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## ISLAMIC JURISPRUDENCE AND THE PRIMACY OF SHARIAH

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### ABSTRACT

*The purpose of shariah like any other legal system is the maintenance of law and order. Society cannot achieve peace and prosperity without some form of social control. Outlawry can only lead to social disequilibrium. The focus of this paper is not the legal or juridical functions of the shariah, but the social and political dimensions of Islamic jurisprudence. Since the purpose for being of an Islamic state is the full implementation of the shariah, the aim of this study is to evaluate the nature and content of Islamic jurisprudence. The study will assess the compatibility or otherwise of Islamic jurisprudence with contemporary developments in international human rights and humanitarian law and the suitability or otherwise of implementing shariah law in a democratic and liberal society.*

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**Keywords:** Islamic jurisprudence, Shariah, The quest for justice, Shariah and penology

### INTRODUCTION

The full implementation of *shariah* law is fundamental to the struggle for Islamic revivalism and reformism, which is the prelude to the actual establishment of an Islamic state. It is a commonly held opinion in Islamic circles that Western culture and civilization has corrupted the authentic spirit and culture of humanity. The agitation for the implementation of *shariah* law is an expression of faith in the regenerating power of Islam and its historic ability to influence and redirect the spiritual and cultural destiny of mankind. Acting both as a religion and as a civilization, Islam is poised not only to purge the human society of western-inspired secularism, but also to use *shariah* as a potent force in global social engineering.

*Shariah* as Islamic canon law comprises code of conduct that regulates worship, morals and interpersonal relationship. *Shariah* as a legal code has undergone several amendments from time to time, and from each of the prophets. As the last prophet and seal of prophecy, Muhammad came with the final and authentic *shariah*, which has led to the comprehensive abrogation of all previous *shariahs*. The thesis of this study is that *shariah* can only be implemented in an Islamic state. It is

glaring that the contemporary situation where *shariah* is implemented in non-Islamic states is an aberration *ab initio*.

### **Shariah and Islamic Jurisprudence**

Jurisprudence is the science, or philosophy of law. It can also be interpreted to mean a system or body of law. For Muslims, law is a fundamental aspect of religion. In Islamic world-view, law is more important than religion. Joseph Schacht maintained that "it is impossible to understand Islam without understanding Islamic law" (Savory, 1976). Islamic laws and morals are derived from religious sanctions, to that extent, jurisprudence incorporates theology and philosophy.

*Shariah* is proclaimed as the supreme laws of God in an Islamic state. *Shariah* covers, and regulates the entire life of the Muslim from cradle to the grave. It contains both doctrine and law. Islamic values which are embodied in *shariah* are not only ethical prescriptions, but legal codes which are enforceable in courts of competent jurisdiction. Historically, law was first formulated before theology.

The exigency of modernism has led the *ulama* to establish the science of *Usul al Figh* (the principles of jurisprudence). The establishment of this new science was necessitated by the recognition of the fact that the *shariah* has other sources, besides the Holy *Quran* and the *hadith*, which could enhance juridical creativity and dynamism in the dispensation of justice. Islamic law prescribes one's duties to God and man. The law has to do with the external manifestations of man's faith, and dealings with other men which constitutes duties toward God.

Islamic jurisprudence is defined through the Arabic word *Figh*, which means 'Knowledge' or 'understanding' of the duties and obligation which Islam impose on Muslims. *Figh* is the Islamic code of conduct, which prescribes modes of worship, moral standards and principles of interpersonal relationship. *Figh* is derived from the Holy *Quran*, the *sunnah*, the *ijma* and the *qiyas*. A combination of these four sources with *al-kalam* (dogmatic and scholastic theology), lays the foundation for the science of *shariah*, which means "the path" or 'the road' of the Islamic faith (Doi, 1981).

The *shariah* is both a combination and the culmination of legislations lifted from the *Quran* and the *hadith*: "The formula was to identify the *sunnah* with the contents of *hadith* known to be from the Prophet, then to give it the blessed approval of the *ijma* of the *ulama*" (Farah, 1970). It was also in the third century that the *ulama* took the final decision on the interpretation of *hadith*, which ended all criticism and emendation. Al-Shafi'i is praised by Muslim historians for exerting his conservative influence over fundamental issues in the canon of *shariah*. As a policy, *shariah* does not distinguish between the spiritual and secular. The *shariah* does not follow any precedents from non-Islamic laws, rather it stresses individual cases.

The *shariah* is the foundation and sustainer of Islamic society. It regulates the relationship of Muslims with God, neighbours and self. It creates a system of duties that are not only religious and ethical, but legal. It defines actions that are forbidden (*haram*), required (*fard, wajib*), recommended (*mandub, mustahabb*), tolerated (*mubah, jaiz*), and what is dislike or frowned upon (*makruh*). The link between the *shariah and fiqh* can be likened to that of a canon law and secular law.

The *shariah* regulates aspects of Muslim's interpersonal relationships like marriage, divorce and inheritance. From the foregoing, Islamic jurisprudence is hereby defined as the knowledge of the rights and duties, which Islam has imposed, on its adherents to regulate interpersonal relationship and also prepare the Muslim for another life in eternity. *Fiqh* therefore is the basics, or grundnorm of Islamic legal system.

The *shariah* is meant to guide the Muslim on daily basis into the habit of good social relationship. Man's right to live a happy and fulfilled life is fully endorsed and enforced by the *shariah*. Rights in Islam go with responsibilities. Man as a free moral agent is responsible for his actions and deeds. The human society is operated on the principle of freedom, but everything must be done to ensure that one man, or group of persons do not exercise their rights in a way to jeopardize the legitimate interest and aspirations of other people.

The purpose of *shariah* in social control is aimed at preserving regularity and orderliness in social life. It defines the role of individuals as members of society. The law specifies clearly the hierarchy of authority in law enforcement and the procedure for punishing offenders. Islamic law does not allow individuals to take law into their own hands. If punishment for murder is death, it is not the duty of the victim's relatives or neighbours to impose the penalty.

### **Shariah and the Quest for Justice**

It was Aristotle the Greek philosopher and founder of the Peripathetic School at Athens, who defined justice as "giving every man his due" (Brown, 1973). For Iwe (1979) "Justice is a moral virtue which inclines the will constantly and perpetually to render to others their due in time and place and in a given set of circumstances" (p.236).

A synthesis of Aristotle and Iwe's definitions shows that justice connotes a sense of fairness, impartiality, moral integrity, uprightness, rectitude of the will. The relationship between law and justice is critical and interwoven. Law and justice do not have a distinct boundary. Justice is the basis of law and order, and also the goal and justification of law. Iwe has stated emphatically that "every law must pass the critical ethical test of justice, if it is to generate an adequate moral binding force on the members of society" (Iwe, 2003).

There are various categories of justice; in this paper we shall restrict ourselves to legal and judicial

justice. Legal justice places obligation on people who exercise legislative powers to ensure justice through the promulgation of laws that are morally sound and capable of promoting the common good of society. Judicial justice on the other hand, requires that justice should be dispensed without fear or favor. Members of the bench are expected to act as disinterested umpires in the temple of justice.

Judgment in every case should be based on verified evidence after fair hearing. The equality of all citizens before the law should be recognized. The courts in all situations and at all costs should uphold the rule of law, and the supremacy of the fundamental laws of the land. The courts should promote and entrench the doctrine of presumption of innocence. Justice at all times should always be tempered with mercy.

It is *prima facie* that *shariah* will appear atavistic if it is fitted into the prism of English judicial system. *Shariah* cannot satisfy the requirements of legal and judicial justice prescribed in Western legal systems. Muslim scholars and jurists are always vocal against universalism in legal or judicial reasoning. In saying this, there is no intention to create the impression that *shariah* does not have any commitment to the pursuit of justice. AL Faruqi (1991) has described the study of *shariah* as a great humanistic pursuit and that the desire to acquaint oneself with the prescriptions of *shariah* is the "... quintessence of Islam, of Islamic culture and civilization as of the humanistic tradition of the world" (p.1).

AL Faruqi (1991) is fascinated with the achievements of *Shariah* as the greatest contribution of Islam to humanity and the outpouring of Muslim genius. As a prime factor and channel of acculturation in Islam for more than fourteen centuries, al Faruqi observed with delight that *shariah* has transformed human beings and societies all over the world: "The *shariah* has been the most powerful educator of the masses around the world. Furthermore, it integrated and unified the disparate millions into a homogenous world *ummah* or universal community; and it did so despite their widest possible diversity of ethnicities and cultural backgrounds" (p.1).

Law and ethics are blended in the *shariah*. In other legal systems, law is only concerned with major offences. Minor offences are regulated by personal conscience. *shariah* as an instrument for social control is comprehensive in scope; it prescribes punishment for all willful acts, inactions and negligence of duty. Maududi (1960) writes on rights and obligations under *shariah*: "... the law of Islam imposes four kinds of rights and obligations upon every man, viz (i) the rights of God which every man is obliged to fulfill, (ii) his own rights upon his own self (iii) the rights of other people over him, and (iv) the rights over resources which God has placed in his services and has empowered him to use for his benefit" (p.154).

The observance of these rights and obligation in social life will lead to the emergence of a peaceful and egalitarian society where justice reigns. Islamic law is not lacking in the pursuit of justice.

From the time of Prophet Muhammad, Islam has always insisted on equality of treatment for all persons. Even though there is a glaring lack of natural equality among men; *shariah* is focused on restoring equality. Establishment of justice on earth is the supreme duty of every Muslim. Evil must not be allowed to thrive. The forces of evil are to be monitored at close range so that their propensity to violate the laws of God could be checkmated. Islamic justice historically has a Mesopotamian root: “A life for a life, an eye for an eye, a nose for a nose, an ear for an ear, and a tooth for a tooth, and for other injuries, equitable retaliation” (*Surah* 5:47; 42: 21).

### **Shariah and Penology**

Penology is the science of punishment. It covers the enactment of penal codes, sentencing of offenders and the various attempts to reform and rehabilitate criminals. Punishment involves pain, suffering or hardship purposively inflicted on an individual by the society in its corporate capacity, as a price paid for non-conformity to societal norms and values. In this paper, we shall focus only on capital punishment. The legitimacy and desirability of capital punishment has divided scholars into contending schools of thought. While there seems to be a consensus on- the need to punish offenders, there is no agreement on what should be the nature, purpose and consequences of punishment.

All over the world, penal law is punitive. Society cannot progress without law and order. Social deviation requires social indignation. Failure to punish the offender tantamount to ethical and juridical indifference to public morality. There is nothing wrong or immoral in compelling deviants to pay the price for violating social norms. A lawless society is a dangerous society. As Fagothey (1976) observed: “... punishment is retributive, because it pays back the criminal for his crime, gives him his just deserts, re-establishes the equal balance of justice which has been outraged and reasserts the authority of the lawgiver which the criminal has flouted” (pp. 296- 297). Iwe (1991) posits thus: “... the fundamental function of penal code law is justice and specifically retributive justice, which restores violated order by castigating evil and punishing the criminal as he justly deserves” (p.252).

Iwe (1991) has also postulated four essential elements of punishment; “deprivation, contrivance, misdeed or offence and legitimacy. Deprivation means that punishment is characterized by loss of civil liberty, socio-economic rights or loss of life. Contrivance means that punishment should be viewed as meritorious arising from the direct or indirect consequences of human behaviour” (p. 246). Misdeed or offence has to do with the occasion and socio-ethical justification of punishment. It must be established that there is an infringement, or violation of the social order. Iwe (1991) insists that the offence must pass the appropriate psycho-moral test before it can qualify for punishment, and that to pass the test the offence must be a human act performed with voluntariness and in sound mind (p.246).

Legitimacy is a requirement that a competent authority should punish the offender. Such a person

or persons must possess a socio-juristic mandate to mete out punishment to deviants. Iwe maintains that: "... this element of punishment refers to the legality of punishment which requires that the infliction of punishment must be in conformity with the laws of the land and their due processes" (Iwe, 1991). Islamic penology, which is enforceable in *shariah* courts, will pass the four-point test of deprivation, contrivance, misdeed or offence and legitimacy. But critics are always preoccupied with the need for Islamic law to recognize the human predicament, especially moral vulnerability. Such understanding will dictate the nature and purpose of punishment.

In traditional African society, capital punishment included slavery and death penalty. Capital punishment in medieval Europe include death penalty, execution by burning, suffocation, drowning, poisoning, breaking at the wheel (fracture), burial alive and boiling in oil until the offender is confirmed dead. Medieval Europe also punished through mutilation, which included castration, disfigurement, dismemberment, blinding or plucking off of offender's eyes. In Judaic-Christian tradition, capital punishment included stoning, burning, strangling and crucifixion.

### **The Anthropocentric Vision of Shariah**

Man is held in high esteem in Islamic theology and anthropology. Man is seen as the crown of creation and the highest natural manifestation of the glory and nature of God. Man is created with a binding and irrevocable obligation to comply strictly with moral laws. The moral superiority of man is praised in the *Quran*: "God offered His trust to heaven and earth and mountain; but they shied away in fear and rejected it. Man alone carried it" (*Surah* 33:72). Again in *Surah* 2:34, it is written: "God taught man the names of things and then commanded the angels to prostrate themselves before him".

In Islamic theology, man is superior to angels because of his ability to actualize the divine will in moral life. God has endowed man with language, imagination and reason to weigh and judge all things. Even though the moral laws were communicated through revelation, it is however discoverable through reason. The Holy *Quran* attests to the fact that God has revealed His will to man: "Unto every people, God has sent prophets to teach them the divine imperatives in their own tongue" (*Surah* 14: 14).

Man is expected to live his life in society through the guidance of reason and revelation. Even though human reasoning is fallible, yet it is reliable as the pivot of truth, since it has the capacity to reconsider and correct itself. The Holy *Quran* teaches that the whole creation and the entire solar system are subservient to man (*Surah* 22: 65; 31: 20). In Islamic world-view, nature is not only open and controllable, but is comprehensively pliable to human initiative and manipulation.

Nature's malleability and subservience increases man's moral responsibility to his creator. Islam teaches that man is innocent at birth. Man is not born with any innate, original sin. Man at birth has not inherited sinful nature from anybody. Sin in Islam is not congenital. Man is the sole

determinant of his destiny. Man is directly the architect of his fortunes, the author of his action-good, or bad and should be very willing, and ready to accept responsibilities for his actions, inactions and misdeeds.

### **Shariah and Islamic Theocracy**

An integral characteristic of radical Islamic fundamentalism is its insistence on a theocratic form of government. Islam historically, does not accept any demarcation between religion and politics. [Kalu \(1980\)](#) observes that Islam as always pursued the ultimate goal of establishing a theocracy that is, a society and state governed by Islamic laws: "Islam claims total control over all aspects of life of its adherents both as individuals and groups. Religion, it insists, must regulate not only matters of spiritual salvation and moral development, but also economic and socio-political affairs" (p.311).

As a religion with totalitarian principles, Islam is not only concern with the spiritual, eschatological or transcendent goals of religion, but is more concern for the mundane realities of human existence. [Adams \(1976\)](#) notes that in Islamic law the religious dimensions of existence encompasses the whole of life: "For this reason all issues of social policy in Muslim countries are also religious questions requiring to be examined in the light of tradition and religious teaching. The continual appeal to religion in matters that others would consider secular... is another often-puzzling element in Islamic life for the uninitiated foreigner" (p.35).

There is a scholarly consensus that democracy as conceived by Western political philosophy is incompatible with Islamic principles of governance. Simply put, Islam cannot accommodate the tenets of liberal democracy. Theocracy is a direct opposite of democracy. [AL Faruqi \(1991\)](#) has argued that the ideal Islamic state cannot be described meaningfully as theocratic since according to him, no human can claim to speak or act for God, rather it is a monarchy where sovereignty belongs to the law that God has revealed: "The Islamic state is not limited to any given land or to the Muslims; nor may it be defined as one where Muslim exercise the power. Instead, it is where Islamic law is the referee, and Islamic values the objective..." (p.6).

The attainment of a comprehensive theocratic state is not possible without total control and domination of society. Islam has been very successful in the cultural displacement of contending religions with Christianity as the highest victim (*The Cambridge History of Islam* p.569). It should be pointed out that Islam does not recognize the social utility of other religions. The prevailing view is that it is only through the comprehensive imposition and implementation of Islamic principles that the will of God can be actualized.

The human society must be governed through the laws of God and the pursuit of justice must be a sacred task. At this juncture, we have to address the critical issue of the cosmic sovereignty of God. The legality and legitimacy of any legal system cannot be accepted unless the thorny issue of

sovereignty is ascertained. In Islamic theology and philosophy, God holds the cosmic and transcendental sovereignty over the universe. This is attested to in the *Quran*: “And unto *Allah* belongs the sovereignty of the heavens and the earth and *Allah* has the power to will anything” (*Surah* 3: 189).

Some Islamic scholars have contended that the implementation of *Shariah* and full Islamization of any society is the beginning of expansive and multifaceted socio-economic and political development. *Shariah* is seen as the *conditio-sine-qua-non* for justice, equity, peace and egalitarianism. If *shariah* can only be implemented in an Islamic (theocratic) state, then it is incompatible with the principles that govern a liberal state.

Saiedi (1984) has said that theocracy is an outright contradiction of democratic and humanistic values and that the most outrageous dimension of intolerance, authoritarianism, and despotism is to be found in the undemocratic character of theocracy. And that theocracy represents “deprivation of the non-believer from various social and political rights, the suppression of freedom of speech and free discourse, the destruction of the principle of ethical autonomy and the legitimization of savage violence in the name of divine mission and moral heroism” (p.183).

### **Shariah and Non-Muslim**

It is the aged-old principle of Islam that *shariah* is the property of all humanity. Non-Muslims are allowed under Islamic law to originate litigation in quest of justice. *Shariah* law does not grant any form of immunity to any Muslim, notwithstanding his social status. The head of state in an Islamic country can be sued for any breach of the law under *shariah*. What is debatable is the fate of a non-Muslim who is domiciled in an Islamic state.

Theoretically, there is a consensus among Islamic scholars and clerics that unless a non-Muslim is guilty of a crime prejudicial to the interest or corporate existence of the state, or the *ummah* as a collectivity, no non-Muslim can be tried under *shariah*. The non-Muslim has an option to accept or reject trial under *Shariah*. AL Faruqi (1991) notes that *shariah* prescribes that the non-Muslim be tried under his own law: “That is the non-Muslim's prerogative, which the *shariah* acknowledges by recognizing non-Muslims laws as equally valid within the dominion of the Islamic state. Islamic law is the only law in history, which gives legitimacy under its own aegis to other laws” (p.10).

Again the contradiction between theory and practice is glaring here. If *shariah* is the ultimate legal machinery to actualize the goals of Islam, and if the Islamic state exists to work toward the fulfillment of the objectives of the *shariah*, then it is not possible practically to protect the freedom of the non-Muslim from being arraigned in *shariah* court. What is happening presently in most Islamic countries runs contrary to the views of AL Faruqi (1991) as a distinguished scholar is probably working towards creating a new direction for Islam. If the highest social and spiritual responsibility of the *ummah* is to ensure that *Dar-al-harb*, the abode of war, or enemy territory is



converted and integrated into Islam at all costs, then it is not possible at the same time to permit the non-Muslim to live as a free citizen in an Islamic state. The idea of trying a non-Muslim under his own law is not borne by history. It is unlikely that such a privilege exist in any Islamic country. Is it also possible to have a contrary legal system in operation in an Islamic state?

### **Shariah and Modernism**

Radical Islamic movements have often agitated for regular revision of the *shariah*. Revisions of the *shariah* started with a variety of Ottoman decrees in the nineteenth century, and also with the secular laws enacted in Muslim countries in the twentieth century. There are persistent pressures in Arab states, with the exception of Saudi Arabia to readjust *shariah* law to the exigencies of modern human conception of reality. The fact is that all legal systems pass through constant review in line with contemporary realities. The pervasive influence of international law and pressure of the international community has led to the abrogation of capital punishment in many countries of the world.

*Shariah* is still being implemented in the 21st century in the spirit and practice of medieval Islam. The amputation of offenders in the 21st century is not only antiquated but also retrogressive to Islamic civilization and progress. Some Islamic countries in the Arabian Peninsula have continued to defy the progress which humanity has made in the area of penology. It is good news to observe that the pressure of modernism has compelled many Muslim countries to review their civil and criminal laws. Guillaume (1954) has observed that in some countries, "certain matters have been taken out of the purview of the *shariah* and now come within the scope of secular courts" (p.166).

Guillaume (1954) also reported that while Turkey has implemented *shariah* comprehensively with a medieval mind-set, Egypt, the Sudan, Syria, Lebanon, Jordan and Iraq are all updating *shariah* to reflect the requirements of international human rights and humanitarian law. There is also an on-going debate on the adequacy of *shariah* as a legal instrument in modern society. Savory (1976) has identified a fundamental weakness of Islamic law: "There were whole areas of law, constitutional law, criminal law, and law governing land tenure... where the *shariah* either did not apply, or applied only in theory..." (p. 54).

Savory (1976) maintained that in Islamic criminal justice system, the only crime which could be adjudicated in *shariah* courts were those with specific penalties which are prescribed in the *Quran* which includes unlawful sexual relations; false accusations of unchastity, theft, drinking of wine, armed robbery, and apostasy. J.N.D Anderson does not share the view of Savory on the inadequacy of *shariah* as a legal system: "Unlike any other system in the world today, the *shariah* embraces every detail of human life, from the prohibition of crime to the use of the toothpick, and from the organization of the state to the most sacred intimacies. It is the science of all things, human and divine" (p. 78).

In many Islamic countries, *ijma* has been circumvented with the argument that it is not possible to reinvent the modality on how the dominant public consensus was applied in the past. Modernists have also distinguished between the compulsive and permissive nature of Islamic canon law. It is also argued that a divine ordinance cannot be binding *ad infinitum*, even when the circumstances of its promulgation have ceased to exist. The call for extra-*shariah* legislation is also anchored on the argument that in the early days of Islam, the caliphs and local rulers often used customary law (*adat*), and set aside *shariah* where issues not specifically addressed in it were involved.

In the nineteenth century, there was a mounting political pressure from the West on the Ottoman Empire to yield to demands to legislate outside the ambit of *shariah*. In the early 1800's a commercial and penal codes of Western prototypes were promulgated, and a civil code drafted after the code Napoleon was put into law in Egypt in the 1870's. Also in Egypt, at the turn of the century, secular courts were established, which in recent times have taken over adjudication of issues that were reserved exclusively for the *shariah* courts.

Courts of appeal which is not part of Islamic jurisprudence have been introduced. Some Islamic countries have introduced new court procedures aimed at supplanting the *shariah*. While the Law of Family Rights promulgated by the Ottomans in 1917 is still in force in the Lebanon, it has been replaced in Syria and Jordan with a legislation that reflects the spirit of modernism. Contemporary trend in most Arab states is to promulgate secular laws to function alongside with the *shariah*, with equal jurisdiction. The citizens are now free in most Arab countries to choose the court for purposes of litigation. The purpose of secular law is to curb and ameliorates the medieval excesses of the *shariah*.

In recent years some Arab countries have passed laws that raised the age of marriage to eighteen for boys and seventeen for girls. There is also a new development where women are given the freedom to dictate the fundamental issues in marriage contract. In Iraq, the Shiah-Sunni impasses have frustrated such innovative reforms. The contact with the West has reasonably emasculated Islam. There is a growing feeling of self-criticism among educated Muslims. As products of Western educational institutions, the elites are campaigning for Islam to adapt to Western standards. These agitations have weakened the power of the *ulama* and *mullas*.

## CONCLUSION

What is at stake in any discourse on *shariah* is the fundamental issue of religious freedom in a world that has become a global village with multiplicity of religious and cultural beliefs. It is hereby recommended that Islamic scholars and jurists should display courage in legal juridical activism. There is no evil in carrying out a comprehensive review of the *shariah* of Prophet Muhammad. Islamic jurisprudence cannot ignore contemporary development in international law. The purpose of law is the attainment of justice. Law must have a human face. Man was not created

for law, but law was made for man. If *shariah* should continue to ensure the needs of man, it must pass through rigorous amendment.

*Shariah* should incorporate and internalize international human rights and humanitarian conventions to merit international endorsement. Modern man may not feel good for his life to be forcefully regulated by medieval religious principles. Islamic jurisprudence cannot for instance ignore the Universal Declaration on the Rights of Man. Islam cannot isolate itself from all the progress which humanity has made in the area of law. Islamic countries are members of the United Nations. Islam has a reputation for cultural integration and absorption of heterogeneous populace. Islam is known for accommodating foreign values.

The struggle between Islamic fundamentalism and modernism can be resolved through the gradual reinterpretation of Islam with greater recourse to the spirit rather than the letter of the canonical decrees (Farah (1970)). The spirit of cultural liberalism and compromise that has sustained Islamic revivalism and expansionism should be revived. Islam has always blended "Puritanism" with "innovation".

The *ulama*, and indeed the entire *ummah* cannot remain divided forever on the sensitive issue of reforms. If the spiritual forebears of Islam were around including Prophet Muhammad, they will never chose cultural and social stagnation for the *ummah*. What is seriously recommended is the need to review *shariah* in consonance with the requirements of international human rights and humanitarian law. It is time for Moslem countries to update their laws in line with international best practice.

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