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Islamic Faith and the Question of Suicide Terrorism

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Introduction

Terrorism has become one of the most severe threats to the security of human society in recent history.¹ Terrorists use various types of attacks to achieve their objectives. Such attacks include bombings, hijackings, assaults, arson, firebombing, kidnapping, and armed attacks. However, one tactic which has become popular among terrorist groups is the suicide attack. The fact that suicide terrorist attacks are over 10 times deadlier than all other forms of terrorism² reflects the level of seriousness of the threat that this kind of terrorism is causing. Compared to other forms of terrorism, this form of terrorism is more associated with religion.³ Among militant groups with religious affiliations that apply suicide tactics, statistics show that Muslim militants appear to be engaged in this kind of terrorism much more than others.⁴ Again, among Muslim militant groups Shia militants hold a special position in this regard because they are considered to be inventors of suicide tactics in its current form.

The Rise of Suicide Tactics

On October 23, 1983 at around 6:20am, a yellow Mercedes Benz truck drove to Beirut International airport where the US Marines had set up their local

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¹ US Army Training and Doctrine Command, Handbooks No. 1.03 on Suicide Bombing, 10 August 2006: accessible via (http://www.fas.org/irp/threat/terrorism/sup3.pdf)
³ J. P. Larsson, Understanding Religious Violence: Thinking Outside the Box on Terrorism, Ashgate, London, 2004, p. 35
headquarters. The hijacked truck, carrying the equivalent of 5.5 tons of the explosive TNT, passed between two sentry posts, crashed through a gate and drove into the lobby of the Marine headquarters. By the time the two sentries were able to engage, the truck was already inside the building’s entrance and the driver had detonated his deadly cargo. The massive explosion, which was rated as the biggest non-nuclear explosion since World War II by the FBI, killed 241 service members, including 220 Marines. The incident was the marines’ biggest loss of life in a single day since the World War II US-Japan battle of Iwo Jima.  

Elsewhere in the city, French paratroopers, not realizing a second suicide truck bomber had driven into their basement, went to their barracks’ balconies to see the mushroom cloud at the airport. Two minutes later the second suicide bomber detonated his truck, destroying the building and killing 58. It was the worst military loss for France since the end of the Algerian War in 1962. The same day, the BBC reported the two suicide bombers, both of whom died in the attack and were named as Abu Mazen, 26, and Abu Sijaan, 24, as members of a previously unknown Shia group called the Free Islamic Revolutionary Movement. The group was thought to be composed of Lebanese Shia Muslims and was part of an extremist faction of the Amal militia.

The Beirut suicide bombings drove the foreign military forces out of Lebanon. The surprising effectiveness of the Lebanese Shia groups’ suicide tactics in forcing the withdrawal of foreign forces from Lebanon, impressed many nationalist, leftist, and religious militant groups around the globe. The first group to show interest in adopting the same suicide tactics was the Tamil separatist Marxist-Leninist group of the Tamil Tigers (LTTE). This leftist secular group

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6 Ibid.
formed a suicide unit named “the Black Panthers”. Between July 1987 and February 2000, the LTTE executed around 168 suicide attacks in Sri Lanka and India killing and wounding thousands of people. The group is the only organization to have succeeded in assassinating two heads of states. The Prime Minister of India, Rajiv Gandhi, was killed in May 1991 by a female suicide bomber and Sri Lanka President, Ranasinghe Premadasa, was killed in 1993 by a male suicide bomber. From 1993 on, both nationalist and religious Palestinian groups started showing interest in using suicide attacks against Israel. In 1995 two Egyptian religious groups – the Gama`a al-Islamiya and Egyptian Islamic Jihad – joined the club of suicide bombers as well. The Kurdish nationalist group, the Kurdistan Workers’ Party (PKK), began to use suicide attacks to boost the morale of its fighters after military setbacks in southeast Turkey, which had a negative impact on the group in 1996.

Unlike other groups, which started their suicide operations at national or regional levels, a Muslim militant group became the first to employ suicide attacks at the global level. Al-Qaeda joined the camp of suicide bombers by executing such attacks on the U.S. Embassies in Nairobi and Dar-e-Salaam in 1998 and the USS Cole in Aden Harbour in 2000, followed by attacking the World Trade Centre and the Pentagon in September 11th 2001. The 9/11 terrorist attacks were so shocking that, for some, the attackers and the ideology behind them replaced communism as the USA's chief ideological adversary. Suicide bombing as an effective, inexpensive and flexible weapon was a revolutionary military innovation which in the age of high-tech warfare, to some extent, levels the

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8 US Army Training and Doctrine Command, Handbook No. 1.03 on Suicide Bombing.
9 Chicago project on security and terrorism, accessible via: http://cpostdata.uchicago.edu/search_results_new.php
10 Ibid.
11 U.S. Army Handbook on Suicide Terrorism
technological difference between highly developed states and poorly equipped non-state militant actors. It was the main reason behind the rapid growth of this newly introduced form of violence.

**Suicide Attacks: Definition and Brief History**

Suicide attacks, perhaps surprisingly, have multiple definitions since they are a phenomenon with diverse factors, forms, and typologically different goals, targets, and perpetrators. Here I will mention only two of these differing definitions as they cover the most essential elements. Suicide attacks are defined by the Congressional Research Service of the Library of Congress of the United States as: “Events where the ‘success’ of the operation cannot occur without the ‘death of the perpetrator’, and he or she is apparently aware of this in advance.”\(^{13}\)

By comparison, the Australian Flinders University database on suicide attacks defines such assaults as: “The targeted use of self-destructing humans against a perceived enemy for political ends”.\(^{14}\)

These two definitions include elements that are helpful in distinguishing between suicide attacks and other kinds of operations. Regardless of the definition used, the common element of suicide attacks is the fact that they will only succeed if the attacker kills himself/herself. Therefore the death of the executer is an essential part of operation. This is different from what is often described as suicidal attack. A suicidal attack is a high-risk operation where the death of the attacker is not necessarily a part of the operation and the perpetrator does not need to kill himself/herself, although his/her chance of survival might be very slim. The direct and indivisible relationship between the success of the mission and death of the attacker is the main difference between suicide attacks and other

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\(^{13}\) US Army Training and Command, *Handbook No. 1.03 on Suicide Bombing*.

types of operations in which the level of risk is very high.\textsuperscript{15} Loyalty and honour, even unto death, has always been considered a strong aspect of romantic conceptualisations of a combatant’s courage and commitment to his beliefs. Those who were ready to sacrifice their lives in service to their particular collective are considered heroes by those same societies. Suicidal attacks, as exemplary signs of courage, have been employed in warfare since ancient times because the ultimate bravery and heroism lie in ‘seeking out’ death.\textsuperscript{16} Among early such attacks recorded are those of the Jewish zealots in the first century CE. They would sometimes fight the Roman occupation by walking up to a Roman soldier in a square, pulling out a knife and killing the soldier knowing that there were other Roman soldiers standing right by who would immediately execute the zealot.\textsuperscript{17}

Another group in history, famous for the use of suicidal attacks, was the Ismaili Hashasheen, also known as the Nazari Ismailis who operated in the eleventh through to the thirteenth centuries of the Common Era. This is where the word ‘assassination’ comes from. However, their propensity to assassinate enemy leaders was very much on the basis of suicidal attacks. Assassins used to kill their victims, usually prominent officials, in public places where there were many witnesses to assure publicity for their acts. No doubt this kind of operation would often mean the loss of the lives of the attackers. Modern forms of assassination have tended to be targeted killing of prominent targets by anonymous attackers whose intention is to remain anonymous and to survive.\textsuperscript{18}

\textsuperscript{15} US Army Training and Doctrine Command, \textit{Handbook No. 1.03 on Suicide Bombing}.


\textsuperscript{17} (http://www.britannica.com/EBchecked/topic/656131/Zealot)

\textsuperscript{18} Henry Dodd, “A short history of suicide bombing.” AOAV, accessible via: https://aoav.org.uk/2013/a-short-history-of-suicide-bombings/
Apart from suicidal attacks there is a whole history of the use of suicide in times of war to avoid capture, to preserve intelligence information, or to avoid further suffering at the hands of capturing forces\(^{19}\) which also falls outside our definition. Modern suicide attacks, in the general sense of the term, began with kamikaze operations in October 1944, when the Japanese military realized it would be almost impossible to prevent the US army from invading the Japanese home islands.\(^{20}\) Conventional measures were seen to be failing to avoid the defeat. Therefore, the Empire of Japan started to mount suicide attacks using aircrafts, speedboats, and submarines against allied naval vessels. The Tokkotai (meaning ‘special attack unit’ and popularly referred to as Kamikaze) consisted of planes and boats loaded with bombs and instructed to crash into allied naval targets.\(^{21}\) In total around 3,000 suicide attacks were carried out by the Japanese before the end of the war.\(^{22}\) While both the number of Kamikaze operations carried out and their fatalities were quite significant, Kamikaze has not been considered a significant inspiration for more recent suicide attacks. Despite significant number of both inter-state and civil wars which happened after the US-Japan war, Kamikaze did not inspire other actors to copy it in the immediate post US-Japan war years.\(^{23}\)

Suicide bombing, as a strategy of non-state actors suffering from a deficit of conventional military capabilities, fighting powerful state actors, emerged in Lebanon in the early 1980s in response to Israel's invasion of Lebanon. The fourth suicide attack carried out by Lebanese Shia groups, the famous suicide truck bombing against the US Marine barracks in Beirut in 1983, is now believed to have been the main inspiration for all other militant groups who subsequently

\(^{19}\) Ibid.
\(^{21}\) Ibid.
\(^{22}\) Ibid.
\(^{23}\) Ibid.
adopted the tactic. The attack was not only significant in the number of deaths it produced, but it was successful in producing political results judged favourable to the group employing it. The powerful state actors (the USA and France) were forced to retreat.\textsuperscript{24}

**Suicide Attack: The Weapon of Choice**

One century after the invention of dynamite, humans had found a new way to kill each other using explosives. This time to kill themselves to defeat their enemy. Measured by the criterion of cost effectiveness, this new form of killing, namely suicide tactic, has no equal among all other forms of combat operations, except for the use of weapons of mass destruction.\textsuperscript{25} The rapid spread of suicide attacks since the 1980s indicates that suicide operation was seen as a viable and effective tactic. What made suicide attacks, chosen rationally from among a menu of policy options, so attractive for so many groups of activists? To answer this question, it is necessary to look at suicide attacks from four main perspectives: technical, financial, psychological, and political.

From a technical perspective, the suicide attack is unique. Since almost all of those groups which run suicide operations suffer from a lack of access to high technology weapons, suicide attacks using humans as the weapon levels the technological playing field to a considerable degree. No more adaptable, opportunistic weapon system has yet been introduced to the battlefield than the human person. A suicide bomber, without any need to receive long term training with expensive high-tech weapons, can hit the target as exactly, or more effectively, than many expensive high-tech weapons.\textsuperscript{26} The suicide bomber has a

\begin{itemize}
\item \textsuperscript{24} US Army Training and Doctrine Command, *Handbook No. 1.03 on Suicide Bombing*.
\item \textsuperscript{25} Alexander Khramchikhin, “Suicide terrorism as the most effective method of terrorism: military and migratory aspects” in Tatyana and El Houdaigui (eds.), *Contemporary suicide terrorism*, p. 10.
\item \textsuperscript{26} Ibid.
\end{itemize}
huge advantage over other weapons: he or she can make instantaneous contingent changes to the operation to maximize the chance of success.

Defending against suicide attacks is also much more difficult by comparison to other weapons. A suicide bomber might look like many things, but not a bomb as such. As a matter of fact human ‘smart bombs’ are able to hide their reality to the last moment and, since they are difficult to identify, they are difficult to stop. Any preemptive actions to avoid possible suicide attacks could harm innocent people and would weaken the public standing of the defending party. It is clear that increased measures to combat suicide attacks could in some circumstances also increase public displeasure, so offering a win-win outcome for the militant group using suicide tactics.

Suicide operations are relatively less complicated compared to other kinds of operations. It is usually the ‘escape plan’ which is the most difficult and complicated part of an operation, especially when it is conducted in an area controlled by hostile forces. Any attempt to hide the operation may be successful until it is executed, but once carried out the counterattacking forces will be swiftly mobilized, making escape from the scene difficult. Suicide attacks need no escape plan and can be more effective in high security areas when compared to other types of operation. Suicide operations cause minimal security risks to the group carrying them out. Since the suicide bomber who executes the attack is killed as a result of the operation, there is little fear by the affiliating group that he/she will be caught and interrogated by security forces.\(^\text{27}\)

From a financial perspective, suicide attacks are notably cost effective. For example, the suicide attack of October 1983 against US marines in Beirut, which had significant local and international consequences, cost no more than a few

\(^\text{27}\) US Army Training and Doctrine Command, *Handbook No. 1.03 on Suicide Bombing.*
thousand dollars. Since the truck which was used for the operation was a stolen one it didn’t cost anything, and the only money spent went on explosive materials and devices. The results which were achieved by this single suicide operation could not have been expected to have been gained by a several times more costly operation of another type.\textsuperscript{28} The reality is that ordinary suicide operations cost even less. According to Bruce Hoffman’s estimation, a suicide attack can cost as little as US $150.\textsuperscript{29} Even complicated operations which might cost more are still considered to be worth the investment because of their effectiveness. The 9/11 terrorist attacks, which were quite complicated and more expensive than other suicide operations, are estimated to have cost not more than US $50,000. The attacks resulted in damage costing many orders of magnitude higher to the United States and the global economy.\textsuperscript{30}

The negative psychological effects of suicide attacks on the enemy are often the most attractive outcome for the perpetrating groups. Suicide attacks are much more effective in spreading terror and a sense of helplessness among the targeted society than other operations, and there can be no doubt that this is usually one of the most important goals of terrorists. It should be noted also that attracting public sympathy through ‘romanticising’ the perpetrator – for example, as a martyr – is a major advantage of suicide operations for the perpetrating groups as well. Although those groups engaged in suicide attacks usually prefer to keep their secrets tight and therefore do not broadcast much information about their operations, if they do decide to engage in propaganda then they prefer to broadcast faces of innocent looking, young, and attractive suicide bombers. For instance, usually suicide bombers remain anonymous, but the operation carried

\begin{footnotesize}
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\item \textsuperscript{28}Ibid.
\end{itemize}
\end{footnotesize}
out by an 18 years old Palestinian female suicide bomber, Ayat al-Akhras, on March 2002 gained such widespread international attention that the US president of the time, George W. Bush also talked about it.31

Self-sacrifice of life is often considered to be a sign of the highest commitment to a cause. Even if the suicide operation does not achieve its initial goals, it may still help increase public support because the narrative of the courage of the attacker and his dedication to the cause can be publicized, guaranteeing some psychological success. According to the US Army handbook on suicide bombings, such attacks often result in large donations to support the cause of the group.

…a Saudi telethon raised more than $100 million for the Palestinians after an 18-year-old Palestinian girl [Ayat al-Akhras] conducted a suicide bombing of a supermarket. Support from outside of the country is also a common result of suicide attacks. One estimate indicates that the Tamil Tigers have received annual support of approximately $150 million from 800,000 Tamils living throughout the world.32

The political results of suicide attacks are no less important than any other aspects of such operations. Influencing public opinion is very important for militant groups. Since media coverage of a suicide attack is almost guaranteed, groups related to these kinds of operation become quite famous and the public becomes interested to know about their cause and message. This may serve to recruit more volunteers to conduct further suicide attacks. Even if the suicide bomber is stopped by a security force from reaching the planned target, he/she can still carry out an attack and cause some form of damage and accordingly gain media

32 US Army Training and Doctrine Command, Handbook No. 1.03 on Suicide Bombing.
coverage. As such the success of the suicide mission in publicizing the group’s message is almost guaranteed once the attacker departs for the operation.\textsuperscript{33} For all the above mentioned reasons, the power of suicide attacks is so extensive that it has been considered as the most effective weapon after weapons of mass destruction.\textsuperscript{34}

**Suicide Attacks in the Mirror of Statistics**

After being introduced in the early 1980s in Lebanon, the frequency of suicide attacks has increased dramatically from an average of fewer than five per year during 1980s to over 70 times greater in the second decade of twenty-first century. Recent tensions in Syria, Yemen, and Iraq has contributed significantly in sharp increase in number of suicide attacks since 2011. In 2014 the number of suicide attacks got close to 600.\textsuperscript{35} The huge increase in the number of suicide attacks is not the only matter of concern. The reality is that what makes these kind of incidents especially damaging is the extremely high number of casualties they produce.

\textsuperscript{33} Bruce Hoffman, *The Logic of Suicide Terrorism*, op cit.

\textsuperscript{34} Dan Eggen and Scott Wilson, “Suicide Bombs Potent Tools of Terrorists”, *Washington Post* (17 July 2005), accessible via
(http://www.washingtonpost.com/wp_dyn/content/article/2005/07/16/AR2005071601363.html)

According to Robert Pape’s findings, while suicide attacks constituted only three percent of all non-state militants groups’ attacks for political objectives from 1980 through 2003, they accounted for 48 percent of all fatalities, making the average suicide attack fifteen times deadlier than other forms of attack.\(^4^1\)

Although this ratio has since decreased slightly still it is significantly high. The Australian Flinders University Data Base for Suicide Bombings shows that until 2006 this ratio remained well over 30 percent when the portion of suicide attacks of all incidents rose to four percent.\(^4^2\) The 2011 Country Reports on Terrorism

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\(^{39}\) Robert Pape, *Dying to Win*, pp. 3-8.


\(^{41}\) Robert Pape, *Dying to Win*, p. 6.

released by the United States Department of State indicates that over 10,000 terrorist attacks occurred in 2011, claiming nearly 45,000 victims in 70 countries including over 12,500 deaths. Of these, suicide attacks accounted for just 2.7 percent of such incidents, but caused 21 percent of all terrorism-related fatalities, a fact that underscores their extreme lethality.\(^{43}\)

Although all four corners of the world have witnessed suicide attacks, four countries – Israel/Palestine, Iraq, Afghanistan, and Pakistan – have experienced around 90 percent of these incidents. Each country’s share is shown below in graph form.

![Graph: Israel/Palestine Number of Suicide Attacks till 2000](http://www.shabak.gov.il/SiteCollectionImages/english/TerrorInfo/decade/SuicideAttacks.pdf)

**Figure 2:** Israel/Palestine number of suicide attacks till year 2000. Source: Shabak.\(^{44}\)

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During first decade of 21 century 142 suicide attacks took place in Israel and Occupied territories killing 516 people. These constitute almost half (43.3 percent) of all the 1178 fatalities during this period. However, more recently a new form of suicidal attacks have been introduced by Palestinians and Arab Israelis. The efficiency of the Israeli security forces in blocking the movement of explosive ordnance has resulted in spread of unusual ways of mounting attacks such as the application of cold weapons and also the use of cars in the execution of suicidal attacks.

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Also:

And also:

In only one month, May 2005, an estimated 90 suicide bombings were carried out in Iraq which means an average of three incidents per single day. It is important to note that after the US army started withdrawing from Iraqi cities, on June 30, 2009, the number of suicide attacks in Iraq decreased significantly but, under the influence of unrest in Syria it started increasing again.

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Also:
Also”
And also:

The number of suicide attacks in Afghanistan was 2.5 times higher than Pakistan in 2011. Militants carried out 102 suicide attacks in Afghanistan in which 675 people were killed. In 2012 there was a slight rise in number of suicide attacks from 102 in 2011 to 113 in the year after. After a significant decrease in number of suicide attacks in 2013 this number almost doubled in 2014. The total for Afghanistan is over 1100 suicide attacks, claiming over 5000 lives.\(^{50}\)

\(^{49}\) [Visit this link](http://cmcpk.wordpress.com/2012/01/01/significant-decline-in-suicide-attacks-in-pakistan/)

For the full 2011 year see: Conflict Monitoring Centre, Annual Report 2011

Also:

Chicago Project on Security and Terrorism. Accessible via:
http://cpost.uchicago.edu/database/methodology/

Also:

Yotam Rosner, Einav Yoge and Yoram Schweitzer, A Report on Suicide Bombings in 2013, INSS Insight No. 507, January 14, 2014. Accessible via:

Also:

Yoram Schweitzer, Ariel Levin and Einav Yoge, Suicide Attacks in 2014: The Global Picture, INSS Insight No. 653, January 6, 2015. Accessible via: [Visit this link](http://www.inss.org.il/?id=4538&articleid=8514)

Also:

The United States Department of State, Statistical Information on Terrorism in 2012, May 2013. Accessible via: [Visit this link](http://www.state.gov/documents/organization/210288.pdf).

\(^{50}\) [Visit this link](http://cnsnews.com/news/article/suicide-bombings-afghanistan-pakistan-have-soared-decade-911)

And also see:
Figure 6: Pakistan number of suicide attacks till end of 2014. Sources: Islamabad based Conflict Monitoring Centre (CMC), Annual Report 2011, Pakistan Bodycount, and The United States Department of State, Statistical Information on Terrorism in 2012.51 There was one suicide attack executed in 1995 on the Egyptian embassy in Islamabad which is not shown in the graph.

The Most Recent Developments of Suicide Terrorism

In 2012 there were 340 suicide attacks worldwide resulting in 2,223 deaths and 4,410 injuries. Suicide attacks in 2012 were 4.7 times as lethal as non-suicide attacks. In 2012, 11.1 percent of all attacks in Afghanistan were suicide attacks. This represents one-third (33.2%) or 113 attacks of all suicide attacks worldwide, while the remaining suicide attacks occurred primarily in Iraq 65 attacks (19.1%), Pakistan 45 attacks

51 http://cmcpk.wordpress.com/2012/01/01/significant-decline-in-suicide-attacks-in-pakistan/
Also:
http://pakistanbodycount.org/analytics
also:
And also:
(13.2%), Nigeria 35 (10.3%), Yemen 26 attack (7.7%), Syria 23 attacks (6.8%), and Somalia 16 attacks (4.7%) and the rest of the world 17 attacks (5%).

The number of suicide bombings around the world surged 94 percent in 2014 comparing to the previous year of 2013. Around 3,400 people were killed in suicide attacks in 2014, compared with 2,200 in 2013, a 37.5 percent increase. There were 592 suicide attacks in 2014, compared with 305 in 2013.

There was a significant rise in the number of suicide bombings in the Middle East in 2014: 370 attacks with some 2,750 dead, compared with 163 and 1,950 killed in 2013. This was especially notable in Iraq (271 attacks, up from 98), Yemen (29 attacks, up from 10), Lebanon (13 attacks, up from three) and Libya (11 attacks, up from one). The number of suicide bombings in Syria remained at 41. Four such attacks were carried out in Egypt compared with six the previous year. The non-Arab Muslim world, Afghanistan in particular as well as Africa, saw a rise in suicide bombings. The suicide attacks conducted by Boko Haram (32 killing some 500 people) made up half the number of such attacks the organization has carried out since it started using the tactic in 2011.

As was expected, the trend continued in 2015 due to the instability in several countries and the increasing number of religious and ethnic conflicts, as well as the growing strength of groups like Daesh and al-Qaeda in Iraq and Syria. According to the Chicago Project on Security and Terrorism, as of 1 January to September 30 2015, over 480 suicide attacks killed more than 4,550 and

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54 Ibid.
55 Ibid.
wounded above 8300 in 18 countries, which indicates no positive sign in any aspects.56

**Suicide Attacks and the Islamic Faith**

Based on what happened in Lebanon during early 1980s, Muslim militant groups are recognized as the pioneers of suicide attacks in the modern world. After a temporary absence from the mid-1980s until the mid-1990s Muslim militants groups have returned to suicide attack strategies and now it seems that militant Muslim groups are behind the great majority of suicide attacks. In 2013, for example, it is believed that Muslim militants were responsible for over 95 percent of the all suicide attacks globally.57 To gain a better understating of the role of Muslim groups in regard to such developments it is helpful to categorize the durations of suicide attacks into smaller and more coherent time frames. Suicide attacks show a general pattern allowing for a division into three chronological periods – the 1980s with Shia militants at the centre stage; the 1990s with non-religious groups dominating; and the 2000s onward with Sunni militant groups as the new hub. During the first two phases, as the following table shows, twelve organizations with different religious and political affiliations resorted to the use of suicide tactics against their enemies from the early 1980s until February 2000.

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56 http://cpostdata.uchicago.edu/search_results_new.php
As we know from the 9/11 terrorist incidents onwards, and especially after the 2003 invasion of Iraq, there was a significant shift from Shia and secular groups using suicide tactics toward the same tactic being used by Sunni extremist militants. The high portion of suicide attacks conducted by Muslim militant groups raises a question about the nature of the relationship between the Islamic faith and such incidents. To answer this question it needs to be borne in mind that, as with many other things, there is no monolithic approach or consensus about suicide attacks among Muslims.

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Even according to those groups of traditionalist Muslims which support the idea of military jihad, a suicide attack is usually considered to be contrary to orthodox Islamic legal rules of warfare because it involves the great sin of suicide and therefore is religiously prohibited. According to the Islamic faith, suicide is a major sin and the Quran forbids all forms of suicide:

_And kill yourselves not, for God is to you truly Merciful._ (4:29)

As we see, the Quran not only rejects suicide but recommends those who are driven to despair to have faith in God’s mercy in the hope that they may be relieved of their suffering. Another Quranic authority on the prohibition of suicide is found in verse 195 of the _Baqara_ Chapter where a prohibitive text addresses the people:

_And spend in the way of Allah and do not throw [yourselves] with your [own] hands into destruction. And do good; indeed, God loves the doers of good._ (2:195)

In addition to clear prohibition of self-destruction, suicide contradicts another important dictum of the Quran; namely, ‘sanctity of life’:

... _slay not the life which God has made sacrosanct unless it be in a just cause._ (6:151)

Theoretically, for suicide to not contradict the ‘sanctity of life’ principle there can be only one possible justification, namely if the perpetrator considers himself/herself to be committing a great crime, because of enacting suicide which itself deserves death penalty. Even then there is a need for a legal warrant released by a valid authority which is not practical because no religious
authority can permit the great sin of self-destruction, even as punishment for another sin. In such cases the one who commits suicide is supposed to be considered as the executor of a death penalty against himself/herself because of being involved in suicide terrorism. Even this option cannot be applied to those who commit the great crime of suicide terrorism, because it is punishment prior to committing crime and is unjust. This is besides the fact that perpetrators of suicide terrorism never consider themselves as criminals who deserve a ‘death penalty’, but rather see themselves as becoming martyrs.

Based on clear Quranic authority, suicide is forbidden in Islam without any exception whatsoever. Suicide, as a great sin, is an offence for which the perpetrator is liable, in the event of an unsuccessful attempt, to a deterrent but discretionary penalty of *tazir*. Even when the attempt succeeds, the person is still liable to an expiation or *kaffarah* which may be taken from his property.\(^{62}\)

Such clear and strict teachings against suicide, any form of it, have always been accepted by mainstream Muslim theologians since well before the current phenomenon of suicide attacks. Indeed they are considered to be clear violations of classical Islamic law. As Bernard Lewis states: “The emergence of the now widespread terrorism practice of suicide bombing is a development of the 20th century. It has no antecedents in Islamic history, and no justification in terms of Islamic theology, law, or tradition.”\(^{63}\)

Accordingly suicide tactics could be considered as ‘*bida’h* (بِدَعَة). Any addition which is against the received tradition of Islamic teachings is generally considered to be ‘innovation’ or ‘*bida’h*’ and as such is rejected by all branches of the Islamic faith.

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Opposed to this mainstream approach, and unlike traditionalist Muslims, modern militant radical organizations which utilize suicide attacks not only do not consider such tactics to be against Islamic teaching but claim that what they do is in fact jihad and as such the religious duty of all believers.\textsuperscript{64} They do not explain under what form of jihad\textsuperscript{65} their actions are justified but rather confine the loose use of the jurisprudential term ‘jihad’ without specifying how exactly jihad justifies their conduct.

**Conclusion**

Although suicide is strongly prohibited by Islam promoters and executers of suicide terrorism use the Islamic legal-religious language and terms such as jihad to justify their actions. Carrying out suicide terrorism is clearly driven more by political ideology rather than theology; still it does not mean that theology cannot be used by terrorists for justification of such violent tactics. Indeed, suicide terrorists clothe their actions in the symbol system and the legal language of Islam in order to legitimate themselves and grant credibility to their message. They use Islamic legal vocabulary to promote their merits and seize the high ground by labelling their movement Islamic. Taking on the legal language of Islam helps them to use Islam’s legitimizing force for their agendas which in turn helps them to gain the Muslim public’s material and/or moral support. But such a tactic in no way means that their actions necessarily accord with Islamic principles, goals, or methods, which Islamic jurisprudence is supposed to serve.\textsuperscript{66}

\textsuperscript{64} The al-Qaeda manual on “declaration of jihad”.

\textsuperscript{65} Jihad in Islamic jurisprudence has six forms which none of them justifies terrorism. For more details see: University of Waikato PhD thesis; Islamic law of warfare and the question of suicide terrorism, authored by Mortaza Shams.

Globalizing the Study of American Islam: Approaches to the Field Through the Lens of Globalization Theory

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Introduction

A paradox lies at the heart of the contemporary study of global Islam. In the wake of the 9/11 attacks and the subsequent “war on terror,” which has recapitulated the Huntingtonian clash of civilizations thesis and its emphasis on the false binary between “Islam” and “the West,” essentially conceived,¹ there has concomitantly been an increase in the academic attention afforded to the study of Islam in places like the U.S., Canada, and throughout the American hemisphere. Although the number of Islamic studies degrees conferred has more than doubled in the past decade, Islamic studies has also been reified as the domain of Middle East, or Near East, studies, leaving Islams in Africa, Asia, Oceania, Europe, and the Americas to the wayside. In a word, even with the rise of the study of global Islam, its scope has failed to fully incorporate other geographies and the study of Islam beyond the Middle East is still underrepresented. Thus, there is still a pertinent need to globalize the study of “global Islam.”

The exploration of American Islam² is a prime location to better comprehend currents in global Islam in accordance with theories concerning religion and globalization

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² The terminology “American Islam” is here preferred to “Islam in the Americas” in order to highlight, in the words of Juliane Hammer and Omid Safi in *The Cambridge Companion to American Islam*, (New York: Cambridge University Press, 2013), the fact that “American Muslims have indeed forged
broadly. This focus would highlight Islam’s interaction with globalization and the processes associated with it such as historical globalizations, contemporary migration, transnationalism, diaspora, media and communication technologies, global economic flows, and cultural hybridity. This paper is an effort to intermesh these elements of the study of globalization with the study of Islam, both historically and contemporaneously. It is, effectively, an attempt to globalize the study of Islam in the Americas and offer several brief examples of avenues to approach this study in the hope to not only feature existent work in the field, but offer further areas for consideration and future research.

**Globalizing the Study of American Islam**

Globalization can be defined as the rubric that helps scholars and educated observers recognize and analyze the increasing fluidity of spatial, temporal, institutional, linguistic, cultural, and religious boundaries in an age of increased media communications and flows of people via migration and advances in transportation. This outline of globalization must be met with three caveats. First, to properly grasp globalization in the 20th and 21st-centuries scholars must not only note the relevant rupture with the past, but also its continuity with historical globalizations. Second, as opposed to theories of globalization that see it as a univocal, teleological process, globalization is not a top-down process of homogenization led by global superpowers and multinational corporations. Rather, it involves multiple processes “from below”

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3 This theme will be explored more below.

and new hybridizations of time, space, institutions, language, culture, and religion.\textsuperscript{5} Relatedly, globalization is not a totalizing fact, and forces of nationalism, regionalism, and localization are still prevalent and powerful. Indeed, any fruitful discussion of globalization will see the global and the local in tension\textsuperscript{6} through the frameworks of “glocalization,”\textsuperscript{7} transnationalism, and the function of diasporic horizons and the imagination.\textsuperscript{8} Furthermore, they will incorporate multiple levels, units, and locations of analysis among individuals and local settings and structural/institutional and macro contexts.\textsuperscript{9} In what follows, these convictions concerning globalization will be applied to the study of American Islam hemispherically imagined and specified in the individual actors who are embodying and engaging with them in everyday life. What will emerge is that the above themes are not only made evident, but also enlightened and extended vis-à-vis the understudied field of American Islam and American Muslims spread throughout the hemisphere and influenced by global processes, structures, and actors. Globalizing the study of American Islam and also introducing the field of American Islam to the wider stream of research on religion and culture in a global age, will enrich our understanding of Islam beyond Orientalist perspectives.


\textsuperscript{8} Again, “transnationalism” and “diaspora” are themes to be explored and theorized more below.

Historical Entrees into the study of American Islam

The dominant thrust of ideation in globalization theory is in desperate need of a longue durée historical perspective. The study of American Islam is no different. Up to this point, globalization theorists have relied on broad modernist, and/or postmodernist tropes to analyze current trends. This has led not only to difficulties in interpretation, but also to real world effects such as the rise of hyper-nationalism, ethnic conflict, so-called ‘religious’ neo-fundamentalism, and genocidal philosophies.\(^\text{10}\) While there is a certain sense of rupture implied in the study of globalization, theorists must also be aware of the historical antecedents of modern globalization and how globalization has not only been present, but prevalent, in the past. Increasingly, scholars are recognizing this need and situating globalization as “an accelerated” or “intensified” form of patterns of exchange — in fashion, traditions, ideas, and goods — that connected people over much of the world over several, if not more, centuries.\(^\text{11}\)

Various theorists have even attempted to divide up different epochs of globalization, as is the case with Thomas Friedman’s division of globalizations of nations, companies, and individuals, what he calls globalizations one, two, and three, respectively.\(^\text{12}\) Though this schema may be too simplistic, Osterhammel’s and Petersson’s division of globalization into the following four periods is helpful: 1500-1749 (empire building, colonial trade networks, religious solidarity and the rise of the

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nation-state); 1750-1880 (industrialization, production, transport, communication on the rise and an expansion of Western integration); 1880s-1945 (“globalization becomes politicized” with the rise of world powers, global politics, first wave of mass migrations, and an international economy); and 1946-1970s (a “new world order” of capitalism vs. communism, decolonization, multi-national corporations, foreign aid, mass communication, consumer societies, the second wave of mass migrations).

In terms of the Americas, scholars have started to analyze trends in trade and exchange between Europe, Africa, and the Americas (broadly speaking) from the first moment of contact between colonizers, slaves, shipmates, and indigenous peoples. This occurs during Osterhammel and Petersson’s first period of globalization. Thus, it seems salient to initiate the historical study of globalization and American Islam at this point. Multiple authors have shown how Islam arrived via colonial explorations and slave ships from Europe and West Africa. Not only did the explorers and colonizers carry in their imaginations the contest between Christianity and Islam and the reconquista of the Iberian Peninsula and map that onto their new social worlds — wherein indigenous peoples became representative of the expelled Moors — but it is argued now that some Moriscos came on the ships that Columbus and Cabeza de Vaca, Cortés, Pizzaro, and others sailed with across the Atlantic.

13 Osterhammel and Petersson, 27-29.
15 There has even been some speculation that Muslims from West Africa came to the “New World” before Columbus. Turkey’s president Recep Tayyip Erdogan claimed that Muslims discovered the Americas as evidenced by Columbus’s sighting of a “mosque” in the Caribbean during his voyages. He made this claim while addressing a summit of Muslim leaders from Latin America where he is competing for economic and religious hegemony counter Saudi Arabia, Iran, China, and the United States. See Ishaan Tharoor, “Muslims discovered America before Columbus, claims Turkey’s Erdogan,” The Washington Post, November 15, 2014. However spurious these claims may seem, there are scholars who have also made this claim. Cf. Abdullah Hakim Quick, Deeper Roots: Muslims in the Americas and the Caribbean from Before Columbus to the Present, (London: Ta-Ha Publishers, 1996).
While their impact on New World politics, economy, and religion is sometimes difficult to discern because Muslims could not express their identities openly in the context of boundary making state-craft in the Americas, the transatlantic slave trade’s importation of Islam into the Americas had a more long-lasting affect. Both Michael A. Gomez and Sylviane A. Diouf interrogated slave ship manifests, plantation records, and other slave-trade documents to show the long history of interaction, exchange, and even circulatory relationships between Muslims and Muslim communities in West Africa and the Americas.\textsuperscript{18} Though it did not thrive, or even survive,\textsuperscript{19} not only did Islam establish itself in significant ways as the Americas’ “second monotheistic religion” through the religious imagination and inventive ritualistic adaptation of Muslim slaves, freedmen, and maroons, but it left traces and “has contributed to the culture and history of the continents.”\textsuperscript{20} As Gomez wrote:

\begin{quote}
the Old World context and set of circumstances molding and impacting Muslim life in Africa and Europe continued to inform conditions in the New World and clearly influenced the ways in which the colonial project unfolded. In what became Latin America, the conflicts and enmities and politics [of the Old World]...were not quickly or easily forgotten in...Hispaniola, Costa Rica, Puerto Rico, Mexico, Panama, Venezuela or elsewhere....\textsuperscript{21}
\end{quote}

Nowhere is this more pertinent than in 19th-century Bahia, where the slave-trade lingered even after the transition from Portuguese colonial oversight. In the “fertile


\textsuperscript{19} A caveat must be made here about the indentured Indian Muslim community of Trinidad and Tobago. A significant and long-lasting wave of indentured Indian immigration occurred there from 1845-1917. These numbers included Hindus, Christians, and Muslims (both Sunni and Shi’a). Merging with African populations and later influenced by African American Islamic groups, this community continues to be a robust part of the Trinidadian religious landscape. Cf. \textit{Islam and the Americas}: 216-326.

\textsuperscript{20} Diouf, 251.

\textsuperscript{21} Gomez, 371.
soil” of social, economic, political, and racial inequalities of early 19th-century Bahia, Brazil, which was caught in the global processes of industrialization, networks of production, transportation of goods across vast geographic expanses, and the expansion of Western integration that was characteristic of the 19th-century, Muslim Malês revolted. To do so, they leveraged their multiethnic religious appeal, militant West African history, embodied spiritual practices (such as Arabic inscribed amulets, prayer gatherings, Islamic garb), and religious calendrics vis-a-vis the celebration of Ramadan to attempt to overthrow the seigniorial powers in Salvador. They failed, but the revolt left an indelible mark on race relations in Brazil, the veneration of Muslim ideas and practices in Afro-Brazilian religions, and continued black resistance via “weapons of the weak” regardless of religion. While most Muslims in Brazil, and elsewhere, are still negligent of this Muslim history in the Americas, it has shaped the cultural context within which they live and interact today and often becomes a point of pride and a source of identity construction once it is uncovered.

All of this, from slave rebellions to progeny and conversions, would also have an impact on the next period of globalized American Islam between the 1880s and the two world wars. During this epoch, “globalization became politicized” with the rise of world powers, global politics, the first wave of mass migrations from Europe, the Middle East, Asia, and Africa into the Americas, and the rise of an emerging international economy. It was during this moment that European orientalist perspectives seeped their way into the American popular psyche alongside migrations that brought the first significant, independent, Muslim communities to the Americas in places such as Brazil, Argentina, the Caribbean, the U.S., and Canada. In the U.S., the orientalist discourse merged with the desire of Black Americans who sought to


recover, and recognize, their lost Old World identities and perhaps the hidden knowledges that existed within this heritage. Looking to not only “the Orient over there,” but also to the immigrant communities of Muslims who had come to the Americas, Black Americans began to found their own Muslim communities.

At the very onset of Black American Islam, orientalism shaped their discourse, practice, and interactions with other Muslims — as limited as the latter may have been. From the Ancient Arabic Order of the Nobles of the Mystic Shrine for North America (a.k.a. “the Shriners” or “the playground of Freemasonry”)²⁴ to the first large African American sect of Islam — Noble Drew Ali’s Moorish Science Temple — and W.D. Fard Muhammad and Elijah Muhammad’s Nation of Islam, the (re)discovery of Islam in the Americas was glossed over by European conceptualizations of “the Orient.” This does not mean that Black American Islam is necessarily shot through with inaccuracies and heresy. Indeed, through this (re)introduction, Black Americans were not only able to find a voice that justifiably juxtaposed the “American White Christian” monolith, but “identified with Islam, learned about the life of the Prophet Muhammad, and created an imagined community”²⁵ that reached across national boundaries and joined a pan-Islamic movement that was beginning to emerge at the same historical moment. In this dialectic between orientalism and pan-Islamism, Black American Islam joined a global anti-colonial chorus²⁶ that would set the stage for the next era of American Islam in its multivalent expressions.

In this final period of globalization, marked by the emergence of new world powers and orders, decolonization, influential multi-national corporations, foreign aid, mass

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communication, consumer societies, and a second wave of multi-directional mass migrations, American Islam has grown in both real numbers and in the imagination of Americans and the world. This is most notable in the discourse surrounding “the global war on terror” in which Islam, and Muslims, are often vilified and “otherized” contra the “American” and/or “Western way of life.” This is occurring concomitantly with the numerical increase of Muslims throughout the Americas due to immigration from the Middle East, North Africa, and Southeast Asia, higher birth rates among Muslims in the Americas, and local conversions. It is in this period that a sense of rupture is brought to our attention in surveying the history of globalization and American Islam. Due to the inexorable forces of time-space compression and the fluid movement of media (print, digital, and communications) and people (transmigratory communities, refugees, etc.) the pace of globalization has quickened, compacted, and is characterized by a tense feedback loop between the local and the global. This context provides the framework for the remainder of this paper, which analyzes American Islam according to consequential trends in an age of

27 One of the perennial problems in the study of American Islam is locating firm statistics. At the same time, a demographic picture can only help validate the field and invite a greater degree of sustained study and public interest. Unfortunately, despite valiant efforts on the part of researchers, there are no distinctly reliable statistics about Muslims in the U.S., Canada, or in various Latin American and/or Caribbean countries. With that said, the Yearbook of International Religious Demography 2015 (YIRD) has some of the better statistics. They state, “[w]hile experiencing steady growth in both Africa and Asia, [Islam] has grown significantly faster than the general population in Latin America, Northern America, and Oceania.” In Latin America the growth rate is 4.14%, in Northern America 5.41% (Brian J. Grim Todd M. Johnson Vegard Skirbekk Gina A. Zurlo (eds.), Yearbook of International Religious Demography 2015, [Boston, MA: Brill Publications, 2014]). The real numbers, according to the YIRD are 1.4 million in Latin America, 4 million in Northern America. Breaking this down by region they estimate 107,000 in the Caribbean, 133,000 in Central America, and 1.2 million in South America. I posit that the most significant (not just in terms of sheer size, but also cultural impact and visibility) Muslim populations in the Americas are to be found in Argentina (784,000), Brazil (191,000), Canada (940,000), Columbia (94,600), Mexico (110,000), Panama (24,000), Trinidad and Tobago (72,400), the United States (2 million), and Venezuela (100,000).


flexible accumulation\textsuperscript{30} and the imaginary spaces created by modern ethnoscapes, technoscapes, financescapes, mediascapes, ideoscapes,\textsuperscript{31} and sacroscapes.\textsuperscript{32}

Migration, Diaspora, and Transnational Social Fields among American Muslims

As mentioned previously in this paper, migration features as a significant means of American Islamic identity and reality. While in the past, the importation and migration of Muslims to the Americas involved some degree of transnational communication and material exchange (i.e. repatriation, new slave shipments, West African Muslim shipmates, etc.),\textsuperscript{33} the central transnational sentiment among American Muslims in these past eras was in the realm of the imagination as diasporas dreaming of a homeland they may, or may not, have been able to return to. Although the imagination still looms large, contemporary American Muslims who are also immigrants, or who are Muslim because of the consequence of immigration, are engaged evermore in transnational exchanges of ideas, materials, and communication, which has significant import for the shape of American Islam today.

Migration

Whether it was forced migration from West Africa, indentured labor flows from Southeast Asia, or modern refugees and migrants moving from places like Lebanon, Syria, Saudi Arabia, Iraq, Sudan, Somalia, and Palestine to new homes in Argentina, Columbia, Venezuela, or Chicagoland, U.S.A. (to name but a few examples of movement and settlement of Muslims to/in the Americas) migration creates, sustains, and augments American Islam. As Muslims migrate into the Americas, they can sometimes cause, or be met with, tension with the local and existing Muslim

\textsuperscript{30} Cf. Harvey.

\textsuperscript{31} Cf. Appadurai.


\textsuperscript{33} Cf. Diouf, Gomez, Reis.
population and cultural alienation from society at large. Because of this, they can become largely insular. On the other hand, it is widely documented that Saudi, Pakistani, and other Muslim migrants are bringing their Salafi and Wahabi purification perspectives to bear on American Muslim communities and “Islamizing” communities that once were, perhaps, more “progressive” or localized.

Migration is not only a factor for Muslims arriving, but becomes an experience through which non-Muslims come in contact with Islam for the first time in a significant way only to later convert. As Vásquez and Marquardt note, the processes of globalization and transnationalism have transformed cultural and religious borders for everyone in the Americas, especially immigrants. For example, across political and geographical borders, and cultural and religious boundaries, Latina/os are creating new mestizajes and cross-bred religious practices and identities as they come into contact with major religious institutions, practices, and world bodies — including Islam. One of the ways this is happening is “entree through contacts” that are made in the immigrants’ new community context. This is true of all religions, but coming from a fairly monolithic Christian (although diverse in its Catholic, mainline, and evangelical expressions) religious and cultural setting in Latin America, immigrants to the U.S. not only come into contact with Islam on a macro scale via the media, but on an intimate and local one through contact with their new neighbors, coworkers, and acquaintances — many of them also immigrants from Africa, Asia, Europe, and the Middle East. Some of these “new contacts” are Muslims. Take for example the

35 Cf. Ibid. and Rhoda Reddock, “‘Up Against a Wall’: Muslim Women’s Struggle to Reclaim Masjid Space in Trinidad and Tobago,” in Islam and the Americas: 217-248.
38 Thought it must be said that Latin America is more diverse than it at first appears with Afro-Brazilian religions, neo-paganism, indigenous traditions, and other religions having a presence there.
experience of Daniel Denton from Stockton, CA, a Mexican who grew up Catholic in Tijuana, who said, “Mexican youth are looking toward spirituality that is not tied to any institutional form of religion.”

In this search, prompted by their transnational movement across the border between U.S. and Mexico where “instead of a cohesive religious system there is a myriad of options” and “cases like Daniel’s…start emerging from places like Stockton, Los Angeles, New York and San Antonio.”

In Mexico, Islam is still “virtually unknown,” but in the U.S. there is a new “freedom to pick and choose among diverse belief systems.” In some ways, this reflects a general trend in the U.S. for young people, regardless of their ethnicity to create their own spirituality, their own “mix-and-match” religion in the supermarket of spiritualities available to them in the U.S.’s postmodern and pluralistic context.

Yet, whether on the micro level (new contacts and neighbors) or on the macro level (pluralism, media portrayals, and the religious smorgasbord on offer in the U.S.) migration is specifically opening avenues for Latina/os to create new globalized religious identities.

**Transnational social fields**

Likewise, they are creating transnational social fields through efforts such as missionizing, exchanges of products and ideas, and via media streams. Indeed, relatively new converts to Islam in the U.S. are viewing both their country of origin and their country of residence as prime loci of da’wah — calling others to Islam. One could say that they live, and engage in da’wah, within “a transnational social field” that includes a bifocal focus on the state from which they originated and the one in

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40 Ibid.
41 Ibid.
which they settled.”

Within this social field, or “unbounded terrain of interlocking egocentric networks,” Latina/o Muslims are traveling back-and-forth between the U.S. and places like Columbia, Mexico, and elsewhere to put on \textit{da‘wah} events, donate clothes, money, and educational materials to struggling \textit{masjids} in their country of origin, and even “plant” new mosques a la evangelical Christian churches. Within these transnational social fields American Islam is taking shape and those seeking to study it should take note. No longer is the nation-state(s) where American Islam exists, or has traveled from, the unit of analysis. Instead, the transnational social field, wherein American Muslims’ embodied existence of simultaneity and bifocality, is where contemporary study must be carried out, paying attention to not only lived, everyday, realities of American Islam, but the structures that constrain them and the channels of power through which they flow.

\textbf{Diaspora}

At the same time, the exploration of diaspora religion as it pertains to American Islam cannot be so easily discarded in favor of transnational study. Take, for example, the imaginative work of Javanese Muslims in Suriname. In the 1940s and 50s, there arose an argument among Javanese Muslims concerning whether or not they should pray facing westward toward Mecca — as they had done in Indonesia — or eastward, as was conducive to other Western Muslim communities. Influenced by political and socioeconomic considerations in both Suriname and Indonesia, this intra-religious strife concerning the direction of \textit{salat} (prayer) was wrapped up in contestations over

\begin{thebibliography}{9}
\bibitem{44} Ibid., 1005.
\end{thebibliography}
the diasporic horizons of the Javanese Muslim community in Suriname.\textsuperscript{46} Dispersed and displaced from their cultural, economic, political, and religious homeland in Java, the diaspora in Suriname was attempting to embody their religion in new physical spaces and explicitly used their imaginations, and bodies to do so.\textsuperscript{47} Enmeshed with political and social concerns in both countries, without on-going connections across the seas, the role of the imagination became paramount as the Javanese Muslim community sought to reconceptualize their practice of Islam in the available and thinkable spaces of Suriname according to memories of how, and in what direction, they practiced them in Java. This is just one example of the ways in which American Islam is a negotiated entity in the imaginations of diaspora communities.

Thus, whether from the perspective of the study of transnationalism or diaspora, the consideration of migration and American Islam proves a fruitful field of study. But migration is just one side of the “imagined worlds” coin. Media, the moving images, sounds, and digital scapes of modern imagination also have a significant impact on American Islam and elements of their affect must be mined for meaning as well.

\textit{The role of the media in American Islam: Hip hop, El Clon, and digital borderlands}

The Latina/o Muslim community furthermore provides an entrée into understanding the significant ways that currents in global, digital, and social media are shaping American Islam. While possibilities for analyzing the role of media in American Islam are endless, what follows is a focus on the role of hip-hop, a Spanish language media representation of Muslims, and social media.


Hip hop music in particular has influenced Latina/o Muslims and driven some to consider Islam as their faith of choice. Hisham Aidi notes that “Islamic hip-hop” emerged from a multi-cultural urban milieu “as the product of immigration and racial politics, deindustrialization and state withdrawal, and the interwoven cultural forces of black nationalism, Islamism, and hip-hop that appeal strongly to disenfranchised minority youth.”48 In the vacuum left by non-profits that abandoned the area, government aid that dried up, and other social support systems no longer making an impact, “Muslim organizations appear, funding community centers, patrolling the streets and organizing people” — delivering materially to people who lack physical security. Islam also adds a sense of identity and belonging that challenges the majority status quo, giving voice to the formerly inaudible and invisible in the city streets.49 These themes become voiced in hip hop, with a Muslim flare, and more Latina/os are attracted to the Muslim faith and its promises of empowerment, material blessing, “emancipatory identities and cultural options.”50 Take, for example, the story of Rasheed Cordero who, according to Orlando Sentinel reporter Cristina Elías, was influenced by hip hop on his way to reversion. Elías wrote, “El interés de Cordero nació a principio de los años 90, cuando el joven vivía en Miami, y escuchaba la música Hip-Hop, que en ese entonces se encontraba salpicada de frases árabes. Hasta que un día decidió someterse al simple rito conversión, declarando a Alá dios y a Mahoma su profeta.”51 Hip hop lyrics prompted Cordero to take a journey that ended in him taking the shahadah.

49 Ibid.
50 Ibid., 2.
51 Translation: “Cordero’s interest began in the early 90s, when as a youth living in Miami, he listened to hip-hop music, where he found the lyrics sprinkled with Arabic phrases. Until he finally decided to submit to the simple rite of conversion, declaring there is no god but Allah and that Mohammad is his prophet.” Cristina Elías, “Musulmanes hispanos cruzan frontera de la fe,” Orlando Sentinel, January 25, 2003.
Some Muslim hip hop artists, aware of the medium’s power, are trying to engage in a “war of words” in order to convert some to their cause and their faith. The Mujahideen Team, documented by Harold Morales and Hishaam Aidi, aim to teach others about Islam and combat negative portrayals in other media. Morales wrote the Latina/o and Muslim images and lyrics that the Mujahideen Team use are employed, “as signifiers of Latina/o culture and Islamic religion in order to make the argument that not all Muslims are Arab, and that in fact, the very M-Team members being listened to are themselves Latina/o and Muslim at the same time.”\textsuperscript{52} In positively framing this identity, they encourage Latina/os to take up their own exploration and see if they too might find renewed identity as Latina/o Muslims. Again, not all Islamic rappers are trying to convert others to their faith, but simply narrating their story and new third culture in rhythm and verse. Inadvertently, through their message of Muslim hope and a way of peace that gives them strength, Latina/os are engaging in their own journeys and discovering Islam personally along the way. Likewise, the “transglobal hip hop umma” creates a space for the orality, recitation, and embodiment of Islam to take new shape, performative value, prophetic proclamation (da’wah), and side-stepping of establish structures.\textsuperscript{53} It is able to do so by matching the rhythmic lyricism of hip hop music with the tradition of the recitation of the Qur’an, presents new modalities of being “Muslim” and “cool,” challenges established roles and rules for gender performances, and also calls both the umma and the public to (re)consider Islam in a new light through catch, powerful, lyrics that transform Olé to O Allah!\textsuperscript{54}

\textsuperscript{52} Morales, Latina/o Muslim Religious Cultures, 17.
Additionally, television shows in South and Central America have an effect. One example is *El Clon*, an extremely popular *telenovela* produced by Telemundo with a wide audience across the Spanish speaking Americas. It is representative of many films, news media and Spanish-language soap operas that have negative, or caricatured, portrayals of Muslims, which inform much of the understanding of Islam in the places they are broadcasted and viewed. *El Clon*, and shows like it, produced an orientalized framework through which Muslims are perceived in everyday life and interactions throughout Latin America. As Morales notes, “[F]ace-to-face conversations on Islam between Latina/os and Muslims are thus highly mediated [by these media portrayals].”

While these representations may prove benign, mass media portrayals of the “global war on terror” are creating ample opportunities for America Muslims to be ostracized and terrorized themselves in places such as the U.S. South, the Bahamas, and Guadaloupe. Thus, “much of Muslim-produced and or promoted media seeks to positively address” these portrayals and change the minds of Latina/os to accept Muslims as they are and as a viable part of American culture, North and South.

Then there is new media, including social media sites such as Facebook, Twitter, YouTube, etc. There are at least ten different Latina/o Muslim organizations and informal groups that have a social media presence on Facebook, more on Twitter, and several on YouTube. One of the most influential on YouTube is IslamInSpanishTV. They have hundreds of videos posted on their channel and the video with the most views has over 34,000 at time of writing. On Facebook, the open, informal, group “Latino Muslims” posts regularly, boasts 6,491 members at time of writing, and gets

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55 Ibid., 16.
57 Morales, 17.
58 IslamInSpanishTV, [https://www.youtube.com/user/IslamInSpanishTV](https://www.youtube.com/user/IslamInSpanishTV), Accessed July 11, 2014.
20-100 comments and interactions on each post.⁵⁹ Some Latina/o Muslim organizations, seeking to reach new reverts, are even using “crowdfunding” sites to support daw’ah initiatives.⁶⁰ While the effectiveness of these videos and pages has not been scientifically measured, an informal analysis reveals that new media is a key component of Latina/o Muslims’ efforts to not only convert other Latina/os, but encourage group camaraderie and community cohesion.

As Vásquez and Marquardt explained, community can be centered around things other than temples, synagogues, churches, and mosques. “In allowing congregations to make their boundaries more flexible and permeable, [computer mediated communities] turn them into border zones where the global and the local, the sacred and the profane, and face-to-face, and virtual networks meet.”⁶¹ Thus, virtual spaces act as a “borderland” where processes of “glocalization” and the dialectic of deterritorialization and reterritorialization play themselves out.⁶² They become the locales where Latina/o Muslims can navigate their new identity and attempt to merge the multiple cultures living inside of them and being embodied in their religious beliefs and practices.

In these digital borderlands, a hybrid Latina/o Muslim identity is formulated in the throes of late modernity through posts concerning everyday piety that include discussions of what it means to cook halal boricua dishes or whether or not to celebrate Christmas with Catholic family members. Hybridity is that ‘in-between,’ which refers to the ‘third-space’ as a space of cultural separation and merging.⁶³ It is

⁶³ Homi K. Bhabha, The Location of Culture, (New York: Routledge Press, 1994): 55, 112. For more on hybridity in the Latin American context, see Néstor García Canclini, Hybrid Cultures: Strategies for
the place where “transculturation” takes place, which involves the acquiring of limited aspects of a new culture (in this case Islam), the loss of some elements of an older one (Latina/o), and the creation of a new, hybrid-but-coherent body of old and new amalgamated together.\textsuperscript{64} In this instance, identity formation is wrapped up in “Muslim memes” and video testimonies that help establish a “new Muslim cool” and validate the conversion narratives of the Latina/o Muslim Facebook group members. The community is consolidated in a shared sense of socio-cultural and religious marginalization, the navigation of tension, and through the dissemination of stories that underscore a Latina/o Muslim combined mythos. It is also concomitantly informed by a global Muslim discourse that occurs on multiple levels and is communicated in various languages. There are forces that unknowingly shape the community as well, videos, images, and political discourses that passively inform what it means to be Latina/o Muslims even without their direct engagement. Through all of these processes, or “pillars” as described above, a hybrid narrative is being crafted so that Latina/o Muslims can feel in control of their identity on the margins, in the borderlands between the digital and the “real,” between being Latina/o and Muslim.

\textit{Hybridity}

This understanding of American Islam as hybrid is critical in approaching the field, either broadly or specifically in particular locations, social fields, or sodalities. In the latest era of globalization in which a new world order was/is emerging and decolonization occurred concurrently, hybridity has come to be the new norm, in place of the dichotomous and essentialized “purity” and “authenticity” discourses of modernity. Nederveen Pieterse, who proposed that contemporary cultural dynamics


\textsuperscript{64} Bhabha, 131.
are characterized by “global mélange,” argues against the understanding of globalization as Westernization, or some other form of homogenization, as in the theories of McDonaldization or CocaColonization. Instead, he contends that globalization is multidimensional. Indeed, he argues that there are multiple globalizations and that they are inherently fluid, multitudinous, and open-ended.

These notions of the liquidity, porousness, and indeterminacy of the globalizing world also undercut any notion of a “clash of civilizations” since the “civilizations” under question are shot through with inconsistencies, contestations, and multiple discourses. The world is multi-polar and globalization happens from both above and below. In fact, as Robertson argues, globalization is neither a process of homogenization (a la Ritzer) nor is it a solely heterogeneous exercise (a la Nederveen Pieterse). Instead, the two are in tension as individual agents are constrained by, and resist, large structures even as structures seek to impose themselves over, and above, local impediments. The local and the global, the universal and the particular, the micro and the macro are constantly in tension with each other in the multilevel, multiscalar, multipolar networks and actors of globalization. Often, religion acts as a mediator between the two allowing the local to become global through cosmologizing (or universalizing) that which is individual or local either within, or against, macro structures while simultaneously translating (or localizing) that which is universal into the particular for individual actors. This perspective on globalization finds expression in the following example of a growing Muslim Maya community in Chiapas, Mexico.

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66 Cf. Ritzer.
If hybridity can be defined as “the ways in which forms become separated from existing practices and recombine with new forms in new practices”\(^{68}\) in the dialectic of tension between the global and the local\(^{69}\) and according to channels of power,\(^{70}\) then the case of the Muslim community in Chiapas, Mexico is illustrative. In the 1990s, concomitant with a crisis of out conversion facing the Catholic Church, the economic upheaval of globalized free trade extending its tentacles into southern Mexico, and the consequential rise of the Zapatistas, the Murabitun World Movement came to the outskirts of San Cristobal de las Casas — the colonial and cultural capital of Chiapas, one of the poorest states in Mexico. Their objectives were twofold: first, to make meaningful contact with the Zapatistas and second, to convert indigenous peoples connected to the Zapatista uprising or sympathetic to its cause.\(^{71}\)

Sending several missionaries from Spain’s Andalucía region (once the stronghold of Moorish Spain) in 1995, the conversion of indigenous Maya and the sought-after unification of the Murabitun and Zapatista movements were strategic moves in line with the Murabitun’s global goals. Founded by Abdalqadir as-Sufi (born Ian Dallas), a Scottish national who started the movement in Spain and currently leads it from South Africa, the movement, via vociferous da’wah, has communities in countries all over the world. With upwards of 10,000 adherents, the organization is hierarchically structured under strict bayat (allegiance) to amirs (ruler, leader) and galvanized by the movement’s objectives, which include the restoration of Muslim economics, whether that be a restoration of the “fallen pillar” of zakat (alms), social welfare programs

\(^{68}\) Pieterse, 68.
\(^{69}\) Cf. Robertson.
\(^{70}\) Cf. Friedmann.
within the Muslim community, and the implication of the shari’ah currency system based on the gold *dinar* and the silver *dirham*” for the global economic system.\(^{72}\)

Although the Murabitun missionaries found initial success among the economically depressed and socio-politically marginalized Mayas inhabiting the outskirts of San Cristobal de las Casas, the relationship between locals and the missionaries was fraught with tension and conflict from early on. According to Cañas Cuevas, “the ethnocentrism of Spanish Muslim converts, reflected in their rejection of Maya converts’ mother tongue as well as their cultural practices and traditions concerning food and dress.”\(^{73}\) Moreover, disagreement over gender norms led to two splits of the community in 2004 and 2007. Now, the 600-700 member Maya Muslim community exists in three distinct communities: the first dedicated to the vision of the Murabitun, a second that is linked to a broad-based Sunni Muslim organization in Mexico City (Centro Cultural Islámico), and a third that is independent, but still loosely based on Murabitun ideals, but without oversight or control.\(^{74}\) In each sub-community, economics and politics are navigated in different ways according to various connections to regional (CCI) and international institutions (the Murabitun, Saudi *madrasas*, the global *umma* itself) and the tensions between a global movement and local customs and social norms is negotiated to various ends.

In the end, the mid-1990s conversion of Maya Muslims, and its subsequent fallout a decade later, are demonstrative of “the selective appropriation of Islamic doctrine”\(^{75}\) by local communities throughout the Americas and both the preservation and reshaping of ethnic identities in conversation with global Islamic movements therein.


\(^{73}\) Cañas Cuevas, 165.


\(^{75}\) Cañas Cuevas, 182.
Furthermore, it is evidence of not only the validity of hybridity in analyzing the tension between the global and the local as it concerns Islam in the Americas, but also the necessity of globalizing the study of American Islam as a whole, which this paper has explicitly endeavored to do.

**Conclusion**

This paper was an attempt to emphasize not only the importance of the study of American Islam (or, if you would have it, Islam in the Americas) in order to apperceive global Islam in its totality, but also to simultaneously globalize that study of American Islam according to theoretical approaches in the field of globalization studies. I argued that the exploration of American Islam presents ample opportunities for academic research and discourse in accordance with theories concerning religion and globalization broadly, in addition to historical perspectives on globalization, theories of migration, transnationalism, diaspora, media and communication technologies, global economic flows, and cultural hybridity. Further, this paper not only provided the theoretical basis for the above, but outlined existing research and made known avenues for further research for students of globalization, global Islam, American Islam, and/or religion in the Americas. While the focus of this paper was on how the theoretical pathways of globalization can be applied in the American hemisphere there is ample opportunity to apply such research questions to other zones outside of the purview of current research in Islamic studies, including, as is apropos to this review.
Mismanagement of Zakat Funds in Malaysia: Myth or Reality?

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Abstract: The purpose of this paper is to observe the real situation in Zakat management systems due to the rise of public concern over the management of Zakat funds in Malaysia. For this purpose, we are focusing on Zakat institutions in the East Coast region of Malaysia. First-hand information was gathered through interviews with top level Zakat officers who are directly involved in managing the Zakat funds. Based on the observations and interview sessions, we concluded that Zakat institutions should be more transparent in providing relevant and reliable information to avoid public misconceptions. Although there are some limitations for such institutions to be transparent due to bureaucracy, something needs to be done to clear the image of the various institutions involved. This study hopes to provide useful information to clear the image of Zakat institutions which the public perceived as having failed to manage Zakat money efficiently and effectively.

Introduction

In Malaysia, it is common knowledge that the management of Zakat funds, especially the fund distribution component, is negatively viewed by the public. This negative perception could be due to the lack of information regarding the distribution of Zakat collected (Mohamed Yusof, 2013). The distribution performance of Zakat Institutions is not quite excellent if compared to the performance in Zakat collection (Hairrunizam et al, 2010). Since Zakat distribution is a religious responsibility in Islam as stated in the Holy Quran (At-Taubah 9:60) and has a major impact on the satisfaction of Zakat payers and the economic fulfilment of Zakat recipients, the negative public perception should be addressed by Zakat institutions. Studies as early as Abdul Latiff (1998) and later Salleh (2006), have confirmed the necessity of improvements to be made on the management of Zakat funds, especially, on the management of Zakat distribution. The question that needs to be addressed by all Zakat stakeholders, especially Zakat institutions, is whether the negative perception by the public is a myth or a real issue? Ignoring this negative perception will not benefit anyone since Zakat, as proposed by
Islam is a real and practicable solution to economic issues and is mandatory on all Muslims, rich and poor. Zakat institutions which are accountable to the Muslim public will always be evaluated on their performance in managing the collection and distribution activities. A lack of transparency or insufficient information disclosed in the annual reports of Zakat Institutions increases the information asymmetry between such institutions and the public or stakeholders. Thus, it is the focus of this article to analyze this issue and offer findings to bridge the information and reporting gap between Zakat institutions and the perceiving public.

Zakat is generally known as money collected from wealthy Muslims to be distributed to the poor and needy groups (asnaf¹), the two popularly known groups out of eight groups who are eligible to receive Zakat money according to Sharia. The public is usually unaware or unsure of the other six groups of asnaf; Al-Amileen (staff of Zakat fund), Mu-Allafatul-Qulub (new converts to Islam), Ar-Riqab (freed slave), Al-Ghaarimeen (debtor), Fi-Sabilillah (for the sake of Allah), and Ibn al-Sabeel (impoverished traveler) which also share the same right on the Zakat money. Generally the amount of Zakat collected will be divided equally among the eight groups (asnaf). However in most cases, the decision on the amount of Zakat to be distributed to each group will be based on the actual number of asnaf in each group. For instance, the Mu-Allafatul-Qulub group of Zakat recipients usually consists of a small number of recipients, and therefore should receive a small amount of money from the Zakat fund. In practice, Zakat institutions will use their judgment in distributing the Zakat fund to each eligible group of recipients.

In Malaysia each state governs their own Zakat institutions which will be administered under the authority of the Sultan or ruler of the state. Therefore, the amount collected can only be used or distributed within the state. Any undistributed

¹ Asnaf here refer to the group of Muslim that are eligible to receive zakat fund.
Zakat cannot be transferred to another state and will be forwarded to the following year. Information on the surplus or excess of annual Zakat funds is very important to all stakeholders for transparency purposes. Unfortunately such information is not always publicly available and it is not clearly shown in the reporting. This lack of relevant and necessary information from Zakat institutions has contributed to public misconceptions on the management of Zakat money by Zakat institutions.

The issue of undistributed Zakat money has become a publicly debated issue. Many studies – such as Othman and Mohd Noor (2012), Lubis et al. (2011), Embong et.al (2013), Khairi and Mohd Noor (2012), Htay, et.al (2014) – thoroughly discussed on the huge amount of undistributed Zakat money and how it is managed. These studies argue the efficiency of Zakat distribution and the importance of information dissemination by Zakat institutions to explain the reasons why there are huge amounts of undistributed Zakat funds although hard-core poverty still exists. In 2012 the index of hard-core poverty stood at 1.7 although declining as compared to 3.8 in 2013 (Economic Planning Unit 2013). Hard-core poverty means people who are living without a meal a day and do not have a shelter to protect themselves. This is unacceptable looking at the increased trend of Zakat collection which theoretically should be used to assist them towards a better standard of living (Laporan Zakat PPZ-MAIWP 2007-2013). This perspective creates a poor image of Zakat institutions where they are being labelled as failing to manage the Zakat funds since there are still people who live without basic needs. Embong et.al (2013) claim that Zakat money is generally not helping the poor. In fact the development of buildings owned by Zakat institutions, which later is used to generate income, has also been questioned by the public and triggers a question as to whether the Zakat funds have been mismanaged by Zakat institutions.
It is worthwhile for the public to be exposed to the reality of Zakat fund management. Furthermore, Zakat institutions should be more transparent in disclosing sufficient information to avoid any misconceptions. Realizing this, the objective of this study is to explore the actual process of Zakat fund management including the reporting process. Thus, this study hopes to provide clear and relevant information regarding the Zakat fund management, specifically in the East Coast region. We have conducted interviews with key respondents which include Zakat officers in Pahang, Terengganu and Kelantan. The findings indicate that the management of Zakat collection in East Coast States of Peninsular Malaysia are in accordance with the Sharia principles. There are clear guidelines and procedures for every process from the collection activities to the distribution activities to eligible asnaf and the recording of any undistributed Zakat money. The remaining section is organized as follows: Section 2 presents the discussion of the relevant literature review followed by the discussion of the results. Section 4 will present the conclusion.

**Literature review**

Every Muslim who is capable and fulfils the Sharia requirements, is obliged to pay Zakat (which is the third pillar of Islam). According to Islamic Sharia, a wealthy and competent Muslim pays 2.5 percent of his total income to the Zakat fund managed by a Zakat institution. The Zakat collected is usually utilized to assist the unfortunate in society. In reality, the gaps between the rich and the poor Muslims remain considerable. However, by using a simple mathematic calculation, if all potential 'Zakat' were collected from rich Muslims in the Muslim countries, the collected amount, if managed fairly and efficiently, could then be used to assist the poor Muslims to move out from the slums or poverty.
In addition, Zakat is well known as a levy on social welfare which is imposed on wealthier members in the Islamic society’s as well as profitable businesses. The wealthy people are required to pay Zakat from a portion of accumulated wealth as a process of wealth purification (Clarke, Craig and Hamid, 1996). Thus Zakat can be seen as a pivotal tool in promoting equality within the Muslim community when the gap between the rich and the poor may be reduced from the wealth sharing concept (Taheri, 2001). This is proven by Ibrahim (2006) where the distribution of Zakat money in Selangor is able to control and reduce the incidence of poverty.

Zakat has three important roles in a Muslim community which include supporting the acquisition of basic needs, promoting equality, and purifying the wealth of the recipients (Zarqa, 1992). Therefore Zakat philosophy can be viewed from various perspectives such as religiosity, plus social and economic considerations. In addition, Zakat creates a sense of brotherhood, mutual economic commitment and social harmony in society (Abbasi, 1985). The main focus of Zakat is not only to attain religious qualities but also to contribute to economic development and further helping the society (Abu Bakar, & Abdul Rahman, 2007).

The religious goal, derived from Islamic rules, requires Muslims to obey Allah and refrain from what He has cautioned them against. In this context, Allah has ordered Muslims to give Zakat (Al-Baqarah, 2:110). The payment of Zakat shows the obedience of Muslims and further gives the individual spiritual satisfaction. The social goal could be achieved as Allah has given the poor an established right (receiving Zakat) in the wealth of the rich. This right relieves the poor from the onerous task of asking for sympathy, charity, and for begging. In addition, Zakat also relieves the poor from pressure to commit crimes or any illegal activities to secure their livelihood in order to meet their life necessities. Thus, Zakat helps in closing the gap in physical and emotional needs between the poor and the rich.
By looking at the economic goal perspective, Zakat allows redistribution of wealth within a society. The imposition of Zakat provides an incentive to invest (El-Badawi and Al-Sultan, 1992) among the beneficiaries. It definitely will increase the purchasing power of the poor which will enable them to contribute positively to the economic growth through an increase in consumption expenditure and aggregate demand. So, if there is no increment in savings, then the imposition of 2.5 percent Zakat rate will reduce the savings amount and eventually diminish the wealth. El-Badawi and Al-Sultan (1992) opine that in order to protect the wealth from steady erosion, an individual may turn the idle wealth into active resources via investments.

Zakat Institutions therefore play an important role in complementing the Government’s effort in poverty eradication. Its success would also help to buffer the effects of recession of the economy on the poor through capacity building and mindset transformation. The effectiveness of the zakat institutions in carrying out its duties would depend on a number of factors such as the expansion of new resources for zakat, the collection of zakat from tangible and intangible properties, systematic zakat management, efficient zakat distribution and the thoroughness of implementation of Islamic rules (Al-Qardhawiyy, 2001).

Although the administration of zakat has undergone many improvements in terms of infrastructure, human capital, delivery system and governance transparency, there are still issues that need to be tackled to ensure that the administration of zakat is moving on the right track, henceforth to eradicate poverty and to upgrade people’s standard of living nationally and internationally. No matter how good the system is developed, if it could not cater to the needs of the community especially the poor and needy, such institutions may be considered as inefficient. In order to empower zakat institutions in Malaysia a number of issues need to be addressed (Mohammad et al., 2011).
Many improvements made by Zakat institutions will not satisfy the public or stakeholders, unless these improvements are communicated to them by the institutions themselves through full and relevant disclosure in their annual reports. One such disclosure is the information on the annual surplus or excess of Zakat funds.

**Methods**

The purpose of this study is to observe the management of Zakat money by Zakat institution in Kelantan, Pahang and Terengganu. Information is gather from annual reports and publication from Majlis Agama Islam Kelantan (MAIK), Majlis Ugama Islam Dan Adat Resam Melayu Pahang (MUIP) and Majlis Agama Islam dan Adat Melayu Terengganu (MAIDAM). In addition to this interviews were also conducted with Zakat officers who are directly involved in the management of Zakat money. Representatives from the offices of the respective Treasurers of MAIDAM, MAIK and MUIP, together with six officers responsible for the collection and distribution of funds, were interviewed.

**Results and Discussion**

Corruption, mismanagement and unauthorized practices turn out to be among the main concerns in the mechanism for the assessment, collection and disbursement of Zakat funds to the poor and needy. It is believed that the lack of internal control is leading to the leakage of funds and improper utilization of Zakat money. As we can deduce from the annual report of Pusat Pungutan Zakat for various years in Malaysia, Zakat collection shows a drastic increase. This is due to the tireless effort by Zakat institutions in each state to reform and simplify the collection procedures. Online payment, salary deduction and the increase in the number of zakat counters facilitate the payers to fulfil the obligation of paying Zakat and led to the increase in collection.

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2 MAIK, MUIP, and MAIDAM is the authorized zakat institutions in East Coast Region of Peninsular Malaysia. These organizations are responsible in handling all zakat matters in that region.
Based on the interviews with Zakat officer in Pahang we can see that they have put extra effort into ensuring the efficiency of collection by having mobile counters which can assist the rural people to fulfil their Zakat obligation. However as far as Zakat distribution is concerned, despite the remarkable increase in collection, its distribution performance increased at a slower pace (Mohd Noor et.al, 2015). Further in 2007 and 2008 there are also situations where the distribution of Zakat money has not even reach 50% from the total collection for Pahang, Perak, Terengganu and Sarawak. This demonstrates an ineffectiveness of these Zakat institutions in the distribution aspect. Fortunately, this weakness has been rectified since 2009 as the lowest percentage of distribution over collection was reported for Sarawak (61%) and the highest distribution is 112% for Melaka which is above the actual amount of yearly collection.

Looking at the percentage of the distribution over collection we can spot some inconsistencies in the data provided. This again can lead to doubts about the trustworthiness of the Zakat institution. Why are the distribution amount so low and how it is possible for the distribution to exceed the total collection? This is the issue that should be investigated to understand in depth the management of Zakat. Since this study focusses on the management of Zakat money in East Coast region (Kelantan, Pahang and Terengganu) we have gathered the relevant report to understand the management process. We began by observing the organizational charts of these three Zakat institutions to understand in details the units which are responsible in managing Zakat. The management of the institutions were divided into three main departments for MAIK, eight main departments for MUIP, and two main departments for MAIDAM. The similarity shared by these institutions is that each Zakat management was put under Baitulmal department. Table 1 shows the subunits in the Baitulmal department that are responsible in managing Zakat fund from the collection until distribution activity.
<table>
<thead>
<tr>
<th>State</th>
<th>Sub unit</th>
</tr>
</thead>
</table>
| Kelantan | Zakat Collection Unit  
|         | Zakat Distribution Unit  
|         | Baitulmal Unit  
|         | Waqf Unit  
|         | Project Management Unit |
| Pahang | Zakat Unit  
|         | Asnaf Development Unit  
|         | Investment Unit |
| Terengganu | Zakat Distribution Unit  
|         | Zakat Collection Unit  
|         | Waqf and General Resources Unit  
|         | Ar-Rahnu Unit |

Table 1. Extract of organizational chart in Baitulmal department for MAIK, MUIP and MAIDAM.

The collection officers are responsible to manage all staff who are registered with the institutions and have the authority to collect Zakat. This collection will then be transferred to the distribution unit. Each officer will be responsible to find the eight eligible asnaf. This asnaf can come to the office or in some cases the officer himself will go and find the eligible asnaf. The process is lengthy as the officer needs to investigate and verify whether the asnaf is eligible to receive the Zakat money. Therefore, although different states have different authorization processes in distributing Zakat, the source of authority is the same where it is put under the Baitulmal unit and the same process is utilized.

Although the concept of distribution is based on 1/8 for each asnaf, in reality this is not the way it is practised. To understand this, we study the details of Zakat distribution in all states in Malaysia. 1/8 of management portion is equivalent to 12.5% from the total collection. Looking at information gathered in Table 2 shows that since 2007 the management portion was within this range (1/8 or 12.5%) and sometimes even lower than the portion that they should receive except for Terengganu in 2008, Kelantan in 2010 and 2012. The excess, if any, is very small and did not significantly affect the whole distribution value to the other seven asnaf. Thus, it can
be argued that the public opinion that Zakat institution get a higher portion than what it’s entitled to or mismanaged the Zakat collection for their own benefit is not totally true.

Table 2. % of management\(^3\) portion over total collection. Source: Laporan Zakat PPZ-MAIWP 2011.

Table 3 portray the actual distribution of Zakat fund among asnaf where they are differences in the states’ practices. Kelantan, unlike other states, combines the group of poor and needy. In fact, Kelantan distributed Zakat to only 6 instead of 8 categories of asnaf. This group was located under fakir. Further Terengganu and Kelantan still recognise Al-Riqab category which usually does not exist in Malaysia. Al-Riqab originally means slave (Mahamud, 2012). However in today’s world Zakat for Al-Riqab means “freeing a Muslim from physical and mental oppression and humiliation by certain individuals” (Maiwp, 2009). Looking at the amount of Zakat distributed among asnaf, it seems that different states have different priorities in distributing Zakat. From Table 1 above, 4 states namely; Perak, Kelantan, Selangor and Kuala Lumpur allocated more than 50% of the Zakat funds to the hardcore poor and poor categories. In contrast, Johor and Kuala Lumpur distributed more funds to the fisabilillah category. While majority of the states did not allocate Zakat for Al-Riqab, Negeri Sembilan spent about 20% of their Zakat funds to Al-Riqab.

\(^3\) Management or in normal used term amil.
This scenario leads to the issue of Al-Awlawiyat (prioritization) in distributing Zakat money. Consistent with Md Saad and Abdullah (2011), it was argued that for certain states, priority is not given to the poor and hard-core poor categories of asnaf. It seems that this practice is inconsistent with the main objectives of Zakat which is to alleviate poverty and also not in accordance to Qaradawi’s (1999) opinion that the priority of Zakat distribution should be to the hard-core poor and poor asnaf, in order to reduce the incidence of poverty. Other than analysing the relevant documents, we also conducted interviews with key personnel in MAIK, MUIP and MAIDAM. When the question on why the excess Zakat money is not distributed to the poor and needy was put to them, they emphasized the challenges of determining who exactly was poor and needy as the factor that prevented them from distributing the excess Zakat. According to the respondents, the reason why excess zakat money is not distributed to the poor and needy is mainly because of the problem for them of identification of the poor and needy. Another factor presented by them is, this group of asnaf sometimes is reluctant to apply for Zakat money. In addition, they also highlighted the needs of the hard-core poor and poor had been duly satisfied before the fund was distributed to other category of asnaf. Looking at the current trend of distribution nowadays, the focus of distribution usually goes to fisabilillah category, which normally gets a large portion of the Zakat fund, as the definition of this asnaf is wider than compared to other groups.
Finally, we were reviewing also the financial reports of these Zakat institutions. Unfortunately, we are only able to get a full financial report from MUIP. MAIK and MAIDAM treat their financial reports as confidential and can only be accessed by authorised parties. Based on thorough observation, we can see that the financial reports of these institutions are quite different compared to a normal profit oriented company as Zakat institutions have many sources of income. The problem remains that Zakat institutions do not disclose the undistributed money amount, and therefore questions arise whether the money was transferred to other sources of income and used to support institutional expenses. From the interview, one officer did mention that they know how to segregate the spending based on the relevant income even though it is not stated in the report. He further added that all undistributed Zakat will not be used as a source of funding to support the administrative expenses of Zakat.

Table 3. Total Zakat distribution to asnaf by state in 2011.Source: Laporan Zakat PPZ-MAIWP 2011
institutions. Zakat institutions are only authorized to use the management portion for such purposes.

**Conclusion**

Zakat is compulsory in Islam and it is payable on the income generated through saving, business, employment, ownership of wealth, agriculture and etc. The requirement to pay Zakat is consistent with the brotherhood concept of helping each other. The main purpose of Zakat is to support the unfortunate poor, the needy, the wayfarer, or the heavily indebted. This assistance can at least provide basic requirements to lead a normal life, thus eliminating poverty. It is generally believed that Zakat plays an important role in terms of the economy, and the moral and social solidarity of a society. History proves that with proper management, Zakat is able to eliminate poverty. During the era of the Caliphs Umar bin Al-Khattab and Umar bin Abdul Aziz, the successful of the Zakat administration resulted to the difficulties in finding the recipients as there was so much prosperity and there are no recipients to receive Zakat.

However, with the rise of European influence after the collapse of Islamic Empire Zakat Institutions have lost their glory. In Malaysia, although, Majlis Agama Islam negeri (MAIN) and Zakat Institutions have been in existence since 1915, there are still critiques on the poor management of Zakat funds and the inability to eradicate poverty. Among the issues that need to be addressed by the relevant authorities is the effectiveness of the Zakat distribution to the eight eligible asnaf and the transparency of the Zakat institutions in managing Zakat funds entrusted to them. The effectiveness and efficiency issues in Zakat distribution management can be satisfactorily managed if Zakat institutions’ addressed the issue of Zakat surplus or excess funds in a relevant, reliable and transparent manner. To date Zakat institutions remain unable to provide transparent reports with regards to the excess fund. As Zakat Institutions are
now moving towards providing the capital aid to the asnafs’ businesses, the reasons behind current low performance of asnafs’ businesses also needs to be thoroughly examined.

Based on the above discussion, it is proven that Zakat institutions have successfully increased the amount of collection. This shows good management skills in the collection processes. However, problems persist with the distribution process. Thus to successfully manage the increasing amount of Zakat collected, it is suggested that Zakat institutions, together with other agencies such as government agencies, NGO, microfinance institutions, business corporations, and tertiary institutions collaborate in establishing the medium to assists the eligible asnaf. The collaboration may revolve in vast areas including business projects, database sharing, financial supports, micro financing, and management trainings, monitoring, and conducting research. For instance, a business corporation may supply raw materials to asnaf’s and a tertiary institution may conduct training on business management as part of their Corporate Social Responsibility (CSR). By collaborating with these agencies, it is expected that the issues of inefficiency, resources limitation, understaffing, and lack of expertise in Zakat institutions will be addressed and reduced. However, based on overall observation, the findings rule out any intentional mismanagement of Zakat money by Zakat institutions. The public negative perception on the management of Zakat fund by Zakat Institutions is caused by the lack of reliable and relevant information reporting. To address this negative perception, Zakat institutions should focus their efforts on more transparency by providing a full disclosure and reports accessible to the public. Therefore, it can be concluded that the perceived mismanagement of Zakat fund is just a myth and not a reality.
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Theocratic Constitutionalism: A Discourse on the Political System, Democracy, Judiciary and Human Rights Under Islamic Theocratic Constitutionalism

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Introduction

The literal meaning of “Theocracy”¹ is “the rule of God.”² In a contextual sense it has become a term that refers to a “state dominated by priests and religious leaders.”³ Much of pre-eighteenth-century history shows that religion and politics were closely integrated, often indivisible and entwined.⁴ Several authors have insisted that in the last few decades, there has been a huge backing for theocratic governance principles – not only from Muslims but also from people of other religions.⁵ Countries such as Israel, India, Malaysia, and Nigeria allow certain matters such as personal status and family laws to be governed by religious communities.⁶ One author fiercely labelled this resurgence of religion in the State politics as the “revenge of God”,⁷ while many authors have concluded that this process is a result of the backing of religious believers and institutions who believe that the religion ought to play a major role, and even to have the authority to dictate in the public sphere.⁸

¹ Sayyid Abul Ala Maududi, “Political Theory of Islam” (speech in Lahore, 1939). Some authors also call it theodemocracy. Mawdudi, a renowned Muslim scholar rejects the term of “theocracy” saying that his proposal of a theodemocracy is not governed only by ulama (clerics) but also by the entire Muslim community and that Islamic law is to be a guide in making public policies in all areas of life.
For over half a century the role of Islam or Islamic Shari’ah has been added or strengthened in the constitutions of Muslim majority countries.\(^9\) This process was once a specialist topic; however, it has recently become a concern for the political power struggle in many Muslim countries.\(^10\) Diverse discussion has resulted in several terminologies for this process: “Constitutional Islamization”, \(^11\) “Islamic constitutionalism”, \(^12\) “constitutional theocracy”, “theo-democracy”\(^13\) and “Islamic democracy”.\(^14\) These debates include the effects of incorporating “Shari’ah Clauses”, which require all the laws to be harmonious with Shari’ah,\(^15\) “Sharia Guarantee Clauses”\(^16\) or “Islamic Supremacy Clauses”\(^17\) and “repugnancy clauses,” which proscribe any law or the enactment of any law that is incompatible with Islam.\(^18\)

These constitutionalizations of Islamic law in different countries vary in degree to incorporate Islamic law with other sources and norms in the constitutions. Emphasizing this, Intisar A. Rabb classified them into the following three different categories:

1. dominant constitutionalization – in this type of constitutionalization, the constitution declares Islamic law as the supreme law;

2. delegate constitutionalization – the constitutionalization incorporates Islamic law, however, clarification and enunciation of it are delegated to the jurists; and

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\(^12\) Intisar Rabb “We the Jurists: Islamic Constitutionalism in Iraq” (2008) 10 University of Pennsylvania Journal of Constitutional Law 527.


\(^15\) Lombardi, above n 9.

\(^16\) Lombardi, above n 14, at 616.

\(^17\) “Islamic Supremacy Clauses” are called to the clauses in the constitution which gives prevalence or supremacy to Islam o; Dawood I Ahmed and Moamen Gouda “Measuring Constitutional Islamization: The Islamic Constitutions Index” (2015) 38 Hastings Int’l & CompLRev 1 at 11.

\(^18\) Ahmed and Gouda, above n 17, at 14.
coordinate constitutionalization – the constitutionalization incorporates Islamic law, democracy and liberal norms with the same degree.  

In addition to the protection or prevalence given to Islam or Islamic Shari’ah in Islamic constitutions, this process of Islamizing the constitutions has also given rise to two other obligations: the obligation to respect both Islam and liberal democracy.

Political System and the Role of Judiciary under Theocratic Constitutions

Political System under Theocratic Constitutions

In outlining the political system structured under theocratic constitutions, Ran Hirschl has argued that there should be four elements of constitutional theocracy: (1) distinction between constitutional and religious authorities with the power of judicial review to the courts; (2) presence of a single or preference given to one religion as “state religion”; (3) religion and its texts as a source of law and interpretation – voidance of any law which is contrary to the religion; and (4) power bestowed on religious authorities to declare opinions and decisions of jurisprudential status in line with the civil court system.

From the above four elements outlined by Ran Hirschl, an implication can be drawn that constitutional theocracy is different from pure theocracy. In pure theocracies, the political powers are vested in the religious leadership, in priests or clerics, whereas, in constitutional theocracies, the power is vested in political institutions by the premises set by the constitutions. This description of constitutional theocracy has some relevancy with the “theo-democracy” proposal made by the Muslim scholar Maududi. According to Maududi’s theo-democracy doctrine, all the powers are not vested in the clerics; the

19 Rabb, above n 12, at 531.
20 Hirschl, above n 4, at 3.
powers are vested in the entire Muslim community who follow Islamic law as a guide in their policy making.

Some scholars argue that theocracies in non-Muslim countries should be different from those of Islamic countries; in the latter case, religion plays an important role, but not in the same way that the church merges with the State in the former case.\textsuperscript{21} Scholars argue that the two methods of law-making in Shari’ah: \textit{siyasa} - laws made by the ruler based on the public good (\textit{maslaha}) not based on scriptures;\textsuperscript{22} and \textit{figh} - laws made by \textit{figh} scholars to guide Muslims to live in accordance with the God’s will; are distinct from those of non-Muslim countries; such scholars conclude that the Islamic constitutionalism is “not theocratic, not secular, and not impossible.”\textsuperscript{23} In the case of European countries, scholars distinguish three models of religion-state relations: state church systems, separation systems; and hybrid systems.\textsuperscript{24}

In principle, the countries where the constitutions are Islamized refer to “shari’ah”; however, using different wording, some countries use “Islamic Shari’ah”\textsuperscript{25} while others use the term “Islamic figh”\textsuperscript{26} and “principles of Islamic Shari’ah.”\textsuperscript{27} In contrast to all these countries, the Maldivian Constitution uses “Islam” as a basic source of law,\textsuperscript{28} while in the mentioned constitutions, it is confined to “Shari’ah,” “Islamic figh”, or “principles of Islamic Shari’ah.” The striking difference is that “Islam” as a religion is one of the basis of the law, not just the legal rules (Shari’ah) of Islam.

\begin{footnotesize}
\textsuperscript{22} Examples of such laws are governance-related laws such as tax, security, municipal laws and public order and safety related laws. See Mohammad Fadel “The True, the Good and the Reasonable: The Theological and Ethical Roots of Public Reason in Islamic Law” (2008) 21 CJLJ.
\textsuperscript{23} Quraishi-Landes, above n 21, at 579.
\textsuperscript{24} Norman Doe Law and religion in Europe (Oxford University Press, Oxford ; New York, 2011) at 28–29.
\textsuperscript{26} “Islamic figh” is used in the Syrian Constitution. See Constitution of the Syrian Arab Republic 2012, s 3.
\textsuperscript{27} Constitution of the Arab Republic of Egypt 2014 (Egypt|EG), s 2.
\textsuperscript{28} Constitution of the Republic of Maldives 2008, s 10 (a) (2008).
\end{footnotesize}
Role of Judiciary under Theocratic Constitutions

Under theocratic constitutions, the judiciary plays a very crucial role. Judges are not always confined to the rigid rules of the religion or left with no choice of judicial review, nor be influenced and controlled by the fatwas of the clerics to ‘rubberstamp’ the fatwas. Instead, in constitutional theocracies, the role of the judges differs: some jurisdictions bestow the power of the judicial review of laws and actions of government or interpretation of religious rules or scriptures, while other jurisdictions forbid it, leaving such matters for the clerics to decide.

Examining the examples from theocratic-constitutional jurisprudences, Hirschl acknowledged that the constitutional law and courts have favoured a secularist approach, which leads to a ban, deferment, or reduction of the effects of religion in public life, applying “creative interpretive techniques”.29 However, on the same footing, Hirschl opined that “we still know precious little about constitutional law and practices”30 in countries with theocratic constitutions apace with upholding the international human rights norms.

This signals that the role of the judiciary in constitutional theocracies is yet to be confirmed by the conducting of empirical studies on the jurisprudence of the courts on a case by case basis.

Democracy and the Protection of Fundamental Rights and Freedoms under Islamic Theocratic Constitutions

The Islamization of constitutions raises the question about the co-existence of Islam and democracy. In answering this question, scholars hold two main views. Ali Yakub argued that Islam and democracy be consistent because their objectives are similar:

29 Hirschl, above n 4, at 159.
30 At 159.
justice; equality; freedom of expression and a fair criminal procedure.\textsuperscript{31} He insisted that Islamic jurisprudence accepts representative government, advocates for the rule of law and protects individual freedom.\textsuperscript{32} In a similar manner to that of Yakub, Liaquat Ali Siddiqui added the notions of human dignity, fundamental rights, and natural justice.\textsuperscript{33} Emphasizing the similarities between Islam and Western norms, Ali Bardakoglu’s argument states that: “… the principles of natural law, as developed throughout the ages and forming the basis of legal thought in the Western world, is in harmony with the general principles of the Islamic religion.”\textsuperscript{34}

Hugh Goddard holds a different view from that of Yakub arguing that Islam advocates for a state governed by God.\textsuperscript{35} In focusing the influence of Islam on human rights, Ann Elizabeth Mayer complicated the matter further when she wrote that it might result in an increase of human rights violations, discrimination against women and an arbitrary state which justifies the violations based on Islamic law.\textsuperscript{36}

Abdolkarim Soroush, a renowned Muslim scholar, also known as “the Luther of Islam,”\textsuperscript{37} cited in Robin B. Wright,\textsuperscript{38} advocated for democracy on two basic principles: freedom of religion\textsuperscript{39} and accommodating the interpretations of the sacred texts to the changes.\textsuperscript{40} According to Kristine Kalanges, Soroush claimed that the critics of Islamic democracy are mistaken on three points: “they equate democracy with extreme

\begin{footnotesize}
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\item At 270.
\item Hugh Goddard “Islam and Democracy” (2002) 73 The Political Quarterly 3 at 3.
\item Kristine Kalanges Religious liberty in Western and Islamic law (Oxford University Press, Oxford [UK]; New York, 2012) at 99.
\item Wright Robin “Islam and Democracy: Two Visions of Reformation” 7 Journal of Democracy 64 at 64–75.
\item At 67; Kalanges, above n 37, at 100; Ahmad Sadi (translator) ‘Abd al-Karīm Surūsh Reason, freedom, & democracy in Islam, Mahmoud Sadi (ed) (Oxford University Press, New York, NY, 2000) at 21–22, 35, 129.
\end{enumerate}
\end{footnotesize}
liberalism; they sever Shari’a from its foundations, and they equate religious democratic government with religious jurisprudential (fiqhi) government.”^41 It should be noted that the research found:

“human rights and democracy not only to be compatible in practice but also to be correlated – democracy becomes difficult to realize where human rights are not safeguarded, and where democracy is lacking, the respect for human rights is usually wanting or worse.”^42

These debates highlight the fact that where a system lacks respect for any of these two – human rights or democracy – it cannot be known as a system that is either, human rights-friendly or democracy-friendly.

Though many Muslim States have ratified international human rights treaties, tensions with Western human rights are unavoidable due to the Shari’ah based reservations to these treaties.^43 There is a significant difference in the views adopted by scholars regarding the concept of rights under the traditional views of Islam and under the western concept of human rights. While the former acknowledges the purpose of rights as collective or for the good of the whole of mankind,^44 the latter holds a contrasting view recognizing the rights of the individual.^^45 This conceptual divergence encourages the belief that it is very likely that there will be the potential for conflict between the two views as the expected answer for the question as to whether there is the potential for conflict between the two ideologies.

^41 Kalanges, above n 37, at 100; Surūsh, above n 39, at 21–22, 35 and 129.
^42 Johan Karlsson Schaffer and Geir Ulfstein “International Human Rights and the Challenge of Legitimacy” in Andreas Follesdal (ed) *Legitimacy of international human rights regimes* (Cambridge Univ Press, [Place of publication not identified], 2015) at 22.
^45 At 6; See also Lisa Anderson “Islam and Democracy : Proceedings of a Conference held at Columbia University” (Middle East Institute, Columbia University, paper presented to Under Siege : Islam and Democracy : Proceedings of a Conference held at Columbia University, New York, 1994).
Those who argue that there are conflicts between Islamic Shari’ah and international human rights norms generally base their arguments on the following areas: the rules of Islamic Shari’ah in criminal matters and punishment; the rules of Islamic Shari’ah relating to personal status laws, including; the legal status of women; the rules of Islamic Shari’ah that intervene in all spheres of private and public life, obligating all spheres of life to be in accordance with the religion; and the rules of Shari’ah necessitating an Islamic State, where the administration of justice and maintenance of law and order are required to be in accordance with Islam.

Prospects and Harmonization

Given the variety of perspectives expressed about the political system, democracy, and human rights under Islamic theocratic constitutions and furthermore, the diverse opinions even among Muslim scholars, the finding of a single ready-made definite approach may not be possible for the easing of potential tensions. It is obvious that a total removal of Shari’ah clauses in the constitution and laws will ease the tensions. Likewise, it also obvious that such an approach will not survive in a Muslim-majority country, as several scholars agree with the notion that the protection of human rights in a society depends on how it acknowledges its deep-rooted societal values, culture, and morality. Some scholars suggest that the best approach would be to interrelate the two. Robert W. Hefner have also suggested that justice can only be attained with the acceptance of the co-existence of these two models.

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46 Islamic State is meant to include the notion of a modern Islamic State, unlike the Caliph-led Islamic States where political institutions and other modern forms of governance and institutions are included such as parliaments, elections, judicial courts and popular sovereignty governed under constitutions.


49 Fathi Al-Dirini “Justice in the Islamic Shari’a” in Gerald E Lampe (ed) Justice and human rights in Islamic law (International Law Institute, Washington, DC, 1997) at 44.
Robinson\textsuperscript{51} has suggested different techniques of accommodation to ease the tension between Shari’ah and international human rights norms. He suggested: finding a principled common ground; making punishment only symbolic; limiting the scope and reducing penalties; replacing a Shari’ah rule with an evidential rebuttable presumption; preserving symbolic value by retaining offences with no effect; retaining symbolic offences with the expectation of non-prosecution.\textsuperscript{52}

It should be noted that these techniques can only to be used in drafting the domestic laws; this may not suffice for a comprehensive reconciliation of Shari’ah and international norms.

As agreed by Kamali,\textsuperscript{53} other possible techniques for harmonization might include interpretive techniques of Shari’ah jurisprudence such as \textit{ijma} and \textit{ijthihad}. It is not only the Muslim scholars who advocate this view. Wright, Reed and John O. Voll and John L. Esposito also agree with Kamali’s view. According to John O. Voll and John L. Esposito, Islamic concepts such as consultation (\textit{shura}), consensus (\textit{ijma}) and \textit{Ijthihad} “have become crucial concepts for the articulation of Islamic democracy.”\textsuperscript{54} Wright also accepts that these concepts make Islam compatible with political pluralism.\textsuperscript{55}

It is noteworthy to highlight the recognition, by the United Nations Committee on the Elimination of Discrimination Against Women, of \textit{Ijthihad} as reformative tool:

“… requested the United Nations system as a whole, in particular the specialized agencies of the United Nations, and the Commission on the status of women, to promote or undertake studies on the status of women under Islamic laws and customs in particular on the status and equality of women in the family on issues

\textsuperscript{52} At 17–25.
\textsuperscript{55} Robin, above n 38, at 65–67.
such as marriage, divorce, custody and property rights and their participation in public life of the society, taking into consideration the principle of ijtihad in Islam."

Several scholars have praised the Islamic tools used by Egypt, *takhayyur* (selecting a favourable interpretation from among the Sunni schools) and *talfiq* (patching together different rules of various schools to create a new rule).57

One of the obstacles to harmonizing the conflict between the Islamic law and western norms is that there is lack of effort to identify a new terminology of human rights in Islam to adopt the Western terminology.58 Nisrine Abiad, stressing the competence of Shari’ah to conciliation without a secular legal framework, contended that Shari’ah is often invoked by the Muslim states to justify the non-adherence to international human rights law,59 however, “the same Sharia could lead to a harmonization between international standards of human rights and those being applied in Muslim countries.”60

Mayer noted that Islamic law is often invoked by the Muslim States as the reason for the reservations to human rights treaties,61 however, as of 1996, Muslim countries were rarely observed to profess the view that Islamic law conflicted with the international law of human rights and the change in the style of reservations made seemed to be efforts to give the impression that Islamic law was compatible with international human rights law.62 Mayer argued that traditional Islamic views deny any man-made laws if they conflict with the Islamic precepts due to the quasi-judicial role of the ruler and the

57 Nisrine Abiad Shari'a, Muslim states and international human rights treaty obligations (British Institute of International and Comparative Law, London, 2008) at 123.
59 Abiad, above n 57, at 111.
60 At 112.
absence of any guidance in Islamic jurisprudence to reconcile the potential conflicts with secular law.\textsuperscript{63} Mayer believes that “the application of legal rules in various Qur’anic verses” must be revisited by the Muslims to resolve the conflicts.\textsuperscript{64} However, Timothy D. Sisk argues that modern views of Shari’ah vary greatly,\textsuperscript{65} suggesting that there is scope for flexibility.

Recently, given the Islamization of the constitutions in the Muslim countries, Ahmed and Ginsburg suggested a promising view – the Islamization of the constitutions “are best understood not as impositions of theocracy, but as carefully negotiated provisions” and that this enables the constitutions to be consistent with democracy and “should not be thought of as an inexorable tension” between the two, agreeing that “every instance of Islamization is accompanied by an expansion in the rights content of the constitutional order.”\textsuperscript{66}

It is important to highlight that a practical harmonization approach could not be possible by simply redefining Islamic Shari’ah texts; moreover, the repugnancy clauses in the Constitutions have to be revisited – if it is not possible to remove them, at least the interpretation must be redefined so that pluralism is a cardinal feature of every society and there is an acceptance that the text and rules of Islamic Shari’ah are living documents; this could be done by redefining the principles of siyasa shari ‘yyah (legitimate government policy) darurah (necessity), maslahah (welfare) and taghayyuru al-ayyam yaatadi taghayyur al-ahkim (change in time calls for change in rules).

Conclusion

It is true that the scope, application, and interpretation of Shari’ah vary in different jurisdictions. Therefore, it is not justice to draw generalized conclusions. “The Sharia

\textsuperscript{64} Mayer, above n 58, at 137.
\textsuperscript{65} Timothy D Sisk Islam and democracy (United States Institute of Peace, Washington, DC, 1992) at 38–39.
\textsuperscript{66} Ahmed and Ginsburg, above n 11, at 81.
law of Malaysia is not that of Pakistan, which is neither that of Tunisia nor that of Saudi Arabia"67 nor that the Shari’ah model of Saudi Arabia can be considered as “the” Shari’ah which every Muslim nation must practice. It shows that both traditional and modern scholars have painstakingly contributed in order to support their opinions in regard to the salient features of the role of Islam in constitutions and laws, and also the interaction between the Islamic Shari’ah and the political system, democracy, the role of the judiciary and the international human rights norms. Moreover, the debate is a miscellany - even the exegetes vary their opinions. Albeit that there is no exhaustive interpretation of Islamic Shari’ah, texts, and tenets of Islam, revisiting the texts of Islamic Shari’ah could result in a fruitful harmonization of Islamic Shari’ah with international human rights and democratic norms.

67 Melanie Adrian Religious freedom at risk: the EU, French schools, and why the veil was banned (Springer, Switzerland, 2016) vol 8 at 61.
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Sayyid Abul Ala Maududi, “Political Theory of Islam” (speech in Lahore, 1939).

“If Islamic Supremacy Clauses” are called to the clauses in the constitution which gives prevalence or supremacy to Islam o.
“Islamic Shari’ah” is used in the following countries: