



ISLAMIC ECONOMICS AND FINANCE, THEN AND NOW: A *FIQHĪ*-CONOMIC PERSPECTIVE ON ITS DOCTRINES AND DEBATES*

Salah El-Sheikh

*Department of Economics, St. Francis Xavier University, Antigonish, NS,
Canada, B2G 2W5 (Email: selsheik@stfn.ca)*

ABSTRACT

Each economy functions within a particular social framework, defined by its moral philosophy and legal system. What makes an economy Islamic is *Shar'ah*, the moral/legal discourses of the classical *fuqahā'*, which defined the economy of classical Islam, shaped its micro and macro institutions, and modulated its actual performance. This economy, which was virtually effaced during the age of European colonialism, has become, in the post-colonial era, both a symbol and basis for revivalist movements in their attempts to re-Islamicize their economies and polities.

Taking the economy of classical Islam and its *fiqhī*-economic foundations as a point of departure and reference, this study generally aims at overviewing the salient features of the modern Islamic economy, its performance criteria and theoretical justification as envisioned in Islamic Economics, viewed as a science. In particular, it critically narrates the mainlines of the ongoing debate among Muslim scholars, and juxtaposes three main doctrinal approaches advanced by Muslim economists, viewed from the vantage point of efficiency and justice, the *sine qua non* of that economy: namely, those of what I nominatively categorize as Reformist Traditionalists (*Neo-Taqlīdīs*), Islamic Modernists/Rationalists (*Neo-Kalāmis*), and Neo-Conservative Muslim Secularists.

In Section 1, I present a portrait of what I have called the *fiqhī*-economy of classical Islam: its philosophy of social harmony and related moral doctrine of economic justice as fairness (*'adl qua qist*), as well as its micro- and macro-economic institutions, and their underlying economic doctrine of socially embedded markets (*sūqs*) à la Polanyi (1957). It serves as a backdrop for dialogically representing the modern (especially the post-colonial) debate on Islamic Economics, and Islamic finance, in the following sections: In section 2,

*This paper was read at the International Conference on Islamic Economics & Economies of the OIC Countries, organized by the International Islamic University Malaysia and Islamic Development Bank, Kuala Lumpur, 28–29 April, 2009. I gratefully, but not implicatively acknowledge the beneficial suggestions of the Editor, Dr. Ruzita Mohd Amin, and an anonymous referee of this Journal.

the two polar disputational groups, the Reformist Traditionalists vs. the Muslim Secularists; in section 3, the Islamic Modernists; and in 4 the study concludes by delineating some fundamental commonalities and differences in their respective doctrinal positions. In general, the approach I follow is historicist and comparative-institutionalist; and the mainline argument follows the time-honored classical method of induction by example *à la* Aristotle. As such, the study and its conclusions are bounded by the limitations of this methodology.

JEL classification: B4, K00, N20, P5

Key words: Islamic economics, Islamic finance, *Fiqhī*-Conomic method

“Dynasty and government serve as the world’s marketplace (*sūq*), attracting to it the products of scholarship and craftsmanship alike ... Whatever is in demand in this market is in general demand everywhere else. Now, whenever the established dynasty avoids injustice ..., the wares on its market are as pure silver and fine gold. However, when it is influenced by selfish interests and rivalries, or swayed by vendors of tyranny and dishonesty, the wares of its marketplace become as dross and debased metals.”

Ibn Khaldūn (d. 1406), *Muqaddimah* (p. 23)

Each economy functions within a particular social framework, defined by its moral philosophy and legal system. What makes an economy Islamic is *Sharīah*: a huge corpus of moral and legal discourses, intended by scholars of the 2nd and 3rd Islamic centuries, for guiding Muslims towards a good and virtuous life. As such *Sharīah* defined the economy of classical Islam, shaped its micro and macro institutions, and modulated its actual performance. This economy was virtually effaced during the age of European colonialism, but, in the post-colonial era, it has become both a symbol and basis for revivalist movements and programs.

The general aims of this essay are to overview the salient features of the modern Islamic economy, and examine the main lines of its economics and its scholarly debates, against what is known about the economy of classical Islam as a point of departure and reference. It does not aim at over-viewing the vast body of literature that makes up this broad field. Rather, informed by this literature as well as a host of related fields and disciplines, the study attempts to dialogically characterize its basic doctrinal positions, rooted as they are in classical *fiqhī* thinking and method; and critically represent them via a selection of contemporary Muslim scholars, whose work typify these contending doctrines. As such, its main focus is primarily

the work of Mahmoud A. El-Gamal, which culminated in *Islamic Finance: Law, Economics, and Practice* (2006), of Timur Kuran, which culminated in *Islam and Mammon: The Economic Predicaments of Islamism* (2004), of Seyyed V.R. Nasr, and the contributions in *Interest in Islamic Economics: Understanding Riba* (2006) edited by Abdulkader Thomas. In so doing, the form of its skeletal argument follows the time-honored classical method of induction by example *à la* Aristotle. Meanwhile, the general approach of the study, historicist in nature, is also comparative-institutionalist, as it attempts to pay due attention to both the synchronic and diachronic aspects of its subject matter. The hope is that this type of critical exposition (systemically and methodologically) of the modern Islamic economy and its debates may help advancing the development of Islamic Economics as a meaningful and productive social science.

1. THE *FIQHĪ* ECONOMY OF CLASSICAL ISLAM¹

Sharī'ah was molded by the theological and jurisprudential debates which began before the ninth century. The *Mu'tazilah*, a rationalist school of *Kalām* (philosophical theology) and self-designated *Ahl al-ʿAdl* (Advocates of Justice), argued that humans—with their divine gift of *ʿaql* (reason)—are capable of legislating good laws to regulate their *muʿāmalāt* (social and economic transactions). Opposed by the literalist bend of *Ahl al-Hadīth* (the Traditionalists), it lost its ascendance to the *Ashʿariyyah* school which accepted the rationalist doctrine and method of the *Mu'tazilah*, but largely rejected their views on law. The *Ashʿariyyah* has since provided theological justification for the classical legal theory of *uṣūl al-fiqh* (sources of jurisprudence). The debate brought about an 'idealist' *Sharī'ah* system, which the jurists (*fuqahā'*) constructed with their four-source theory:² The *Qur'ān* and the Prophet's Traditions (*Aḥādīth*) being the material sources, a rational hermeneutic enabled them extending the embrace of the sources' positive content. Centering on *qiyās* (analogical syllogistics), this *fiqhī* method was intended to safeguard the divine commands from the vagaries of personal prejudice. Yet, the entire structure of their edifice hinged on *ijmāʿ* (consensus of the *fuqahā'*), which determined the epistemological status of the material sources as well as the fruits of their juristic effort (*ijtihād*): When they reached a consensus, the substance was classed *ʿilm* (knowledge); otherwise, it was *ẓann* (conjecture).

Belonging to competing schools (*madhāhib*), the classical jurists often disagreed, but considered their variant opinions equally valid by their doctrine of *ikhtilāf*, a correlative term to *ijmāʿ*. They also recognized that *qiyās* might lead to injustice; for it depended critically on *ʿillah* (cogent

reason), more a reason in the logical sense (ratio) than in the ontological (causa). Hence, they often exercised their reason, drawing on concepts of the *Mu'tazilah* theory of divine justice:³ viz. by *istihsān* (seeking the best/most equitable solution), the juristic method of the *Hanafīs*, and *istiślāh* (seeking the best solution for public benefit) of *Mālikīs*. In so doing, they exhibited an acute understanding of their economic environment, and articulated the moral foundations, and efficient institutions of a highly successful economy.⁴

Behind these accomplishments was the *zeitgeist* (*rūh*) of *Shar'ah*:⁵ notably, the rationalist *Qur'ānic* principle of *maślahah/manfa'ah* that Caliph 'Umar (r. 634–644) called *'umūm al-naḡ* (public benefit). Later, Abu Hamid al-Ghazālī (d. 1111) defined *maślahah* as furthering *manfa'ah* (benefit) and averting *maḡarra* (harm), theorized that these (being the ultimate purpose (*maḡṣūd*) of the Law) consisted in nurturing religion, life, offspring, intellect, and property. Classifying the objects of *maślahah* into *ḡarūriyāt* (necessities), *ḡājiyāt* (needs), and *taḡsiniyāt* (improvements), he argued that it should inform *ḡiyās*.⁶ This doctrine (*maḡāṣid al-Shar'ah*) was later broadened, but found its most mature elaboration in *al-Muwāḡaḡāt*, the legal theory of Abu Ishaq al-Shātibi (d. 1388).⁷

1.1 THE CLASSICAL DOCTRINE OF ECONOMIC MORALITY

In their pursuit of *tawḡidī* justice (*'adl*), the jurists found in the material sources divine exhortation for economic activity and just exchange,⁸ and formulated a doctrine of justice as fairness in economic dealings:⁹ A *Qur'ānic* principle I call *'adl qua ḡist* that rests on two maxims.

- a. The avoidance of *gharar* (unjustified *jahālah* or absence of necessary knowledge): Intended for obviating the possibility that a party to exchange gains unfair advantage (*ghubn*), this prohibition was sanctioned by *ijmā'*.¹⁰ The idealized world of the jurists ensures a near-complete knowledge, which obviates avoidable risks and uncertainties, hence potential deceptions.
- b. The avoidance of unjustified enrichment (*ribā: faḡl māl bilā 'iwāḡ*): Generically, *Ribā* (with capital R) is every kind of excess or unjustified disparity between exchanged countervalues. Technically, *Ribā* assumes two types: *ribā al-faḡl* and *ribā al-nasi'ah*. The first is often called sale *ribā (buyū')* as it is occasioned by a sale, and *Sunnah ribā* since its prohibition is regulated by *Aḡādīth*: Bartering fungible articles of the same *genus (jins)* is legitimate when the exchanged countervalues are quantitatively equal, and their delivery is not deferred. Violation of this rule produces *ribā*, an illegitimate gain. The traditions named only six goods (two precious metals, gold and silver; and four foodstuffs, wheat,

barley, dates, and salt). The jurists exercised *qiyās* to extend the rule's umbrella, but disagreed in specifying *‘illah*, the distinguishing attributes of these goods.¹¹ The second, *nasī'ah* is occasioned by deferring a countervalue. If a *nasī'ah* transaction stipulates a gain, it is a loan interest (a *Qur'ānic ribā*).¹² Virtually all classical jurists prohibited interest, disagreed on the scope and licitness of other types of *Ribā*, but employed *istihsān* and *istiṣlāḥ* to accommodate economic imperatives.¹³

1.2 SHARĪ'AH'S "EMBEDDED" MARKETS

The idealist worldview of the classical jurists is particularly evident in their vision of the market, best illustrated by a classic maxim:¹⁴ "Let the *sūq* [market] of this world below do no injury to the *sūqs* of the Hereafter, and the *sūqs* of the Hereafter are the mosques", the abode of *tawḥīd-qua-harmony*. Rendered by *al-Ghazālī*, it highlights the *Qur'ānic* view of social and economic transactions (*mu'āmalāt*): a consensual, free, and moral exchange, which establishes the necessary conditions for a prosperous life, social harmony, and spiritual progress (*Qur'ān*, 4:29). *al-Ghazālī's* worldly *sūqs* are morally and socially embedded à la Polanyi; they provide the fora for a moral exchange that was analyzed and systematized by the jurists.¹⁵

1.2.1 THE *BAY'* MODEL OF EXCHANGE

Translated "sale", *bay'* is also a normative *Qur'ānic* concept, divinely juxtaposed to "unjustified enrichment" (*Qur'ān*, 2:275). With their philosophy of *tawḥīd-qua-harmony*, the classical jurists saw it as such: For sale has to meet their twin maxims (*‘adl qua qist*); and the exchange process itself has to be consensual and fair, thus obviating legal dispute and inequity, and enhancing overall social harmony. Yet they recognized that *bay'* was an ideal prototype. Fully aware of the transaction costs of its procedures, and the information costs the doctrines of *gharar* and *ribā* entailed,¹⁶ they formulated practical variants which suited the complexities of their time, notably: (1) *salam bay'*, a sale with immediate payment, but deferred delivery; (2) *nasī'ah bay'*, immediate delivery, but deferred payment; (3) In *bay' juzāf*, the good or/and price are assessed by mere viewing; (4) *murābahah*, a cost-plus resale with a fair/normal profit margin; (5) *istiṣnā'*, a *salam* form used for manufacturing; (6) *ījārah* (hire/lease): a sale of usufruct (*manfa'ah*); and (7) *ṣarf*, a currency exchange contract.

1.2.2 THE CLASSICAL *SŪQ* AND THE STATE

Long before al-Ghazālī's time, the Islamic city planners did take his maxim seriously. They located in the city's centre the great *Jāmi'* (academy mosque), that "*Sūq* of the Hereafter", where the *fuqahā'* dwelled, taught, practiced and reflected on the Law; and *Dār al-Imārah* (House of the Government): a "political *sūq*", where democratic transactions of *shūrā* and *bay'ah* should take place. Socially and morally embedded, the political *sūq*, with the Hereafter *sūq*, were both physically encircled by the "worldly *sūq*" in a geometric pattern, where the city's economic function was centered. As such, the operation of *sūq* had to obey the jurists' doctrine of *'adl qua qist*, and this brought to the fore the weighty questions of pricing.¹⁷

Prophet Muhammad is known to have rejected price fixing, on grounds of justice: "The *Musā'ir* (Price-Setter) is Allah", he said. This principle of a divine "Invisible Hand", to borrow a Smithian metaphor, was accepted by the jurists, for it incarnated the *Qur'ānic* ideal of harmonious exchange: A model that insists on clear, detailed, and near perfect information.¹⁸ This *bay'* type is akin to a divinely inspired world of perfect competition, the ideal type of neoclassical economics, which was justified by Adam Smith's moral theory (resting on his philosophy of self-love).¹⁹ In this, it is recalled that the *Qur'ān* (2:275, 4:29) juxtaposes *bay'* with *ribā*, which is akin to the juxtaposition of "normal" and "abnormal" profits; the latter persists only under monopolistic market conditions. Being the basis of fair-pricing in modern regulation theory, the normal/fair profit concept was critical to various species of *bay'* (e.g. *murābahah*), and the economic mandate (fair trade and competition policy) of the classical *muhtasib*.²⁰

1.3 CLASSICAL BUSINESS ORGANIZATION AND FINANCE

Effective operation of any economy is predicated on the availability of efficient and flexible institutions that facilitate the collaboration between labor and capital, savers and investors, and buyers and sellers in general. In the classical *Sūq* economy, three basic forms of business association (*sharikāt*: partnerships) were available:²¹ *'inān* (Hanafī, unlimited), *mufāwah* (limited), and *muḍārabah/qirāḍ*. Their differentiation endowed them with configurations that suited different sectors of the economy.²²

Muḍārabah/Qirāḍ and Banking: *Muḍārabah*—unlike other types of partnerships—exhibited near uniformity among the schools, for it was practiced by the Prophet himself (as *muḍārib*) with his wife-to-be Khadījah. It consists in a contract of fidelity (*amānah*) between *rabb al-māl* (investor), and *muḍārib* (agent), who is not liable for investment loss:²³ Profit shares are

proportionally specified, to avoid *ribā*; but the investor's liability is limited to invested capital. Full agency powers enabled the *muḍārib* to pursue profit opportunities in any field, be it industrial, commercial, or agricultural.²⁴ The innovative features of *muḍārabah* betray its economic function, underscored by the *Māliki/Shāfi'ī* rendering of it as *qirād/muqāraḍah* (loan provision); and the *Hanafi muḍārib*—when endowed with an unlimited mandate—was able to invest the *muḍārabah* capital in other *muḍārabahs* or partnerships with third parties. It was this flexible mingling of associations (and the multiplicity of “agents” and “investors”) that allowed pooling large amounts of resources, and the emergence of banks, *al-jahābiḍah*, culminating (ca.913) in *Jahābiḍah al-Ḥadrah*, the first central bank in history. Not surprisingly, *muḍārabah* figures prominently in modern Islamic banking, given its ideal of profit-loss sharing (PLS). The Islamic banks have been remarkably successful, except in their primary goal: viz. supplying long-term (development) and PLS financing. This failure largely hinges on the *fiqhī* problem of *gharar*, the information and agency problems that economists call principal-agent problems, moral hazard and adverse selection, among others.

2. THE POST-COLONIAL *FIQHĪ*-CONOMIC *MUJĀDALAH*

The interest rate (*fā'idah/ribā*) is a fundamental price in the modern economy: It signifies the terms of trade in inter-temporal transactions, and provides market signals to transactors. Its significance and problems were not lost on early scholars. Caliph ʿUmar (r. 634–644) expressed frustration (and fears: *taqwā*) with it, and said: “I wish that the Prophet . . . had given us a satisfactory explanation of *ribā* (before his death)”.²⁵ Post-Colonial scholars have had to cope with a similar frustration and fear, as they attempt to “re-Islamize” their economy. In their “modern” debate (*mujādalah*), they followed their classical antecedents, and their arguments have differed depending on whether they are Traditionalists (*Taqīdīs*) or Rationalists (*Kalāmīs*: viz., Islamic Modernists and Secularists).²⁶

2.1 REFORMIST TRADITIONALISTS: THE ADVOCATES

In *Interest in Islamic Economics: Understanding Ribā*, Thomas (2006, ix-x) reports that his is “the outcome of nearly 20 years of personal inquiry”, part of his odyssey “to fight *ribā* and bring *ribā*-free choices” to his “native North America.” It is a progress report on the fruits of Post-Colonial debate (by a group of Reformist Traditionalists and Islamic Modernists); save Khalil's, all articles were previously published. They are so arranged—the editor states—for revealing “the history of *interpretive chicanery*” of scholars in Egypt and

Pakistan (p. ix: my emphasis). Introduced by Thomas's teacher Shaykh Yusuf Talal Delorenzo, a practitioner in the Islamic-finance industry like Thomas (pp. viii, x), he asks: "why is it that Muslims have so lost sight of the importance of the [*ribā*] prohibition?", and answers: "No legal system can remain viable without ... an object of its application," and that in recent centuries, for reasons mostly political, Western banking "supplanted the *Sharī'ah*-based system of finance". (pp. 2–3)

He then argues: "it was the wealth generated by oil that provided the real impetus for the revival of Islamic jurisprudence"; for with petro-dollars, "banks and investment houses were established" (p. 4). Yet, it was in the late 1980s, when "Islamic finance had grown ..., [that] multinational banks and asset management companies ... [took] interest in its development" (p. 5), and "*Sharī'ah* scholars began working ... with international bankers and Wall Street insiders". To him, the "most important factor in the transition to a ... *jurisprudence of transformation and adaptation* was the reconfiguration of the *nominate contracts ... as building blocks*" (p. 6: my emphasis), a transformation that the Islamic Modernist El-Gamal (2005) renders as "*Sharī'ah* arbitrage" (more below).

2.1.1 THE CLASSICAL LEGACY AND SHADOW OF DEUTERONOMY

Three chapters review "the concept of *ribā*" in Islamic jurisprudence and sister traditions. The Islamic concept is given in two articles: the lexical meaning of *ribā* in a classical Arabic lexicon (ch. 1), and its juristic elaboration (ch. 3). "*Ribā in Lisān al-ʿArab*" is abridged from a translation by Thomas with others. A classic document, the original Arabic text should have been included, given the usual translation/interpretation problematic; which is evident in "The Juridical Meaning of *Ribā*", a translation (by I. Rahim with Thomas) of an article adapted from Wahbah al-Zuhaylī's *al-Fiqh al-Islāmī wa Adillatuhu*. Solid linguistically, the translations of many *fiqh* terms are not standard, and their Arabic counterparts are often missing. This problem is compounded by the many typos/errors that plague the book.²⁷

Al-Zuhaylī's text succeeds the article on Jewish and Christian doctrines by Vincent Cornell (ch. 2). Besides its comparativist merit, inclusion of this well-researched article highlights their importance to *Sharī'ah*, being among the subsidiary sources of Islamic jurisprudence. "In the Shadow of Deuteronomy ..." reviews the Judaic doctrine (on interest/usury) based on Deuteronomy (23:19–20) and Leviticus (25:35–37). It examines the main aspects of its development: (1) The rationalization of the prohibition in terms of the social welfare of Israelite society; (2) The distinction between Deuteronomy's *neshekh* (snake's bite) and Leviticus's *tarbit/ribbit*, which

Maimonides/Mūsa ibn Maymūn (d.1204) respectively identified with “accumulating” (compound) interest and simple interest (pp. 13–4).²⁸

“[The] commandments forbidding usury in the Old Testament were accepted in principle by early [Christian theologians]”, but the prohibition was universalized by the Church only after 800 AD; and a usury definition ensued: it occurs “where more is asked (*usara*) than is given (*mutuum*)” (p. 18). Ultimately, the Crusades (1095–1270), their financing imperatives, and the contact they entailed with Islam’s sophisticated economy, primed a paradoxical socioeconomic dynamic into the Christian doctrine (pp. 18–9); but it was the onset of the Reformation during the 16th century (and its underlying mercantilist economy) that brought it to an end.²⁹ Rather than being a “case of moral weakness”—Cornell emphasizes—it was “the outcome of successive conflicts between a number of classic religio-ethical ... antitheses”. (p. 22)

2.1.2 IN THE SHADOW OF WESTERN COLONIALISM

Typically, the modern debate on *ribā* takes as a point of departure the views of Azhari scholar Muḥammad ‘Abdu (d. 1905) and his disciple Rashīd Riḍā (d. 1938). It is often forgotten that ‘Abdu was born in 1849, the year Egypt’s Ottoman wali, Muḥammad ‘Ali (r. 1805–1848) died, and with him died—at the hands of colonial European powers—the first Modern Arabo-Islamic experiment of independent development.³⁰ Less forgotten is ‘Abdu’s leading role in Egypt’s Constitutionalist revolution and his banishment upon the British Occupation; which aborted this democratizing revolution in 1882, and lasted for 72 years of tumultuous struggles for independence. But nothing is said on the question of *ribā* at al-Azhar before ‘Abdu. Likewise, in the case of India/Pakistan, little is said on that question prior to Mawdūdī (d. 1979), during the sub-continent’s longer British colonization, which ended (1947) in a two-state partition, with Pakistan as an Islamic state. In this, Thomas’ book is typical.

2.1.2.1 THE CASE OF PAKISTAN

Relegated to the Appendix, it is adapted (and updated) by Thomas from articles by M. Akram Khan. The first modern republic based on religion, the Muslims homeland was named Pākistān, “Land of the Pure.” The lofty name aside, its birth was traumatic, and it took years for its constitution to be enacted. Mirroring years of contentious debates, it contained a “repugnancy clause” which rendered illicit any law that contravenes *Qur’ān* and *Sunnah*. Yet, as Esposito (1980, 143) notes, its provisions “underscored the lack of any clear idea ... regarding an Islamic ideology and how to translate it into

programs and policies”; a problem that was compounded by a leadership “ill-equipped ... for this task.”³¹ Moreover, Pakistan’s post-colonial legacy of under-development was aggravated by Cold War geopolitics, conflicts with India, Arab-Israeli conflicts, and ensuing religio-political and geo-economic ramifications of oil. Their interplay modulated the ideological competition between the modernists and traditionalists, but yielded few tangible steps until General Zia’s regime (*Nizām-i-Islamī*).

The Appendix hardly deals with this context and the Pakistani debate beyond stating that the Traditionalists identified *ribā* with interest, while the Modernists identified it with usury: a view that “was led by such eminent scholars as Fazalur [sic] Rahman [like ‘Abdu and Riḏā in Egypt]” (pp. 136–7), a misleading comparison. It was—to Khan and Thomas—the identification of interest with *ribā* by the First International Conference on Islamic Economics (1976) at Mecca that led to “the first steps ... under ... Zia Ul Haq.”³² A decree was issued (1985) “that all Pakistan Rupee transactions ... be interest free” (with major exceptions); but Islamization stalled after the death of Zia, and “the religious lobby adopted a legal course of action” (p. 137). It obtained “an injunction against interest” that was upheld by the Supreme Court (1999), but “no concrete steps were taken” as yet. They blame this on the “moneyed classes” and their “Western-oriented” allies in government. (pp. 135, 137–8)

2.1.2.2 THE ARAB WORLD

In contrast, the *fiqhī*-economic debate in Cairo is well-presented in chapters 4–5. Reconstituted from an unpublished paper by Emad Khalil (p. 63), he focused on Egypt because the “vibrant debate” in Cairo has been highly influential, directly shaping the legal codes of Egypt, Iraq, Jordan, Kuwait, Libya, and Syria. “An Overview of the *Sharī‘ah* Prohibition of *Ribā*” deals with “the the classical legacy”. Critically important here is the post-Crusades *fiqh* renaissance, one may call it, but he only covers the *Hanbalī jalī* (manifest)/*khafī* (hidden) taxonomy of *ribā* by Ibn Qayyim al-Jawziyyah (d. 1350 A.D). Next, “The Modern Debate over *Ribā* in Egypt” is co-authored by Thomas for revealing how “governments have attempted to ... sway Islamic scholars and jurists in ... allowing interest as not being part of *ribā*” (p. x); for this object he adds a postscript. They note that Ibn Qayyim’s arguments anticipated the current debate: “Those in favor of ... interest will contend that the necessities of modern finance require it”; opponents “will argue that any form of *ribā* corrupts all transactions” (p. 63).

This debate, however, has been conducted in the shadow of colonialism, a factor they do not note. Yet it is evident early on, in the Postal-Saving-Fund Affair, which pitted a Westernizing Khedive, Abbas II

(r. 1892–1914), against ‘Abdu, “accus[ing] him of wanting to force *ribā* on pious Muslims” (p. 70). ‘Abdu’s view is not known, except via Riḍā. Riḍā himself adopted Ibn Qayyim’s position, but argued that “*ribā al-jahiliyyah* only occurs when interest accrues on the interest originally stipulated in a contract” (p. 71). This was the context and point of departure for ‘Abd al-Razzāq al-Sanhūrī (d. 1971). He reasoned that *ribā* is prohibited in general, but *ribā al-nasī’ah* and *ribā al-faḍl* are prohibited only to pre-empt *ribā al-jahiliyyah*, which is prohibited *per se*. He then argued that a licit loan (*qarḍ*), a gratuitous contract, “becomes a *ribāwī* transaction, by analogy with sale, when it secures ... interest”; hence, loan (simple) interest is permitted under “need” (*hājah*). This “need” arises—he argued—because *muḍārabah* is not sufficient for modern capitalism. (pp. 72–4)

Khalil and Thomas show the imprint of al-Sanhūrī in the Civil Code enacted in 1948 (pp. 74–6), but do not note its backdrop: viz. the rise of the Muslim Brotherhood in the struggle against the British, and the Palestinian tragedy which dealt the death blow to most colonial Arab regimes (upon the July Revolution, 1952). Again, not noted are the jurisprudential implications of the developmental and Nationalist successes of Nasser’s regime until the Six-Day War (1967); and the rise of Sadat (1970): His new constitution (1971) introduced *Sharī’ah* as “a principal source of law,” thus re-opening the debate on interest. They only mention political Islam’s call for ‘codifying *Sharī’ah*’ (p. 85), and hint at the role the oil wealth played, but do not note the *Ramaḍan* War (1973) which deployed the “oil weapon”, causing that wealth to skyrocket, and the debate’s landscape to expand internationally. They summarize the legislative maneuvering that led to a constitutional amendment (1980), but again miss its political context: viz. Sadat’s (American-sponsored) “separate peace” with Israel.

The constitutional amendment made *Sharī’ah* the principal source of law, and triggered a judicial debate. Like the legislative debate, they incisively reviewed the judicial one and the Constitutional Court’s ruling, which sidestepped the issue of whether al-Sanhūrī’s interest provisions are *Sharī’ah*-compliant (pp. 79–82). Not surprisingly—they add—“in 1989, the Mufti of Egypt ruled that interest on Government Investment Certificates and the like ... was in accordance with the *Sharī’ah*” (p. 86). They summarize this *fatwā*, but this, like Thomas’s own postscript, lacks the accuracy of previous sections; they also overlook a treatise by the mufti, Dr. M. Ṭanṭāwī, which devotes a chapter to this *fatwā*.³³ Thomas’ postscript (pp. 87–8) is even more troubling, given its diatribal mode. He deals with Ṭanṭāwī’s (2002) *fatwā* (“Re: Investing Funds in Banks ...”), which adopts the same *fiqhī* reasoning of the 1989 one (besides invoking *wakālah*), but assumes bad faith, and confuses *fatwā* with a jurisprudential treatise (overlooking Ṭanṭāwī’s). This

author suggests instead the examination of this *fatwā* in El-Gamal's Islamic Finance (pp. 139–46), and also believes *Thomas*'s critical practices should not be part of scholarly Islamic discourse: for it behooves Islamic scholars to abide by the *dicta* of the *fiqhī* classical science *‘Ilm Ādāb al-Jadal*, both its protocols and logical method.

2.1.2.3 LA-RIBA: THE FIVE COMMANDMENTS

In chapter 8, *Thomas* sums up, and avers that the *Qur'ān* elevated the Torah's "formal" ban on interest into a universal tenet of "the highest order," such that "the forbidden *ribā* ... borders on *shirk* or the association of a partner with God". He then posits this troubling *takfīrī* argument: Since *ribā*'s Arabic root (r-b-w) connotes "nurturing" or "teaching" (i.e., growth), and since only God "implants knowledge of the elements of ... growth": if applied to money, this means "the mere passage of time causes money to gain value"; therefore, attributing "intrinsic value to money" (to its self-growth) comes "perilously close to *shirk*." He does not seem to realize that his argument hinges on whether "the mere passage of time" is determined by God or not! (p. 127)³⁴

Thomas then enunciates his disagreement with the classical *fuqahā'*, and presents his own *ribā* doctrine: In effect—although he does not use this *fiqhī* language—he broadens the *Mālikī/Shāfi'ī* *thamāniyyah ‘illah* (currency ratio) to cover *Ḥadīth*'s six goods except salt. He asserts that historically those five goods served as currency in Arabia, and that his rendering of *Ḥadīth* supports his claim (pp. 128–31). He believes his is a justification for well-functioning and fair markets, with confidence in currency being a fundamental base of an interest-free, and sound money economy: hence, his five commandments (on p. 133). It goes without saying, *Thomas* is entitled to challenge the classical *fuqahā'*, but other scholars are entitled to proofs (*adillah*) for his *thamāniyyah ‘illah*, to know why salt is not covered as currency, and why the *fuqahā'* restricted *thamāniyyah* only to silver and gold! Alas, his brief chapter does not address these basic questions! It ends by merely mentioning the contributions of two economists: M. Chapra, and *Thomas*'s "sparring partner", M. El-Gamal (examined below).

2.2 MUSLIM SECULARISTS: RADICAL CRITICS

Among the critiques of Islamic economics, Timur Kuran is the most persistent and vocal. His book *Islam & Mammon* is an important but troubling book. Assembled upon the tragic events of 9/11, its chapters are six previously published essays, previewed by a preface that elevates "the horrors of

September 11” to a new epistemological principle for understanding Islamic Economics and Islamic economists. Its first five chapters address his thesis: *The Economic Predicament of Islamism*, the subtitle; the last treats “An Old Puzzle” in Islam’s history.³⁵ It is best that the essays be chronologically examined for fathoming the geneology of his critique.

2.2.1 FUNDAMENTALISTS’ ECONOMIC JUSTICE

“The Notion of Economic Justice in Contemporary Islamic Thought” (1989), chapter 5, largely recycles his earlier work in Kuran (1983, 1986): The “behavioral norms” become “injunctions”, which define an altruistic *Homo islamicus* (p. 105). Each is examined from the vantage point of Islamic economics’ twin principles of justice (pp. 105–8): viz. a “principle of equality” that “forbids gross inequalities in the distribution of goods”; and a “principle of fairness”, stipulating that “economic gains be earned” and “losses deserved”.

Kuran’s examination of the literature he covered leads him to state: “Islamic Economists treat the Islamic injunctions as unambiguous guidelines for attaining justice,” so that “the attainment of substantive justice would be a procedural matter” (p. 109), “an illusion” he wanted “to expose”: For they “disagree as to what the Islamic injunctions are”, and “[those] defended by any given writer are not always consistent with one another” (pp.111–2). He notes: “[Islamic economists] may object that Islamic thought is equipped with a methodology for resolving inconsistencies and handling novel issues, [but claims] these do not amount to an operational system” (p. 117). The “ambiguities”, “disagreements”, and “inconsistencies” mean “that an Islamic society will ... contain *seeds of disharmony*” (p. 101; my emphasis). To most Islamic economists, who “minimize ... the possibility of discord” by maintaining “that people would ... attain a consensus (*ijmāʿ*)”, Kuran claims that their *ijmāʿ* doctrine involves two logical “circularities” (pp. 117–8). His overarching conclusion is that Islamic economists “have not established that the injustices they find in existing social orders would be absent from an Islamic order” (p. 119).

The preceding claims call for the following methodological remarks: (1) In general, Kuran bases his views on Islamic legal theory on discredited Orientalist sources; and when he relies on balanced ones he misuses them: e.g. his reference (on p. 119 and n. 80) to Hourani (1964) and Hallaq (1986) for supporting his erroneous views on *ijmāʿ*.³⁶ In fact, Hallaq (p. 429) states that Hourani “attempted to show that consensus does not rest on a *petitio principii*” (circularity); and concludes: “there is nothing in the theories of jurists after *Juwaynī* to indicate that their arguments for ... the authoritativeness of consensus were less than convincing, whether we view

them from the standpoint of logic, law, or theology” (p. 450). (2) In reaching his “seeds of disharmony” and overarching conclusions, Kuran overstates the “disagreements” by his “indiscriminate selection from the literature” on Islamic economics, a “virgin land” that a “variety of scholars have attempted to cultivate”, including “a group that has no consistent approach and only a superficial understanding of Islamic injunctions”, Muhammad Khan (1990, 375) aptly points out: He also juxtaposes this group with two others, who hold opposite views regarding the extent of economic equality and role of market mechanisms in achieving it. Highlighting the doctrinal differences between these groups should have concerned Kuran. (3) In his *ijmāʿ* argument, he overlooks the doctrine of *ikhtilāf* (a twin of *ijmāʿ*).³⁷ This doctrine, which would stem the “seeds of disharmony”, should have informed him in explicating the “disagreements” between Khan’s two learned groups.

Kuran (2004, 116) acknowledges that “[n]o intellectual enterprise as ambitious as [Islamic economics] ... can be entirely free of inconsistencies,” but legitimately argues that “blatant inconsistencies can be avoided through careful and systematic reflection”. In his reply to another comment by M.S. Ebrahim and A. Safadi (1995), he also admits that he “would now give [Islamic economics] greater credit for its insistence on ... behavioral norms” (Kuran, 1995, 160). Finally, in view of the preceding, had Kuran (2004) updated his essays, he may have profitably revisited his conclusion that “[Islamic economics] injunctions rest on a *faulty model of human civilization*” (p. 103; my emphasis), and obviated the impression his critiques give: viz.—as voiced by Khan (1990, 375)—that he confuses “the reader as to whether he set out to criticize [Islamic economists] ... or to claim that Islam ... has nothing to do with economic justice”.

2.2.2 FUNDAMENTALISM’S ECONOMIC PRAXIS: “TERRIBLE FAILURES”!

In chapter 1, “The Economic Impact of Islamism” (1993; written originally for the Fundamentalism Project), Kuran again recycles his early work, presenting a coherent survey of the content of his Islamic economics, “Maududi-conomics”, I call it. Chapter 2, “Islamic Economics and the Islamic Sub-economy” (1995), is only a refinement of the three elements defined in chapter 1: i.e., Islamic banking and finance, redistribution (*zakāt*), and economic morality. His aim is to “demonstrate that the impact of Islamic banking has been anything but revolutionary, that obligatory *zakāt* has nowhere become a significant vehicle for reducing inequality, and ... the renewed emphasis on economic morality has had no appreciable effect on economic behavior” (p. 7). Moreover, the “doctrine of Islamic economics ...

does not offer a comprehensive framework [and operational method] for a modern economy” (p. 53).

Though not without merit, Kuran’s harsh indictment is not accepted by Islamic economists. M.U. Chapra (1996, 194), for instance, comments that it would have been true of Islamic economics “only if the market system were ... not a comprehensive framework ... [for their] objective has not been [only] ... to remove the deficiencies of conventional economics [with] ... emphasis on justice, brotherhood ... by combining moral, historical, social and political factors emphasized by past Muslim scholars, especially Ibn Khaldūn”; Kuran (1996, 195–6) seems to concur. Yet his argument in the book is still marred by questionable assertions. I will note only three, all pertaining to the factual record he invokes: (1) He paints repeatedly a dark picture of the foundational era of the Prophet and his rightly guided Caliphs, and renders it “The Myth of Islam’s ‘Golden Age’”, relying primarily on biased Orientalist sources (e.g. pp. 3–4, 95–6). (2) He repeatedly (e.g. on p. 13) states that “Neither classical nor medieval Islamic civilization featured banks in the modern sense”, overlooking the above-mentioned Islamic institution of *jahbad*, which Fischel (1983), for instance, equates with banks in the modern sense.³⁸ (3) Kuran denies any authenticity to the first modern Islamic bank (of Mit Ghamr, Egypt) (p. 14), despite its founder’s testimony to the contrary (in note 46); yet he invokes a statement by this same founder for supporting his verdict on “existing Islamic banks as terrible failures” (p. 45).

2.2.3 THE GENESIS OF ISLAMIC ECONOMICS: HOW TO ABORT IT?

Given the “terrible failures”, “what explains why they have generated excitement and participation?” Kuran asks (pp. 49–50). His answer is a psychological one, which hinges on the politics of Muslim (socio-economic failure and) identity in colonial India (pp. 107, 39, 50–3). Viewed as a front for Islamism, itself a civilizational failure, Kuran presents his Islamic economics claim in chapters 3–4. “The Genesis of Islamic Economics: ...” (1997) argues that “the economics of ‘Islamic economics’ was merely incidental”, and “the alleged antiquity of the doctrine is a myth” (pp. 82–3): That amid fears of a Hindu-dominated India (in 1930s), Mawdūdī argued that Muslim survival “as a community” lies in embracing “Islam as a ‘way of life’”. “Islamic economics” was part of Mawdūdī’s reformulation of “a new Islamic orthopraxy” (pp. 88–9), for which he conjured a “Myth of Islam’s ‘Golden Age’”: And this has cultivated the seeds of a “Clash of Civilizations” (*à la* Huntington), a prominent theme among Islamist intellectuals and movements, Kuran claims.

Kuran’s argument is interesting, but his claims are only half-truths.

As Chapra (1996, 193–4) notes: He bases his “Genesis” thesis by looking at some of the literature and only in English: “if one were to look ... in other[s] ..., particularly Arabic,” a different perspective would emerge.³⁹ As for the alleged antiquity myth, Chapra also reminds (p. 194) that Islamic economics “has its roots deep in ... writings of *Qur’ān* commentators, jurists, historians, and social, political and moral philosophers,” especially Ibn Khaldūn (d. 1406). Chapra does not mention the specialized treatises of others like al-Dimashqī,⁴⁰ but correctly notes: “[Islamic economics] remained primarily an integral part of the unified social and moral philosophy of Islam until after World War II, when the independence of most Muslim countries and the need to develop ... gave it a boost” (p. 194). Indeed, had Kuran looked into the emergence of economics in developing countries in general, he will have discovered that it had to wait until they were rid of their colonial masters. A case in point is a study by Galal Amin (1995) on Egypt (1882–1994).⁴¹

Curiously, this fact of Western colonialism is absent in Kuran’s narrative, including the tragedies it created in the Muslim World: e.g. The Palestinian tragedy, a leading factor in the rise of Islamism, is never mentioned. In this, his discourse is akin to the Fundamentalism Project.⁴² This ideological blindfold causes him to confuse anti-imperialism with anti-West, and the logic of resistance with the “logic of cultural separatism” (pp. 87–9). His model of explanation often mistakes dependent variables for independent ones, as in blaming the “Clash of Civilizations” on Islamists, despite his other, contradictory claim that “[d]iverse secularists agree that a bitter war is under way among two incompatible civilizations” (pp. 98–9).⁴³ He overlooks the fact that it was the frustration of the secularists’ development programs by Western policies and violent interventions that created the necessary conditions for Islamist movements to re-emerge.

Kuran (2004)’s blinders are self-evident in “Islamism and Economics: Policy Prescriptions for a Free Society” (1997), where he declares his ideals and biases, those of the conservative Austrian school (p. 56 and n. 4): a doctrine the Nobel-Laureate economist Joseph Stiglitz (2002) aptly calls “market fundamentalism”, which proved dangerously wanting in experience. He also invokes the view of (Turkish Kemalist) Mumcu that Islamic economics’ expressions are a sinister ploy to demote “Muslims from global civilization ... into a despotic political union” (p. 55); and finds Mumcu’s point “unassailable” (p. 64). With this conviction, Kuran proceeds to his central objective: “how policy makers committed to a free economic order should respond to the rise of Islamic economics and the Islamic sub-economy” (p. 80). His tripartite onslaught: “Expose”, “Establish the Limits” and “Listen Carefully” (pp. 71–9) recalls the Cold War strategy

of containment in the face of “The Domino Effect” of Islamic economics practices (pp. 62–7).

2.2.4 *QUO VADIS!*

Kuran’s discourse, his Neo-Orientalist social science and Neo-Conservative economics, attempts to supply justification for “Globalism” (Neo-Imperialism), “Universalism” (Eurocentrism), ultimately for current American policies and strategic doctrine. Being the prime mover of the so-called “Clash of Civilizations,” it conjures an Islamic threat for gratifying its hegemonic proclivities (Manifest Destiny) in the post-9/11 era. Yet to Kuran, the cause is the moral and psychological maladies of Muslims, especially Islamic Economists, their deadly sins: It was their “anger, resentment, frustration, and envy”, besides their “belief that Islam offers solutions to entrenched problems of human civilization” that “sowed the horrors of September 11”, he claims in the first sentence of his *Islam & Mammon*.

Kuran’s social science assumes that there is no way but the American way *à la* Fukayama. To him, “anthropologists and many area specialists,” like multicultural pluralists, create a Western “self-doubt” that “makes it harder for ... Muslims to defend Westernization” (pp. 75–6). Thus, the brilliant work of Clifford Geertz on culture and meaning, even on Muslim socio-economic development and institutions [such as Geertz (1979, 2000)], is glaringly absent in his enterprise. In all of this, his narrative is engaging and readable, but highly repetitive; and his language often betrays a subtle haughtiness, typical of Neo-Orientalists.⁴⁴ His list of references is long and varied, albeit faithful to his ideological and Neo-Orientalist bent. Importantly, it strangely excludes all critical comments made by Islamic economists on his critique of their work.

3. ISLAMIC RATIONALISTS; OLDER AND NEWER

Kuran’s rendering of Islamic economics as “Fundamentalist Doctrine”, hinges on his choice of literature and authors, besides glossing over their doctrinal and methodological diversity. A case in point is the Islamic economics doctrine that derives inspiration from classical Islamic rationalism (*kalām/falsafah*), often taking as a point of departure the *fiqhī* doctrine of *maqāsid al-Sharīʿah*.

3.1 THE OLDER VINTAGE AND ECONOMIC PHILOSOPHY

Again the scholars represented here differ. The first, a pioneer of Islamic economics, is M. Umer Chapra; some of his views are given above. His article in the Thomas (2006) volume, originally prepared for the Shariat Appellate Bench of the Supreme Court of Pakistan (p. 108), is titled “Why has Islam prohibited interest? Rationale...” The rationale is “difficult to understand unless we take into account the *maqasid al-sharia’a* [sic]”, as “all leading jurists” deemed justice “an indispensable ingredient of *maqāsid*”, he states (pp. 96–7). It translates into “the universally cherished humanitarian goals of general need-fulfillment, optimum growth, full employment, equitable distribution ..., and economic stability” (pp. 97–8). The realization of these entails “injection of a moral dimension into economics in place of the materialist and self-indulgent orientation of capitalism”; and ultimately necessitates restructuring the economic system, “an essential part” of which is the PLS financial intermediation: The “greater discipline” it induces also enhances efficiency (pp. 98–9).

Chapra then takes up these goals, for supporting his claimed superiority of PLS- to interest-based banking. It is not feasible to detail his argument, but its overall mode prompts these remarks:⁴⁵ (1) The economic substance of his argument is essentially that of the Neoclassical/Keynesian synthetic doctrine of modern economics; this orientation leaves much to be desired, especially regarding development questions, central to Pakistan and other Muslim countries. (2) He overlooks the experience and problems of Islamic banking in Pakistan and elsewhere. (3) The form of his argument is logically flawed, for it goes as follows: {the *actual* interest-based system of capitalism is inefficient, unstable, and unjust}, therefore, {the *hypothetical* PLS-based system of Islam is superior}. Merely conjectural (*zanni*), this form does not constitute a demonstration (*burhan*); yet it was convincing to the appellate judges (pp. 135–8). These facts reveal the apologetic bent of his discourse. But Chapra is far from apologetic: for his, being “[an] attempt of a human ... to understand the rationale behind God’s teachings ..., it should be borne in mind that ‘God alone has the convincing argument’ (*Qur’ān*, 6:14)” (p. 111).

This tendency towards pietistic apologia drew criticism from other Islamic economists, notably Seyyed V.R. Nasr, who articulated a coherent critique, and positively rationalist approach for reconstructing Islamic economics.⁴⁶ Nasr (1988) voices concern that “this once ... effervescent field of study has begun to show signs of fatigue and stultification,” with “less concern for epistemological issues, while more energy is ... spent on insisting that interest-free financial institutions are ... superior in both ethical and financial terms” (p. 211). The problem, he notes, is methodological: for often its methodology “has not been informed with faith, but has been substituted by it” (p. 387).

The “fatigue and stultification” stem from a web of post-colonial entanglements—the diagnoses—which have modulated the intellectual production and engagements of Islamic economists,⁴⁷ and caused an “excessive emphasis placed upon institutional development,” especially interest-free banking, often mistaking “this process” for Islamic economics itself (pp. 215–6). This is compounded by Orientalists’ view of Islam, and the geopolitics of Islamic resurgence. Thus,

“... non-Muslims have gone to great lengths to “expose” the unviability of interest-free economics, [a fact that] both justifies and explains the compulsion which Muslims ... feel for responding to and defending ... these institutions.” (p. 212)

Yet, without concepts of their own (e.g. “efficiency”), Islamic economists “have been compelled to defend their records according to western economic criteria” (p. 212). He then suggested redirecting their energies to a meaningful science of Islamic economics, a suggestion that drew fire from Kuran, who distorted Nasr’s position.⁴⁸

Nasr has identified the root cause of the methodological malaise: the absence of an Islamic philosophy. Nasr (1987, 176) then notes, a philosophy of economics should “provide economic thought with an overall conception of change” (development).⁴⁹ Hence, he builds on Islam’s philosophy of history, and its view of the human purpose (pp. 177–82): This being “integration of the spiritual and temporal dimensions of man’s existence,” the criteria for development “requires standards of judgment that would account for the spiritual as well as the material welfare of society” (pp. 179–80).

Evidently, this philosophy broadens economics’ concept of equilibrium to an “earthly social equilibrium”, conditioned by “existence of social harmony, individual free will and collective responsibility in the community,” as Nasr (1989, 520) indicates.⁵⁰ Instrumental to it is *Homo islamicus*, “God’s vicegerent on earth,” (p. 519), a point of departure for constructing the “science of Islamic economics”. In this, Nasr (1988) suggests that Islamic economists “must [first] discern the basic premises of the modern science of economics ... and separate ... the theoretical assumptions which would have to be ‘Islamized’” (p. 217).⁵¹ Rather than “simply disobey *dicta* which western economics see as ‘scientific laws’,” the Islamic economist would re-interpret them, “setting in motion a process which eventually will change the entire structure of economic thought” at large (p. 219).

Nasr (1987, 195–6) states: his work “has demonstrated ... [that] the possibilities for constructing a philosophy of economics are present in Islam”;

but the overall project—Nasr (1991, 399) concludes—“is a methodical, tedious, and piece-meal endeavor. It cannot waver from the methodology of thought and action of the sciences”. Yet, Nasr’s proposed concepts are predicated on *Homo islamicus*. The problem is how to get actual economic agents to attain its cognitive powers and ideal motivations, so that “optimality restraint” can be operationalized. Alas, I could not find in Nasr’s thoughtful example a way out of this scientific problem.

3.2 THE NEWER VINTAGE AND *SHARI’AH* PHILOSOPHY

In contrast, a newer vintage of Islamic economists, while recognizing the normative value of *Homo islamicus*, tend to replace the fanciful rationality of *Homo economicus* with Simon’s positive concept of “bounded rationality” (and its twin concept, the “transaction cost” of Coase) of New Institutional economics.⁵² Some base their economics implicitly on classical Islamic philosophy (*falsafah/hikmah*) at its most mature: viz., that of Abu ’l-Walīd Ibn Rushd (d. 1198).⁵³

3.2.1 THE RUSHDIAN PHILOSOPHY OF PRACTICAL SCIENCES

In *Faṣl al-Maqāl*, Ibn Rushd produced a distinctive philosophy (and method) for “the practical sciences”. Rooted in his *Qur’ānic* principle of *tawḥīd* (unity of truth), and primarily achieved by “uniting reason and revelation” with his hermeneutic of *ta’wīl*, it informed his landmark *fiqhī* treatise *Bidāyah al-Mujtahid wa Nihāyat al-Muqtaṣid*, an integral part of his grand philosophical system. The *Bidāyah* ends with a brief on his view of *maqāṣid al-Sharī’ah*, stating:⁵⁴ “the intended goal of *Sharī’ah* provisions are the virtues (*al-faḍā’il al-naḥsiyyah*)”; embodied in *Sharī’ah*’s detailed rulings, “the[ir] four genres” are “continence” or “moderation” (*‘iffah*), “justice” (*‘adl*), “courage” (*shajā’ah*), and “generosity” (*sakhā’*): All—he concludes—are underwritten by Muslim forms of worship; thus constituting the four pillars of Islam’s philosophy of harmony (pp. 908–9). This Rushdian philosophy of the practical/moral sciences rests on a rigorous method that favors “demonstration” (*burhan*) over the conjectural tools (*qiyās zannī*) favored by jurists. This logical concern is central to his method of *ta’wīl*, his philosophy of *maqāṣid* (*maṣlahah*: benefit), and its later elaboration by al-Shātibi.

An example of the newer vintage is Mahmoud A El-Gamal, Thomas’s above-mentioned “sparring friend”. His work culminates in *Islamic Finance: Law, Economics, and Practice* (2006). *Law, Economics, and Practice* being its subtitle, he exhibits an outstanding command of these,

besides Arabic, language of the primary sources he invokes. The book's argument deploys the Institutionalism machinery, but does not refer to New Institutionalism or its exponents. Likewise, he seems to invoke Ibn Rushd's view of *maqāṣid* and *ta'wīl*, and—at a critical point—draws on *Bidāyah*'s economic concepts, but does not refer to its underlying philosophy of the social/practical sciences. Again, he utilizes the main terms of the Aristotelian-Rushdian hylomorphic theory of reality (without referring to it), as he indeed invokes all these in the prefatory statement of his objective:

“I show that ... Islamic finance has placed excessive emphasis on contract *forms*, thus becoming a primary target for rent-seeking legal arbitrageurs. In every aspect ... Islamic finance aims to replicate in Islamic *forms* the *substantive* functions of [Western] ... financial instruments, markets, and institutions ... [and thus] has arguably failed to serve ... *maqāṣid al-Sharīah* I propose refocusing Islamic finance on *substance* rather than *form*.” (Emphasis added; pp. xi-xii)

3.2.2 THE TWIN MAXIMS REVISITED

The *ribā* and *gharar* maxims of justice *‘adl qua qist* were treated earliest in El-Gamal's work: Thomas (2006)'s chapter 7, “An Attempt to Understand the Economic Wisdom (*Hikmah*) in the Prohibition of *Ribā*” is adapted from El-Gamal (2000), his earliest paper. The chapter's aim is obviating “three main [contemporary] misconceptions”:⁵⁵ Especially, the misplaced belief that the prohibited *ribā* is usury (rooted in a mistranslation and misreading of *Qur'ānic* verses (2:278–279)), which is explicated by invoking Ibn Rushd. (pp. 112–3)

Ibn Rushd's *fiqhī*-economic explication of the *ribā* prohibition in *Bidāyah* is a classic illustration of his method and *maqāṣid* philosophy of *Sharīah*. “*Al-maqṣūd* (the intended goal)” of this maxim—he says—is “justice in exchange”, viz. “approaching equality” by eliminating “*al-ghubn al-kathīr*” (excessive inequity): a question in “fair valuation” (*taqwīm/taqdīr*) (p. 584). Here the philosophic *Mālikī* jurist admits the superiority of a *Ḥanafī ‘illah* (explicating the six-goods *Ḥadīth*), then theorizes a solution. El-Gamal's extract is a good translation of Ibn Rushd's, but it replaces the adjective “*kathīr*” by “*fāḥish*” (in *ghubn kathīr*), and stops short of a phrase that enhances the efficiency angle of its explication: viz., “save in the way of wastage” (*‘illah min jihah al-sarf*). Yet, El-Gamal's account of Ibn Rushd's valuation/pricing principles is well-rendered in modern terms (pp. 117–9). In brief, “justice as fairness” in exchange is attained by obviating sale *ribā* through incremental/marginal relative-benefits equality, ultimately

by marking to market prices: a necessary rule for optimizing the economic-community's welfare *à la* Pareto, provided all prices are formed in free markets, also free of monopoly power.⁵⁶

This market optimality, which is akin to that of the *fiqhī* classical *sūq* (in 1.2 above), prompts three remarks: (1) El-Gamal's identification of neoclassical allocative efficiency with Ibn Rushd's view is further enhanced by—I believe—an excluded paragraph (following his extract), stating that the *ribā* prohibition is supported by another *‘illah*: “the prevention of transacting, if it involves wastage (*sarf*)” (p. 585). (2) His discovery (eight centuries ago) of the modern fundamental theorems of welfare economics is a product—I think—of Ibn Rushd's *Mālikī* juristic doctrine (that emphasizes benefit/utility in its method of *istiṣlāḥ*), synthesized with the *Ḥanafī* rationalist method of *istiḥsān* (that emphasizes finding the best solution) by a master *Sharī‘ah* philosopher, given his *maqāṣid* principle, and method. (3) Attaining Rushdian justice *à la* Pareto requires the cognitive powers of *Homo economicus*, El-Gamal recognizes; but given the bounded rationality of humans, only *Homo islamicus* can attain it by internalizing the *ribā* maxim.

Thus this New-Institutionalist notion of bounded rationality is supported—as he notes—by 23 *Qur’ānic* verses as well as modern “experimental evidence on idiosyncratic human behavior” (pp. 119–22). The upshot is that boundedly rational humans exhibit serious “discounting anomalies” that gear the phenomenon of “dynamic inconsistency: the inability to follow one’s plan”; which results in excessive debt, often ending in financial ruin (p. 122). “The solution,” El-Gamal avers, is “a pre-commitment mechanism, such as the one imposed by asset-based Islamic finance”: As it “encourages marking assets to market, including ... [its] time value”, this model is superior to its conventional analog, for it is “efficiency-enhancing” *à la* Ibn Rushd (p. 123).⁵⁷

Soon after, El-Gamal (2001) examined the other maxim, reasoning that the Prophet's *bay‘ al-gharar* translates into the “trading in risk” exemplified in the *maysīr* (gambling) prohibited by *Qur’ān* (5:90).⁵⁸ He then posits an efficiency argument for distilling the economic wisdom behind this prohibition, drawing on the modern economics of choice involving risk, by a game-theoretic model (pp. 10–24). Again, the root cause is that humans (including finance practitioners) fall short of *Homo economicus*. Boundedly rational, they take excessive risks (often addictively), and overpay for insurance and similar transactions.

In chapter 3 of *Islamic Finance: Law, Economics, and Practice*, El-Gamal (2006) introduces three sets of binary terms, including the Aristo-Rushdian “substance/form” view of economic contracts: economic

substance being the efficiency-cum-equity content, attained via marking to market prices. Financial theory invites the others: the “credit/risk” binary, and the “bundled/unbundled” taxonomy of credit-and/or-risk transactions. He then recasts his explication, arguing that “the forbidden *ribā* is essentially ‘trading in credit,’ and the forbidden *gharar* is ‘trading in risk,’ as unbundled commodities” (p. 47). Thus, an unsecured interest-bearing loan, a paradigm of *ribā*, is prohibited because it is an “unbundled sale of credit, wherein it is difficult to mark the interest rate to market” (p. 57). Likewise, the injunction against *bayʿ al-gharar* is a prohibition of an unbundled sale of risk, whose paradigm is gambling; here risk assessment will involve a mispricing of risk premia, and cause excessive risk-taking (pp. 60–1).⁵⁹ The classical maxims and (bundling) contract forms are thus regarded as pre-commitment mechanisms, whose aim goes beyond conventional-finance’s tools: For the aim of financial (state) regulation is treating systemic failures, while the client-screening practices of financial institutions are only driven by their profit passions. Besides, the Islamic mechanisms aim at “protect[ing] individuals from their own greed and myopia” (p. 48). Yet, those contract forms can be emptied of their economic substance by (de-bundling) *hiyal*.

3.2.3 FINANCIAL ISLAMIZATION AND *SHARĪʿAH* ARBITRAGE

Preoccupation with contract form is a hallmark of the Islamic-industry practices El-Gamal calls *Sharīʿah* arbitrage, a variant of the rent-seeking regulatory-arbitrage of Western finance. The main actors of this high-stakes arbitrating drama are the financial institutions, industry lawyers, and Muslim jurists. Hence he analyzes the *Sharīʿah*-arbitrating activities of Islamic-finance providers,⁶⁰ and their ‘supporting actors’, the Muslim jurists whose sanction is necessary for rendering financial products “*Sharīʿah*-compliant.”

In “Jurisprudence and Arbitrage” (ch. 2), he reviews the classical doctrine (overviewed earlier) and its near demise, noting a tendency among *Sharīʿah*-restoration advocates to read the classical corpus uncritically (p. 31): A consequence of the disenfranchisement of the institutions of *ijtihād*, in the age of colonialism. This vacuum has also given rise to “collective *ijtihād*” and—for exercising it—two sets of juristic institutions: the national and multinational juristic councils, and bank-sponsored *Sharīʿah* organs/boards; both deploy the institution of *iftāʾ*.⁶¹ Yet, contemporary *iftāʾ* has been inherently flawed: its deployment reveals its flaws. It starts with the financial providers’ R&D teams. After identifying marketable products, the provider’s jurists scan classical *fiqh* books for precedents or analogues. The finance professionals and lawyers then devise *Sharīʿah*-modified products that can pass regulatory and viability tests. Subsequently, appropriate questions are

formulated, then directed to the providers' *Sharī'ah* boards or/and national or multinational councils for eliciting *fatwās*. El-Gamal argues vigorously to show how contemporary Muslim jurists have geared classical jurisprudence to rent-seeking *Sharī'ah* arbitrage: how "progressively smaller groups of jurists have issued *fatāwā* that allowed progressively closer approximations of conventional banking practice [sic]" (with the industry's "decisive primary mover advantage") enabling them "to shape Islamic jurisprudence ... for future generations" (pp. 34–5).⁶²

The *Sharī'ah* arbitrage orientation involves four main economic pitfalls: (1) by recasting conventional transactions in Islamic forms, it forecloses the *maqāṣid* path of innovation. (2) By marking to conventional-finance pricing, it vitiates the Pareto-Rushdian optimality. (3) The transaction costs at both R&D and operational stages make Islamized products costlier.⁶³ (4) "[T]he danger inherent in its mechanics, especially in today's post-9/11 legal and regulatory environments" (p. 176): "[these] were copied from Western regulatory arbitrage methods aiming to reduce tax burdens", which have "a checkered history" (p. 177).

Having covered chapters 1–3, I will deal with the others. They mainly cover two inter-related angles of Islamic finance: (1) the nominate-contract forms of products/transactions (ch. 4–6); (2) the Islamic institutions, their corporate-governance, and regulatory-environment (7–10). Alas, I cannot do them justice, for much of their value lies in their technical and analytical detail, which is impossible to render here! I can only sketch some salient features of these angles.

3.2.4 THE ISLAMIZED FINANCIAL TRANSACTIONS

The sequential ordering of chapters 4–6 reflects the chronological progression of the industry's product menu. Thus, "Sale-Based Islamic Finance" (ch. 4) presents classical *bay'c* (overviewed in 1. 2): viz. its trust-sales type, notably *murābahah*; and *ṣarf* (currency exchange), *īnah*, and their *tawarruq* (monetization) overgrowth.

Murābahah- and *tawarruq*-financing exemplify and reveal both the failure and promise of Islamic finance. Consider "*murābahah* to order", which ushered the birth of the industry. As a debt-financing instrument, it entails two problems: viz. acquiring the financed property and setting its price markup. El-Gamal shows that their solutions approximated conventional secured lending (pp. 33, 64–8).⁶⁴ The banks have thus squandered the "substance" of this equity-based transaction (pp. 75–7). By contrast, *tawarruq*-financing finds its origin in *īnah* (same-article sale-repurchase contract), a legal device that can be used for charging interest, which *ṣarf* disallows.⁶⁵ Unlike

murābahah-financing, it is “structured by the banks to equate financing charges to market interest rates”, regardless of its “underlying commodity” (p. 73).

Likewise, “Derivative-Like Sales: *Salam*, *Istiṣnāʿ*, and ‘*Urbūn*” (ch. 5) examines their deployment in synthesizing financial derivatives.⁶⁶ The mechanics here are more intricate, but El-Gamal did an admirable job making them accessible—I think—to non-specialists, by an effective use of charts. Thus the classical *salam*-like *istiṣnāʿ* (for financing manufacturing) has been synthesized by contemporary jurists for financing development projects (p. 90); but *salam* (prepaid forward sale) has been synthesized for “purely financial transactions” (pp. 81–2).⁶⁷ Again, the ‘*urbūn* sale (non-refundable down payment), with its buyer’s opting-out feature, has conjured the call options of conventional finance (pp. 91–2).⁶⁸ Similarly, “Leasing, Securitization, and *Ṣukūk*” (ch. 6) examines *ijārah*, and Islamic bonds (*ṣukūk*) that utilize it.⁶⁹ Defined by classical jurists as sale of a property’s usufruct (*manfāʿah*), *ijārah* (leasing) permits a greater flexibility “that allows leasing to serve multiple functions in Islamic financial structures” (pp. 98–100). These multiple functions are exemplified in two *ijārah* types of *ṣukūk*.⁷⁰

3.2.5 THE ISLAMIZED FINANCIAL INSTITUTIONS

El-Gamal then directs his critique to Islamic financial intermediaries, and—guided by the Pareto-Rushdian *telos*—argues for restructuring them on the basis of mutuality. In “Partnerships and Equity Investment” (ch. 7), his aim is to “review classical jurisprudence on partnerships ... [and] contemporary juristic analysis of limited liability corporations and corporate stocks” (p. 117). He covers the *sharikāt* (overviewed in 1.3), noting that *muḍārabah* was recognized as a precursor of the corporation, thus “paving the way for [its] reinterpretation of contemporary joint-stock companies” (p. 121). He also reports that “numerous juristic councils permitted trading *common* stocks of corporations that have permissible *primary* businesses” (my emphasis), and that “mutual funds were allowed”, with the “fund provider [viewed] as an agent for fund shareholders” (p. 124). The management of their stockholdings being crucial, its “central ‘Islamic’ focus” has been the construction of costly “negative screens:” viz. “screening criteria ... to exclude certain stocks from the universe of permissibility” (p. 125), corresponding to product and *ribā* prohibitions (pp. 125–7).⁷¹

In “Islamic Financial Institutions” (ch. 8), the object is the Islamic versions of banks, insurance (*takāful*) companies, and venture-capital and private-equity firms. The last inherently embodies *wakālah* (agency), the *fiqhī* principle that underpins—what El-Gamal playfully calls—“the magic

solution”.⁷² For this he takes stock of the current debate by juxtaposing a set of dialogical twin-*fatwās*, each expresses opposite approaches to Islamization: viz. the *Sharī‘ah* arbitrage approach and the minimalist one; the latter seeks only to modify conventional practices, but “add consumer protection and prudential regulations”, based on “canonical texts and pre-modern juristic derivations” (pp. 151–2). Having examined the latest episode of the debate,⁷³ and found many commonalities in both the ends and tools of their opposing approaches, he proposes a synthesis that re-envisioning “financial institutions in terms of general agency contracts, as opposed to specific investment agency (*muḍārabah*) contracts” (p. 153): Invoking *wakālah* “as an organizing principle ... is not new” to Islamic insurance and banking practices, El-Gamal reminds (pp. 153–5).

3.2.6 THE “ISLAMIC IDEAL IN MUTUALITY”

Chapter 9 expands on the “proposed agency structure, with emphasis on ... mutualization”; which would “reduce governance and regulatory problems to ones for which conventional counterparts are well developed, while ensuring avoidance of ... *ribā* and *gharar*” (pp. 162–3). Mutuality should have been “a natural development” for insurance—El-Gamal argues—“given that jurists sought solutions to the problem of *gharar* ... through noncommutativity of the relationship between insurer and insured in *takāful*,” while agreeing that the essence of *takāful* is “mutual cooperation” (pp. 163–4). The case is bolstered by the favorable evidentiary experience it commands over stockholder insurance (p. 174). The case for banking parallels insurance in its justification, save its deeper historical roots: viz. “the strong [historical] influence of European mutual banking institutions and cooperatives” (p. 163).⁷⁴

“[M]utuality ... can [thus] play an important role in redefining the ‘Islamic’ brand name of Islamic finance” (p. 174). This involves “highlighting a social agenda for improving the plight of Muslims [in poverty],” while integrating mutualized institutions “seamlessly with charitable activities of the Muslim community” (p. 174). In “Beyond *Sharī‘ah* Arbitrage”, El-Gamal concludes by proposing an architecture that embodies *Sharī‘ah* ethics in “positive screens” that supplement “negative screens” (p. 188), and stands on a new institutional base. For inasmuch as Muslim poverty and underdevelopment are religiously caused by “financial disintermediation”, the solution lies in a “Mosque-based network of financial mutuals”, mainly involving: (1) Grameen-like networks of microfinance, “with [the] assistance of institutions such as cash trusts (*waqf*)”, and *zakāh* contributions for subsidizing the poor; and (2) mutual finance networks (in community mosques) that can furnish the local institutional conduits of “high finance” (p. 187).⁷⁵

4. CONCLUSION

In Section 1, I sketched a portrait of what I have called the *fiqhī* economy of classical Islam: It has served as a point of departure and reference for critically overviewing the modern debate on ‘Islamic economics’ and Islamic finance, mainly, the positions of only three doctrinal groups: namely, the Neo-*Taqlīdīs*, and the Neo-*Kalāmīs*: viz. Islamic Modernists and Muslim Secularists.⁷⁶ In the following, I only juxtapose some fundamental commonalities and differences in their respective positions, in a number of inter-related general aspects of the subject.

First, all parties locate the market system at the center of the Muslim economy, but their visions of markets vary considerably. Muslim-Secularist critics, like Kuran, advocate free, unregulated markets, what the Nobel laureate Stiglitz (2002) aptly calls market fundamentalism. In contrast, the Reformist-Traditionalist (finance industry) advocates believe that markets should be regulated (for ensuring that transactions are *ribā*-free and *gharar*-free (in a *taqlīdī* sense), via nominate Islamic contracts (synthesized from *fiqhī* and modern models). This approach is criticized by Islamic Modernists on the *fiqhī* grounds of *maqāṣid al-Sharīʿah*. El-Gamal, among others, argues vigorously that the nominate contract approach often lacks the economic substance intended by the classical jurists, a substance that can be recovered by marking to market *à la* Ibn Rushd.

While embodying the Rushdian notion of justice (as fairness), marking-to-market also leads to the Pareto optimality/efficiency of modern neoclassical economics, which presupposes the existence of perfectly competitive markets, beside the absence of a host of market failures not noted by El-Gamal. As well, he does not explicitly define what the economic substance of a market transaction is; although his usage of the term should mean a monetary imputation of the social valuation (consensually assigned to an object of exchange) by the exchange parties as members of a moral socioeconomic community, I think. In an Islamic community, this social valuation should reflect its concept of justice and other Islamic values germane to the transaction; which is obtainable in a market type akin to the socially embedded *sūq* of classical Islam (of section 1 above). Because this Pareto-Rushdian efficiency is complicated by contemporary realities, as well as the human reality of bounded rationality, he proposes adopting a corporate form approach instead: viz. the mutual form of intermediation. Yet, he is not clear about the kind of market to mark to in this Modernist vision of the economy!

This question of market structure and regulation is intimately connected with the broader question of the nature of the community’s

economic system, which is not explicitly addressed, except by conservative critics like Kuran, who advocates essentially an unfettered capitalist system, governed by a mini-state. The Reformist Traditionalists do not object to its capitalistic (profit-driven) nature, provided that its practices are ‘*Sharīah*-compliant’, and the state is “Islamic”, but do not elucidate the latter. By contrast, the Modernist position (like El-Gamal’s) is more complex; but he does not address the political-economy import of the progressive and far-reaching financial restructuring he proposes.

Again, connected with this is the location of the Islamic economy and polity, globally. Neo-conservative Secularist critics (like Kuran) view Islam as a “faulty model of human civilization”: the “Islamic” adjective can only foster a “clash of civilizations”; and modernization can only be a globalized Westernization. By contrast, the Reformist Traditionalists view their *Sharīah*-based model a paradigm for global guidance by Divine Wisdom: an alternative to the self-indulgent, materialist disposition, and the hegemonic inclination, iniquities, and wastefulness of the Secularists’ model. The Islamic Modernists, here again, adopt a synthesizing or intermediate position. With a Universalist bent like the others, they share the moral and spiritual aspirations of the Reformist Traditionalists, albeit on moral grounds, based on the *maqāṣid* criterion of *maṣlaḥah*. Hence, they are not averse to adopting or adapting Western models, still guided by enduring classical insights and wisdom. El-Gamal’s synthetic call, the “Islamic ideal in mutuality” is a case in point.

ENDNOTES

1. Section (A) is largely distilled from an earlier (2002) unpublished paper, a published elaboration of which, El-Sheikh (2008), is referred to here for full documentation of much of this section.
2. On the nature, structure, and development of Islamic jurisprudence, see the excellent treatise by Hallaq (1997).
3. According to this theory, Allah, being *necessarily* just, only wills what is morally good (*hasan*), and His motive in imposing the Law on His creatures is their benefit (*ṣalāḥ*). The first concept (*hasan*) is the root of *istiḥsān* (seeking the best/most equitable solution), the juristic method of *Ḥanafīs*; the second (*ṣalāḥ*) is the root of *istiṣlāḥ* (seeking the best solution for public benefit) of *Mālikīs*.
4. See, for instance, Abraham Udovitch (1970), especially chapter 7. He concluded this influential study stating: “The prominence of the Muslim

world ... was certainly reinforced by the superiority and flexibility of the commercial techniques available to its merchants,” and that the “institutions, practices and concepts already found fully developed ... did not emerge in Europe until several centuries later” (p. 261).

5. For instance, the terms *ḥasan*, *ṣalāḥ*, *naḥ*, and their cognates pervade the *Qurʾān*: they occur at least 150, 168, and 13 times, respectively, according to the verse listing of Abdel-Baqī (1945). Beyond *uṣūl al-fiqh*, the main schools formulated—for regulating their respective positive laws (*furūʿ*)—a set of principles/rules (*qawāʿid fiqhīyyah*), which incarnate the *uṣūl*’s *maqāṣid* doctrine. For a concise overview of these juristic methods, the doctrine of *maqāṣid*, and its development, see Gleave (2004); Khadduri (1991); and Paret (1990); and on the *qawāʿid*, see Heinrichs (2004).

6. That is serving as criterion for *munāsabah*, the process of identifying the best *ʿillah* (ratio) in any particular ruling (*ḥukm*).

7. The preceding synopsis also serves to highlight a contemporary tendency to hypostatize *Sharʿah* [separating it from its historical (socio-economic, political, and technological) context], which is particularly evident in much of “Islamic economics”: A doctrine I call “Maududi-economics”, given the defining influence therein of Abū al-Aʿlā Mawdūdī (d.1979). On Mawdūdī, see Nasr (1996).

8. This basic point, an old object of contention in Orientalist literature, was examined and conclusively affirmed in recent scholarship, notably by Rodinson (1978).

9. Mandated in many *Qurʾānic* verses (e.g., 7:29, 5:42, 4:135, 57:25, etc.), this doctrine is complemented by another for “distributive justice” that rests on the *Qurʾānic* concepts of *ṣadaqah* and *zakāt*, a complementarity that is highlighted by their juxtaposition in the *Qurʾānic* verses 2:276–277; see the overviews by Weir and Zysow (1995); and Zysow (2002).

10. But the jurists disagreed, mainly on questions regarding the existence of the exchanged countervalues at contracting time, their control, their quantum and specification (in a *genus/differentia* pattern), and generally the future performance of exchange: the risks and uncertainties involved. They generally disagreed over the content and nature of that necessary knowledge, the conditions for securing it, and the implications of their respective views to various types of sale contracts and practices.

11. It is noteworthy that the *Ḥanafī* *‘illah* (fungible measurability in volume or weight), usually justified by *Ḥadīth*, is also indicated by the *Qur’ānic* moral principle of *‘adl qua qist* (e.g. in verses 11:85, 17:35, etc.).

12. It is also called “explicit (*jalī*) *ribā*”. By contrast, *faḍl/buyū‘ ribā* is rendered as *ribā khafī* (hidden).

13. They invoked productive business practices (*‘urf*); and many produced manuals of legal devices (*ḥiyal*) to obviate the prohibition’s deleterious effect on the economy.

14. Quoted in Bianquis, Guichard, Raymond, and others (1997, 787) from al-Ghazalī’s *Ihyā’ ‘Ulūm al-Dīn*, Cairo, 1326, ii, pp. 48ff.

15. On Polanyi’s concept, see Polanyi, Arensberg, and Pearson (1957), notably chapter 13, his article “The Economy as Instituted Process”. The nature of these classical *sūqs*, their structure, institutions, and underlying philosophy of harmony are further elaborated in El-Sheikh (2008).

16. They exhibited an acute understanding of the productive aspects of the “practices and conventions” (*‘ādāt* and *‘urf*) of business, its “implicit contracts”. They exercised *qiyās* to accommodate and regulate the economic facts of life; and when it failed, they resorted to *istiḥsān*, *istiṣlāḥ*, *ḍarūrah*, and *ḥiyal* for remedies.

17. As mentioned above, the socially embedded fora of *bay‘* transactions—given what is known—had functioned efficiently enough to give rise to the ‘superior’ economy of classical Islam, as economic historian Abraham Udovitch (1970) rendered it. Its superiority, however, was not necessarily because the behavior of economic agents was *inherently gharar-free* and *ribā-free*, as is often assumed and construed as *Homo islamicus*. In fact, the safeguards the jurists structured in sale contracts, assumed otherwise. What is known suggests that it is explainable by its efficient and competitive “worldly *sūqs*”. To this, one must add the jurists ‘hereafter’ and ‘political’ *sūqs*, which endowed that economy with its viable legal/institutional framework, and competent economic governance.

18. Udovitch (1985, 451) highlights this critical role of information stating that: “This compulsion for ‘knowing’ and this abhorrence for ‘ignorance’ in economic exchange is both a requirement of Islamic law, an inherent principle ..., and a reflection of the day-to-day transactions in the market place.”

19. On Smith's invisible hand in relation to "self-love" and free, competitive markets, see Vaughn (1987); on their elaboration in the development of the concept of perfect competition in relation to socio-economic efficiency (welfare), see Roberts (1987); and Stigler (1987).

20. The classical *muhtasib* is an outgrowth of the pre-Islamic *ʿāmil al-sūq* (the market inspector): Upon entering Mecca, the Prophet appointed Saʿīd ibn al-ʿĀs to serve as Mecca's *ʿāmil ʿlā al-sūq*; in his city state of Medina, women also served as *ʿāmilah ʿlā al-sūq*; see Bianquis et al. (1997, 787). Called also *ṣāhib al-sūq* and *wālī al-sūq*, the institution was renamed about the time of Caliph *al-Māʾmūn* (d. 218/833), as part of the Islamicization process engineered by the *Muʿtazilah* school under the *ʿAbbasīd*. However, the old name continued in the Maghrib and Spain as they remained under Umayyad rule.

21. Based on a principle of "fidelity" (*amānah*), they varied as regards partners' "agency powers" (*wakālah*) and "surety" (*kafālah*), the scope and nature of investment (capital) shares, profit/risk distribution, and authorized business activities. Those institutions were analyzed and systematized, but again the jurists disagreed on their particulars, as they tried to accommodate current economic imperatives. The *Hanafīs* in particular exhibited an insightful understanding of those imperatives, and their formulations were often economically superior, as Udovitch has shown.

22. In their totality, with *muḍārabah*, *sharikāt* contain the elements of the modern corporation. An interesting aspect of *sharikāt* was the complex and varied concept of the company's "corporate capital", which is formed by *khalt* (mingling) of the (possibly diverse) assets contributed by the partners. Their lack of uniformity prompted the jurists to explore notions of equivalence/valuation (*taqwīm*), an exploration that often revealed acute economic analysis. Another form of "corporate capital" was skilled labor, the basis of labor cooperatives (partnerships: *sharikāt al-ṣanāʿī*), formed for manufacturing. Again their juristic theorizing here reveals a concept of "human capital" that modern economics started to investigate only recently. Moreover, their juristic examination of credit cooperatives/partnerships (*sharikāt al-wujūʿ*) reveals a third concept of "corporate capital" consisting in pooling the business and moral credentials contributed by the partners, a kind of "human/social capital" which qualified those *maḥālīs* (penniless folks) to obtain credit for their business.

23. It does not usually involve a "corporate" capital, but was aptly rendered a "partnership of profit". And indeed this term can be easily construed (in

modern economics) as “common capital”, which can be imputed from the profit shares through capitalization (by means of present-value calculations).

24. But its flexibility and profit/risk distribution rendered it ideal for long-distance and international trade. Not surprisingly, it later became essential to the rise of European trade, and named *commenda*.

25. Umar continued: “We have forsworn things nine tenths of which were permissible, for fear of *ribā*” (Thomas, 2006, 55; my emphasis). After years of grabbling with such questions as: “Is there an essential difference between *ribā* and *fā'idah* [interest]”, El-Sheikh (1999, 76–7) suggested, like some others, that any meaningful answer to such a *fiqhī-economic* question requires “as a ... first step, the mastery of contemporary economic theory ... in its rightful context as it evolved in the womb of Western (Christian) cultural and historical realities”; “only then [and] after deciphering the corresponding Islamic literature”, can the Muslim scholar “apply his/her intellectual faculties (*ʿaql*) and deploy his/her philosophical imagination (*hikmah*) to understand such phenomena [as *ribā/fā'idah*] and theorize about it.”

26. On this perspective on the classical debate and its logical method, see El-Sheikh (2003); they are traced back to what he calls the *Qur'ān's* Meccan and Madinan dialogues.

27. This is regrettable because it contains a valuable survey of the main *sunni* positions on *ribā*. Fortunately, much of this material is also covered later (by Khalil), in standard terminology.

28. And (3) The “Deuteronomic double standard” which confines the prohibition to “the ‘brotherhood’ of the people of Israel,” but allows charging interest to Gentiles. Viewed as a “positive commandment” by Ibn Maymūn, the double standard “greatly facilitated the expansion of extensive Jewish financial networks” in Islamic Spain, Cornell (p. 17) notes. Indeed it did so throughout the Muslim World, in view of Sharʿah’s legal pluralism, which is not noted.

29. For it was in supporting the interests of German princes, that Martin Luther (d. 1546) invoked the principle of “public interest” in matters of money lending (p. 21); and that the Franco-Swiss John Calvin (d. 1564) cast the final word on Deuteronomy, and “declared as unlawful only the excessive, ‘biting’ usury that is taken by money lenders from the defenseless poor”; leaving “other forms of usury” to be “limited only by conscience”, and “the necessities of public utility” (p. 22). With this verdict, the “Judeo-Christian discussion of usury comes full circle”.

30. For overviews of the lives and work of ʿAli and ʿAbdu, see Schacht (1993) and Toledanos (1993), respectively.

31. See also the overview by Sarah Ansari (1995), among others in this vast body of literature.

32. Thomas and Khan failed to mention Zulfikar Bhutto’s democratic implementation of his land reform, progressive taxation, and nationalization programs, as well as his egalitarian slogan “food, clothes, housing,” all under his advocacy of Islamization, rendered as “Islamic socialism”; see Esposito (1980, 148–52).

33. It is not even included in Thomas’ bibliography: See *Ṭanṭawī* (1990, 157–84). Two errors stand out: (1) the Mufti did not issue “his” *fatwā* “at the request of the Government” as claimed (p. 82), rather of his Azhari colleagues. (2) The Certificates’ proceeds do not go to the bank as claimed (p. 84); it only handles them for the government, for financing development plans. Yet, the *fatwā*’s content is reasonably represented: viz. (1) presetting the certificate’s yield protects their holders against moral hazards; and neither the *Qurʾān* nor *Ḥadīth* prohibits it; (2) the certificates are deemed either a “lawful *muḍārabah*”, or a new beneficial transaction.

34. This question was examined by classical Muslim philosophers and theologians, notably Ibn Sina in his theory of creation; on this see, for instance, Rahim Acar (2005) and Jon McGinnis (2007).

35. Kuran speculates, “Scientifically”, on “a causal relationship between Islam and economics”. He opposes the thesis of Rodinson (1978) on Islam’s “economic irrelevance” to the question with his “economic disadvantage thesis”. His Orientalist “mentality”-oriented speculation was originally advanced by Bernard Lewis, as he acknowledges (pp. 137–8).

36. For a path-breaking critique of legal Orientalism, refer to the work of Hallaq, notably Hallaq (1997), and the seminal studies reprinted in Hallaq (1994); and for the original path-breaking critique of Orientalism in general, see Said (1978; 1981; 1994).

37. To the jurists, “He/She who does not apprehend *ikhṭilāf* has not grasped the true scent of jurisprudence” is a foundational juristic maxim

38. See also his earlier research reported in Fischel (1933a; 1933b); also refer to section 1 above.

39. Kuran's list of references, for instance, hardly includes publications of the Association of Muslim Social Scientists, including its (over 25 year old) flagship, the *American Journal of Islamic Social Sciences*, among many others.

40. Other specifics of this rich legacy were brought up by Ebrahim and Safadi (1995), but were dismissed by Kuran (1995) as "peripheral issues".

41. Amin employs a demand/supply framework, and highlights the inhibiting role of the aims and policies of Egypt's British colonial administration.

42. Kuran also served as "group coordinator" in this project of the American Academy of Arts and Science. See the critique by Smith of *Fundamentalism Observed*, edited by Martin E. Marty and R. Scott Appleby, a volume that sets up the theoretical framework of the Fundamentalism Project.

43. To him, those secularists are mere liars: they exemplify "preference falsification" (pp. 6–7).

44. He is fond of using disdainful phrases like "Islam harbors": (e.g. on pp. ix, x, 28, etc.); "Islamic sub-economy", the title and theme of chapter 2; "very primitive" in describing Islamic experience (e.g. pp. 3, 96, etc.).

45. This synthesis also has suffered a severe blow starting in the 1970s. On this point, see Fusfeld (1990), especially chapters 11–12.

46. It consists of four articles: viz. Nasr (1987; 1988; 1989; 1991).

47. "[Their] theoretical and operational predicaments", Nasr (1989) avers, stem from specific doctrinal formulations in Islamic economic ethics, that of identifying *ribā* with the interest-rate institution, while recognizing "the important functions of interest rates as ... essential to the management of an economy" (pp. 520–1). 'Delegating' these to the "profit rate" implicit in the "institution of *mudārabah*", the attempt to operationalize and regulate it has produced approaches fraught with dilemma, whose "most comprehensive remedy" turned out to be *étatisme* (pp. 522–3).

48. He invoked non-existent material, and accused Nasr of promoting a logic of "self-imposed isolation [that] parallels Mawdūdī's [call]"; Kuran (2004,

5); in note 15 on p. 15, he invokes “Nasr (1989), esp. n. 30”, neither of which involve this alleged claim.

49. He adds: it should, second, “inform economics of ethics ... [and] possibly channel any energy [therein] ... into the pursuit of economic prosperity,” and third “Provide its subordinate discipline ... with a worldview, and ... directives [for translating it] ... into efficient and prosperous activity [such that] ... the synthesis of ethics and material livelihood can become rational thought and praxis.” (pp. 176–7).

50. Here, he seems to draw on *Muʿtazilī Kalām*, saying: “In this regard four major axioms of Islamic ethics shape the premises of an Islamic outlook on economics: unity (*tawhīd*), equilibrium (equity: *ʿadl*), freedom (*ikhtiyār*), and responsibility” (pp. 183ff).

51. He illustrates by taking up the neoclassical-equilibrium concept of constrained optimum, “known as ‘optimality constraint’,” sought by its *Homo economicus*; and draws on the work of Chapra, and especially that of Syed N.H. Naqvi (1981; 1981a; 1994), who examined the optimum sought by *Homo islamicus*, rendered as “optimality restraint” (p. 218). One of the rationalist pioneers of Islamic Economics, Naqvi’s work is ignored in the text of Kuran’s book, and referred to only in endnotes 34 on p. 155 and 35 on p. 163, in his characteristically dismissive manner.

52. See their Nobel-Prize lectures: Simon (1978) and Coase (1991), on their conceptual innovations.

53. Being the Averroes of Latin fame, there is a huge body of literature on the work of Ibn Rushd, and on the Latin Averroism. For good surveys and overviews of his work, based primarily on what survived of his original Arabic texts, see R. Arnaldez (1986); Taylor (2005); and Urvoy (1993).

54. The *Bidāyah* page references belong to the edition prepared by S. al-Jaza’iri (Beirut: Resalah Publishers, 2004).

55. The two other misconceptions being: (1) The identification of “the forbidden *ribā*” with ‘interest’ (p. 114); (2) The “definition of *ribā* as any pre-specified percentage earned over a specified period of time” (pp. 115–116). (1) is belied by the *de facto* charging of “interest” practiced in Islamic finance, and not considered *ribā*: e.g. in cost-plus credit-sale, and lease-financing. Underlying this misconception is the claim “that Islam does

not accept the notion of a ‘time value of money’, despite the fact that all eight major schools ... recognize [it]” (p. 114). (2) Is again belied by the “permissible” practices of “credit-sales and leases” (pp. 115–6);

56. In this regard, El-Gamal appropriately invokes (on pp. 118–9) a well-known *Hadīth* that enjoins freeing markets from monopolistic practices.

57. This is also substantiated by a mathematical model, in his earliest paper above.

58. The page references to El-Gamal (2001) belong to the version posted on his website. He adopts a definition by a contemporary authority, M. Al-Zarqā: viz. “*gharar* is the sale of ... items whose existence or characteristics are not certain” (p. 5), and the “four necessary conditions” formulated by another (S. Al-Darīr) “for *gharar* to invalidate a contract.” The *gharar* conditions are: “(1) It must be major ... (2) The ... contract must be a commutative [one] ... (3) The *gharar* must affect the principal components of the contract (e.g. the price and object of sale, language of the contract, etc.) ... (4) ... there is no need met by the contract ... which cannot be met otherwise” (p. 4). The relativistic nature of these conditions—as he points out—is the main reason for the classical *ikhtilāf* on *gharar*. Employing the *maqāṣid* criterion of *maṣlahah*, the jurists’ disagreements, then, stem from varying assessments of the magnitude of *gharar*, and the balance of benefits, likely to ensue from a contract type.

59. The missing “economic substance” can be instilled in the transaction if it is “bundled” with a real asset (e.g. a house) whose price and rental rate provide a market basis for marking (the implicit interest rate) *à la* Ibn Rushd (pp. 56–7). Hence, the classical jurists had painstakingly developed their contract forms, endowing them with appropriate “bundling” devices.

60. They have grown phenomenally in number, varying in size and operational scope within the Muslim World and beyond, including major multinational behemoths.

61. The main national and multinational juristic councils (*majmaʿ*) are Al-Azhar’s IRC, Islamic Research Council/Institute (Cairo; founded in 1961), the Muslim World League (MWL) Council (Makkah; in 1979), and Organization of Islamic Conference (OIC) Council (Jeddah; in 1984). The bank-sponsored *Sharīʿah* organs include the AAOIFI, whose jurists are drawn from the “*Sharīʿah* boards” retained by financial institutions.

62. In the remainder of chapter 2, he focuses on some fundamental classical laws: namely, *māl* (property law); *milk* (ownership law); *shurūṭ* (contract conditions law); and *ḥiyal* (law of legal devices) (pp. 36–45); overviewed above.

63. The additional costs include, besides the cost of juristic, legal, and other professional services, those of the necessary *ḥiyal* (legal devices): viz. special-purpose vehicles (SPVs), etc.

64. The contract was proposed by a scholar, Sami Humud, who argued for using “*murābahah* in a credit sale setting ... , with an added binding promise on the customer to purchase the property” (p. 18). Embraced at the First Conference of Islamic Banks (1979) in a *fatwā* (p. 33), it was synthesized from a classical opinion (of *al-Shāfiʿī*), and an obscure *Mālikī* opinion sanctioning the bindingness of that buyer’s promise to buy (p. 67).

65. Meanwhile, internationally instrumental to Islamic finance, *ṣarf* systematized the exchanges of gold and silver, the exchange-media of the classical economy; but with the extinction of metallic standards, contemporary jurists accepted fiat money, and allowed ordinary *spot* currency-exchange transactions (pp. 68–9). Classical jurists permitted *ʿinah*, provided the property’s sale-repurchase is mediated via a third-party (pp. 70–2). The ‘third party’ is now a contemporary financial intermediary, and the object-of-sale that does not violate *ṣarf*, is still a precious metal, e.g. platinum. This is essentially the content of a recent *fatwā* reported by El-Gamal.

66. These are transactions whose yields are linked to previously issued securities; their primary aim is risk reduction. Common among these contracts is that their ‘object of sale’ does not exist at contracting time.

67. He illustrates by means of “parallel *salam*”. By treating “the *salam*-short [i.e., seller] position as debt for the fungible *salam* object”; a debt that can be forwarded to a third party according to *maqāṣṣah* (debt-clearing) rules. (pp. 83–6).

68. El-Gamal presents two case studies (from the emerging Islamic mutual-fund industry) whereby options-trading is implicitly utilized in these funds’ financial (portfolio) management (pp. 92–4).

69. Generally, it examines the techniques of *Sharīʿah*-compliant *securitization*: viz. the process of transforming illiquid financial assets (e.g.

mortgage loans) into marketable capital-markets instruments (e.g. *ṣukūk*). As El-Gamal notes, the “popularity” of *ṣukūk*, “stems from the existence of [their] underlying physical assets” (p. 97). Finance practitioners have resorted to a variety of devices (e.g. SPVs) in order to meet market demand (for debt securities), and “jurists’ insistence on material ownership of an underlying asset,” while collecting coupon-like payments from Islamized debt instruments (p. 98).

70. These are: (1) property-backed *ṣukūk*, illustrated by *Qatar Global Sukuk*; (2) the (property’s) usufruct-backed *ṣukūk*, illustrated by the issues of the German Saxony Anhalt state, and the Saudi Two-Mosques Housing scheme. He also examines a third type of *ṣukūk*, product of securitizing a salam contract (*ṣukūk al-salam*), issued by Bahrain Monetary Agency, for providing Islamic banks with instruments that facilitate their liquidity management. (pp. 113–6).

71. Screening of the (easily definable) prohibited products is in practice a cumbersome task, as it necessitates “constant monitoring of company activities,” a costly business (pp. 125–6). The “financial screening” of corporate stocks is even more cumbersome; “the most common set”—he notes—“are those of the Dow Jones Islamic Index” (pp. 126–7). He also identifies “dangers” and “paradoxes” arising from its financial-ratio screens: e.g. “[they] create a dilemma for the permissibility of owning shares in Islamic banks,” because they don’t differentiate Islamic from non-Islamic debt instruments (p. 127) He illustrates these “paradoxes” and “dangers” via a statistical “case study on debt screens” (pp. 129–33): viz. Islamic REITS (Real Estate Investment Trusts).

72. The various types of Islamic funds, which are based on the PLS agency model of two-tier *muḍārabah*, “need not be altered, since the Islamic and conventional models ... are virtually identical” (p. 161).

73. It erupted again in 2002 with Ṭaṇṭawī’s above-mentioned *fatwā* on banking, and its counter-*fatwā* (2003) from the MWL’s juristic council. Ṭaṇṭawī’s *fatwā* was issued from “the prestigious Azhar [IRC]..., which deemed ... interest on conventional bank deposits permissible (by characterizing it as a fixed profit rate in investment agency)” (p. 139). He finds Al-Azhar’s *fatwā* problematic as it “ignored the nature of bank assets ... as interest-bearing loans”, yet “the agency argument [it] utilized ... seems eminently useful” (p. 146). Likewise, “two other conflicting *fatāwā* on insurance [*takāful*]”: A recent (2004) *fatwā* by Egypt’s Grand Mufti opposes an earlier one by the OIC council, which ruled (on *gharar* grounds) against conventional

insurance (pp. 147–8). This ruling recommended a “cooperative insurance contract ... built on the principles of voluntary contribution [*tabarruʿ*] and mutual cooperation” (p. 147), while the ‘minimalist’ Egyptian *fatwā* permits “all types of insurance, with minor recommended corrections” (p. 149).

74. Moreover, the fact that mutuals are mostly “non-profit organizations ... ensures that customers ... have access to credit at lower rates,” and renders them akin to “the Islamic ideal enshrined in the prohibition of *ribā*” (p. 173). Yet he does not mention the much older classical Islamic credit cooperatives. He then screens four possible models of banking on prudential criteria, and favors the mutuality model that characterizes credit unions, mutual saving banks, and similar thrift institutions (pp. 167–70).

75. Besides, (3) the “multinational and indigenous banks can perform their social function by training religious leaders and community members” in efficiently running their mutual institutions, besides “pooling [their] credit and insurance instruments ... for placement with socially conscious investors worldwide” (pp. 187–188). The other axial dimension of the base builds on the asset-based *ṣukūk* structures. Besides their economic virtues of curtailing the risk of default, and supplying an efficient benchmarking tool for *ṣukūk* interest, those structures can also yield additional “macroeconomic substance” if deployed in facilitating privatization programs, El-Gamal proposes (p. 186). He should have added another *macroeconomic* function for the “privatization *ṣukūk*”: they can also serve as instruments for the monetary agency’s conduct of monetary policy. Moreover, objectively, he should also have added another important, developmental role in which “development *ṣukūk*” would facilitate the opposite of privatization. This type of *ṣukūk* can underwrite the entrepreneurial role of the state, which has been instrumental in the successful industrial development of many countries, notably Japan, which also adopted a policy of the eventual privatization of the state’s industrial ventures.

76. That is: (1) The Reformist-Traditionalist advocates in Thomas’ volume (the Thomas- Delorenzo position); (2) the radical Muslim-Secularist critics, mainly (Neo-conservative) Kuran; and (3) the Islamic Rationalists/Modernists, mainly Chapra, Nasr, and El-Gamal. The “portrait”—it is recalled—comprised its philosophy of social harmony, and related doctrine of justice (*ʿadl qua qist*), as well as its micro- and macro-economic institutions, and their underlying doctrine of socially embedded markets (*sūqs*).

REFERENCES

- Abdel-Baqi, M.F. *Al-Mu'jam Al-Mufahras Li Alfāz Al-Qur'ān Al-Karīm (Concordance of Terms of The Glorious Quran)*. Cairo: Dar Al-Sha'b Press, 1945.
- Acar, Rahim. *Talking about God and Talking about Creation: Avicenna's and Thomas Aquinas' Postions*. Leiden: E.J. Brill, 2005.
- Al-Shātibi, Abū Ishāq. *Al-Muwafaqāt fī Uṣūl al-Sharī'ah (The Concordancies in the Fundamentals of Sharī'ah)*, edited by M. al-Iskandarani and A. Darweesh. Beirut: Dār al-Kitāb al-'Arabi, 2006.
- Amin, G.A. "Seventy-Five Years of Economic Thought in Egypt." In *The Development of Social Science in Egypt, Cairo Papers in Social Science* 18, No. 3 (1995): 2-17.
- Ansari, Sarah. "Pakistan." *Encyclopaedia of Islam, New Edition*. Vol. VIII (1995): 240-44.
- Arnaldez, R. "Ibn Rushd." *Encyclopaedia of Islam, New Edition*. Vol. III (1986): 909-20.
- Bianquis, Th., P. Guichard, A. Raymond, and others. "Sūq." *Encyclopaedia of Islam, New Edition*. Vol. IX (1997): 786-801.
- Chapra, M.U. "The Prohibition of *Riba* in Islam: An Evaluation of Some Objections." *American Journal of Islamic Social Sciences* 1, no. 2 (1984): 23-42.
- . "Correspondence: Islamic Economics and the Islamic Subeconomy." *Journal of Economic Perspectives* 10, no. 3 (1996): 193-95.
- Coase, Ronald H. *The Institutional Structure of Production* The Nobel Foundation, 1991.
- Dar, H.A., and J.R. Presley. "Lack of Profit Loss Sharing in Islamic Banking: Management and Control Imbalances." Paper presented at *ERF Sixth Annual Conference*, Economic Research Forum, Cairo, 1999.
- Ebrahim, M.S., and A. Safadi. "Behavioral Norms in the Islamic Doctrine of Economics: A Comment." *Journal of Economic Behavior and Organization* 27 (1995): 151-7.
- El-Gamal, M.A. "An Economic Explication of the Prohibition of *Riba* in Classical Islamic Jurisprudence." *Proceedings of the Third Harvard University Forum on Islamic Finance*. Cambridge, MA: Centre for Middle Eastern Studies, Harvard University (2000).
- . "An Economic Explication of the Prohibition of *Gharar* in Classical Islamic Jurisprudence." *Islamic Economic Studies* 8, no.2 (2001).
- . "Limits and Dangers of Shari'a Arbitrage." In *Islamic Finance: Current Legal and Regulatory Issues*, edited by S. Ali. Cambridge, MA: Islamic Finance Project, Harvard law School, 2005.

- . *Islamic Finance: Law, Economics, and Practice*. Cambridge, U.K.: Cambridge University Press, 2006.
- El-Sheikh, Salah. "The Moral Economy of Classical Islam: A FiqhiConomic Model." *The Muslim World* 98, no. 1 (2008): 116-44.
- . "*al-Mujādalāh* and *al-Mujādilah* Then and Now: *Kalām*, Dialectical Argument, and Practical Reason in *al-Qur'ān*." *The Muslim World* 93, no. 1 (2003): 1-50.
- . "Sirat Mustaqim and Hikma: A Quranic View of Socioeconomic Behaviour, Economic Discourse and Method." *The American Journal of Islamic Social Sciences* 16, no. 2 (1999): 55-87.
- Esposito, John L. "Pakistan: Quest for Islamic Identity." In *Islam and Development: Religion and Sociopolitical Change*, edited by J.L. Esposito, 139-62. Syracuse, N.Y.: Syracuse University Press, 1980.
- Fischel, W. "The Origin of Banking in Mediaeval Islam: A Contribution to the Economic History of the Jews of Baghdad in the Tenth Century (Parts I - IV)." *Journal of the Royal Asiatic Society* (1933a): 339-52.
- . "The Origin of Banking in Mediaeval Islam: A Contribution to the Economic History of the Jews of Baghdad in the Tenth Century (Part V)." *Journal of the Royal Asiatic Society* (1933b): 569-603.
- . "*Djahbadh*." *Encyclopaedia of Islam, New Edition*. Vol. II (1983): 382-3.
- Fusfeld, Daniel R. *The Age of the Economist, Sixth Edition*. Glenview, Illinois: Scott, Foresman and Company, 1990.
- Geertz, C. "Suq: The Bazaar Economy in Sefrou." In *Meaning and Order in a Moroccan Society*, edited by C. Geertz, H. Geertz, and L. Rosen, 123-313. Cambridge: Cambridge University Press, 1979.
- . "Local Knowledge: Fact and Law in Comparative Perspective." In *Local Knowledge: Further Essays in Interpretive Anthropology*, edited by C Geertz, 167-234. New York: Basic Books, 2000.
- Gleave, R. M. "*Makāsīd al-Shari'a*." *Encyclopaedia of Islam, New Edition*. Vol. XII (2004): 569-70.
- Hallaq, Wael B. *A History of Islamic Legal Theories: An Introduction to Sunnī Usūl al-Fiqh*. Cambridge, U.K.: Cambridge University Press, 1997.
- . *Law and Legal Theory in Classical and Medieval Islam*. Variorum Collected Studies Series. Brookfield, Vermont: Ashgate Publishing Company, 1994.
- . "On the Authoritativeness of Sunni Consensus," *International Journal of Middle East Studies* 18 (1986): 427-54. (Reprinted with an addendum in Hallaq (1994)).
- Heinrichs, W.P. "*Kawā'id Fikhiyya*." *Encyclopaedia of Islam, New Edition*. Vol. XII (2004): 517-18.

- Hourani, G.F. "The Basis of Authority of Consensus in Sunnite Islam." *Studia Islamica* 21 (1964): 13-60.
- Ibn Khaldūn, 'Abd-ar-Rahman. *The Muqaddimah: An Introduction to History* (Translated by Franz Rosenthal; abridged and edited by N.J. Dawood). Princeton, N.J.: Princeton University Press, 1974.
- Ibn Rushd, Abu 'l-Walīd Muhammad. *Bidāyat al-Mujtahid wa Nihāyat al-Muqtasid (A Departure Point of the Striving Jurist and the Destination for the Earnest Seeker [of Shari'a Goals])*, edited by S. al-Jaza'iri. Beirut: Resalah Publishers, 2004.
- . *Fasl al-Maqāl wa Taqrīb mā bayn al-Shari'a wa 'l Hikma min al-Ittisāl (A Decisive Discourse and the Converging Bonds between Shari'a and Philosophy)*, edited by G.F. Hourani. Leiden: E.J. Brill, 1959.
- Khadduri, M. "Maslaha." *Encyclopaedia of Islam, New Edition*. Vol. VI (1991): 738-740.
- Khan, M. "A Comment on the Notion of Economic Justice in Contemporary Islamic Thought." *International Journal of Middle East Studies* 22 (1990): 375-77.
- Kuran, T. *Islam and Mammon: The Economic Predicaments of Islamism*. Princeton, N.J.: Princeton University Press, 2004.
- . "Correspondence: Response from Timur Kuran." *Journal of Economic Perspectives* 10, no. 3 (1996): 195-96.
- . "Further Reflections on the Behavioral Norms of Islamic Economics." *Journal of Economic Behavior and Organization* 27 (1995): 159-63.
- . "Islamic Economics and the Islamic Subeconomy." *Journal of Economic Perspectives* 9 (1995a): 155-73.
- . "On the Notion of Economic Justice in Contemporary Islamic Thought." *International Journal of Middle East Studies* 21, no. 2 (1989): 171-91.
- . "The Economic System in Contemporary Islamic Thought: Interpretation and Assessment." *International Journal of Middle East Studies* 18 (1986): 135-64.
- . "Behavioral Norms in the Islamic Doctrine of Economics: A Critique." *Journal of Economic Behavior and Organization* 4 (1983): 353-79.
- McGinnis, Jon. "Review of R. Acar's *Talking about God and Talking about Creation* (Leiden: E.J. Brill, 2005)." *International Journal of Middle East Studies* 39 (2007): 291-92.
- Naqvi, Syed Nawab Haider. *Ethics and Economics: An Islamic Synthesis*. Leicester: Islamic Foundation, 1981.
- . *Individual Freedom, Social Welfare and Islamic Economic Order*. Islamabad: Pakistan Institute of Development Economics, 1981a.

- . *Islam, Economics, and Society*. London: Kegan Paul International, 1994.
- Nasr, Seyyed Vali Reza. "Toward a Philosophy of Islamic Economics." *Muslim World* 77 (1987): 175-96.
- . "Whither Islamic Economics?" *Islamic Quarterly* 30 (1988): 211-20.
- . "Islamic Economics: Novel Perspectives." *Middle Eastern Studies* 25 (1989): 516-30.
- . "Islamization of Knowledge: A Critical Overview." *Islamic Studies* 30, no. 3 (1991): 387-400.
- . *Mawdudi and the Making of Islamic Revivalism*. New York: Oxford University Press, 1996.
- Paret, R. "Istiḥsān and Istislāḥ." *Encyclopaedia of Islam, New Edition*. Vol. IV (1990): 255-59.
- Polanyi, Karl, C.M. Arensberg, and H.W. Pearson, Eds. *Trade and Market in the Early Empires: Economics in History and Theory*. London: Collier-Macmillan, 1957.
- Roberts, J. "Perfectly and Imperfectly Competitive Markets." *The New Palgrave: A Dictionary of Economics*, Vol. 3 (1987): 837-41.
- Rodinson, Maxime. *Islam and Capitalism* (Translator Brian Pearce). Austin: University of Texas Press, 1978.
- Said, Edward W. *Orientalism*. New York: Vintage Books, 1979.
- . *Covering Islam: How the Media and the Experts Determine How We See the Rest of the World*. New York: Pantheon Books, 1981.
- . *Culture and Imperialism*. New York: Vintage Books, 1994.
- Schacht, J. "Muhammad 'Abdu." *Encyclopaedia of Islam, New Edition*. Vol. VII (1993): 418-20.
- Simon, Herbert A. *Rational Decision Making in Business Organizations*. The Nobel Foundation, 1978.
- Smith, J. I. "Fundamentalism Observed, edited by Martin E. Marty and R. Scott Appleby (The Fundamentalism Project, Vol. 1): A Review." *Middle East Studies Association Bulletin* 28 (1994): 169-72.
- Stigler, G.J. "Competition." *The New Palgrave: A Dictionary of Economics*, Vol. 1 (1987): 531-6.
- Stiglitz, J. *Globalization and Its Discontents*. London: Penguin Books, 2002.
- Tantawi, M. S. *Mu'āmalāt al-Bunūk wa Ahkāmuhā al-Shar'īyyah (Banking Transactions and Their Shari'ah Rulings)*. Cairo: al-Saada Press, 1990.
- Taylor, Richard C. "Averroes: Religious Dialectic and Aristotelian Philosophical Thought." In *The Cambridge Companion to Arabic Philosophy*, edited by P. Adamson and R.C. Taylor, 180-200. Cambridge: Cambridge University press, 2005.

- Thomas, A., Ed. *Interest in Islamic Economics: Understanding Riba*. London: Routledge, 2006.
- Toledano, E.R. "Muhammad 'Ali Pasha." *Encyclopaedia of Islam, New Edition*. Vol. VII (1993): 423-31.
- Udovitch, Abraham L. *Partnership and Profit in Medieval Islam*. Princeton, N.J: Princeton University Press, 1970.
- . "Islamic Law and the Social Context of Exchange in the Medieval Middle East." *History and Anthropology* 1 (1985): 445-65.
- Urvoy, Dominique. *Ibn Rushd (Averroes)*, translated by O. Stewart. Cairo: American University in Cairo Press, 1993.
- Vaughn, K.I. "Invisible Hand." *The New Palgrave: A Dictionary of Economics*, Vol. 2 (1987): 997-9.
- Weir, T.H., and A. Zysow. "Sadaka." *Encyclopaedia of Islam, New Edition*. Vol. VIII (1995): 708-16.
- Zysow, A. "Zakāt." *Encyclopaedia of Islam, New Edition*. Vol. XI (2002): 406-22.