

DR MOHD DAUD BAKAR

Shariah is Life



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Translated by Ashadi Zain



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HUMANISING AND INTERNALISING THE SHARIAH

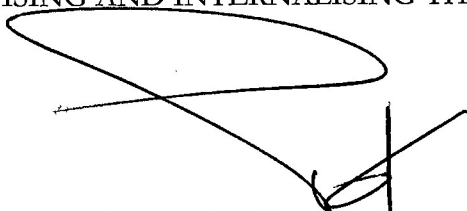


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HUMANISING AND INTERNALISING THE SHARIAH



Dr. Mohd Daud Bakar

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PUSTAKA PERDANA



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Dedication

Presented with prayers for forgiveness for both my late mother (Ain Noor Ain) and my late father (Mohd Jamel Abdullah) who risked it all by sending me to an Arabic school and for religious studies 40 years ago... so that I can dive deep into Islamic knowledge.

Knowledge on *Shariah*.

Acknowledgement

Many people inspired and assisted me to write about and prepare a unique book on *Shariah*.

I am very fortunate to have a family, colleagues and friends who constantly push me towards excellence and are always helping me in any way they can. They have always been kind in their words of encouragement and motivation for me to write about things that are rarely discussed in the society.

My special thanks goes to Associate Professor Dr. Amir Shaharudin, Associate Professor Dr. Zurina Shafii (USIM), and Dr. Shamsiah Mohammad (ISRA). Your comments and perspectives have been very useful. I have tried my level best to incorporate most of your comments. Nevertheless, I take full responsibility of the contents of this book.

I am also grateful to Ashadi Zain who translated and edited this book, and contributed much inputs in making this book an easy and entertaining read.

I will continue writing - with the will of Allah the Almighty - because all of you are the source of my inspiration, passion and confidence. I want to write to educate and instill a new way of thinking towards transforming our minds and actions.

CHAPTER ONE

The Origins and DNA of Shariah

Shariah is Allah the Almighty's gift to Prophet Muhammad PBUH and mankind. In the bigger context, it is true that each Prophet had his own *Shariah*, as stated by Allah the Almighty, "To each among you have we prescribed a law and an open way" (*al-Maidah*: verse 48). In another verse, Allah the Almighty states, "The same religion has He established for you as that which He enjoined on Noah - the which We have sent by inspiration to thee - and that which We enjoined on Abraham, Moses, and Jesus: Namely, that ye should remain steadfast in religion, and make no divisions therein" (*al-Syura*: verse 13).

In this book, *Shariah* refers to the *Shariah* that was revealed to Prophet Muhammad PBUH through the Quran and Sunnah. Allah the Almighty states that He gave this *Shariah* to Prophet Muhammad PBUH, "Then We put thee on the (right) Way of Religion: so follow thou that (Way), and follow not the desires of those who know not" (*al-Jathiyah*: verse 18).

Collectively, all these verses state and emphasise clearly that *Shariah* is Allah's gift. Everything is ascribed to Allah the Almighty. This is the message that it conveyed by the Quran through these three verses. In another verse, Allah the Almighty condemns the unbelievers, "What! have they partners (in

godhead), who have established for them some religion without the permission of God?" (*al-Syura*: verse 21). Again, the Quran affirms that the true source of *Shariah* that is valid and permitted is the *Shariah* that came from Allah the Almighty. He is the one and only Source of *Shariah*. But humans being humans, there is a possibility that they might create their own brand of *Shariah*; a way of life that contravenes the *Shariah* from Allah the Almighty. This 'possibility' is mentioned in the above verse.

As a *samawi* religion (religion from the heavens), *Shariah* is naturally in the form of a revelation. Here, revelation refers to the Words of Allah through the Quran and Sunnah. Among the two sources of *Shariah*, the Quran is more unique, as it's the Words of Allah in both wording and meaning. The meaning of the Sunnah, on the other hand, is inspired by the Revelation but the wordings and expressions are from Prophet Muhammad PBUH. That's the difference between the two.

Nevertheless, in terms of scholarly facts, both sources are important, as both came from Allah the Almighty. Whatever it is, both sources are the 'direct communication' from Allah the Almighty to the cosmos.

Shariah-related Technical Terms

Apart from *Shariah* and *Syir'ah*, the Quran also uses the word *al-Din*, meaning religion, as well as *al-Islam* to explain on a set of guidelines revealed by Allah the Almighty. These are the three to four important terms in the Quran. So, what is the connection between these terms?

Generally, all these terms refer to something that came from Allah the Almighty. In the previous Quranic verses regarding *Shariah* and *Syir'ah*, it's clear that *Shariah* was prepared by Allah the Almighty and revealed to Prophet Muhammad PBUH. Clear as day.

So, what about the meaning of *al-Din*? It's often translated as 'religion', as in several Quranic verses, the word 'religion' is ascribed to *al-Islam*, thus referring to the religion of Islam. In *Surah al-Imran*, verse 85, Allah the Almighty says, "If anyone desires a religion other than Islam (submission to Allah), never will it be accepted of him; and in the Hereafter He will be in the ranks of those who have lost (All spiritual good)". This and a few other verses clearly state that the religion revealed by Allah the Almighty is Islam. In other words, *al-Din*, as mentioned in the Quran refers to Islam and vice versa.

Moving forward, what is the connection between Islam and *Shariah*? Honestly, there's no (apparent) difference between *Shariah* and Islam. Both refer to a belief system, morals and rulings decreed by Allah the Almighty upon mankind with the aim of achieving success in this world and the Hereafter. In fact, by using the root word of *sha-ra-'a* (the root word for *Shariah*), there's one verse that clearly states that Islam was revealed by Allah the Almighty as a way of life. Allah the Almighty states, "The same religion has He established for you as that which He enjoined on Noah - the which We have sent by inspiration to thee - and that which We enjoined on Abraham, Moses, and Jesus: Namely, that ye should remain steadfast in religion, and make no divisions therein" (*al-Syura*: verse 13).

In conclusion, *Shariah*, *al-Din* and Islam are Quranic terms or words that carry the same meaning. It refers to the way of life that was revealed to the prophets; a way of life that pleases Allah the Almighty. But the word '*Shariah*' is a bit special because before the coming of Islam, it is an Arabic word that had been used and understood by the Arabs. Though Islam was revealed in the Arabic language (as the Quran is in Arabic), the original meaning of *Shariah* - as understood in the history of Islam since the era of Prophet Adam AS as a guidance from the heavens - remains the same throughout the history of prophethood and Islam.

The Word 'Shariah' in Human Nomenclature

Shariah is an Arabic word. The Quran was also revealed in Arabic. So, what does *Shariah* mean in Arabic? This is an interesting question, since the word *Shariah* had already been used and understood by the Arabs before Islam was revealed and before Prophet Muhammad PBUH was sent to them as His Messenger. In the Arab society, *Shariah* means 'the way to water' (see *al-Mu'jam al-Wasit* under the root word 'sha-ra-'a'). In that sense, every path that leads someone (or an animal) to water in the desert is called *Shariah*. This is the literal meaning that does not take into account the meaning of *Shariah* as the way and guidance from Allah the Almighty. It only connotes the meaning of a path that allows someone to reach a body of water in the desert expanse.

Given the geology and landscape surrounding the Arabs in Mecca and the Arabian Peninsula, the word *Shariah* would surely had been popular. This is no surprise, since water is the source of life for humans, as well as for their cattles, especially in the desert landscape. For them, water is the source of life and they can easily understand the literal meaning of *Shariah*. The same goes for the meaning of *Shariah* vis-a-vis religion. Allah the Almighty gave a new meaning to this word to represent the menu of life from the heavens. Now, this is the connection between the literal and technical meanings of *Shariah*. In a nutshell, *Shariah* is the source and guidance for a prosperous life (as in water is also the source of life).

What makes it more interesting is that Allah the Almighty did not create a new word to denote the Revelation. On the contrary, Allah the Almighty uses the word and language that had already been used by mankind, such that it made the word more easily understood and appealing to mankind. This proves that *Shariah* is close to, and has become part and parcel of the life of mankind. After all, *Shariah* was revealed to mankind, and

not to robots and angels.

Mankind needs to understand and implement the requirements of *Shariah*. That's the humanistic concept in *Shariah*. If we, as humans aren't able to understand the message of *Shariah* and it's beyond our ability as humans, then the reason for the revelation of *Shariah* will come to nought. In actuality, the humanistic message in *Shariah* began with the word *Shariah* itself, in which it's a word that mankind is already familiar with. Ultimately, the main agenda of *Shariah* is to ensure the success and prosperity of mankind. Make no mistake about it. Every 'tool' in the House of *Shariah* has been designed to channel all kinds of benefits to mankind.

But at the same time, mankind has the potential or inclination to be good or bad, or better known as *huda* and *hawa*. The Quran mentions *huda* and *hawa* (and all its derivatives) more than 300 and 30 times respectively. This shows that both attributes really do live in the soul of mankind. Think about it. Let's say mankind is allowed to freely formulate their own way of achieving success and happiness. What would happen? Surprise, surprise. There would surely be a continuous conflict between those two attributes, which seek to secure different interests, leading to conflicts in the hierarchy of the life of mankind. Well, this is the nature of mankind.

At the end of the day, mankind needs guidance, and this guidance must come from the heavens. This guidance is the Quran and Sunnah. Both are not in human form and are not of this world. Both came from a higher source, specifically from the Creator of mankind and the whole universe.

Shariah and the Message of Life

As opposed to humans, *Shariah* is of 'heavenly DNA'. *Shariah* is the solid ground upon which mankind can traverse and live

their lives. Do you want to know what is the position of *Shariah* in our lives? That's easy. Just read and ponder upon every single word in the Quran and Sunnah, as well as their main messages and themes. Trust me, when you read the Quran and Sunnah with this kind of mindset, the real dimensions of *Shariah* will be revealed to you. It's true that every verse, and even every Quranic word has both direct and implied meanings. It's clear that *Shariah* came from Allah the Almighty. So, what's our job? Well, our job is to understand the messages and contents of *Shariah*, and its importance in our lives.

Okay, here's a question for you. People need to live before they die, right? Yes, I know, that's a no brainer. But the implication is more important. Subsequent to that realisation, we must surely realise that *Shariah* is relevant to our lives in both this world and the Hereafter. It's impossible for *Shariah* then not to have an agenda for life on Earth. But what is the agenda?

Before that, what is your general view and perspective once you have read the whole Quran, while understanding each word in it? Why would Allah the Almighty mention about the sun, the moon, water, land, plants, cattles, time, life, marriage, divorce and alimony, parenthood and being neighbourly, the characteristics and emotions of mankind, war and peace, rights and truths, donation, *infaq* and *zakah*, *ma'ruf* and *munkar*, trust, promise and agreements, property and bribery, trading and *riba* and many more themes and messages? What makes it more interesting is that many of these themes are repeated many times in the Quran. Surely there must be a grand message that is intended by the Creator of *Shariah*, Allah the Almighty.

Let's take one example, i.e. the word *al-haqq*, meaning 'truth'. Do you know how many times it's mentioned in the Quran? More than 200 times! Amazing, isn't it? Truth is an abstract word that can encapsulate everything and anything that its

nature is in sync with a certain fact, as well as being in consonance with justice.

Naturally, every community - no matter where and at what phase they're at - needs to embrace *al-haqq* as their pillar of life. Does life mean anything if 'truth' - in all its dimensions - is lost or transgressed or not judged accordingly? The million dollar question is how do we see *Shariah* in the context of making *al-haqq* as the pillar of life? If *al-haqq* is simply an abstract message with only an ethical value attached to it, then it would be cast aside. We know that to be true.

Therefore, we need to adopt a new way of thinking to read and understand each verse that contains the word *al-haqq*. That way, we can think of how to instill this message and meaning in our society. In brief, we need to humanise *al-haqq*. Don't get me wrong. We're not trying to invent something new or add something foreign to *Shariah*. Not at all. Instead, what we need to do is to examine every pronunciation of *khitab* (directed communication) of the Quran and formulate an understanding that is consistent with the main themes of life in *Shariah*.

For instance, in *surah al-Asr*, Allah the Almighty says, "By (the Token of) Time (through the ages), Verily Man is in loss, Except such as have Faith, and do righteous deeds, and (join together) in the mutual teaching of Truth, and of Patience and Constancy". In the context of this verse, Allah the Almighty mentions the word *al-haqq* in a unique way, that is "join together" or enjoin one another. This word is simply understood as a reminder, which is to urge everyone about the importance of ensuring truth and uphold the truth.

Perhaps this understanding is only relevant to an individual. But what about its relevance in the context of societal life and nationhood? We do agree that *Shariah* was revealed to actualise a system for societal life, do we? That being the case, then it's crucial for us to always perceive *Shariah* as a life system. If not,

the value and weightage of Divine texts would diminish, if not put aside and relegated to obsolescence. Looking at the sociological developments of late, we are now in the age of civil or *madani* society. As such, *surah al-Asr* can be interpreted as a *surah* that supports the practice of checks and balances. Awesome!

Yes, this kind of interpretation is more accurate, since 'truth' is a big term and concept; one that involves both state and societal institutions. Okey, let's say a man transgresses the concepts and requirements of 'truth'. In this case, the impact may not be as big as the transgressions committed by societal or state institutions. The former is akin to a drizzle, while the latter is like a storm. Yes, it's true that checks and balances is inspired by the West, but for me, the need for this prudent practice has been advocated by *Shariah* since 1,400 years ago via *Surah al-'Asr* and several other Divine texts, such as enjoying *ma'ruf* and forbidding *munkar*. The Quran never cease to amaze me.

But on the other hand, why didn't we realise this sooner? Well, we failed to understand *Shariah* as the guidance for societal life and nationhood. Somehow, we're more inclined to discuss *Shariah* as a set of rulings and guidance for individuals or merely as talking points about life in the Hereafter. That's a big mistake. I mean, think about it. If we decide not to develop societal life and nationhood on this Earth and just focus our energy and resources to ensure success in the Hereafter, then who (yes, who?) is going to actualise *Shariah's* messages and themes on this planet?

Consequently, the non-believers would be the ones who would build the world according to their understanding - good and bad - as we are witnessing today. Like it or not, this is what's happening on Allah's Earth. It looks like *Shariah* has been cast aside by Muslims themselves. What a shame. But wait, it's not too late to change. Never say never.

The Khitab of Quran Collectively (khitab jama'ie)

The *khitab* (directed communication) of *Shariah* through the Quran is so interesting, especially in the context of its relatedness with the scheme of human life. In many of its verses, the Quran – as the *khitab* of Allah the Almighty – constantly presents a collective *khitab*, which is to call upon the whole of mankind or the believers in terms of the language of either instruction or prohibition. Rarely are the instructions of Allah the Almighty directed to individuals. Almost all instructions or prohibitions in the Quran are directed towards the whole of mankind or the believers.

Think... there must be a secret behind this method of *khitab*. That's for sure. But there's no concrete explanation by *Shariah* on the reasons behind this. Thus, this is an opportunity for scholars, particularly experts in the field of interpretation to provide their interpretive perspective. I have my own perspective in analysing this phenomenon or collective manner of the Divine directed communication, in which instructions or prohibitions are conveyed.

For me, I see this as conveying the message that a successful society does good things and avoids bad things collectively. The wheels move in the same direction, so to speak. Imagine if only a handful of people were to do good and avoid evil. That would definitely not leave an impact to the whole ecosystem. The spirit of togetherness in doing good and avoiding evil is one of the implied 'requirements' of *Shariah*. Implied as it may be, the effects are nonetheless impactful. Spot on!

This is one of the aspects in sociology. Society's way of life is determined by the power and energy of the masses. If the voices of evil are louder and more dominant, then goodness will be thrown out of the window. Apart from my perspective, perhaps there are other themes and messages as to why most instructions or prohibitions in the Quran are presented

collectively (addressing all believers).

Note that even in the case of repentance to Allah the Almighty, the Quran states it in its plural form, as mentioned by Allah the Almighty, "O ye who believe! Turn to Allah with sincere repentance". (*al-Tahrim*: verse 8). It makes sense, doesn't it? If only one or several persons were to repent and stay away from a life of sins, then societal self evaluations and improvements would not happen. When it comes to certain things, societal reformation and transformation would only happen if most (if not all) of the members of that society realise their transgressions and have the willpower and action plan to change for the better. To move forward, both feet need to move forward, right? This just wouldn't happen if one foot moves forward and one moves backwards.

Also, in the context of the prohibition of *riba*, the Quran makes a collective *khitab* to the believers to have *taqwa* in their hearts and leave the remnants of *riba*. This is clear enough through the following verse, "O ye who believe! Fear Allah, and give up what remains of your demand for usury, if ye are indeed believers" (*al-Baqarah*: verse 278). What's perplexing is that although Islamic finance is readily available and accessible to all, *riba* is still widespread among the Muslims. Yes, it's true that there are Muslims who realise this and have shifted to Islamic banking and finance. But there are still Muslims who enjoy the company of *riba*.

Based on international data, only 30% of Muslims are willing to avoid *riba* if there is a *Shariah*-compliant alternative in the form of various Islamic financial products. This goes to show that *ribawi* practices are very much alive and kicking among the Muslims. Muslims have yet to 'repent collectively' to leave *riba*. In general, 70% of bankable Muslims are still *riba* 'practitioners'. This begs a question. How can Islamic finance advance further among the Muslims if most of them can't even see the difference

between *riba* and Islamic banking and finance? They still can't tell the difference between a bush of thorns and a bushel of apples.

Unfortunately, our method and action plan to get rid of *riba* from the Muslims are still not implemented collectively. In this case, we have yet to settle on the same page, so to speak. For instance, the advertising and marketing strategies of Islamic finance are still exclusive in nature and not inclusive of every strata within the Muslim society. I kid you not... many Muslims are still unaware that the interest gained from conventional banks is *riba*, and is forbidden by *Shariah*. To them, that's not *riba*. So, it's not a sin. At least in their minds.

Perhaps many Muslims interpret 'interest' as something that is beneficial. Sometimes, I think it's good if the bank statement sent to Muslims who have an account in a conventional bank contains the word *riba* to replace 'interest'. Now, that would be an eye opener. Perhaps this is a more effective way to educate Muslims to the fact that the interest they get constitutes *riba*, which is a grave sin to Allah the Almighty. This is because there are Muslims who are '*riba*-sensitive' but they believe the interest credited by their conventional banks is not the *riba* that is prohibited by Allah the Almighty. They see it as the profit given by their banks to them as depositors.

Actually, the theme of togetherness through instructions and prohibitions communicated collectively is connected to the rewards and punishments in the Hereafter. In an interesting *surah*, i.e. *al-Zumar* (the troops), the Quran creates the impression that the believers will be welcomed into Paradise **together** (as if they are holding each other's hands) for them to celebrate their victory of living a righteous life. This is the reward for their steadfastness in living a *Shariah*-compliant life collectively. The same goes for the dwellers of Hell. They will be chained **together** and thrown into Hell (*al-Zumar*: verse 71 - 73).

In my opinion, for the big 'truths' to be implemented, it requires the society's collective efforts and cooperation. I mean, everyone must be involved. The same applies for evil activities and agendas that have long been embedded in that society. The fact is... it can only be eradicated with the support and encouragement of many people, especially the dominant parties. A tree is only as strong as its roots, as the saying goes. Therefore, the events that will happen in the Hereafter, as portrayed in *Surah al-Zumar* is a sign that togetherness or solidarity is a life requirement. A life based on *Shariah* must be generated, supported and institutionalised through the support of majority of the people. Let's galvanise our efforts and unify our visions.

The Quran's Prescription on the Role of Shariah

Okay, let's go back to understanding the main reason why *Shariah* was revealed. We must be cognisant that *Shariah* is not a book or code or an act of law, and on the other hand, it's not just a guide on morality. It's a complete package to provide *hidayah* to every aspect of life in the form of rulings, ethics, policies and best practices. Lately, Muslims are getting more and more involved in matters regarding rulings, ethical values and morals in all communal activities, including at the mosques, colleges, universities, social and electronic medias, research institutions, think tanks, Islamic institutions, as well as at the State level.

However, *Shariah* matters that involve *Shariah* policies and best practices are left in the shadows. At the same time, matters relating to rulings and morals are manifested in limited scope and forms. This surely does not reflect the concept of '*Shariah* is life' according to current data and facts of life. The manifestations of *Shariah* laws and moral values are still trapped in the dungeons of history and classical texts. Remember, *Shariah* is dynamic and alive, and not merely a legacy or artefact. Ever.

In the Quran, the character and role of *Shariah* is stated as '*huda*' or guidance for all time. The role of *Shariah* or any aspects of *Shariah*, including the Quran and Sunnah, and other elements (such as previous holy scriptures) is described as 'a guidance' or *huda* as many as 31 times in the Quran. Thus, what dimensions of *hidayah* or guidance are attributed to *Shariah* and the Quran? In other words, we wish to see what's the meaning of *hidayah* and how can it be operationalised in life, i.e. according to the Quran.

If we examine every Quranic verse that states that whatever comes from Allah the Almighty is guidance, then this gives us the impression and understanding that Allah the Almighty really cares about us. I mean, let's be honest. Without guidance from the Revelation, mankind would go astray. No doubt about it. If some people just cannot appreciate and see the best way of life to ensure a prosperous life for themselves, their society and all of mankind, then what more if there's no Revelation at all. This is the essence of Islam or *Shariah*. It comes with a set of supplies and guidance that is not of this world. It is a menu from the heavens.

Even though the opposite of *huda* is *hawa*, in the Quran, *huda* or *hidayah* is mentioned more than *hawa*. This is due to the fact, to my mind, that when mankind can see and hold on to the guidance from Allah the Almighty, *hawa* will weaken. It's true that mankind may fail in several aspects but *Shariah* - through *istighfar*, repentance and determination to not commit the same sin - provides an effective way to place mankind back on the right track. Yes, everyone falls. But remember, everyone also has the opportunity to get back up.

Apart from mentioning *hawa*, which is the opposite of *huda*, the Quran also repeatedly amalgamates the phenomenon of *hidayah* with *rahmah* or blessing (see *al-An'am*: verse 154; *Yunus*: verse 52; *Yusuf*: verse 111; *al-Nahl*: verse 64 and many more)

and glad tidings, i.e. *bushra* (see *al-Baqarah*: verse 97; *al-Nahl*: verse 103; *al-Naml*: verse 2 and many more). The combination of *huda*, *rahmah* and *bushra* emphasizes that in each *hidayah*, there is *rahmah* and glad tidings. The most interesting part is that in each of these combinations, *rahmah* and glad tidings are preceded by *huda* or *hidayah*. This means that *hidayah* is the source of *rahmah* and happiness.

The Index of the Themes of Life in the Quran

It's good if we have one quick look at how the Quran sees the role of *Shariah* in life. So, how do we go about this? The simplest way to do it is to present the index for all the themes and meanings that are mentioned in the Quran. Please take note that this index is only my personal view and not meant to be exhaustive.

This index may not represent all themes of life in the Quran, as everyone has his own way and approach in understanding the themes of life in the Quran. This index is sort of like a catalyst to awaken the minds of the readers to be aware that the Quran is actually full of the various themes of life. Really... look closely and you'll know it to be true. It is hoped that this index would become the firestarter in our journey to light up the lamp and delve into the framework and minute details of *Shariah*.

The theme of life index that I have categorised is a bit long, and may not encompass all the themes, as intended by Allah the Almighty. This is my own *ijtihad* and personal view. But whatever it is, such an index has to start somewhere, right? This is what I'll be doing in this book, albeit a short one. I plan to write a specific book to showcase Quranic themes or 'the voice of Allah the Almighty'. I'm really excited, as this is really an interesting topic. But it needs in-depth research and time. Well

why not? Where there's a will, there's a way.

Okay, then. What are the themes that I've gathered while reading the Quran? Amongst others, it includes the theme of *aqidah* or absolute faith to Allah the Almighty, absolute *ibadah* to Allah the Almighty, the humanistic aspect of mankind, the elevated status of *Shariah*, the sanctity of life, trust and justice, motivation and preservation of wealth, the familial and parenting institution, the importance of honour and lineage, the preservation of the environment, the preservation of the food industry's ecosystem, education, intellect and knowledge, healthy governance, crime in all its forms, bribery and financial corruption, safety, and science and technology.

These are of course the main themes, in which each main theme can be further divided into sub-themes. For instance, the 'preservation of the food industry's ecosystem' theme is connected to the theme of water (clean, in abundance and affordable), land, plants and everything related to plants, such as fertilizers, insecticides, genome or seeds, as well as food security. When an aspect is frequently mentioned in the Quran, then this signals that there's a meaning and message that Allah the Almighty wants us to comprehend, followed by the proper actions and policies. Amazing!

Humanistic Aspects in the Quran and Sunnah

One interesting fact about the Quran and Sunnah is that both portray humanistic dimensions in terms of language, phrases and content. This is the greatness of *Shariah*, which celebrates both the Divine and humanistic aspects; the aspects of the Revelation, as well as societal practices. In some religions, to become 'religious' and good, one needs to forgo his worldly life, such that he is not allowed to get married and have a family of his own. On the contrary, *Shariah* is unique, as Allah the

Almighty decreed a religion and way of life that recognises the fact and data of human life.

So, where and how is the humanistic dimension portrayed in the Quran and Sunnah? As a matter of fact, there are many references and cases in regards to this. Yes, many. But suffice for us to examine several references and cases. In the case of the permissibility of collateral or *al-rahn*, Allah the Almighty states, "If ye are on a journey, and cannot find a scribe, a pledge with possession (may serve the purpose). And if one of you deposits a thing on trust with another, Let the trustee (Faithfully) discharge His trust, and let him fear his Lord. Conceal not evidence; for whoever conceals it - His heart is tainted with sin. And Allah Knoweth all that ye do." (*al-Baqarah*: verse 283). Many people, including *Shariah* scholars only take into account the technical understanding of this verse, without considering its humanistic aspect.

From this verse, it can be concluded that using collateral in a debt transaction is permissible. A collateral is a valid contract to strengthen the ability to repay the debt. Thus, if the debtor fails to repay the debt at the stipulated time, then the creditor can liquidate the collateral by selling it in the market to get the necessary cash to settle the outstanding amount. But wait a minute. What is the humanistic aspect of this verse? Is there even a humanistic aspect in it? Sure there is. Allow me to explain.

In this verse, Allah the Almighty tacitly recorded one fact of life. As mentioned by Allah the Almighty in this verse, usually, when someone is away from their hometown (travelling to distant places), it is hard for him to obtain financial assistance when he faces financial difficulties. This is because no one knows him and whether he can repay or otherwise. This is a fact of life in the past, as well as in our modern times. Well, one would surely be careful to part with his hard earned money

to loan it to someone else. That's a given. In addition to seeking financial assistance, the traveller might also find it difficult to get someone reliable to record the debt. Hence, these are some of the humanistic aspects in this verse.

In this case, what is the implication of this humanistic aspect on *Shariah* or specifically on the formulation of *Shariah* rulings? Well, when a *Shariah* scholar is able to understand the fact of life or sociological aspect of this verse, he will quickly make a juristic observation that being far away from your place of origin is not a condition for a valid collateral contract or *al-ruhn*. It is valid in all conditions, including when the debtor is currently in his place or origin and is known by everyone.

Nevertheless, in this case, the Quran emphasises on the humanistic sociological aspect that is easily understood, which is in some situations, borrowing money through a collateral security is easier. Take note, however, that this emphasis has no bearing on the formulation of the ruling. Don't get me wrong. This is how the Quran should be read, in which sometimes, it needs to be guided by the different aspects of humanistic knowledge. If not, the *Shariah* rulings will go haywire; not because it's weak, but due to our own weaknesses. When that happens, we have lost the opportunity to showcase the beauty of *Shariah*.

Another humanistic aspect in this verse is the phrase "a pledge with possession (may serve the purpose)" or *rihan maqbudhah*. This means that the collateral, be it a vehicle or tool or jewellery will be kept and be in the possession of the creditor. In this case, unless and until the debt is fully settled, the owner of the asset cum the owner of the collateral (the debtor) cannot use this collateral for any purpose. In *fiqh*, this is called *rahn hiyazi*, referring to a collateral that is in the possession of the creditor. However, this is not a *Shariah* requirement, as the collateral can either be in the possession of the creditor (*rahn*

hiyazi) or in the possession of (and used by) the debtor. This second form of collateral is called *rahn 'urfi*.

But if that is the position of collateral in *Shariah*, then why did Allah the Almighty state that the collateral must be in the possession of the creditor? Yes, this is where we can observe the sociological aspect of it, in which Allah the Almighty takes into account this aspect, even in the Quran. This is because the debtor might be a stranger and his background unknown to the creditor. Hence, it is more prudent when the creditor keeps the collateral until the debt is settled. This is the greatness of the Quran in imparting Divine guidance based on the facts of life. But remember, technically, the aforementioned aspects have nothing to do with religion and *fiqh*. Both are just the manifestations of data and the patterns of lifestyle (and psychology).

Okay, what other humanistic aspects can we glean from this verse? During my previous phase of life and career, I thought of nothing else, except for the aforementioned aspects. But after delving even deeper into the practical aspects of life, I was able to spur new ideas from just a few words and phrases in this one verse. Such is the greatness of the language and *khitab* of the Quran. The messages and inspiration keep on coming. Now, this is the secret of the Quran as a book of *hidayah* (guidance) and *mu'jizah* (miracle) for all time. Don't you want to discover its secrets? Yes? Good! You'll never regret it.

Generally, in the financial sector, or banking specifically, it is incumbent upon the financial institution to evaluate their customers' background, notwithstanding whether they're depositing money or seeking financing. This is known as the "Know Your Customer" policy or KYC, which is a requirement to check on the customer's background. This is also related to the need to conduct due diligence, which is one of the main pillars in contemporary financial management. But what are the

benefits of careful examination, especially in the case of modern finance? Many. In this regard, what drives this practice in the global financial system? Easy. Its purpose is to safeguard the interest of all parties involved in financial transactions, as well as to avoid dealing with people who are associated with “impure” money and bad financial practices.

Okey, but what is the connection between this verse and KYC and careful scrutiny in this modern day and age? Well, indirectly, this verse is saying that before we lend money to someone, we need to know his background. This will enable us to manage the risk of the borrower’s ability to repay the debt or financing. Normally, people would only lend money to someone who is known in their community. But remember, with the prevailing banking practice, bankers do not personally know each and every customer that seeks financing. Gone are the days where extending a financing is a transaction based on a personal relationship. Nowadays, it’s based on the relationship between an institution and their customers.

As such, knowing the background of the prospective customer is highly important. It’s not limited to knowing his credit history and financial credibility, but also includes knowing his character to make sure he’s not involved in impure and unlawful business activities. It’s true that this isn’t directly related to the above Quranic verse. Nonetheless, this verse alludes to the fact that in credit matters, knowing the borrower is a normal human custom. In this case, a collateral is a way to reduce the risk. But at the end of the day, the fundamentals are still the same, which is the importance of the quality of our knowledge about our counterparty in a banking and financial transaction (as well as in other fields of life).

Waste Management Environment
 Science & Technology Employment Energy
 Food Education Integrity
 Safety Humanity Asset Development Housing
 Water Family & Parenthood Morals & Ethics
 Justice Self Motivation

Shariah is Life

Shariah is interconnected in all fields of life to create a safe, just and prosperous life for everyone. A solution to all life problems.

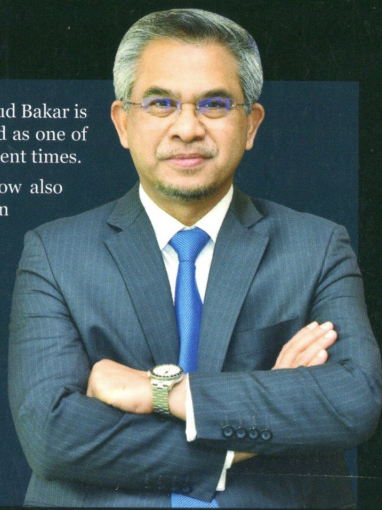
A personality of many talents, Datuk Dr Mohd Daud Bakar is an international Shariah scholar and is recognised as one of the most influential Shariah entrepreneurs of present times.

The award winning author of Shariah Minds, now also translated in French and Arabic, has more than 24 years of experience in the Shariah financial advisory industry.

His journey from an academician to the entrepreneurship world, allows him to humanise Islamic Finance and contribute his expertise across continents.

Dr Mohd Daud Bakar also sits as Shariah board member and chairman for numerous financial institutions across the globe.

As a realist, his passion includes globetrotting and writing. A loving husband, father and grandfather.



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