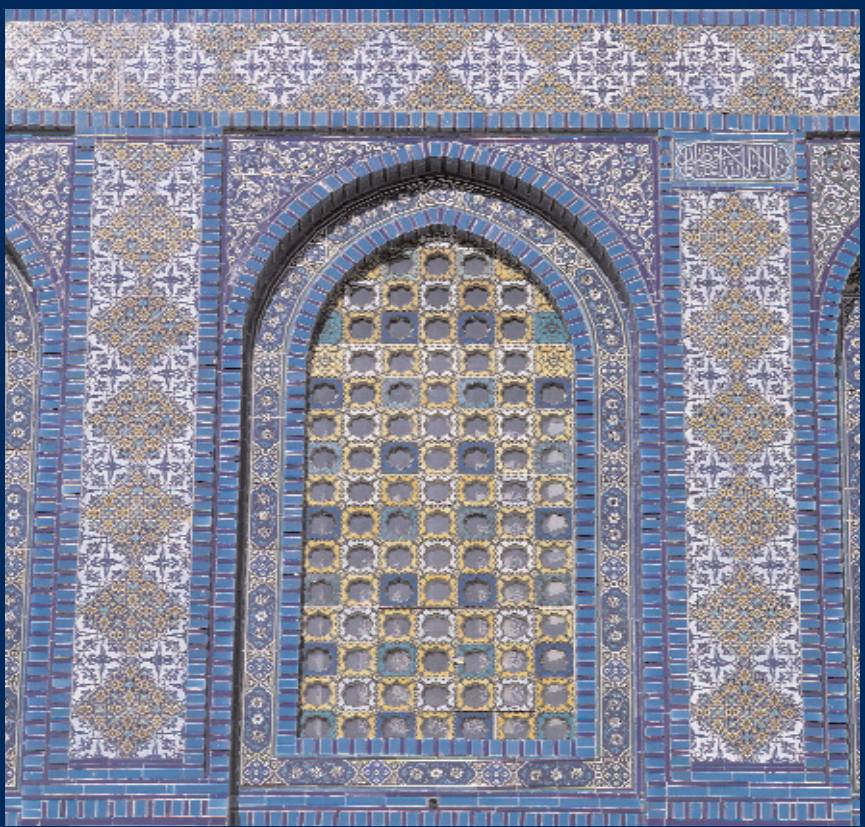
SHAYKH TAHA JABIR

Al-Alwani



Issues in Contemporary Islamic Thought

THE INTERNATIONAL INSTITUTE OF ISLAMIC THOUGHT

SHAYKH TAHA JABIR AL-ALWANI

on

Issues in Contemporary Islamic Thought

•

COMPILED FROM
THE AMERICAN JOURNAL OF
ISLAMIC SOCIAL SCIENCES

THE INTERNATIONAL INSTITUTE OF ISLAMIC THOUGHT
LONDON • WASHINGTON

© The International Institute of Islamic Thought, 1426 AH/2005 CE

THE INTERNATIONAL INSTITUTE OF ISLAMIC THOUGHT
P.O. BOX 669, HERNDON, VA 22070, USA

LONDON OFFICE
P.O. BOX 126, RICHMOND, SURREY TW9 2UD, UK

This book is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of the publishers.

ISBN 1-56564-414-X paperback
ISBN 1-56564-415-8 hardback

Cover Design by Shiraz Khan
Typesetting by Jay Willoughby

Printed in the United Kingdom
by Biddles Limited, King's Lynn

CONTENTS

FOREWORD i

INTRODUCTION iii

PART I: ISLAMIC THOUGHT 1

SOME REMARKS ON THE ISLAMIC AND THE SECULAR PARADIGMS OF KNOWLEDGE 3
- Introduction 3
- *Tawḥīd* 5
- Revelation 5
- Purifying Methodology from Negative Elements 7

TOWARD AN ISLAMIC ALTERNATIVE IN THOUGHT AND KNOWLEDGE 9
- Introduction 9
- The Present State of Thought 9
- The Present State of Knowledge 10
- The Present State of Muslim Education 11
- The Present Civilizational State of the Ummah 12
- Toward an Islamic Alternative 13
- Toward a Strategy for Knowledge 15

THE RECONSTRUCTION OF THE MUSLIM MIND: THE ISLAMIZATION OF KNOWLEDGE 21

THE ISLAMIZATION OF KNOWLEDGE: YESTERDAY AND TODAY 26
- Introduction 26
- The Reality and Importance of the Islamization of Knowledge 30
- The Six Discourses 35
- The Islamization of Knowledge Undertaking 42

THE ISLAMIZATION OF THE METHODOLOGY OF THE BEHAVIORAL SCIENCES 49
- The Shariʿah Sciences 55

PART II: ISSUES IN ISLAMIC JURISPRUDENCE 63

THE CRISIS OF THOUGHT AND Ijtihad 65
- Introduction 65
- What Do We Mean by Ijtihad? 66
- Ijtihad: The Ally of Jihad 66
- Right or Wrong, the *Mujtahid* Is Rewarded 67
- The Lexical and Technical Meanings of Ijtihad 68
- How Can the Problems of *Taqlīd* and Dependency Be Overcome? 68

Taqlīd and the Stagnation of the Muslim Mind 70
The Origins and Beginnings of *Taqlīd* 70
Taqlīd and the Ummah's Crisis 71
Taqlīd: A Natural (Original) Condition or a Deviation? 71
Taqlīd: For Muslims or Non-Muslims? 73
Sources of Knowledge 74
How Did Muslims Sink to the Level of *Taqlīd*? 76
The Consequences of *Taqlīd* 77
Conclusion 80

Taqlīd and Ijtihad (Part One) 82
The Polemics of Ijtihad 82
The Dynamism of Ijtihad in Restructuring Islamic Methodology *(al-Minhāj)* 83
A Panoramic Assessment of Ijtihad's Progression 85
The Traditional Role of the *Faqīh* 89
Unresolved Issues of Ijtihad 90

Taqlīd and Ijtihad (Part Two) 97
The Lexical and Technical Meanings of *Taqlīd* 97
The Legal Ruling on *Taqlīd*: The Companions and *Taqlīd* 98
The Imams and *Taqlīd* 100
The Forms of *Taqlīd* as Defined by the *Fuqahā'* 102

The Crisis in *Fiqh* and the Methodology of Ijtihad 108
Introduction 108
The Decline of Ijtihad 110
Fiqh and Intellectual Freedom 112
Fiqh in the Ottoman Empire 114
Significant Features of the Ottoman Period 114
The Crisis of *Fiqh* 115
A Methodological Perspective: Is the Door of Ijtihad Closed? 120
Conclusion 123

The Role of Islamic Ijtihad in the Regulation and Correction of Capital Markets 129
Ijtihad 132
Economics and the Capital Market 138
Conclusion 156

PART III: HUMAN RIGHTS 159

The Testimony of Women in Islamic Law 161
The Evidence of the Sunnah 170

Naturalization and the Rights of Citizens 187

The Rights of the Accused in Islam (Part One) 196
Introduction 196
Historical Development of the Judiciary 197
Judicial Organization and Its Sources 201
The Accused 202
Principles That Must Be Considered 205

THE RIGHTS OF THE ACCUSED IN ISLAM (PART TWO) 212
The Right to a Defense 212
The Accused's Seeking Legal Defense from a Lawyer 213
The Accused's Right To Remain Silent and To Be Heard 215
Statements Made under Duress 215
Confessions Obtained by Deceit 220
The Accused's Free Confession and Right to Retract 221
The Accused's Right to Compensation for Mistakes in Adjudication 222
Conclusion 223

PART IV: POLITICAL THOUGHT 227

POLITICAL SCIENCE IN THE LEGACY OF CLASSICAL ISLAMIC LITERATURE 229
Challenges Facing Muslim Scholars 230
Steps along the Way 231

MISSING DIMENSIONS IN CONTEMPORARY ISLAMIC MOVEMENTS 235
Introduction 235
The Contemporary Islamic Discourse: Missing Dimensions 236
Testimony and Responsible Witnessing (236) • Missing Dimensions: A Discovery Procedure (237) • Toward a Comprehensive Awareness (238) • Universal Crisis, Universal Solution (238) • The Tendency To Compromise or Reject: Its Origins (239) • The Need for Methodology (240) • The Acquisition of Power: Is It a Solution? (240) • Constituents of Well-Being in the Past (241) • Wrong Analogy (242)
The Ummah's Decline: Underlying Causes 242
Secularism vs. Reform (242)
Toward a Comprehensive View of the Revelation and the World 245
New Logic (245) • Methodological Understanding and the Combined Reading of the Qur'an and the Universe (246) • Impasses of Contemporary Muslim Action (250) • Collective Ijtihad and Collective Action (251) • Going It Alone: The Pitfall of Exclusiveness (252) • The Genesis of Exclusive Thought (255)
Summary 256
Toward a Resolution of the Crisis 258
Comprehensiveness (258) • The General Approach to Humanity, Time, and Place (259) • Purposefulness (259) • Universality (260) • Obstacles on the Way to Islamic Universality (261) • Islamic Universality vs. Western Universalism (262) • Contemporary Western Civilization: Background and Distinguishing Features (263) • The Logic of Entering into the Peace of Islam (266) • Determinants of the Crisis in the Western Mind (268)
Course of Action 270
Determinants of the Crisis in the Muslim Mind (271)
Concluding Remarks 275

AUTHORITY: DIVINE OR QUR'ANIC? 280

INDEX 295

Foreword

The International Institute of Islamic Thought (IIIT) takes great pleasure in presenting this collection of articles and essays originally published in the *American Journal of Islamic Social Sciences* and the London Office's Occasional Papers series by a prominent scholar well-versed in the issues under consideration, Dr. Taha Jabir al-Alwani. Collectively, they offer the author's valuable insights and observations gained from long experience in dealing with these issues and the process of regaining the civilizational and intellectual role of the Ummah.

Dr. al-Alwani, is a graduate of al-Azhar University and a leading figure in promoting a comprehensive approach to knowledge that combines the two readings of the Revelation and the real-existential, as well as a holistic and disciplined inquiry into contemporary issues challenging Islamic thought. The book will be of interest to scholars, researchers, and all those interested in understanding the intellectual crisis facing the Muslim world.

The IIIT, established in 1981, has served as a major center to facilitate sincere and serious scholarly efforts based on the vision, values, and principles of Islam. Its programs of research, seminars, and conferences during the last twenty-four years have resulted in the publication of more than 250 titles in English and Arabic, many of which have been translated into other languages.

We would like to express our thanks to Jay Willoughby for all of his efforts in producing this book for publication, and for working closely with the editorial team at the IIIT London Office in incorporating their comments and suggestions for completion of the work. May God reward them and the author for all their endeavors.

Rabi` II 1426
June 2005

Dr. Anas S. al Shaikh-Ali
Academic Advisor
IIIT London Office, UK

Introduction

In this book, we present the reader with a collection of studies, all of which deal with reform-oriented and goal-oriented Islamic intellectual issues and belong to the same intellectual approach: The Islamization of Knowledge, which has been active since the 1950s, promotes knowledge and thought, as well as their accompanying elements and philosophy, dedicated to achieving a culture that widens one's intellectual horizons and expands the opportunities for cultured and civilized interaction between cultures and civilizations.

First established in a Muslim environment, its engaged Muslim intellectuals and scholars focused on rethinking, critiquing, and analyzing the most pressing Islamic intellectual issues. Success in this endeavor will enable them to take an active role in laying the foundations for an Islamic revival that will empower all Muslims to engage with their times; share with all people their vision and efforts to solve global crises; achieve peace and security; strengthen the effort to protect human rights, the environment, and minorities; support freedom and resist the elements of terrorism and criminality; improve interfaith relations through dialogue, cooperation, and joint efforts to rebuild the values that allow people to maintain their humanity; and gradually achieve cooperation among all members of humanity: "O people, We have created you from a male and a female and made you into peoples and tribes so that you may know one another. Verily, the most honorable among you is the most pious among you. Verily, God is All-Knowing and All-Wise" (49:13).

Indeed, both the "religion and path of Abraham" can convince all people of their common origin from one father and one mother, and that their external differences exist for a great reason, which is understood by those who posses knowledge. Earth is a vast abode for humanity, and differences in location do not change this fact. Rather, dispersal encourages people to cooperate and exchange benefits so that everyone will receive his or her share of the bounties and blessings of this collective house.

The Islamization of Knowledge has successfully raised educated Muslims' awareness of the need to review the many issues related to their heritage and to rebuilding Islamic education in order to produce a Muslim personality that can reform Muslim concepts, ideas, and practices. These reformed concepts, ideas, and practices can then fulfill the expectations of a community whose values and civilization enable it to play an important role in improving human relations and building shared foundations of scholarship among all people.

The reader will find a variety of articles dealing with the crises and intellectual problems that the Muslim Ummah must solve before it can move forward. One chapter analyzes ijtihad's role and history, since our intellectual problems cannot be solved without the scholars' use of independent reasoning and creativity. Another chapter discusses imitation (*taqlīd*). Here, the author calls upon Muslim scholars and intellectuals to abandon imitation and to stop favoring the past over the present when trying to solve modern problems. There is also a chapter on human rights that focuses on cases in which the individual is weak and helpless, such as when he or she is accused of some crime in a court of law.

Another chapter addresses the testimony of women and points out that many of the issues concerning Muslim women must be removed from the habits and practices that arose during the development of Islamic jurisprudence. This chapter also provides a model for understanding the Qur'an, one that differs from the legalistic and *fiqhī* mentality that interprets everything in terms of what is permitted and what is prohibited, and what is subject to legislative rules and foundations. In addition to such legalities, the Qur'an actually encompasses social and individual advice and guidance, as well as a system of ethics that shows people how to interact with each other properly.

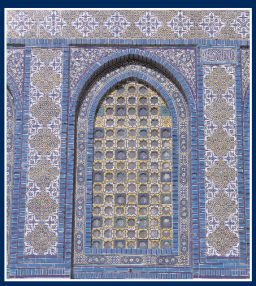
This chapter also raises the issue of how to interpret the controversial verse 2:282, which deals with the large difference between a woman's leadership (over the community) and her testimony (authority over a limited individual matter). The author considers her testimony within the context of all of the issues raised in the verse and reveals the lack of any evidence differentiating a woman's testimony from that of a man's. Her testimony is not a titular honor as much as it is an attempt to help the legal system understand events as they truly are. Any testimony that gives the judge a better understanding of the case being heard is valuable.

These chapters represent a vision that urges the Muslim Ummah to review its heritage and reformulate many of its aspects, as well as to establish

a critical and curious mindset among its members. When taken together, these chapters present a reformist project calling upon Muslim intellectuals and scholars everywhere to comprehend the vast breadth and depth of the crisis in Muslim thought today. In addition, they point out the necessity of solving this crisis so that the Ummah may experience a revival and fulfill its role among the nations of the world.

We pray that this rich set of studies will be useful and beneficial to the reader.

IIIT



This collection of papers presents a reformist project calling upon Muslim intellectuals and scholars everywhere to comprehend the vast breadth and depth of the crisis engulfing Muslim thought today and the necessity of solving this crisis to enable the Ummah to experience a revival and fulfill its role among the nations of the world. The reader will find a variety of articles dealing with this intellectual crisis, these include a chapter on ijtihad's role and history, important since our intellectual problems cannot be solved without the scholars' use of independent reasoning and creativity. Another discusses imitation (*taqlid*) calling upon Muslim scholars and intellectuals to abandon imitation and to stop favoring the past over the present when trying to solve modern problems. Another looks at human rights.

"It is refreshing to read a work by a traditional scholar dissecting the mental climate of the Muslims as they enter the first decade of the new millennium. Considering his background it takes great courage for Shaykh Taha to expose what he sees as intellectual reductionism dominating some Islamists. The Muslims today are sleeping over an accumulated treasure of ideas produced by creative thinkers of the past. Shaykh Taha puts up a vigorous case for a new practice of ijtihad, which could not be operational without recourse to the rich legacy of intellectual resources."

Anwar Ibrahim, Former Deputy Prime Minister of Malaysia

"*Issues in Contemporary Islamic Thought* provides the insights of a lifetime of scholarship by a distinguished scholar and educator. Al-Alwani calls for a reconstruction of the Muslim mind, a reassessment and reinterpretation (ijtihad) to formulate an Islamic response to major contemporary issues: the authority of the past and its relevance to modern life; the Qur'an, Islamic governance and divine sovereignty; Islamic law and social change, citizenship, the rights of the accused, women's status, education, and capitalism."

John L. Esposito is University Professor, Professor of Islamic Studies and Founding Director of the Center for Muslim-Christian Understanding, Georgetown University, USA.

DR. TAHA JABIR AL-ALWANI

The author is a graduate of Al-Azhar University, Cairo. He is President of The Graduate School of Islamic and Social Sciences (GSISS), USA; President of The Fiqh Council of North America; Member of the OIC Islamic Fiqh Academy; and former President of The International Institute of Islamic Thought (IIIT), USA. He is also the author of numerous works including: Source Methodology in Islamic Jurisprudence; Towards a Fiqh for Minorities; The Ethics of Disagreement in Islam; Ijtihad; *and* The Qur'an and the Sunnah: The Time-Space Factor.

£15.00 $18.95 €21.00 (PB)
£20.00 $28.95 €30.00 (HB)