

RADICAL REFORM

Islamic Ethics
and Liberation

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Introduction

The road has not always been smooth and the research and study have been long and sometimes very difficult. The reflections and proposals that readers will find here are the outcome of a long, deep immersion in the Universe of the "Islamic sciences." For more than twenty years (nurtured by traditional teaching, accumulated readings, personal research, and the writing of books) I have repeatedly stated that the awakening of Islamic thought necessarily involves reconciliation with its spiritual dimension on the one hand, and on the other, renewed commitment and rational and critical reading (*ijtihâd*) of the scriptural sources in the fields of law and jurisprudence (*fiqh*). I have not changed my mind at this point: the luminous heart of Islam is indeed spiritual quest and initiation, and its universal dimension necessarily involves a continued process of reading and rereading, of faithful and innovative interpretation, leading to the formulation of adapted legal rulings (*fatâwâ*). Today's Muslims, both in the East and West, urgently need contemporary *fiqh*, distinguishing what in the texts is immutable and what may be changed. I tackled this issue systematically in three books using different approaches: in *To Be a European Muslim*,¹ I presented a new reflection based on the

main classical instruments offered by the fundamentals of law and jurisprudence (*usûl al-fiqh*): critical and autonomous interpretative reasoning (*ijtihâd*), the public interest and common good (*maslahah*), and detailed *fatâwâ*. This approach was meant to enable European (and Western) Muslims to respond to the issues and challenges of their presence in secularized societies where religious reference plays a secondary role in public life. *Western Muslims and the Future of Islam*² took up this reflection with a more direct approach to the issue of the sciences and methodologies at the source: the second part of the book took the form of practical, concrete proposals in such fields as spirituality, education, social and political commitment, interfaith dialogue, and so on. Those two works popularized a thought and methodology that spread well beyond what I had hoped for. *Islam, the West, and the Challenges of Modernity*³ approached the issue from the standpoint of Muslim majority societies, asking which project for which modernity? It also studied the social, political, economic, and cultural dimensions of a possible vision for society. The point was, yet again, to strive to achieve faithfulness through movement.

Limits have, however, been reached. The general vision has indeed been renewed; innovative readings have often made it possible to provide original solutions, to overcome withdrawal attitudes, to put an end to victimlike isolation or to sectarian literalism: another relation to oneself and to the West turned out to be possible. Yet drawbacks remained, making it impossible to carry the reflection further and, above all, turning the reform (*islâh*) movement into a process of continuous adaptation to the order of things... however unsatisfactory they might be. It seems obvious that I had to go further and not only, as reformists had done in the past two centuries, question the productions of *fiqh*, but also its fundamentals, its sources, and the mother science (*usûl al-fiqh*). Centuries of referring to *ijtihâd* certainly did make things progress, but this remains highly inadequate because crises are still there and are even getting deeper, and Muslims seem to be at a loss for a vision and projects for the present and future. We seem to have reached the end of a cycle, that which consisted in thinking through revival merely through a renewed reading and interpretation of scriptural sources. Apt distinctions had been made between *shari'ah* (the Way to faithfulness including the legal order) and *fiqh*, between general principles (*ûm*) and specific principles (*khâs*), between immutable norms (*thawâbit*) and norms subject to

change (*mutaghayyirât*); this had made a renewal movement possible, as Indian-Pakistani thinker Muhammad Iqbal (died 1938)⁴ had suggested and hoped. However, as I show in the first section of this book, this is not sufficient when the world's progress is so rapid, when challenges are so complex and globalization is so unsettling.

Therefore I must go further and raise the issue of the sources of *usûl al-fiqh*, of the categories that organize them, of the methodologies that result from them and, finally, of the nature of the authority all those elements impart to text scholars ('*ulamâ*' and especially *fuqahâ*'). This is what I propose to undertake in the present work: it is, clearly, a new step. The objective is to revisit not only the tools and concrete, historical implementations of *fiqh*, but also their sources, their categorization, and at the same time their methods, the range of their authority and the nature of the approaches that have been put forward throughout the history of this science (*usûl al-fiqh*). This approach is the fruit of years of reflection and questioning about the nature of the crises, difficulties, and drawbacks that paralyze contemporary Muslim thought: why does recourse to *ijtihâd*, so long called for, fail to produce the expected renewal? Why has the innovative, bold, creative spirit of early times given way to timid approaches that only consider reform in terms of adapting to the world and no longer with the will and energy to change it? How can we explain this divide, this huge gap between the "Islamic sciences" (or "sacred sciences") and all the "other sciences," defining distinct and well-secured fields of authority, but making it impossible to respond adequately to the challenges of our time? Those questions, among many others, challenge us to go back to the roots of problems, circumscribe their scope and suggest a new approach and a new methodology regarding the fundamentals and sources of *usûl al-fiqh*.

This book contains three fundamental propositions: the contemporary Muslim world (both East and West) must reconsider the terms and modalities of the reform process (*islâh*, *tajdid*). It is important to distinguish between "adaptation reform," which requires religious, philosophical, and legal thought just to adapt to the evolutions of societies, the sciences, and the world, and "transformation reform," which equips itself with the spiritual, intellectual, and scientific means to act on the real, to master all fields of knowledge, and to anticipate the complexity of social, political, philosophical, and ethical challenges. To this end—and this is the second proposition—the contents and

geography of the sources of *usûl al-fiqh* must certainly be reconsidered. It cannot be enough to rely only on scriptural sources to examine the relationship between human knowledge (religion, philosophy, the experimental and human sciences, etc.) and applied ethics: the Universe, Nature, and the knowledge related to them must assuredly be integrated into the process through which the higher objectives and ethical goals (*al-maqâsid*) of Islam's general message can be established. The consequence of this new geography is important and it leads to our third proposition: the center of gravity of authority in the Islamic Universe of reference must be shifted by ranking more clearly the respective competences and roles of scholars in the different fields. Text scholars ('*ulamâ' an-nusûs*) and context scholars ('*ulamâ' al-wâqi'*) must henceforth work together, on an equal footing, to set off this radical reform that we wish for.

I recognize, when writing these lines, that criticisms will certainly be expressed. Some in recent years have questioned my competence and capacity to tackle certain issues related to the Islamic sciences (*fiqh*, *usûl al-fiqh*, etc.) and, *a fortiori*, to suggest solutions. It is worth repeating here that what matters is that such criticisms should stop focusing on the person and instead engage with the only worthwhile debate, that is, to examine the propositions and reflections presented and if necessary to produce a serious and well-argued critique. In launching the *Call for a Moratorium on the Death Penalty, Corporal Punishment, and Stoning*,⁵ it was expected that reactions (even those of a few '*ulamâ'*') were going to be passionate and emotional but I was disappointed at the dearth of argued critiques produced after thorough study of the text of the *Call*. This lack of calm critical debate is, I think, one of the evils undermining contemporary Islamic thought.

During the academic presentations (lectures, conferences, or symposia) that preceded the writing of this book, some interlocutors objected that, according to them, those reflections were not new and that the integration of scientists (from the experimental or human sciences) was already a reality in some Islamic legal councils. I have reservations about this and question the modalities. There are indeed, and they are mentioned several times, fields (such as medicine) where platforms are provided for text '*ulamâ'*' and scientists to consult with one another and combine their skills, but this reality is an exception far more often than the rule. Besides, my argument

is much clearer and more radical than simply calling for punctual "consultation" of experts and specialists (*khubarâ'*) in the different fields of knowledge: the issue here is to question the essence of categorization between the sources of *usûl al-fiqh* and, thereby, to state the need to integrate the scientists ('*ulamâ'*') of Nature, of the experimental and human sciences, *permanently and on an equal footing* when higher objectives and ethical goals are to be determined in their respective fields. This approach enables us to suggest a more elaborate set of ethical results (rather than the traditional five or six main objectives⁶) and an original (horizontal and vertical) categorization of higher objectives. Such an approach offers a framework that does not claim to be definitive but that in effect imposes a critical revision of classical methodologies and typologies.

It might also be objected that I do not always put forward concrete solutions to the various issues raised. Domains must be kept separate: the theoretical work undertaken in the first three parts of this book consists in studying the terminology and categorization of the sciences and the history of the different schools of the fundamentals of *usûl al-fiqh*. As part of this fundamental reflection, I suggest a new geography of the sources of *usûl al-fiqh*: this should lead to integrating the Universe and social and human environments (and therefore all related sciences) into the formulation of the ethical finalities of Islam's message, of which a new presentation and categorization are set forth here. On the basis of this theoretical framework, practical cases are examined, and a number of issues and questions are raised: I have chosen a number of key domains (medicine, the arts and cultures, gender relations, ecology and economy, and secularization, politics, philosophy), which are far from being the only ones but where (within the limited scope of this study) this proposed approach can open new areas for investigation and creativity. The objective here is not to provide answers to each of the questions raised, since the fundamental proposition in this book is to state exactly that specialists must examine those issues, become more involved, and give us the benefit of their skills about matters that are often complex and highly specialized. This present contribution is to question methods rigorously while stating fundamental criticisms involving the formalistic or clearly inadequate nature of the answers proposed. After that, it is up to scholars, scientists, and experts in the various branches of knowledge to provide new, efficient solutions.

Another point must be made clear: this is not a blunt, systematic critique of *'ulamâ'* and *fuqahâ'* in which they are seen as responsible for all the evils that affect Muslim-majority societies and the communities living in the West, in Asia, or in Africa. I address the contemporary Muslim conscience at all levels and strive to make the criticisms constructive and multidimensional. So-called ordinary Muslims must take on their share of responsibility in critical work, in the nature of the issues raised, and in starting in-depth reflection from day-to-day realities. The problem of leadership in the Muslim world is also related to the lack of critical contributions within religious communities, to the passivity of the majority and to their following often exclusively, through emotion or admiration, this or that skilled and/or charismatic scholar or leader. The critique must also include those intellectuals, scientists, or scholars who excel in their fields but who do not take part in intellectual and ethical debates within the spiritual community: they are often content with criticizing "the-incompetence-of-scholars-who-know-nothing-about-the-issues-about-which-they-legislate" but they remain passive observers who fail to take on any responsibility for the crisis of the contemporary Muslim conscience. I therefore call for a general awakening and a critical evaluation of all consciences and all skills, those of ordinary Muslims as well as of intellectuals, scientists, and *'ulamâ'*. Even non-Muslim experts should, as we shall see, have a part to play in the process, by questioning the contemporary Muslim conscience about a number of issues or by contributing with their skills to the possible resolution of some scientific and/or ethical issues (in the experimental or human sciences).

This study has four different parts. The first three are theoretical and determine the framework through which practical cases are approached in the fourth part. I first examine terminology and the nature of the reform already mentioned above. Second, I present the three main classical schools that defined the fundamentals of *usûl al-fiqh*: the deductive school, the inductive approach, and the school of higher objectives (*al-maqâsîd*). Third, I suggest "a new geography of the fundamentals of law and jurisprudence" and set forth the basic propositions. Fourth, I discuss a few fields (an arbitrary choice, which moreover did not allow for exhaustive study), in some of which the evolution of Islamic thought has been more or less satisfactory (like medicine, although even more specialist involvement is required),

while in others real drawbacks can be observed (the arts, cultures, economy, ecology, etc.). The point is to show how, and why, a new methodology is necessary to take up the different challenges of our time. What is required is not, in each scientific field, to try to adapt to social and scientific evolutions, but rather to offer an ethical contribution, more soul, humanity, and positive creativity, to societies, to the sciences, and to human progress.

The reader who wishes to avoid the technical chapters that analyze the Islamic sciences and the fundamentals of *usûl al-fiqh*, as well as the theoretical development presenting the new geography, can focus on studying the practical cases and the five sections established in part IV. Readers may then decide to read the theoretical part at a later stage. Both a linear reading of the book or an initial approach through the practical cases can be logical, or even complementary, if one keeps in mind the imperative relationships that exist among theoretical criticism, the methodology proposed, and the practical and ethical solutions that this approach aims for. I speak from within a universe of reference whose classical categorizations and methodologies I question so as to be able to reconcile the contemporary Muslim understanding with the universality of its message and the complexity of contemporary challenges. In so doing, the limits and the ambitions of the task at hand must not be forgotten.

knowledge Islamic," but rather, essentially and deeply, of establishing an *Islamic conscience* of objectives and an *Islamic ethics* related to human behavior and the qualitative use of knowledge.

This is a colossal undertaking that involves reconsidering the old categories established by scholars and unquestioningly accepted by Muslims. Going forward, this primarily means reconsidering what the scholars of fundamentals, regardless of the school to which they belonged, from ash-Shâfi'î to ash-Shâtibî, categorized as sources of law. If there are actually two Books, two Revelations, which respectively have their own universal laws and their own circumstantial and historical laws; if understanding texts and contexts requires extracting those laws through an autonomous critical study based on the object studied; and if the believing conscience must meditate about final objectives and ethics in the light of the two Books and of all areas of knowledge, then the Universe and the sciences related to it must imperatively be considered as objective, indispensable sources of Islamic law and jurisprudence. We cannot maintain the classical categorization that, through an outdated viewpoint on the state of science and knowledge, maintains preeminence and authority relationships that stand in the way of the reform that is required today.

The Growing Complexity of the Real

Having stipulated that the Universe—as a “Book” and a “Revelation”—and social and human contexts, in their geography and historicity, are full-fledged sources of Islamic law and jurisprudence is not enough to reach the proposed goal. Besides, *ulamâ'* (whether *usûliyyûn* or *fuqahâ'*) would have no difficulty in admitting this principle; they would even hasten to add that context has always been taken into account by text specialists, in one way or another. What matters most is not only clarifying the meaning of this re-balancing between texts (*an-nusûs*) and context (*al-wâqi'*), but in essence also drawing all the consequences of that thesis in the light of contemporary knowledge, whether in approaching texts or in dealing with scientific and human knowledge, and indeed, more broadly, in implementing Islamic ethics.

Contemporary *ulamâ'* are right to claim that, as I have pointed out several times in this work, the world, history, and the environment have always been integrated into their analyses of texts. In early times, this awareness was at its most natural because scholars were intimately familiar with the environment for which they set the laws (many were also expert scientists, physicians, and philosophers);

then, as time went by, they did not hesitate to call on specialists (*mutakhassisîn, khubarâ'*) of this or that scientific field, who were asked to inform them about the state of knowledge in their fields or answer questions. All *fuqahâ'* councils worldwide have gathered opinions of scientists or specialists who can inform them about specific fields of expertise; this is naturally more systematically done in the experimental sciences. Those experts represent their field of study, answer questions, sometimes provide an opinion or advice; then the council of *ulamâ'* specializes in the study of scriptural sources—with the help of the information provided by the scientists, but most often meeting on their own—formulate a ruling or legal opinion (a *fatwâ*) about a specific issue. In very rare councils (or on rare occasions) scientists, text specialists, and experts in a given scientific field (related to the human context at large) sit down together to determine the outline of an applied ethics in a particular area of knowledge. This kind of work has probably been carried out most dynamically and efficiently in the fields of medicine and astronomy, but this is an exception rather than the rule.

Yet reflection about the nature of knowledge in modern times requires me to question both the framework and the methodologies used in the councils and circles of contemporary Islamic legislation. I see that knowledge is growing extraordinarily more complex, and that a deep-set revolution is occurring in human potentialities, and yet nothing seems to be changing in the production of Islamic ethics in the light of such upheavals. This reality, as I said, produces a much more far-reaching problem later on, in defining the sources of law and consequently, as we shall see below, in establishing *spheres of authority* in the development of ethics. We must, however, take a closer look at the evolution of the sciences to reach a clearer view of what this is going to entail as far as dealing with texts and establishing an Islamic ethics is concerned.

The Evolution of the Sciences

The amount of knowledge accumulated during the past four centuries and especially, of course, during the twentieth century, is truly astounding. This scientific revolution has had consequences for the

whole range of human behavior and more generally on the evolution of societies. People have grown better able to grasp reality, but at the same time this reality itself has grown more complex and has revealed myriad topics that still remain to be observed and discovered. From astrophysics to neuroscience, all scientific research points to the same conclusion: we have acquired extraordinarily extensive and complex new knowledge, but what remains to be studied and understood is immeasurably vaster. This upheaval has naturally required scientists to become more and more specialized in the different fields of knowledge and in highly specific areas within each field: all the exact, experimental, or social sciences without exception have undergone a growing extension and compartmentalization of their object of study as the available amount of knowledge has increased.

It is therefore impossible, as I said, for a text specialist (*'âlim*) to be able to assimilate the whole range of those sciences, not even an *ulamâ'* council might suffice, since those fields of knowledge largely exceed their own area of expertise. Even when these experts councils must today set forth the law in a local context, for a society or culture they know from within (like the *ulamâ'* of former times), the world and all areas of knowledge have become so interconnected, the situations so intricate and complex, that it is impossible for them to rely only on naturally acquired knowledge to be in full and adequate understanding of their time and place, however "local" these might initially seem. From the most technologically advanced societies to those that experience the direst realities of economic underdevelopment—from North to South, from East to West—realities echo one another and areas of knowledge communicate: it becomes impossible to isolate situations and to put forth legal opinions (*fatâwâ*) and ethical answers, unless by perpetuating a long-outdated perception of the real.

It is, of course, in the field of experimental sciences that the knowledge acquired necessarily confronts *fuqahâ'* with fundamental, explicit questions. The knowledge acquired in physics, chemistry, biology, neuroscience, or medicine, for instance, has enabled scientists to reach a better understanding of the organization of matter, or the functioning of living beings—of the brain and the human body, for example. We are indeed faced with a reality that is becoming increasingly complex, one that requires human intelligence to expand its knowledge and establish an approach that is both holistic

and specialized, if the desire is to think and develop an applied ethics that is up to date with knowledge about the subjects at hand. *Fuqahâ'* have easily admitted that the amount and complexity of the knowledge acquired in the contemporary experimental sciences outstripped their own capacities and skills, and that it was necessary for them to rely on scientists to adapt their legal rulings as needed. All that is known today about DNA, cells, living tissue, and embryos, as well as the functioning of the brain and clinical death definitions, for instance, has immediate consequences on the legal rulings that must be developed whether about general situations or more limited cases: from genetic engineering, to cloning, organ donation, abortion, or euthanasia, it is impossible to issue a legal ruling or opinion (*fatwâ*) without taking into account the state of contemporary knowledge. The question that remains, and to which I shall return below, is how to integrate, or rather how better to integrate, scientists into the production of thought and the implementation of ethics in our times.

The Universe of the social sciences is just as complex: whether in anthropology, psychology, economics, or other disciplines, one is faced with the same growing complexity and accumulation of increasingly specialized and precise knowledge. We have seen that, with those subjects being less "exact," less able to be "verified" by scientific experimentation, *fuqahâ'* quickly considered them as "secondary" and, therefore, as less imperatively requiring them to be integrated into the formulation of legal rulings. It indeed seemed useful to rely on expert research, on thinkers' reflections, or on working hypotheses, but this consultation was never so important, nor was its binding character so clearly felt, as has been the case for the experimental sciences. This distant—if not wary—relationship with the social sciences remains the rule today and consultations remain marginal and superficial.

The bulk of the production and theories of the social sciences (e.g., sociology) has been largely ignored by Islamic scholars as they elaborate their legal rulings (although these function in and for social and historical contexts about which thorough research has been conducted). Inferential studies about social dynamics that try to extract basic principles and constant causality relationships in the changes in constituted human groups are of very little interest to *fuqahâ'* who go on pronouncing the law without considering those fields of study that they deem "too approximate." Similarly, the different branches

of applied psychology are but scantily referred to: in addition to the often global, simplifying, and simplistic rejection of psychoanalysis (reduced to a biased analysis of Freud's work alone), one can perceive that the different theories elaborated in applied psychology, from cognitivism to behaviorism, or more broadly, cross-cultural psychology, are not taken into consideration. Moreover, it can also be noted that this research as a whole is neglected, along with its fields of application, whether clinical psychology, social psychology, education psychology, legal psychology, or the various types of psychotherapies and studies in neuropsychology and psychopedagogy. Those are indeed not "exact" and definitive sciences, but those different fields do provide perspectives that are important to know and that seem necessary to integrate into the elaboration of ethical norms orienting individual and collective human behavior.

The same observation can be made in the order of the economic sciences. Indeed, *fuqahâ'* or Muslim economists have carried out—sometimes very thorough—research about the contemporary economy and its complexity, but it remains that one cannot but notice the huge gap between the *fatâwâ* stated by *fuqahâ'* in this field and the concrete practices that can be observed in the Universe of the global, national, or even the local economy. The very idea that there could be an "Islamic economy" (I shall return to this point later) is misleading if not dishonest: for after all, what is truly "Islamic" in this economy—its tools, its methods, its norms, its goals? One can everywhere observe a lack of mastery of the complexity of the various fields of the contemporary economy, of the global interdependence relations at the heart of the global market (between African or Asian peasants and Western buyers; between the various stock exchanges of Wall Street or the city of London, the speculations and commercial relations within societies and in the city streets of developing nations); a lack of awareness of the fluctuating dynamics inherent to the global market economy (that is out of step essentially with a strictly structural and normative legal approach, which is currently thought outdated). The economic sciences have grown more complex just as their object of study has, and it is impossible to outline "an applied Islamic ethics in economics" without relying on contemporary expertise and research, unless one reduces economic activity to the use of a few tools without going to the trouble of thinking through the philosophy and objectives of human behavior in that field. Unfortunately this is

what can be observed, and the dysfunction comes from the answers offered by successive *fuqahâ'*, in the light of the elements made available to them by their (mainly Muslim) economist advisors: a partial (and often biased) accounting of the complex workings of the contemporary economy, an obsession with tools and norms leading to ends that are dangerously overlooked, and finally—according to most practitioners—structural, marginal, and often cosmetic answers to questions about the global economic order.

Text scholars (*'ulamâ' an-nusûs*) must necessarily integrate the evolution of the experimental and social sciences—that are all ways of understanding, reading, and interpreting the Book of the Universe—into their research and the production of legal rulings in the fields at hand. One can no longer be content with providing formal answers, focusing only on the structural—and almost technical—framework within which *fuqahâ'* have got into the habit of operating, since the amount of knowledge in the experimental and social sciences overstepped them, they naturally responded by declaring themselves the protectors of ethics against the “excesses” of the sciences. This response is, of course, understandable, humanly and historically, but it has led to restricting ethical elaboration to a timid, reactive, defensive posture in virtually all scientific fields. The original confidence, which was characterized by an ethics that mastered the sciences and carried a vision of purposes and objectives, has given way to a reflection about texts that is wary of the evolution of social and human contexts and, instead of providing a vision for the future, is content with laying out—with little effort—the ethical framework of an *adaptation* to the requirements of the present. While the textual scholars might shoulder most of the responsibility for this, scholars of the context—clinical scientists and social scientists—and the Muslim general public are not entirely blameless either. Like the jurists, these scholars focus on their particular field of knowledge and lack religious education beyond the basics so that they too often compartmentalize their lives and knowledge. They seem to have internalized the notion that their knowledge being outside of the “Islamic sciences” is thus irrelevant to Islamic legal deliberation and reform. They wait to be invited as experts rather than demanding a place of full participation at the table of deliberation. The Muslim public also fails its role to demand more of scholars of text and context and often seems to be content with adaptive tactics that comfort them rather than acting

as agents of transformation in a world that constantly challenges the global ethics of their faith.

The Prerequisites of a Transformational Reform

I have already mentioned in the first section the difference I draw between adaptation reform and transformation reform. With this reflection about the Book of the Universe and the sciences as a whole (exact, experimental, and social), we are touching the heart of the matter. As I said, *usûliyyûn* as well as *fuqahâ'* have over decades and centuries repeatedly said that the environment as a whole, as well as the specificity of human and social contexts, must be taken into account when elaborating rulings (*ahkâm*) and issuing legal opinions (*fatâwâ*). And indeed, they continue to refer to social realities, to customs (*'urf*), and to the people's common interest (*masâlih*). However, a gap has gradually appeared between their immediate and natural knowledge of the societies for which they articulated the law and the complexity of those societies' organizations, the interaction and interdependence of the various areas of human activity (private, public, work, leisure, etc.), their relation to other societies, and of course the huge amounts of scientific knowledge acquired. That gap, which is so evident in contemporary Islamic thought, has, as I said, put scholars in an essentially reactive and protective position: the reform of Islamic thought—that is in effect accepted—has now been understood as a means of preserving essentials while being content with acknowledging the need to *adapt* to the realities of a world and of amounts of knowledge the complexity of which increasingly elude us. Even so, we have seen why adaptation alone cannot be satisfactory since it reduces faithfulness to the message and ethics to a process that is always considered *a posteriori*, aiming to protect “ethical areas” or “practices” within a global system that no vision directs, that no one acts to transform at the source, and that eventually imposes itself on human intelligence and human conscience.

Giving ourselves the means for a transformation reform, a visionary ethics that accompanies and integrates the evolution of knowledge, requires us to rethink the classical apparatus of the fundamentals of

law and jurisprudence at their source. The first prerequisite consists in clearly establishing that those sources are not simply scriptural but also the Book of the Universe and with it, all the sciences that strive to understand it better and improve human beings' actions and conditions in their various spheres and in their specific social contexts. Thus, the classification that was content with drawing up a list of the sources of law (Quran, Sunnah, *ijmâ'*, *qiyâs*, *'urf*, *istihsân*, *istislâh*, etc.) and with focusing almost entirely on relating to the texts (the reference to custom and common interest is primarily considered as a support to aid understanding the texts), must, I think, be revised and reconsidered in the light of contemporary realities. From a strictly theoretical, and fundamental, viewpoint, we have seen that the Universe imposes itself on the human intelligence as a book, with its rules, laws, principles, semantics, grammar, and signs, and that, in effect, as the Revelation itself repeatedly suggests, it is imperative to approach the two Books in parallel and complementarily.

The evolution of the experimental and social sciences similarly compels us to perform this fundamental rebalancing and to clearly acknowledge natural and universal laws and the constant or circumstantial principles of human action in history as full-fledged sources of Islamic law and jurisprudence (*usûl al-fiqh*). As such, then, they must be included in ongoing ethical reflection, and the men and women who are specialists in these various sciences must take an active part in formulating ethical norms in their own field. What had so far been accepted as an implicit approach, often as a possible supplement,—awareness of the natural, social, and human context (*al-wâqi'*)—here becomes an imperative requirement in legal and ethical structures in the contemporary world. The point is then to clearly place the two Books, the two Revelations, the text, and the Universe on the same level—as sources of law—and consequently, to integrate the different universes of the sciences and their various areas of knowledge and specialities into the formulation of legal rulings about very specific scientific, social, or economic issues. It is this confident integration of all the sciences, of the knowledge acquired, and this better mastery (of texts—so far exclusively called “Islamic”—as well as of Nature and contexts—implicitly, and strangely, considered as “non Islamic”), which will enable contemporary Islamic thought to formulate a vision for the future, to work out goals from the substance of scientific knowledge (and not only from its tools and techniques), and

thereby, ultimately, to outline the stages of a wide-ranging transformation reform in the name of applied ethics.

This entails—and this is the second prerequisite—that text scholars (*'ulamâ' an-nusûs*) as well as context scholars (*'ulamâ' al-wâqi'*) should participate on an equal footing in elaborating ethical norms in the different fields of knowledge. Even though the fundamentals of belief (*'aqidah*) and worship (*'ibadât*) obviously remain the prerogative of the *fuqahâ'* insofar as they are exclusively determined by the texts, this is not so for social, economic, and scientific issues for which an ethical reflection is only possible by relying on the knowledge of specialists, while respecting the autonomy of their practice and of their scientific methodologies when taking their expertise into account. I shall later be discussing the practical consequences of such an approach, but it can now be said that we consider it to be the only one that will allow contemporary Islamic thought to free itself from its reactive, defensive attitude in its relationship to knowledge and the sciences, primarily owing to the fact that from the outset, a lack of balance had been accepted when establishing the sources of law: thus established, those sources came to impose an ethical framework that was always “outpaced” (systematically *adapting*) because of imposed needs (*hajât*) or inescapable imperatives (*darûrât*).

The third condition that must be mentioned is, of course, linked to the direct consequences of the growing complexity of the sciences and of knowledge already discussed. While it is imperative to rely on the specialization and expertise of scientists, whether women or men, in their respective fields, it will also be necessary to require of textual scientists that they have a twofold specialization. To classical learning in the fundamental texts, their higher and specific objectives, and the finality of rulings, an effective specialization should be added in one field of human activity or another. Whether in the experimental sciences, in medicine, in economics, in psychology, or in art and culture, the holistic approach must be allied with a specialized ethical approach to respond appropriately to today's challenges but also to elaborate a prospective, creative body of thought. The specialization of *fuqahâ'* clearly appears to be the condition required for applied ethics to be efficient in the various fields just mentioned.

Thus, it is not enough to admit that reform or renewal (*tajdid*) is an integral part of the exercise of legal thought. This principle must certainly be associated with a thorough reflection about the sources

of law, their geography, and their status in the elaboration of norms and ethical finalities. My proposal for the general system—including the natural and universal laws that are the sources of law, integrating scientists into the formulation of ethical norms, and *fuqahâ'* acquiring specialized scientific knowledge, however simple it may seem, is nevertheless fraught with consequences for any approach to the fundamentals of law (*al-usûl*) and the concrete implementation of norms (*al-fiqh*). Clearly, when reconsidering the nature and status of the sources, this approach also questions the spheres of authority and powers of the scholars and scientists interested in those matters. Beyond general reflection, and the philosophy of law and of ethics that motivates it, resistance to this radical reform—in the geography of law as well as in its methodology—is bound to appear at the center of *usûliyyûn* and *fuqahâ'* circles who have so far represented authority and guarded faithfulness to Islamic norms. It has always been so—this reaction is natural and in itself quite understandable; it is moreover respectable when it expresses wariness and actual concern about the potential deviations in scientific practices or about the unrestricted acceptance of all types of social behavior. In my opinion, the approach to the fundamentals of law must be reformed for exactly opposite reasons: acquiring better mastery of human knowledge, deeper awareness of what is at stake, a capacity to anticipate and transform reality *in order to* harmonize the definitive objectives of ethics and human behavior in history.

Shifting the Center of Gravity of Religious and Legal Authority

As I said in the first section of this book, we have reached limits that prevent contemporary Islamic thought from moving forward and thus in facing the challenges of our time as it should. The first insight of scholars and thinkers consisted, in the late nineteenth and early twentieth centuries, in distinguishing between definitive universal principles inspired by the texts that constituted the *shari'ah*, and their concrete implementation in the different geographical and historical contexts, that pertained to *fiqh*. This distinction between *shari'ah*, that is, of divine origin, and *fiqh*, which is associated with

the open and relative activity of human intelligence, has been and remains fundamental since it makes it possible to distinguish between the recognition and respect of higher revealed principles on the one hand, and their understanding, expression, and implementation at a given moment in human history on the other. In the sphere of *fiqh*, and specifically in the vast field of social affairs (*mu'âmalât*), it therefore became coherent and legitimate to analyze and discuss a historical heritage composed of interpretations, established rules, or legal opinions that were produced by human intelligence in striving to face the challenges of its time amid the diversity of societies. Islamic thought thereby gave itself the means to become reconciled with the practice of autonomous critical reasoning (*ijtihâd*) not only to evaluate the interpretations of the past but also, and especially, to suggest new perspectives and produce legal rulings adapted to the challenges of the present and future.

Thus, reformist thought again grew very dynamically throughout the twentieth century and one must admit that Islamic thought has evolved considerably. *Fuqahâ'* and thinkers have not hesitated to delve into the legacy of the past and revive approaches and philosophies of law that had been too long neglected despite offering a stimulating framework for the renewal of legal elaboration. They often worked in association with the three classical schools already mentioned: both ash-Shâfi'i's clarifying framework and the Hanafî's flexible inductive method have often been integrated into the seminal methodology of the higher objectives school of which ash-Shâtibî is historically the primary representative. Throughout Muslim-majority societies, from Pakistan to Indonesia, from Egypt to Saudi Arabia, from Algeria to Morocco, including African societies and Muslim communities of people now settled in the West, new reflections have emerged about a number of scientific discoveries, about medical ethics, economics, politics, power, gender studies, culture, interreligious dialogue, and civil society in general. In the area of Islamic law and jurisprudence, of *fiqh*, things have been moving along and it would be unfair to deny the existence of those developments and the realistic originality of some standpoints. It nevertheless remains, as I said, that the keywords of those developments are "necessity" (*ad-darûrah*) and "need" (*al-hâjah*) that convey the idea that *fuqahâ'* are compelled—under the pressure of reality—to decree *fatâwâ*, enabling Muslims to *adapt* to new realities

while preserving a minimum level of ethics (whether in their activities themselves or through the techniques used).

We have therefore also reached the limits of the prospects opened by the distinction between *shari'ah* and *fiqh* in contemporary Islamic legal thought. The process of "adaptation reform" that has made it possible to reconsider in a positive way some issues and responses of our time no longer offers *fuqahâ'*, and more generally Muslim societies and communities throughout the world, the means to respond to the major challenges that contemporary science and knowledge represent—unless we continue to be content with remaining followers and reducing ethical reflection to an exercise that consists in assigning ever-shrinking boundaries to the protected area of values and morals at the heart of a time or of societies we have given up trying to act on and transform (to prevent their possible deviations). *Fiqh* must, of course, continue to be dynamic and open to *ijtihad*, but this dynamism must also, at the source, be enriched with other skills, other scientific authorities, and be able to perform a radical reform through the equal, holistic integration of all areas of knowledge, thereby establishing a new relationship to the world, to the sciences, and to societies.

The new geography of the sources of law that I suggest clearly and deliberately entails *shifting the center of gravity of religious and legal authority* in contemporary Muslim societies and communities. We can no longer leave it to scholarly circles and text specialists to determine norms (about scientific, social, economic, or cultural issues) while they only have relative or superficial, second-hand knowledge of complex, profound, and often interconnected issues. If we are to elaborate a vision for the present and future and have the ambition to establish the principles of a living applied ethics able to transform the world by establishing goals that are both realistic and visionary, it is urgent for us to integrate and harmonize the different sciences and all the areas of human knowledge and make them truly interdependent and complementary. To my mind, only by adopting a holistic approach going onward with the recognition and respect of highly specialized expertise can a global, coherent, and liberating reformist thought appear.

The traditional distinction between "the Islamic or sacred sciences" (dealing with the study of scriptural sources) and other sciences (implicitly "less" or "not Islamic") has produced an authority

relationship about the elaboration of norms and ethics in favor of text specialists (*usûliyyûn* and *fuqahâ'*) although nothing basic legitimates nor justifies such a privilege. It is rather the opposite, for all that has been said about the room for interpretation offered by the fundamental texts, their silence, and the necessary dialectic relationship to the social and human context, clearly argues for a complete integration of all areas of human, historical, and circumstantial knowledge, when considering the written Revelation that aims to orient human action.

Clearly then, my point is not to discuss the authority of one scholar (*faqih*) or another belonging to one trend of thought or another,¹ but indeed the authority of *fuqahâ'* in general. We shall see in the next chapter how the new geography, and its consequences for spheres of authority, can take concrete shape in Muslim societies and communities, and particularly in the circles specializing in *fiqh* and ethics. I can just note for the time being that this critical approach about the sources of law, the objectives of its elaboration from the two Books, the spheres of scientific and ethical authority, has and will go on having numerous consequences in different fields and on different levels. Not only should normative, legal, and ethical answers be different—and more in touch with the reality—but the involvement of Muslim societies and communities should be more far-reaching, more concrete, in elaborating rules and strategies to promote an efficient, operative applied ethics. This will, of course, be done through scientists and thinkers, but as we said, no practical skill should be disqualified for cooperative work in this field. Women's analysis of all issues and particularly—but not exclusively—the issue of their being, their status, and their role; writers and artists' views on cultural issues; contractors, bankers, and traders about financial, economic, and social issues—all must be able to feel involved in the reflection about the issues raised by their own concrete participation in a specific issue or in a specific field. Those practical elaborations are examined in the final section of this work.

and the imitation of the dominant economic model and ways of life that delude us into believing that we may be saved by melting into the dominant positions and fashions of the present. Those are the essential teachings that we must become reconciled with, and that we must call on *fuqahâ'* and scientists to put into practical use in our individual and collective daily lives. This is what the reform, renewal, and contribution of the Muslim world requires, unless one is deluded by words, catchphrases, and formulas about the "*halâl*" or "Islamic" character of this or that practice or technique while, willingly or not, remaining blind to the betrayal of sacralities. To criticize knowledge cut off from its sources, Rabelais used the apt expression: "Science without conscience is but the ruin of the soul." In our present Islamic Universe of reference, which is muddled with often misleading normative formalities, one should recall that the morality of means is never sufficient guarantee of the ethicality of ends. That is indeed why the human conscience must never stop questioning means and ends and adding *soul* to knowledge, science, and economy. Only through this effort can we eradicate poverty and preserve the planet's future: that is what being stewards on earth (*khulafâ' fi-l ard*) requires.

Society, Education, and Power

It is certainly in consideration of the issues about the vision of society and of the directions of education and political management that my reflections ought to start the broadest and most intense debates and thereby lead to the most important consequences. Calling for the reconsideration of the sources of Islamic law and jurisprudence (*fiqh*), for an imperative rebalancing in which the Universe, history, and human societies would become sources of *fiqh* in their own right, and for a shift in the center of gravity of authority in Islam, can only have serious, far-reaching consequences on thought and on social, educational, and political commitments. This reassessment, this radical reform of Islamic thought and of Muslims' commitment in the contemporary world, are absolutely necessary conditions for renewal and for reconciling Muslims with the ethical goals and higher objectives of the Way (*ash-shari'ah*).

When reading those works produced by contemporary '*ulamâ'* and Muslim thinkers, when visiting Muslim-majority societies and communities the world over, one cannot but observe a state of deep, general crisis. Reflection struggles to renew itself, visions for society are partial and fragmented, and the challenges presented by the

West's economic and cultural domination seem insurmountable. The breakdown of political institutions appears irreversible and civil society seems paralyzed: the former categories of Islamic thought are no longer sufficient and everywhere one can feel that we are reaching the end of a cycle that may, one hopes, foretell a renewal, a new way to reform. I am far from having the answers to all those questions, but it seems that to formulate the latter, the contemporary Muslim conscience must (while reconsidering the sources and fundamentals of its inspiration) think of new approaches, new methodologies, and perhaps critically reassess some postulates and rhetoric, as to both the elaboration of its thought and the management of its affairs.

My effort here is therefore, humbly, a step toward transition: the aim is, at the end of a cycle composed of intense crises, questionings, and failures, to equip ourselves with the intellectual and methodological means to think and achieve necessary reform. This does not at all mean cutting ourselves off from scriptural sources and the long and rich spiritual, legal, and philosophical tradition in Islam's history—quite the contrary. What is attempted here is, on the one hand, to work toward *reconciliation* with the general message and its higher intentions and on the other, to think about its *coherence* in a globalized world that has increasingly complex and interdependent societies. It is to put the Islamic tradition in motion and build bridges between the revealed Book and the Book of the Universe, between text and context scholars, between the Islamic Universe of reference and other religions or civilizations, between women and men, between the agents of change in both East and West. It is to prepare favorable ground, with determination, faithfulness, and openness, but without oversimplification or naivete.

To this end, one must begin with the critical study of deep-set truths and commonly accepted formulas, particularly regarding the relationship between religion and politics and, more generally, between the private and public spheres. Issues such as education, civil societies, and the management of the different religious and political powers must also be addressed. Such issues as democracy, citizenship, implementation of the law, and elections lie at the heart of the in-depth debates that must be started, or rather restarted, in Muslim-majority societies but also among all Muslims who are faced with the challenges of modernity and globalization.

I have said over and over again that to be serious and efficient and have a real impact on visions, practices, and strategies in the field, such reflections and debates must be carried out in a more open manner. *Fuqahâ'*, theoreticians, politicians, thinkers, and experts in the social sciences must meet, exchange their experiences and ideas, then further the discussion and come up with new suggestions. This is what we have the right to expect, not only from Muslim elites but also from the various agents in civil society. If shifting the center of gravity of authority has any meaning in the Islamic Universe of reference, it is precisely because it is necessary to enable ordinary women and men, members of the spiritual community, to feel more concerned about it and to become involved as forces for questioning and proposing a quest for solutions. The Islamic world suffers from those failings: Muslim-majority societies and communities that are essentially driven by emotional reactivity may follow certain recognized and/or charismatic scholars or leaders, but they become totally incapable of producing critical, constructive, and/or dissenting collective thought, as autonomously elaborated from the grassroots. Leaders may be individuals, women, men, by hundreds or thousands; there is no lack of them among Muslims. What is deeply lacking, however, is *leadership*,¹ a vision nurtured by a collective aspiration and very concretely expressed through a common movement in which all those involved take part intellectually and practically, transversally, and from the grassroots to the top.

Religion and Politics

The ready-made formulas stemming from the two Universes of reference are well known: in the West, it is suggested that religion has nothing to do with politics, while some Muslim '*ulamâ'*' and thinkers claim that Islam makes no distinction between religion and politics. Those two propositions are clear and simple, but they are both reductive and misleading through their very oversimplification and apparent clarity. There is no religion or spirituality whatsoever that is not in one way or another related to politics, to a conception of politics, or to more or less elaborate discourse about the issue. Similarly, there is no political system or practice, even in the most secularized

and ideologically atheistic, agnostic, or nonbelieving societies, that is completely cut off from religious points of reference, even if the latter are only represented in the society's cultural background—France is culturally Roman Catholic just as China is nurtured by Confucianism—and political systems and politicians cannot neglect or ignore those dimensions. The relationships between politics and religion are even more palpable in most of the world's other societies, East and West, and they bear the influences of respective national histories.

What matters here is not to know whether religion has anything to do with politics—since they are always related—but rather to know what type of relation should be considered and encouraged. The central issue is that of authority and what is meant by the separation of church and state. Some Muslims avoid the question by stating that in Islam, there is no church, so that it is impossible to separate the state from another entity that does not itself exist. This amounts, intentionally or not, to diverting the meaning of the proposition: the point is not to know whether there is in Islam an institutional body managing religious affairs (as the Roman Catholic church does), but to question the source, management, and legitimacy of authority and power. In other words, is there a locus where authority is legitimated from above (through a Revelation or a religious institution) and imposes its dogmas and decisions, as opposed to another place where power is subject to pluralistic management and open to negotiation among the group members, and where legitimacy comes from institutions involving procedures consultation? What matters here is to ascertain whether religious dogma is indeed separated from political thought or whether, on the contrary, the former bluntly and authoritatively imposes itself on the exercise of the latter. Hence, the relationship that was gradually established between dogma and reason, between religious authority and political power, must be studied in its complexity and historical background. The issue is not simple and the answers are many, often singular, and always fashioned by the different national or continental historical experiences.

Those are the terms in which the debate must be stated, for the point is truly to distinguish between two powers, two orders of authority, and hence, two intellectual attitudes: that which, in its relationship to the divine, submits to revealed truths in the name of the heart, and that which, in the name of its autonomy and freedom, claims its rights and its share in the community's decisions. The confusion of orders

occurs when the mind longing for divine truths turns into a dogmatic mind and wishes to impose its truths on the political and social community. What endangers political pluralism is indeed, on the one hand, the imposition of a religious power whose legitimacy is seen as transcendent, and on the other, emergence of a dogmatic mind deaf to other people's beliefs. The nature of this "dogmatic mind" is not only religious, however: recent history abounds in such distortions of atheistic, agnostic, or secular ideologies that virtually turn into religious references, with their undisputed order, their dogmas, and even their "priests," "rabbis," or "imams." Closed, dogmatic thinking is not absent from the minds of some self-proclaimed "rationalist" thinkers both right and left, or some advocates of French or Turkish forms of secularism (to mention only the most striking examples) changed into outright religions with their undisputable truths, their sacred spaces, and their polarized discourse distinguishing the elect from the reprobate. Reflection about the relationship between politics and religion requires us to take the study of the subtlety of those relations very far, up to their possible perversion.²

Contemporary legal councils, including *fuqahâ'*, thinkers, politicians, and political scientists, must definitely look into this issue and put forward approaches that are faithful to scriptural sources but above all are in touch with contemporary challenges. It is important first of all to return to the sources and undertake a true clearing of the terminological ground, moving beyond rhetoric ("In Islam, there is no distinction between religion and politics") and simplistic oppositions ("Unlike the West, Islam opposes the separation of religion and politics") that are so quickly formulated both by some Muslim thinkers and by Orientalists fond of distinctions and oppositions. Such concepts as "*ash-sharî'ah*" (the Way or the Law, according to interpretations), "*al-'aqîdah*" (creed), "*al-'ibâdât*" (worship), "*al-mu'âmalât*" (social affairs), and "*al-maqâsid*" (objectives) must not only be defined but revisited in the light of the legal tradition and integrated into a general methodology that enables us to take up the challenges of our time. Unfortunately, this task has not been performed and one keeps hearing rhetoric whose relevance ought to be examined. Thus, it is quite wrong to claim that Islam makes no distinction between the field of religion and that of politics: from the outset of legal reflection (which was the first science applied by scholars), *'ulamâ'* have established a clear difference in methodology between separate spheres.

The orders of creed and worship (*al-'aqidah* and *al-'ibadât*) are subjected to the sole and ultimate authority of the revealed texts. Here, one bends to what the Revelation and Prophetic traditions transmit: all believers are called on to say, with faith in their hearts and consenting minds, "We have heard and we have obeyed."³ In Christian terminology—although the perspective is not similar and the comparison remains relative—we are in the order of "dogma" in the sense of truth imposing itself on reason. The methodology is the exact opposite of that found in the sphere of social affairs (*al-mu'âmalât*), where the whole range of possibilities is open, up to the limits of what is definitely prohibited by the texts or scholarly consensus. In this latter field, only broad guidelines and general principles direct people's intelligence (some precise rules are stated, but they are always linked to conditions that in turn should be taken in the light of fundamental principles and higher goals). Hence, the door is wide open for human intelligence, its creativity, and quest for solutions in the light of the principles stated: it is this freedom offered to human intelligence that has enabled Islamic civilization to produce so much scientific and philosophical knowledge in the course of history.⁴ One can therefore understand that if scriptural sources determine the ethical coherence of the whole range of human action by fixing objectives and higher goals, they do not standardize the spheres of this action under the authority of a single institution or of closed dogmas.

Such reflections are not new; they are indeed as old as the Islamic legal tradition itself. All early works of *fiqh* clearly distinguish the chapters dealing with *'ibadât* and those dealing with *mu'âmalât*, because their essence and the methodologies applied in them are different. Muslim theoreticians, contemporary *fuqahâ'*, as well as legal councils, have not fully developed their reflections about the concrete consequences of such distinctions on present-day management of political issues. Since colonization ended, the need to oppose political, economic, and cultural imperialism has been such an obsession that it seemed imperative—as can be retroactively understood—to insist on Islam's fundamental otherness that could not bend to the secularization that was being forced on it. Through the colonial experience, imposed secularization meant rejection of the Islamic reference, "de-Islamization" of the masses, and mostly, after independence occurred, the takeover of power by dictators and tyrants, never by democrats.⁵ The Western equation

secularization = freedom = religious pluralism = democracy has no equivalent in Muslim-majority societies where, through the historical experiences of the past century, the equation has tended to associate other representations that would rather sound like: *secularization = colonialism = de-Islamization = dictatorship*. The need to oppose Western imperialism and its efforts to impose on society development models has been such that Muslim thought has settled into a role of rejection and denial based on otherness, having lost the ability to reconcile this with its own points of reference and develop a vision from within, relying on its own richness and assets. Compelled to oppose others, it has ended up ceasing to be true to itself.

As to the central issue of the relationship between religion and politics, reform therefore requires from the contemporary Muslim conscience a far-reaching process of self-reconciliation. We should return to the sources and carry the reflection about the higher goals of ethics to its logical extent. Although Islamic teachings do indeed show general consistency about higher objectives and ethical goals in all fields of human action, they nevertheless require orders to be clearly characterized and methodologies to be kept separate. There is definitely an area of faith and rituals where the principles and models of practice are imposed on human reason, and there is also a vast field of human action open to intelligence, to creativity, and to the diversity of social, political and economic organization models in different societies, cultures, and histories. At the same time, Islamic teachings never separate the ethical reference from the whole range of human action—whatever the field—but within it, they distinguish, from the outset, the strict modalities of religious practice from the rational and open modalities of social, political, cultural, and economic activity. Respect for higher goals and ethics must therefore be instituted in all fields: ethics in politics, ethics in economy, ethics in communication, ethics in citizenship, among other areas. But this is never to be confused with a dogmatic approach that tells its divine truth and imposes it without consultation.

Thus, Islam establishes a clear distinction between the field of dogma that imposes itself and that of rationality that intervenes, between religion and politics as those two entities are defined in the Western Universe. Legal councils should begin by elaborating more thorough reflections of those realities in the light of contemporary

challenges. What Islamic teachings resist lies on a wholly different level: it is not the distinction between religion and politics, between dogma and rationality, between imposed and negotiated authority, but rather—in the name of the final separation of orders—the disappearance of ethical references from the fields of politics, rationality, and negotiated authority. It is at this depth in the debate that real issues lie, beyond the ideals and rhetoric that the caricatured and artificial “civilizations” of the West and Islam throw at each other. These are, ultimately, the old beliefs of Machiavelli (died 1527) as to politics and Rabelais (died 1553) about science: does not everything become possible when one separates morals from politics and conscience from science? How indeed can one effectively separate religion (and its morals) from political and scientific action while avoiding any mad rupture of politics and moral certainties? Do not contemporary times insistently beg this question? What is the deep, critical contribution—aside from any formalist staging of Muslims—to this debate today?

Public Sphere, Private Sphere, and Rights

The reflection I have started here should have consequences on two different but complementary levels. Reconsidering and rebalancing the sources of law will result in shifting the center of gravity of authority in Islam, and this of course is directly related to the issue of power and its management within that community. Bringing to light all the higher objectives of Islam’s general message, with the categories of its ethical principles, should also lead to in-depth reflection about the relationship between ethics and social organization, religious references, and social visions and, more generally, the role of civil society. We must begin with this latter dimension to take the step-by-step reflection from the social to the legislative fields and eventually turn to political power itself. Once again, the present reflections are inferred based on fundamental reforms that I think are imperative, and which I have mentioned in the first three sections of this book: those reflections must be taken further and deeper in those new places for consultation and research we have called for, where the expertise and experience of *fuqahā*, thinkers, and agents of a civil

society will be brought together, consulted, and put to sound use to produce new, dynamic thought able to meet today’s challenges.

Some intellectuals and thinkers, influenced by debates over “civilizations” (their possible confrontation or their hopeful alliance) find themselves compelled to overemphasize the distinctive features of what is supposed to represent the specificities of their own civilization or culture. One of the most recurrent themes in debates within Western, liberal, and democratic societies is the distinction made between the private and public spheres. Indeed, this is quite appropriately presented as the continuation of the reflection about the relationships between religion and politics and processes of secularization in general. At the heart of Western societies, which are going through true identity crises (because they must face the presence of new religions and cultures and massive, continued immigration that is nonetheless necessary for them to survive), sociologists are compelled to assess achievements and reaffirm founding principles, if not completely rethink religious and cultural pluralism. Those reflections feed contemporary debates⁶ within but also between the Anglo-Saxon and French schools of thought, in particular with the contributions of John Rawls, Charles Taylor, Will Kymlicka, Tariq Modood, Jean Baubérot, Régis Debray, Olivier Roy, among so many others.⁷ For some, like Rawls, pluralism can only exist by stressing the need for public space to be neutral—seeing this as the achievement of secularization and liberal democracies—while others insist that no public space can be totally neutral (as Modood thinks). The gist of those debates about pluralism, multiculturalism, and the common principles founding our modern societies is interesting and relevant to all human communities in the globalized world, including Muslim-majority societies. Nevertheless, global factors (relations between civilizations, mass migrations) influence these debates, as do national considerations (cultural identity, majority vs. minority relationships, power relations) that lead some thinkers and sociologists to take surprising positions, some of which verge on caricature.

As noted earlier, no public sphere can be wholly neutral culturally or religiously. Each nation has a history, a tradition, a collective psychology that naturally imposes a specific cultural shading to the given nation’s public sphere. Eastern Christians living in Muslim-majority societies are influenced by what the Islamic reference

has infused into the common culture. The same is true for French Muslims and Roman Catholicism, for American Muslims and Protestantism, and for British Muslims and the Anglican tradition. The cultural features of India and Hinduism, or of Indonesia or Malaysia and Islam, fashion the language and symbolism common to members of those societies. This phenomenon is natural and certainly inevitable, and it has never been seen as standing in the way of religious and cultural pluralism. The heated debates that are arising about the neutrality of public space in terms of religion and culture are oversimplified and misleading, because such mythical neutrality simply does not exist, and in fact obfuscates another real issue that is thus avoided, which is *equal* rights (and in a way, shared power). The same applies to Muslims' repeated statements about the pluralism said to have been accepted by Islamic civilization throughout its history: from medieval Andalusia in what is now Spain to the Ottoman experience under Süleyman the Magnificent (died 1566), cultural diversity and the peaceful coexistence of religions are presented as evidence in itself of the power of Islam's teachings. It is true that one can only admire and respect the social organization and open use of religious references that allowed such tolerance toward religious and cultural minorities. But when speaking in this way of this pluralism as inscribed in history (sometimes to answer questions produced by another contemporary debate about multiculturalism), the heart of the matter is also avoided—acceptance of cultural and religious diversity does not at all guarantee equality in rights—although this higher objective ought to be foremost in motivating our reflections. Thus, in the West or in the East, social and political issues are either *displaced* to the religious and/or cultural fields, or *replaced* within a history that fails to provide clarity about the modalities of social organization and of rights protection.

Such questions should first of all be stated in terms of rights and laws, then only afterward in terms of power. Thus, it is imperative, in the West, to make a radical turnabout and produce "postintegration"⁸ thought and discourse that do not equate socioeconomic issues with problems of uneasy or failed religious or cultural integration. The involved citizens and their children have long been culturally and religiously "integrated" and are faced with structural, institutional, or occasionally socioeconomic and racist discrimination that must be analyzed for what they are. We should refuse to accept cultural

projections based on issues that are not cultural. Moreover, contemporary Muslim thought must approach those issues in the light of the higher objectives inferred from the texts, contexts, and history. We must be faithful and remain consistent. What in effect, in contemporary societies and apart from confused digressive discourse about religious and cultural pluralism, does the respect of *dignity, welfare, freedom, equality, and justice* mean for individuals within a given society (and between interacting societies on the international level)? Those are the higher objectives of the Way (*maqâsid ash-shari'ah*) and it is in their light and in their respect that visions of society and the institution of common laws must be considered. This must begin with thorough reflection from within about the meaning and outline of a contemporary implementation of *shari'ah* understood in terms of norms aiming to fulfill the higher goals of the global message. The issue is complex and the challenge is a major one.

Concretely, this means thinking through the common legislation of societies with permanent concern for protecting the *dignity* of people, their *beliefs* (with all this entails as to private and public needs and the specific needs of faith communities), but also the exercise of their practices and the expression of their ethics within the public sphere. Indeed, the essence of the objectives of *welfare* and *freedom* is to allow women and men to reach fulfillment and this means allowing them, in their public involvement, to remain faithful to their personal beliefs and values. Whether one is an atheist, agnostic, or a believer, this is what everyone wishes and calls for. A public space aiming to be so neutral as to forbid its members' free quest for coherence would soon become oppressive and inevitably discriminatory since it would necessarily allow its majority to enjoy such expression. But this is only one of the dimensions of the reflection: it is also important to undertake a critical analysis of all that, in social logistics, collective symbolisms, and institutional management, can hinder access to *justice* and *equality*. Fundamental reflection—far more sophisticated than the formulas of the Islamic ideal and of good human intentions—should be developed about racism and its structural dimension (which sometimes systematically targets religious affiliations): institutionalized or tacit discrimination against the poor, women, immigrants, or foreigners. In the Muslim world as in the West, discussions about cultural and religious pluralism that fail to address the real issues of rights, discrimination, and the

relationship between power and domination are but delusions, mere smokescreens.

Because the higher objectives of the Way are very demanding about such issues, contemporary Islamic thought should be the first to put forward its views of such matters. But here again, absence and silence lurk behind discourse, recalling the ideal objectives expressed by scriptural sources or the greatness of Islam's universalistic past. One should be critical, self-critical, and innovative, in the very name of faithfulness to higher objectives. In our time, there can be no question of using terminology without questioning its substance in the light of past or present context. Whether in the structures of nation-states or in their possible disintegration into bigger systems (or, on the contrary, faced with increasingly restrictive identity claims motivated by the fear the effects of globalization), it is important to define clearly the status of the members of structured communities, and to recognize and guarantee all their aforementioned rights (*dignity, welfare, freedom, equality, justice*). What in the past was sometimes a need, sometimes a possible choice about the contractual integration of "protected people" (*ahl adh-dhimmah*), no longer corresponds to contemporary realities and sociopolitical structures. Hence, it is important to define a clear status for members of the community, not only to protect their legitimate rights but also to secure them the legal power to defend those rights adequately. The concept of "citizenship" (*al-muwâtanah*) is now the commonly accepted reference, although some literalist or traditionalist *fuqahâ'* hesitate to use it or reject it altogether (because it is not part of classical Islamic terminology). The promotion of *citizenship*, conceived here as a legal status, is fundamental but it remains incomplete if it does not integrate a broader, more thorough approach to all the social dynamics and symbolic, structural, and institutional processes that cause discrimination.⁹ It is also important to look critically into other forms of civic status, those of "non-citizen," "foreigner," "resident," and "immigrant," which justify far more serious issues of determination, exploitation, and domination—in both Eastern and Western countries.¹⁰ Thus citizenship, a status that ideally should encompass all the higher ends of ethics, itself needs an ethics to become fully validated so as to deal with the risks of its own disruption and/or of the similarly transgressive shift of discriminations to another sort of victim, the "non-citizen" in all his or her variants. This *ethics of citizenship*¹¹ must of course, along

with equality, guarantee the possible sharing of power according to laws and rules while remaining respectful about outcomes.

Those difficult questions involve far-reaching debates, but they are only marginally approached in Islamic circles. Knowledge and experience exist, as do theoretical and practical expertise, but what is lacking today is awareness of the issues and the concrete will to deal with their complexity.

Laws, Power, and Civil Society

In the Islamic Universe of reference, as the present study indeed makes clear, reflection about the law occupies a central position. *Fuqahâ'* jurists have even, as a result of their specialization, reduced *shari'ah* to a mere body of laws to be implemented: indeed one can often read and hear, from Muslims and non-Muslims alike, a translation of *shari'ah* as meaning only and strictly "Islamic law." This understanding and translation are significant: they reveal one of the reductions that took place within Muslim thought over the course of centuries. This reflects the process already mentioned among the different stages in the evolution of the science of the fundamentals of *usûl al-fiqh*: a fixation on texts stemming from a doubly defensive posture, towards the evolution of society and the domination of other people. The phenomenon began very early on, as we have seen in ash-Shâfi'i's reaction when writing his *Risâlah*. Originally, even scholars who naturally tended to remain close to the letter of the texts integrated the environment (*al-wâqi'*) and the people's common interest (*al-maslahah*) into their understanding of the law and their subsequent formulation of legal rulings (*fatâwâ*). The meaning of the higher objectives of the Way was naturally taken into account through the no less natural integration of the social and human environment into their legal thought. As time went by, and as the risk was perceived about principles' being neglected, confident faithfulness to the higher goals of the Message gave way to wary faithfulness to the letter of the texts. *Ash-shari'ah*, which had been the Way to the light from which the implementation of laws over time and in different environments was thought out, came to be reduced to a set of laws to be implemented formally, as they then were. Those laws were

becoming and have often become, in their formalism, the exclusive identifying mark of the "Islamic" character of the collective vision. As can be seen, this understanding and translation reveal reductions that have critical consequences.

The return to goals and higher objectives requires us to approach the issue of the Way and of the laws from a necessarily more comprehensive standpoint, since what matters in effect is to relate respect for outcomes to the real situation of societies and the human environment to think through the relationship to laws, and to legislation in general, both realistically and consistently. I have shed light on a number of higher goals that could be inferred from the texts: principles such as people's *maslahah*, respect for *life, peace* (particularly social peace in this context), *dignity, welfare, knowledge, equality, freedom, justice*, and *solidarity*, which constitute the fundamentals of Islamic ethics. One should then add more specific objectives such as guaranteeing *education*, protecting *health, subsistence, work, belongings, contracts, neighborhood*, and, on the social and collective level, promoting the *rule of law, deliberation, pluralism in religions, cultures, and memories*, the natural *evolution* of society and the *independence* of nations. This long list of higher goals must be consistently associated with reflection about the social and political vision that it must inspire, but regarding which it determines no specific preestablished model. This is an important remark: the goals-oriented approach here again requires us to distinguish between goals and universal principles on the one hand, and historical models on the other. The latter, such as the Prophet's experience in Medina, were models through which goals were implemented at a precise moment in history; since this latter is changing, models must necessarily change as well.¹² Relating to ethical goals and seeking consistency in action forbid us to idealize the past, to sanctify the thought of *ulamâ'*, and to remain at a standstill in social and political matters; this is clearly an invitation for critical reason to remain always watchful about possible betrayals or perversions of ideals, and at the same time creative about solutions to be found or historical models to be fulfilled.

For decades, sharp contradictory debates have been ongoing among scholars, thinkers, and politicians about whether it was right to refer to the term "democracy" as a model of political organization for Muslim-majority societies. Some refused the term they considered as "Western," others saw in it an essential distortion of

the relationship to "divine power" (*al-hâkimīyyah lil-Lah*), and still others wanted to qualify it and speak of "Islamic democracy"; finally, others accepted the notion without considering that it was contradicting Islamic principles.¹³ In recent years, advocates of the last position have become far more numerous, but some leaders or movements today still oppose using this concept in the name of a certain idea of the implementation of the *sharī'ah*. We are indeed at the heart of the matter, and the dispute over the concept and its use brings to light the twofold reduction that occurred during the debates: the understanding of laws is disconnected from higher outcomes, and they are associated with specific historical models. Contemporary Muslim thought finds it difficult to escape formalism or immobilism. The study of the higher goals of ethics and their possible categorization on the level of social and political vision bring to light five founding principles which are also those underlying democratic models in their diversity: rule of law, equal citizenship, universal suffrage, accountability, and separation of powers. Muslim-majority societies should thus normally, in the light of those principles and higher goals, begin a process of democratization by considering the implementation of laws according to objectives and, most important, crafting a model according to those same goals and to the condition of the social environment. A general process must therefore be set off, taking into account the whole range of ethical viewpoints that must be respected. In other words, the process of democratization must generate its own critical and self-critical constructive analysis of contemporary democratic models' shortcomings in achieving their ideals. We cannot engage in immoderate use of a concept and in blind imitation of models without, in the very name of the ethics that calls on us to begin the process of social and political reform, undertaking a critical analysis of the contradictions, inconsistencies, and shortcomings of contemporary democratic models.

I shall return to those essential issues later in this chapter, but this concept sheds light on the nature of the reflection that is expected and required of *fuqahâ'*, thinkers, and politicians. It is, in effect, not an adaptational reform but a transformational reform, and it must be radical. Civil society, that of ordinary women and men, needs to wake up and call for legal councils and intellectuals to provide comprehensive, but precise and consistent answers to their social, cultural, economic, and political questions. The population, through its

commitment and its legitimate demands, must take it on itself to seize control of the authority to which it is entitled. The shift in the center of gravity of authority that I am calling for also involves—indeed mainly involves—the return of ordinary women and men to full civic commitment, uncompromising critical questioning, and a collective, practical search for solutions. This is one of the aspects of the crisis and of the shortcomings that can be observed today in the Islamic Universe of reference, always with the same reflexes of defensive formalism as obsessed with otherness, whereas what should be initiated is a confident, universalistic reform movement, which is both wholly inclusive and positively assertive.

The Islamic Penal Code (Hudûd) and the Moratorium

In March 2005, I launched a call for a moratorium on the death penalty, corporal punishment, and stoning in the Muslim world¹⁴ and the subsequent reactions were incredibly revealing. During the seven years that preceded the *Call*, I had discussed it privately or in small groups with various scholars from Egypt, Morocco, Jordan, Pakistan, and Indonesia who largely found the arguments interesting, apt, and constructive. When the appeal was launched and the media in East and West reported it, silence was almost total among ‘*ulamâ*’, except for the al-Azhar ‘*ulamâ*’ council, who denounced the meaning of the *Call* in terms that unfortunately did not correspond to its substance. The Webmasters of the *islamonline.net* site—who hastily, and most strangely, assimilated this move to a “Western” viewpoint—instantly appealed to some scholars, thinkers, or Islamic organization leaders, who often reacted virulently and most of the time (this is obvious when reading their arguments) without reading the nine pages of the *Call*. The controversy displeased the polarizing forces of both Universes of reference: some Western thinkers thought that my approach was insufficient and that *hudûd* had to be denounced outright, while conversely some *fuqahâ* and intellectuals saw it as an excessive compromise in that it was in contradiction to Islam’s principles. Some critics even claimed, in the name of a very dangerous reductive approach, that the *Call* was an attack against *shari’ah*

produced by an “over-Westernized” mind “trying to please the West.” Some voices cast me out of Islam, doors were closed, and organizations stopped inviting me and questioned both the terms of the *Call* and my own credibility, using bizarre arguments and ascribing to me thoughts and positions I had never taken nor defended. I was faced with an emotional reactivity stemming from reductive understanding and a lack of critical reading: a summary of the very evils I have been describing since the beginning of this discussion. The Mufti of Egypt, Shaykh ‘Alî Jum’ah, answered the *Call*’s arguments in detail, recognizing its substance as legitimate while objecting to its form;¹⁵ one can understand this, considering his function, but debating the substance does remain a priority.

Opponents to the *Call* claimed that it questioned definitive (*qat’i*) texts of the Quran and Prophetic tradition, that I opposed the implementation of *shari’ah*, and that this was a Western approach that did not stem from arguments defended on the basis of the “Islamic sciences” of *fiqh* and *usûl al-fiqh*. Not only does the *Call* begin by asserting the undisputed character of the texts referring to the death penalty and corporal punishments (in the Quran and Sunnah) and to stoning (in the Sunnah), but it explains the source of my approach to the Islamic penal code (*hudûd*), which is but a very restricted part of the Way (the meaning of *ash-shari’ah* as I explained already). Moreover, I relied on the methodology of *usûl al-fiqh* to ask ‘*ulamâ* in general, and *fuqahâ*’ in particular, three fundamental questions: What do the texts really say? What are the conditions required for implementation? In what social context? It is indeed strange to observe that the *Call*’s critics, some of whom argued that it substituted itself for the opinions of specialists and *fuqahâ*’, did not even notice that the *Call* ends with three questions, specifically so as to open the debate with ‘*ulamâ*’.

While this debate must be started and carried out, it is necessary to take measures guaranteeing justice and respect for the dignity of humankind, particularly of the poor and of women in Muslim-majority societies, for they are the first victims of the literal and often hasty implementation of the texts. My position defended the idea that whatever the number of poor people or women who were executed, physically punished, or stoned in the world (the argument of opponents to the *Call* insisted on observing that such implementations were marginal, which in any case is statistically highly

questionable), a moratorium (*ta'liq*) needed to be decided on to end to the implementation of penalties that today represent complete pure injustice. The proposal was not directed against Islam's teachings or against the texts—quite the contrary. In the name of the higher objectives of the message that call for respect for the *life* and *dignity* of women and men, *equality*, and *justice*, it was urgent to put an end to an instrumentalization of religion through literalist, formalist implementations that continued to affect poor people, women, and political opponents who have never had the means to defend themselves and who are punished for example's sake and without justice. It was therefore a *Call*, a stand taken from within, in the light of the texts and of social and political contexts, taking into account higher goals, determined to achieve the suspension of unfair implementation while calling upon *fuqahâ'* to debate the issue. Was this falling short of Islamic principles or betraying the texts? Only a superficial or partial reading (or no reading at all, as could be observed from some '*ulamâ'* who took position without reading the text of the *Call*) could lead to different conclusions.

Numerous '*ulamâ'* who had understood, or even agreed with, the meaning of this move later chose to oppose it or to remain silent; after the launching of the *Call* brought passionate debate and polarization both within the Muslim world and in the West. Some showed concern about the *Call's* Islamic justifications (which is precisely the debate it was intended to start), but most were afraid either of losing their credibility with their base and communities or of giving the impression of yielding to impositions that seemed to come from the West. During encounters with '*ulamâ'* or scholars in the West, in Morocco, in Pakistan, in Indonesia, or in Africa, many approved the presentation of my position in private, but then refused or simply avoided speaking out about it. In this sense, debates about the moratorium have significantly revealed the state of reflection and its profound shortcomings in the Islamic Universe of reference. Fear of emotional popular reactions or the power relationship with the West negatively interfere with our reading of our own scriptural sources and with the imperative concern for consistency beyond formalism and the necessary critical debates between *fuqahâ'* and other experts. What matters is to avoid losing face, to save appearances even by sacrificing criticism and self-criticism, as well as the lives of women and poor people whose supposedly limited number

is thought to justify silence. A thousand times have I heard "this is not a priority!"

Not only is this argument unacceptable in the light of the ethical requirement that does not bend to the logic of numbers, but the critical approach must be taken further. The debate, or the consenting silences over *hudûd*, reveals deep-set tensions, and facing such issues squarely may well help promote other debates, question a number of certainties, and open up some situations. How is faithfulness to the Way to be understood, what role must higher goals and objectives play, how must the implementation of laws be thought about in the light of the Way? Those questions are broadly dealt with in the present chapter, and the debate (and sometimes the nondebate some tried to impose) that followed the *Call* is highly revealing evidence about the need for a radical reform of our approaches. Only open, critical legal councils, less timid about forms and more radical about consistency, can take the reflection further. This must nevertheless be attempted, with determination and patience: the *Call* was launched in March 2005, several million people have heard about it in the past few years, but its first effects cannot be expected to appear until at least the next generation, if and only if Muslims take up the challenge of deep questioning and fundamental critical and self-critical reflection in the name of faithfulness to the Way, of ethics, justice, consistency, and peace. Beyond the issue of *hudûd*, the very essence of faithfulness to Islam's message is at stake here. We must become reconciled with ourselves, whatever the positions expressed in the West where some, unable to uncouple themselves from their own Universe of reference, have claimed that this move was insufficient and where others have intentionally simplified the terms of the debate to maintain polarization and suspicion about Islam. Thus, their arguments runs, the moratorium was presented as a trick imagined by a perverse mind that played on words and wanted to gain time, hoping that in the end those "barbarian customs" would be implemented. Those critical voices were not heard—and suddenly became very laudatory—when French President Jacques Chirac called for an international moratorium on the death penalty,¹⁶ and most of them naturally supported the Italian initiative of an international moratorium that was eventually voted on by the United Nations General Assembly in December 2007,¹⁷ despite a resistance and refusal front coming from... "Muslim" governments!

Education

I have brought to light the higher goals to which we must try to remain faithful while working out the details of a social and political project. This commitment to faith therefore requires us to engage in a far-reaching movement to reform societies in the light of ethical principles, of course, but also on the basis of a critical assessment of contemporary achievements and models. Muslim-majority societies as well as communities living in Asia, in Africa, or in the West must absolutely accept and deal with diversity; they must be open to pluralistic, contradictory debates, both internally and with the outside world; they must give voice to the base in general and to women in particular. A vast movement of intellectual, social, and political openness must be initiated, a *democratization* movement in the sense of sharing speech, legitimacy, and powers. This opening up can only be meaningful if equipped with some means of respecting the conditions for its success, by opening places for debate, consultation, and critical assessment. Such consistency can only be possible if it promotes an education whose substance, form, and scope answer the ends of openness itself. This also requires thinking about the coherence of democratic institutions and, for our own time, studying the links between media, freedom, and power.¹⁸ When we turn to the contemporary Muslim world, it seems as though those issues “had nothing to do with us” or were quite secondary. The West’s educational systems are criticized while their philosophy is often being copied, and the great Western media are vilified while the al-Jazeera channel, their alter ego, is praised. There are always the same contradictions, the same lack of a vision.

Official, state educational systems in Muslim-majority societies are virtually all deficient and in crisis. From Africa to Asia and throughout the Middle East, one can observe either unacceptable illiteracy rates or systems and methods that kill critical thinking and reinforce rote learning and social injustices. Reforms are urgently needed, for any opening or democratization project is bound to fail if populations are kept illiterate or functionally illiterate, or if their education is based on the lack of critical thinking, on reinforcing social divides, and on protecting the interests of an elite. East and West, private school projects, often for Islamic schools, have appeared; their promoters wished to propose an alternative to state systems

(that did not answer their expectations regarding curricula or whose organization was unsatisfactory). The principle of private schools making up for the shortcomings of the public state system is not bad in itself, although one should primarily strive to reform the system and its structures which, in effect, educate the vast majority of children. East and West, this is where the community’s efforts should focus. Reflections and initiatives in this direction unfortunately remain marginal. As for private school projects, I am baffled: indeed they add subjects and teaching hours related to religious education (they teach the Quran and *ahādīth*, the lives of Prophets, morals, and good behavior) but the general philosophy of teaching philosophy continues to imitate the goals of Western social and economic systems based on selection and performance. Willingly or not, an elite is targeted and taught—along with the integration of formal religious knowledge—the culture of success, efficiency, profitability, the quest for “first place,” for material social success, and other goals. What is supposed to prove the success of those schools is assessed through such criteria (percentage of successful examinations, ranking in the lists of schools that “produce” top students). One can understand that those schools cope with crisis and emergency situations and that they perpetuate the vicious cycle by first of all responding to shortcomings, then taking into account “what matters to parents” and end up following the same performance logic, adding Islamic formalism.¹⁹ Fundamental reflection is required here: in the light of the aforementioned higher goals, and observing the nature of the crises occurring in Muslim societies and communities, is it really this kind of alternative education that we need? Should we not be doing “something different”? Returning to the sources of ethics, so as to foster a will to succeed, indeed, but one that is not reduced to formula and to the cult of academic performance and has more to do with *personal development, welfare*, developing *critical thinking, creativity, solidarity*, and the *knowledge* and *respect* of others. We are very far, today, from considering the alternative in those terms. Contemporary Islamic thought is very critical of “Western models” in the name of a particular philosophy of life and a strong conception of ethics, but in effect it ends up imitating the technically highest performing models in terms of quantitative success and, without true critical assessment, reproducing systems based on productivist conceptions that are very little concerned with the quality of ethical requirements.

What is called "an Islamic school" is very often a school for an elite in the East or a school exclusively for Muslims in the West. "Islamic" subjects are added, but those schools rarely excel for their philosophy of education, their original teaching methods, and their concern for practical consistency with the higher principles of ethics. Yet the aim should be to develop pedagogic concepts—and there should be a similar general movement inside state and public school systems—that both impart knowledge and awaken pupils' *consciences*, shape their *critical minds*, lead them toward *autonomy*, and awaken them to personal and collective *responsibility*. A society that is intellectually, culturally, and politically open, that experiences true qualitative and human *development*, needs a school system and schools that promote such values and ethical principles and above all that do not end up yielding to the dictates of economy by being privatized or becoming obsessed with the specific, standardized production of "gray matter" just as some firms focus on producing raw materials. Respect for *diversity*, human *solidarity*, and cultural and artistic *creativity* should also be taught; such are the schools we need today, and they should combine traditional methods with more innovative approaches in order to take up the challenges of contemporary times. Several school planners and teachers have examined those issues, but again, the reflection too often remains formalistic, technical, and/or superficial. What motivates those projects is often fear and the desire to protect children from globalized culture or behaviors little involved with ethics. This defensive approach is everywhere showing its limits and often its counterproductive character.

Democracy and Media

One can argue on and on over the use of the concept of "democracy" and lose sight of the essence of the discussion over and above semantic differences. What matters is, once again—beyond models—to remain faithful to fundamental principles (rule of law, equality before the law, universal suffrage, limited mandate, separation of powers) and to the numerous higher outcomes presented and studied (*dignity, welfare, freedom, equality*). On the basis of those principles, each society, each nation can—and has the inalienable

right to—determine its own model and mode of institutionalization on the basis of its history, culture, and collective psychology. To reach those objectives, however, some conditions absolutely must be met, particularly at the heart of all contemporary societies South and North, East and West. Democratization has prerequisites (e.g., education, instruction, as we have seen) and requirements whose absence makes it wholly impossible for the reform process to succeed. The Muslim world needs *fuqahâ'* and specialists in the study of societies to examine those issues, developing a holistic approach that takes into account interactions between the different fields (education, civil participation, political commitment, development of civil society, elections). We have text scholars who speak and legislate about the need for a legal reference framework or ethical norms but who are completely out of touch with reality and its requirements: their thought relies on structural normative schemes, whereas at present reforms can only be devised as a gradual process and on a temporal basis. Societies and the fields of human action are too complex and interdependent to be considered as isolated normative frameworks, from which and for which jurists could legislate. Only a formalist thought can be content with those idealistic, inefficient reductions.

Democratization processes are everywhere in need of popular education, teaching and mastery of the language, as well as a minimal knowledge of history, laws, and institutions. This generalized elementary civic education is the *sine qua non* condition for the process of political openness, democratization, and eventually the formation of a civil society that is intellectually well equipped and politically active. This also means for citizens in general to be aware of their responsibilities and of their rights, to pledge to respect their obligations toward the community, and to never hesitate to demand their legitimate rights. It also requires critical speech, participating in elections (or calling for them to be held and to be transparent in most Arab-Muslim, Asian, and African countries) and establishing areas and meeting places where power can be challenged. Democratic ideals must offer such consistency of means and ends to the population in general and individuals in particular. On a more general level, it is also important to engage in critical assessment of the shortcomings and potential deviations of contemporary models in the West or elsewhere.

At the heart of the “conflict,” “debate,” or “dialogue” between civilizations, democracy is often presented in the West as “a value” supposed to be either “Western” or “universal,” or, with no fear of contradiction, both at the same time. Thus presented, “the critique of democracy” becomes suspicious and its instigators tend to be lumped with old-time idealistic Communists defending the “dictatorship of the proletariat” or new Muslim radicals advocating a theocratic implementation of the *shari'ah*. A neologism has even been coined in the field of political movements to account for the emergence of this new and dangerous “antiliberal” alliance: Islamo-leftism. By lumping the critique of democracy together with the rejection of liberal values, hence of democracy itself, assimilations and reductions occurred, preventing critical debate by oversimplifying it in a dualistic manner: for or against democracy—this is the sole operative equation and one must choose one’s camp. The perversion is clear here: liberal thought becomes dogmatic and cleverly stifles critical and *democratic* debate.

However, democracy is not a value but a generic system encompassing a set of organizational and institutional models for universal, fundamental values and principles. Democracy could only be a “value” if it guaranteed the respect of a series of other higher “values”: it would then be a “value” that could only be relative, being subject to *a priori* conditions that must be assessed on a case-by-case basis. It is therefore not a *value in itself* but the product and consequence of the human attempt to propose a consistent collective project, respectful of the aforementioned fundamental values. It should be remembered that in political philosophy, any attempt to absolutize models—by turning humankind’s historical experience into an absolute value—tends to a kind of “theocratization” (and this is true even of wholly atheistic models) and reveals the dogmatism of some minds that nevertheless claim for themselves the ideals of modern, “liberal thought.” Dogmatic liberal thought is unfortunately a very real creation of our time, an intellectual hybrid that promotes its political ideology to the rank of a universal philosophical (and almost religious) theorem.

The critique of democracy, in the sense of criticizing its dysfunction and the perversion of its models and institutions, is a necessity today. If one approaches the issue on an international level, one very quickly realizes that the high-sounding dialogue between civilizations that would reduce the terms of the debate to accepting

democracy or not is most misleading: one knows, or should know historically that being a democracy has never been enough to guarantee the promotion of *peace*, the respect of human *rights*, *dignity*, *freedom*, *autonomy*, etc.²⁰ From the outset, Athenian democracy was forever at war with its neighbors (besides, its discriminatory treatment of women, the poor, and “Barbarians” is well known) and today as well, U.S.-style democracy keeps getting involved in conflicts and wars that, as in Iraq, completely fail to respect fundamental values and human dignity (moreover, that the discriminatory treatment of Native-American and African-American citizens still endures within the system is well known). The constructive critique of contemporary democratic models must be undertaken on that *wider* level, first of all, by identifying what they do not guarantee in terms of respecting values, which must absolutely be reformed if we are to be consistent. Repeating that it is the least bad system cannot justify passivity about denouncing its perversions and excesses.

On the level of the internal functioning of democracies and their institutions, the critique must be just as thorough and constructive. Populations no longer trust the politics of ideas and are eventually swept away and seduced by politics as a form of show business. Such phenomena as superficial training in civics, increasingly sketchy knowledge of history and civic institutions, and insignificant rates of participation in social debates and elections (when these are not merely media events) undermine democracies, eventually betray their ideals, and backfire against the powers of the people who were supposed to be sovereign. When to this we add that the less salutary areas of economy, finance, and the practices of multinationals and giant firms (where the democratic and consultative character of decisions is not a prerequisite) often decide and impose general political orientations, alliances with some nations (even dictatorships), and involvement in conflicts and wars without consulting the people, the picture darkens. Idealistic discourse about “democracy” as a value struggles to hide the need for debate about democracy as a system apt to be both perfected and alienated. In these times of “global war against terrorism,” one must also add most dangerous declines and perversions: by relying on and instrumentalizing fear—and producing a real “ideology of fear”—governments have been able to take increasingly freedom-suppressing security measures against citizens. Surveillance, search, and the loss of long-fought-for rights are

becoming standard—and accepted—practice in the name of the fight against terrorism and to guarantee people's security. Terrorism indeed exists and its evils must be fought with determination, but it is no less clear that this bugbear is sometimes used to justify the most anti-democratic policies. Fear and doubt are spread, and then populations are told that they are being watched and that a number of their rights are being suppressed for their own good. Minds forced threatening discourse and pictures eventually atrophy and accept them, yet such generalized intellectual atrophy and passive acceptance are contrary to the democratic ideal.

A reflection must urgently be carried through about the role and power of the media in contemporary democracies.²¹ People speak of freedom of the press, simply counting the number of newspapers on the market or the number of television channels available. Yet one hardly hears about the far more restricted number of those who actually own those media outlets and their real involvement in the world of economy and politics. The same people who produce and sell weapons own the media—with a few ideas to defend. It is often argued that there is no direct link and that no real censorship is practiced. It is indeed true that there is no censorship of the kind used in past and present dictatorships, but editorial policies, influences, and interests are nonetheless promoted and protected. To this must be added the dictatorship of speed: one must be quick, be the first to supply instant news, before anyone else does. Critical elaboration and detailed reports are seen as out of step with the common vision and becoming more and more difficult to produce: speed imposes a subtle standardization of thought because it is no longer possible to take the time, and risk, of explaining diverse points of view. Speed now has a political function, both in political thought and strategies. Contemporary politicians have understood this, and the most efficient among them are now those who express the ideas of their program (that may or may not include many ideas) in "media events," in communication strategy (where strategy is often more important than the substance conveyed). Reflection about contemporary democracy cannot function without such analyses.

Muslim thinkers and intellectuals should engage in comprehensive thought about those achievements and those distortions of human experience, through history to contemporary events. One cannot be content with repeating the ideality of "Islamic values" outside and

beyond the world's complexity. The West is facing deep crises and some are expecting its more or less imminent implosion, but such an attitude is unfair and dangerous. It is unfair for the populations who are affected by those crises and by the system's perversions that sometimes break them up or manipulate them; it is dangerous because, in this global age, no one can or will be spared those risks and their consequences. Moreover, such a critical stance fails to observe and analyze the nature of the crises and potential breakdowns that also undermine Muslim-majority societies. Frequently corrupt political authorities, curtailed freedoms and rights, unbridled consumption (bordering on overdose) of global culture and media—such is the reality we must humbly face, and then radically reform while involving all fields of expertise and all people of goodwill respectful of fundamental values and shared higher goals.

This also means engaging in reflection about the media and an ethics of communication for our time. We cannot be satisfied with television channels (like al-Jazeera in Arabic or in English) that seem to present another point of view while using the same information methods and the same market and propaganda logistics. Considering that today almost 70 percent of the information broadcast in the world is relayed by Western news agencies and that increasing speed has become the measurement of efficiency and competence (about publishing news and their "media truth"), it has become important to engage in thorough reflection about the media, and particularly the alternative media. Businesspeople, journalists, and communications specialists should be able to bring their skills together to think through and produce new strategies and new modes of communication on the local level (i.e., local media), through the Internet or in association with larger newspaper, radio, or television projects. We must also commit ourselves to an ethical stance in the media and mass communication that is one of resistance, and that must, to be efficient, become specialized, professionalized, and institutionalized the world over.²²

Powers and Counterpowers

Globalization has transformed the nature and weight of the different powers and their interactions within human communities.

From more industrialized to poorer societies, consequences are real, multidimensional, and very far reaching. Yet people in the Islamic world, whether *'ulamâ'*, thinkers, social organizations, or Islamist movements, continue speaking about the dynamics of power distribution, political power, scholarly authority, and relations to people, as if nothing had truly changed. They would like to reform societies by relying on classical, visible powers, without noticing the extent to which this approach is not only outdated but also dangerous. Single-mindedly focusing on the relationship to "political power," some Islamist movements (after the dictatorial turn taken by Arab regimes in the wake of independence) have gone so far as to reduce the reference corpus of the texts to a series of injunctions establishing the framework of what an Islamic structure and state should be. Such organizations as, formerly, al-Jama'ât al-Islamiyyah or al-Jihâd in Egypt, or today Hizb at-Tahrîr or al-Muhâjirûn, have developed a binary thought process that distinguishes societies in terms of their structure and political power. According to them, Islam first and foremost imposes an "Islamic system" purified of Western failings and that it is by setting up such a system that society as a whole can be reformed. Transnationalism, through the creation of a supranational entity, the caliphate, copied on the historical model, should make it possible to start a general transformational movement. Other movements and organizations with more sophisticated and less dualistic thought—Islamist organizations like the Muslim Brotherhood in Egypt, an-Nahda in Tunisia, Justice and Development (JDP) in Morocco, an-Nahda or Hamas in Algeria, parties like Refah and, very differently, Justice and Development (ATK) in Turkey, PAS or ABIM in Malaysia as well as the various Indonesian Islamist parties and large movements and organizations such Nahda al-'ulamâ' or even al-Muhammadiyah in Indonesia or the ideologues of the Iranian regime—have all, despite the great diversity of their intellectual approaches and sociopolitical strategies, determined a relationship to the texts and to political power based on analyses that date back to the early or mid-twentieth century; they find it difficult to evolve and make a comprehensive reassessment. Indeed some thoughts and practices are being transformed through the exercise of power and the requirements of *realpolitik*, as in the evolution of Iranian reformists or in the Justice and Development party in Turkey, but such reassessments directly result from political pressure of politics, the practice of power, or the

relations that must be maintained with it. The history of *political Islam* in the twentieth century began with necessary reflection about the relationship between political power and the people, and between the people and political power. The finally divergent positions of Jamâl ad-Dîn al-Afghânî (1839–1897) and Muhammad 'Abduh (1849–1905)²³ were radically reformist, because they examined systems and power distributions (colonization, subjected local powers, and alienated peoples) that were effective and actually oppressive and from which the oppressed needed to break free. The issues of independence, dictatorship, and the perversion of the regimes set up after independence, the failures of development, rampant corruption, and social injustices throughout the Muslim world have caused political Islamic thought to evolve toward the primary dimension of politics as the groundwork and stake of real power. Grassroots education and social commitment have been and are still conceived of in terms of getting political power, either to hold on to it or at least to influence it. Contemporary Islamic political thought has been altered by those approaches and the adaptation of social and political strategies has not led to the necessary reforms and to the critical reassessments of vision and thought that our globalized world requires today. It seems to be deeply out of touch with our time.

What was already true in the past from the political viewpoint has now become a far more tangible reality: strictly political power is highly relative, subject to impositions, pressures, and influences that reduce, undermine, or altogether prevent its actual exercise. In this age of globalization, the means of communication and culture and the autonomy of politics have shrunk away. The facts are the same everywhere, nationally and internationally: economic (and banking) forces, the stupendous power of multinationals (which influence legislative and executive powers in different ways), and the media's determining role have transformed politics and the role of politicians in richer and more industrialized societies. The situation is even worse in the poorer societies of the Third World, since not only are they faced with the same phenomena, but their political power is subjected to economic forces over which they have no real control. Political ideologies, the former categories of right and left, are breaking down and losing their meaning, for ultimately, political ideals and the concrete practices of a political power devoid of any determining influence compel governments and politicians in office to bend

to the realities of the real power of the market, of profit logistics, of requests from powerful multinational firms, and of the media that fashion perceptions, making extensive use of opinion polls and thus influencing political choices. Populations no longer believe in political discourse: they are increasingly aware of the unhealthy, opaque activities of women and men who love power, who are ready to lie to get it and keep it, but who ultimately change little about the reality of things. The political radicalisms of the past are perceived as outdated utopias; today's political pragmatism is akin to administrative management. Nevertheless, politics still stirs up the crowds, particularly through the media's capacity to create political figures and represent conflicts through pictures rather than ideas. National political meetings and demonstrations stir up the crowds and summon emotions, and participation in presidential or national elections sometimes reaches record rates (when they are really free). Such phenomena are presented as evidence of the "good health" of democracies. Is this really so? Really "political" debates of ideas, confronting ideologies, programs, visions for the future are rare and increasingly amount to rhetoric built around a few symbols. The highly efficient power of contemporary media, and foremost among them television, of course, consists in creating politics, in continuing to give the impression that this is where everything is decided, according to the regular rhythm of political agendas and elections. This is akin to an optical illusion, which leads people to believe that political authority, which has lost so much of its power, remains the essential seat of decisions and power issues. If we add to this the emotional hypertrophy that sometimes turns political affiliations into scenes of passion that call to mind the level of agitation seen at sporting events or popular music concerts, one can fully measure the deviations and perversions of political activity as such.

Modern times virtually give us a live show of the breakdown of political ideologies, the increasing relativity of politicians' power, the standardization of thought and strategies, while, behind the scenes, the undemocratic seats of real, stupendous powers stir. If to this we add that the social and political reforms that are necessary today in all societies, and should be politicians' responsibility, require long-term commitment and are not necessarily popular, one can measure even more closely how restricted the power of politicians is, both nationally and internationally. The time of social reforms does not

correspond to the time and rhythm of elections (or of the media): in effect, politicians can choose either to start bold social reforms (which are sometimes unpopular in the short run), which require time and may lead them to lose in the next election cycle, or to bend to the general trend, to accept majority discourse and the classic interplay of influences that will change nothing in the condition of society (but may ensure their potential reelection).

The point here is not to downplay the importance of political power but to develop a comprehensive approach enabling us to identify those areas where issues of power are truly expressed. The concern for consistency between the higher outcomes of ethics and human action in the social and political arenas requires just such a general, multidimensional approach. Globalization is a reality and has truly changed things: we must reassess our analyses, readjust our visions, and revise our social and political strategies to avoid being misled, focusing solely on political power that has become less efficient and less credible. This may indeed be the greatest danger: social, economic, cultural, and political commitment in the name of ethics can lose all legitimacy in people's eyes and all real efficiency if it is obsessed with political power. The latter has become so relative and limited, as we have seen, that exerting it may be the most direct way of losing or being made to lose credibility before the people to whom one had committed oneself. Political power devoid of real authority, which necessarily involves compromise, if not surrender, ultimately disqualifies its advocates, however honest, sincere, and devoted they may have been or even remain. Political power may indeed corrupt people, but political power without authority certainly leads even the least corrupt to lose their credibility. The recent experiences of social and political movements in Muslim-majority countries, including those of Islamists, abound and should be enough to convince us.

What could be the alternative, then? How can we reform humankind and societies by elaborating a vision that does not choose the wrong target or strategy? Here again, text and context scholars, thinkers, and scientists must work together to create the outline of efficient thinking and commitment at the local, national, transnational, and international levels. Committing oneself in the light of higher objectives, taking into account the global environment, adapting strategy to the realities of individual countries, of their history and culture, of the prognoses for them, require an increasingly important

mastery of increasingly numerous and decisive influence factors. The political stands of the past, former right-left, secular-Islamist divides are no longer operative and require new fundamental reflection. The front lines of resistance to an unjust economic order, to jungle politics, to dishonest or illegal wars, to terrorism in all its forms (group or state), to the alienation of standardized global culture—those front lines have shifted and diversified so that alliances must diversify as well, just as objectives must look beyond the issue of political power. The Muslim world is far from having created this intellectual mutation, and thus often discourses in the victim's role, according to which Islam and Muslims are the eternal targets of everything and everyone.

Our world may well need a wholly new approach, developing a systematic, organized management of counterpowers wherever they exist. Equipped with ethics, with critical resistance in the name of ethics, a sweeping movement should mobilize civil societies nationally and internationally. It is important—beyond age-old divides—to initiate movements embodying the awakening of multidimensional ethical counterpowers touching on all sectors and all levels of intellectual, social, political, economic, cultural, and ecological activity. At the heart is a globalization that blurs national boundaries and elicits a tendency to withdrawal, faced also with gloomy prognoses about the future of the planet that require us to consider our actions more globally, so that the issue of meaning is everywhere coming back to the forefront. What matters today is to impart *meaning* and to resist in the name of meaning: the objectives-driven approach is now the only mechanism that imparts value to resistance. For some it awakens the conscience, for some it enlightens faith, and for others it stirs their minds and hearts.

Status-seeking or the obsession with taking power that is exclusively political (and devoid of real authority) or economic (and without any alternative model) can only undermine the credibility of thinkers, leaders, and organizations. Moreover, the temptation to organize counterpowers or, in other words, to give oneself the power to manage counterpowers, always eventually jeopardizes political ethics itself. Recent examples showed alterglobalist movements moved by the idea that "another world is possible," being headed by some leaders who use the same old opaque management methods of controlling power. Ideological preserves, populist deviations, and

the urge to control causes this possible new world to be as redolent of alienation as the existing one. In South America, in Africa, in the United States, as well as in Europe and Asia, the same can be observed, and the finest ideas of alterglobalism seem to be stalling because of the very nature of their politics-oriented management. Contemporary Islamic thought must assess those experiences, both within Muslim-majority societies and in the West, in Africa, or in Asia. Beyond controlling one organization or movement, what matters is setting off a general, broadly sweeping movement of ethical awareness, of multidimensional mobilization whose agents should now, humbly and modestly, do their best in their own fields of competence. No more, but no less.

Ethical counterpowers must emerge at the heart of civil societies as minds struggle against propaganda, lies, and disinformation. We must reconcile these factors with complex, in-depth debates and serious reading. This turn of mind must be allied to national and international actions that fight for the dignity of women and men, of citizens, foreigners, and immigrants; for the right to *welfare, health, education, freedom, justice, and solidarity*; and more broadly for the *rule of law, independence, and pluralism*. Those intellectual, social, and political commitments must be completed with the study of financial and economic alternatives starting from the small business level, and possibly moving into bigger multinational groups. But that is not all: cultural resistance (food, films, songs, music), the use of alternative media, of the Internet, of radio and television channels with new, original programs, must be considered both locally and internationally. All available expertise and skills must be called on in a sweeping awareness movement that raises the issue of meaning and summons everyone everywhere to act in the name of higher outcomes. In this multidimensional movement, the various dimensions will be theorized but, ultimately, its strength will lie in the lack of a single source of control and center of management. We must be ambitious without illusion and humble without naivete; the road will be very long, and the nature of today's multiform globalization must result in a globalization of multidimensional ethical counterpowers. This is because the ambition to resist must be combined with humility about projects undertaken and results achieved. This is in keeping with fundamental spiritual teachings: the imperative requirement of resisting with one's heart, conscience, and skills; determined patience

and active perseverance to go on; confidence in the name of meaning, regardless of results. This is how Muslim spirituality, echoing all the spiritualities in the world, teaches the meaning of dignity. We should never turn into dreamers or idealists finding legitimacy in aspirations to a hereafter. We must look squarely at humans, hypocrisies, and lies; we must simplify nothing. Nothing will be changed, for instance, by denouncing wars and promoting wide-eyed, improbable pacifism. Lucidity requires us to denounce all aspects of the business of war and promote a profound, uncompromising ethics of peace. Victims have this right over our intelligence and commitments. What spirituality and meaning first and foremost require are competence, realism, consistency, and earnestness.

Ethics and Universals

The reform presented in the course of this book must begin with reconciliation with the texts, their meaning, and their higher goals considered in history and in various human societies. In the five broad areas I have chosen to focus on (from among so many possible others), from medicine to politics, it has become clear that it is imperative to struggle against the two phenomena of restrictive imitation (*taqlid*) of past scholars and contemporary literalist reduction (*qirâ'a harfiyyah*). It has also become clear that those two intellectual attitudes were often motivated by fear of deviations, of the texts not being respected, or of excessive influence from the West, or from homogenized global culture. That is not all, however; along with this protective fear, major confusions can be observed between what pertains to religion and what pertains to culture; between respecting higher outcomes and a normative and technical ethics of the means; between a reading presented as the only "objective" one and a purely "masculine" reading; between the meaning of the general message and approaches that are so categorized and segmented that they lose all practical efficiency. Those shortcomings have often been encountered and pointed out in the