

# QURANIC VALUES IN ISLAMIC LAW

By:

Ahmad Hidayat Buang \*

## Abstrak

*Tema artikel ini adalah tema popular yang pernah ditulis oleh beberapa penulis lain. Sungguhpun demikian, analisis akan dibuat terhadap beberapa perkembangan terbaru mengenai konsepsi perundangan Islam yang terdapat di dalam al-Qur'an. Terdapat sesetengah ilmuwan berhujah bahawa rujukan kepada al-Qur'an hendaklah bersifat universal dan tidak terikat dengan metodologi khusus yang digunapakai oleh golongan tertentu di dalam Islam yang menganggap diri mereka sebagai mewakili golongan yang mampu mentafsir secara sahih ajaran Islam. Menerusi artikel ini, penulis cuba untuk menunjukkan bahawa sebab perbezaan pandangan antara kedua-dua golongan ini bukan sangat berpunca daripada penerimaan metodologi perundangan Islam, tetapi daripada sikap dan kefahaman mereka terhadap metodologi tersebut.*

This is a popular theme written and discussed by many scholars. Hence the discussion here is probably a repetition of what that has been said elsewhere.<sup>1</sup> Nevertheless my discussion will analyze some of the points raised and discussed by these scholars in respect of current development taking place in Malaysia and elsewhere in Muslim world. Muḥammad Khudārī Bik in his famous *Tāriḫ al-Tashrī'* concluded that Quranic values in respect of law can be summarized as the followings:<sup>2</sup>

---

\* Profesor Madya di Jabatan Syariah Dan Undang-Undang, Akademi Pengajian Islam, Universiti Malaya, Kuala Lumpur.

<sup>1</sup> Even a doctoral thesis was written under this title. See Sa'īd, 'Abd al-Sattār Faḥ Allāh (1992), "al-Minhāj al-Qur'āni fi al-Tasyrī' (Quranic Methodology in Law)", Cairo: Dār al-Tawzi' wa-al-Nashr al-Islāmiyyah, The book was originally al-Azhar's PhD thesis submitted in 1975.

<sup>2</sup> Muḥammad Khudārī Bik (1965), *Tāriḫ al-Tashrī' al-Islāmī*, Cairo: Maṭba'ah al-Istiḳāmah, (7<sup>th</sup> Impression), pp. 17-19.

- (1) There shall be no hardship in the religion and accordingly in the law. This is technically known as *'adam al-ḥaraj*. In verse 78, surah al-Ḥajj Allah says: "God has imposed no difficulties on you in religion". This value has since become the basic principle in Islamic law. In the case of performing five-times daily prayers, the rules prescribed by the hadith must be observed. Nevertheless the cripples, the sick and the invalid can perform prayers in the manner that suits their physical condition, although this may contradict the rules. Such a tolerance is an example of the principle of no hardship in religion. This is indeed an important principle in Islamic law and contrary to the general belief that characterizes Islamic law as imposing and uncompromising in nature. This principle also denotes inability to carry out religious instructions for genuine reasons is tolerable in Islamic law. But there must be a balance between this inability and justification for not doing so. The task is to prove hardship would be committed if a religious instruction was to be observed. The problem is how to define hardship? This is a matter of interpretation and many Muslim jurists would have different view and insight.<sup>3</sup>
- (2) The provisions of the Quran in respect of the law are minimal, mainly basic and rudimentary or what Muḥammad Khudāri Bik called as *taqḥīl al-takālif* or lesser in obligation. Muslim jurists see this as a blessing and one should not indulge in matters which the Quran is silence. It is therefore lawful to do things that the law is silence and only to abstain from doing things that the law clearly prohibits. This value is best expressed by the later jurists in the maxim which says: *al-asl ibāḥah* which means the origins of all things is permissibility. This principle has been widely used to permit modern concept of finance and banking. Mohammad Hashim Kamali for example, among others, resorts to this principle in arguing the validity the sales of futures and options. Quoted from Ibn Taymiyyah he asserts that: "the presumption of the *ibāḥah* is thus mainly concerned with those commercial transactions that are permissible and nothing in them is forbidden ...

---

<sup>3</sup> Al-Syaikh Aḥmad al-Zarqā' concludes that there are seven reasons that made a particular action as hardship (*masyaqqah*): traveling, sickness, coercion, lapse of memory (*nisyān*), ignorance, difficulty and common practice that is unavoidable (*'umūm al-balwa*) and lacking the condition in majority of age, sound mind and of a male person. All these criteria could put a person in hardship and consequently be excused from religious obligations or being liable for any debt or responsibility. See al-Syaikh Aḥmad al-Zarqā', *Sharḥ al-Qawā'id al-Fiqhiyyah*, (composed by Mustafa Aḥmad al-Zarqā' (1996), the author's son) Damascus: Dār al-Qalam, (4<sup>th</sup> Impression), pp. 157-160.

unless God and His Messenger have decreed them to be forbidden ... but God Most High never prohibited a contract in which there is benefit for Muslims and does not inflict any harm upon them".<sup>4</sup>

- (3) The Quran in introducing any rule of law takes a gradual approach or better known as *al-tadrij fī al-tashrī'*. This is on the consideration that abrupt prohibition of certain tradition or enjoinder of certain act would make people uneasy and difficult to adapt and probably resistance. To some Muslims they probably agree that the Quran did introduce its rule gradually, but after its gradual revelation all that was revealed must be followed *in toto*. Thus the question of gradual approach appears to be applicable only to the Quran but not to the later Muslims. This may have been an intense debate among Muslims in many places in contemporary times on the above subject. Yusuf al-Qarādawī when discussing the issue of what is more important between implementation of Islamic law and education and missionary works (*al-taṭbīq al-qanūnī li al-syarī'ah am al-tarbiyyah wa al-i'lām*) comments: "It is acknowledged that implementation of Islamic law is a part of Islam which cannot be neglected or denied. Nevertheless demanding and talking about it excessively and just to consider it the only thing worth doing could have an ill consequence on the Islamic thought and Islamic works (*al-'amal al-islāmī*) and on the thought of ordinary people. The enemy of Islam can use this kind of excessiveness against Islam. I have always said: "the law alone does not constitute a society, education and civilization that make a society and the law came later to protect the society".<sup>5</sup> Chandra Muzaffar follows a similar line of argument, albeit more vigorous than al-Qarādawī. He believes that the decline of Islamic civilization has no direct connection with the practice of hudud laws. Promotion of human dignity and social justice coupled with supremacy in all types of knowledge according to Muzaffar were the cause of the Islamic civilization's zenith.<sup>6</sup>

Later writers of Islamic law add some refinements of the above summary. Muḥammad Abū Zuhrah argued that laws of Quran stand on three paramount poles (*thalatha aqṭab*) which are: (1) justice which is the very basis of Islamic values and

---

<sup>4</sup> Mohammad Hashim Kamali (2002), *Islamic Commercial Law: An Analysis of Futures and Options*, Kuala Lumpur: Ilmiah Publishers, pp. 67 and 218.

<sup>5</sup> Yusuf al-Qarādawī (1995), *Fi Fiqh al-Awlawiyyāt: Dirāsah Jadīdah fī Daw' al-Qur'ān wa al-Sunnah*, Cairo: Maktabah Wahbah, pp. 227-228.

<sup>6</sup> Chandra Muzaffar (2002), *Rights, Religion and Reform: Enhancing Human Dignity Through Spiritual and Moral Transformation*, London: Routledge Curzon, p. 234.

system, (2) protection of people interest and (3) consultation among Muslims.<sup>7</sup> Some of these points were previously elaborated by the same author in discussing the Quranic values in respect of relation between the rulers and their subjects. He concluded that there are five values that the rulers must observe in governing their subjects as the followings:<sup>8</sup>

- (1) A ruler must always uphold justice or *al-'adl* in respect of his citizens. Tyranny or *al-zulm* must be avoided. The author argued that justice does necessarily mean equality in everything. Equality as he further explained could also mean injustice inasmuch as it would indicate justice. Thus to insist equality in face of different background, opportunity, power of production among the people would simply mean injustice. Justice in Islam as the author rightly argued is not a privilege but it is the rights for everybody even to an enemy.<sup>9</sup> A Muslim is obliged and dutiful to uphold justice even at the detriment of self interest.<sup>10</sup>
- (2) A ruler must rule the state based on consultation from the people or *syūrā*. This is again not a choice for the ruler, it is an obligation for the ruler to consult the people. Al-Tābarī considers *syūrā* as one of the paramount principles of the Shariah and the essential aspect of Islamic government. Muslim writers traditional and modern, have been argued differently on the machinery of consultation in an Islamic States.<sup>11</sup> But these are matters of technicalities and show the adaptability and flexibility of Islamic principle of *syūrā* to different situations and conditions. Some Muslim scholars even view that western concept of democracy is basically Islamic in the sense it promotes the concept of *syūrā*. An Egyptian writer Ṭaḥṭāwī used to say: "what is called freedom in Europe, is exactly what is defined in our religion as justice, right, consultation and equality

<sup>7</sup> Muḥammad Abū Zuhrah (1961), *Shari'ah al-Qur'an Min Dalā'il I'jāzihi*, Cairo: Dār al-Thaqāfah al-'Arabiyyah, p. 68.

<sup>8</sup> Muḥammad Abū Zuhrah (1956), *Muḥāḍarāt fī Maṣādir al-Fiqh al-Islāmī: al-Kitāb wa al-Sunnah*, Cairo: Ma'had al-Dirāsāt al-Islāmiyyah, pp. 100-106. The same points were also repeated in his *Uṣūl al-Fiqh*, Beirut: Dār al-Fikr, 1997 (reprinted from 1958 edition), pp. 90-91.

<sup>9</sup> Muḥammad Abū Zuhrah, *Shari'ah al-Qur'an*, p. 69.

<sup>10</sup> Muhammad Hamidullah (1961), *Muslim Conduct of State*, Lahore: Sh.Muhammad Ashraf, Revised Fourth Edition, pp. 71-2.

<sup>11</sup> For review of this views see Mohammad Hashim Kamali (1998), *Freedom of Expression in Islam*, Kuala Lumpur: Ilmiah Publishers (revised edition), pp. 40-44. See also Ahmad Shalabī (1958), *al-Hukūmah wa al-Dawlah Fi al-Islam*, Cairo: Maktabah al-Nahḍah al-Islāmiyyah, p. 39.

... this is because the rule of freedom and democracy consists of imparting justice and right to the people, and the nation's participation in determining its destiny".<sup>12</sup>

- (3) A ruler must rule for the betterment of the state and the people or *ilā al-aṣḥāḥ*. Muḥammad Abū Zuhrah quoted that god-fearing people (*ahl al-tuqa*) favour a strong Muslim to be a leader. Muslims benefit protection from a strong leader that is to secure benefits and to avoid detriment and harshness.<sup>13</sup> The meaning of strong here includes as well good personality, knowledge, courage and consistency in upholding the principles of Islam in facing the challenges. A Muslim leader, said Ahmad Shalabi must prepare to implement policies that benefit only the subjects and to personally carry out those policies.<sup>14</sup> In consideration of this quality of a leader, the subjects are enjoined to be loyal and obedient. If these two qualities are in place, then only the above objective that is to strive for the betterment of the state and people can truly be achieved.
- (4) There must be a cooperation between the ruler and the people and among the people themselves or *al-ta'āwun*. Muḥammad Abū Zuhrah viewed the paramount role of a leader in community is to pacify dispute and brawl among its fellow members (*iṣlāḥ dhat al-bāyyin*).<sup>15</sup> Thus in Islam a leader must have the ability to create the atmosphere of cooperation among his subjects. Muḥammad Abū Zuhrah furthermore elucidated this can be achieved by showing mercy and kindness to the subjects. Cooperation of the people at many times is the result of persuasion and mercifulness of a leader. Mercifulness however must not mean criminal acts go unpunished. Accusation that capital and physical punishments meted out in the Quran are proves that Islam is a barbaric and rustic religion, is a misconception on the Islamic principles of kindness and merciful. Muḥammad Abū Zuhrah answered the accusation by pointing out that mercifulness of the Quran is for the general good and benefit of the people. A leader must not be merciful to the extent that violators and criminals are protected and be given safe haven. To be merciful and kind to criminals is actually an act of atrocity and annoyance (to the victims) (*'ayn al-qaswah wa 'ayn al-adha*).<sup>16</sup>

---

<sup>12</sup> Quoted from Hamid Enayat (1982), *Modern Islamic Political Thought*, London: MacMillan, p. 131.

<sup>13</sup> Muḥammad Abū Zuhrah, *Muḥadarāt*, p. 104.

<sup>14</sup> Ahmad Shalabi, *al-Hukūmah wa al-Dawlah Fi al-Islām*, p. 26.

<sup>15</sup> Muḥammad Abū Zuhrah, *Muḥadarat*, p. 105.

<sup>16</sup> Muḥammad Abū Zuhrah, *Shari'ah al-Qur'ān*, p. 73.

- (5) A ruler must protect the state and their subjects from destruction and to protect their lives, property and dignity or *al-ḥimāyah min al-radhā'il (nafs, māl wa 'ird)*. Protection of these rights is by punishing the transgressor or violator according to the laws of the Quran. The aim of these punishments is a deterrent or lesson to others not to violate the rights of the others which the Quran guarantees.

Muḥammad Yūsuf Mūsā on the other hand explains the values of the Quran from the perspective of its special features compared with other sources of law in Islam as below:<sup>17</sup>

- (1) The words and meaning of the Quran are from God revealed to mankind in Arabic. Thus reading the verses of the Quran is considered as act of worship because it is God's words. Thus it is not a surprise that great number of Muslims can beautifully read the Quran but hardly understand its meanings. Similarly, in many Muslim communities Quranic verses are uttered almost all the times to invoke blessing, protection, guidance etc. But the most important, in respect of the law, is that the provisions of the Quran are binding to all Muslims. It is a great sin to ignore the Quran and an act of apostasy to deny it.
- (2) Muslims believe that the teachings of Quran are comprehensive whether for mundane and religious affairs equally. Its rules are universal and applicable to all whether individual or society. Shaltut listed topics covered by the Quran into six which are: (1) doctrine, (2) morality, (3) advocacy on advancement of knowledge, (4) history, (5) promise of rewards for good deeds and stern reprimand of hell-fire for evil doers (*al-indhār wa takhwīf, al-wa'd wa al-wa'id*) and (6) matters concerning laws.<sup>18</sup> On this particular character, Ansari writes: "The body of duties envisaged in the Quran covers, in a broad fashion, the whole life of man. All these multifarious questions are mentioned in a manner that leaves no room to believe that any of them is too mundane to be of concern to God and His Messenger".<sup>19</sup> Many writers tend to view that the number of verses concerning law are less in the Quran. Goitein reminds that two different

---

<sup>17</sup> Muḥammad Yūsuf Mūsā (1987), *al-Amwāl wa Nazariyyah al-'Aqd fī al-Fiqh al-Islāmī Ma'a Madkhal li Dirāsāt al-Fiqh wa Falsafatihi*, Cairo: Dār al-Fikr al-'Arabī, pp. 116-117.

<sup>18</sup> Maḥmūd Shaltūt (n.d), *al-Islām: Aqidāh wa Shari'ah*, Egypt: Dār al-Shurūq, pp. 479-481.

<sup>19</sup> Zafar Ishaq Ansari (1992), "The Contribution of the Quran and the Prophet to the Development of Islamic Fiqh", *Journal of Islamic Studies*, 3:2, p. 143.

characters need to be noted: (1) the legal verses in the Quran are perceptibly longer than other verses which concern theology and doctrine and (2) most of the non-legal verses are repeated throughout the Quran whereas the legal verses are not.<sup>20</sup> If these characters were to be considered then it will certainly make the legal verses of the Quran as many as other verses related to theology, history etc.

- (3) The Quran was revealed to Prophet Muhammad gradually in the period of 23 years. Its teachings were later on transmitted to succeeding Muslims both through oral tradition and writing. The method of transmission is by collective effort of Muslims known as *tawātur*. Quoted from Subhi Salih, Juynboll defines *tawātur* as: “traditions (that) have so many different chains of transmitters that error in and fabrication of the texts are felt to be virtually impossible and their authenticity is generally recognized”.<sup>21</sup> Thus through this method the very texts and verses of the Quran that Muslims have today is authentic and similar to that of the Prophet Muhammad and his Companion.

To the above discussion, we can further add two more points.

- (1) It is universally accepted by all Muslims that the very words of the Quran and consequently its teaching can never be corrupted through the passage of times or changing of society. Nor it can be changed to suit political, economic and cultural demands.<sup>22</sup> Afif ‘Abd al-Fattāh Tabbarah refines this position by stating that the words of the Quran is authentic and can never be corrupted because they were memorized in the heart of the Muslims and written simultaneously. Furthermore, the verses of the Quran are not in the exclusive possession of a particular person or group of people. All Muslims in the early days of Islam had the knowledge of the Quran and its verses and teaching were recited, used, practiced in every aspect of daily activities:

---

<sup>20</sup> S.D.Goitein, “The Birth Hour of Muslim Law”, *Muslim World*, vol. 50, p. 24.

<sup>21</sup> G.H.A Juynboll (1969), *The Authenticity of the Tradition Literature: Discussions in Modern Egypt*, Leiden: E.J. Brill, p. 11.

<sup>22</sup> Although Ali Abū al-Fuṭūḥ showed that majority of people (supposedly non-Muslims) including some Muslims believe that the principles of the Sharī‘ah are not suitable to the time in which humanity has achieved the most advanced and finest civilization in its entire history. These people argue that modern laws have no relation with Islam and their creation was novel and entirely man-made of the western civilisation. Ali Abū al-Fuṭūḥ (1913), *al-Syarī‘ah al-Islāmiyyah: al-Qawānīn al-Waḍ‘iyyah fi al-Qadā’ wa al-Iqtisād wa al-Ijtimā’*, Cairo, (n.p.), p. 5.

prayers, social and economic activities, politics, wars etc.<sup>23</sup> In other words, it is a public document of which corruption of its content would be noticed at once. Although the contents of the Quran cannot be altered, the application of its teaching is fluid. As it has been shown above the fluidity of the Quran is for the reason that its principles are mentioned in general.

- (2) The true teachings of the Quran can only be referred to in Arabic. Translations of the Quran to non-Arabic languages though it is permitted, cannot be considered as the correct version of the Quran and in fact could not be considered as the Quran at all.<sup>24</sup> Thus how good a translation of the Quran can be, it cannot substitute understanding the meaning of the Quran from its original Arabic. Maḥmūd Shaltūt considered the translation of the Quran as part of its interpretation (*tafsīr*). The translators read and understand the meaning of the Quran and then translate it into non-Arabic language. This is no more than an interpretation.<sup>25</sup>

On the legal technical aspect of the Quran, Muḥammad Yūsūf Mūsā further explained some of its main criterion. Some of them was previously mentioned by Muḥammad Khudārī Bik as above (gradual approach of the Quran). But Maḥmūd Shaltūt's exposition is probably the best illustration of how Quran explains its technical aspect of the law. He wrote that Quran's methodology (*nahj al-Qur'an*) in explaining the law could be summarized into four ways:<sup>26</sup>

- (1) The words of the Quran in matter relating to law are in two types: decisive and specific (*qaṭ'ī dilālah* and *khāṣ*) and less decisive and general (*dhanni dilālah* and *'umūm*). The last category gave rise to differing opinions and schools of thought in Islam. Shaltūt viewed this particular character as the notion in Islam that no one could claim the true meaning of the Quran to his own (*wa la anna al-dīn wāḥid mu'ayyan minha*). Similarly it is impossible to observe all this views because they are in contradiction with each others (*la yumkin an yuqāl inna kull dīn yajibu itbā'uhu liannaha 'ārā' mutanāqidah*).<sup>27</sup> Thus what is left for

<sup>23</sup> Afif Abd al-Fattāh Ṭabbarah (1972), *Rūh al-Fin al-Islāmi*, Beirut: Dār al-Ilm li al-Malayin, (12<sup>th</sup> Impression, first published in 1955), p. 23.

<sup>24</sup> See Mannā' al-Qattān (1997), *Mabāḥith fī 'Ulūm al-Qur'ān*, Cairo: Maktabah Wahbah, (8<sup>th</sup> Impression), pp. 307-308.

<sup>25</sup> Maḥmūd Shaltūt, *op.cit.*, p. 472.

<sup>26</sup> *Ibid.*, pp. 484-489.

<sup>27</sup> *Ibid.*, p. 486.

the Muslims in general and a leader or a judge in particular is to choose the best that suits their needs.

- (2) Many of the legal verses of the Quran are prefixed or adjunct with religious *targhīb* (commendation) and *tarhīb* (condemnation). Quran incorporates its technical aspect of the law with religious and moral duty of a Muslim. Provisions of laws are intermingled with verses of purely dogmatic and ethical import. Ansari views this as Quran own peculiar fashion of legislation. The reason for this because Quran is different from other legislation in spirit and purpose. The basic motivation of the Quran, as Ansari further writes, is religious and moral, that is to say to lay down certain standards of conduct what one should do and should not do.<sup>28</sup>
- (3) The legal verses of the Quran are not organized as according to specific title or topic. In order to understand a particular concept or rule of law in the Quran, one has to read the whole Quran. This technique makes all verses of the Quran a cohesive lot, interrelated with each other and cannot be read in isolation of other verses. It also means that the teachings of the Quran must be taken in its entirety.
- (4) With a very few exceptions, the general trend of the Quran is to point the general principles or objectives of the law. Many of these principles are of universal values, which could be applicable across the borders of time, space, tradition and society. Thus we find in Quran the advocacy of the principles of easiness (*al-yusr*), avoidance of hardship (*raf' al-haraj* or *ḍarar*), best interest (*al-ṣalāh*), avoidance of injury (*al-fasād*), to halt mischievousness from happening (*sadd al-dharā'i'*) and so on and so forth. Ansari views this approach as a kind of legal reform in the context of the long-range objectives and not merely on *ad-hoc* basis.<sup>29</sup>

\*\*\*

It can be summarized that to Muslims, the Quran is the first reference in all matters. Its rules are immutable and permanent until the end of times. As such, Muslims believe wholeheartedly that Quran is comprehensive and deals with everything that human needs to know, because to deny this comprehensiveness is to

---

<sup>28</sup> Zafar Ishaq Ansari, *op.cit.*, pp. 143-144.

<sup>29</sup> *Ibid.*, p. 145.

deny its features as God's word, immutable and cannot be corrupted. Abū Ishāq al-Shātibī, a Mālikī jurist argues that: "the Quran explains everything subject to the above condition as already explained. A scholar who knows al-Quran is surely to know the general knowledge of the Shari'ah. A person who knows al-Quran is left with nothing".<sup>30</sup> Shātibī then claims that he has three evidence to support the above statements: (i) from the Quran itself, (2) from the Sunnah and (3) from the experience of learned people. In the last evidence he quotes a remark from a Zāhiri's jurist Ibn Ḥazm who said: "every chapter in the law book has the origins from the Quran and al-Sunnah that we know, and for that we thank God, except a chapter on *al-qirād* or commenda partnership".<sup>31</sup>

It was soon realized that the Quran in many occasion cannot be understood by itself. It has to be explained by other means in order to make its provision comprehensible correctly and more importantly the realization of its provision in practical terms. Shatibi points out that "the Quran cannot be understood solely on its own without seeking explanation or clarification from al-Sunnah ... if al-Sunnah cannot provide the explanation, the guidance on its meaning should be found from the interpretation of the people of the first century of Islam (*al-salaf al-ṣalīh*) ... if that cannot be done its meaning must be understood from the people who knows perfect knowledge of the Arabic language".<sup>32</sup>

Professor 'Alī Ḥasb Allāh of Cairo University provides some details of the above proposition that if a person seeks to benefit from the Quran he or she must observe the followings:<sup>33</sup>

- (1) The meaning of some Quranic verses must be understood in the context of other verses. Thus, in Surah al-Tawbah, verse 41 which reads "All must strike for Allah's cause whether in comfort or not" must be read together with Surah al-Tawbah, verse 91 which reads: "it is an excuse for the poor, sick and pauper ...". It is therefore a mistake just to understand the first verse solely on its own without looking at the second. This is what the Islamic scholars call as the principle of *'ām* and *khās* (general and specific).<sup>34</sup>

<sup>30</sup> Abū Ishāq al-Shātibī (1997), *al-Muwāfaqāt*, Beirut: Dār al-Ma'rifah, volume 4, p. 333.

<sup>31</sup> *Ibid.*, p. 335.

<sup>32</sup> *Ibid.*, p. 333.

<sup>33</sup> 'Alī Ḥasb Allāh, *Uṣūl al-Tashrī' al-Islāmī*, Dār al-Ma'ārif, 1959 (3<sup>rd</sup> Impression), pp. 33-36.

<sup>34</sup> For further reading see Mohammad Hashim Kamali (1991), *Principles of Islamic Jurisprudence*, Cambridge Islamic Texts Society, pp. 104-113.

- (2) Certain words in the Quran are ambiguous in their meaning. The Sunnah provides clarification for this ambiguity. Thus in Surah al-Baqarah verse 238 the word *qānitīn* in Arabic language normally means prayers and full concentration and does not include the meaning of silence. It is the Sunnah which explains that the word *qānitīn* also includes the meaning of silence. Thus a Muslim must not talk or move when they are in prayers.
- (3) Understanding the reason why a particular verse was revealed (*asbāb al-nuzūl*). One cannot fully understand the Quran if a person has no knowledge on the reason why a particular verse was revealed. The logic for this qualification is that knowledge of the circumstance under which a particular verse was revealed helps to understand the Quran better. Similarly ignorance of this reason would probably make a person arrive at a wrong conclusion. In this respect Umar was reported to complain that why Muslims differ in their opinions given the fact that they refer to the same Prophet and face the same *Qiblah*. Hearing this Ibn Abbas replied: "Oh Caliph, the Quran was revealed to us, we read it and we know the circumstance under which it was revealed. But the people who come after us they only know to read the Quran without knowing the reason why it was revealed. From this they started to interpret the Quran according to their own understanding and because of this they differ and in the end they quarrel".
- (4) Understanding on the custom of the Arab people in the period when the Quran was revealed. One will understand the Quran better if he or she knows the custom of the Arab people.

\*\*\*

It is therefore important to note here that the values of the Quran in respect of law are simple, universal, humanitarian and permanent in its principle but pragmatic and flexible in its application. But to understand the meaning of the Quran correctly according to the orthodox tenets of Islam, one has to follow the methodology laid down by the Muslim scholars as explained above. To choose otherwise will make the understanding of the Islamic law according to the Quranic values incorrect as far as the orthodox tenets of Islam are concerned. This view might not be agreeable to certain quarters. Kassim Ahmad for example when elaborating verse 59 chapter 4 of the Quran writes: "the difficulties in understanding the Quran is not so much due to its Arabic language, but rather to its multi-layered contexts. The Quran is both historical and universal. It is also meant for people of differing levels of social and moral developments". Kassim Ahmad earlier accused traditional interpretation of the

above verse as arbitrary, but quickly defended them as being human and historically-bound and probably had no choice for their action. For Kassim Ahmad the meaning of the Quran can only be understood by reference to its total teachings as well as in reference to many branches of knowledge.<sup>35</sup> It is not known how the traditional scholars would respond to Kassim Ahmad's view. I suspect they would be similarly hostile as they did to Kassim Ahmad's *Hadith: Satu Penilaian Semula*.<sup>36</sup> Chandra Muzaffar also has echoed a similar view. In his recent publication, while writing on the rights and role of Muslim women in Islam he argues: "What is important is that in selecting examples connected to Islamic identity and tradition one must be guided by the holistic, integrated vision of life and living embodied in the Quran. This means that one should not emphasise only those aspects which serve one's purpose, while ignoring or downplaying other elements in the Quran".<sup>37</sup>

Personally, I agree that understanding of the Quran should be based on universal teaching of the Quran, but at the same time the authority of the traditional scholars must also be respected and understood in context. Learning of Arabic and other classical Islamic knowledge and sciences cannot be dismissed on the pretext that they are not important considering historical and universal factors of the Quranic teachings. For the traditional scholars at least they have the solid basis and consistent methodology on how the Quran should be understood. In this consideration, if we would dare to challenge the authority of the traditional scholars, we must similarly identify the basis and methodology of our own Quranic interpretation. Otherwise, we ourselves would interpret the meaning of Quran arbitrarily and the future generations might accuse us of committing the mistake that we thought was done by the traditional scholars.

Looking at the above critics voiced by both Kassim Ahmad and Chandra Muzaffar on the conservatism of the contemporary ulama in matters related to religious identity in respect of society, law, women rights and others, a distinction has to be made between the methodology of the traditional Islam and the attitude and understanding of the contemporary ulama. I would say it is not Islam's traditional

---

<sup>35</sup> Kassim Ahmad, "Difficulties in Understanding Quran Lead To Different Interpretation", *New Straits Times*, 12 October, 2000.

<sup>36</sup> See my article "Kebebasan Memberi Pandangan Dalam Isu-isu Agama Islam: Kajian Terhadap Fatwa-fatwa Jabatan Mufti Negeri-negeri di Malaysia", in Mohd Fauzi Hamat, et. al (eds.) (2004), *Pemikiran Islam Dan Cabaran Semasa*, Kuala Lumpur: Jabatan Akidah Dan Pemikiran Islam, APIUM, pp. 290-291.

<sup>37</sup> Chandra Muzaffar, *op.cit.*, p. 232.

methodology that hinders the process of Islamic reforms. It is actually the attitude of some of the contemporary ulama in Malaysia, many of whom hold important official-religious position in the country, that limit the broader view of the Shariah to their own understanding. One clear example in this respect is the appointment of female Shariah judge. According to the traditional methodology of Islamic law, there is no consensus among the scholars that women are forbidden from becoming a judge.<sup>38</sup> Yet, scholars or ulama in Malaysia, albeit conceding to societal pressure, manipulatively argue that more studies are needed before such an idea could materialize.<sup>39</sup> Another example is the proposal from certain women group that a wife has a right to insert a condition in her marriage contract that her husband upon additional marriage would give her certain rights including a right to divorce. Such a condition is considered by one of the Mufti in Malaysia as contradictory to Islam.<sup>40</sup> The fact is that some of the jurists using traditional methodology of the Hanbali school of law do permit such a condition. It would be appropriate or acceptable if the rejection of the proposal is based on certain opinions of particular school of law and for the reason of public policy (*siyāṣah syar'iyah*) of the official Islam in the country of which such an opinion is adopted. But to suggest the above proposal as anti-religion, would certainly create amusement on the credibility of that Mufti or anxiety among certain Muslims who study Islam. Using Islam or religion to favour (or impose) one's own opinion or understanding on others has indeed led many Muslim intellectuals and activists to hold at ransom the broader and multifarious teaching of traditional Islam.

Many more examples can be produced here to prove the above statement. The aim is to show a distinction between individual understanding and the broader spectrum of Islamic traditional teaching. Traditional methodology is our Muslim heritage developed through centuries of learning and experiment. It has produced thousands of intellectuals, writers, scholars, jurists and generations of learned people. Most of our understanding of the Quran and Islam is the result of the labour of these

---

<sup>38</sup> Sofianni Subki, "Equals Among Men", *New Straits Times*, 21 April 2003 (the article was partly the reproduction of Madam Farida Ibrahim Hussein's speech at International Muslim Women Union gathering in Kuala Lumpur held on 16 April 2003. Madam Hussein is a Sudanese Federal Supreme Court Judge).

<sup>39</sup> *Utusan Malaysia*, 27 January, 2003 which carries the caption "cadangan perlu dibincang" (proposal needs further studies).

<sup>40</sup> *New Straits Times*, 21 January, 2003 which carries the caption "no-polygamy clause in marriage contract against Islamic teaching".

people. For this reason we must make the utmost endeavor to preserve this tradition and develop it further. All the misgivings about traditional or conservative Islam as conceived by Kassim Ahmad and Chandra Muzaffar as well as other Muslim writers is not the making of Islam's traditional methodology, but it is rather the attitude of some Malaysian contemporary ulama towards change and reform.