



THE ZAKI BADAWI MEMORIAL LECTURE SERIES

TOWARD A MUSLIM **SOCIAL** **CONTRACT** IN EUROPE

MUSTAFA CERIC *Grand Mufti of Bosnia-Herzegovina*

THE ASSOCIATION OF MUSLIM SOCIAL SCIENTISTS • THE CITY CIRCLE

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2

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British Library Cataloguing-in-Publication Data.

A catalogue record for this book is available from the British Library.

ISBN 978-1-56564-439-7 paperback

Printed in the United Kingdom by Oxuniprint

SERIES EDITORS

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BEHOLD, as for those who have attained to faith, and who have forsaken the domain of evil and are striving hard, with their possessions and their lives, in God's cause, as well as those who shelter and succour [them] – these are [truly] the friends and protectors of one another. But as for those who have come to believe without having migrated [to your country] – you are in no wise responsible for their protection until such a time as they migrate [to you]. Yet, if they ask you for succour against religious persecution, it is your duty to give [them] this succour – except against a people between whom and yourselves there is a covenant: for God sees all that you do.

(The Qur'an, 8:72)

FOREWORD

THE AMSS ZAKI BADAWI MEMORIAL LECTURE series commemorates the life, work, and achievements of the late Sheikh Professor M.A. Zaki Badawi O.B.E., K.B.E. During his long career Dr. Badawi held many important posts including that of founder and Principal of the Muslim College, founder of the Imams and Mosques Council (UK), chair and founding member of the Forum Against Islamophobia and Racism (FAIR), and founding member of the Association of Muslim Social Scientists (AMSS UK). He contributed much to the cause of British Islam and multiculturalism as well as to the development of sustained inter-faith relations.

Dr. Mustafa Ceric, Grand Mufti of Bosnia-Herzegovina, delivered the Second Lecture on the topic of ‘Toward a Muslim Social Contract in Europe’ on 15th May 2008 at The Brunei Gallery, School of Oriental and African Studies (SOAS), the University of London. The event was jointly organised by the AMSS (UK), The City Circle, and the Centre for Advanced Studies (Bosnia). The text of the lecture is reproduced here.

In an intelligent, and thought provoking address Dr. Mustafa Ceric introduces the concept of a Muslim Social Contract and broadens it to advocate positive active participation and integration by Muslims in wider European society. Muslims cannot remain passive onlookers insists Dr. Ceric, but must meet the issues of the times and become active agents of moral and social development bound by an ethic which is at once divine and at the same time based on the rule of law.

The term “social contract” is not a new one and concerns primarily the idea that individuals living in society need to abide by certain principles to ensure stability and maintain social order. Although John Locke

and Jean Jacques Rousseau are often cited as its greatest and founding proponents, Dr. Ceric points to preceding Muslim scholars and Islamic tradition as also having developed a comprehensive theory, particularly Imam al-Ghazālī and Ibn Khaldūn, whose vision goes further to include humanity's relationship and obligations to God as well as mutual obligations to others. So it is not a philosophy or a concept alien to Muslims but very much part of their vision for humanity, and as such, maintains Dr. Ceric, Muslims have a unique understanding and position, able to bridge diversity and act as a force for positive social change.

The event was also marked by presentation of the AMSS UK Lifetime Achievement Award 2007 to Dr. Mustafa Ceric, in recognition of his outstanding scholarship, promotion of peaceful coexistence, distinguished contributions to better understanding between Faiths, and to a wider recognition of the place of faith in present day Western culture.

SERIES EDITORS

June, 2008

TOWARD A MUSLIM SOCIAL CONTRACT IN EUROPE

IN JANUARY 2001 ON THE OCCASION OF the Islamic European Conference which took place in Paris, I presented a short paper on “Islam and European Citizenship.” Listening to my presentation, Sheikh Zaki Badawi became impressed by the idea of Europe being viewed as a House of Contract, a concept which I had introduced in the lecture, and inspired me to develop it further. Later, in January 2002, I was requested by our Sheikh to prepare a paper on behalf of Muslims for a seminar taking place at Lambeth Palace (the official residence of the Archbishop of Canterbury), on “Building Bridges: Overcoming Obstacles in Christian–Muslim Relations.” During this occasion he also requested me with the honour of leading the Friday noon-prayer, something never done before at Lambeth Palace, in front of such Muslim dignitaries as Prince Hasan of Jordan and Tariq Ramadan. Such was Sheikh Badawi a man of unique personality and astute understanding. He liked to provoke Muslim narrow-mindedness and support sound new ideas, ones that would lead to genuine Muslim engagement in European society. Personally, I was very much inspired by the character and achievements of Sheikh Badawi, an inspiration which later lead me to write the *Declaration of European Muslims* and to also begin work on further developing the concept which had first intrigued him so much, of a Muslim Social Contract in Europe. It is a pleasure for me to present this paper in his honour today.

The title of the Second Annual Zaki Badawi Memorial Lecture is an interesting and fairly apt one for it is primarily indicative of intent, positive engagement on a socio-political as well as intellectual level, highlighting the importance of European Muslim communities integrating into the mainstream of European life. Although the Muslim presence in European history is a long and established one, recognised for some time by historians, European expectations of Muslim integration into European society is on the other hand a relatively new phenomena, and must be considered a momentous event in Muslim history.

Integration unfortunately is not progressing altogether smoothly for today although European Muslims are actively contributing to all fields of life, they are also passive targets of social antagonism. Hence, the most challenging question that Muslims face today is: How can we participate actively and faithfully in a democratic society? In fact, this question begs a much deeper one, concerning man's relation to God and man's relation with man, in essence the core of human existence. So, as much as it is about God, the divine message is also about man's relationship with God and man's relationship with man. As Professor Fazlur Rahman has put it: "The Qur'an is a document that is squarely aimed at man; indeed, it calls itself 'guidance for mankind' (*hudan li al-nās*)."¹ It is this very "guidance" that we need today in order to find the answers to the questions that have plagued man throughout his earthly existence: "What are we? Where are we? Where did we come from? Where are we going?"

On the level of individual conscience, Muslims may find the answer to these questions in the meaning of their *‘aqīdah* (belief). This contains two principles: the principle of God, the Creator of the Universe, and the principle of the Prophet (ṢAAS),* the Messenger of God. For people of faith it is religious belief in the sense of the continuity of memory that determines the identity of man and the notion of him being aware: of where he came from, and to where he is going.

But as much as it is valuable for man's identity, religious belief (*‘aqīdah*) goes beyond and is different from the limited use of the term "identity" which we normally understand as race, ethnicity, nationality

* (ṢAAS) – *Ṣallā Allāhu ‘alayhi wa sallam*. May the peace and blessings of God be upon him. Said whenever the name of Prophet Muhammad is mentioned.

or gender. Religious belief transcends individual boundaries in the sense of it being universal in meaning, containing within it the idea of the whole existence of God-Man-Community-Society.

Hence, the kind of transition of belief or doctrine (*‘aqīdah*) into the collective Muslim consciousness is one of the most challenging tasks we face today. Who are the Muslims? Loose individuals with strong beliefs or a respectful community with a strong collective will? And where are the Muslims – in the world of isolation or the world of integration? We must seek answers in the Qur’an and the Sunnah. Indeed, we must come to a direct confrontation with the meaning of the Shari‘ah rather than viewing it through outdated interpretations, and in an effort to grapple directly with the Shari‘ah we must learn how to appreciate it. Gai Eaton puts it thus:

The word *Shari‘ah* means – ‘road or ‘highway’, but its derivation refers to beaten track by which wild animals come down to drink at their watering place. It is the road which leads to where the waters of life flow inexhaustibly.²

In other words, the Shari‘ah is the inexhaustible source of divine guidance for humankind. It is available to man, like any other God given substance, for man to sustain his life. It is up to man to find in the Shari‘ah what he needs for his own benefits, not in the sense of his whims but in the sense of truth both for his own mental health and justice, and for the health and justice of his community.³ God is not in need of man to tell Him what to do, but man is in need of God to teach him how to live. Thus, man has to exercise the *fiqh*, understanding, of the Shari‘ah. Again as Gai Eaton has put it:

The word *fiqh*, usually translated as ‘jurisprudence’, comes from the verb *faqih*, which means neither more nor less than ‘he understood’. *Fiqh*, then, has to do with understanding the divine commands and their ramifications in the fabric of daily life... for the Muslim, the crystallization of the Quranic message and the Prophet’s example into a body of livable law has been the supreme adventure. Islam is ‘submission’ to the Will of God, and the study of this miraculously revealed Will is seen as the most important study open to man as a creature endowed with intellect and reason. Law, moreover, has to do with the art of living together. In its broadest sense it is the science of human relationships.⁴

Indeed, the Shari‘ah⁵ is the Last Testament after the Old Testament (the Torah) and the New Testament (the Gospel). It is not only that Muslims have a right to remind others of the old and new testaments of the Abrahamic tradition, but they also have a duty to advance the inclusive concept of the Community (*Gemeinschaft*), based on the covenant and the Society (*Gesellschaft*), based on the contract. It is a fact that the Muslim Community is bound by its covenant with God, postulated in the form and content of the Shari‘ah, to advance and promote Society based on a social contract that respects and defends the human rights of all human beings everywhere.

Muslims must understand that it is not enough to focus on their personal belief (*‘aqīdah*) only, nor to claim perfection of the Divine Law (Shari‘ah). In addition to this, they must also demonstrate their ability to participate in society based on the contract both in terms of the government, the *pacte de gouvernement*, and the society, the *pacte d’association*. Those who have the knowledge and the will to guide Muslims to develop the concept of the Muslim Social Contract in Europe must also fulfill the right to develop within Muslims the concept of civil life based on Islam and its morals, so that this can eventually lead to the realization of real multiculturalism.

Hence, to work towards the development of a Muslim Social Contract in Europe it is incumbent upon Muslims today to find the right answer to the question: How can Muslims participate actively and faithfully in a democratic society?

The term “Muslim Social Contract” is not found in classical Muslim literature. It is a term⁶ which I have borrowed to designate my personal reading into the Islamic tradition in order to unfold its riches and to develop the concept of a Muslim Social Contract in Europe. I want to show that the Muslim faith (*imān*), the Muslim confession (*shahādah*), the Muslim religion (*dīn*), and the Muslim belief (*‘aqīdah*) are the driving forces for the integrative function of both the Muslim personality and the Muslim community.

The meaning of the term *imān* (faith) designates the inner security of the soul, which remembers that God, having drawn forth from the loins of Adam all the future generations of mankind, said to them, “*Alastu bi-rabbikum*” (Am I not your Lord?) and received the answer “*Balā*”

(Yes).⁷ This primordial covenant of mutual recognition between God and man has provided the posterior compact of mutual trust (*amānah*)⁸ between God and man, based on man's sincere confession (*shahādah*). For neither could there be sincere confession (*shahādah*) without genuine faith (*imān*), nor sincere faith without genuine confession. This interdependence between *imān* as a transcendental gift of God and the *shahādah* as an immanent will of man is the foundation for the *dīn* – religion as the driving force for the integrative function of the Muslim community. The final Qur'anic declamation that “as of today God has completed your *dīn* [religion], has given you His favour, and has designated Islam to be your *dīn* [religion]”⁹ is a clear indication that the *dīn* of Islam is more than personal *imān* (faith) and personal *shahādah* (confession). The *dīn*¹⁰ is the mutual bond among the members of the unique compact which is derived from the covenant of faith of the prior as well as posterior confession. The prior confession (*shahādah*) is the first confession of Adam's progeny done on behalf of humanity as a whole, and the posterior confession is the second confession of each and every person who is aware of the fact of the prior confession. This person is called Muslim, meaning one who remembers the prior confession (*shahādah*) as his/her own and submits his or her posterior confession as his/her personal commitment to the *dīn* of Islam, which means the religion of submission to the will of God, willingly or unwillingly (*taw'ān aw karhan*), as it is stated in the Qur'an:

Do they seek for other than the *dīn* of God? – while all creatures in the heavens and on earth have, willingly or unwillingly, bowed to His will, and to Him shall they all be brought back.¹¹

Thus, the word *dīn* is the closest concept to the idea of mutual compensation: “As you do so shall you be recompensed” (*kamā tudīnu tudānu*). It is on the notion of this mutual compensation that we should read Shahrastani's account of the meaning of *millah* (community) when he says:

Since man needs to live together with others of his species to provide for his subsistence and also to prepare himself for his eternal destiny, this corporate living has to be of a kind that will ensure mutual defense and

co-operation; by mutual defence he will be enabled to keep what is his, and by mutual co-operation to obtain what he does not possess. This form of corporate living is the millah. The special path leading to it is called the minhāj, shir'ah or sunnah. The agreement on that sunnah is called jamā'ah; as God says, "To every one of you We have appointed a right way and an open way."¹²

On the other hand, the word *‘aqīdah* (pl. *‘aqā'id*, Muslim basic beliefs and attitudes) is the closest to the meaning of contract as a unilateral or bilateral agreement or promise to do or not to do something. The Arabic word *‘a-q-d* (literally "knot"), which is the root for the term *‘aqd* (pl. *‘uqūd*, contracts) as well as the term *‘aqīdah* (belief or doctrine), implies both unilateral and bilateral obligations. If ordained by God, the obligations are unilateral, but if dictated by humans, they are bilateral and must be in accordance to the normative and moral principles of *dīn* (religion).

Based on what has been said so far, we can conclude that the core of Muslim belief, which is based on the notion of *imān* (faith), *shahādah* (confession), *dīn* (religion) and *‘aqīdah* (belief) contains the foundation for the covenant (*‘ahd*), which denotes a self-initiated commitment as is stated in the Qur'an: "Fulfill the covenant with God (*wa awfū bi-‘ahdi Allāhi*) when you have entered into it, and break not your oaths after you confirmed them..."¹³ as well as a commitment of man toward God imposed by God and accepted by man as it is written in the Qur'an:

Verily those who pledge their loyalty to you [Muhammad] do no less than pledge their loyalty to God. The Hand of God is over their hands. Then anyone who violates his oath does so to the harm of his own soul, and anyone who fulfills what he has covenanted with God (*wa man awfā bimā ‘āhada ‘alaihu Allaha*) – God will soon grant him a great reward.¹⁴

Hence, it is clear that Islam is the religion of covenant with God. Consequently, the Muslims are the community of contract with men. Thus, it should be no surprise for us to hear that Imam al-Ghazālī (d. 1111) had preceded philosophers Thomas Hobbes (d. 1679), John Locke (d. 1704), and Jean-Jacques Rousseau (d. 1778), in advancing the concept of the social contract, when he said:

Man needs to live in society to be able to perform his voluntary actions and profitable transactions. He needs the cooperation of others in order to make his own living. He needs that cooperation in mutual defence to protect himself, his family and his property... The mutual defence and cooperation must be for a just cause and a comprehensive law.¹⁵



Hence, Islam is more than religion;¹⁶ it is law and morals. By law we mean the blueprint of a social order which denies to its members the use of private force for attaining redress of wrong, and by morals we mean man's knowledge and will to accept principles of right and wrong in behaviour. Furthermore, the law of Islam is more than religious law; it is a covenant the terms of which are neither negotiable nor terminable, and it is a contract the terms of which are both negotiable and terminable. Thus, it is political theology based on Islamic legal and moral foundations that concerns us here. Obviously there is a difference between the political theology of Islam¹⁷ and political Islam.¹⁸ The former is a concept of political prudence while the latter is thought to be politically radical.

It is not because of political Islam becoming an obsession both in the East and the West that we have chosen not to focus on it, but because we believe that the political theology of Islam is the challenge of our times. The political theology of Islam which we are talking about is close to political philosophy but far from a political imagination which has no relevance to anything political here and now; it is close to political pragmatism but far from admitting of a political application too easily. The point here is that although Muslims are the most united religious commonwealth in terms of their doctrinal and practical faith,¹⁹ they are nevertheless, the most disengaged political group in terms of their theoretical and global politics. Europe in contrast is politically united in spite of its diverse religious beliefs and practices.

Hence, when it comes to Islam the real issue, not only here in Europe but also in the Muslim world, is not about the purity of Muslim belief²⁰ (*‘aqīdah*) but the prudence of political thought and the nature of political power. There is no reasonable Muslim who does not understand the idea of One God (*tawhīd*) as well as the argument for

Muhammad being the last Messenger of God. But there is also no responsible Muslim who can comprehend the bloody political disputes that Muslims have been involved in. Although the argument that Muslim political disarray is due in part to Western unfairness has some merit, Muslims must likewise understand that it is their responsibility to secure their own rights by protecting the rights of others. Consoling themselves on the idea of being victims might satisfy some Muslims trying to justify certain conditions of their society, but it fails to provide us with an honest answer as to the real cause of our malaise, of what Muslims are and what they ought to do in order to help change the world for the better. Therefore, it is up to the Muslims of Europe to define themselves either by their relationship with God Almighty or by their relation to their xenophobes. I find David Novak's account concerning the Jewish debate on the definition of Jews to be useful to our discussion on the definition of Muslims in Europe. Thus, after quoting Jean-Paul Sartre's thesis that "The authentic Jew... thinks of himself as a Jew because the anti-Semite puts him in the situation of a Jew." Novak writes:

In other words, racial definitions of Jews are made by their persecutors, who frequently become their murderers. Jews who are alienated from Jewish tradition accept these self-definitions. Assimilated Jews even accept the pejorative value the anti-Semites build into these racial definitions of Jews and try to escape their Jewish identity. Nationalistic Jews invert this pejorative value, taking what was meant by anti-Semites to be a badge of shame and turning it into a badge of pride. But neither the assimilationists nor the nationalists know how to access the classical Jewish definition of "Jewishness," which is the doctrine of God's election of the Jewish people, collectively and individually. Only this definition enables Jews to transcend dependence on the world's opinions on them. Only God's opinion of the Jews should matter to them. This divine judgement is far more generous than any Jewish self-esteem and far more merciful than any Jewish self-hate.²¹

Since all authentic Muslim thought must begin from the Qur'an, one sees that the Muslim Community is not a biologically selected entity, but a morally uplifted humanity with a precise historical task to promote what is recognised to be right and to prevent what is condemned to be wrong. The Qur'anic statement: "You have been the best of

communities known to mankind because of your promotion of what is recognised (*ma'rūf*) to be good and your prevention of what is condemned (*munkar*) to be wrong..."²² is a clear criterion on the basis of which "every deed has consequences of one kind in this world, and consequences of another kind in the world to come...." Thus, for Muslims, writes Wilfred Smith:

History has meaning, ultimate meaning; but its meaning is not exhausted within itself. Rather there are norms and standards, standing above the historical process, according to which that process may and must be and indeed is being judged...²³

Thus, the brilliance of Islam is its resistance to subdue itself to an exhausted history which cannot reach out beyond its own exhaustion. Consequently, Islam is itself the biggest challenge to the Muslims themselves who have lost touch with the transcendental meaning of history because of their exhaustion in their own exhausted history. At the core of the Islamic worldview is the connection of the transcendental (*ghā'ib* or *bāṭin*) with the immanent (*shāhid* or *zāhir*). The *ghā'ib* is just absent; it is not nonexistent. And the *bāṭin* is just hidden; it is not dead. The *shāhid* is just present; it is not eternal. And the *zāhir* is just apparent; it is not essential. This world (*al-dunyā*) is here and now present and apparent, but it is not eternal and it is not essential. The other world (*al-ākhirah*) is absent and hidden, but it is eternal and essential.

Hence, the mission of the last Messenger of God was not to invent a new faith but to affirm the old truth and to integrate the transcendental with the immanent, to assure man that he has purpose which goes beyond himself. The Messenger was also to raise the Community that could play the role both of affirmative history and an integrative force. It has always been Islam's ability to balance between seemingly excluding elements that makes it an attractive and inclusive force. This is true not only with regard to the theological or metaphysical worldview but also with regard to historical or political action. The integration of *al-dunyā* with *al-ākhirah* is derived from the divine source, but the theological concept of it is a human act. Therefore, the act of integrating and balancing is not an accidental thought but a substantial divine

concept on the basis of which human models can be made. In other words, the principle of the integration of the *dunyā* with the *ākhirah* is a paradigm that calls for the integration of all extremes which break up the balance of the whole. Thus, since Islam is an integrative force between strongly related values, the Muslim is then the integrative agent between apparently interdependent realities. This makes us understand clearly why the Muslim Community has been bestowed with the role of the integrative position in history, as it is stated in the Qur'an:

It is God Who has made you to be the Integrative Community (*wasāṭan*) so that you may be witnesses for men and that the Messenger may be a witness for you...²⁴

I have translated the Qur'anic word *wasāṭan* as “integrative” rather than “justly balanced,” as it is in Yusuf Ali's translation, or “middle way,” as others would say, to give to the Muslim Community the meaning of the active rather than the passive witness. And this is what the Ummah is meant to be: a Universal Community in the middle of world affairs which has the active task of connecting, attracting and integrating the immeasurable greatness of the Divine with the immeasurable diversity of the human. Furthermore, the Ummah has the task of connecting, attracting and integrating similar elements of the divine message of Adam, Noah, Abraham, Moses, Jesus and Muhammad, peace be on them all, into the concept of a common human destiny based on a covenant that is morally binding and a contract that is legally workable. Indeed, the Muslim Ummah today has a historic opportunity to make a kind of reunion of the Abrahamic traditions that share a common word and a common destiny. Hence, the recent Muslim initiative of *A Common Word between Us and You*²⁵ should be taken seriously and further developed to become the common sense initiative of humanity. Indeed, Muslims must act as an integrative force in our fragmented world and as active witnesses in history. This is both their doctrinal obligation and their historical right. Their obligation is based on the doctrine of the position of the *wasāṭ*, which requires a balanced approach to all aspects of human life leading to the integration of all good in the world. And their right is based on the historical fact that they indeed did integrate human thought which

for example in 8th century Baghdad saw them translating works of Greek philosophy. This was followed by Cordoba, in Muslim Spain, where Muslims continued to play their integrative role, particularly in the integration of rational philosophy through the work of Ibn Rushd (Averroes) in the 12th century, the results of which formed a catalyst for European humanism and renaissance. Western-Islamic cultural integration has seen some of its most productive levels during the last two or three centuries, and the initiative has come interestingly from the West whereby major western universities have opened departments for oriental studies,²⁶ i.e., the study of the Arabic language and Islamic culture in the broadest sense of the word. It is due to oriental studies in the West that valuable references on Islamic culture exist today, relevant not only for the West, but also for Islam. Works such as the *Encyclopaedia of Islam*, the *Index of Hadith*, as well as the production and translation of fundamental Islamic theological and philosophical works available to the academic community in the West, provide indisputable proof of western contribution to the development of the West-Islamic cultural integration.

Thus we have a pattern, of Muslims being both an integrative force and a historical witness to human intellectual progress, Baghdad and Cordoba furnishing us with examples of when they had been obviously active. However, we also have examples of Muslims being integrated into the cultural developments made by the West when they became noticeably passive. Today, I believe, Muslims are experiencing the phenomenon of being both integrative²⁷ and integrated. The integrative are those who seek knowledge “even if it is in China” (taken from a hadith in which the Prophet said, “Seek knowledge even in China,”) whilst the integrated are those who do little or nothing except complain, of everyone and everything, only doing that which will bring them personal benefit. Muslims in Europe have a unique opportunity to avoid being the integrated and to be the integrative. They have freedom, by their moral obligations as well as their legal commitments, to be an integrative force in Europe, governed by a covenant of high moral standards and a contract of concrete legal norms. There cannot be real peace without morality and morality can only be maintained through covenant. Likewise, there cannot be security without law and

law can be established and maintained only through a contract that is founded on covenant which is related to constitutionalism. All these values which have to do with human social life are interdependent in such a way as to indicate the necessity of integrating them into the whole of human understanding. Thus, the integration (*wasat*) or combination (*tawfiq*) of kinship and consent, community and society (*gemeinschaft* and *gesellschaft*), individual and society, rights and duties, claims and responses, and right and good, is essential for us to understand that law cannot be just “human will” (Hobbes), cannot be just “human reason” (Locke), cannot be just “will and reason” (Rousseau), cannot be just “freedom” (Kant).²⁸ In addition to this there must be also law which is above and beyond human “will,” human “reason” and human “freedom,” there must be a Kierkegaardian “leap of faith,” there must be an Ibn Khaldūnian “group feeling,” that is *‘aṣabiyyah*. As Charles Cooley states, “One lives in the feeling of the whole and finds the chief aims of his will in that feeling.”²⁹ Thus, the bond of kinship is a matter of “feeling” among relatives tied by blood relationships, while the bond of consent is a matter of “faith” among rational people tied by moral obligation: “Do not do to another that which you would not have done to yourself” – is a universal moral imperative shared by Judeo-Christian-Islamic tradition with a slight difference as to the emphasis of the negative or positive imperative: “Do that to another, which you would have done to yourself,” (“None of you [truly] believes until he wishes for his brother what he wishes for himself” Hadith in al-Bukhārī). Although moral promises are not always sufficient without some kind of interest, this self-interest must be within a moral framework.

These two premises (kinship and consent) are integrative (*wasat*) motifs for obtaining a social contract, in the sense of mutual affiliation due to a blood relationship, and common moral commitments for the betterment of all. In times of assault on their faith, Muslims in Europe tend to apply strongly the narrative of consent based on the bonds of their common faith, however, when it comes to financial and other worldly affairs the bond of kinship is more prevalent. This is because as Ferdinand Tönnies has put it:

There are degrees of rationality of natural will and of the communities and groups which it forms. Thus in order of the importance of rationality there are the *Gemeinschaft* groups based on friendship, on neighborliness, and on blood relationships. Groups in which natural will predominates may range from those held together by intellectual ties to those bound by the instinctive liking or sympathy of biologically related individuals. Thus, the businessman, scientist, person of authority and upper classes are relatively more conditioned by rational will than the peasant, the artist, and the common people, who are more conditioned by natural will. In general, women and young people are conditioned predominantly by natural will, and men and older people by rational will.³⁰

Therefore, the real challenge for Muslims of Europe is their ability to integrate their community (*Gemeinschaft*), founded “on the norms that are sanctioned by religion through its beliefs, faith, and creeds,” with the society (*Gesellschaft*), which is based “on the norms of morality that are sanctioned by public opinion which arises from common interests.”³¹ This dichotomy of the *Gemeinschaft* and the *Gesellschaft* type is also the central idea of Ibn Khaldūn’s famous work *Muqaddimah*, “Prolegomena to Philosophy of History.” In fact, “his analysis of both types is one of the most penetrating, detailed, and enlightening.”³²

We believe that the integrative force (the *wasat*) between these two types of association is the Rule of Law based on the covenant as “the background, the ground, and the foreground of any contract.”³³ Thus, God is there, not as a partner with man, for the partner with man in the covenantal rights and obligations is God’s self-inscribed Mercy, as it is stated in the Qur’an: “Your Lord has inscribed for Himself [the rule of Mercy].”³⁴ Hence, the Muslim Social Contract is grounded on God’s rule of Mercy – the covenant, and the rule of law – the contract by way of which the Muslim Community has minimal claim to be free from interference in its religious and cultural life, and maximal claim to be recognised as well as supported in its religious and cultural autonomy because of its useful contribution to the common good and to society. And it is here that we have the meeting point, between the Muslim Community and European Civil Society, the principle of covenant which has never lost its original meaning and significance either in European moral or political life, as Daniel Elazar writes:

The cleavage between the modern and premodern epochs is generally acknowledged. We may argue over the extent of the cleavage and the degree of continuity across the premodern-modern divide, but the fact that the cleavage was and is a reality for most people who have undergone modernization has been well-documented. Nevertheless covenant is one of those concepts and its tradition one of the cultures that did manage to cross the divide and survive; transformed, indeed, but in the process having an enormous influence on the shaping of the modern epoch, especially in its political dimension, and continuing to compel certain populations or at the very least to serve as the rock of refuge to which they return for reinvigoration in times of need. It is no less important to recall that the political transformations of modernity were initiated by and achieved their greatest success in those countries where the covenantal tradition had been strongest, particularly Switzerland, the Netherlands, Scotland and England, and the United States.³⁵

Thus, the Muslim Social Contract is made up of a covenant with certain individual and communal prior rights and a contract with certain social rights and duties, as summarised below. It is in essence a theory of honouring mutual obligations to maintain harmony, peaceful coexistence, and stability in society.

Prior rights

1. Right to life as the gift of God (*nafs*).
2. Right to religion as the need of the heart (*dīn*).
3. Right to freedom as the essence of the human being (*‘aql*).
4. Right to property as the need of life (*milk*).
5. Right to dignity as the essence of human identity (*‘ird*).
6. Right to biological reproduction as the need for human continuity (*nasl*).

Social rights and duties

1. That man is God’s creature and should not do harm to God’s creation, nature.
2. That every man work and live in peace with others.
3. That men defend freedom of belief and expression and work for freedom from fear and poverty.
4. That every one promote tolerance in society as a sign of human strength.

5. That people practice religious and cultural dialogue with religious and cultural solidarity.
6. That every man recognise another man to be free and his equal.
7. That every man keep his promise, fulfill his covenant and work out his contract to the full.
8. That noone seek revenge because of past evil, but look for a better future.
9. That noone spread hatred.
10. That everyone respect the rights of others at every time and at every place.
11. That no member of society use private force for attaining redress of wrong, but submit his right to the just rule of law.
12. That Europe is the House of Peace, the Union of Social Contract and the Abode of all peoples who take it as their home.

Obviously, the scope of this lecture is limited and thus cannot focus on all the relevant arguments concerning the need for a Muslim Social Contract in Europe, but for the time being and the space available we can safely say that in the spirit of liberation and fairness, the Muslims of Europe may not only find their rights honoured within the civil society of Europe, but as citizens of Europe should likewise honour their duties towards society, and accept it as the society of a fulfilled covenant with God and a workable contract with men.



NOTES

- ¹ Qur'an, 2:185; Fazlur Rahman, "Major Themes of the Qur'an," *Biblioteca Islamica* (Chicago: 1980), p.1.
- ² Gai Eaton, *Islam and the Destiny of Man* (Cambridge: The Islamic Texts Society, 1997), p.180.
- ³ "Justice is the first virtue of social institutions, as truth is of system of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust... the rights secured by justice are not subject to political bargaining or to the calculus of social interests." John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), p.3.
- ⁴ Eaton, pp.180–181.
- ⁵ I cannot but express my deep appreciation of the Archbishop of Canterbury, Dr. Rowan Williams's Lecture, "Civil and Religious Law in England: A Religious Perspective," which he delivered at the Royal Courts of Justice on February 7, 2008. Dr. Rowan Williams has not only demonstrated his ability to read and understand the principles of the Shari'ah, but also shown courage in informing fellow citizens of what they ought to learn about the faith and cultures of others. This is a sign of strength not a sign of weakness.
- ⁶ In his account for the origin of the term, Steve Reilly had this to say: "An unwritten agreement between the members of a society to behave with reciprocal responsibility in their relationships under the governance of the 'state' which, in social contract theory is presupposed by the existence of that society. The idea is of ancient origin (Plato, Lucretius, etc.), but it was chiefly used as a tool for criticizing established, traditional authority when the modern nation-state were breaking away from Christendom, and seeking both autonomy and just internal constitutions. Its chief exponents were Thomas Hobbes (1588–1679), who argued that the social contract created mutual obligations which did not exist prior to the constituted state, John Locke (1632–1704), who argued that moral principles and obligations existed before the creation of the state, so that men could change the state if it failed to uphold these principles; and Jean Jacques Rousseau (1712–78), who developed a famous work on the subject." See, *The New Fontana Dictionary of Modern Thought*, ed. Alan Bullock and Stephen Trombly (Harper Collins Publishers, 1977), pp.799–800.
- ⁷ Qur'an, 7:171; see R.A. Nicholson, *The Idea of Personality in Sufism* (Lahore: 1970), pp.22–23.
- ⁸ It is the Qur'anic narrative that "God has offered the trust (*amānah*) to the heavens and the Earth, and the mountains, but they refused to undertake it, being afraid thereof, but man undertook it – he was indeed unfair (*zalīm*) and ignorant (*jahīl*)" (Qur'an, 33:72). The point here is that man became God's trustee on Earth by his own will regardless of the fact that he was not fully aware of the burden of the trust he was undertaking.
- ⁹ Qur'an, 5:3.

- ¹⁰ “The etymology of the word *dīn* (religion) indicates binding and commitment... it also means to be indebted to others, to be subjected to them, obey them and owe allegiance to them....” Quoted from Eltigani Abdelgadir Hamid, *The Qur’an and Politics – A Study of the Origins of Political Thought in the Makkan Qur’an* (London: The International Institute of Islamic Thought, 2004), p.38.
- ¹¹ Qur’an, 3:83.
- ¹² Qur’an, 5:48; see Muhammad b. ‘Abd al-Karim Shahrastani (d. 1153), *Muslim Sects and Divisions*. The Section on Muslim Sects in *Kitāb al-Milal wa al-Nihal*, translated by A.K. Kazi and J.G. Flynn, (London: Kegan Paul International, 1984), p.33.
- ¹³ Qur’an, 16:91.
- ¹⁴ Qur’an, 48:10.
- ¹⁵ Eltigani Abdelgadir Hamid, *The Qur’an and Politics*, p.179.
- ¹⁶ See Tocqueville’s observation: “Islam is the religion which has most completely confounded and intermixed the two powers ... so that all the acts of civil and political life are regulated more or less by religious law,” quoted from Ernest Gellner, *Muslim Society* (Cambridge: Cambridge University Press, 1981), p.1. Wilfred Cantwell Smith, *Islam in Modern History* (Princeton: Princeton University Press, 1957), p.9.
- ¹⁷ By the political theology of Islam is not meant a political theocracy in the sense of a rule of clerics. The political theology of Islam means the rule of law and morals not in the sense of positivism which does not give proper space to morality, nor in the sense of naturalism which does not properly recognise the function of legal tradition. By the idea of the political theology of Islam I mean the political and moral tradition of the Muslim Community. In its substance it is moral and in its form it is legal in the sense that legal reasoning is not just a historical description, nor an abstract moral reflection on what rules or principles would be appropriate to a just world, but it assumes both.
- ¹⁸ It is sufficient to cite a few references: Oliver Roy, *The Failure of Political Islam*, translated by Caral Volk (Harvard University Press, 1994); *Political Islam, Essays from Middle East Report*, ed. Joel Beinin and Joe Stork (University of California Press, 1997); Peter Mandaville, *Global Political Islam* (London: Routledge, 2007).
- ¹⁹ It is a fact of Muslim religious life that the Qur’an is the one and only Holy Book for all Muslims, that the Prophet Muhammad is universally acknowledged as the last Messenger of God, that the Ka‘aba is the universally accepted direction for Muslim prayer, and that the Muslim regular prayer is in Arabic, etc.
- ²⁰ “Christians are puzzled when told that jurisprudence, not theology, is the principle religious science in Islam and that the *‘ālim*, the learned religious scholar, is primarily a jurist who tells people what to do rather than what to believe. But for the Muslim there is no problem in knowing what to believe; his [her] concern is what to do under all circumstances in order to conform to the Word of God and to walk without stumbling on the road which leads to Paradise.” See, Eaton, p.180.
- ²¹ See, David Novak, *The Jewish Social Contract* (Princeton: Princeton University Press, 2005), pp.15–16.
- ²² Qur’an, 3:110.
- ²³ See, Wilfred Cantwell Smith, *Islam in Modern History* (Princeton: Princeton University Press, 1957), p.25.

²⁴ Qur'an, 2:143.

²⁵ Here are some facts concerning the Muslim initiative: *A Common Word between Us and You*. On September 13th 2006 – H.H. Pope Benedict XVI's Regensburg University Lecture; October 13th 2006 – 38 international interdenominational leading Muslim scholars release an irenic joint Open Letter to the Pope in response to the Regensburg Lecture. October 13th 2007 – On the One Year Anniversary of the joint Open Letter to the Pope, the 38 scholars are joined by another 100 scholars (138 in total) and together issue the document *A Common Word between Us and You* to the Pope and all the leaders of the major Christian churches, worldwide. *A Common Word between Us and You* proposes Love of God and Love of Neighbour as the common ground between Christianity and Islam. *A Common Word* was written by Prince Ghazi of Jordan, and corrected by a number of senior Muslim scholars including the Grand Mufti of Egypt Ali Jum'a, Sheikh Abdullah bin Bayyah, Sheikh Mohammad Sa'id Ramadan al-Buti, Habib Ali Jiffri and Abd al-Hakim Murad; it was released by all 138 scholars together. October 14th 2007–March 14th 2008 – The leadership of the Christian world issue around 50 different responses and reactions to *A Common Word*, these include Pope Benedict XVI, the Archbishop of Canterbury Dr. Rowan Williams, Lutheran Presiding Bishop Hanson, World Baptist Alliance President Coffey, World Council of Churches General Secretary Kobia, Cardinal Scola, Cardinal Pell, Leaders of the Mennonite and Quaker Churches, Unitarian Congregation President Sinkford, British Prime Minister Gordon Brown and Former Prime Minister Tony Blair, and a number of Orthodox Christian leaders. The document is also welcomed by a few Jewish leaders, including the Chief Rabbis of Israel.

²⁶ I am aware of Edward Said's profound critique of Western orientalism and one tends generally to agree with him, but one should be fair and acknowledge the fact that today many Muslim students are coming to the West to enjoy academic freedom and seek fundamental knowledge about Islam thanks to Islamic oriental studies at many Western universities.

²⁷ For more on the integrative role of Muslims in history see, Tim Wallace-Murphy, *What Islam Did for Us: Understanding Islam's Contribution to Western Civilization* (London: Watkins Publishing, 1988).

²⁸ See Lloyd L. Weinreb, *Natural Law and Justice* (Harvard University Press, 1987).

²⁹ Charles Horton Cooley, "Primary Groups." Chapter 3 in *Social Organization* (New York: Charles Scribner's Sons, 1909).

³⁰ Ferdinand Tönnies, *Community and Society* (New York: Dover Publications, 2002), p.5.

³¹ See *Ibid*, p.9.

³² See, "Introduction" by Charles P. Loopis and John C. McKinny, *Ibid*, p.vii.

³³ See, Novak, p.31.

³⁴ Qur'an, 6:54.

³⁵ Daniel J. Elazar, *Covenant and Civil Society: The Constitutional Matrix of Modern Democracy* (London: Transaction Publishers, 1989), p.7.

In honour of the life and work of Sheikh Zaki Badawi, OBE, KBE, and in recognition of his noted public contribution in championing the vital role of religious faith and values in the life of the nation, the AMSS has established the annual Zaki Badawi Memorial Lecture. The lecture series is dedicated to Dr. Badawi's vision to foster pluralism, inter-faith dialogue, inter-cultural understanding, and social cohesion.

In this, the second Memorial Lecture in honour of Sheikh Zaki Badawi, Dr. Mustafa Cerić, Grand Mufti of Bosnia-Herzegovina, examines one of the most important issues facing Muslim communities in Europe today "How to participate actively and faithfully in modern European society?" Dr. Cerić introduces the concept of a Muslim Social Contract theorising on its value, philosophical and religious foundations, as well as wider implications for Muslims in Europe. It is in essence a theory of mutual obligations advocating positive engagement by Muslims on a socio-political as well as intellectual level in wider European society.



THE ASSOCIATION OF MUSLIM SOCIAL SCIENTISTS (UK)
THE CITY CIRCLE

Cover Image *Corbis*

ISBN 978-1-56564-439-7



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