors/investors) subsequently lease the assets back to the seller (lessee/originator) for a specified period of time at an agreed upon rental payment. The asset can be a parcel of land, a building, an aircraft, a ship, or any other rental-generating asset. After an agreed period of time, the lessor (investors) sells the asset back to the originator.

Profit-and-loss-sharing *sukuk* are known as ‘participatory’ *sukuk*, because they enable investors to participate in different ways in a given business enterprise. By selling participatory *sukuk* to investors, issuers invite interested parties to become partners in a given business venture. Like *sukuk* issued to finance trade, participatory *sukuk* reward investors (*sukuk* holders/partners) with profit – when profit is earned. Profit is earned in exchange for funding and participating in a business enterprise, and for taking risk in the course of this participation.

The *ratio* at which profit is shared among partners is determined *beforehand*. The total amount of profit earned, however, *is not determined in advance*. Neither party knows how much profit may be generated by a given investment. This
means that the counterparties are required to share the risks of the enterprise. Profitability depends on many factors. Prominent among these are the efficiency of the assets purchased using the raised funds, the quality of the management, the quality of regulatory environment, as well as economic conditions.

Participation in a business partnership can take different forms, depending on the role investors (buyers of sukuk or sukuk holders) wish to play. In the case of the mudarabah, a professional manager (mudarib), who can also be a partner, is hired to manage the enterprise. The party financing the investment (buyer of the sukuk or investor) is the rabb al mal (capital provider). The owner of the capital and the mudarib share profits according to a pre-agreed ratio. Losses are borne exclusively by the rabb al mal, unless the mudarib is also a partner. Where the mudarib functions only as a professional manager, he is responsible for losses only in cases of wilful negligence or fraud.\textsuperscript{114} The mudarib cannot guarantee profits to sukuk investors:

\begin{quote}
It should be noted that it is not permissible to guarantee the capital or profit in a mudharabah sukuk transaction. The mudharib is considered as the manager and trustee (amin) of the mudharabah fund and its project. Thus, the mudharib is not to be made responsible for losses unless due to negligence, mismanagement and dishonesty leading to losses.\textsuperscript{115}
\end{quote}

If investors wish to participate more directly in the management of the business and have a say in how the business is run, the partnership can take the form of a musharakah. Partners share both profits and losses, as the case may be.\textsuperscript{116} Profits are

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\textsuperscript{114} Ibid., pp. 72-75.
\textsuperscript{115} Ibid., p. 73.
shared – as in a mudharabah – according to a pre-agreed ratio. Losses, however, are shared on a proportional basis (according to the amounts invested by each partner). 117 As in a mudharabah, neither profits nor capital are guaranteed.118

The advantage of participatory sukuk is that they enable genuine profit-and-loss sharing. The sharing of rewards as well as losses is more in agreement with justice than an arrangement where the party providing financing insists on sharing only the profits but not the losses of the enterprise being financed.

Conclusions and recommendations

Sukuk facilitate the financing of trading and investment in Shariah compliant ways. Investors earn profit (or rent), rather than interest. The difference between bonds and sukuk corresponds to the difference between lending (at interest) and trading or investing (for profit). In order to earn legitimate profit, investors (sukuk holders) need to take responsibility for the outcome of an investment, which requires the taking of risk. Neither profits nor capital is guaranteed. The taking of responsibility (risk) justifies the earning of profit. Holders of sukuk become owners not merely of securities, but also of the underlying assets (backing) those securities. It is the underlying assets that generate the returns to sukuk holders. There is a direct link between the productivity (efficiency) of the underlying assets, and the dividends paid to investors.

By contrast, a sale of conventional bonds (borrowing) does not require any assets to be sold to investors. Only the bond (representing debt) is sold to investors. The fact that interest payments as well as the principal amount are guaranteed means that buyers of (collateralised) bonds take little or no risk. If issuers fail to pay any part of the agreed upon payments or


118 Securities Commission Malaysia, Islamic Securities (Sukuk) Market, p. 76.
the principal amount of the loan on time, they will be in default. Creditors will become legally entitled to take possession of any collateral pledged to secure the loans. For this reason, collateralised lending at interest is fundamentally risk-free.

While default is not a crime in most countries, it entitles creditors to take legal action to recover any outstanding amount of a loan. They may commence to take action to repossess any assets owned by debtors. A default cannot happen in contracts structured to share profits and losses, such as sukuk musharakah or mudharabah, as they are not loans but profit-and-loss-sharing contracts. Issuers of profit and loss sharing sukuk, unlike issuers of conventional bonds, have no legal obligation to pay dividends to investors when no profits have been earned. This means that investors will not receive dividends when losses are incurred. Investors may earn dividends when the underlying assets become profitable again.

- It is necessary to maintain the distinction between sukuk and bonds, both in theory and in practice – in particular in the way sukuk are structured as compliance with the Shariah hinges on whether the income paid by issuers of financial securities takes the form of profit or interest.

- In order to maintain compliance with Shariah, sukuk need to be structured as profit-and-loss-sharing instruments. Only this can guarantee that investors will earn bona fide profit, rather than forbidden riba.

- In order to ensure that sukuk reflect genuine risk-sharing, they need to be structured without income and capital guarantees, as such guarantees effectively render the principle of risk sharing in the sukuk structures inoperative.
Harmonisation of reason and revelation

Abstract
In response to the emergence of empiricism, which replaced its predecessor, a perception emerged that rationality and faith are ‘incompatible.’ According to this view, religion is based on faith rather than knowledge. Attachment to faith is therefore fundamentally arbitrary and lacks a rational foundation. In education, the ‘separation’ of reason from faith produces graduates with knowledge for the purpose of employment but with little spiritual awareness and persons with religious beliefs with few marketable skills. What is required is balanced education, where instruction in revealed knowledge is provided together with training in present-day knowledge. To facilitate holistic education, it is necessary to recognise that faith and present-day knowledge complement rather than exclude each other. Present day knowledge is used primarily for the purpose of employment. Revealed knowledge is intended for the purpose of guidance. The two are complementary rather than mutually exclusive.

Key words
Knowledge, Quran, rationality, *ijtihad*, *taqlid*

Introduction
The fulfilment of material and religious requirements facilitates the realisation of one’s potential. This entails the utilisation of revealed as well as empirically acquired knowledge. Rationality may be understood as the use of reason (‘*aql*) to understand reality.

119 Revelation, by contrast, is knowledge relayed by God’s messengers, the prophets.120

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119 Present-day empirical knowledge in effect is a product of ‘reason.’
120 The philosophers could be viewed as representing reason while prophets represents revelation.
While the attainment of the two kinds of knowledge requires the use of ‘reason’ (‘aql), reason alone is ill-equipped to impart the kind of knowledge provided by revelation. Thus, to ‘understand’ revelation fully, as it were, a ‘leap of faith’ is required in addition to a comprehension of the message of revelation. In different words, the ‘bigger picture’ has to be grasped intuitively.

Nonetheless, empirical perception provides the necessary beginning point on the journey to religious awareness. To the ‘signs’ (ayat) of God that serve as ‘guideposts’ first have to be perceived. These ‘signs’ then have to be pondered upon by the intellect.\textsuperscript{121} This pondering, however, takes place by the ‘heart,’ which may be understood to encompass rational understanding aided by intuition.

**Reason and revelation**

*Revelation* presents itself as a divine message. It addresses itself to humankind. Revelation is brought by the messengers of God. Revelation teaches the difference between good and evil. Reason enables us to understand revelation.

\textsuperscript{121} Rationalism and empiricism form the bedrock of present-day methodology of arriving at knowledge. This approach assumes that phenomena “beyond” perception do not exist (empiricism), and that all reasoning about any part of reality has to proceed in a “logical” manner (rationalism). Alternatively expressed, all statements regarding reality need to have a basis in perception and be free of contradictions as well as any “fallacies.”

Both ‘rationalism’ and ‘empiricism’ assert that following the procedure each espouses is required for the purpose of attaining knowledge. A point of divergence between rationalism and empiricism is that rationalism recognises \textit{a priori} ideas (those acquired ‘prior to’ experience or ‘innate’ ideas), while empiricism does not. In different words, in empiricism \textit{all} ideas are derived from experience. Quranic epistemology in principle rejects neither; however, it recognises metaphysical knowledge as valid knowledge, in addition to knowledge grounded in perception, and asserts that all knowledge must be utilised in ways in accord with revealed knowledge.
The alleged ‘incompatibility’ between reason and revelation forces a person to ‘follow’ either reason or revelation.\textsuperscript{122} This hampers persons with a predisposition for reason in accepting faith, while discouraging religious persons from acquiring present-day knowledge. Thus, persons leaning towards rationality tend to remain unaware of revealed knowledge, while religious persons tend to have little interest in acquiring knowledge of current disciplines.

At the psychological level, having to ‘follow’ either reason and revelation, results in a ‘separation’ within a person between his or her spiritual and physical existence. To heal the ‘dividedness’ it needs to be recognised that religious awareness is far from ‘irrational,’ but is indispensable to a meaningful existence.\textsuperscript{123}

From the perspective of revelation attaining and following revealed knowledge is a \textit{rational act}.\textsuperscript{124} The alleged exclusivity of reason and revelation is therefore a \textit{false} dichotomy. Indeed, attaining faith is hardly possible \textit{without} the use of reason. In different words, the relationship between reason and revelation is “complementary rather than contradictory.”\textsuperscript{125}

At a basic stage, epistemic reconciliation between reason and revelation may be achieved by acknowledging that the two

\textsuperscript{122} Thus, persons of faith tend to view rationality with apprehension, while persons with a preference for rationality tend to be reticent regarding faith. This view does not just hinder access to present-day knowledge by persons of faith; it hampers practitioners of present-day subjects from a reflection upon the teaching of revelation.

\textsuperscript{123} The “dividedness” or the “incompleteness” of man has also been identified by the term “alienation.” It goes without saying, however, that the way in which this term was understood by Marx, for example, is radically different from a \textit{spiritual} understanding of this term.

\textsuperscript{124} A rational act may be defined as that which adds to the preservation and well-being of the person or community performing it, without inflicting harm upon any person or persons in the process. A rational act is in accord with people’s predisposition (\textit{fitrah}), and takes place without a violation of anyone’s dignity. A rational act is always in harmony with \textit{justice}.

\textsuperscript{125} Mohd Farid Mohd Shahran, “Reason and revelation in harmony,” \textit{The Star Online}, 28 October 2014, accessed on 7 March 2017;

represent distinct parts of reality. When properly integrated, they work together. Empirical knowledge assists us in ‘cultivating the earth,’ while revealed knowledge provides guidance.

A different way of looking at the relationship between empirical and religious knowledge is to realise that present-day scientific knowledge and technology and the knowledge of revelation are fundamentally different kinds of knowledge. The former is descriptive, while the latter is prescriptive. Revealed knowledge has a moral aspect that is absent from empirical knowledge.

The perception that reason and revelation are “irreconcilable” is due to differences in assumptions regarding existence and the way in which we attain knowledge of it. The perspective of the empiricist is restricted to the realm of perception. To the empiricist, “seeing is believing.” The perspective of the believer, by contrast, allows for the possibility of events that may appear ‘inexplicable,’ if viewed at from a strictly ‘empirical’ perspective. The viewpoint of the believer, we might say, ‘transcends’ the perspective of the empiricist.

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126 It is unhelpful to maintain, as a few Muslims do, that all knowledge is in the Quran. If this were the case, there would hardly be any need for extensive databases of digitally stored material or libraries with tomes of books. It is better to say that all knowledge needed for the purpose of faith is in the Quran, as indeed the Quran itself asserts (6:38). The idea that there is a “unity” of knowledge hardly signifies that there is just one kind of knowledge. Indeed, different areas of enquiry produce different kinds of knowledge. Nonetheless, all subjects are related to each other, to a greater or lesser degree. Thus, from a general perspective, the realm of epistemology is essentially borderless. This is no doubt among the reasons why reputable universities allow, and even encourage, what is known as “interdisciplinary studies.”

127 This does not mean, of course, that the use of empirical knowledge has no moral effects. On the contrary, the application of modern knowledge has many effects, and not all of them are positive. One example is the de-personalisation of communication due to the widespread use of advanced communication technologies.

128 Expressed alternatively, whatever cannot be perceived has no real existence. Such phenomena may be said to exist “in the mind,” which is really an existence in a person’s “imagination” rather than real existence.
Revealed knowledge provides answers to queries that the empirical method is unable to answer, as empirical knowledge is restricted to the realm of experience. The empirical approach is not equipped to distinguish between ‘right’ and ‘wrong,’ as it only describes what is; it does not prescribe what ought to be. Religion by contrast differentiates between what is and what ought to be.

‘Prescribing,’ as distinguished from ‘describing,’ requires acknowledging the difference between the ideal and the actual. The gap between the two, if any, is a reflection of a person’s achievement. Religion exhorts humanity to believe and act in agreement with revealed knowledge. Revelation provides guidance on the rank of values. The Shariah supplies the elaboration of the do’s and don’ts for life.

**Rise of taqlid and the decline of rationality**

Reason is the faculty of understanding. Thus, we speak of the “power of reasoning,” and of the “power of speech.” The use of reason is indispensable in everyday life. Existence without the use of reason would be confusing, to say the least.

The use of reason is particularly necessary in acquiring knowledge. All sciences are developed, to a greater or lesser degree, by reasoning. It is by means of reasoning that we determine the probable effects of various causes and acts. Reasoning helps man to take responsibility for his actions.

Reasoning takes various forms, including deductive, inductive, analogical, and intuitive reasoning. Reasoning is also used for the purpose of differentiating between truth and falsehood and for understanding revealed guidance.

An important difference exists between a person who uses his reason and a person who does not or is unable to do so. In instances where people do not use their reason, they have to be placed under supervision, as they might present a threat to themselves as well as people at large.
Islam appears to have exhibited what may be termed as a ‘tension’ between rationality and revelation. The period of the Golden Age of Islam exhibited a concord between reason and revelation.\textsuperscript{129} The Islamic civilization blossomed.

As Europe was plunged into the Dark Ages, the Arab-Islamic world experienced its Golden Age; illustrious centers of learning in Baghdad, Cairo, Palermo, Cordova, Granada, Seville and Toledo drew scholars from far and wide, who not only studied the works of the Ancients but also developed bodies of Arab-Islamic science and philosophy. This westward flow of ideas and practices profoundly shaped Europe’s development.\textsuperscript{130}

During this time, Muslims were willing to gain and adapt knowledge from different parts of the world. \textsuperscript{131} In the subsequent era, the balance between reason and revelation appears to have been disturbed.

A rising focus on tradition had the effect of marginalising reason. This was particularly apparent in legal thinking. This period was:

characterized by the institutionalization of the dominant schools, with emphasis not on new developments but on following precedent (\textit{taqlid}) … Original thinking and direct recourse to the sources of the Shariah, which had characterized

\begin{itemize}
  \item \textsuperscript{129} Interestingly, partly on account of their alleged excessive emphasis on rationality at the expense of revelation, as well as their insistence that the Quran was ‘created,’ the Mu’tazilites were declared apostates by their adversaries, the traditionalists.
  \item \textsuperscript{130} Nayef Al-Rodhan “The Islamic World and the West: Recovering Common History,” \textit{YaleGlobal Online}, Yale University, 2014, accessed on 23 Apr. 2017; <http://yaleglobal.yale.edu/content/islamic-world-and-west-recovering-common-history>
\end{itemize}
the first three centuries of development, were no longer encouraged ... Imitation and following precedent thus gained ground, and the so-called ‘closure of the gate of ijtihad’ followed.\textsuperscript{132}

Independent reasoning gradually gave way to adherence to tradition known as \textit{taqlid}.\textsuperscript{133} \textit{Taqlid} required accepting and abiding by time-honoured explanations of the revealed text.\textsuperscript{134} There was minimal space for dissenting opinions.

A factor that facilitated the rise of \textit{taqlid} was the view that the early Muslims had a better understanding of Islam than the following generations, and that subsequent events amounted to a descent from the Golden Age of Islam.\textsuperscript{135} In addition, the


\textsuperscript{133} The Oxford Dictionary of Islam defines \textit{taqlid} as follows: “Imitation. Conformity to legal precedent, traditional behaviour, and doctrines. Often juxtaposed by reformers with \textit{ijtihad}, independent reasoning based on revelation. Traditionally, legal precedent is considered binding in Islamic law, but taqlid has acquired a negative connotation among modern reformers, who use the term to refer to cultural and intellectual stagnation and unwillingness to experiment with new ideas. Reformist criticism has taken both fundamentalist and modernist directions.” N.a. “\textit{Taqlid},” \textit{The Oxford Islamic Studies} Accessed on 27 Mar. 2017; <http://www.oxfordislamicstudies.com/article/opr/t125/e2339>

\textsuperscript{134} The reverence for past scholars was great. Remarking upon the establishment of the Muslim College in the United Kingdom in 1978, noted educationist Zaki Badawi observed: “The plan or the philosophy of the College is to promote critical ability in the service of the study of Islam and to free the discipline from the dominance of past scholars whose authority is elevated in our traditional institutions to the level of the prophet (P.B.U.H) and sometimes even above it.” Badawi, M.A. Zaki “Islamic Studies in British Universities: Challenges and Prospects,” in \textit{Islamic Studies in World Institutions of Higher Learning}, Islamic University College of Malaysia, 2004, p. 9.

adoption of taqlid was justified by the perception that ‘problems’ were addressed, and further ijtihad was therefore redundant.136

The persistent decline of critical reason among Muslims is due partly to the notion that the exercise of ijtihad ceased with the epoch-making works of the legists and of the past. Added to this is the prevailing mindset that a Muslim should follow one or the other of the established madhhabs and abandon his judgment in favour of interpretations of earlier centuries even though their originators could have no knowledge of the needs and challenges facing twenty-first century Muslims.137

The emergence of taqlid was the result of a struggle between the “rationalists” and “traditionalists,” the jurists of Iraq and Medina, and those who followed them.138 “Classical Islamic tradition recognized the two sides of the debate as being constituted of the ahl al-hadith (people of prophetic "tradition") and the ahl al-ra’y (people of reason), respectively …”139

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The adherents of tradition “preferred not to rely on human reason and chose instead to base their doctrines as much as possible on the precedents established in the Quran and the hadith.”\textsuperscript{140} By contrast, the “Traditionists relied mainly on textual authority and were averse to the use of personal opinion (\textit{ra’y}) the Rationalists were inclined, in the absence of a clear text, toward a more liberal use of personal reasoning.”\textsuperscript{141}

The first two centuries of the Abbasid era (750 – 950) were known as the “era of independent reasoning.”\textsuperscript{142} With the ascension of the seventh Abbasid caliph, al-Ma’mun in 813, the rationalists gained the upper hand. The advocates of rationalism fell from grace again under al-Mutawakkil. The period after 950, which lasted nine centuries, included the fall of the Abbasid and Ottoman Empires.\textsuperscript{143}

**Effects of \textit{taqlid}**

With the emergence of \textit{taqlid}, restrictions were imposed upon reason – juristic reasoning or \textit{ijtihad} in particular – in the name of methodology and related concerns. \textit{Ijtihad} was first restricted to \textit{analogical} reasoning (\textit{qiyas}). With the emergence of \textit{taqlid},


\textsuperscript{143} The Abbasid empire collapsed in 1258 as a result of the Mongol conquest. The Ottoman caliphate collapsed in 1924.
personal reasoning was prohibited altogether. In this way, the “doors to *ijtihad*” were shut.\(^{144}\)

The effect of *taqlid* was that all “thinking, became suspect and advanced an attitude of extreme caution and conservatism in the expression of opinions on religious issues. As a result, *ijtihad* suffered.”\(^{145}\) Following a *literal* approach was widespread. Expression of personal views was frowned upon. It almost appeared as if a reluctance to refrain from using reason was a mark of a *piety*.

Many orthodox Islamic scholars went to the extreme of denying reason and its role, thus limiting Islamic thought to literalist and descriptive studies of the revealed texts that have continued to influence Islamic thought by making it suspicious even today of all forms of rational inquiry.\(^{146}\)

As another writer put it: “traditionalists … did not want to use any type of human reasoning in law and instead preferred to base every single case on the doctrine of tradition, even if it was weak.”\(^{147}\) Appeals to tradition were favoured at the expense of appeals to reason. In different words, tradition eclipsed reason as ‘authority.’ The latter was increasingly viewed as unreliable and prone to error.

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It appears that the waning of reasoning went beyond the religious disciplines: “a taqlid-based mentality ... incapacitated the Muslim mind so that it was no longer capable of responding satisfactorily to events as they occurred.” The effect of the “denigration of human reason” was a crisis:

The Muslim mind experienced a crisis of thought when, during the first centuries of the Islamic era, ijtihad began to be viewed as limited to legal matters rather than as a methodology for dealing with all aspects of life ... this particularization of ijtihad confined the Muslim mind, and taqlid eventually led to the paralysis of its creative abilities ... Had it not been for taqlid and its subduing of the Muslim mind, that mind would have achieved great things.

Another writer put it this way:

Islamic civilization ... underwent a moral and intellectual crisis in the 9th to the 11th century of our era, when it turned its back on philosophy and took refuge in dogma ... The gates to Ijtihad (independent reasoning) closed. Taqlid (imitation) ruled. Rationality was dead; it was expelled from the syllabus at the al-Azhar.

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Leslie Terebessy

until endeavours to restore it in the late 19th century.¹⁵¹

A vibrant exchange of views is required for any civilization to flourish. The intellect plays an indispensable part in discussion. For reason to play its expected role, what is required is a ‘rehabilitation’ of reason, as a faculty of understanding and gaining knowledge. Far from being an ‘enemy’ of revelation, reason is its ally. Efforts to upgrade the rank of reason – and present-day disciplines – within Muslim institutions of learning have been taking place since the nineteenth century. These efforts have to be sustained and even enhanced.

An attempt at reviving rational inquiry took place at the turn of the twentieth century, with the works of “modernists” such as Jamal ad–Din al–Afghani (d. 1897).¹⁵² This period was “marked by less emphasis on precedent and greater emphasis on original thinking …”¹⁵³ Afghani believed that “The Islamic religion is the closest of religions to science and knowledge, and there is no incompatibility between science and knowledge and foundation of the Islamic faith.”¹⁵⁴ This view was shared by his


follower, Muhammad ‘Abduh as well as reform-minded scholars.\textsuperscript{155}

Under Muhammad ‘Abduh, al-Azhar University as introduced present-day disciplines such as medicine, foreign languages and related disciplines. In India, Aligarh University was set up to address the requirements of local Muslims for a contemporary integrated curriculum. Even the madrassahs are being reformed.\textsuperscript{156} In Turkey, modern schools are set up with a comparable purpose in mind.\textsuperscript{157}

Among recent reformers was Fazlur Rahman. In 1962, he was appointed by then President Ayub Khan as Director of the Central Institute for Islamic Research. From 1962 to 1968 Fazlur Rahman attempted to reform Islamic tertiary education in Pakistan. His efforts, however, like the efforts of ‘Abduh at al-Azhar earlier, were resisted by traditional parts of society.\textsuperscript{158}

\textbf{Quranic emphasis on reason}

The marginalisation of reason, exemplified in the preference to tradition at the expense of reason, finds little support in the


Quran. The holy book uses reason in a *wide* sense. It places heavy emphasis on thought, reflection and meditation.

Approximately 750 verses, or nearly one-eighth of the Quran, exhort the readers to study nature, history, the Quran itself, and humanity at large. The text employs a range of expressions in its appeal to those who listen (yasma‘un), those who think, (yatafakkarun), those who reflect (yatadabbarun), those who observe (yanzurun), those who exercise their intellect (ya’qilun), those who take heed and remember (yatadhakkarun), those who ask questions (yas’alun), those who develop an insight (yatafakkahun), and those who know (ya’lamun). These … consist essentially of … encouragement to thinking …”

The Quran frequently refers to the “signs” (*ayat*) of God. “On the earth are signs for those of assured Faith, As also in your own selves: Will ye not then see?” The Quran similarly says: “(Here is) a Book which We have sent down unto thee, full of blessings, that they may meditate on its Signs, and that men of understanding may receive admonition.”

The ‘signs’ of God “require thinking and reflection.” In other words, “faith (*imān*) and reason (*‘aql*) go hand in hand. The Quran stresses the importance of using science, logic and reason as tools for discovering God. ‘Will you not then use your

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160 Quran, 51:20 – 21.

161 Quran, 38:29.

reason?’ it asks, again and again.”¹⁶³ Multiple verses in the Quran:

encourage rational observation, thought and reflection on the observable world and the universe beyond ... signifying a rational and inquisitive approach to constructing a worldview of Islam. Islam, in other words, advises analytical knowledge and understanding that generate insight rather than a purely dogmatic approach.¹⁶⁴

Another commentator put it his way: “reason is the human tool for comprehension.”¹⁶⁵ Knowledge of physical existence is attained by the reason (‘aql). Religious awareness, by comparison, is attained by the heart. The “heart” may be thought of as a faculty of higher awareness, encompassing both cognition and intuition.

The revealed text frequently exhorts Muslims to guard against unreflective following.¹⁶⁶ “When it is said to them: ‘Follow what Allah hath revealed,’ they say ‘Nay! we shall follow the ways of our fathers.’ What! even though their fathers were void of wisdom and guidance?”¹⁶⁷ On Judgment Day, the followers will


¹⁶⁷ Quran, 2:170, and 5:104.
realise their mistake: “And they would say: Our Lord! We obeyed our chiefs and our great ones, and they misled us as to the (right) path.”168

Thus, “[p]eople are … advised to use their own judgment and distinguish between guidance and misguidance in the light of reason. This is because they themselves, and not their self-styled leaders, would ultimately be held responsible.”169 It is reason, guided by revelation, that enables people to distinguish between truth and falsehood:

It is reason which distinguishes between true wahi [and] false, between misleading lies, fabrications, and myths. Likewise, it is reason which enables humans to choose and face the consequences of the choices they make.170

Another commentator put it this way: “The role of sound human intellect (‘aqīl) is very important in Islamic epistemology to complement divine revelation, and to expand the frontiers of human knowledge in harmony with the truths, values and norms of revelation.”171 Reason also enables us to tell the difference between the useful and the harmful in everyday existence:

temporal benefits and harms are mostly known and identified by ‘aqīl, not only in the shari‘ah of

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168 Quran, 33: 67.

Thus, it is important to recognise the role intellect plays in all walks of existence. It also should be recalled that the protection of the intellect (‘\textit{aql}) is one of the higher purposes of the Shariah.

\textbf{Reconnecting thought and piety}

A number of attempts took place recently to enhance the rank of reason. Prominent among these was the attempt to include present-day subjects within Islamic institutions of learning.

However, efforts to integrate present-day knowledge in Islamic education met with resistance. Those with reservations regarding educational reform felt that unfamiliar disciplines should be ‘Islamised’ before their integration in Islamic education.\footnote{For a brief account of the effort to Islamise the present-day empirical disciplines, see Abdul Karim Abdullah “Raising the Quality of Muslim Learning: Broadening the Curriculum,” \textit{Islam and Civilizational Renewal}, International Institute of Advanced Islamic Studies, Vol. 7, No. 3, pp. 346–366, July 2016, accessed on 21 Mar. 2017; <http://www.icrjournal.org/icr/index.php/icr/article/view/567/528>}

Another faction of Muslims “tried to identify themselves with a pure, ideal Islam, while at the same time condemning their centrist opponents as impure, deviating Muslims. And in identifying with Scripture, they interpreted this in as literal, and
hence as absolutist and exclusivist, a light as possible.”

This is especially true in education:

The encounter of the established Islamic schools with new civil schools produced different responses in two main directions: modernist Islamic educators set out to revise their curriculum and make it responsive to the new era by evoking the principle of independent reasoning (*ijtihad*), sometimes fusing it with secular subjects, whereas their conservative colleagues took to reviving traditional teaching in the spirit of adherence to precedent (*taqlid*).

To resolve this tension, it is important to realise that the pursuit of present-day knowledge does not require a person to abandon or dilute his or her faith. By contrast, it makes it possible for a person to function better in the present-day milieu. “The nexus between faith and reason ... constitutes the hallmark of intelligent Islamic spirituality, wherein human intellect and emotions are guided toward harmony with one another.”

The basic accord between rationality and revelation means that a person may be a practising Muslim and an educated


professional simultaneously. The attainment of present-day knowledge is an essential ingredient of a well-rounded education.\textsuperscript{177} Reason analyses material provided by perception. The 'heart,' of which 'reason' is an essential part, is the faculty of understanding.

Human intellect (al-‘aql) is informed by the senses, but has the capacity to go beyond the data of the senses, although it falls short of the wider reaches of revelation (al-wahy). The intellect … perceives that which is unseen based on that which is seen, derives universals from concrete particulars, recognizes self-evident truth, and associates causes and effects … Human reason is therefore a credible basis of judgment in the absence of revelation, provided that the judgment arrived at is in harmony with the general spirit and guidance of the revealed scripture.\textsuperscript{178}

Establishing a balanced relationship between rationality and revelation is in keeping with the principle of \textit{wasatiyyah}.\textsuperscript{179} The anti-rationalist rhetoric of Islamism is utterly alien to the Quran.\textsuperscript{180} “Thinking Muslims should work to vindicate the symbiotic relation of faith and reason in their religion and see it


as a source of enrichment and contribution of Islam to human understanding and civilization.”

Revealed knowledge addresses fundamental questions of existence and establishes the parameters for knowledge discovered by the present-day disciplines. Revelation provides answers to queries that reason, due to its shortcomings, is unable to answer.

Wahy or revelation is the divine source which provides man with the knowledge he needs of the unseen world; whereas reason is the instrument man uses to acquire and apply knowledge in this world, which is the seen world, in order to achieve the mission of khilafah and its aims of establishing truth, justice and righteousness.

Revealed knowledge guides the use of empirical knowledge. Where empirical knowledge enhances power, spiritual awareness enables people to apply this influence wisely, i.e., in accord with the teaching of revelation.

**Conclusions and recommendations**

The reconciliation of reason and revelation will require acknowledging that reasoning is a sine qua non for comprehending revelation. It is important to acknowledge that reason and revelation are compatible but that they essentially fulfil different roles. Present-day studies should be provided together with Islamic studies in Muslim institutions of learning.

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• The understanding of *ijtihad* ought to be *wider*.

• The teaching of philosophy and reasoning (logic) should be integrated within Muslim educational institutions.

• Textbook writers should write textbooks free of *taqlid* influences and assumptions that run counter to the teaching of Islam.

• The teaching of religious studies needs to be integrated with the teaching of present-day disciplines at all levels.

## Strengthening the thinking of Muslim students

### Abstract

The intention of this paper is to reflect on how critical thinking among Muslim students could be enhanced. After a survey of key Quranic verses related to thinking, a review of literature follows. Thinking and critical thinking, as well as their relationship to one another are explored next. Various activities in which critical thinking plays a key role are highlighted. Reasons for the weakness in critical thinking are examined in the following section. The conclusion contains recommendations for the improvement of critical thinking skills among Muslim students.

### Introduction

Commentators have noted a deficiency of critical thinking skills among graduates of Islamic institutions of learning. In the words of one of them, “our traditional system, for all its virtues, is sharply criticised [...] as lacking in [...] critical ability and for relying on rote learning and parrot fashion repetitions.”  

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Because of the overemphasis on memorisation at the expense of comprehension, some Muslim parents – who can afford it – enrol their children in non-Muslim educational institutions that employ more imaginative and critical approaches in learning activities. Islam, however, has resources for designing and delivering a complete education, including the development of critical thinking skills.

The mind or intellect (‘aql) is part of what the Qur’ān identifies as the ‘heart,’ (qalb or fu’ad). The ‘heart’ is the faculty of perception. The comprehension of revealed knowledge takes place by means of the ‘heart.’ In addition to the intellect (‘aql), the ‘heart’ includes intuition (ilham). Like the faculties of hearing and seeing, the ‘heart’ is a gift from God Most High.

It is He who has created for you (the faculties of) hearing, sight, feeling, and understanding: little thanks it is ye give! Allah placed many signs on the earth and in the heavens for His servants so they may reflect and receive divine guidance. These include the creation:

Behold! In the creation of the heavens and the earth, and the alternation of Night and Day – there are indeed signs for men of understanding

Humanity is asked to ponder upon the Qur’ān in order to receive admonition:

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185 Qur’ān 23:78; see also 16:78, 32:9, 57:23. The Abdullah Yusuf Ali translation is used in all cases, unless otherwise specified.

186 Qur’ān, 3:190; see also 45:3–5, 51:20–21.
We have revealed for you (O men!) a book in which is a Message for you: Will ye not then understand?\(^\text{187}\)

The Qur'ān itself contains many signs (\textit{ayat}) of Allah:

(Here is) a Book which We have sent down unto thee, full of blessings, that they may meditate on its signs, and that men of understanding may receive admonition.\(^\text{188}\)

The Qur'ān advises Muslims to open our hearts (and minds) to obtain knowledge of the Qur'ān and of the wonders of creation.

Do they not then earnestly seek to understand the Qur'ān, or are their hearts locked up by them?\(^\text{189}\)

Islam is a “religion of reason.”\(^\text{190}\) There is nothing in the Qur'ān, which is “contrary to reason.”\(^\text{191}\) Islam “is not based on mystic dogmatism but is always open to the critical inquiry of reason.”\(^\text{192}\) The Qur'ān encourages us to use “our powers of reasoning […] to the best of our ability and knowledge.”\(^\text{193}\) It frequently uses expressions such as: “those who exercise their intellect” (\textit{ya’qilun}), “those who think,” (\textit{yatafakkarun}), “those who know,” (\textit{ya’lamun}), “those who ponder,” (\textit{yatadabbarun}), and “those who understand,” (\textit{yafqahun}).\(^\text{194}\) The Qur'ān censures people who do not think:

\(^{187}\) Ibid., 21:10.
\(^{188}\) Ibid., 38:29.
\(^{189}\) Ibid., 47:24, see also 12:111.
\(^{190}\) Muhammad Asad, 	extit{Islam at the Crossroads} (Kuala Lumpur: The Other Press, 1982), 93–94.
\(^{191}\) Ibid., 94.
\(^{192}\) Ibid., 92–93.
\(^{193}\) Ibid., 95.
For the worst of beasts in the sight of Allah are the deaf and the dumb, – those who understand not.\textsuperscript{195}

The Qur\'ān is “the book that makes things clear” (\textit{al-kitab al mubin}) and the book “in which there is no doubt” (\textit{la raybah fī}).\textsuperscript{196} It is a book for all to study to the best of his or her ability. The Qur\'ān teaches the difference between truth and falsehood: “The truth stands out clearly from error.”\textsuperscript{197} The Qur\'ān establishes the difference between truth and falsehood by responding to the claims of the disbelievers. It exhorts one to employ ‘better’ reasoning:

\begin{quote}
Call unto the way of thy Lord with wisdom and fair exhortation, and reason with them in the better way. Lo! thy Lord is Best Aware of him who strayeth from His way, and He is Best Aware of those who go aright.\textsuperscript{198}
\end{quote}

The Qur\'ān exhorts everyone to open one’s ‘heart’ (and mind) to the many signs of God: “the Qur\'ān values rational endeavour accompanied by sincerity in the quest for truth and justice.”\textsuperscript{199} Meaningful reading of the Qur\'ān, however, requires its comprehension. Comprehension, in turn, requires the application of the intellect (\textit{`aql}). In other words, it requires one to think. This should not be too difficult, as the Qur\'ān refers itself as “easy to understand and remember.”\textsuperscript{200}

\section*{Review of literature}

M. Hakan Yavuz, in his \textit{Islamic Political Identity in Turkey},\textsuperscript{201} comments on the Fethullah Gulen network of schools and

\begin{footnotes}
\item[195] Qur\'ān 8:22; see also 7:179, 10:100 and 25:43.
\item[196] Ibid., 44:2; 2:2.
\item[197] Qur\'ān, 2:255.
\item[198] Ibid., 16:125, Mohammed Marmaduke Pickthall translation.
\item[200] Qur\'ān 54:17, 22, 32, 40.
\end{footnotes}
universities throughout Turkey and other parts of the Muslim world:

Students in the Gulen movement’s high schools in Turkey [...] still stress memorisation and conservative values more than critical thinking [...] the sense of duty or fulfilling one’s mission is a more important virtue than being different or thinking critically. This lack of critical thinking is an outcome of a cultural and educational system that discourages questioning of social and religious values. Being the same as and being ‘part of the group’ and behaving in conformity with the group expectations are more important than carving a unique self. 202

In “Islamic Education in Britain: Approaches to Religious Knowledge in a Pluralistic Society,” 203 Peter Mandaville reports that Zaki Badawi, the founder of the Muslim College in London, insisted on the “capacity for critical thinking as a prerequisite for entry into the college.” 204 Similarly, at the Markfield Institute of Higher Education, based on the thought of Abu ‘l-A’la Mawdudi (d. 1979), “students are encouraged to engage critically with the canon of Islamic thought, with an emphasis on identifying new areas of ijtihad.” 205 Yoginder Sikand, commenting on madrasah education in India, calls for “reform in teaching methods. Presently, the focus is simply on the learning, even memorising, of books, rather than actually

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202 Ibid., 194.
204 Ibid., 234.
205 Ibid., 236.
understanding a discipline, as a result of which many students can hardly follow their lessons.”

In the *Call for Heresy: Why Dissent Is Vital to Islam and America*, Anouar Majid calls for ‘heresy’, as a way of advancing the case of critical thinking. He worries that fundamentalist forces are threatening both the US and the Muslim world. He fears the growing influence of ‘puritanism’ in his native Morocco, as well as in the wider Muslim world: “It is always a bit of a gamble to examine well-established traditions critically, for to question their foundations is akin, in some ways, to undoing the structure of our identities and communities.”

To raise sensitive topics from Islamic history “is to discover that the Muslim individual is governed […] by a list of proscriptions (*interdits*) that stigmatizes critical thinking and frames the individual’s life with carefully delineated norms.” Majid calls on “both Muslims […] and Americans […] to embrace heretical thought, or freethinking, as the only life-saving measure left to avoid an apocalyptic future.”

Majid’s fears of a global Islamic fundamentalist resurgence appear exaggerated. He simplistically – and altogether without justification – identifies critical thinking with heresy. He thus reinforces a popular stereotype of critical thinking among some Muslims, which is that critical thinking induces disbelief. He presumes, without demonstrating, that critical thinking necessarily undermines faith. On the contrary, thinking is required to comprehend and defend faith. One’s intention in critical thinking is paramount.

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208 Ibid., x.
209 Ibid., 13.
210 Ibid., 1.
A comparable view of critical thinking emerged at the conference, “A Celebration of Heresy: Critical Thinking for Islamic Reform,” held in 2008 in Atlanta, Georgia, United States. The conference “grew out of the recognition that often, dissenting ideas against the prevailing religious traditions are written off as heresy. Nearly all the prophets and great thinkers throughout history have been accused of being heretics.”

Abdullahi An-Naim, Professor of Law at Emory University added: “This title emphasizes that we seek to promote our commitment to accept dissent and disagreement, because we believe that strong disagreement with the current views is a necessary pre-requisite for genuine and effective reform.” He stated, “We celebrate heresy and dissent not as ends in themselves, but in order to enable and promote innovative and critical thinking.”

Organiser, author, and activist Edip Yuksel added: “In the present atmosphere, one of the best places to hold such a conference is the United States, where Muslims can freely express their opinions without the fear of persecution.”

A balanced assessment of critical thinking can be found in Khurshid Ahmad’s “The Challenge of Global Capitalism: An Islamic Perspective,” in John H. Dunning, Making Globalization Good: The Moral Challenges of Global Capitalism. The “Muslim world was a global economic power for several centuries, and it was not until the time of the Western Enlightenment that economic stagnation … began to occur: and this lasted for more than 300 years […] a lot of critical thinking is taking place examining what originally went wrong

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212 Ibid.

213 Ibid.

and how the Muslim world can set its house back in order.”

Kurshid Ahmad highlights the need for critical thinking in the regeneration of the Muslim ummah.

In 2007, the Institute of Strategic and International Studies (ISIS) in Kuala Lumpur, Malaysia – a think tank – held the International Forum on ‘The Makkah Declaration: Implementing Economic Agenda of the Muslim World’. In his presentation, entitled “Education and Literacy in the Muslim World: Paths to the Future,” Indonesian professor Azyumardi Azra observed: “It is unfortunate that in the teaching processes in Islamic education in general, rote learning tends to continuously dominate, not only in social sciences and humanities, but also in science teaching […].” Muslims still see knowledge as something to be memorized: “The attitude of mind is passive and receptive rather than creative and inquisitive […] all knowledge comes to be viewed as unchangeable and all books tend to be memorised or even venerated.” For this reason, “it is now necessary to introduce new methods of teaching in all levels of Islamic education […] there are many subjects that need analytical and critical thinking […].” Moreover,

The opposition of the Muslim orthodoxy to rational and empirical sciences, in the end created a seemingly unbridgeable gap between the so-called ‘religious sciences’ derived from the ‘signs’ of the Qurān (al-ayat al-Qurāniyyah) on the one hand, and ‘non-religious sciences’ derived from the ‘signs of being’ (al-ayat al-kawniyyah) on the other […]. This dichotomy of sciences is undoubtedly also responsible for the

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215 Ibid., 190.
217 Ibid.
backwardness of science and technology in the Muslim world.\textsuperscript{218}

In \textit{Leadership Skills for Muslims}, Dr. Suriyakhatun Osman observes, “Critical thinking […] is actually thinking as clearly as we can, avoiding faulty thinking […]. [It] is expected that a good Muslim thinks critically.” \textsuperscript{219} Critical thinking includes interpretation, explanation and evaluation. The requirements of critical thinking include humility, freedom from bias, and questioning. Critical thinkers search for the truth, are analytical, self-confident, and inquisitive. “There will be things that we perceive to be true that turn out to be untrue […]. Doctors could be misinformed, teachers could make mistakes.”\textsuperscript{220} Bias can take many forms, including self-interest, cultural bias and personal bias.

Often we are not aware of the powerful effects that our culture has on us until we are exposed to other cultures or ways of thinking. Those people who have seen other people in other cultures will realise the effect of culture on thinking … we come from certain ethnic groups as well as subgroups like the village we were born in or grew up in that share common values and ways of doing things […]. Critical thinkers are aware of these biases.\textsuperscript{221}

Another important quality for critical thinking is intellectual courage. “This attribute of a critical thinker is the ability to think and voice thoughts that are unpopular. It is the capability to challenge beliefs that one holds dearly or that one’s group or country accepts—often without question. It is the courage to question commonly accepted convictions or dogma in the face

\textsuperscript{218} Ibid.
\textsuperscript{220} Ibid.
\textsuperscript{221} Ibid.
of ridicule or at the cost of great personal anguish. This is the Path of all the Prophets and the Reformers of Nations […].”

**Thinking and critical thinking**

Thinking is the activity of discovering, accumulating, and making use of knowledge. Reflection facilitates communication. It does so with the help of language, including sign language, which is generally easier to understand than the more complex verbal constructs characteristic of spoken and written language. Memory stores knowledge. Problem solving requires thinking but also the use of the imagination. Where thinking helps to identify, formulate and analyse problems, the imagination assists in solving them. Thinking presupposes questioning. With some exceptions, questioning is permitted in Islam. The expression, “They ask you (*yas’alunaka*)” occurs no fewer than fifteen times in the Qurān.\(^{223}\) The answer invariably comes in the form of “Say (*qul*).” The Qurān puts a high premium on knowledge:

\[\text{[…] Allah will raise up, to (suitable) ranks (and degrees), those of you who believe and have been granted knowledge.}\]^{224}

Critical thinking is thinking at a higher-level. It is used to clarify and evaluate statements, as well as to highlight distinctions. While thinking facilitates the expression of theories, views, or policies, critical thinking is needed to evaluate them. Critical thinking helps to guard against careless or superficial thinking, such as failing to identify important distinctions. Critical thinking seeks to understand the whole by comprehending its component parts and how they are linked to one another. In this sense, critical thinking is analytical. Critical thinking also needs to identify false dichotomies. It can detect, express, and evaluate assumptions, including unstated assumptions. It can

\[^{222}\text{Ibid.}\]

\[^{223}\text{Kamali, “Islam, Rationality, and Science,” 124.}\]

\[^{224}\text{Qurān 58:11}\]
clarify implications, both short and long term, of a given statement, policy, or point of view. Critical thinking can also identify inconsistencies and contradiction. With the help of logical analysis, critical thinking can be employed to reconcile inconsistencies in statements, theories, or policies. Critical thinking can help to develop a consistent position, free of contradictions. It can identify faulty argumentation, such as the setting up of ‘straw men’ or painting caricatures of competing points of view.

Critical thinking, unlike its uncritical counterpart, insists on evidence before something is accepted as true. Islam does not ask anyone to accept its message without compelling reasons, blindly and uncritically, without reflection. On the contrary, the Qur'ān calls our attention to the many ‘signs’ (ayat)’ of God, both in the book of revelation and in the world of creation. These signs constitute the evidence for knowledge and faith. The Qur'ān asks us to reflect on and think about all of God’s signs. The need to rely evidence also applies in the dealings of human beings with one another. Substantiating claims with reliable evidence helps the cause of justice, giving each his due.225 The requirement to confirm statements is a sine qua non in critical thinking. Critical thinking helps to protect against deception, including self-deception. It aims to strengthen the certainty (yaqin) of knowledge.

O ye who believe! If a wicked person comes to you with any news, ascertain the truth, lest ye harm people unwittingly, and afterwards become full of repentance for what ye have done.226

This verse, like many others, has both a particular, historical meaning, related to the occasion of its revelation, as well as a universal one, applicable regardless of time and place. The occasion of its revelation provided the opportunity to learn wisdom. Once the knowledge is revealed, it can be applied in a

225 Cf. ibid., 45:22.
226 Qur'ān: 49:6; see also 60:10.
universal way to countless similar incidents in future. The verse was revealed to show the Muslims how to deal with a specific issue, that of a baseless allegation, where the reputation of an innocent person was at stake. It advises the Muslims to verify reports, and not to jump to conclusions, driven by a desire of one kind or another, as this can result in injustice and regrets. In other words, the verse advises people to withhold judgment until incontrovertible evidence is available. The verse admonishes the faithful to be careful. When someone makes a claim, one needs to ask: “What evidence is there to substantiate this claim? Why should one accept what is claimed? What assumptions does a given statement make? What implications does a claim have if it is true? What implications does it have if it is false?” A critical approach does not take statements at their face value. It seeks to examine the foundations of statements. One’s success (falāḥ), in this life and in the hereafter, depends on comprehending the message revealed in the Qur’ān and exemplified in the life of the prophet Muhammad, pbuh. While humanity is unable to generate knowledge comparable to revealed knowledge, human reason is indispensable in comprehending, disseminating, and utilising this knowledge. Reason is also instrumental in discovering and utilising knowledge derived exclusively from empirical data.

If a person accepts a statement or opinion at face value, without inquiring and ascertaining the grounds for the view expressed, he or she is being uncritical. In popular parlance, we would say that the person is ‘gullible.’ Accepting statements at face value is not recommended. Should it turn out that the view or opinion expressed is either incorrect or misleading, the person acting on, or affected by bad advice could suffer harmful consequences.

Evaluation of claims can utilise empirical or sense data. In addition to sense perception, Islam recognises another, higher form of perception. This is the perception of the ‘heart’ (fuʿād and qalb). The ‘heart’ includes the intellect (aql) and intuition (ilham). While metaphysical reality or, as the Qur’ān puts it, ‘the
unseen’ (al-ghayb) cannot be empirically observed by the senses, it can be intuitively perceived by the ‘heart.’

Some commentators suggested that critical thinking manifests itself in the Islamic intellectual tradition in the form of *ijtihad*. Yet the identification of critical thinking with *ijtihad* is not entirely justified. While *ijtihad* and critical thinking are similar, they are nevertheless distinct activities. *Ijtihad* presuppose the capacity to think, and to do so critically. One who thinks critically, however, is not therefore for that reason participating in *ijtihad*. While not everyone is qualified to perform *ijtihad*, almost everyone can – and should – develop a good measure of critical thinking skills.

**Critical thinking in civilizational renewal**

Critical thinking is indispensable in advancing *tajdid* ([civilizational] renewal) and overcoming *taqlid* ([indiscriminate] imitation). *Tajdid* and *taqlid* are two sides of the same coin. *Tajdid* is grounded in a well-known tradition, in which the prophet, pbuh, said that God will raise for His ummah, at the beginning of each century, a leader (*mujaddid*) that will rejuvenate religion.227 “As a principle, *tajdid* has guided the path of many a prominent reformer and *mujaddid* throughout Islamic history…” 228 Renewal and *tajdid* “necessitate the reinterpretation of Islamic teachings of relevance to current issues … vigorously undertaken in the light of the unprecedented conditions of modernity and civilization of the twenty-first century.” 229 It is helpful to make a distinction between renewal (*tajdid*) and reform (*islah*): “the former is of concern mainly to the inner moral and spiritual transformation of the individual under the influence of a religious leader, whereas the latter contemplates social reform and the external

228 Ibid.
229 Ibid., 71.
aspects of the religion.” At the same time, “tajdid and islah cannot be entirely “separated from one another, just as the inner self and outer conduct of the individual may be said to be necessarily inter-connected.” Tajdid and islah should each be seen as “a logical extension of the other.” Taqlid or “indiscriminate imitation” and rigid adherence to a particular school of thought, on the other hand, “is widely held to be the single most damaging cause of the decline of creative thinking among Muslims.” Critical analysis can identify the causes of social decline as well as prescribe remedies for its regeneration, based on knowledge of the teaching of Islam.

Islam’s long history has undoubtedly witnessed instances of both rejuvenating tajdid, and of deadening stagnation and taqlid. The weight of unwarranted accretions even managed to declare, at some point, the ‘door of creative thinking and ijtihād closed’.

Critical thinking plays a key role in the mastery, dissemination, and utilisation of knowledge in its various forms. In universities, critical thinking is indispensable in assessing research. In the experimental sciences, the truth or falsity of a hypothesis is established with the help of a controlled experiment. Critical analysis is needed in distinguishing truth from fiction, in the light of available knowledge. Rigorous research methodology enhances the integrity of scientific research.

In business, critical thinking is used to evaluate business plans and company performance. Critical thinking plays a key role in the formulation, implementation, and evaluation of corporate strategies. It is also used in the development and marketing of new products and services, developed in response to changing

230 Ibid., 53.
231 Ibid.
232 Ibid., 54.
234 Ibid., 58.
consumer needs and preferences. Critical thinking can assist companies to become more efficient, productive, and profitable. Higher productivity in turn contributes to economic development, social prosperity and a better quality of life.

Critical thinking is indispensable in the administration of justice. Following the due process of law reduces the possibility of a miscarriage of justice. Witnesses, providing evidence for the acquittal or conviction of an accused, are cross-examined. All evidence is evaluated. Spurious evidence, bias, the testimony of unreliable witnesses, or hearsay are identified and rejected. By distinguishing reliable from unreliable evidence, critical thinking can help enhance the integrity of the judicial process, and thus contribute to a more just society.

Critical thinking along with participation in public affairs can improve governance. Citizens can voice their concerns on issues pertaining to the well being of the community. Critical thinking can also assist in formulating, implementing, and identifying alternative ways of addressing pressing issues facing the community. Government policy safeguards and advances the public interest (maslahah). Competing proposals or alternative policies need to be subjected to a critical analysis. The effects of policies, long-term and short term, as well as their costs – social and monetary – need to be ascertained in advance. As policies are implemented, critical assessment can monitor their effectiveness and assist in fine-tuning them as required.

Critical thinking can identify unwarranted accretions to religious beliefs and practice: “The majority of Muslims today are [...] woefully uninformed...on the authoritative validity of reason.” Critical analysis can investigate views or practices for their compliance with the teaching of Islam. Evaluation, however, can only take place with reference to a criterion. This criterion is the teaching of Islam, as explained in the Qur’an and illustrated in the life of the Prophet Muhammad. The Qur’an refers to itself as precisely such a criterion (furqan). Islam teaches what to accept and what to reject, what is right

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235 Ibid., 162.
and true (ḥaqq) and what is wrong (batil), the difference between knowledge (ʿilm) and ignorance (jahl), between piety (taqwa) and rebellion (bugha) as well as other knowledge. Islamic critical thinking uses revealed knowledge as the criterion for differentiating right and wrong. Islamic critical thinking thus differs in a fundamental way from ‘Western’ critical thinking, because the Western worldview in general accords only empirically verifiable knowledge the status of bona fide knowledge.

Critical thinking can enhance moral integrity. Ḥisbah, or ‘commanding what is good and prohibiting what is evil’ (al-amr bi ʿl-maʿruf waʿl-nahy ʿan al-munkar) is integral to Ḥisbah, something all Muslims are commanded to practice. Says the Qurʾān:

You are the best of peoples, evolved for mankind, enjoining what is right, forbidding what is wrong, and believing in Allah […]”

Ḥisbah requires offering sincere advice (naṣīḥah). Sincere advice may be offered to “anyone, including the ‘ulama’ and government leaders.” Critical thinking is indispensable in giving sincere advice or nasīḥa, as advice can legitimately be offered only after someone is perceived to be in need of such advice. This normally happens when someone observes a departure of a given practice or statement from the Islamic norm. When such a departure is noted, sincere advice or constructive criticism becomes justified. As a result of remedial action, initiated in response to sincere advice, the divergence of a given practice from the prescribed norm, which gave rise to the sincere advice in the first place, would be expected to diminish. The Qurʾān contains much good advice (nasīḥa). It identifies people’s weaknesses and exhorts them to mend their ways. Being self-critical is a way of applying critical thinking to oneself. Criticism or determining how well a society lives up to the noble ideals of Islam, whether individually and collectively,
is indispensable for self-improvement. The expression for ‘improvement’ (islah) occurs frequently in the Qur’ān. Those who mend their ways are spoken of in an approving way.

**Causes of the decline in critical thinking**

During “the first three centuries of Islam, known as the era of ījīhād [...] open enquiry and direct recourse to the sources of the shari‘ah was not restricted.”238 After the fourteenth century, however, thinking began to decline in the Muslim world. One reason for this was the rise of taqlīd or indiscriminate imitation. There were other reasons, however. As a result of “the Mongol invasion and burning of Baghdad, the defeat of the Muslim Arabs in Spain and the continuing crusades, the collapse of the Ottoman caliphate and the ensuing onslaught of European colonialism [...] the sciences fell into a rapid decline [...]. It was argued that orthodoxy was being threatened and that there was a need to restrain thinkers to defend religion.”239

Intellectual disagreement (ikhtilāf) is sometimes confused with disputation. Islam distinguishes two types of disputation (jadāl), positive and negative. Disputation in the positive sense is permitted in the Qur’ān. “Indeed, it is one of the major Quranic themes which occurs on no less than twenty-five occasions where the sacred text expresses humanity’s inclination, as rational beings, towards argumentation.”240 As criticism can easily be identified with negative disputation (mira‘), people worry that whatever critical feedback they might wish to offer might not be appreciated and perceived as purely gratuitous. This may restrain people from offering valuable feedback to those in need of it. Cultural constraints may mean that criticism, if expressed, is muted or low key. While a degree of disagreement (ikhtilāf) is to be expected in an intellectual exchange of ideas, dissent should not be seen as a threat, as

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239 Kamali, “Reading the Signs”, 158.

long as it is expressed in peaceful, reasonable, and law-abiding ways. When dissenting views remain below the surface, the opportunity to express sincere advice (nasiḥah) is missed and the community will not be in a position to benefit from it. Lack of criticism may mean that error becomes institutionalised, and even passed on from generation to generation.

Islam guarantees the freedom of expression (hurriyyat al-ra’y). “Individuals can have but little dignity if they are denied the right to give opinions and voice their feelings in matters that concern them.”241 The freedom of expression includes the freedom to express a personal opinion (ra’y), as long as such expression does not take the form of blasphemy or sedition (fitnah).242 The freedom to express an opinion includes the freedom to express one’s views on religion: “The Qur’ān has encouraged rational argumentation in religious matters, and it has consistently recommended investigation and inquiry into almost all aspects of creation.”243 Yet not all instructors encourage their students to express their views, especially on the subject of religion. This practice hinders the cause of thinking as well as critical thinking. Some teachers justify this habit by saying that religion is a private matter. Others justify their disinclination to allow students to express themselves on religion by saying that students do not have enough knowledge to do so. Yet it is by expressing oneself on a topic that one solidifies one’s knowledge of it. Expressing oneself in an informed and articulate way requires thinking as well as critical thinking. Thinking is required to develop and communicate perspectives. Critical thinking enables the anticipation of possible objections to one’s views. Thus it helps to formulate statements with greater care and circumspection. Discouraging students from expressing themselves in class, except in a parrot-type fashion, denies them the opportunity to develop not only thinking but also communication skills. Moreover, discouraging students from expressing their views may hinder

241 Ibid., 11.
242 Ibid., 62.
243 Ibid., 15–16.
them in providing sincere advice (naṣīḥah) to others: “the Quranic principle of commanding good and forbidding evil (hisbah) […] takes for granted the basic freedom of individuals to formulate and express their own opinions.” The advice in the Qur’ān is that everyone should “reflect on the Qur’ān,” and that everyone should “command what is good and prohibit what is evil,” provided this is attempted from a position of knowledge.

The propensity to discourage the expression of ‘personal opinion’ by students on the Qur’ān may be due by the fact that the expression of a ‘personal opinion’ by a lay person has not been adequately differentiated from the expression of a ‘personal opinion’ by a specialist, a jurist (faqīh) or mujtahid. The expression of a ‘personal opinion’ by a learned scholar or mujtahid is called ijtihad, the process of deriving a ruling (ḥukm) of shariʿah in relation to a new problem, for which no clear text is available in the sources. In English it is customary to translate the term ijtihad as ‘personal opinion’ or ‘personal reasoning’. However, as almost everyone expresses ‘personal opinions’, or uses ‘personal reasoning’, it becomes difficult to differentiate the personal opinion of an ordinary person from that of a specialised scholar. The rendering of ijtihad as ‘personal opinion’ may give the impression that the expression of a “personal opinion,” on a subject related to Islam, by a layperson constitutes an ill-advised attempt to do ijtihad. Expressions of ‘personal opinions’ by students could be perceived as attempts to partake in ijtihad for the same reason. But mere intellectual or ʿaqli activity does not necessarily “involve the inference of a ḥukm sharʿi from the evidence present in the sources.” Accordingly, an expression of an opinion by a student – for example on a verse of the Qur’ān – may not constitute ijtihad. To avoid mistaking the expression of a “personal opinion” on Islam for an attempt to engage in ijtihad,

244 Ibid., 26.
it is better to render *ijtihad* in English as 'juristic reasoning'.\textsuperscript{246} This expression makes it clear that the reasoning in question is that of a competent scholar not a novice. It should be noted in addition, that an expression of an ‘opinion’ on the Qur’ān is not the same as ‘following one’s opinion’. Opinions can be expressed – for instance for the purpose of exchanging ideas or comparing notes – *without* being followed.

The well intentioned but counter productive habit of some instructors – with notable exceptions – of not encouraging their students to express themselves on the Qur’ān may have been reinforced by a saying ascribed to the Prophet Muhammad: “Whoever says something in interpreting the Qur’ān based on his own opinion should find his place in the Fire.”\textsuperscript{247} It appears that “interpreting the Qur’ān based on one’s opinion,” here means expressing a view on the Qur’ān – or any part of it – in isolation from the widely accepted interpretations. In so far as the intention inherent in this advice is to protect people from straying as a result of adopting views on the Qur’ān independently of established interpretations, discouraging people from forming and expressing their views on the Qur’ān is laudable. Expressing one’s point of view, however, requires formulating one. Formulating a point of view, as well as expressing it, in turn requires the application of intellect (*ʿaql*). Apart from whatever salutary effects it might have, it is hard to see how this advice – no matter how well intentioned – would not also have the unwelcome effect of discouraging Muslim students from pondering (thinking about) the verses of the Qur’ān. The absence of an opportunity to express one’s thoughts on a particular subject reduces one’s incentive to

\textsuperscript{246} Kamali, *Freedom*, 2.

\textsuperscript{247} al-Tirmidhī, *ḥadīth* no. 4023, in: Khalid Baig, “Relating to the Quran,” *Albalagh*, available online at , http://www.albalagh.net/food_for_thought/quran4.shtml (accessed on 19 February 2010); see also Abū Muḥammad b. Īsā al-Tirmidhī, *Al-Jāmiʿ al-ṣaḥīḥ*, “Kitāb tafsīr al-qur’ān” (Beirut: Dār al-Kutub al-ʿIlmiyyah, 2\textsuperscript{nd} ed. 1427 AH/2006), 685, *ahādīth* no. 2950, 2951, 2952. Neither al-Bukhārī nor Muslim recorded these Traditions. I would like to thank my colleague at IAIS, Fariz Zainal, for helping me to locate these references.
think about that subject in the first place. One of the great attractions of learning is the ability to share knowledge with others. When the opportunity to do this through exchange of ideas and presentations – which require the expression of one’s views – is missing the incentive for participating in the learning process diminishes considerably.

The advice that one should refrain from expressing one’s opinion in matters of religion – directed to students in particular – is customarily justified by saying that students do not have enough knowledge to express any views on the Qurān, which is the prerogative of experts. One must have knowledge to begin with, such as knowledge of Arabic, in order to comprehend the revealed knowledge recorded in the Qurān. Students are accordingly advised to follow time-honoured interpretations. Yet the Qurān states that it is God who teaches and explains the Qurān. The need to follow generally accepted interpretations has made it hard for students to access the Qurān directly. This means a missed opportunity to approach the Qurān with a perspective unaffected by prior exposure to human interpretations of the divine text. Students in effect get to read the Qurān through someone else’s eyes. Yet the Qurān is a universal document with a message for all humankind. In so far as each generation faces new challenges, the Qurān needs to be read by each generation in its own historical context. Interpretations that have been produced in historical settings long gone may be of limited use in the contemporary context with its unique features, such as globalisation. The danger in accessing the Qurān through the eyes of the interpreters of old is that the reader may miss a substantial part of the teaching of the Qurān, as former interpreters would have highlighted themes in the Qurān that had particular relevance to their own time and place, as well as to the specific predicaments they were confronted with.249

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248 Qurān 55:2; 75:17, 19.
249 According to Khaled Abou El Fadl, a number of Muslims treat the views of selected jurists as “immutable and beyond questioning”; see his *The Great Theft*: 
The Qur’ān does not expressly forbid or even discourage forming or following ‘opinion’. It advises against forming and following desires, either other people’s or one’s own. The expression “Do not follow your opinion,” does not occur in the Qur’ān. Instead we encounter – in no fewer than eighteen verses – censure of following one’s own or other people’s desires (ahwā).\(^{250}\)

They reject (the warning) and follow their (own) lusts but every matter has its appointed time.\(^{251}\)

Then We put thee on the (right) way on religion: so follow thou that (way), and follow not the desires of those who know not.\(^{252}\)

The word ahwā means desires.\(^{253}\) ‘Opinion,’ no matter how ill conceived, is formed in and by the ‘heart,’ the mind (‘aql) and intuition (ilham). ‘Desires’ (ahwā), on the other hand, the desires for food, sex, wealth, power, and fame, are formed in and by the less rational parts of the human soul. It is generally acknowledged that desires are significantly more compelling than opinions. ‘Opinions’ tend to have limited impact on people, unless they are accompanied by the prospect of a fulfilment of a desire. This is part of human nature. In order to be “on the safe side” a person who has been advised to refrain from expressing an ‘opinion’ of his own, might also refrain from using his intellect (‘aql). This line of reasoning could hardly fail to have

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\(^{250}\) Qur’ān: 2:120, 145; 5:48, 77; 6:56, 119, 150; 13:37; 23:71; 25:43; 28:50; 30:29; 42:15; 45:18; 47:14, 16; 54:3. Once again, I would like to thank my colleague, Fariz Zainal, for helping me to locate these references.

\(^{251}\) Quran, 54: 3.

\(^{252}\) Quran, 45: 18.

the effect of discouraging intellectual activity. The advice not to follow one’s ‘opinion’ places the mind, indispensable in arriving at any kind of opinion, in an unfavourable light. Such advice cannot but have the effect of making people feel as if the use of one’s intellect was somehow dangerous. The opposite may be said of desires. It may appear to the unsuspecting that it might be alright to indulge in desires, as long as such indulgence does not take the form of expressing his or her ‘opinions.’

Having been advised against following their ‘opinion,’ Muslim students tend to refrain from expressing their views on the Qur’ān, fearing that this could amount to interpreting the Qur’ān ‘based on their opinion’. The Qur’ān thus comes to be treated as a text to which only a few are permitted direct access, rather than as a “message to all the worlds,” as the Qur’ān declares repeatedly. Yet the Qur’ān teaches that no one can bear another person’s burdens. Everyone is individually responsible for his or her deeds. Accordingly, “People are [...] advised to use their own judgment and distinguish between guidance and misguidance in the light of reason. This is because they themselves, and not their self-styled leaders, would ultimately be held responsible.”

The fact that teachers at times lack the very skills they are expected to teach to their protégés has not helped matters. In a number of learning environments, students are spoon-fed. Some function poorly without constant supervision. Studies are largely exam oriented. An over-reliance on monologue and monotone methodology of teaching allows little time for debating, presentations and discussions. Rote learning (repetition) forces students to memorise material verbatim, sometimes without comprehending, what they have memorised. Mechanical learning inhibits the active mind. Bright students experience discomfort in such an environment. Their interest in learning diminishes, research funds remain underutilised, and the potential of students remains largely underdeveloped. Graduates learn few higher order thinking skills and remain

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dependent on others even during adult life, when a degree of self-reliance could justifiably be expected of them. “The business sector is complaining at the quality of graduates they receive from the universities who sometimes could not even comprehend the manual of an equipment what more the way it works. Employers feel that schools have failed to produce students who are knowledgeable and well-equipped with thinking skills which are very much demanded in most working sectors.”

Conclusions and recommendations

• There is a need to introduce courses in critical thinking skills in institutions of learning where they have not been introduced already and developed further in institutions that already offer them.

• Critical thinking needs to be emphasized across the curriculum; not only in one subject. It should be made clear to the students that the use of one’s mind is neither a sign of impiety, nor does it amount to indulging in ‘conjecture’. The use of one’s reason is not forbidden. On the contrary, it is recommended.

• There needs to be tolerance for diversity of views. The expression of diverse views does not necessarily encourage anarchy or legitimise value relativism. The Islamic worldview allows ample room for the expression of diverse ethnic, cultural, and religious perspectives, without disadvantaging anyone in particular. Staff and students need to be encouraged to develop and express helpful points of view without fear of reprisals. There should be a climate of cooperation.

• Students should be encouraged to participate in classroom discussions, debates, and express critical perspectives on issues. There should be plenty of presentations, debates

255 Rosnani Hashim and Suhaila Hussein, The Teaching of Thinking in Malaysia, Research Centre, International Islamic University Malaysia, 2003), 2.
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and fora. These events should be followed by question and answer sessions. Visiting speakers should expose students to new approaches of learning. Various debating clubs should be established. Public or private funding should be provided for useful events.

- Rote learning methods need to be enhanced with methods that emphasize analysis, comprehension, and communication. Emphasis should be placed on comprehending text, not just memorising it. More centres of learning, with good facilities, should be established. Libraries should be equipped with computers, Internet, videos and other facilities. There should be rooms for discussions.

- Students themselves should be enabled to organise and lead their own activities such as debates and publications.

Rehabilitating Islamic studies

Abstract
The emergence of taqlid or indiscriminate imitation of the work of past scholars was a major turning point in Islamic intellectual history. Taqlid has been identified as a leading cause of the demise of the Islamic civilization. The emergence of taqlid had a number of adverse effects. For one, it dispensed with the need for juristic effort (ijtihad) by scholars. The latter were expected to defer to the work of their predecessors and avoid direct reference to the primary sources of the Shariah, the Quran and sunnah. In this way, the Quran and sunnah became “remote” sources, while for all practical purposes, the work of the early scholars came to be viewed as a primary source of the Shariah in its own right. This introduced a certain distance between the later generations of scholars and the Quran. This “distancing” of the Quran from the later generations of Muslims was reflected in how the Quran came to
be perceived and taught. Scholars were expected to look for the meaning of the Quran outside of the Quran, specifically in the commentaries of the early scholars on the Quran. As it was the Quran that provided the impetus to the rise of the Islamic civilization in the first place, civilizational renewal will require nothing short of reopening access the Quran. Such an opening has to begin with a reappraisal of the learning methodologies in order to make the meaning of the Quran more accessible than is currently the case.

**Key words**

Key words include taqlid, education, civilization, reform and knowledge.

**Introduction**

Existence manifests itself in the form of cycles. Civilizations arise, grow and decline. The Islamic civilization was no exception. Like other civilizations, it experienced both growth and decline. After declining, it emerged again in different parts of the world.

There is little doubt that the key factor in the rise of the Islamic civilization was the enlightenment conveyed in the Quran, delivered and implemented by the last prophet, Muhammad, (pbuh). "No other sacred scripture has ever had a similarly immediate impact upon the lives of the people who first heard

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257 When the Abbasid caliphate was destroyed by the Mongols in 1259, it was eventually replaced by the Mughal civilization, the Safavid civilization, and the Ottoman civilization.

258 The word “knowledge” (ʿilm) is mentioned in the Quran more than 700 times in 87 different forms. *The Institute of Islamic Knowledge*, accessed online on 5 September 2014, <http://al-quraan.org/about_us.html>
its message and, through them and the generations that followed them, on the entire course of civilization.”

Man left to his own devices is unable to answer the deepest questions, those relating to good and evil, right and wrong, or noble and base: “on its own, the human mind is incapable of understanding the complete objective truth about, and the higher purposes of, the human experience.” The rise of empirical science in the modern era, while contributing much to economic progress and development, distanced man from other kinds of knowledge. Relying as they do exclusively on sensory perception, empirical sciences are unable to provide credible answers to deeper questions, in particular questions regarding good and evil. Empirical science is unable to make statements of a normative character. Such science can only describe; it is neither equipped nor able to prescribe. It can only answer questions about “what is” but not questions about “what ought to be.” Through the application of the modern scientific method – experimentation and analysis – empirical science is only able to identify and describe, specific cause and effect relationships in the physical world. These are expressed in the form of “scientific laws.” Empirical science, due to its dependence on sensory perception, is unable to comment on any aspect of metaphysical reality.

Unassisted human reason as used within the humanities also has its limitations. It is limited in its ability to grasp the deepest truths without the assistance of divine revelation. Unassisted human effort is unable to solve the riddle of human existence. The inadequacy of merely human effort to answer the deepest questions obliges man to turn to a higher source of guidance: divine revelation.

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The latter provides man with a bridge to the “beyond” or what the Quran refers to as the “unseen” (al ghaib), the realm of existence inaccessible by means of sense perception. Revealed knowledge is the guiding light received by man from his Creator. It enables man to live in accordance with the divine will and to conduct himself with justice.

Revealed knowledge provides humanity with guidance in the form of universal principles. The fact that these principles have been revealed during particular historical periods, or in response to specific historical developments, does not diminish the universality or applicability of those principles at other times.261

The universality of the ethical principles conveyed in the Quran and illustrated in the practices (sunnah) of the prophet (pbuh), makes possible their application at different times and in a variety of different contexts. However, if universal principles are confused with practices that may have been appropriate for a particular historical period but may not be suitable for another one, the community may experience difficulties in adapting to new challenges.262 Relying on past interpretations to solve present problems may not be enough, as early scholars “could have no conception of the necessities of the twenty-first century Muslims.”263

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Emergence of *taqlid*

*Taqlid* has been defined as “indiscriminate imitation of others.” *Taqlid* consists of accepting an opinion on trust without knowing the rationale for accepting that opinion.\(^{264}\) Scholarly authority rather than intellectual analysis becomes the criterion for differentiating sound opinions from unsound ones.

*Taqlid* is problematic for a number of reasons. Imitation implies a deficiency on the part of the imitator and his dependence on another, the one being imitated, subject person or his work. Imitation calls into doubt the authenticity of the imitator. *Taqlid* relieves the imitator from having to exert himself, by adopting or relying on the *authority* of another. By adopting *taqlid*, the Islamic civilization put in doubt its own authenticity.

*Taqlid* became widespread at approximately AD 1000. The adoption of *taqlid* was justified by the claim that the problems of *fiqh* were solved and that therefore there was little need for additional juristic effort: “the prevailing mindset [was] that a Muslim should follow one or the other of the established schools of thought and abandon his judgment in favour of interpretations of the earlier centuries.”\(^{265}\) This altered the relationship between the believer and the sacred text in a fundamental way. The closing of the door to *ijtihad*\(^{266}\) and the institutionalization of *taqlid* took place in stages.

At first, *ijtihad* was prohibited. Then in the fifth and sixth centuries, scholars were restricted to *tarjih*, or giving preference to the opinion of one imam or another on questions of *fiqh*. But then

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\(^{266}\) *Ijtihad* is the effort by a qualified jurist to arrive at a ruling (*hukm*) of the Shariah (Islamic law), based on textual evidence, to a new problem to which no text (*nass*) appears to apply. See Kamali, Mohammad Hashim, *Principles of Islamic Jurisprudence*, Second revised edition, Ilmiah Publishers, 1991, p. 366.
tarjih was prohibited and scholars were restricted to choosing between rulings within a single madhhab.\textsuperscript{267}

The rise of \textit{taqlid} initiated a decline of critical reason. “The persistent decline of critical reason among Muslims is due partly to the notion that the exercise of personal judgment and \textit{ijtihad} ceased with the epoch-making works of the legists and imams of the past.”\textsuperscript{268}

The decline of critical reason for its part contributed to an alienation of “scientists, and thinkers from the theologians, sectarian controversies, and the prevalence of intellectual conservatism and \textit{taqlid} (imitation of past authority).”\textsuperscript{269} Intellectual activity was confined to making commentaries on commentaries.

With the so-called closure of the door of \textit{ijtihad}, the ulema resorted less and less to the sources of Shariah finding solutions to problems. Instead of addressing social issues and attempting new solutions the ulema of the later ages ... occupied themselves mainly with elaboration ... of the works of their predecessors.\textsuperscript{270}

The acceptance of the views of former scholars departed from the tradition of \textit{ikhtilaf} (differences of opinion) that characterized the early generations of Muslims.

\begin{footnotesize}
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\item \textsuperscript{268} Kamali, Mohammad Hashim “Reading the Signs: A Quranic Perspective on Thinking,” \textit{Islam and Science}, Volume 4, Winter 2006, Number 2, p. 161.
\item \textsuperscript{269} Kamali, Mohammad Hashim “Reading the Signs: A Quranic Perspective on Thinking,” \textit{Islam and Science}, Volume 4, Winter 2006, Number 2, p. 158.
\end{itemize}
\end{footnotesize}
For the ummah, taqlid represents a blameworthy innovation (bid’ah) as well as a deviation from the straight path (dalalah). No researcher or scholar has ever found a valid text from either the Quran or the hadith, or even an argument based on pure reason, to support Islam’s approval of taqlid, for the very idea is alien to Islam’s view of humanity. The teachings of Islam clearly state that all assertions must be supported by either verifiable evidence or proof ... If such conditions cannot be met the assertion is to be rejected.\textsuperscript{271}

The practice of taqlid persists to this very day in some institutions. For example, “The ulama of Deoband not only adhered to the Hanafi school, but also insisted that any deviation from taqlid was a serious matter of concern and must be confronted because it was no less than bida’t (innovation). To the Deobandis, the gates of ijtihad were firmly closed.”\textsuperscript{272}

\textbf{Consequences of taqlid}

By obliging scholars to defer to the works of their predecessors, taqlid initiated a process of intellectual atrophy with little room for fresh endeavor. “The creative impulse of Islamic thought suffered setbacks as a result.”\textsuperscript{273} Moreover, the requirement to follow one of the leading four schools of thought introduced a


\textsuperscript{273} Kamali, Mohammad Hashim “Reading the Signs: A Quranic Perspective on Thinking,” \textit{Islam and Science}, Volume 4, Winter 2006, Number 2, p. 158.
rigidity that is at odds with the rich diversity of the Islamic heritage.\textsuperscript{274}

The “intellectual stagnation” characteristic of \textit{taqlid} significantly narrowed the diversity and scope of Muslim intellectual endeavor.\textsuperscript{275} \textit{Taqlid} limited intellectual inquiry and impeded the expression of alternative points of view.\textsuperscript{276} As a result:

the sciences fell into a rapid decline while more rigid forms of instruction and narrower curricula prevailed ... The latitude and diversity of discourse of religious sciences, \textit{kalam tafsir}, hadith, and \textit{fiqh} gave way to narrower criteria of \textit{kufr}, \textit{bid'a}, and \textit{taqlid} and the so-called closing of the doors of ijtihad (\textit{sadd bab al-ijtihad}).\textsuperscript{277}

In this way, “the door to independent legal thought was shut and then barred.”\textsuperscript{278} Later generations of scholars became obliged to depend on the former generations of scholars.\textsuperscript{279} This gave rise to a culture of intellectual dependence.

\begin{itemize}
\item \textsuperscript{274} Nyazee, Imran Ahsan Khan \textit{The Methodology of Ijtihad}, Islamic Book Trust, Kuala Lumpur, 2002, p. 10.
\item \textsuperscript{276} The effects of \textit{taqlid} were in a sense the exact opposite of the effects of the European Enlightenment, which elevated human reason to a status higher than was the case during the time of Church dominance.
\item \textsuperscript{277} Kamali, Mohammad Hashim “Reading the Signs: A Quranic Perspective on Thinking,” \textit{Islam and Science}, Volume 4, Winter 2006, Number 2, p. 158.
\item \textsuperscript{279} A number of classical Muslim scholars rejected \textit{taqlid}. See for example, Montada, Josep Puig, “Reason and Reasoning in Ibn Hazm of Cordova (d. 1064),” \textit{Studia Islamica}, No. 92, Maisonneuve & Larose, 2001, pp. 165 -185, p. 170; accessed online on 25 Aug. 2014; \texttt{<http://www.jstor.org/stable/1596196>}
\end{itemize}
It was held that the four Orthodox Sunni schools and the substantive legal rules reached by their masters and set forth in the authoritative treatises were quite sufficient to deal with any future development ... The conclusion reached favored the closing of the gate of Ijtihad, which meant that no jurist was actually qualified, and therefore no jurist had the right, as the old masters had, to exercise Ijtihad and to elaborate legal rules by direct reference to the textual sources.\textsuperscript{280}

With the closure of the doors to \textit{ijtihad} every jurist became a \textit{de facto} imitator or \textit{muqallid} and was expected to follow one of the four schools of thought.\textsuperscript{281}

The legal rules set forth in the juristic treatises of the Sunni schools thus were considered as constituting the correct and final statement of Shari’ah law. This by implication meant that the treatises became the primary source of Shari’ah. The Quran and the Prophet’s Sunnah, on the other hand, were relegated in practice from primary to remote sources of law, although this was not openly recognised in theory.\textsuperscript{282}

By attaining in practice the status of a “primary source” of the Shariah, the work of early scholars came to occupy the position that was traditionally reserved for the Quran. In traditional jurisprudence, the Quran occupies the first place as a source of the Shariah. It is followed by the sunnah, \textit{ijma} (consensus of


\textsuperscript{281} Murad, Abdal-Hakim, “Understanding the Four Madhhab’s,” revised edition now with footnotes (for Sidi Azhar Usman) p. 33, accessed online on 7 August 2014; <http://www.teachislam.com/dmdocuments/fiqh_understanding_the_four_madhhab.pd>

scholars) and *ijtihad* (juristic effort), in descending order. *Taqlid* had other harmful effects. It also contributed the rise of fatalism (*jabr*):

it became increasingly common for political leaders to seek justification for their mistakes and aberrations by citing this doctrine [of fatalism]. Quite simply, if their actions and decisions had been determined beforehand, they could not be held accountable for them, and their subjects could have no justification for rising in revolt against them. In effect, it gave them a *carte blanche* to rule the ummah as they saw fit. As it was to their advantage, many rulers and court-supported scholars favored it despite the opposition of the traditional ulama … *Taqlid* thus cleared the way for fatalism, which in turn prepared the ground for tyranny, injustice and despotism.283

The institutionalization of *taqlid* was justified by the claim that the earlier generations of Muslims had a *better* understanding of Islam than the later generations. The better understanding was due to the closer proximity of the earlier generations to the prophet (pbuh).

This resulted in the perception, still widely held, that “the sayings and opinions of the salaf (predecessors) are nothing short of sacred. This is especially true in regard to the understanding, *ijtihad*, and interpretations of the salaf some of which have been elevated by the traditionalists to the status of revelation itself.”284 The view that the knowledge of the early


284 AbuSulayman, AbdulHamid, Crisis in the Muslim Mind, The International Institute of Islamic Thought, Herndon, USA, 1993, p. 36, accessed online on 26 March 2014,
Muslims was superior to that of the later Muslims became, as it were, a self-fulfilling prophecy.

One result is that “in our traditional institutions” the authority of past scholars “is elevated to the level of the prophet (pbuh) and sometimes even above it.”285 Another result is that “The word of the Imam of the Madhab is occasionally followed in defiance of the world of Allah (s.w.t).”286

In response to the restrictions placed on independent inquiry by the need to defer to established interpretations, a number of contemporary scholars have called for “reform and renewal in Islamic thought.”287 In particular, there have been calls “to free the discipline from the dominance of past scholars.”288

Others stressed the need to “appreciate the predominantly rational approach of the Quran to all religious questions.”289


287 While the Arabic islah is typically rendered as “reform,” it has a broader meaning. Islah also means “repairing,” “rebuilding” or “restoring” something to its original condition. In general islah aims to overcome corruption (fasad). Thus, the term islah has a distinctively ethical connotation. By contrast, the term tajdid is generally translated as “renewal” or “restoration.” Moreover, the term islah is a Quranic term, while the expression tajdid is to be found in the prophetic traditions. See Mohamed Abubakr A al-Musleh, Al Ghazali as an Islamic Reformer (Muslih), A thesis submitted to The University of Birmingham for the degree of Doctor of Philosophy, Department of Theology & Religion School of Historical Studies The University of Birmingham July 2007, University of Birmingham Research Archive e-theses repository, pp. 31-33, accessed online on 16 April 2014, <http://www.scribd.com/doc/172931962/AL-GHAZĀLĪ-AS-AN-ISLAMIC-REFORMER-MUSLIH>.


What is required is to rekindle the “tradition of reason and intellectual inquiry, which will in turn lead to a culture of learning among the Muslims.”

Islam must not be ossified and fossilized by blind imitation of traditional thought and opinion. Rigid obscurantism, exclusively literalist doctrines and atavistic doctrines of a past ideal, prevents Islam from being a religion for all time as intended by Allah. We must be open to the prospect of reform (islah) and renewal (tajdid).

The key to the renewal of the Islamic civilization thus lies in overcoming taqlid. It needs to be recalled that, “differences of opinion are the basis of all progress in human thinking and, therefore, a most potent factor in man’s acquisition of knowledge.”

**Taqlid and teaching methodology**

Education enables a person to live well. In a religious context, this means to live in accordance with the will of God. Knowledge enables a person to avoid harm, both to himself as well as to others. It also enables a person to obtain benefits.

Knowledge begins with the rise of consciousness of the self and of the “other.” The “other” in the first instance includes the parents of a newborn, siblings, friends, neighbors, classmates and fellow citizens.

The most important “other” is God. The awareness of God takes both an intellectual and an intuitive form. When a person

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attains the awareness of ultimate reality – God – that person attains God-consciousness (\textit{taqwa}). Thus, the highest form of cognition is the consciousness of God. The purpose of education is to enable a person to become conscious of God and live accordingly.

Religious knowledge provides guidance on how to conduct oneself. It also provides guidance on how to utilize other kinds of knowledge. The content of religious education is provided by divine revelation. Knowledge of the world (physical universe) is provided by the empirical sciences. The two types of knowledge, utilized together, help man to fulfil his responsibilities as the vicegerent (representative) of God on earth. What is needed is to strike a balance in the pursuit of the two types of knowledge.\footnote{Riaz, Ali “Madressah Education in Pre-colonial and Colonial South Asia,” \textit{Journal of Asian and African Studies}, 46(1), 2010, pp. 69–86, p. 79.}

Revealed knowledge provides guidance in ethical matters. Empirical knowledge provides the means of cultivating the earth and obtaining various benefits from it. Ideally, the latter is employed in the service of the former.

Knowledge of revelation is obtained by means of the religious sciences, while empirical knowledge is obtained by scientific experimentation. Religious sciences include interpretation (\textit{tafsir}), theology (\textit{kalam}), jurisprudence (\textit{usul al fiqh}) and others. Empirical knowledge includes the knowledge of physics, biology, chemistry and other subjects.

Both “books” contain the signs (*ayat*) of God. We are advised to study and reflect on *both* “books.” One challenge we face is how to integrate these two types of knowledge.

The knowledge of the modern sciences increases our capacity to produce goods and services, but revealed knowledge provides guidance on how to use the knowledge of the modern sciences for good rather than evil purposes.

The dichotomy between religious and modern education arose when the pursuit of religious education was separated from worldly education. The segregation of religious education from modern education produced a dualism that persists in some Islamic institutions to this very day. In order to overcome the imbalance in Muslim educational institutions, the two kinds of knowledge need to be pursued together. They complement each other. Empirical knowledge is not incompatible with revealed knowledge. On the contrary, empirical knowledge confirms divinely revealed knowledge: “the *Quran* has encouraged rational argumentation in religious matters, and it has consistently recommended investigation and inquiry into almost all aspects of creation.”

The rising preference for religious education and the marginalisation of (modern) scientific education appears to have been part of a long-term trend. Under the Mughals (1556-1858), for example, “Within madrassa education, the tradition of *manqulat* (revealed/transmitted knowledge) was consolidated over time at the expense of the tradition of *maqulat* (rational sciences).” However, this was not always the case:

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296 This “balance” is sometimes spoken of as the need to integrate both *naqli* (transmitted) and *’aqiqi* (acquired) knowledge.


“Interestingly, in the early days of the empire, it was the study of *maqulat* that spread widely.”299

In Pakistan, madrassa education still gives preference to religious knowledge at the expense of other kinds of knowledge. The result is an ineffective educational system, in much need of reform.

The sect-specific Islamic curricula of madrassas without any integration with sciences, arts, humanities etc. segregate it from any other need based educational system followed all over the globe …300

In some schools, young Muslims are encouraged to focus on religious knowledge, at the expense of other types of knowledge. Thus, when they graduate, many remain unemployed and are generally poorly prepared to meet the challenges of modern life or contribute intellectually to the development of the modern sciences.301

Reforms in the educational system of madrassas are needed by including scientific and non-theological subjects in curricula and improving the existing pedagogical practices.302

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Leslie Terebessy

Taqlid also impacted how the Quran came to be studied. The effect of this impact was that, in an important way, the Quran itself became “remote” from the Muslim consciousness. This remoteness is apparent in the fact that while not a few Muslims can recite the Quran, few can comprehend what they recite. Students are encouraged mainly to imitate the correct pronunciation by recognised reciters. Little emphasis is placed on the comprehension of the sacred text.

This approach, however, is problematic, as it makes an assumption about the Quran that the Quran itself rejects. This assumption is that the Quran is “difficult” to understand. The Quran itself states that God made the Quran “easy to understand and remember.”

As a result of the view that the Quran is “difficult” to understand, Muslims have been discouraged from attempting to understand the Quran on their own. This advice, however, does not help to bring the message of the Quran, which presents itself as “a message to all the worlds,” any closer to the believer. On the contrary, it tends to increase the distance between the Quran and the student.

The advice to focus on recitation at the expense of comprehension had the effect of separating comprehension of the sacred text from its recitation. Indeed, recitation took priority over comprehension. “The basic approach to Quran studies … emphasized correct pronunciation and memorization.” This has been criticized by a number of commentators.

It is ironic to note … that the vast majority of Muslims are wont to rote reading of the Quran which is patently vacuous and devoid of thinking. The Quran is usually read, committed to memory, and cited for its spiritual merit rather than intellectual stimulation and

enrichment. This is evidently not the advice one obtains from the Quran itself.\textsuperscript{305}

Another observer noted, “our traditional system, for all its virtues, is sharply criticized ... for relying largely on rote learning and parrot fashion repetitions ...”\textsuperscript{306} The result of rote reading is that the message of Islam is poorly understood and presents a “contradictory and confused picture.”\textsuperscript{307}

The relationship between the divine text (the Quran) and the human recipient needs to be re-articulated so as to enable the believer to interact with the divine text directly.

Many writers are critical of the current stress on parroting entire sections of books without exercising reason or critical thought, as a result of which few students are said to actually properly comprehend what they are taught. Critics see the madrassas as discouraging debate, dialogue and critical reflection, and as treating their students as passive students, thus cultivating a climate of stern authoritarianism.\textsuperscript{308}

Thus what is required is a more intellectual approach in education.\textsuperscript{309} More emphasis needs to be given to

\begin{thebibliography}{99}
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\bibitem{305} Kamali, Mohammad Hashim “Reading the Signs: A Quranic Perspective on Thinking,” \textit{Islam and Science}, Volume 4, Winter 2006, Number 2, p. 163.
\bibitem{309} One of the reformers arguing for a more intellectual approach was Muhammad Abduh. "Muhammad ʿAbduh (b. 1849–d. 1905) was a chief reformer in the movement of Islamic
\end{thebibliography}
comprehension of the sacred text than has hitherto been the case. Some contemporary institutions of higher learning have already adopted interactive methods of leaning:

The method of teaching is through dialogue. The question is put to the student and they are encouraged to find their own solutions. We do not mock them if they err; we simply show them that this suggestion does not work, we help them find the solution. Our method is not the fast food package that is handed to the students without any effort on their part. Rather, it is the carefully prepared banquet, which they work to bring about, and which they greatly enjoy.\(^{310}\)

A method that requires exertion and effort on the part of students is preferable to a method that only requires passive acceptance of “processed” and ready-made “knowledge.” The Quran encourages thinking and questioning. “Islam … advises analytical knowledge and understanding that generate insight rather than a purely dogmatic approach.”\(^{311}\) The Quran needs to be presented in a way that makes it “truly comprehensible.”\(^{312}\)
This method will need to emphasize comprehension as much as pronunciation. In other words, it will require restoring the balance between recitation and comprehension.

The main challenge in Islamic studies is “how to foster a critical approach while maintaining loyal commitment …”\textsuperscript{313} This can be realised by an educational system that is well-grounded in tradition and is able at the same time to foster “independent thought based on a well developed critical ability.”\textsuperscript{314}

**Conclusions and recommendations**

The institutionalization of *taqlid* resulted in the Quran becoming a “remote” source of the Shariah. By contrast, scholarly commentaries acquired – at least in practice – the status of “primary” sources. Treating scholarly interpretations as “primary” sources of the Shariah, however, implies a departure from the “traditional” ranking, at least as far as the later generations of scholars were concerned. In the “traditional” ranking the Quran occupies the first place. It is followed by the sunnah, the work of jurists (*ijma*), and *ijtihad* (individual juristic effort), respectively.

Moreover, the practice of requiring students to look for the meaning of the Quran in scholarly commentaries rather than in the Quran itself, meant that Muslims came to focus on a source other than that which provided guidance to the earliest generation of Muslims. The dependence on scholarly commentaries on the Quran rather than the Quran itself ensured that the later Muslims’ understanding of Islam became essentially a *derivative* understanding.


The Islamic civilization rose to prominence on account of the inspiration contained in the Quran. Thus, renewal will require re-opening access to the primary source of the Islamic civilization, the Quran. Within the institutions of learning, the understanding of knowledge will need to be broadened, to include comprehension of the text of the Quran in addition to learning recitation.

The understanding of knowledge will need to be broadened to include knowledge of the modern sciences. This will require not only a review of the curriculum or the subjects studied, but also of the methods of teaching used. Teaching needs to be interactive rather than a one-way process characteristic of “teacher centered learning,” where the teacher is a “sage on the stage” than a “guide on the side.” Taqlid will have to give way to a greater utilization of the intellect. Reliance on the work of past scholars needs to be reduced.

- *Taqlid* needs to be overcome and the reliance on the works of past scholars needs to be reduced.
- A balance in the pursuit of modern knowledge and religious knowledge needs to be re-established.
- A balance between pronunciation and comprehension in the teaching of the Quran needs to be restored.
- It is recommended to introduce student centered learning.