Volume 14, Numbers 1 and 2
June 2009

جريدة برنامج دراسات الفقه الإسلامي بكلية الحقوق جامعة هارفرد

Table of Contents

ISLAMIC LEGAL STUDIES PROGRAM

Workshop November 12–14, 2008: "The Constitutional Judiciary in the Muslim World: Its Influence on the Interpretation of Constitutional and Legislative Texts, 1970–2008"

Baber Johansen

From November 12 to 14, 2008, ILSP organized a workshop on the role that the constitutional judiciary has played in the Muslim world, since 1970, in the development of the law and, in particular, in the status and the definition of Islamic law. We chose the year 1970 because it is during the 1970s that a growing number of countries, in particular in the Arab world, founded Constitutional Courts and Councils. But we did not restrict the notion of the constitutional judiciary to this particular branch of the judiciary—we included the Supreme Courts that have jurisdiction in cases concerning the interpretation of the constitution in it as well.

This workshop is meant to be the first in a series dedicated to the contribution of the highest courts to legal development in the Muslim world. We chose to begin with the constitutional judiciary because, since the 1970s, the status of Islamic law as part of the national legislation has increasingly been defined in constitutional terms and texts. Constitutional texts distinguish between different forms of the judiciary (administrative, civil, constitutional) and often recognize a judiciary specialized in the application of Islamic law (e.g., Pakistan, Malaysia, and Indonesia). One can, in fact, speak of a constitutional dimension and existence of Islamic law. Whether one wants to interpret this process as the Islamizing of the constitutions or as the constitutional neutralization of possible conflicts of law between civil law, common law, and Islamic law depends on the angle from which one approaches these developments. But it seems evident that the development of the relation between civil law, common law (see the summary on the fourth Sanhuri Lecture, p. 6), and Islamic law cannot be studied without a better understanding of the constitutional definition of their place in the national legal and judiciary systems. This workshop focused on the discussion of the constitutional judiciary's role in the definition of Islamic law, its rank in the constitutional system, its relationship to civil (and common) law, and, last but not least, in the text of the constitution. Other workshops will follow that will focus on penal law, administrative law, and personal status law as well as on special forms of the judiciary. In each of these workshops the task will be to highlight the importance of the jurisprudence of the highest courts for the development of law in the Muslim world.

High-ranking judges from the Arab world, Great Britain, and Southeast Asia participated in this workshop. Egypt's Supreme Constitutional Court was represented by its Deputy Chief Justice, the Honorable Dr. Dr. h.c. Adel Omar Sharif and the Honorable Justice Mahmoud

continued on p. 2

Muhammad Ghunaym. Egypt's Attorney General, Abdel Maguid Mahmoud, sent a paper on the development of Egyptian family law.

From the University of London's School of Oriental and African Studies, the chairman of the Center of Islamic and Middle Eastern Law (CIMEL), Justice Eugene Cotran, former High Court Judge in Kenya (1977–82), former Circuit Judge on the South Eastern Circuit London (retired on April 10, 2007), at present also Consultant to the Qatar Financial Centre Civil and Commercial Court, joined us.

Malaysia's former Chief Justice Tun Abdul Hamid Mohamad (retired from the Supreme Court in October 2008) joined us to give the fourth Sanhuri lecture on November 6 and participated in all the sessions of the workshop.

Harvard Law School Dean Elena Kagan welcoming the workshop attendees; on her left Prof. Baber Johansen, ILSP Acting Director, on her right Prof. Susan Hascall of Duquesne University Law School

The largest delegation came from the Kingdom of Morocco. The Secretary General of the Government, Dr. Driss Dahak, the former Chief Justice of Morocco's Supreme Court (retired on August 20, 2008), represented the Moroccan government. The Chief Justice of Morocco's Supreme Court, the Honorable Chief Justice Mr. Taïeb Cherqaoui (former Attorney General at the same court until August 20, 2008), appointed the following members of the Supreme Court's delegation to attend: the First Attorney General of the Supreme Court, Mr. Larbi Mourid, the President of the Chamber of Personal Status and Inheritance Law, the Honorable Justice Brahim Bahmani, Chamber President and General Attorney at the Supreme Court, the Honorable Oilina Cheikh Maoulainine, and the personal assistant of the Chief Justice, Mr. Abdelaziz Taleb. The Honorable Justice Miloud Laksir, Rapporteur of the Royal Commission that drafted the new Code of Family Law in Morocco enacted in 2004, sent us a paper on the work of that Commission.

Not all participants were judges. The International Academy of Constitutional Law in Tunisia was represented by its Secretary General, Mr. Ghazi Gherairi, and by Mrs. Salsabil Klibi, member of the board of the Tunisian Association for Constitutional Law and Executive Secretary of the International Academy of Constitutional Law.

The then-Dean of Harvard Law School and now Solicitor General of the United States, Elena Kagan, welcomed the guests during the opening session and received the Moroccan Chief Justice, the Honorable Mr. Taïeb Cherqaoui, for an extended conversation. The Secretary General of the Government of Morocco, Dr. Driss Dahak, the Chief Justices of Morocco and Malaysia, Mr. Taïeb Cherqaoui and Tun Abdul Hamid Mohamad, and the Deputy Chief Justice of Egypt's

Workshop on Constitutional Judiciary in the Muslim World

Harvard Law School SJD candidate Havva G. Güney-Rübenacker asking a question

Supreme Constitutional Court, Dr. Adel Omar Sharif, were received by the University Marshal and asked to sign the Harvard University Guest Book.

Among the American law professors who joined the workshop were Duncan Kennedy, Professor of General Jurisprudence at Harvard Law School, Mark Tushnet, William Nelson Cromwell Professor of Law at Harvard Law School, and Clark Lombardi, Associate Professor at the Law School of the University of Washington. A group of eight doctoral students, six from Harvard Law School and two from the Faculty of Arts and Sciences, attended all the meetings and participated in the debates.

It is impossible to do justice to the richness of the contributions and the long and often animated discussions between the judges and scholars from the Near East and Southeast Asia on the one hand and the American law professors and students on the other. Suffice it to say that the debates showed a distinct pluralism of positions not only in the debates about the constitutional judiciary and its tasks but also with regard to family law and personal status law. Different national experiences played a major role in the positions defended by the participating scholars and offered interesting perspectives.

The Deputy Chief Justice of Egypt's Supreme Constitutional Court, Dr. Dr. h.c. Adel Omar Sharif, gave the keynote speech entitled "The 20th Century Judiciary of the Muslim World: Its Historical Emergence" in which he underlined "the increasing trend towards inscribing Islamic Shari'a principles into state constitutions and the challenges that the constitutional judiciary has met with in its attempts to enforce these norms." Also, the Secretary General of the International Academy of Constitutional Law (Tunisia), Ghazi Gherairi, titular of the Euroarab Chair in Social Sciences and Governance of the Euroarab Foundation of Higher Studies (Granada), lectured together with the Executive Secretary of Tunisia's International Academy of International Law, Salsabil Klibi, on "The Emergence of the Constitutional Judiciary in the Arab World (1970–2008)." They discussed the uneasy adaptation of an occidental model of state and legislation with the heritage of the precepts of the Shari'a in the Arab world and discerned in it the source of the "tension between the imperatives of modernity and all their implications concerning the status and the role of religion in the exercise of political power, but also between the concept of the individual and his relations with the society and the political power on the one hand, the precepts of Islam on the other."

The most intense debates were triggered by lectures on constitutional law, while the most detailed contributions concerned the family law and the law of personal status, both problems being intimately connected with general principles of the law and the constitutional understanding of citizenship, gender relations, family, state, and society. The Moroccan, Egyptian, and Tunisian participants presented detailed descriptions and analyses of the changes in the law of personal status and family over the last years. The Egyptian Attorney General and the President of the Chamber of Personal Status and Inheritance Law of the Moroccan Supreme Court presented in addition an outlook of what they think to be important desiderata and possible developments in this field over the next twenty years.

ILSP plans to publish a volume containing some of the papers on constitutional law and on the recent changes in Moroccan and Egyptian family law, some of which contain material that is not otherwise available. We will try to also include the prospect on the near future for family law as formulated by Egypt's Attorney General, Mr. Abdel Maguid Mahmoud, and the President of the Chamber of Personal Status and Inheritance Law of the Moroccan Supreme Court, the Honorable Justice Brahim Bahmani.

We hope that the publication of such a volume will help us to continue and expand the cooperation with the Courts and institutions whose representatives participated in this workshop and that it will encourage others to join the next workshops on the Judiciary of the Supreme Courts of the Muslim world. ❖

NEW LIBRARY STAFF

The Islamic Legal Studies Program is pleased to announce the appointment, on September 15, 2008, of Martha G. Jenks as Harvard Law School's Bibliographer for Law of the Islamic World. The position was vacant since the untimely death in July 2007 of Martha's predecessor M. Lesley Wilkins, and we are all the more delighted to have found such a qualified successor in Martha.

Martha came to Middle Eastern Studies and Library Science in a somewhat roundabout way, not unusual for anyone with broad interests: She first earned her Ph.D. in Ancient History and Mediterranean Archaeology at the University of California, Berkeley, where she had received her B.A. earlier (in History and German). She then taught for two years in the History Department of Illinois Wesleyan University, until she decided that her command of languages, already including classical Greek, Latin, Spanish, Italian, French, and German, was deficient. She next enrolled in a four-year dual master's program in Middle Eastern Studies and Information Science at the University of Texas, Austin, which she completed in May 2008. Martha was thus able to add Arabic, of which she has six years of study, including two intensive summers, one at the University of Damascus, and Persian to her competencies. Since the Bibliographer position covers acquisition and cataloguing for the whole of the Muslim world, Martha has already begun to think about acquiring Turkish as well.

Although only recently having graduated with a library degree, Martha has a wealth of experience behind her. She has catalogued a variety of resources, including Arabic monographs during her student years at Berkeley and Austin, and Arabic scientific manuscripts at the Library of Congress this past summer for the World Digital Library project, as well as having been a student intern at the Holt Labor Library in San Francisco. During her four years at Austin, she also worked closely with Roberta Dougherty, the Middle Eastern Studies Librarian, picking up skills in all the other facets of the position, including most importantly acquisitions, collection development, reference, and proficiency in using the acronyms that library staff cherish: AACR2, LCSH, LCC, MARC, and OCLC.

Martha is already active in the profession with a seat on the Middle East Librarians Association (MELA) Reference and Research Committee and on the Middle East Outreach Council Book Awards Committee. Among her publications is one that will particularly interest scholars in her newly chosen academic field: "Frank and Moor in Malabar: Portuguese-Muslim Relations in Sixteenth-Century India," *Berkeley History Review* 5 (1985), 87–110.

Martha has had a busy year being worked in and supporting the research needs of Harvard Law School faculty and students and ILSP fellows; she welcomes any request pertaining to the Harvard Law School collection on Islamic materials. One of her particular goals is to review the library's serials on Islamic law and jurisdictional law of the Islamic world in order to increase Harvard Law School's coverage. ❖

ASSOCIATE DIRECTOR FAREWELL

After ten years and some as Associate Director of the Islamic Legal Studies Program, I have decided to take leave. The normally very difficult decision to leave Harvard, which is a wonderful place to work, was lightened by a generous retirement package for longer-term staff of a certain age. Along with the rest of those on the younger end of the certain age who opted to embrace the challenge, I will not be disappearing into retirement but want to put my experience and expertise to good use in a new setting.

In 1999 I came to the Islamic Legal Studies Program from across the seas to work with the then-Director Frank E. Vogel, whose work in the field of Islamic law, at that time still more developing than mature, lured me to take the jump. We shared a vision for the field and for the Program's role in the field, and together we were able to make many things happen, not least of which was to extend throughout the world the Program's name and reputation as a dynamic center for the study of law in the Muslim world, past and present. It is a source of particular pride that our collaboration was instrumental in the inception of several important initiatives benefiting the field of Islamic legal studies worldwide, including the establishment of the International Society of Islamic Legal Studies (ISILS) and of the Islamic Law Section of the Association of American Law Schools (AALS), both of which will live on long past us. We also succeeded in making the many who are interested or active in Islamic law feel that the Islamic Legal Studies Program was a home to them and that they could call upon us with any initiative to further the field—and many of them did.

The Islamic Legal Studies Program can bear a staff reversal, being well established and well fortified by its considerable endowment owed to far-sighted donors in the early 1990s. I wish its current Acting Director Prof. Baber Johansen the best in his last year of directing the Program and I look forward to hearing about what are sure to be exciting developments at the Program down the road from here. ❖

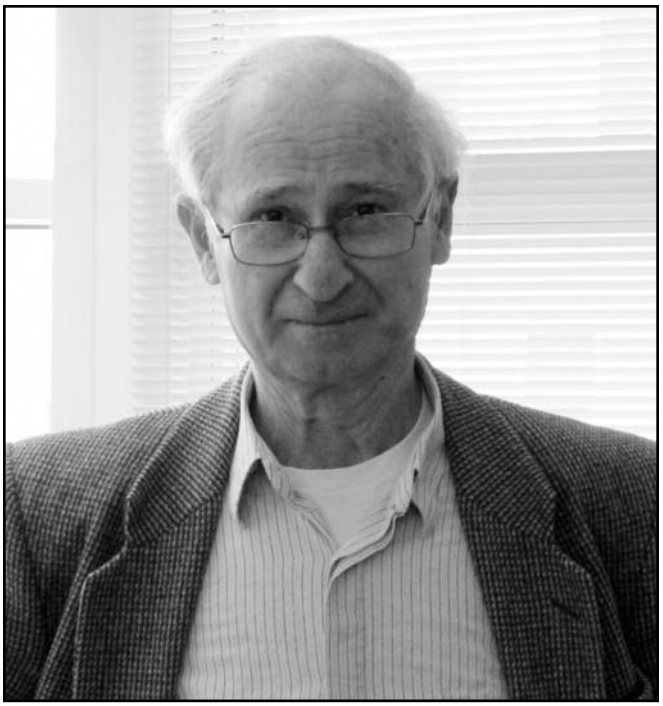
Peri Bearman

CUSTOMARY LAW SEMINAR

On May 5, 7, 11, and 13, 2009, an intensive seminar that traced the process of Islamization of the tribal customary law of a sedentary society in the Judean Desert was given under the auspices of the Islamic Legal Studies Program by Aharon Layish, professor emeritus, Hebrew University, Jerusalem. The seminar, which attracted four Harvard graduate students who had the requisite solid knowledge of Arabic, used as source material legal documents in facsimile collected from tribal arbitrators in the Jerusalem-Bethlehem region during the 1970s. The documents included matters pertaining to homicide and sexual crimes, offenses against property, marriage, and family, and issues relating to land and water, animals, obligations, inheritance, procedure, and evidence. These documents comprised only a handful of the several hundreds of legal documents, mostly from the twentieth century, that have been obtained over the course of decades by Prof. Layish from Bedouin tribal arbitrators or from the Shari'a court records themselves.

Prof. Layish has spent a very fruitful career studying the nexus and overlay of customary and Islamic law. He has published extensively on both, as well as on Druze law and institutions, including his most recent books *The Reinstatement of Islamic Law in Sudan under Numayri: An Evaluation of a Legal Experiment in the Light of Its Historical Context, Methodology, and Repercussions* (Leiden, 2002, with Gabriel R. Warburg) and *Shari'a and Custom in Libyan Tribal Society. An Annotated Translation of Decisions from the Shari'a Courts of Ajdâbiya and Kufra* (Leiden, 2005). An article in press at the moment of writing, "Islamization of Custom as Reflected in Awards of Tribal Arbitrators in the Judean Desert" (*Jerusalem Studies in Arabic and Islam*, 2008), formed background reading material for the seminar.

Customary law is an unwritten law, unlike the Shari'a, that delineates rules of behavior among people in a particular communal setting; despite being subject to the law of the courts and despite the Shari'a, where applicable, having sovereignty in all legal matters, Bedouin tribal members have traditionally turned to their customary law as the primary legal mechanism for dispute resolution. In settings where there are large tribal communities, there has generally been little interference by the central government. But even within this (semi-)autonomous domain, customary law has undergone changes as the result of encroaching Islamic legal concepts and norms. Because legal terms are often used similarly in both legal systems but relate to different conceptions and norms of law, determining what is customary and what is Shari'a provides at times a methodological conundrum for the scholar. The seminar offered by Prof. Layish illuminated and analyzed some of the developments in the tribal customary law that were provoked, or inspired, by the Islamization process taking place in the last century. ❖



Prof. Aharon Layish

Aharon Layish, on left, with three of the four students in his seminar on Bedouin customary law

ABD AL-RAZZAQ AL-SANHURI LECTURE SERIES

The fourth Abd al-Razzaq al-Sanhuri Lecture on Legal Interpretation in the Middle East was delivered on November 11, 2008, by the former Chief Justice of Malaysia Tun Abdul Hamid Mohamad (retired from office in October 2008). As his subject he chose "Harmonization of Common Law and Shari'ah in Malaysia: A Practical Approach."

The Chief Justice gave a short introduction to the history of Islam in Malaysia, describing the heritage of pre-modern and colonial times that not only led to the identification of the Malay ethnic group with the religion of Islam but also gave to the Sultans of the states that constitute the Malaysian federation the right to decide on matters Islamic. In the modern constitution of the federal state of Malaysia, Islam is the "religion of the Federation" but the Constitution "declares the Sultan of each State to be the Head of the Religion of Islam in his State." The king, elected by and among the state rulers for a period of five years, is the Head of the Religion of Islam in the states that do not have a Sultan.

The legislative and judicial competencies of the federation and the states are settled by the Constitution in "the Federal List" and the "State List." The Federal List, said the speaker, "covers almost all laws, civil and criminal. But Islamic law . . . is a State matter" and as such falls under the authority of the Shari'ah Courts. The common law of England was in the fifties and sixties widely recognized as the basis of the law of the land. "Islamic law was only applicable to Muslims and, even then, restricted only to matrimonial matters, inheritance and in regard to the administration of mosques, waqf and the like." In a landmark decision of 1988 the Malaysian Supreme Court declared Malaysia to be a secular state and Islam the state religion with regard to ceremonial purposes only.

But conflicts of competencies between the common law courts and the Shari'ah courts became visible already in the early seventies. As a reaction, the Federal Constitution was amended, withdrawing the jurisdiction over all matters over which Shari'ah had jurisdiction from the common law courts. But problems that could not be solved by a simple reference to this amendment continued to occupy the courts. The Chief Justice distinguished in particular three types of cases that require a different approach.

The first type is a legal action the subject matter of which falls within the jurisdiction of a Shari'ah court but in which one of the parties is non-Muslim. The Shari'ah court has jurisdiction over the subject matter but not over the non-Muslim party. The second type of case concerns legal action in which some issues fall under the jurisdiction of the Shari'ah court and others within the jurisdiction of the common law court. Which court is to be given preference? Finally, "in a case which on the face of it appears to be falling within the jurisdiction of the Shari'ah court, there may be constitutional issues."

The Chief Justice discussed these cases in the light of his own judicial decisions as a High Court judge. He had suggested in his judgments that the two court systems should be combined so that "common law cases will be heard by judges trained in common law and Shari'ah cases will be heard by judges

His Honor Tun Abdul Hamid Mohamed, retired Chief Justice of the Malaysian Supreme Court

trained in Shari‘ah. Where a case involves both common law and Shari‘ah issues, it should be heard by two judges, one common law judge and one Shari‘ah judge." Alternatively, the court system should remain unchanged, and cases concerning the two court systems "should be heard by the Common Law Court with two judges, one a common law judge and one a Shari‘ah judge." Both suggestions proved politically unpalatable and so the conflict of laws and court systems remain unresolved. As far as the third type of cases is concerned, the Chief Justice of Malaysia's Supreme Court—the Federal Court—issued two decisions in 2006 in which he unequivocally stated that "interpretation of the Constitution is a matter for this court."

Since the 1980s the influence of political, academic, and social forces that support the Islamizing of law and state has grown in Malaysia. This development was accompanied by the rulers of the states strengthening their position vis-à-vis the federal government by giving new competencies to the Shari‘ah courts and elaborating on the binding force of legal opinions (*fatawa*). This development has contributed to new legislation attempting to reintroduce the punishments of classical Islamic law and other, new offenses, such as the one of contradicting a legal opinion (*fatwa*). A new offense concerning "sodomy" has been created in state law and its adjudication transferred to the Shari‘ah courts. Such attempts lead to situations in which the same offense is punished under the common law and by the common law courts and under Islamic law by the Shari‘ah courts. A conflict of law and between the court competencies is thus unavoidable.

Discussing the "sodomy" case, the Chief Justice pointed out that the constitutional amendment that removed from the jurisdiction of the common law courts all matters over which the Shari‘ah had jurisdiction (see above) "was used to oust the existing jurisdiction of the common law court by creating similar offences in the State law. When the matter came before the Court of Appeal the judges decided that the amendment did not apply in this case, because 'the Shari‘ah court must have exclusive jurisdiction over the matter'." The Chief Justice stated that he agreed with the decision but not with the legal reasoning on which it was based: "To me, the newly created offence in the State law is unconstitutional, it being 'criminal law' under the Federal List and such an offence had existed since before Independence. Furthermore Article 75 of the Federal Constitution clearly provides: 'If any State law is inconsistent with a federal law, the federal law shall prevail and the State law shall, to the extent of the inconsistency, be void'."

As a way out of the growing tension that arises from the conflicts of law between common law and Shari‘ah, the Chief Justice suggested, on the one hand, a strict respect for the different spheres of adjudication of common law and Shari‘ah and, on the other, cooperation between the two court systems in all matters in which both court systems cannot claim complete jurisdiction. He suggests that the Shari‘ah court first decide on the Shari‘ah aspect of a case and the common law court follow in determining the legal consequences under the common law of the facts as interpreted by the Shari‘ah court. He has himself followed his suggestion in a case in which the accused were held to have defied or disobeyed a fatwa that was published in the Government Gazette of the State of Terengganu (December 4, 1997). He let the Shari‘ah court decide whether the acts of the accused constituted contempt for the precepts of Islam.

Drawing on his experience as judge in the High Courts and in the Supreme Court, the Chief Justice pointed out that even in the main texts of "what is now known as 'Shari‘ah law' in Malaysia," the provisions stem in their great majority from the common law and integrate a minority of norms of Shari‘ah origin. He concluded from this argument that any norm that does not contradict Islamic principles should be considered Islamic law: "We should focus more on substance and the *maqasid* rather than the form. We should look to the sources for the principles but the detail should be determined by the surrounding circumstance. A law need not be medieval or Arabic to be Islamic." He referred to the outlawing of slavery as an example of a successful Islamic reform of classical fiqh rules. "I believe that outlawing slavery is more Islamic than tolerating it, no matter how improved their lives are. It means that our present law can be different, better and at the same time more Islamic than the law at the time of the Prophet s.a.w . . . The test should be whether it contravenes any Shari‘ah principle or not."

He held that this is in fact what happens in Islamic finance. And with a view of harmonizing Shari‘ah and common law the Chief Justice ended his lecture with the following words: "So, I became more convinced of my definition of 'Islamic law' and I began to say to myself that a big chunk of that law that I was administering in the Common Law Court was not un-Islamic after all. Unfortunately, that is not the perception of the majority of the Muslim *ummah*. The reason, I think, is that those who know common law do not know Islamic law and those who know Islamic law do not know common law. I belong to the first category. However, [. . .] things are changing. More and more people are studying both laws. Even non-Muslims are taking a keen interest in Islamic law."

In other words, the Chief Justice foresees a future in which in Malaysia Islamic law will absorb more and more principles of common law that are not contradictory to Islamic principles. The two court systems will merge, and "non-Muslim lawyers will be arguing Islamic law issues, just as non-Muslim experts in Islamic banking and Islamic finance are already doing now." ❖

by Prof. Baber Johansen

Workshop on Risk Management

Continuing with the successful model of the two earlier workshops in 2007 and 2008—the first on *tawarruq* and the second on *sukuk*—on February 26, 2009, ILSP's Islamic Finance Project (IFP) and the London School of Economics (LSE) jointly hosted a workshop on risk management in Islamic finance. With the current global financial crisis highlighting the shortcomings of risk management practices, the workshop set out to assess the lessons to be learned from the crisis and to discuss the features and tools of risk management in Islamic finance and how the crisis might reshape its future development. The following blurb is an edited version of a summary of the workshop, written by Zohaib Patel, Fajr Capital Plc, London.

The workshop was made up of a group of influential Islamic legal scholars, academicians, economists, and bankers, who were welcomed by the Directors of IFP and LSE, Dr. Nazim Ali and Sir Howard Davies, respectively. The financial crisis, which was the backdrop of the discussions, and the need to revisit risk management practices were underscored in the opening addresses. The crisis, at its core, demonstrates the dangers of "group think" and over-optimism in clouding corporate decision-making and risk reigning. In this regard, risk managers and board members of risk committees would have better served institutions as contrarians in their assessment approach. Understanding risk is key to managing risk. Undermining this key tenet was the complexity of financial instruments, which traders and their boards failed to understand. The resulting underassessment fed into misaligned models concerning the true risk interactions of various securities within portfolios, causing misleading enterprise risk measures and hedges.

Professor Frank E. Vogel, moderating the workshop, then introduced the structure for the discussions and listed the overarching issues that concern the young Islamic finance industry, which faces a burden to deliver. With each issue, the workshop discussion was intended to elaborate on the permissibility and advisability of certain Islamic tenets and principles as applied to these finance and risk management practices. William Buiter, Professor of European Political Economy at the LSE, followed with an introduction to the financial crisis, pointing out its regulatory shortcomings. With the crisis, the trend towards liberalization and "light touch" regulation of the financial markets has warranted closer scrutiny. While financial markets, institutions, and instruments have gained an increasingly widened geographic reach, regulation has remained at the national level. The evolution of capitalism from relationship-oriented financial intermediation to the transaction-oriented model—as highlighted by securitization, which essentially "commoditized" relationships—brought mass liquidity to the financial markets but destroyed incentives to collect information. A key and ultimately reckless assumption in the transaction-oriented model was that risk was transferable to parties willing to bear the risk, rather than able to bear it.

In the subsequent discussions, the workshop participants agreed that the overall systemic risk of the industry must be managed to enable small banks to fail so as to enforce the ultimate free market discipline. The merits of "narrow banking"—the dichotomy of the payments and financing actions of the financial system—were assessed. A "narrow banking" model would ensure a commensurate return based on risk activities only, separating deposit and investment activities. In addressing term maturity mismatches, the lender-of-last-resort can be made into a liquidity facility rather than supplier of recapitalization funds. However, the concept would need to be further developed and investigated as to its compatibility within a world of increasingly open boundaries. "Narrow banks," insofar as they are inward-looking local institutions, would have ramifications for cross-border financing and trade as a result.

Participants also emphasized the demand-side recklessness that inevitably enabled the supply-side issues to persist. In highlighting the problem of irresponsible demand for debt, the social setting and "buy now, pay later" mindset contributed to

Workshop on Risk Management, held at LSE, February 26, 2009

sowing the foundations of unsustainable financing through financial mismanagement at the level of the household, which ultimately sparked the current crisis. It was agreed that Islamic finance has inherent checks to prevent excessive borrowing and lending, through asset-backed collateral financing. Although fundamental Islamic finance principles—such as the prohibition on the sale of debt, obligation transfer restrictions, prohibitions of short selling, maintaining the "line of sight" between lender and originator, and the tie between the real and financial economy—in hindsight hold sustainable and stabilizing effects, Islamic finance as practiced today may not have been immune to a similar crisis. In the quest for innovation, the Islamic finance industry may have pushed the boundaries of replicating conventional products and instruments too far. To the extent that institutions must serve the need of the client, Islamic institutions need to compete with conventional counterparts. It is only at the regulatory level that agenda course setting can take place.

Participants highlighted the system of money creation underlying the current financial framework, as a foundational base of inherent instability. The creation of money "out of nothing," with no inherent linkage to the real economy, has enabled the creation of unsustainable levels of liquidity magnified by compounded interest concerns. Hence, in order to ensure the sustainability of the financial system, appropriate consideration must be given to the ideal monetary order upon which any system can be based. The growth of the derivatives market began upon the break-up of the Bretton Woods system and the introduction of flexible exchange rates. A review of risk management and the need for hedging products must be contained within a review of the monetary system requiring the need for such derivative products.

In taking a macro perspective, the crisis has brought to light the downside of a pure capitalist system, which has evolved to disregard considerations of welfare and to prioritize profit-maximization to an unknown level of greed. At the micro level, the crisis can be seen as the failure of households and individuals to recognize constraining limits and live within their means. The path to and fallout from the financial crisis serve as a case study for an environment that ignores the principles enforced in Islamic finance contracts. In this regard, Islamic finance has a key role to play in demonstrating the viability and feasibility of certain Islamic finance principles that inherently bring stability to financial transactions at the aggregate level.

The participants next discussed Islamic derivatives and risk management tools in light of the Islamic principles surrounding finance. All agreed on the need for Islamic derivative instruments as a tool to manage the efficient allocation of risk and capital. However, concerns were raised regarding the use of derivative tools in speculative activities. It was felt that this has to be reconciled with the need for speculators in the market to act as the counter party in providing liquidity to hedging transactions.

Current Islamic risk management products, such as profit-rate swaps, are deemed to heavily rely on *tawarruq* structures, which bring their own concerns with regards to the authenticity of the structure in view of Islamic finance principles. Generally, the workshop participants noted the tenuous ties of Islamic derivative instruments to real economic activity, and as such, the fear of hedging products being used for speculative activities. The innovations in product structuring have rendered Islamic total rate swaps such that Shari'a prohibitions can effectively be sidestepped, opening Islamic finance to a potentially boundless scope of financial activity. *Takaful* (mutual insurance) serves as a viable model as a means to pool risk, as opposed to selling risk, and needs further investigation and support from regulators as a risk hedging tool.

The pricing nature of Islamic derivative tools was also discussed. Although structurally deemed Shari'a-compliant, the instruments are priced according to conventional interest rates. As a result, although the contract structures espouse Islamic financial principles, products have an inherent exposure to the conventional marketplace. Participants noted that, ultimately, establishing an independent pricing structure would need regulatory intervention at this stage, unless and until the Islamic financial industry is in a position to establish new benchmarks as a result of a majority market share capture. Furthermore, wholly independent pricing would only be feasible if the underlying asset trades were transacted according to Islamic finance tenets. Participants also noted that the role and nature of money creation plays a defining role in the interest-based benchmarks used.

Participants discussed whether Islamic finance would have been a demonstrable force in the economy had it evolved in a vacuum. They concurred that, while working within the larger conventional framework, Islamic finance must set realistic targets with the intention of bringing systematic change to enable Islamic finance to fully realize its inherent principles. Importantly, the industry must have a shared vision and plan in order to ensure the positive evolution of the industry.

The sub-prime crisis and the fact that sub-prime mortgage-backed assets were rated highly by agencies have shown the dangers of risk overexposure and a lack of macro surveillance of the collection of risk. Over-collateralization and securitization played a significant role in the shifting of risk, where on a macro level, the economy would have benefited from a culture of risk sharing to prevent its concentration in pockets within the market. Participants discussed the *musharaka* home financing tool as an equity-based product enabling the home purchaser to acquire a property without the threat of repossession or "negative equity" risks.

continued on p. 10

The Islamic finance industry has the opportunity to demonstrate leadership in equitable financing, specifically through the promotion of equity-based, rather than debt-based, products. Adhering to the principles of Islamic finance, simplicity in contracts is a key feature of maintaining and ensuring a manageable system of finance, and enabling holistic risk management and assessment.

Speakers at the Public Lecture on Islamic Finance in the United Kingdom, February 26, 2009

LSE-Harvard Public Lecture

Following the workshop, which was for invited participants only, a public lecture entitled "Islamic Finance in the United Kingdom: Current Initiatives and Challenges" was offered to a packed hall of over 200 people. The lecture was chaired by Sir Howard Davies, LSE Director. The two guest speakers were Ian Pearson MP, the U.K. Economic Secretary to the Treasury, and Sheikh Esam Ishaq, a Bahraini Shari'a scholar. Secretary Pearson used the occasion to announce the government's intentions to postpone issuing its originally planned sovereign *sukuk*, due to the downturn in the economy. A recent Treasury study, carried out with the Debt Management Office, showed that issuance at this time would not meet the government's "value for money" test. This was disappointing news to many in the industry, tempered somewhat by the promise that issuance would be reviewed at a later date "when the economic situation would allow." Sheikh Esam Ishaq spoke more broadly on Shari'a basics and Shari'a's role in Islamic financial principles.

Panel Discussion

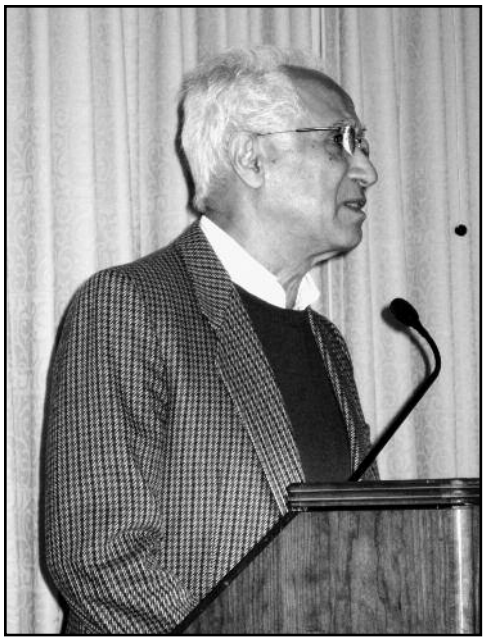
On March 16, 2009, IFP organized a panel discussion at Harvard Law School, entitled "The Evolution of the Global Financial System from the Current Crisis," in an effort to determine the relevance and merits of Islamic finance principles, in light of the current global financial crisis. Given the relative insulation of Islamic financial institutions (IFIs) from the brunt of the crisis, IFIs may provide insights that will help in the development of a more stable and morally sensitive financial framework. The discussion was intended to provide a platform for robust discussion and present possible opportunities for a more values-based approach to finance.

The current financial crisis, with its worldwide reach, is causing a fundamental rethinking of the global financial system. Basic assumptions regarding the role of banks, the responsibilities of regulators, the treatment of customers, and the bounds of financial innovation are being examined and revisited. The Islamic finance sector has not been immune from this crisis, although it has experienced less market instability due to its generally conservative operating models.

continued on p. 15

Panel discussion on the global financial crisis and lessons from Islamic finance, held March 16, 2009, with as panelists, from left to right: Roger Owen, Baber Johansen, Samuel Hayes, and Aamir Rehman (Photo: Shahzad Sadozai)

ILSP LECTURE SERIES



Asghar Schirazi

Ismail Acar, standing, preparing to give his lecture

Farhad Khosrokhavar at the podium delivering his lecture on Jihadism

2008–2009 Events

November 6, 2008: "Harmonization of Shari'ah and Common Law in Malaysia: A Practical Approach," the fourth Abd al-Razzaq al-Sanhuri Lecture on Legal Interpretation in the Muslim World, by The Honorable Abdul Hamid Mohamad, Chief Justice of the Supreme Court of Malaysia. See report on p. 6.

November 12–14, 2008: A workshop "The Constitutional Judiciary in the Muslim World: Its Influence on the Interpretation of Constitutional and Legislative Texts, 1970 to 2008." See report on p. 1.

December 2, 2008: "Stoning in Islamic Law: Contextualizing Three Cases in the Early Medinan Period," a lecture by ILSP's 2008 Visiting Fellow Ismail Acar (Bard College).

February 18, 2009: "The Written Culture of Early Islamic Law," a lecture by ILSP's 2008–2009 Visiting Fellow Ahmed El Shamsy (Ph.D. in History, Harvard University, 2009).

February 26, 2009: A workshop "Risk Management in Islamic Finance," organized by ILSP's Islamic Finance Project in partnership with the London School of Economics, London, UK. See report on p. 8.

March 16, 2009: A panel discussion "The Evolution of the Global Financial System from the Current Crisis," organized by ILSP's Islamic Finance Project. See report on p. 10.

March 18, 2009: "Inside Jihadism," a lecture by ILSP's Spring 2009 Visiting Fellow Farhad Khosrokhavar (EHESS, Paris).

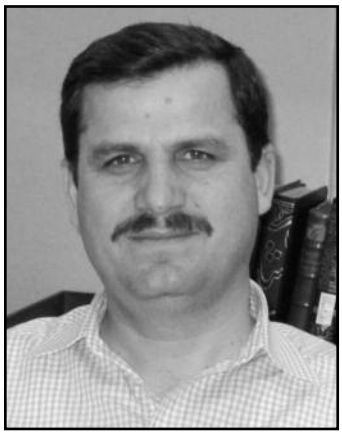
April 22, 2009: "Law, Politics, and Religion Among Youth in Iran: The Case of the Holy City of Qum," a lecture by ILSP's Spring 2009 Visiting Fellow Farhad Khosrokhavar (EHESS, Paris).

April 29, 2009: "Ethnic Conflicts in the Islamic Republic of Iran," a lecture by ILSP's Spring 2009 Visiting Fellow Asghar Schirazi (independent scholar, Berlin).

May 5, 7, 11, 13, 2009: Intensive Seminar "Reading Legal Documents from the Judean Desert: The Impact of Islamic Law on Bedouin Customary Law," given by Aharon Layish, The Hebrew University of Jerusalem. See report on p. 5.

2008–2009 ILSP VISITING FELLOWS

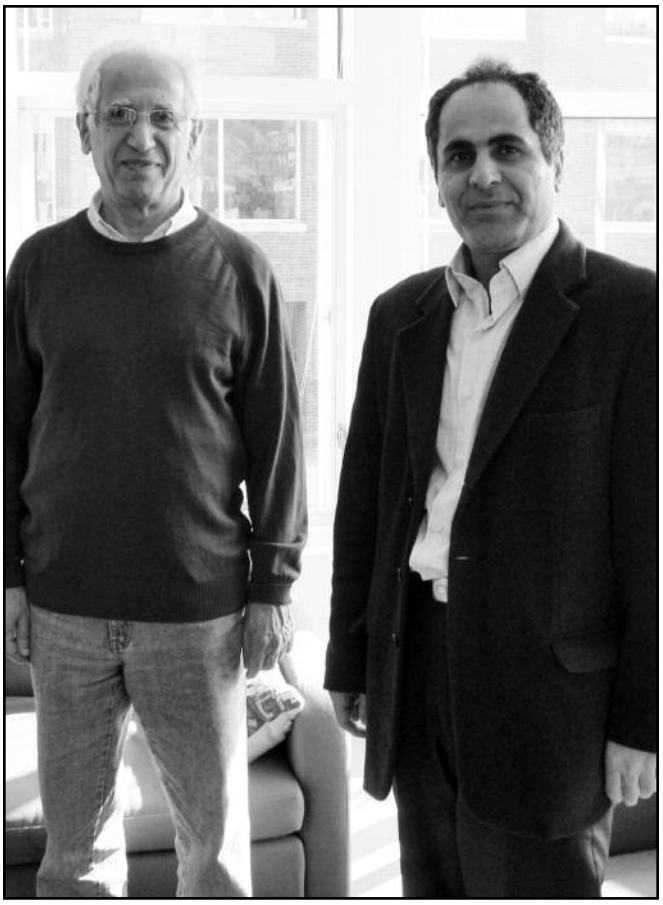
The Islamic Legal Studies Program welcomed six Visiting Fellows in 2008–2009, two of whom, Department of History doctoral candidates in their last year, spent the entire academic year. ILSP also housed two Visiting Fellows for a shorter period in Summer 2008: Aaron Spevack and Nimrod Hurvitz. Below follows a short bio for each academic year Fellow.



Ismail Acar

Ismail Acar came to us in Fall 2008 from Bard College, where he is a Visiting Assistant Professor of Religion. Originally from Turkey, Ismail first arrived in the United States in 2002 as recipient of the prestigious Turkish Academy of Science (TUBA) scholarship, after earning his Ph.D. in Islamic Law at Dokuz Eylul University. His dissertation, "A Comparative Study of Crime and Punishment of Adultery in Islamic Law," was based on a comparison between classical Islamic legal texts and the Turkish Penal Code. From 2002–2004, Ismail was a Visiting Scholar of Islamic Studies at UCLA's Center for Near Eastern Studies. He moved from there to the Lutheran School of Theology at Chicago, where he was a Visiting Scholar of Christian-Muslim Relations for the next two years, and where he began a D.Min. (Doctor of Ministry) program, and from 2006 he has been teaching at Bard in the Department of Religion. Ismail is at present working on two forthcoming books: one on the first period of Christian-Muslim relations (622–820), which is based on a study of theological and legal texts by both Muslim and Christian scholars; and the other, on which he was occupied while at the Islamic Legal Studies Program, on stoning in Islamic tradition.

Ismail's research on stoning is planned as a comprehensive work. It will begin with an historical study from pre-Islamic times up to the contemporary period. In order to analyze influences in the pre-Islamic period, he will be examining Babylonian law, Hammurabi's Code, and Roman law for comparable cases. He will also be trying to find out whether adulterers of both genders were stoned in pre-Islamic Arabia, as narratives seem to claim. He will follow the history of stoning through the Islamic period and end his historical survey with the state of affairs in some modern-day Muslim countries, such as Pakistan, Iran, and Saudi Arabia, which still apply the punishment or allow for it in their penal law. A second part of his research will treat the sources for the Islamic application of stoning, elaborating in particular on the so-called hidden text of stoning in the Qur'an. Finally, he will delve into Islamic jurisprudence to make an inventory of the opinions of classical jurists, especially with regards to the use of evidence and testimony in cases of fornication outside wedlock.



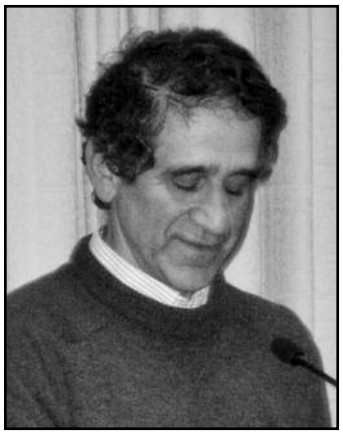
Asghar Schirazi, on the left, and Muhammad Ali Bahmaei

Muhammad Ali Bahmaei, assistant professor in the Faculty of Law at Shahid Beheshti University, Tehran, spent his fellowship at ILSP on his research into "The Theoretical Justification of Intellectual Property Rights under Contemporary Islamic Legal Systems and in Islamic Jurisprudence." Dr. Bahmaei earned his LL.B at the University of Tehran in 1989, his LL.M. at the University of Strasbourg III, in 1995, and his Ph.D. at the University of Paris 1, in 2000. He has taught at Shahid Beheshti since 2002. His scholarly interests lie in International Commercial Arbitration, Dispute Settlement of Intellectual Property Matters, and Oil and Gas Law.

With his research into the philosophy of intellectual property rights, Prof. Bahmaei wants to pave the way for a more sensible approach to controversial issues in the field, such as the scope of intellectual property rights, the division between rights and public interest in granting intellectual property rights, and the boundaries between public and private domains. During his stay at ILSP he specifically strove to address the following: (1) What are the theories that advocate and criticize intellectual property rights? (2) What theories have been developed in Islamic jurisprudence to support an intellectual property rights regime? (3) Are these theories compatible with the socio-economic conditions of Islamic societies?

Ahmed El Shamsy

For the 2008–2009 academic year, ILSP extended the fellowship of Ahmed El Shamsy, a prized and favorite fellow, for his final doctoral year. Ahmed, a blurb of whom and of whose work appeared in Vol. 13, No. 1 of this Newsletter, earned his doctorate with the Department of History in May and will be graduating as a newly minted Ph.D. on Commencement Day, June 4. ILSP warmly and heartily congratulates Ahmed on his degree and on his appointment at the University of North Carolina, Chapel Hill, where he joins the Department of History on July 1.



Farhad Khosrokhavar

Farhad Khosrokhavar spent four months, January–April 2009, at ILSP and was kept very busy while in residence. In addition to the two talks he gave at Harvard under ILSP auspices, he was a welcome speaker in other venues as well. A well-known sociologist of Iran, he has been at the Ecole des Hautes Etudes en Sciences Sociales (EHESS) in Paris since 1990. Before coming to Harvard, he spent the 2008 Spring term as a visiting professor at Yale University. His research interests focus in particular on Islam in Europe and Iranian society in the Islamic Republic, and accordingly, he presented one lecture on each while at ILSP.

In his first lecture, called "Inside Jihadism," Prof. Khosrokhavar presented an excerpt from his book of the same name, which he published with Paradigm Publishers in Boulder, Colorado. His talk concerned the term "democracy" and its understanding by three Islamic groups: the reformists, the "fundamentalists," and the jihadists. In his second lecture, entitled "Law, Politics, and Religion Among Youth in Iran: The Case of the Holy City of Qum," the subject of his research while at ILSP and forthcoming in a monograph, the discussion centered on Prof. Khosrokhavar's fieldwork in Qum from 2004–2006, when he interviewed 60 Qum residents between the ages of 19 and 30 and of varying social class, professional and native city background, and gender. He quizzed them as to their opinions on the status of law in the Islamic Republic, the meaning of Shi'ism, the status of the Shi'i clergy, and their attitudes towards such topics as marriage, family, and politics, to determine—insofar possible with the small sample group—how those who live in the more conservative city of Qum and have no experience of life before the Revolution understand the reference of Islam in the judiciary, laws, and society, and what their opinion regarding the "Islamic character" of the law-making process is.

ILSP also hosted Asghar Schirazi, who came to us from Berlin where he is an independent scholar, having retired a number of years ago from a position of researcher at the Freie Universität in Berlin. Dr. Schirazi is Iranian by birth but has lived in Germany since the late 1950s. He earned his Ph.D. in Sociology at the Freie Universität in 1974, with a dissertation entitled (as translated from German) "The Genesis of Socio-Economic Under-Development in Iran," which he published in 1977. Following his doctoral studies, he taught in the Department of Sociology at the University of Tehran for two years, in 1979–81, leaving Iran for Berlin again where he has lived ever since. Dr. Schirazi has many publications, in Farsi, German, and English, two of which are often cited, being *Islamic Development Policy: The Agrarian Question in Iran* (1993) and *The Constitution of Iran: Politics and the State in the Islamic Republic* (translated from the German by John O'Kane and published in 1997 by I. B. Tauris; an updated Farsi edition was published this year in Paris). This last work in particular established him as a preeminent scholar of contemporary Iranian politics and the theological-legal foundations of the Islamic Republic. While at ILSP Dr. Schirazi was working on a projected book-length manuscript, "Ethnic Conflict in the Islamic Republic of Iran," on which subject he presented a lecture as well.

From Dr. Schirazi's lecture we learned how multi-ethnic a country Iran is: alongside Persians, there are Azerbaijanis, Kurds, and Baluchis, to name just a few of the largest ethnic groups. In addition, a portion of these is Sunni, bringing a second (inflammable) difference to the mix. As the state has so far refrained from conducting a census based on ethnicity, exact percentages of each group are unknown, although guesstimates are regularly made. The emphasis in the last century, both under Reza Shah and after the Revolution, has been to create a linguistically and culturally homogenous modern nation, that is, one speaking Farsi and Shi'ite, reinforced by, most visibly, the filling of provincial governments with officials who are foreign to the locality in which they serve. For a time under Khatami, Article 7 of the Constitution, which concedes a certain degree of autonomy to the elected representatives of the provinces, was enforced, but after Khatami's term in office, the powers of these councils was greatly reduced. Dr. Schirazi outlined the history of the movement for autonomy of individual ethnic groups up to today, which extend to the demand for support of languages besides Farsi in education, and discussed in conclusion the possibility of the breakup of the Iranian nation if the more destructive autonomous movements have their way in the conflict.

continued on p. 14

2008–2009 ILSP VISITING FELLOWS, *cont.*

Himmet Taskomur

Last but not least, ILSP's sixth Visiting Fellow for 2008–2009 was Himmet Taskomur, Ph.D. candidate in History and Middle Eastern Studies, Harvard University. Himmet's dissertation is entitled "Religion, Law and Politics: Hanafism in the Sixteenth-Century Ottoman Empire," and it is being written under the supervision of Cemal Kafadar. Himmet received his B.A. and M.A. degrees from the University of Istanbul, in 1987 and 1991, respectively, and has been a loyal supporter of ILSP activities and events throughout his years at Harvard. During this year at ILSP, Himmet divided his time between writing and teaching Intermediate Classical Arabic at Harvard's Divinity School.

In addition to his dissertation research, Himmet also worked on a new project "From Theology to Law: Theories of Good and Evil (*husn* and *qubh*) in Late Medieval and Early Modern Hanafi Legal Thought," in which he hopes to address the neglected question of ethics and the role of intellect in legal hermeneutics and in substantive law. He will also trace and reconstruct the earlier theological debates among the Mu'tazilis, Ash'aris, and Maturidis, and demonstrate that the question of good and evil continued to animate the discussions among late medieval and early modern jurists of Central Asia and the Ottoman Empire. He will be working largely from sources still in manuscript, housed primarily in libraries in Turkey and Egypt, that he has collected in his years of visiting manuscript collections. ❖

NEW PUBLICATIONS

The Islamic Legal Studies Program is pleased to announce the appearance of two ILSP publications in 2008–2009: "Sharia Risk: How Islamic Finance Has Transformed Islamic Contract Law" by Kilian Bälz, the ninth booklet in the Occasional Publications series; and *The Islamic Marriage Contract: Case Studies in Islamic Family Law*, edited by Asifa Quraishi and Frank E. Vogel, the sixth monograph in the Harvard Series in Islamic Law distributed by Harvard University Press. The booklet is available free of charge to libraries and is also in PDF format on the ILSP website; the monograph can be ordered for $29.95 from HUP (www.hup.harvard.edu).

ILSP was honored to receive a delegation from Indonesia's Sunan Kalijaga State Islamic University, in Yogyakarta, on December 4, 2008, made up of colleagues of Dr. Yudian Wahyudi, a former ILSP Visiting Scholar and now Dean of the Faculty of Sharia at said university. From left to right, Prof. Rahim Yunus, deputy rector for public affairs; Prof. Kamaruddin Amin, deputy rector for collaboration and interconnection; Prof. Baber Johansen, Acting Director of the Islamic Legal Studies Program; and Prof. Bahaking Rama, dean of the faculty of science and technology

Mbabazi Kasara (HLS'09), recipient of an ILSP Travel Grant, Winter 2009, for her research in Indonesia on the dispute between Indonesia and the World Health Organization over the sharing of avian bird flu samples

Shahira Ali (HLS'09), recipient of an ILSP Travel Grant, Winter 2009, for an internship at the National Council for Human Rights in Cairo

Samuel L. Hayes, III, Jacob H. Schiff Professor of Investment Banking emeritus of Harvard Business School, was the moderator, and he introduced the discussion with a history of investment banking, linking the discussion to the current global financial crisis. He was followed by Aamir Rehman, HBS '04, Director and Head of Strategy of Fajr Capital Limited, Dubai, who had written a paper entitled "The Relevance of Islamic Finance Principles to the Global Financial Crisis," which was the starting-point for the discussants. The paper attributed a threefold explanation to the crisis, namely, excessive lending, opaque financial securities, and failures in governance. Rehman argued that there were fundamental ethical and technical problems associated with each issue. Consumer materialism and lenient attitudes towards borrowing allowed for over-leveraging by banks and pervasive household debt. Failures to properly value mortgage-backed securities created conditions for irresponsible usage of derivatives. Finally, a misalignment of incentives, lack of supervision, and regulatory lapses combined to create a governmental failure in placing checks and balances in the financial industry. For each issue driving the crisis, Rehman pointed out the relevance these issues have in the theoretical and practical application of Islamic finance.

To address his first point regarding excessive lending, Rehman pointed out that due to the increased emphasis on asset-based lending, much of the over-leveraging that occurred before the crisis may not have been as far-reaching in Islamic finance. He illustrated the failure to properly value securities by arguing that since the loan originator and the loan provider were separate entities during the euphoric mortgage boom, there existed an inherent conflict of interest in the financial system. The interests of the loan originators were to structure and close loans to as many homebuyers as possible. This caused a relaxation in the ordinary due diligence process undertaken when determining the credit worthiness of the borrower. By the same token, the loan borrower, represented by owners of securitized mortgage-backed securities, did not undergo a deep credit analysis due to the heavy reliance on credit rating agencies. Due to this segregation of duties, credit risks became susceptible to becoming improperly addressed. A majority of scholars in Islamic finance, on the other hand, deem the sale of debt impermissible. As such, the lack of the transfer of debt would nullify the separation of the role of the originator from the lender, and would theoretically lead to more careful origination on the part of the lender. Lastly, Rehman suggested that the "ethical supervisory boards" (i.e., Shari'a boards), which are charged with approving Shari'a-compliant products, serve as an added level of checks and balances to ensure financial transactions are conducted in accordance with Islamic finance principles. Rehman termed these boards "CSR with teeth" due to the common goals that are shared with many corporate social responsibility bodies in ensuring that values-based investing is properly performed.

Overall, Rehman illustrated how the ethos of Islamic finance could serve as a model in the potential improvement of the global financial system. He also argued that a general restriction on the sale of debt is a way to increase the stability of the financial system. Finally, the presence of Shari'a boards imbued with legitimate auditory powers allows for rigorous regulation of financial instruments.

Baber Johansen, Acting Director of the Islamic Legal Studies Program, and Roger Owen, A. J. Meyer Professor of Middle East History, responded to the discussion paper. Johansen noted that operationalizing ethical principles within conventional Western markets will be the key issue. He proposed that ethical concerns should be guided towards a reduction of debt and noted that Islamic financial principles do indeed encourage risk-bearing activity with parallel incentives. However, the prohibition of interest (*riba*) creates a large transference conundrum as sectors such as microfinance rely on heavy interest rates. Finally, he contended that debt-based structures do indeed exist within Islamic finance and historically one example of unfair exchange can be found in the *salam* contracts.

Owen's remarks tended towards an examination of the broader Middle Eastern political economy. He noted the current crisis in the Dubai housing markets and corresponding government action as trending towards long-term increases in federal debt. Moreover, Owen pointed to a pervasive lack of trust resulting from the shocks to the Arab markets. This lack of trust was directly the result of prior overconfidence in the ability of government treasuries to insulate against economic downturns. Although the economies of the Middle East remain intertwined, the regulatory frameworks tended towards a national scale as evidenced by a general absence of regional banking franchises. Owen recommended increased economic cooperation between Middle Eastern states as a means of improving regional economic stability and accounting for intrinsic economic connectedness.

Following a question-and-answer session, with some insightful questions from the audience, the closing remarks focused on a need to turn away from the general level of opaqueness associated with the financial industry in the last two decades. Rehman proposed a return to transparency, responsibility, and confidence. He noted that such a shift would be incumbent on the capacity of government to effectively corral a runaway financial system and reorient it towards a value-based approach. ❖

OBJECTIVES AND PRINCIPLES

The Islamic Legal Studies Program at Harvard Law School seeks to advance knowledge and understanding of Islamic law.

The Program is dedicated to achieving excellence in the study of Islamic law through objective and comparative methods. It seeks to foster an atmosphere of open inquiry which embraces many perspectives, both Muslim and non-Muslim, and to promote a deep appreciation of Islamic law as one of the world's major legal systems.

The main focus of work at the Program is on Islamic law in the contemporary world. This focus accommodates the many interests and disciplines that contribute to the study of Islamic law, including its writings and history.

The Program supports the needs and interests of scholars and students from all parts of the globe and endeavors to mirror the universality of Islam itself. It seeks the active participation of scholars and practitioners from outside the University, particularly from the Muslim world. The Program does so through visiting professorships, research positions, lectures, conferences, and publications. It also provides fellowships and specialized programs for students, fostering Western scholarship in Islamic law by supporting young scholars and by encouraging innovative scholarship across many disciplines.

The Islamic Legal Studies Program also collaborates with other institutions and individuals at Harvard University to advance the study of Islamic law, Islam, and the Muslim world. In addition, it aims to establish close relationships with scholars and institutions abroad.

Islamic Legal Studies Program

Harvard Law School
125 Mount Auburn Street, 3rd Floor
Cambridge, MA 02138

❖

tel: 617-496-3941 *fax*: 617-496-2707
e-mail: ilsp@law.harvard.edu
http://www.law.harvard.edu/programs/ilsp

Islamic Legal Studies Program
Harvard Law School
125 Mount Auburn Street, 3rd Floor
Cambridge, MA 02138

Non-Profit Org.
U.S. Postage
PAID
Boston, MA
Permit No 52238