



Intra-Muslim Debates on Ecology: Is Shari'a Still Relevant?

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Abstract

A survey of the proliferating literature by Muslims on ecology indicates that the majority favors some role for traditional Islamic law in order to solve the current environmental crisis. And so what is the meaning of the word “Shari’a” that appears so often? A close look at this discourse reveals an inherent fuzziness in its use of Shari’a. All of the scholar/activists surveyed in this paper, though on the conservative end of the spectrum, chiefly refer to “Shari’a” as a source of ethical values. The first to address these issues was Iranian-American philosopher Seyyed Hossein Nasr whose pluralist theology is hospitable to the spiritual input of all faiths; yet the most influential environmentalists today are the British scholars Mawil Izzi Dien and Fazlun Khalid, whose writings and campaigns have impacted millions of Muslims worldwide. Their appeal to past norms of eco-friendly Shari’a norms and their desire to update them in the present context fits nicely with the Earth’s Charter call for “a sustainable global society founded on respect for nature, universal human rights, economic justice, and a culture of peace.”

Keywords

Islam, environment, Shari’a, Seyyed Hossein Nasr, Mawil Izzi Dien, Fazlun Khalid, Othman Llewellyn

In the first decade of this century and beyond, political debates in the United States were swirling around the issues of Islam, Shari’a, terrorism and jihad. In 2011 New York Representative Peter King held congressional hearings on the “threat of homegrown Islamic terrorism,” implying that all American Muslims are under scrutiny for potentially not cooperating with those charged to protect the homeland from terrorists. Further, some thirteen states at that time had laws pending that would ban any legal recourse to Shari’a in their jurisdiction. The Tennessee bill written by Arizona-based attorney David Yerushalmi in 2010 was the most extreme: it would make it a

felony to follow certain parts of Shari'a.¹ Tennessee Muslims active in trying to block such legal action retorted that Shari'a is at the core of their faith—it includes the divine guidelines for how to pray, how to fast during Ramadan, how to give to the poor and how to conduct one's life with compassion and integrity.

The purpose of this paper is not to weigh in on this controversy, but to focus on how Shari'a is used by a growing number of Muslims to promote earth-friendly practices and lobby for government regulations that protect the environment. The backdrop of this Shari'a controversy in America is appropriate, however, in that it allows us to gauge some of the parameters in the wider Muslim debate about democracy, human rights, and, in that light, what Shari'a is. So this paper focuses on a small cross-section of the burgeoning literature on Muslim environmentalism² and asks what role Shari'a plays in these efforts to curb pollution, conserve natural resources and reduce greenhouse gas emissions? And does this activism in turn change some of the ways in which Shari'a is now interpreted? In order to better set the stage for this analysis, I propose to first look at the Earth Charter, still the most comprehensive global statement on environmental ethics; and then at some recent polls among Muslims about how they see Shari'a.

The Earth Charter was officially launched in June 2000 under the auspices of Queen Beatrix of the Netherlands in The Hague. This was the culmination of five years of efforts on the part of an international drafting committee that had sought the contribution of scientists, religious leaders and international lawyers from all over the world. Claiming that humanity stands at a "critical moment in Earth's history," the Charter asserts that the way forward requires the lucid recognition "that in the midst of a magnificent diversity of cultures and life forms we are one human family and one Earth community with a common destiny" (Earth Charter 2000). This means a concerted effort to create "a sustainable global society founded on respect for nature, universal human rights, economic justice, and a culture of peace." The expression "Earth community" implies a revised and humbler assessment of the value and role of humankind, compared to the

¹ Yerushalmi was co-author of the Center for Security Policy's report, "Shariah: The Threat to America." See also an article blasting Yerushalmi posted on the Anti Defamation League website (no author) on March 25, 2011: http://www.adl.org/main_Extremism/david_yerushalmi.htm.

² For this, consult Richard C. Foltz's bibliography on the topic (Foltz 2003).

modern Western view. Thus the preamble ends with a sobering and solemn call not just to action but chiefly to a new ethical vision: “Towards this end, it is imperative that we, the peoples of Earth, declare our responsibility to one another, to the greater community of life, and to future generations.”

How does this ethical imperative of “Earth community” square with contemporary Muslim views of what it means to be faithful to the divine revelation in the Qur’an and to the teachings and example of Islam’s Prophet, Muhammad b. Abdallah? The Gallup Polls that led to the book, *Who Speaks for Islam?* tell us that “large majorities of respondents in the countries surveyed cite the equal importance of Islam and democracy as essential to the quality of their lives and to the future progress of the Muslim world” (Esposito and Mogahed 2007: 35).³ Equally, a vast majority of Muslims worldwide want “Shari’a” to be a source of legislation in their own nations. What might this mean? “The answer to this is as diverse as the Muslim community itself,” the authors respond. While in only a few countries did a majority say Shari’a should not play any role in society, in most only a small minority wanted Shari’a to be the “only source” of law.⁴ But for many who desire more input from Islamic law, “[s]ignificant minorities in many countries say religious leaders should play no direct role in drafting a country’s constitution, writing national legislation, drafting new laws . . . or deciding how women dress in public or what is televised or published in newspapers” (Esposito and Mogahed 2007: 50). Hence, there is no direct correlation between advocacy for Shar’ia and theocracy across the board.

Whatever definition of “Shari’a” Muslims are working from in these conversations, it is not, it would seem, the Sunni consensus on *fiqh* (applied jurisprudence) in the sixth century *hijri* (twelfth-thirteenth century CE). Nor is it necessarily the hodge-podge of fatwas and documents produced by the International Islamic Fiqh Academy of Jeddah, or even by the dramatically wider grouping of Islamic movements sparked by the Amman Message.⁵ Shari’a, to most Muslims today and in particular to the thinkers examined here, seems to be an ethical ideal rather than a body of laws.

³ This book is the result of the Gallup World Poll, a project from 2002 to 2007 that necessitated tens of thousands of interviews in over thirty-five Muslim majority countries or countries that have a substantial Muslim presence.

⁴ The exceptions were Jordan, Egypt, Pakistan, Afghanistan, and Bangladesh, where most people wanted Shari’a as the “only source” of legislation (Esposito and Mogahed 2007: 48).

⁵ The Amman Message, which began as a statement of Jordan King Abdullah in 2004, turned out to be the most significant effort in many centuries by Muslims worldwide (Sunni, Shi’i, Sufi, etc.) to come to a consensus on the three pivotal issues of 1) Who is a Muslim? 2) Can a Muslim call another Muslim an “apostate” (or the issue of *takfir*)? 3) What are the qualifications for issuing an Islamic legal opinion (fatwa)? A highly representative body of

I intend to argue that, within the spectrum of Muslim scholars and activists seeking to mobilize Muslim public opinion in favor of what I would call “eco-justice,” “Shari’a” functions mostly as a rhetorical tool and strategy, despite the overt use of classical period legal instruments. Shari’a remains, as it always has been in Islamic societies, a potent symbol, pregnant with compelling moral incentives.

The main body of this paper, then, discusses how four Muslims—all four scholars, but only two environmental activists—deploy the concept of Shari’a in their discourse about ecology and in the environmental practice of Muslims. My conclusion attempts to rethink the issues of Shari’a, the state and the environment in light of Abdullahi An-Na’im’s recent work on Islam and the secular state.

Shari’a and Ecology: Selected Scholars and Activists

These influential Muslim thinkers represent a spectrum of views, yet they all see some use for Shari’a as a resource for healing the earth. What they mean by “Shari’a” and what role they see it playing in order to meet the environmental challenges of our day is what both sets them apart and what helps to clarify the issue at hand in this paper.

Seyyed Hossein Nasr: Pioneer and Philosopher

I begin with the first Muslim to write about these issues, Seyyed Hossein Nasr, who delivered a series of lectures at the University of Chicago in 1967, several months before the publication of Lynn White’s groundbreaking essay indicting the monotheistic faiths (Christianity, especially) as the cause of the ecological crisis (White 1967). Nasr has also written more on this topic than anyone else; and yet, despite his enormous influence, he remains in a category by himself—and partly because his adherence to the perennial philosophy initiated by Frithjof Schuon and René Guénon puts him at odds with the vast majority of Muslims who are exclusivists.⁶ For Nasr, any truth found in the religions of the world is derived from the same

leaders and scholars drafted a common text, which was then ratified between 2005 and 2006 by all the most representative Islamic international bodies (including the International Fiqh Academy based in Jeddah).

⁶ Richard C. Foltz, the foremost expert on Islamic environmentalism, opined in a recent paper that the reason behind Nasr’s limited following in the Muslim world is two-fold: he writes mostly for Western non-Muslim audiences and his works have rarely been translated into Arabic or Farsi. Still, in the Washington, DC area, where he lives, a coalition of Muslim

Absolute Source, whether the Heaven of Taoism, *nirguna Brahman* of Hinduism, the “primordial monotheism” of the indigenous peoples, the metaphysics of the alchemists or Western hermeticists, or the Creator God of the Abrahamic faiths. None of these traditions lost the sacred link between humanity and nature. The problem arose with Western Renaissance thinking. Nasr wrote in his 1968 book, *Man and Nature*, that:

The gradual de-sacralization of the cosmos which took place in the West and especially the rationalism and humanism of the Renaissance which made possible the Scientific Revolution and the creation of a science whose function, according to Francis Bacon, one of its leading proponents, was to gain power over nature, dominate her and force her to reveal her secrets not for the glory of God but for the sake of gaining worldly power and wealth (Nasr 1990: 96).

In his 1996 book, *Religion and the Order of Nature*, he argues that the worsening ecological crisis cannot be solved without people of faith coming together and pooling their spiritual resources which center on the sacredness of nature. But notice that this is not the classic concept of interfaith dialog: “a nexus must be created in this realm among the traditions, as has been carried out by the traditional proponents of the perennial philosophy for understanding of the Divine Principle and its numerous manifestation in various religious universes” (Nasr 1996: 7). Each religious tradition is, in a sense, its own “religious universe.” At the same time, each tradition has its own interpretation and ritual working out of the Absolute Source, like a cosmic spring from which seers and practitioners of all faiths continually draw. This transcendent source ...

... gives rise to cascades of water that descend with ever-greater dispersion from each side, each cascade symbolizing all the grades of reality and the levels of cosmic and, by transposition, metacosmic reality of a particular religious universe. Yet all the cascades issue from a single Spring and the substance of all is ultimately nothing but that water which flows from the Spring at the mountaintop, the Reality which is the alpha of all sacred worlds and also the omega to which all that is within their embrace returns (Nasr 1996: 12).

Nasr is arguably the most respected Muslim scholar in the United States, yet his voluminous work over the decades defies easy characterization. First and foremost, he is a philosopher in the best of the Shi'i tradition (he is an Iranian exile), who at the same time is completely at home with Western philosophy. Besides his works of poetry and theology, he is also a

environmentalists calling themselves “DC Green Muslims” found their initial inspiration through the writings and lectures of Seyyed Hossein Nasr (Feder 2009). Some of the founding members were his students at George Washington University.

practicing Sufi, who has written several books on mysticism and spends time counseling younger devotees. So he finds useful the Sufi distinction between the surface meaning of the text (or of Reality, *al-zahir*) and its deeper, esoteric meaning (*al-batin*) in his bid to bring people of faith together to discuss ecology. The dogmas and rituals of a particular faith tradition are on the surface, whereas the deeper meaning is the transcendent source that is common to all religions at their core.

But if Nasr is the first Muslim scholar to have raised the issue of the ecological crisis of our day, he has never moved beyond the philosophical level to solve the specific issues of bio-diversity loss and global warming. Nor has he referred to Shari'a as a practical tool for resolving the current crisis, though as a practicing Muslim Shari'a is at the heart of all a Muslim does and thinks.⁷

Mawil Izzi Dien: Shari'a as Subset of International Law

By contrast, Mawil Izzi Dien, who lectures on Islamic law and ethics at the University of Wales, is the first Muslim to have written a monograph on how Islamic law can be leveraged to solve current ecological challenges. With him we enter a more conservative mindset—he would say “reformist”—in which Qur'anic terms determine what “Islam” has to say about our physical environment and the role humans are to play within it. Yet, like Nasr, he believes that our planet's woes can only be addressed through a concerted effort by people of all faiths. He points in this regard to the 1986 Assisi Declaration.⁸ So then, what is the specific Muslim contribution to this problem, and what role, specifically, can Shari'a play?

Izzi Dien's 2000 book, *The Environmental Dimensions of Islam*, devotes almost half of its content to an Islamic theology of environmentalism and over a half to Islamic ethics and the use of Shari'a in ecology, with a particular focus on the legal tool of *maslaha*, or public benefit. He closes with a chapter on international efforts to curb pollution and biodiversity loss and

⁷ Consider what he wrote in a more recent book about the centrality of Shari'a: “To speak of Islam on the level of individual practice and social norms is to speak of the *Shari'ah* which has provided over the centuries guidelines for those who have wanted or wish today to live according to God's Will in its Islamic form. When we hear in the Lord's Prayer uttered by Christ ‘Thy Will be done on earth as it is in Heaven,’ for the Muslim His Will is expressed in the *Shari'ah*, and to live according to this Will on earth, first of all, to practice the injunctions of the Divine Law” (Nasr 2002).

⁸ Izzi Dien was present at this conference sponsored by the World Wide Fund for Nature (WWF), to which representatives from the Buddhist, Hindu, Christian, Muslim and Jewish faiths were invited. The final declaration was a first attempt to harness the moral power of religion in the service of ecological sustainability.

promote conservation, as seen in the 1983 World Charter for Nature and Agenda 21 ratified at the Rio Earth Summit in 1992. This is a book replete with elements from the Islamic legal tradition likely intended to put at ease the educated Muslim reader—from its many quotations from the Qur'an and Sunna to its discussion of many aspects of Islamic law. But in the end, Izzi Dien's message is perfectly in line with the Earth Charter's message: "The conservation of the natural environment in Islam is both an ethical and a religious imperative which should be backed with legislation and effective enforcement of an environmental law."

First, I offer a look at some of the theological building blocks, which will then lead to some considerations of Izzi Dien's use of Islamic law. As is the case with its cognate monotheistic traditions, Islam starts with the Creator God who made the earth as an abode (*mustaqarr*) for all of its creatures, and first and foremost for the human addressees of the Qur'an:

It is God Who made your abode homes of rest and quiet for you, and made for you, out of the skins of animals, [tents for] dwellings, which you find so light [and convenient] when you travel and when you stop [in your travels]; and out of wool, and their soft fibres and their rich stuff and articles of convenience [to serve you] for a time.

It is God Who made, out of the things He created, some things to give you shade; of the hills He made some for your shelter; He made you garments to protect you from heat (Q. 16:80-81, from Izzi Dien 2000: 22).

The message of the Qur'an, or that of the Bible, is unapologetically anthropocentric; that is, the earth and all its resources were created for the livelihood of humans.⁹ The story of creation functions as a myth of origins that gives meaning to human existence.¹⁰

⁹ David L. Barnhill and Roger S. Gottlieb in the Introduction to their edited volume, *Deep Ecology and World Religions*, give us some perspective on this issue. Since the ethic of "deep ecology" is ecocentric (or biocentric), that is, the unit of value is "life as a whole," without prioritizing humans or even animals, this might seem entirely antithetical to the Bible or Qur'an on this issue. Yet commenting on the chapter in the book on Islam and deep ecology, they comment, "Thus, Muslims might criticize deep ecology for attempting to separate humans from a supposedly pure wilderness. Deep ecologists, on the other hand, might well criticize such a stewardship view as retaining too much anthropocentrism. But the similarities are worth noting. Both Islam and deep ecology affirm that the natural world is an integrated whole (as Creation, for Muslims), with humans an inextricable part of that whole. Nature is not to be exploited but responded to with contemplation, appreciation, and protection" (Barnhill and Gottlieb 2000: 13).

¹⁰ Perhaps the most characteristic word in the Qur'an translating the idea of "environment" is *ma'ayish*, or "the cause of life: 'It is We Who have placed you with authority on earth, and provided you therein with means for the fulfillment of your life [*ma'ayish*]: little give you thanks! (Q. 2:10 from Izzi Dien 2000: 24).

The affirmation of the Creator's hand in all that exists is also a way of saying that everything finds its source in God. A more Islamic formulation of this point is that God's oneness (*tawhid*) guarantees the oneness of the whole creation. As Izzi Dien puts it, "[t]he belief in the oneness of the Creator leads to the unification of all human energies to act under the command of this Creator." The concept of *tawhid*, then, implies that "all cosmic forces [are] to be seen as one force acting in one direction, applying the Divine order" (Izzi Dien 2000: 72). Thus all the physical laws that govern the universe turn out to be, in this perspective, an act of surrender (*islam*) to the Creator. All inanimate and animate creatures naturally submit to the dictates of their Maker.

Human beings, however, because they are endowed with the capacity for knowledge, reason and the discernment between right and wrong, have been entrusted with managing the "submission system" in place. Izzi Dien then quotes fourteenth-century qur'anic commentator Ibn Kathir, who sees in Q. 2:30 the evidence of God's call to humankind to act as his trustees on earth: "Behold, your Lord said to the angels: 'I will create a trustee [*khalifa*] on earth.'" Immediately referring to Adam in the context, several commentators already in the classical period of Islam, and virtually all commentators today understand this to apply to humanity as a whole.

This human trusteeship, however, seems to have been a great risk that God took—the human person, after all, has the freedom to rebel and disobey.¹¹ So what guarantees that God's human representatives will submit to his directives and manage the earth in a responsible way? In order to reduce this risk, he gave them a book of instructions, as it were—his Shari'a:

They were given instructions that evolved according to their need, which is represented in Islamic law, *Shari'a*. The Arabic word *Shari'a* means, "the source of water from which one can drink without the need for an implement." While water is considered as the source of life, the *Shari'a* is concerned not only with life but also, for Muslims, the source of knowledge about death and the hereafter. Human beings are seen by Islam as passengers traveling between two worlds, with the *Shari'a* as the map that they refer to for the shortest route between the two (Izzi Dien 2000: 79).

This is no idiosyncratic definition of Shari'a. Izzi Dien stands mainstream in the tradition of his Islamic forbears, wherein Shari'a on one level is the symbol of God's life-giving directives to please God in this world and the next;

¹¹ For the most complete discussion of this issue of human trusteeship, or stewardship of creation, see David L. Johnston, *Earth, Empire and Sacred Text*, and especially chapters 6 through 9. See also the author's blogs on his website, www.humantrustees.org.

but it is also, on a more down to earth level, a shorthand for all the practical rules of life one follows in submission to the Creator. These rules include the rituals of the faith, the so-called five pillars: the testimony and the occasions for repeating it (*shahada*); the ritual prayers, *salat*; the fast of Ramadan; almsgiving to the poor (*zakat*); and the pilgrimage to Mecca (Hajj). Also included are the “human transactions” (*mu’amalat*), all the rules governing social life, from contract law to family status law—and here, in anachronistic fashion, environmental law.

Indeed, the Qur’an addresses humanity as a whole, affirming the dignity of “the environmental citizen of the globe”: “O people! Adore your Guardian-Lord . . . Who has made the earth your couch, and the heavens your canopy; and sent down rain from the heavens; and brought forth therewith fruits for your sustenance” (Q. 2:21-22 from Izzi Dien 2000:83). What is more, the idea of human trusteeship in the Qur’an is far from a callous “human chauvinism”: “in Islam, value and morality are not exclusive to human beings, but inclusive of all creatures who are also citizens of the earth.” From an Islamic viewpoint, “every bird, every tree, every seed” and “every part of the family of creatures” were “made by the same Creator and serviced by the same ordinance and principles” (2000: 84). He and other writers on this topic can quote dozens of hadiths reporting the Prophet’s great care to avoid the suffering of animals.

More specifically, when it comes to conservation for example, Izzi Dien observes that while legal rules may be more binding, “ethics and awareness are far more effective in bringing about behavioural changes” (Izzi Dien 2000: 32).¹² One tradition is particularly telling. The Prophet rebuked his companion Sa’ad one day for using too much water for his ablutions (*wudu*). “Do not waste [water],” he told him. And this, he added, even if you happen to be next to a river. By process of analogy, then, if conservation is prized even for the ritual washing before prayer, how much more should it be practiced in every other activity of life. And in fact, rules for water conservation have long been in effect in Muslim countries. The very name for a tap in Arabic, *hanafiyya*, comes from the rules drawn up by the Hanafi school of law—a tap saves water and it keeps it pure.

At a more basic level, conservation is important because of the sanctity (*hurma*) of God’s creation. This concept has found its way in many

¹² He notes that the many hadiths (prophetic traditions) that highlight Muhammad’s concern for conservation are very useful tools in inculcating ecological responsibility in Muslim societies, “many of which are developing rapidly without an inbuilt cultural awareness of the environment” (Izzi Dien 2000:32).

regulations of Islamic law. “The Prophet is reported to have cursed a person who soils three places, the high road, the shade of a tree, and the riverbank” (Izzi Dien 2000: 35). For instance, protected (or “forbidden”) zones (*harim*) were mandated around wells, springs, trees (which provided shade), and riverbanks. These are public areas producing public goods, which then should be protected “from misuse by people, pollution and congestion” (Izzi Dien 2000: 36). All manner of laws regulated underground canals, communal grazing areas and the disposal of ashes.

The idea of environmental reserves also existed in Islamic law: *hima*. Meaning both “protected” and “forbidden,” it originally applied to land reserved for grazing. A hadith reads, “truly every king has a *harim* [sanctuary for grazing forbidden to the people].” Though many of these practices predated the era of Islam, they were given legal sanction with justification from the Qur’an or Sunna. Pre-Islamic warlords reserved the right to have protected lands, which would ensure food and water for their flocks in times of drought. Hence, the lands around Mecca and Medina were guarded for the “Rightly Guided Caliphs,” particularly for the grazing of their cavalry horses, “the camels acquired by the Treasury and the herds belonging to the impoverished Muslims” (Izzi Dien 2000: 43). One day Umar, the second caliph, was challenged as to why he was keeping up this pre-Islamic custom. He responded, “[w]ealth belongs to God, the creatures belong to God, by God, had it not been for those mounts that I use for the sake of God, I would have not protected one [hand’s] span of it” (Izzi Dien 2000: 43). One early historian wrote that Umar’s army maintained 40,000 mounts. His argument was understandably based on public interest (*maslaha*). This too is the rationale used to guide the authorities on deciding which lands should be made available for revivification (*ihya’*) and, thus, privatized and which lands must be turned into *hima*, or remain accessible to all and, thus, providing communal goods.

It may seem like Izzi Dien is bent on reviving old statutes of Islamic *fiqh* (applied jurisprudence by the recognized and often competing schools of Islamic law) in the name of proving the relevance and superiority of past Islamic civilization. Such an apologetic stance can easily be found in much Islamic writing today. But it turns out that his quip about uniting the best of Western knowledge and technology with the best of Islamic theology and ethics is truly at the heart of his enterprise. Izzi Dien’s chapter six in *The Environmental Dimensions of Islam* is about “justice and the environment,” aiming toward an “Islamic environmental economics.” Precisely because Muslim societies were unwittingly thrust into the industrial age by outside forces, they absorbed the consumerist attitude of a capitalist-driven

economy and instead of being satisfied with the little necessary for life, they longed for more and more things. They too contributed to the ever-rapid depletion of valuable natural resources such as water, soil, air, oil and coal. This greed at the same time has contributed to the impoverishing of the traditional social values of care for the less fortunate and generosity.

These considerations feed into his seventh chapter in the same book on ecological conservation and the public interest. As mentioned earlier, the idea of *maslaha* was always present in Islamic legal discussions, but it has come to the fore more recently.¹³ As is often the case in this context, he quotes fourteenth-century jurist from Granada, Ibrahim al-Shatibi, on the need to use common sense in discerning public benefit or harm in worldly affairs: “there is no absolute benefit, *maslaha mutlaqa*, or absolute harm, *mafsada mutlaqa*, since they should both be understood according to which is common knowledge.” So human reason is left with much freedom in discerning what might be “Islamically” advisable in many cases. He goes on, “however, when *maslaha* and *mafsada* conflict, judgment should only be passed when one value can clearly be seen to outweigh the other” (Izzi Dien 2000:136). This has generally been applied to the case of murder: capital punishment is a harm (human life is sacred), but “his death will achieve greater long-term benefit to the public than his life.”

Apply this Shari’a principle to the environment, says Izzi Dien

This principle can be extended to many contemporary environmental threats since they are potentially greater killers than any homicidal individual, and the interest achieved, in both avoiding and removing them, is often unquestionable even if there is the loss of benefits expected from them. Islamic legislation is expected to have provisions to protect the environment and guarantee its sustainability. These provisions take precedence over individual or community interests even if the latter appear to be of an overwhelming urgency. The long-term harm that results from the destruction of environmental factors such as the ozone layer outweighs any possible advantages that may arise from cheap refrigeration, which releases chlorofluorocarbon gases and damages the ozone layer (Izzi Dien 2000: 136).

I have no space here to delve into the details of Izzi Dien’s arguments, but I will indicate that, for instance, on the basis of the Qur’an’s assertion that God created all things “for” humans (his addressees), this means that “the earth with all its interests and benefits was created to be shared by all creatures and by all human communities” (Izzi Dien 2000: 138). This is sounding more and more like the “earth community” reasoning of the Earth Charter.

¹³ For more details on this, see Johnston 2007.

And this insight is confirmed by a perusal of his last chapter, in which he discusses various international covenants on the environment, including the 1983 World Charter for Nature, the Agenda 21 ratified at the Rio Earth Summit in 1992, and a paper he co-authored in 1983, *Islamic Principles For the Conservation of the Natural Environment*. Does this mean that Islamic law is no more relevant? Not at all, he contends, but we must recognize that traditional *fiqh* norms “remain historically distant from contemporary application without careful analysis of the concepts which they provide” (Izzi Dien 2000: 49); and that in light of today’s ecological concerns a whole new branch of environmental *fiqh* must be developed. In essence, this is a call for Shari’a principles to directly impact state legislation in Muslim-majority countries.

Fazlun Khalid, Embodiment of the Environmentalist Muslim Scholar

Whereas the writings of Sayyid Hossein Nasr and Mawil Izzi Dien are not concerned with the practical problems of stemming the tide of environmental degradation, Fazlun Khalid is in fact the poster child of Islamic environmentalism in its activist mode. Founder and director of the Islamic Foundation for Ecology and Environmental Sciences (IFEES) in Birmingham, England, Khalid chaired an interfaith conference on Religion and Ecology in Japan in 1995, producing the Ohito Declaration for Religion, Land and Conservation. The IFEES produces literature for adults and school age children with the aim of educating and mobilizing the Muslim public everywhere to choose a greener lifestyle and to pressure their governments to proactively tackle the ominous threats of climate change and biodiversity loss. Their British booklet, “Muslim Green Guide to Reducing Climate Change” is one of the most attractive and helpful tools I have seen in this respect.¹⁴

The IFEES magazine *EcoIslam* offers articles on an Islamic theology of conservation, highlights Muslim environmentalists, but mostly showcases current initiatives in various Muslim countries. Fazlun Khalid has personally conducted intensive educational workshops in the Zanzibar Archipelago, where his chief aim was to wean Muslim fishermen away from

¹⁴) This was a joint production between LifeMakers UK and the IFEES. Available online at www.ifees.org.uk/Muslim_Green_Guide_Print_Final_V3.pdf; see also an IFEES 2009 interview with world famous Egyptian preacher Amr Khaled, who was in the United Kingdom promoting this booklet: <http://www.youtube.com/watch?v=O9vAAjsCkYU>.

the practice of dynamiting the coral reefs. Sadly, they had resorted to this destructive practice, because their traditional fish stocks had been depleted by international trawlers. He has also conducted these workshops in Indonesia's Aceh province and in West Sumatra, where every effort is made to integrate Islamic principles of conservation with local customs that move in this direction.

What is also worthy of note in Khalid's strategy is his willingness to obtain various British university and government grants to help fund some of these initiatives. He has been known as well to network with many secular organizations such as the Wild Life Fund, Greenpeace, Friends of the Earth, London Sustainability Exchange, to name a few. He was invited by the United Nations Secretary General to participate in the UN Climate Change Conference in Copenhagen in December 2009. In a short speech delivered on the occasion, he argued that consumerism and the inordinate economic power of the rich countries were factors that exacerbated the depletion of our earth's finite resources. He concluded,

It would seem that in allowing to be swept away by forces intent on destroying the natural world in the name of economic growth faith communities have surrendered their responsibilities, Muslims, not least amongst them. Our job is to prod this group, which constitutes twenty percent of the world's population, to wake up to their teachings and join forces with other like-minded people to leave a liveable planet for our children.¹⁵

Khalid clearly sees the mission of the IFEES "to prod" Muslim populations to do their part in leaving "a liveable planet for our children"—again, in the same spirit of international and interfaith cooperation of the Earth Charter.

In this respect, Fazlun Khalid's explicit use of Shari'a as *fiqh* in his workshops is worth examining. Recall a point made earlier that the definition of "Shari'a" is a contested issue among Muslims today—and certainly within debates over gender issues. More progressive Muslims would like to keep Shari'a as a symbol for all the best values of justice, peace and human dignity, and therefore sharply distinguish it from past crystallizations of law in the medieval period, i.e., *fiqh*. In this context however, conflating Shari'a with *fiqh* suits Muslim environmental activists admirably. According to a brief report by Jeanne E. McKay, Khalid makes use of the three *fiqh* categories, mentioned in detail by Izzi Dien, of *hima* (protected lands, like the *haramayn* of Mecca and Medina, where no hunting or cutting of plants is

¹⁵ This is available on the IFEES website front page under the title, "IFEES Director Addresses UN Climate Change Summit." It would seem that this website has been neglected, or at least that nothing has been added since the last issue of *EcoIslam* (#7) in April 2010.

allowed), *harim* (the protected zones around trees, rivers, wells and springs) and *ihya al-mawat*, the revivification of land left fallow or unused (McKay 2010: 2). This became the centerpiece of a strategy for the conservation of the rainforest in West Sumatra in a joint project that started last year and will run through 2012. Proposed by Fazlun Khalid with the help of the Durrell Institute of Conservation and Ecology (DICE) in the United Kingdom and with funding from the British Department for Environment, Food and Rural Affairs (Defra) through its Darwin Initiative Programme, the project began with a three-day conference sponsored by the University of Andalas in Padang, West Sumatra. Fazlun Khalid was there to lead a workshop on religion and conservation and conduct feasibility studies in one particular location. The aim of the overall project is to:

Strengthen and integrate the religious management systems of Hima (by mapping land and forest use systems and ensuring their protection through joint community/Forestry Dept. patrols); Harim (through watershed management) and Ihya Al-Mawat (by creating nagari tree nurseries and agroforestry systems to rehabilitate and reforest degraded lands) into the traditional nagari and adat systems (McKay 2010: 2).

Here, in relation to Fazlun Khalid and the conservation project in West Sumatra, I would like to make three points about his use of “Shari’a.”

The first is that these *fiqh* terms (*hima*, *harim*, *ihya al-mawat*) do in fact reflect deliberate conservation efforts in the Islamic past. Take the example of the *harim*. As mentioned above, a hadith has the Prophet cursing anyone who pollutes the high road, the shade of a tree, or a riverbank. *Fiqh* manuals take this to mean that these are all instruments of public benefit, and therefore may not be abused, soiled or just used for personal gain. So the *harim* of a tree is a circumference of about ten feet; the *harim* of a drinking well is about seventy-five feet, whereas for an irrigation well or spring it’s ten times larger. Though there are few exact parallels today, the ethical value of these prescriptions shines through loud and clear: natural resources represent a common good that must be protected for the benefit of all.

Second, notice the symbolic valence and rhetorical function of the term “Shari’a” in the context of a public campaign aiming to change age-old, engrained customs among Muslim populations. The Arabic words of classical *fiqh* mean nothing to people in the Pacific or Indian Ocean regions, yet they carry great moral weight and pack an impressive power of persuasion. Hence the important role of the workshops co-led with local *ulama* on themes of “Islamic” environmentalism.

Finally, in Indonesia Muslim scholars are highly respected. One issue of *EcoIslam* highlighted a series of fatwas issued by the Ulama Council of

Indonesia (MUI).¹⁶ One of them reads: “Logging and mining which damage the environment and harm society and/or the nation are *haram* [forbidden]. All activities and businesses related to these are *haram*. It is *fardh* [obligatory] upon law enforcement agencies to act firmly to enforce the law.”¹⁷ Note the innovative interplay between *ulama* and the institutions of the modern nation-state, and how it is assumed that a) codified law is issued by the legislative branch of the state; b) the *ulama* act as moral advisors; and c) law enforcement agencies are exhorted to “firmly enforce the law.”¹⁸

Othman Llewellyn, Advocate for Islamic Environmental Law

Othman Llewellyn, a convert to Islam, grew up in a conservationist home in Colorado and has now worked many years for the National Commission for Wildlife Conservation and Development in Saudi Arabia (Faiz 2008). His chapter in the edited book, *Islam and Ecology* (Llewellyn 2003), “The Basis for a Discipline of Islamic Environmental Law,” reflects his life long passion. Beginning with some of the theological considerations we have alluded to in this paper, then continuing with the field of the Shari’a’s objectives, Llewellyn then turns to the body of substantive law, *fiqh*, in which he finds a number of useful principles behind past injunctions, whether in property laws, the role of government in allocating collective benefits in light of individual ones, and laws that regulated the use of water and other natural resources. Many past institutions of the Shari’a were set up to regulate the use of conservation of natural resources and environmental protection. It would behoove us, he urges, to “extend and apply” these creatively to the new challenges we face today (Llewellyn 2003: 207).

For example, with regard to the legal instrument of *hima*, which he calls the “inviolable zone,” the Prophet Muhammad transformed its pre-Islamic use for the benefit of rulers to one dedicated to public welfare. *Himas* had to be established so that they would benefit the whole population.

¹⁶ The *ulama* are the experts in the Islamic sciences, which can include Qur’an and Hadith studies, law and theology, Arabic, grammar and lexicology. Historically, the jurists had competence in all these areas, though only a few of them had official, state-sponsored jobs like judges or academic appointments in certain institutes of higher learning. For the most part, the word *ulama* can be replaced with *fuqaha* (specialists in *fiqh*, therefore strictly jurists).

¹⁷ Fifth issue of *EcolIslam*, September 2008, p. 5.

¹⁸ This issue of the role of government, environmental legislation and Shari’a is taken up below.

A famous fifteenth-century jurist, al-Suyuti, spoke for many others when he stipulated that “*hima* must meet four conditions . . . derived from the practices of the Prophet and the early caliphs:

- 1) It must be constituted by the legitimate Islamic governing authority;
- 2) It must be established in the way of God—that is, for purposes pertaining to the public welfare;
- 3) It must avoid causing undue hardship to the local people—that is, it should not deprive them of indispensable resources; and
- 4) It must realize greater actual benefits to society than detriments (Llewellyn 2003: 213).

By one estimate, there were over 3,000 *himas* in Saudi Arabia in the 1960s, varying in size from 10 to 1,000 hectares and averaging about 250 hectares.¹⁹ A great deal of flexibility characterized the management of these conservation sites. In fact, most of them included both elements of conservation and sustainable production; yet each one is established for a particular purpose that fits the needs of that community and is managed by and for the benefit of a village or tribe. But it was understood that through some means of consensus everyone should have a voice in the way the *hima* was managed.

There is no doubt that people’s needs have changed over time and in different places, but Llewellyn believes that the *hima* and other traditional Shari’a institutions (he mentions *harims*, *waqfs*, or charitable endowments, and many others), in conjunction with a team of interdisciplinary experts, could be revived to great ecological, social and economic benefit in many Muslim countries. So his dream is that rigorously trained *fuqaha* (specialists in Islamic law) would also be trained in disciplines related to the environmental sciences and regularly consult colleagues in those other fields both to impact legislation in their countries and to develop such a curriculum in universities.²⁰

¹⁹⁾ Sadly, less than a dozen remain. Unbridled development and commercialism has taken its toll.

²⁰⁾ I have no room to detail other issues Llewellyn raises in this chapter; only to say that among the many articles and chapters I read, his was the most impressive in terms of breadth of understanding in Islamic law and environmental sciences. His last section is about “Shari’a-based policies,” which touch on the balance between rights and responsibilities, the importance of cherishing natural resources, the tension between capitalism, economic development and environmental concern, population control, animal rights, genetic engineering and international cooperation. Of course, this is more about raising questions than answering them at this stage, but I thought this was one of the most clear-headed road maps of the way ahead for Islamic environmentalism.

Othman Llewellyn was the “Eco-personality” interviewed for *EcoIslam*’s fourth issue. One of the questions posed to him by Samina Faiz was one that relates directly to our purposes here: “What advantages do you see in adopting an Islamic approach to environmental issues?” His answer clearly indicates that, for him, recourse to *fiqh* rulings of the past is the only way to move the environmental agenda forward in Muslim countries. Shari’a is both law and ethics, and both place the believer in direct accountability to his or her Creator. But in Saudi Arabia as elsewhere, this is an uphill battle. In his words,

Most traditional conservation practices in Muslim countries are grounded in the shari’ah, the Law and ethic of Islam. For Muslim communities there is a huge difference between protecting something because the government tells us to, and protecting it because it is our duty to the Lord of all beings. Unfortunately, however, traditional conservation practices are not officially recognized in most Muslim countries and Islamic legislation is seldom applied effectively or creatively for conservation. The contributions that Islamic law and ethics have to offer remain largely unrealized (Faiz 2008: 6).

In light of those difficulties and challenges, the next question about his greatest ambition captures what Llewellyn is most passionate about—developing “environmental *fiqh* as a recognized discipline of Islamic law.” His vision is great. In his own words,

I hope that we will have devised a protected area system in Arabia that will safeguard the biological diversity and beauty of that land. I hope also that we can conserve something of the wider Islamic world as well—from the steppes and peaks of Turkistan to the African Sahel and savanna, and the rainforests, mountains and islands of Southeast Asia. If I can rescue something of the glorious diversity of life that is disappearing from these lands, then that would be something to be pleased with (Faiz 2008: 6).

Stepping back to consider the writings and environmental activism of especially Fazlun Khalid and Othman Llewellyn, one might wonder how realistic it is to revive the crucial role Islamic jurists and theologians once played in Islamic lands. Yet both men have been able to bring about a synergetic cooperation between activists, *ulama*, and government personnel in both Saudi Arabia and Indonesia. At the same time, keep in mind the astounding variety in cultures and political configurations to be found in Muslim societies. What this means, I argue in my last section, is that Muslims in each locale will draw from the well of Islamic legal traditions—the Shari’a—in unique ways, knowing that Shari’a is always subject to new interpretations (fresh *ijtihad*) as the circumstances require.

Conclusion: Whence Shari'a and Islamic Environmentalism?

Abdulahi Ahmed An-Na'im, the Sudanese legal scholar at Harvard University long concerned about these issues, has recently argued that Shari'a is both a concept and a methodology (2008). As a concept, it is the religious law of Islam—how God enjoins people to live. This “normative content” of Shari'a includes Islam's rituals (mostly the Five Pillars) and the unambiguous injunctions and directives of the Qur'an and Sunna.²¹ In order to access this content, however, human beings in particular sociopolitical contexts have to interpret the sacred texts. And this is where the “methodology” comes into play: trained legal scholars (*ulama* or *fuqaha*) use their informed judgment (*ijtihad*) to deduce new rulings as called for by new situations arising.

Classical Islam, through a process of consensus over time (*ijma'*) decided on a particular methodology for the purpose of “discovering” this normative content. Hence, the common ground one can build upon in various works of *usul al-fiqh* (legal theory) over the centuries. Times have drastically changed, however, notes An-Na'im. It is time, therefore, to work toward a new consensus. In his words, “[t]here is nothing to prevent the formation of a fresh consensus around new interpretive techniques or innovative interpretations of the Qur'an and Sunna, which would become part of Shari'a, just as the existing methodologies and interpretations came to be a part of it in the first place” (An-Na'im 2008: 13).

Nevertheless, this new consensus is not something that any state or religious body can impose, argues An-Na'im, since by definition each Muslim is responsible before God for the decisions he or she makes based on his or her understanding of the texts. Muslims do disagree among themselves in many areas of religious belief and practice. In order for the individual conscience not to be violated, then, a balance will have to be found in various sociopolitical contexts between the religious convictions of various communities and the state authorities that determine policy. Hence, the state will have to be neutral on these issues—“secular” in this sense. Civil society in its many branches and competing voices will have to continue to negotiate and articulate a “civil reason” within a democratic context, and

²¹ Islamic law is divided in two main categories: *ibadat* (laws concerning one's relationship with God) and *mu'amalat* (laws governing human relationships, including commercial, family and property law). Only in the eleventh century did a literature arise (*sīyasa shar'īya*) dealing with politics; yet far from being constitutional law, it was mostly justifications for a status quo that had long departed from the political arrangements of the early caliphs.

this for the purpose of enacting legislation that matches society's basic values.

An-Na'im admits that religious and political authorities will always live in relative tension. Fazlun Khalid's achievements in Indonesia, however, point to one creative way of solving this issue. The *ulama* issued legal opinions about the impermissibility of wanton deforestation, either through burning for the purpose of sowing new crops, or through logging or mining, while in parallel laws were enacted in this direction by the Parliament. The *ulama* and community leaders who participated in the IFEEES workshops gave their support to the regulatory bodies and law enforcement agencies, which had to enforce the new laws. Clearly, everyone was pushing in the same direction and whatever lobbying power the logging and mining companies had at their disposal seemed to be kept at bay. In practice, however, enforcing such laws will always prove to be more challenging.

Richard Foltz, who has studied these issues for over two decades, is cautiously optimistic about the prospects of environmentalism as a cause in Muslim-majority countries. On the one hand, at least three obstacles still seem daunting: a) economic development tends to trump any concern for the ecological degradation it might cause; b) Muslim writings on ethics focus much more on social justice than on human harm caused to air, water and climate; c) environmental activism is perceived by most Muslims as a Western-led initiative that is either unwelcome politically for that reason, or foreign to the values and teachings of Islam, or both. On the other hand, since the 1990s hundreds of environmental NGOs have sprung up in many Muslim countries and besides the work of IFEEES highlighted here, there are grassroots initiatives in India and Indonesia as well. Besides, with Iran in the lead, several Muslim states have cabinet posts for ministers of environmental affairs and they are beginning to consult one another on a regular basis (Foltz 2006, 2009).

This background information only seems to confirm the wisdom of local, home-grown, and Shari'a-based articulations of ecological activism. What is certain, however, is that the use of "Shari'a" in this context has nothing to do with Islamist notions of theocracy and the imposition of oppressive medieval laws, but rather everything to do with a thriving civil society seeking to protect the precious resources of a planet created by God for the welfare of all of his creatures.²² When Llewellyn was asked what he saw as the most urgent action to protect the environment, he answered:

²²) This is the central thesis of An-Na'im's book on the new role he sees for Sharia today—it can only become the life-giving force it was meant to be if it is used in harmony with "the

It is not one action that I would urge, but one ethic that would give rise to many actions—the ethic of *khilafah* (stewardship). We are told in the Qur’an that God made us stewards on the earth so that he might try us in that which He has bestowed upon us (Qur’an 6:165; 10:14). Human beings have been given enormous ability to do both good and harm; with ability comes responsibility (Faiz 2008).

This ideal of “Shari’a as an ethic contributing to a global movement to care for the planet” is what I hear Nasr, Izzi Dien, Khalid and Llewellyn promoting each in his own way. Far from any kind of hegemonic or even violent image of Shari’a held by so many Westerners today, these Muslim thinkers advocate a “fresh methodology” for discerning what Shari’a is—a process of *ijtihad* that includes the ethical values of constitutionalism, human rights, and citizenship. And this, so that, in the words of the Earth Charter, Muslims in the West or in Muslim-majority nations can join the effort of civil society of all nations and creeds to create “a sustainable global society founded on respect for nature, universal human rights, economic justice, and a culture of peace.”

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principles of constitutionalism, human rights, and citizenship, which can work only when they enjoy sufficient cultural and religious legitimacy to inspire and motivate people to participate in organized and sustained political and legal action” (Faiz 2008: 44).

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