



John Butt

A TALEBAN THEORY OF STATE:

A review of the Chief Justice's book of jurisprudence



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In the second of our mini-series on Taleban publications, this report examines what may be the fullest and most authoritative account yet of what the Taleban believe an Islamic state should look like. The book, ‘Al-Emarat al-Islamiya wa Nidhamuha’ (The Islamic Emirate and its System of Governance) was written by the Islamic Emirate’s Chief Justice, Abdul Hakim Haqqani, and has a foreword by Supreme Leader Mullah Hibatullah Akhundzada. Over 302 pages, Haqqani lays out his vision and rationale, delving into the legitimacy of an Islamic state, what he believes should be the political role of Islamic scholars, parliament, the judiciary, education system, what he sees as the proper place of women and why an Islamic state cannot be based on ‘man-made laws’. The book is written in Arabic, which makes it accessible to many scholars in the Islamic world, but limits its readability among Afghans. AAN, therefore, asked John Butt*, a journalist and broadcaster who was based in Afghanistan for several decades and is also a graduate of the Darul Uloom Deoband seminary in northern India, to read and review this important text.

The first [publication](#) in this mini-series looked at the decrees, edicts and instructions issued by the Taleban’s supreme leader, Mullah Hibatullah Akhundzada. The [orders](#) themselves can also be read in their original Pashto and Dari, as well as AAN’s unofficial English translation.

All translations from Arabic to English are by the author. A list of the book’s chapters can be found at the end of this report.

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INTRODUCTION

The Islamic Emirate has been described by one scholar as “a highly underspecified and under-theorised political system,”¹ it is notable that since re-taking power, the Taleban have been ruling without a constitution. Even before that, unlike similar armed opposition groups, the Taleban never had an aligned political party to promote their policies or politics (see AAN discussion [here](#)). In their previous incarnation in government (1996-2001), they did have a manifesto of sorts, written in Pashto, ‘*Taleban: Da jihad atalan da fasad dushmanan*’ (Taleban: Champions of Jihad, Enemies of Corruption)² and scarcely known to the outside world. This is what makes ‘The Islamic Emirate and its System of Governance’ so significant. It is written in Arabic, so apparently meant for the consideration of the wider Islamic world. It is also a book of considerable scholarship, explaining the political philosophy behind Taleban policies, setting out their approach to government in line with their belief system. It reads like a work of jurisprudence (*fiqh*) on Taleban policies, jurisprudence being the theory or philosophy of law. So one can say that the book amounts to an exposition of what the author sees as Islamic political theory, a vision of what he believes a truly ordered Islamic state should look like.

This report begins, as the book itself does, by looking at the man who wrote it, Abdul Hakim Haqqani, at his background and influences. It then explores in detail what is in the book and how it compares with classical Hanafi jurisprudence, including where it sits among the various trends of thinking that have emerged from Darul Uloom Deoband, the centre of Islamic learning in northern India, which the Taleban are thought to look up to. Does it veer away from traditional Deobandi thought towards out-and-out Islamism – defined as a more political philosophy based on Islamic tenets? Does Haqqani’s book present a plan of action that may include a constitution, a legislative assembly and other such things considered normal features of government? Is there any role in their order of things for women, besides in the home? These are some of the questions considered in this report.

¹ Haroun Rahimi, ‘[Remaking of Afghanistan: How the Taliban are Changing Afghanistan’s Laws and Legal Institutions](#)’, 26 July 2022.

² Authored by one Shahjehan Sardari and written in Pashto, *Taleban: Da jihad atalan da fasad dushmanan* (Taleban: Champions of Jihad, Enemies of Corruption) was published in 1997 (1377AH), probably in Peshawar, though it does not give the name of the publisher.



Darul Uloom Deoband seminary, the 150-year old centre of Islamic learning in northern India, which the Taleban are thought to look up to.

Photo: Sajjad Hussain/AFP, 8 September 2011.

I – John Butt, the author of this report – am a graduate of the Deoband seminary. After accepting Islam in Peshawar in 1970, I embarked on a classical Islamic education much the same as that Haqqani himself received. I graduated from Deoband in 1983, becoming the first and, to my knowledge, the only person of European origin to do so. My career in journalism and broadcasting, mostly in Afghanistan, has included launching the ground-breaking BBC radio soap opera, ‘New Home New Life.’ I have always considered my journalism, broadcasting and soap opera writing to emanate from Islamic tradition and to be consistent with my Islamic education. However, it is not the conventional path adopted by an Islamic scholar. Partly for this reason, I hope I am able to think laterally, from the same starting point as Haqqani, in analysing his work.³

³ I feel a need to insert a note here on why my analysis of Haqqani's book may differ to a certain degree from what people in the outside world are used to reading. Unlike other commentators on IEA's policies and ideas, I come to Haqqani's book as a Westerner who accepted Islam and graduated from Darul Uloom Deoband. My own madrasa education – similar to the education that Haqqani received – has led me largely to different conclusions than those of Haqqani. Nevertheless, I try and build upon areas where there might be common ground and room – need even – for movement in IEA policies, not because anyone is putting pressure on them but on the basis of their own tenets and principles.

A BIOGRAPHY OF HAQQANI⁴

As regular readers of AAN articles will know, there are two types of 'Haqqanis' in the set-up of the Islamic Emirate of Afghanistan (IEA). Firstly, there are those who are affiliated with the Haqqani clan of Jalaluddin Haqqani, a former commander in the anti-Soviet jihad who joined up with the Taleban and served in the IEA government in the late 1990s. Notable among these is his son, Sirajuddin Haqqani, now the Emirate's acting minister of interior.

The author of *Al-Emarat al-Islamiya wa Nidhamuha* (The Islamic Emirate and its System of Governance) is also a 'Haqqani'. But Abdul Hakim Haqqani belongs to the second type of 'Haqqani', being a graduate of Darul Uloom Haqqania, situated in Akora Khattak, on the main Grand Trunk Road running east from Peshawar. A madrasa teaching Hanafi jurisprudence, the Haqqania is an offshoot of India's Deoband seminary, having been established by a graduate of Darul Uloom Deoband, Abdul Haq, in September 1947. It is worth noting that Chief Justice Abdul Hakim Haqqani is now honorifically referred to as 'Sheikh' within the Taleban movement,⁵ Sheikh being a title more commonly used in the Arab world than in Afghanistan. It refers to a scholar of highly respected learning, piety and renown, one whom people look up to as a religious authority.

Education and early career

Abdul Hakim Haqqani comes from solid Kandahari Taleban stock, having been born into the Ishaqzai Durrani tribe in 1376AH (1957CE) in Panjwayi district on the outskirts of Kandahar city. Panjwayi can arguably be considered the birthplace of the Kandahar Taleban.⁶ The book describes how Abdul Hakim's father, known

⁴ The book's biographical section is attributed to one Abdul Ghani Maiwandi, not to Haqqani himself.

⁵ For example in Abdul Hayy Mutmain, 'Mullah Muhammad Omar, the Taleban and Afghanistan' (Pashto), 2017, page 78.

⁶ In the spring of 1992, in the course of the takeover of Kandahar by the mujahedin, I travelled to the city as a reporter with the BBC Pashto service. I was advised to go to Panjwayi, where a meeting of ulema was taking place. They were discussing the anarchy that was prevailing in Kandahar following the mujahedin takeover of the province. I was received in the meeting place by Abdul Hakim Haqqani's predecessor as chief justice of the Taleban's first Emirate, between 1994 and 2001. He went by the name of Mullah Pasanai (real name Mawlawi Sayyid Muhammad). As I subsequently discovered, all those who would go on to be the Taleban's major leaders were present in that meeting. I formed a distinct impression then, reinforced as time went by, that Panjwayi had a claim to be the nerve centre of the Taleban.

locally as Haji Mullah Sahib, was an Islamic scholar of considerable repute. Indeed, the young Abdul Hakim studied what are known as *funun* – the various branches of Islamic learning like Arabic grammar and syntax, philosophy and logic, theology and rhetoric, Hanafi jurisprudence and the principles of jurisprudence – during his teenage years with his father (page 10).



Abdul Hakim Haqqani (fourth from right) and other members of the Taleban negotiating team meeting the United States' chief negotiator, Zalmay Khalilzad, in Doha, Qatar.

Photo: Ron Przysucha/ State Department, 21 November 2020.

At this time, Afghan students would generally travel to Pakistan to complete their Islamic studies. The journey of the young Abdul Hakim – still only 20 years old – to Akora Khattak was slightly unusual in that students from Kandahar usually gravitated towards the southern Pakistani cities of Quetta and Karachi. The catchment area of the Darul Uloom Haqqani in Akora Khattak was more typically the eastern, central and northern provinces of Afghanistan.⁷

⁷ I say this from personal experience. Between 1970 and 1978 – at the same time that Abdul Hakim Haqqani came to Akora Khattak – I myself was a student of Islamic learning from scholars and in madrasas of what was then the Frontier province around Peshawar. I did not spend time in the Akora Khattak madrasa itself, but I was able to gain a reasonable idea in another nearby madrasa that I did attend of the demography of Afghan students studying in the Frontier.

Abdul Hakim's father must have had good reason to encourage his son to go to Akora Khattak for higher Islamic studies. The reputation of Darul Uloom Haqqania's founder – Mawlana Abdul Haq – may have figured in Haji Mullah Sahib's thinking. Abdul Haq still presided over Darul Uloom Haqqania when Abdul Hakim travelled there in 1977. Abdul Haq had graduated from Darul Uloom Deoband in pre-Partition times, that is prior to 1947 when India and Pakistan became independent and separate countries. He was a student of Hussain Ahmad Madani, who was not only the senior teacher of Darul Uloom Deoband, but was also a noted Indian freedom fighter. Aligned with the Indian National Congress party of Jawaharlal Nehru and Mahatma Gandhi, both in his belief in a united India and in his dedication to freeing India from British rule, Madani fully embraced the non-violent approach adopted by the Quit India movement of the Congress party.

Madani, then, came from a wing of the Deoband movement that believed in Islamic scholars being politically involved. The other wing of the Deoband movement – that aligned to Mawlana Ashraf Ali Thanvi – eschewed any political involvement and believed solely in the furtherance of Islamic learning and self-improvement.⁸ Mawlana Madani had headed a political party consisting of Deobandi scholars – allied to Congress – by the name of Jamiat-e Ulema-e Hind (the Society of Islamic Scholars of India).⁹ This same party was re-established in Pakistan after 1947 as the Jamiat-e Ulema-e Islam (the Society of Islamic Scholars). The son of Abdul Haq, Mawlana Samiul Haq – like his father, a teacher of Abdul Hakim Haqqani – came to head a breakaway faction of Jamiat-e Ulema-e Islam. Like the main faction of Jamiat-e Ulema-e Islam, under another Deoband graduate Mufti Mahmud, and after him his son Mawlana Fazlur Rahman, Samiul Haq's faction of the Jamiat has always been in the vanguard of supporters of the Taleban, as insurgents and in government.

⁸ As Barbara Metcalf notes in 'Islamic Revival in British India: Deoband 1860-1900', page 157, Thanvi is "widely considered the pre-eminent Sufi of modern India." He was also a scholar of immense repute, particularly well known for his Urdu commentary of the Holy Quran, entitled 'Bayan ul-Quran'. His 'Bihishti Zewar', translated into Pashto as 'Jannati Kalay' (Jewellery of Paradise) and into Dari as 'Zewar-e Bihisht', is an anthology of Hanafi jurisprudence – fiqh – specially written for women. It can be found in many Afghan households.

⁹ The original Indian chapter of the Jamiat is now headed by Hussain Ahmad Madani's son, Arshad Madani. The latter has lavished praise on the Afghan Taleban for banishing what he sees as the invading, imperial power – in the case of pre-1947 India, the British, and in the wake of post-2001 Afghanistan, American and NATO forces – from their country. He has steered clear of making any pronouncement on the IEA political set-up.

There is clearly a world of difference between the politics of Mawlana Madani and the politics of the Islamic Emirate. Mawlana Madani was not quiescent, as Thanvi was, but his politics, far from being Islamist, were almost secular in their nature. His politics were pragmatic and based on the need of the hour: freeing India from British rule. However, as Deobandi thought moved to Pakistan, and as Pakistan itself underwent profound political changes, we see the political thinking of scholars, still ostensibly sticking to the Deobandi school of thought, eventually become hardly distinguishable from that of Islamists – those who interpret Islam primarily as a political ideology. This is a theme to keep in mind while going through *Al-Emarat al-Islamiya wa Nidhamuha*. Taleban politics would also seem to have gravitated more towards Islamism, especially during the insurgency.¹⁰ However, Deobandi thought, to which at least some Taleban leaders still aspire, is in no way Islamist.

Along with a foreword from Taleban supreme leader Hibatullah, a second foreword to *Al-Emarat al-Islamiya wa Nidhamuha* has also been written by one Ammar al-Madani (not identified further, but no relation to the Deoband Madani family). “As we know,” Ammar al-Madani writes (page 7), “Islam is not a religion that deals solely with man’s relations with his Lord. It is more than that. It has prescribed a definite political system, consistent with Islamic principles, in a complete and authoritative shape.” Islam is a lot of things, but to single out its political system and even more to equate this with man’s relations with his Lord – that is not the type of language one would normally associate with traditional Deobandi thought.¹¹ It is more akin to the language of Islamists.

Abdul Hakim Haqqani’s own language, at the beginning of the introduction to his book, is somewhat more circumspect, and marginally wider-ranging. It is also more consistent with traditional Hanafi¹² jurisprudence of which there are two parts, one pertaining to worship (*ibadat*) and the other to worldly affairs (*muamilat*).

¹⁰ This was argued convincingly in an AAN 2017 special report: Anand Gopal and Alex Strick van Linschoten, ‘[Ideology in the Afghan Taleban](#)’.

¹¹ The traditional terminology, used in Hanafi jurisprudence and also in Deoband writings, would be to say that Islam deals with two types of rights: one, the rights of Allah (حقوق الله) and second, the rights of human beings (حقوق العباد). Islamist thinking moves from this traditional opinion to honing in on a political system in Islam, after acknowledging the rights of Allah.

¹² Hanafi Islam is one of the four Sunni schools of thought (or *madhhabs*) in Islam, the others being the Shafi, Maliki and Hanbali schools. The whole swathe of territory from Uzbekistan in Central Asia, through Afghanistan, Pakistan, Nepal and India to Bangladesh and Burma, has traditionally comprised strongholds of the Hanafi school of thought. Some inroads are now being made by Gulf Arab-influenced Wahabi and Salafi thinking, particularly in Afghanistan and Pakistan, but the Taleban remain fiercely loyal to Hanafi Islam.

There is no doubt in the fact that Islam has its own structured legal system, a good deal of which is concerned with worship and devotion, while other parts are concerned with character, with dealings of people with one another, with politics and other such matters. All these things have been collected in the actions and sayings of the Messenger of Islam. One cannot become acquainted with the legal system of Islam without following the guidance of the Holy Prophet, for Allah has said in his Holy Book: "Whatever the Messenger gives you, take it; and whatever he forbids you, abstain from it. Fear Allah; surely, Allah is severe in retribution." (Quran, 59:7) [page 17, Al-Emarat].

Early teaching career

Abdul Hakim Haqqani himself appears to be a scholar steeped in acquiring and passing on Islamic learning. His career, as laid out in the introduction to his book, suggests that he is little interested in wielding political power or even engaging in active warfare. Rather, he has preferred scholarly pursuits. Ever since graduating from the Haqqania Madrasa in 1980, he taught in his own native village of Taloqan in Panjwayi and in madrasas in Helmand and Quetta. Before the emergence of the Taleban movement in Kandahar, Haqqani was already well-known within the movement.

In June 1994 – some months before the Taleban came to prominence in their native Kandahar – he had been one of those to attend a meeting called by Mullah Muhammad Omar, the future leader of the Taleban. The meeting took place in Sangisar village near Kandahar. This meeting aimed to establish a peace movement to quell the excesses of commanders in the Kandahar region.¹³ Later on, as Taleban rule was consolidated, Haqqani was invited by Mullah Omar – the Taleban supreme leader as he had then become – to teach in the 'jihadi madrasa' in Kandahar.¹⁴ With the fall of the first Taleban government in 2001, Haqqani retired to Quetta, where he again devoted himself to teaching.

Al-Emarat al-Islamiya wa Nidhamuha was published in 2022, but in fact, the book appears to have been written in Quetta prior to the Taleban takeover of

¹³ Abdul Hai Mutmain, 'Mullah Muhammad Omar, the Taleban and Afghanistan' (Pashto), 2017, page 78.

¹⁴ According to the explanation given to me by one middle-ranking Taleban source in the 1990s, these jihadi madrasas were established to accommodate young Islamic students who mostly came from madrasas in Pakistan and wanted to fight alongside the Taleban. Being too young to fight, they took their place in jihadi madrasas.



Students at the hostel of the Darul Uloom Haqqania seminary in Akora Khattak in Khyber Pakhtunkhwa province of Pakistan, where many senior members of the Taliban, including Abdul Hakim Haqqani, studied. Photo: Abdul Majeed/AFP, 19 October 2020.

Afghanistan in 2021. It was one of several books to be penned during a lull in Haqqani's active teaching, when he took to writing instead. This step back from public teaching was involuntary. Along with other religious scholars associated with the Afghan Taliban, Haqqani felt threatened by "Americans and their allies" (page 12). One other former teacher in the jihadi madrasa in Kandahar, Mufti Rahmatullah,¹⁵ had been shot down in Quetta in a targeted killing that took place in January 2013. In 2016, the Taliban's then supreme leader Akhtar Muhammad Mansur was also killed in an American drone attack. Haqqani came to feel unable to even go to the mosque for daily prayers. He devoted himself to writing in his home.

¹⁵ Mufti Rahmatullah was unusual in that, along with his elder brother, Mawlana Abdul Rauf Ghaznavi, but to the best of my knowledge alone among other scholars associated with the Afghan Taliban, he had graduated from Darul Uloom Deoband in India, as opposed to one of the offshoots of Deoband – like Darul Uloom Haqqania – that have been established in Pakistan.

One of the books he authored at this time was a work on the history of the justice system in Islam. Originally entitled *Tatimmat al-Nidham fi Tareekh il-Qadhai fil-Islam* (The Completion of the System in the History of the Judiciary in Islam), this book was retitled *Al-Emarat al-Islamiya wa Nidhamuha* and published after the restoration of the IEA government in Afghanistan in 2021 (page 13). The original title of the book is interesting. Intended or not, there appears to be an inference that the IEA system of governance represents a completion of the system of governance in Islamic history.¹⁶

Haqqani's biography, in essence, lays out his credentials for authoring this book. Thereafter, Haqqani embarks on the substance of *Al-Emarat al-Islamiya wa Nidhamuha*.

A SUMMARY OF THE BOOK

Before embarking on an analysis of particular parts of the book, a summary of the ground that the book covers does not seem out of place. Whether Haqqani does see the Islamic Emirate as an Islamic government in its complete form, or not, may be a moot point. What does appear to be the case is that he certainly sees the Islamic Emirate as a cut above the Islamic Republic that preceded it. I say this because Haqqani's first contention is that an Islamic government should be a 'government of guidance' rather than one aimed at accumulating wealth (such as, by implication, the Islamic Republic was).¹⁷ It should be determined to follow divine rather than man-made laws. Such a government, he explains, takes its cue

¹⁶ It may seem somewhat strange to some that a book about a judicial system could be re-titled as one about a system of government. To a certain extent, this can be put down to the traditional style of giving a title to some Islamic books, particularly Arabic ones. Sometimes the sense will be sacrificed for the two parts of the title to rhyme. There is a chapter on the judiciary in Haqqani's book, but it does not go into great detail about the history of the judiciary in Islam, as the title claims. But 'nidham' does rhyme with 'Islam', making a catchy title.

¹⁷ Haqqani speaks about a government whose hallmark is taxation (شعارها الجباية). However, the deeper one gets into this chapter, the more it seems he was speaking about a state devoted to the accumulation of wealth, rather than taxation per se. The IEA is, after all, renowned for its taxation: see for example, AAN's special report, '[Taxing the Afghan Nation: What the Taleban's pursuit of domestic revenues means for citizens, the economy and the state](#)'.

from the Quran – the revealed book of God – and the Hadith – the pronouncements of the Prophet Muhammad. Haqqani clearly holds that the Islamic Emirate is just such a ‘government of guidance’. He lays so much stress on the establishment of an Islamic government that he says the ‘jihad’ of the IEA will continue until a full Islamic system has been established (a contention that will be examined in detail below). The first part of the book can be read as an explanation of why a ‘government of guidance’, such as the Islamic Emirate, is necessary. The second part explains and elaborates the characteristics, in the opinion of the author, of such a state.



Taliban fighters, celebrating the one-year anniversary of the re-establishment of the Islamic Emirate, drive through the Bibi Mahro neighbourhood of Kabul.

Photo: Wakil Kohsar/AFP, 15 August 2022.

One of its virtues is independence: in chapter 12, Haqqani makes clear that the Islamic Emirate will never bow to pressure from outside. In Chapter 13, he assures the citizens of Afghanistan of the right to freedom of expression under an Islamic state. He gives examples of how each of the four immediate successors of the Prophet, known in Sunni Islam as the ‘rightly-guided caliphs’, allowed and even

encouraged people to speak their minds. In many cases, these caliphs bowed to people's opinions. Chapters 17 to 20 look at the head of state, how he (in Haqqani's view, women cannot be part even of the political elite, let alone head of state) should be elected and what his duties are. Chapter 21 looks at the duties of the populace towards their leader. In a long chapter spanning more than 60 pages, Haqqani looks at the structure of an Islamic government – its legislative, executive and judiciary branches. Two additional chapters – Chapters 22 and 24 – look at additional advisory and consultative bodies that Haqqani envisages.

THE ISLAMIC EMIRATE AND ITS SYSTEM OF GOVERNANCE: AN ANALYSIS

In my analysis of Haqqani's book, I have had to be selective. I have concentrated on these advisory and consultative bodies, looking for clues as to whether they might have the makings of a legislative assembly, something that is lacking in the IEA system of government up till now, the executive and judiciary arms of government being well developed. I have looked in reasonable detail at the method Haqqani suggests for the election of the head of state. I have also paid considerable attention to the final chapters of Haqqani's book. These deal with education – contemporary education (schooling as opposed to madrasa or religious education) and the education of women and girls.

The aim of an Islamic government: the importance of 'jihad', enjoining good and prohibiting evil and having ulema in government

Haqqani believes the establishment of an Islamic government, a 'government of guidance', is the aim of the Taleban. What is also significant is that he believes the 'jihad' of the IEA must continue until a full Islamic system has been established. In other words, the Taleban's jihad did not end with the departure of NATO forces from Afghanistan, but, for him, it is ongoing.



Young men graduate in a ceremony at the Javadiya Madrasa in Kandahar.
Photo: Javed Tanveer/AFP, 15 February 2022.

On the subject of jihad, Haqqani alludes on page 18 to a basic principle cited in Hanafi jurisprudence as justification for jihad.¹⁸ Warfare – *qital* – according to this principle, is intrinsically bad (قبيح لعينه) due to the destruction and suffering that war causes. From an Islamic point of view, this undesirable activity can only be justified by extraneous reasons (حسن لغيره). In a word, the extraneous reason that can be a justification for taking up arms is the elimination of *fitna*. The word *fitna* is commonly translated as trials and tribulations, commotion and corruption, or persecution on account of one's faith. Haqqani quotes a verse of the Quran to back this up (8:39-40):

¹⁸ A word here about the word jihad: the word means 'struggle' and is used in several contexts in Islamic scriptures. One is the well-known meaning of taking up arms in the path of Allah. That can be more accurately referred to as *qital* – warfare. The word jihad is also used for spreading and preaching the Word of Allah (Quran: 25:52). That activity is referred to as the "great jihad" in the Quran. Another act that is sometimes known as the 'greatest jihad' is struggling, doing battle with one's own self, in order to fulfil the will of Allah (Ahmad, Hadith number 23958; Tirmidhi, Hadith number 1621).

Fight them until there is no more persecution (fitna) and religion belongs wholly to Allah: if they desist, then surely Allah is watchful of what they do but if they turn away, know that Allah is your Protector; the Best of Protectors and the Best of Helpers!

There would seem to be two points here that are open to further debate among Islamic scholars. Firstly, given that religious persecution exists, is it always permissible, or even wise, to take up arms? Far from eliminating religious persecution, might one even be running the risk of making the persecution worse were one to take up arms? This point is particularly pertinent when one is outgunned. What is the point of fighting against a power that is just going to come back at you with infinitely more lethal force? It might be more advisable under such conditions to concentrate on quietly building up one's strength, and following the advice of the Holy Book to:

[P]repare any strength you can muster against them and any cavalry with which you can overawe the enemy of Allah and your own enemy and others besides them whom you do not know but who are known to Allah. Anything you spend in the path of Allah will be repaid to you in full. You will not be wronged (Quran, 8:60).

An example of this is the sequence of events that led to the establishment of Darul Uloom Deoband in 1865. Darul Uloom Deoband was set up in the wake of the Indian Mutiny of 1857. In fact, what was known as the 'Mutiny' was more of a popular uprising, though mutiny of sections of the Indian Army was a part of it. It led to the most brutal reprisals on the part of the British. Muslim scholars of Delhi and the United Provinces – these were the centres of the Mutiny – rethought their strategy and their manner of resistance to British rule. These scholars came up with the idea of Darul Uloom Deoband, a fortress of traditional Islamic knowledge, privately funded and completely independent of government, an inherently peaceful bastion where Muslims could quietly regain their strength.

The second question is: Where does the fitna that justifies jihad or, more accurately, qital – warfare – stop and peaceful conditions prevail? Haqqani takes a somewhat novel – dare I say Islamist? – approach to this question. Without specifying which type of jihad he is referring to – only one type is violent (see footnote 18 – he asserts (page 18):

[I]t is not permissible for the soldiers of the Islamic Emirate to forsake jihad solely with the exit of the Americans and their allies from Afghanistan. That is not the aim of the Afghan jihad. The aim of this jihad is the establishment of the order of Almighty Allah over His servants – the inhabitants of Afghanistan – so that they are able to live their lives under the banner of sharia.



In Kandahar, outside the Department for Promoting Virtue and Preventing Vice, a billboard instructs women to wear hijab, with pictures showing the two, face-covering styles mandated by the IEA. Photo: Javed Tanveer/AFP, 16 June 2023.

The thing that strikes one here is, if Haqqani is referring to jihad in the conventional sense – as qital or warfare – then the assertion that jihad did not end with the expulsion of the NATO forces but will continue until an Islamic system is established would appear to be at odds with the Quranic verse that warfare is only justified when there is fitna or persecution. When Haqqani and his colleagues were feeling threatened and not able to leave their homes to teach in their madrasas, not able to go to the mosque for prayers, for example, then one can see how they might have felt persecuted and subject to fitna. Once they had assumed power, then where was the fitna that would justify qital – warfare?

Maybe, though this is not spelled out in his book, Haqqani is terming the IEA's efforts to establish an Islamic order a 'jihad', using the word in its more literal sense, as a struggle rather than as active warfare. In a subsequent chapter – when writing about a “government whose hallmark is guidance,” – as opposed to one whose aim is the accumulation of wealth – Haqqani pins down what form this struggle for the implementation of an Islamic order might take. He does so by quoting a verse of the Holy Book which describes true believers as:

[T]hose who, if We establish them in the land, say their prayers regularly and pay the poor due and enjoin good and forbid evil. The final outcome of all affairs rests with Allah alone (22:41).

Haqqani does not delve in great detail into the meaning of 'enjoining good and forbidding evil' – *dawat wa ershad amr bil-maruf wa nahi al-munkar* – apart from this reference and one other, on page 32, in his chapter on an Islamic government.¹⁹ However, it is an activity closely associated with the IEA – both now and in the 1990s – so it seems important to scrutinise in a little more detail what is understood by this phrase.

It is established in Hadith that there are three varieties of enjoining good and forbidding evil. One is with one's hand, in other words enforcement; another is with one's tongue – admonition and good advice; thirdly, one can perform this important act in one's heart, by being gladdened by good deeds and repulsed by evil deeds.²⁰ There is also agreement that enforcing the enjoining of good and forbidding evil is the job of government, although only a tiny number of contemporary Muslim countries have an institution to do this, as the Taleban have; admonition and good advice is the responsibility of the *ulema*, or Islamic scholars, while it is for the masses to be repulsed by evil.²¹ In the case of the IEA, we see

¹⁹ In that reference, he lists the group of people who carry out this activity as a component of an Islamic government and writes: “They are vigilant in the implementation of the rule of law. They work in the interests of different branches of society, to protect them from harm and from some segments of society harming others.” (He also quotes the Quranic verse Al Imran, 104).

²⁰ The actual text of the Hadith in Sahih Muslim is as follows, “Whoever amongst you sees something reprehensible should seek to alter it with his hand; if he's not able to do that, then with his tongue; if he's not able to do that, then in his heart and that is the weakest type of faith.”

²¹ “The first injunction is aimed at rulers (الامراء), the second at scholars (العلماء), the third at Muslims in general.” ‘Al-Mirqat fi Sharh il-Mishkat’, by Mullah Ali Qari, quoted on page 436 of the Mishkat anthology of Hadith, 1932, Delhi. The author of this work – one of the most renowned and comprehensive Hadith commentaries – was born in the Afghan city of Herat. Later he moved to Mecca, where he died in 1605-6 CE.

Islamic scholars stepping up a notch and, in addition to admonition, also taking on the responsibility of enforcement.²²

Significantly, Haqqani believes that Islamic scholars are justified, indeed, it is most desirable – for them to form the government. On pages 51-52, at the beginning of his chapter on the Titles and Names for the Head of State, he mentions two types of leadership that exist in Islam – religious and political. Without quoting any sources or historical precedent in support of his opinion, he writes on page 52:

The best type of leadership is that which combines both types (religious and political). Then they can guide people to the true Islamic religion, since they are acquainted with it. They can also provide political guidance by establishing the sharia of Almighty Allah for the organisation of people's affairs and removal of corrupt practices.

I know of no precedent for such a combination of the political and religious establishment in the history of Sunni Islam.²³

Khuruj – opting out of allegiance to the government of the day

Another striking aspect of Haqqani's analysis is his thinking about the allegiance Muslims pay to the state. It is worth remembering that Haqqani wrote his book when he was in exile and the Taleban were waging a war, not only for what they saw as the liberation of their country from American occupation but also against an Afghan government they believed had been installed by the Americans. It is also worth remembering that there were a good number of Islamic scholars who supported the Islamic Republic. I say this in view of Haqqani's assertion on page 28, in the course of his chapter on why man-made laws are not valid, that:

²² The insurgency-era Department for Invitation and Guidance on Promoting Virtue and Preventing Vice (Dawat wa Ershad Amr bil-Maruf wa Nahi al-Munkar) is typically shortened to 'Amr bil-Maruf' or, in English, 'Vice and Virtue'. The same names are also used for its enforcers, also known in English as the Taleban's 'morality' or 'religious police'. After gaining power, the department became a ministry and renamed the Ministry for Invitation and Guidance on Promoting Virtue and Preventing Vice and Hearing of Complaints. For more on this organisation, see AAN's report: Sabawoon Samim, '[Policing Public Morality: Debates on promoting virtue and preventing vice in the Taleban's second Emirate](#)', 15 June 2022.

²³ In neighbouring Iran, however, Ayatollah Rohullah Khomeini put forward and later implemented his Velayat-e Fiqih (Guardianship of the Islamic Jurist) system of government. In this radical theory of Shia Islamic government, a supreme leader, who is an advanced Islamic scholar, has absolute authority over the state.

[M]aking laws other than what Allah has ordained amounts to disbelief and apostasy and it is obligatory for Muslims to do khuruj – to come out – against an apostate Muslim ruler.

Haqqani makes this assertion based on what he calls a “consensus of Muslims.” However, I must confess to a degree of shock on reading this open exhortation to Muslims to opt out of allegiance to a Muslim ruler who has not fully implemented all the injunctions of Islamic law.

Khuruj – opting out of allegiance to an Islamic government – is a sensitive matter in Islam. The *Khawarij* – those who did khuruj and opted out of allegiance in this way – are considered like a third sect in Islam, apart from Sunnis and Shias.²⁴ The Khawarij openly supported the murder of the third caliph, Uthman, and were themselves responsible for killing the fourth caliph, Ali ibn Abi Taleb, whom Shia Muslims recognise as the first caliph. I presume the Taleban – staunch Sunnis that they are – would not like to be associated with the Khawarij. Yet that is the impression given by the use of such language by the author. What if someone were to come to the opinion that the Taleban were not fully implementing Islamic law? Would they be justified in doing khuruj? At the time Haqqani wrote these lines, he was residing in Quetta in the Pakistani province of Balochistan (page 13). There are plenty of laws in the Pakistan penal code that are not in full accordance with the letter of Islamic law. Neither Haqqani, nor any of the other Taleban leaders residing in Quetta at this time, encouraged or even themselves opted out of allegiance to the Pakistan government. Far from doing khuruj, they accepted refuge from that government. Later in his book, Haqqani quotes the Syrian scholar Wahba al-Zuhayli on the subject of the legislature. It is interesting to note that Al-Zuhayli lived and taught for his whole life in his native Syria, under the regime of Hafez al-Asad and his son, Bashar – not exactly the epitome of perfect Islamic rulers, most would agree.²⁵

²⁴ The term ‘khuruj’ – opting out of allegiance to the ruler – was first coined at the time of the fourth successor of the Prophet, his cousin and son-in-law Ali. Ali had agreed that a quarrel between himself and Muawiya over the succession should go to arbitration. The Khawarij or ‘exiters’ as they became known were initially supporters of Ali. They felt this decision went against the Quran and rebelled against and subsequently killed Ali. (See the Oxford Encyclopaedia of the Modern Islamic World, Volume III, page 419, for more detail.)

²⁵ Apart from the Asads’ use of torture, arbitrary detention and extra-judicial killings, among other abuses, Hafez al-Asad ordered the violent quelling of a Muslim Brotherhood uprising in Hama in 1982, which involved indiscriminate bombing and the razing of much of the city. The vast majority of the tens of thousands of victims were civilians. Bashar has also committed multiple massacres of Sunni Muslims and other Syrian civilians in the course of the current civil war, including bombing hospitals and schools and using chemical weapons.

Yet, al-Zuhayli – and many other scholars like him – have not performed khuruj against the government of the day. Al-Zuhayli chose to remain neutral in the Syrian civil war, neither taking one side or the other.²⁶

In Haqqani's defence, he does mention (page 28) that the most minor form khuruj can take "is to disobey the ruler's commands and prohibitions that contradict Islam." He cites a number of Hadith in support of his position:

1. "No obedience to human beings in disobedience of Allah;"
2. "Obedience is in matters that are acceptable [*maruf*];"²⁷
3. "A Muslim should hear and obey [rulers], whether he likes it or not, so long as he has not been commanded to commit some sin. When he is commanded to commit some sin, in that case there is neither hearing nor obeying;"
4. "After me, power will go to men who will extinguish the sunnah. They will invent innovations, for instance they will delay the prayer from its prescribed time," Ibn Masud asked the Messenger of Allah what he should do, if he came across these people. The Messenger said and he repeated three times that there was no obedience to one who disobeyed Allah."

The last of these Hadiths deals with worship, not with affairs of state, so it can be disregarded here. Regarding the other three Hadiths, they would seem to be referring to when one is ordered to do something that is un-Islamic or alternatively when one is obliged to refrain from an Islamic duty. This is mentioned explicitly in one of the Hadiths that Haqqani quotes, "when he is commanded to commit some sin." For example, if the law of the land were to require one to take or give interest on loans, or visit taverns where liquor was being consumed or even to consume it oneself, or to commit fornication, then clearly it would be one's Islamic duty to disobey such orders. As I think everyone will attest, that is not generally the case. In Western countries, avoiding interest is probably the most difficult thing to steer clear of, but it is still possible. Neither have I personally come across any instances of Muslims being forcibly constrained from performing their Islamic duties, such as saying their prayers or pursuing Islamic learning. Were that to be the case, it

²⁶ For a biography of al-Zuhayli, see this [webpage](#) posted by the Carnegie Middle East Centre 'Profiles of Syrian Sunni Clerics in the Uprising, 25 March 2013.

²⁷ Maruf or *urf* is defined by Haqqani on page 39 as "custom that does not contradict sharia." It is more widely defined as "actions that are generally approved of – what a person's conscience accepts as good."

would be a Muslim's duty to disobey such orders. That is the type of sin these three Hadiths are warning one against. According to my understanding, these sayings of the Holy Prophet are not referring to living in a country where laws do not fully accord to sharia.

These three Hadiths can be found in books of Hadith that deal with the offices of commander and chief justice (*qadi*). Going through these Hadiths, it is quite clear that their overwhelming thrust is to reinforce the rule of law, to urge Muslims to obey the law of the land in which they live. This is something that the Taleban themselves have always been strong on. It is something that Haqqani himself stresses in his chapter on the Duties of the Populace, from pages 141-145. By encouraging people to do khuruj – to opt out of allegiance and obedience – from any legal system that is not in full compliance with sharia, Haqqani may run the risk of denigrating the IEA's own legal system. That is also a basic principle of Islam: what you wish for others is what you yourselves will receive (Quran, 6:108).

Speaking truth to power

Haqqani does not portray the Islamic Emirate as above criticism. Indeed, one aspect of what Haqqani believes is a good Islamic system, explored in his chapter on basic freedoms, may surprise readers. On page 42, he quotes a Hadith:

The greatest jihad is to stand up for justice when faced with an oppressive ruler.

On the basis of this and several other Hadiths, Haqqani assures us that freedom of speech is assured under the IEA.²⁸ He gives several examples of how the four caliphs who succeeded the Prophet encouraged and responded positively to people speaking their minds. Personally, I would even go further than this: according to another Hadith, that Haqqani has not quoted, criticism, far from being an act of defiance or rebellion, is a form of charity, an act of supreme loyalty:

“Help your brother,” the Prophet said, “whether he is the oppressor or the one being oppressed.” “We will help him if he is oppressed,” the companions said, “but how can we help him if he is the oppressor?” “You can stand in his way and prevent him for perpetrating oppression,” the Prophet said.

²⁸ Other freedoms he discusses in this chapter are freedom of expression, freedom of belief – albeit with certain caveats – and territorial integrity.

One example that Haqqani himself gives on page 43 is about the second successor of the Prophet, Umar ibn al-Khattab:

“Don’t exceed 40 auqiyas²⁹ in the dowries you give women,” he exhorted people. “I don’t care if it’s even Yazid ibn al-Haseen al-Harithi” – a very rich person. “If anyone gives more than this, I will deposit the extra amount in the treasury.” A woman stood up from the line of women who were seated there. “What’s the matter with you?” she addressed Umar. “Why do you say that?” Umar asked [her]. “I say it because Allah says, ... even if you have given her a treasure, do not take any part of your dowry back (Quran, 4:20).” “The lady was right, the man wrong,” Umar said.

This event took place during the caliphate of Umar, the second successor of the Prophet of Islam. By this time the government – empire even – of Islam was strong and making strides. For this author, this exchange gives a good picture of what a vibrant Islamic society looks like: a woman rising in the midst of a gathering of believers and challenging the commander of the faithful, who admits that he is in the wrong and she is in the right. So far, since the IEA took power, however, there seems to have been a clear gap between Haqqani’s assurances of freedom of speech and what actually happens on the ground.³⁰

The head of state and his (s)election

Haqqani then embarks on a series of chapters on the head of state: what he (he disavows women taking on this role) should be called, how he should be elected or appointed, what his duties and responsibilities are, what the population’s duties are towards him. He starts by going through all the possible titles for a head of state, such as ‘caliph’ (successor to the Prophet), ‘sultan’ (literally, the man holding power) and ‘imam’ (leader). Not surprisingly, he settles for ‘Amir al-Muminin’ – the leader of the believers – the title that the Taleban have always accorded their supreme leader. In later years, the most famous rulers of large Islamic empires – the Umayyad and Abbasid Caliphates of the first centuries after the Prophet – were called ‘caliphs’ but were also addressed informally as ‘Amir al-Muminin’. ‘Amir’ by itself is not a title alien to Afghanistan – the kings of Afghanistan from Dost

²⁹ Auqiya is a unit of currency or weight.

³⁰ For the United Nations’ view on this matter, see, for example, reporting by [UNAMA](#) and the [UN Special Rapporteur on human rights](#) on the IEA’s clamping down on freedom of speech and assembly.



Judges check a petitioner's documents in the Ghazni Appeal Court.

Photo: Wakil Kohsar/AFP, 28 November 2022.

Muhammad Khan (1826-1839; 1843-1863) until Amir Amanullah Khan (1919-29) were also known as amirs and there is ample precedent also for having the head of state known as the amir in the strings of *emaraat* – emirates – found in the Middle East and historic Central Asia – the Amir of Bukhara for example. The official title that Amir Dost Muhammad adopted was, like the Taleban supreme leader, ‘Amir al-Muminin’, though this was quickly abbreviated in common usage to just Amir. Haqqani does not explain how the ruler of one country alone merits such a title, except that this was the title given to the earliest rulers of Islam.

The same reliance on historical and scriptural precedent, dating back to Islam's earliest rulers, is the case when it comes to how Haqqani conceives the head of state should be chosen. Haqqani writes on page 59, in his chapter on the Election of the Head of State:

Looking at all the injunctions in the Quran and in the sunnah, we cannot find any clear injunction laying down the manner of election of the head of state.... so the best we can do is look at how the rightly guided caliphs were elected.

In order to try and seek out a model for the election of the head of state, Haqqani goes into the election of the first four caliphs of Islam, after the Prophet, searching for clues as to how the amir should be elected. There was a different process in each case, according to the situation that prevailed at that time. Rather than go into each election, as Haqqani does, what I would like to do here is look at the election of the Prophet's immediate successor Abu Bakr,³¹ glean what lessons we can and then relay this back to what Haqqani deduces.³²

1. Three rival groups emerged after the death of the Messenger of Allah: a group supporting Ali and Zubair,³³ the Ansar,³⁴ who wanted "an amir from our lot and an amir from your lot," and the Emigrants,³⁵ who coalesced around Abu Bakr and Umar.
2. Abu Bakr pointed out to the Ansar that the caliphate had to go to the Quraysh, the tribe of the Holy Prophet.³⁶
3. Abu Bakr did not promote himself for the caliphate. He put forward the names of Umar and Abu Ubaydah ibn al-Jarrah.
4. Seeing that matters were getting out of hand, Umar took control of the matter. He asked Abu Bakr to extend his hand. He then swore allegiance to Abu Bakr. The Emigrants and the Ansar followed suit.

³¹ This account is according to the Sunni tradition, as I am not an expert in Shia beliefs, having been trained in the Sunni tradition. I am, however, aware that the Shia tradition's account of events following the death of the Prophet Muhammad and the subsequent struggle for succession differs significantly in its details.

³² Haqqani deals with the election of Abu Bakr on pp60-61, mainly on the basis of a long Hadith related by Abu Bakr's successor, Umar al-Khattab. In order to gain a slightly more detailed picture – again from a Sunni perspective – I am relying on Imam Suyuti's account in 'Tarikh al-Khulafa' (History of the Caliphs), pp55-58. This includes Umar's account, as well as some other accounts.

³³ Like Ali, Zubair was a cousin of the Prophet Muhammad.

³⁴ The Ansar, literally the Helpers, were those who assisted the Muslims when they emigrated from Mecca to Medina.

³⁵ These are the Meccans who had migrated with the Prophet from Mecca to Medina.

³⁶ The Hadith cited as the basis of the consensus of Sunni scholars on this matter is found in the collections of both Bukhari and Muslim: "In this matter, people will follow the Quraysh." In his detailed explanation of the Hadith collection of Imam Muslim, Imam Nawawi writes, "This Hadith and other similar Hadiths like it are a clear proof that the caliphate is the exclusive right of the Quraysh.... A consensus emerged on this matter during the time of the companions of the Prophet."

5. The account of Umar does not include any attempt to placate Ali. In an account by Abu Saeed al-Khudri, when Abu Bakr came and ascended the pulpit, he noticed that Zubair was not there. Again, there was no mention of Ali, whom Shia Muslims believe to have been the rightful heir of the Prophet, being *ahl al-bayt* – a member of the Prophet's immediate household. Abu Bakr called for Zubair, who swore allegiance to Abu Bakr.
6. Once the leaders of the Emigrants and the Ansar had nominated Abu Bakr as the caliph, Abu Bakr appeared before the Muslim masses, where his leadership was ratified.

Haqqani (page 61) sees two stages in the nomination and ratification process: firstly, the initial allegiance of the *ahl al-hall wa al-aqd* – the elite – to whom Haqqani devotes a whole chapter and regarding whom we will be talking more later; secondly, the allegiance of the masses. To Haqqani, it is the first conferral of leadership that is most important; the second acclaim of the masses is a proclamation of their 'hearing and obeying'.

Be that as it may, and to revert to the account of the election of Abu Bakr as related by Imam Suyuti, Abu Bakr's acceptance speech before the masses – something like an inauguration speech – is noteworthy for its humility. Haqqani does not mention it, but I feel it bears mentioning here:

I have been chosen to lead you even though I am not the best amongst you. If I do right, back me. If I do wrong, put me right. Truth is to be trusted. Dishonesty is tantamount to disloyalty. The weakest amongst you is strongest in my sight: God willing, I will accord him his full rights. The strongest amongst you is the weakest before me: God willing, I will take from him others' rights that he has usurped. Any nation that forsakes jihad in Allah's path will be brought low. Allah will bring calamity upon any nation amongst whom promiscuity is prevalent. Obey me, if I obey Allah and His Messenger. I have no right to your obedience if I disobey Allah and His Messenger. Now stand up and pray, may Allah have mercy on you.³⁷

Abu Bakr then led the congregational prayers as the new leader – imam – of the Muslim community.

³⁷ Tarikh al-Khulafa of Imam Suyuti, p56, on the authority of Ibn Ishaq, the Prophet's first biographer.

There is one other Islamic concept evident in Abu Bakr's address and emphasised by Haqqani in a section – part of Chapter 20 on The End of the Rule of the Head of State – that also bears mentioning. It is the stress Islam lays on not seeking power for oneself. Haqqani begins this section by quoting a Hadith related by Abu Huraira:

*You will be eager for the office of commander but it will become a cause of regret on the Day of Resurrection. It is a good suckler but an evil weaner.*³⁸

In other words, power corrupts. In another Hadith, transmitted by both Bukhari and Muslim – the two most highly regarded collections of Hadiths – and also mentioned by Haqqani (page 139), the Prophet addressed one of his close companions, Abdul Rahman bin Samura, as follows:

Do not ask for the position of commander, for if you are given it after asking, you will be left to your own devices; but if you are given it without asking, you will be helped to discharge it.

There is another Hadith – supporting the notion of the leader maintaining public support and not mentioned by Haqqani – that may also bear pondering here:

Auf bin Malik al-Ashjai reported God's messenger as saying, "Your best leaders are those whom you like and who like you, on whom you invoke blessings and who invoke blessings on you; and your worst leaders are those whom you hate and who hate you, whom you curse and who curse you." They asked God's messenger whether in that event they should not depose them but he replied, "No, as long as they observe the prayer among you."

The impression, ongoing throughout Haqqani's chapter on the election of the head of state, is that Haqqani is looking for a hard and fast model, when as he himself points out, there is none. One would have thought that if there had been a need for Muslims to stick to a single model, this would have been pinpointed in the Holy Book or else the Prophet, highly conscious of his own mortality as he was, would have given clear instructions on this count. However, there are no such clear instructions. Even with the election of the first successor of the Prophet, Abu Bakr, inclusive and structured as it was, no consensus emerged among the Muslims that this was the most acceptable mode of choosing the leader, with Shia Muslims

³⁸ This is a strong Hadith, transmitted in the authentic – Sahih – collection by Imam Bukhari. His collection is known among Sunni Muslims as "the best book, after the book of Allah" – افضل الكتاب، بعد كتاب الله.

feeling that the Ahl al-Bayt – members of the Prophet's household, in particular his cousin and son-in-law Ali – should have had precedence in being appointed to a leadership role. The lack of clear instruction in the Quran and Hadith, the avoidance of this subject in Islamic jurisprudence, the lack of a clear accepted model, all these factors may – contrary to what Haqqani is suggesting – mean that Muslims may resort to *qiyas* – reason – on this matter, adopting the process that is most appropriate and acceptable, in line with historical precedent and modalities of the day.

Government and its structure: executive, judicial, legislative

Again contrary to Haqqani's thesis, political theory may be an area where civilisations pick up on and learn from each other's experience rather than sticking to any hard and fast model of their own. That is why, before I embark on an analysis of Haqqani's chapter on government and its structure, I would like to give a little historical background, both about the origins of Islam and its recent past. I do this in an attempt to provide some context, not only to Haqqani's chapters on government and its structure but also his chapters on education.

One can take from the election – you may wish to call it a selection – process undergone by Abu Bakr what one will. One might stop short of using the word 'democratic', but it may seem quite inclusive to some, particularly in the context of the time. The birthplace of democracy – at least as far as free male citizens are concerned – is considered to be ancient Greece. During the flowering of the Abbasid caliphate in Baghdad, between the eighth and the 13th centuries, many facets of Greek thought came to influence the Arabs. Democracy does not seem to have been one of these factors. In fact, rather than building on the inclusive process that had led to the election of Abu Bakr, by the time of the Abbasids – and indeed the Umayyads before them – dynastic rule had become normal in the Muslim world.

However, exchange of ideas between civilisations – including in the field of political theory – from the Greeks to the Muslims and from Muslims to Europeans and vice versa has always happened throughout history. This is evident even in Haqqani's book. For example, in Chapter 23, on the Structure of Government in Islam, Haqqani formally acknowledges the three branches of government, the legislature,

the executive, and the judiciary. He repeatedly stresses the independence of the judiciary. He also mentions the need for a constitution:

[F]or organisation of disparate groups, for prevention of injustice, for protection of people's rights and for establishment of a justice system – both social and judicial (p160).

While such a division of the branches of government may have been practised to a certain degree throughout history, to formally separate the arms of government in this way would appear to owe a great deal to modern political philosophy of the European Enlightenment. It is normal that such cross-fertilisation of ideas should be generated between civilisations. As Haqqani himself points out, somewhat ruefully in his case on pages 242-3, what is widely considered the flowering of Abbasid civilisation with the accession of Caliph Harun Rashid to the throne in Baghdad in 786 CE, owed much to the translation of works of Greek learning into Arabic.³⁹

Despite Haqqani's misgivings on this process, most historians would take the opinion that the incorporation of Greek thought into Muslim thinking was not a bad thing. With the liberation of the mind that had come to Muslims with the revelation of the Quran and its constant exhortation to research and reflect on the mysteries of creation in order to discover the secrets of the Creator, Muslims were able to build on Greek knowledge in various fields to create the civilisation that flowered in Baghdad until the sacking of the city by the Mongols in 1258.⁴⁰ Europeans repaid the compliment in the Middle Ages by acquiring many Muslim skills and areas of expertise that contributed to the European Renaissance.

In formally accepting the division of government into legislative, judicial and executive departments and also in stressing the need for a constitution and the need for an independent judiciary, Haqqani is implicitly accepting the possibility of incorporating at least some elements of European political thought into the Islamic system of governance. After all, as often as not, even though further fine-tuned in the European Enlightenment of the late 18th and early 19th centuries, to a certain degree these elements may well have had their root in the Muslim world, as was evident in the inclusive election that led to Abu Bakr becoming the successor – caliph – of the Prophet.

³⁹ For more on this, see De Lacy O'Leary, 'How Greek Science Passed to the Arabs', Goodword Books, 2001.

⁴⁰ While a detailed description of this civilisation can be found in Philip Khuri Hitti's 'History of the Arabs', a short overview can be listened to on the BBC Radio 4 'In Our Time' programme [here](#).



Then acting Minister of Higher Education Abdul Baqi Haqqani at the Loya Jirga hall in Kabul addressing a consultative meeting on higher education policies. Until now, the IEA has an executive, but no separate legislature.

Photo: Aamir Qureshi/AFP 29 August 2021.

Haqqani seems reluctant to accept this historical process of civilisations feeding off each other. Like other Islamist thinkers, he wishes to hark back to a political model and theory that does not exist. This could be why the Islamic Emirate failed to devise government institutions beyond the all-powerful amir. Nowhere has this lack of progress been more evident than in the failure to come up with a legislative authority. That is what we will look at next.

The sticky point of the legislature

It has been nearly two years since the Taliban have been back in power. Yet there has been no movement on key elements of the structure of their government. We are no nearer a constitution being thrashed out, and there is no legislature separate to the amir. He is both the supreme executive authority in the Emirate and the ultimate source of all legislation, as well as the final judicial authority. This is despite Haqqani, at least in his book, advocating for these powers to be separated.

He stresses both the need for an independent judiciary and for there to be a constitution.

The issue with which the IEA seems to have the most difficulty coming to grips is the legislature. The failure of the IEA to set up a legislative authority may seem at first glance surprising. Haqqani devotes entire chapters in his book to two concepts that at first glance would appear to lend themselves to the formation of such a legislature. The first concept is that of the *ahl al-hall wa l-aqd*, in effect, the political elite. This is dealt with in Chapter 22, from pages 146-158. The second is that of the *shura* – council or parliament. Again, Haqqani devotes an entire chapter, from pages 228-241, to the concept of the *shura*. In between these two chapters is a longer chapter on the Structure of Government in Islam. Haqqani begins that chapter by defining the legislature as:

[T]he consultative assembly – majlis al-shura – the members of which are elected..... This body is known in modern politics as a parliament and in some cases as the constituent assembly (p159).

It seems at first glance like here there may just be the makings of some sort of a legislative assembly, but before we go into that, we need to look at the term 'ahl al-hall wa l-aqd' and how it connects – in Haqqani's view – with the concept of *shura*. *Ahl al-hall wa l-aqd* is generally translated into English as 'those who bind and loosen', indicating their prime responsibility, which is to act as an electoral college.

It is clear from Haqqani's chapter on the *ahl al-hall wa l-aqd* that the original jurors who expounded on the role of this body, considered its function to be exclusively the appointment of the head of state. Haqqani quotes Imam al-Juwayni extensively in this regard.⁴¹ The function of the *ahl al-hall wa l-aqd* as an electoral college is clear from Al-Juwayni's definition of this body, quoted by Haqqani on page 146:

The cream of the settled population, those seasoned by experience and endowed with mature judgement, by virtue of their adherence to religion. Because of this, they possess a good understanding of the attributes required in those who are to be entrusted with people's affairs.

⁴¹ Yusuf al-Juwayni (1028-1085CE) was a Persian Sunni scholar famous as the foremost leading legal theoretician and Islamic theologian of his time and is considered a second founder of the Shafi school of Islam.



Darul Uloom Deoband students celebrate India's Independence Day in the courtyard of the seminary's new hostel building.

Photo: Yasir Gondvi, Wikicommons, 15 August 2021.

Haqqani also quotes the modern Syrian scholar Wahba al-Zuhayli, who believes that the allegiance of the *ahl al-hall wa l-aqd* to the new imam, or leader of the faithful, suffices on behalf of the population at large. Haqqani then devotes a good deal of his chapter on *ahl al-hall wa l-aqd* to why, in his opinion, women are excluded from any role in this body. He begins by quoting Al-Juwayni in this regard (page 148):

If women were to be consulted (in choosing the head of state) then Fatima – the daughter of the Prophet and the most excellent of women – would have been most deserving of being consulted in this matter and likewise the wives of the Prophet but as we instinctively know, women have never had any need to concern themselves with this matter.

Imam Juwayni goes on to equate the involvement of women in choosing the head of state with the involvement of the masses, suggesting that neither has the

necessary expertise: "They are not counted amongst those who have knowledge of this matter." For Haqqani, there is still the question of what does qualify a person to be a member of the ahl al-hall wa l-aqd? He states, on page 146, that others, besides scholars of religion, can qualify to be members of the body:

Knowledge of religion, of the well-being of the Muslim community and its politics. The knowledge that is required changes with the times.

The question that one could put to Haqqani here is that if the Muslim masses – previously disqualified from being members of the ahl al-hall wa'l aqd – can qualify to be members of this body by virtue of having knowledge that might be needed in a certain age, could not women also qualify on the same grounds? After all, the Holy Book has pronounced:

Do not covet the bounties that Allah has bestowed more abundantly on some of you than on others. Men shall be rewarded according to their deeds and women shall be rewarded according to their deeds. You should rather ask Allah for His bounty. Allah has knowledge of all things (4:32).

Coming back to Haqqani's views on the ahl al-hall wa l-aqd and the shura, it is clear that the ahl al-hall wa l-aqd was originally envisaged entirely as an electoral college. The shura – the consultative assembly according to Haqqani's definition given above – was something quite different. It is therefore surprising to see Haqqani equate the two concepts. In the very passage at the beginning of his chapter on ahl al-hall wa l-aqd (page 146), quoted above in connection with the know-how required by members of that body, he suggests that the ahl al-hall wa l-aqd is exactly the same as the shura. He refers to:

The head of state, members of the shura (ahl al-hall wa l-aqd), those who are the foundation of the head of state's leadership and members of his government.

In equating the ahl al-hall wa l-aqd with the shura, Haqqani would appear to be taking his cue from the modernist reformer and Islamic scholar Muhammad Rashid Rida (1865-1935), who is considered to have given the concept of ahl al-hall wa l-aqd currency in the modern age.⁴²

⁴² Rida moved from Ottoman Syria (present-day Lebanon) to Egypt in 1897, where he brought out an influential monthly magazine, Al-Manar (The Lighthouse). It continued to be published until his death in 1935. More can be found on ahl al-hall wa l-aqd in the Oxford Encyclopaedia of Modern Islamic World, particularly in its entries on ahl al-hall wa al-Aqd, Volume I, pp53-54 and on Rashid Rida, Muhammad, Volume III, pp410-411, where readers can also find a biography of Rida.

So what then is the role of this electoral college – ahl al-hall wa l-aqd – which, according to Haqqani, also doubles as a consultative assembly – shura? In the case of appointing the leader, its role is conclusive and its decision final. What about its role as a consultative body or a parliament? Is it purely consultative or legislative also? And if its role is legislative, are its decisions binding on the head of state, in the same way as the decision of the ahl al-hall wa l-aqd was binding in appointing the head of state?

To address the first of these questions, Haqqani approvingly quotes the well-regarded Syrian professor and Islamic scholar Wahbah Al-Zuhayli (1932-2015) on page 235:⁴³

One should consider the difference between consultative shuras in Islamic sharia and those legislative bodies that have been set up in man-made systems. The consultative body in Islam is not legislative. Its function is to bring to the surface and to discuss divine commands. So there is no difference between the minority and majority opinion of the shura. In man-made systems, the consultative body is legislative. There, the ruler is bound to follow its majority opinion.

So according to Al-Zuhayli, the role of the shura is consultative, not legislative. Yet Haqqani acknowledges that not everything has been prescribed exactly in Quran and Hadith. Some laws have to be formulated on the basis of the Quran and Hadith and utilising the other two pillars of Hanafi jurisprudence, consensus (*ijma*) and reason (*qiyas*). According to Haqqani (page 159):

There are two types of legislation. The first involves the initiation of sharia. The second is the elucidation of laws, based on substantive sharia. The first fundamental type of law-making is the reserve of Almighty Allah. The second type of law-making has been entrusted to the companions, their followers, those qualified to make decisions in matters of law⁴⁴ and the right-minded scholars of Islam. The assembly [shura] is for the second of these tasks.

⁴³ Haqqani quotes from Al-Zuhayli's 'Al-Fiqh al-Islami wa Adilatuhu' (Islamic Jurisprudence and its Proofs, Volume IIX, page 6025).

⁴⁴ The word Haqqani uses here is mujtahid – an important term in Islamic jurisprudence – literally one who makes an effort to come to the right decision. It is said that if a mujtahid comes to the wrong decision, he still receives one reward from the Almighty for doing his best; if he comes to the right decision, he receives a double reward: one for the effort he made and second for getting it right.

To summarise, then, according to Haqqani, the role of the shura is mainly consultative, though there is some room for it to legislate on matters that have not been made absolutely clear in Quran and Hadith. This leaves one very important question: Are the laws the shura passes binding on the Muslim ruler, the head of state? Haqqani deals with this question in a section (pp234-6) of his chapter on the shura. As is often the case, both opinions exist: some scholars, he says, are of the opinion that the decision of the shura is binding on the ruler, others demur and say that the ruler reserves the right of veto. Haqqani comes to no conclusion himself.

The section of Haqqani's book on the legislature left me with a sense that an opportunity had been missed. The Quran is so clear on this subject (42:38):

(The believers are those) who attend to their prayers; who conduct their affairs by mutual consultation and spend out of what We have provided for them.

The surah – chapter – of the Holy Book in which this verse appears is named after the concept of shura – mutual consultation. Added to the concept of ahl al-hall wa l-aqd, given a lot of importance in Haqqani's book, one would have thought that the makings might be there for a lower and upper house of parliament. Yet no progress has been made towards this end, either in theory – in Haqqani's book – or in the reality of the IEA set-up.

‘Contemporary education’

The importance Haqqani attaches to the subject of education may come as a surprise to some, given that, strictly speaking, one would not expect education to figure prominently in a book about the system of governance of the Islamic Emirate. Education is not really a governance issue. Yet Haqqani devotes sixty pages – three whole chapters – at the end of his book to this subject. This shows that he acknowledges its importance. That is significant in itself. The fact that two of the three chapters on education are devoted largely to the place of women and girls in the educational system is doubly important. These chapters shed light on the role that the Islamic Emirate sees for women in public life and public service – negligible it must be said – along with the part envisaged for them in imparting and receiving education – more about which later.

Haqqani draws a distinction between religious and what he calls 'contemporary' education,⁴⁵ in other words, what can be taught and learned in a madrasa and what in a school. For Haqqani, religious education is primary and should be the framework for any other teaching (page 242):

An Islamic state has to prioritise religious education over contemporary education. That does not mean that one should abandon contemporary education altogether, just that contemporary (education) should be (imparted) within the framework of religious (education).

Some – myself included – would take issue with this supposed division of knowledge into religious and secular, or religious and contemporary. The Quran itself is stacked with what one may call scientific proofs supporting the fundamental messages of the Holy Book: there is unity in the order of the universe, the Creator must also be one; everything in the universe follows the order of nature, man should also do so; there is constant rebirth in creation – the resurrection of man after death also makes sense. These are the type of arguments the Quran cites on page after page. The division that is suggested – by Haqqani and generally in religious circles in Afghanistan – between contemporary and religious education, is strange to say the least.⁴⁶ A highly regarded book in Deobandi circles is written by Syed Sulaiman Nadwi, entitled '*Tarikhi Ardi l-Quran*' – The History and Geography of the Land of the Quran.⁴⁷ The title is self-explanatory, the book itself is proof of the adage that history and geography are the same subject. One of the great – again Deobandi – exegeses of the Quran of modern times is written in both Urdu and English by Mawlana Abdul Majid Darabadi.⁴⁸ He approaches the subject entirely from the perspective of a contemporary education – despite his Mawlana title Daryabadi had not even

⁴⁵ These terms are used widely in Afghanistan, with 'modern' associated with government schools and 'religious' associated with madrasas, even though government schools and universities do have elements of Islamic teaching in their curricula.

⁴⁶ I have always preferred using the term 'classical' when referring to what has become known in the Muslim world as a religious education. Unlike in the West, where a classical education embraces a number of subjects, a classical education in the Muslim world has come to consist almost exclusively of a religious education. Maybe that is why the word 'classical' has been superseded by 'religious'.

⁴⁷ Published by Dar al-Ishaat, Karachi, 1975.

⁴⁸ Mawlana Daryabadi's English *tafsir* – exegesis – in two volumes and published by the Taj Company, Karachi (1971) is more highly regarded than its Urdu counterpart.

received a madrasa education⁴⁹ – bolstered, it must be said, by extensive reading and long periods spent in the company of Mawlana Thanvi.⁵⁰



Schoolgirls sit in a schoolyard in Herat two days after the fall of the Islamic Republic; later, the IEA would order all girls' secondary schools to close.

Photo: Aref Karimi/AFP, 17 August 20201.

Yet Haqqani not only divides education into contemporary and religious, he even infers that immersion in secular, contemporary subjects is somehow harmful. He writes on page 242:

Experience shows that immersion in modern, secular sciences is lethal, both for people's beliefs and for their actions. The teachers and students of these sciences tend to abandon the Quran and the sunnah, as well as the sayings of predecessors and imams. They depend on intellectual reasoning and abandon the requirements of Islam. Indeed, the wave of atheism which

⁴⁹ For more on Mawlana Daryabadi's life, the talk from TJ Winter, Dean of the Cambridge Muslim College, from his Paradigms of Leadership series, can be viewed [here](#).

⁵⁰ See footnote 8 above.

swamped the government of Afghanistan can be put down to the dominance of contemporary sciences over religious sciences in Afghanistan's educational establishments.

I would suggest that this seems to be a particularly Afghan perspective on modern, secular or non-religious education. The founders of Darul Uloom Deoband, for example, do not appear to have shared this hostility towards modern education. Darul Uloom was, of course, set up to promote religious learning. Still, there was no animosity towards other subjects on the part of those who established the madrasa. In his respected history of the Deoband school,⁵¹ Zia ul-Hassan Faruqi writes how in 1869, a syllabus committee reduced the period of study at Darul Uloom from ten years to six “as a measure to provide the graduates sufficient time to learn modern sciences, if they wished, before they were too old to join official secular institutions.”⁵² My own experience backs this up. In 2011, I had a meeting in Deoband with Arshad Madani, a senior teacher of Hadith in Deoband and the current head of the Jamiat-e Ulema-e Hind, formerly headed by his father.⁵³ Madani was adamant that there was no need to introduce modern subjects into the curriculum of Deoband, but that, after graduation, students had ample time to pursue such subjects, should they wish. It may be surprising to some how many students of Deoband and other major madrasas do this.⁵⁴

Madani's position echoed the words of the founder of Darul Uloom, Mawlana Qasim Nanautvi, speaking at a convocation of the fledgling madrasa in 1874:

It was considered proper and essential to pay attention mainly to Uloom-i-Naqli (traditional sciences) together with those aspects or training which are helpful in acquiring ability to learn current sciences.

⁵¹ “Deoband and the Demand for Pakistan” by Ziya-ul-Hasan Faruqi, a thesis submitted to the Institute of Islamic Studies at McGill University, Montreal, August 1959. The work went on to be published, with a foreword by Wilfred Cantwell Smith, by the Asia Publishing House, London, 1963.

⁵² Faruqi, pp30-31.

⁵³ See footnote number 9 above.

⁵⁴ Among the students of universities such as Jamia Millia Islamia and even Jawaharlal Nehru University in Delhi, I have personally observed a good number of madrasa graduates. Perhaps the most famous expert on Mughal history worldwide is Professor Muzaffar Alam, currently professor of history at the University of Chicago. Originally a graduate of Darul Uloom Deoband, he went on to study at Jamia Millia Islamia in Delhi – itself set up by Shaykh al-Hind of Deoband in 1920. From there, he embarked on his illustrious career in academia.

It is harmful and beyond the capacity of students to be trained simultaneously in too diversified and too many a discipline.⁵⁵

The accommodating position of leaders of the Deoband movement – past and present – with regard to modern learning contrasts with that of Haqqani. The latter, while accepting the need for contemporary education, sees it as a mundane undertaking. On page 245, he writes:

The aim of learning the Quran and about the life and practices of the Prophet is to come to know God.... It is for this purpose that the heavens and the earth were created. The aim of acquiring contemporary education, on the other hand, is the attainment of worldly, ephemeral benefits and to grasp the means to obtain these benefits.

There is a clue here as to why this distrust of modern sciences, if not limited to Afghanistan, appears to be more accentuated in that country. In Afghanistan, in the last century at least, modern learning has generally been introduced as part of an ideological agenda. This was true in the time of Amir Amanullah Khan (1919-29). In his case, modern learning became associated with the secularisation of society, along the lines of what Kemal Ataturk (1923-38) was doing in Turkey. Amanullah Khan continues to be a divisive figure in Afghanistan, lauded by nationalists and reviled by the ulema. Later, as the quotation from Haqqani above shows, learning modern sciences became associated with atheistic ideas. That does not mean that Islamic learning is in any way inimical to modern sciences. Indeed, as I mentioned above, the Quran embraces science, citing phenomena of creation and the secrets of the universe as signs of the power and glory of Allah.⁵⁶ There are some grounds for contending that the ulema of Afghanistan should share a portion of the blame here, in failing to explain the faith in a manner consistent with contemporary thinking.

⁵⁵ Faruqi, page 32, quoting Manazir Ahsan Gilani's Urdu book *Sawanih-e-Qasimi*, fragments from the life of the founder of Darul Uloom Deoband, Mawlana Qasim Nanautvi, Volume II, pp279-283, published in Deoband in 1953.

⁵⁶ For example, there are many verses in the Quran that cite phenomena in creation, things that can only become better known through the study of science, as signs that what Allah has revealed in the Quran is true. The 53rd verse of the surah entitled 'Revelations well expounded' – "We shall show them Our signs in the universe and within themselves, until it becomes clear to them that this is the Truth," (41:53) – is one of the clearest examples of this, almost a direct reference to the coming scientific revolution that would start in the Muslim world and develop in the West.

The participation of women and girls in education

One of the striking things about Islam is how an illiterate prophet became a standard-bearer for an explosion in knowledge and for a religion that sets enormous store on the worth of literacy and of knowledge and learning. This is evident in the first revelation of the Quran received by the Prophet Muhammad:

Read, in the name of your Lord who created; created man from a clot. Read, your Lord is the Most Bountiful One who taught by the pen, taught man what he did not know (Quran, 96:1-5).

On receiving this revelation while meditating in the Cave of Hira, near Mecca, a bewildered Muhammad ran back to his wife, Khadijah. She was one of the leading businesswomen of Mecca. Impressed by the young Muhammad's personality and integrity, she had employed him when he was a young man. They went on to marry. Now that the life of Muhammad took this unexpected twist, it was Khadijah who comforted, strengthened and encouraged him for the task ahead.

When one goes through extensive books of knowledge in Hadith literature, one finds no distinction in the quest for knowledge between men and women. Haqqani goes along with this. Along with other jurists before him, he is no doubt that such education is a must for women as well as for men. On page 253, he quotes the jurist Ibn al-Hajj (d1336CE):⁵⁷

If a woman is married and she is uneducated, then it is incumbent on her husband to educate her. If he does not do so, she should demand such education. If he still does not provide her with education, she is entitled to demand that she leave the home for education. If he does not agree, she can leave home to be educated without his permission. Al-Khatib al-Baghdadi⁵⁸ says that the ruler should force husbands to ensure their wives are educated.

For Haqqani (page 248), there is a line to be drawn between women imparting and receiving education – which he sees as entirely praiseworthy and necessary – and the *manner* in which they carry this out. His first difficulty is if imparting and

⁵⁷ Hailing from Fez in Morocco, Ibn al-Hajj later moved to Egypt. An eminent jurist of the Maliki school of thought, he was best known for his work *Al-Madkhal* – Entry Point. It is that work – Volume I, page 276 – that is quoted here.

⁵⁸ Al-Khatib al-Baghdadi was an eminent jurist, who died in 1071CE, well known for the work in which this quotation appears (Volume I, page 174) – *Al-Faqihu wa l-Muttafiqqahu* or the Jurist and his Student of Law – as well as for other works.

receiving education means women having to leave the home. How can they do so, he asks, quoting the Quran exegetist Imam Qurtabi, who insists that sharia is adamant that they should stick to the home and avoid leaving it except in urgent need?⁵⁹ So the question that has to be asked of Haqqani is: Does the education of girls constitute an urgent need?



Girls read the Quran during Ramadan at a madrasa in Kandahar.
Photo: Sanaullah Seiam/AFP, 16 April 2023.

Haqqani starts his chapter on girls' education by laying down what for him is a golden rule (p248):

If it is incumbent on women to do something, it is incumbent on women to learn about that also; and if it is desirable⁶⁰ for them to do something, it is also desirable for them to learn about it.

⁵⁹ *Tafseer al-Qurtabi*, Volume 14, page 179, quoted by Haqqani on pp250-251.

⁶⁰ *Mustahab* is something that one will receive divine reward for if one does it, but there is no compunction on one to do it.

For Haqqani, this rule allows and indeed obliges *religious* education for women. In today's Afghanistan, girls' madrasas have continued to function, despite the current ban on other forms of girls' secondary education.⁶¹ However, Haqqani does not go into the question of whether imparting and receiving 'contemporary education' is an urgent need or not. Instead, he spends the remainder of the chapter on girls' education, from pages 254-262, explaining the dress code and behaviour that he feels females should observe when leaving the home, in case they are forced to do so in order to receive an education. However, given the scepticism on the part of Haqqani with regard to contemporary education in general, it is not surprising that there is no great urgency from him or the IEA authorities to open the schools in which such education is imparted, and that girls' secondary schools have never officially re-opened since the Taleban return to power.

For there to be movement on the important question of girls' education, this point could be addressed, even within the framework of Haqqani's thinking: besides religious education, what other activity – and the teaching of it – is also incumbent on women? According to Haqqani's criterion, if the activity is necessary, the teaching must also be. For example, Afghan girls are likely to become mothers: What education is necessary for them to fulfil this role in the best possible way? Here, one could point to a whole area of Quranic study on the subject of *tadbir al-manzil* – home economics or management of the home, dealt with in detail in surahs such as an-Nisa (Women), an-Nur (Light) and al-Hujurat (Private Quarters). Home economics would suggest some need to keep accounts, and so some knowledge of mathematics. If women are to be health workers, the one area of work where the Emirate, both in the 1990s and today, agrees they should be, how are they to become nurses, midwives or doctors without a contemporary education? Even sticking to Haqqani's ideas of what women should be permitted to do, his thinking on girls' education raises more questions than it answers. Moreover, Haqqani has quoted al-Hajj, suggesting that a woman may usurp her

⁶¹ There seems to be no compunction on the part of the IEA authorities in allowing girls and women to leave the home in order to study in madrasas. I have myself seen female madrasas in Khost – the Khadijat al-Kubra and Aisha Siddiqa madrasas – and in Kandahar and Kunduz – the girls' madrasa attached to Jamia Ashraf al-Ulum – where substantial institutes dedicated to girls' religious education are operating. In Kandahar, dozens of mini-buses have been made available for girls to travel between their homes and the girls' madrasa affiliated to the Talim al-Islam radio station. To the best of my knowledge, these girls' madrasas are still functioning.

right to education, there being no suggestion that the jurist was speaking only about education in the purely religious sphere when he said wives should demand their right to an education from their husbands.

CONCLUSION

At the onset of this piece, I mentioned that the book *Al-Emarat al-Islamiya wa Nidhamuha* reads like a book of jurisprudence on Islamism. The foreword – and to a lesser extent the book itself – contends that politics is a part of the area of Islamic jurisprudence that deals with *muamilat* – worldly affairs, people's dealings with each other. Haqqani, while maintaining the traditional division of jurisprudence into devotion – *ibadat* – and *muamilat* – still gives considerable importance, within *muamilat*, to politics.

The fact is that – contrary to Haqqani's assertion – Islamic jurisprudence has not traditionally dealt with politics in the sense of political theory, as Haqqani's book has done. Hadith and Islamic jurisprudence have dealt with governance in chapters on the duties of commanders and rulers, but not political theory. Moreover, in these chapters, rulers and commanders are addressed as individuals. Political theory is not something connected to the individual. It is connected to society as a whole. The same is true for education, which Haqqani includes in his Islamist jurisprudence, if we can call it that, to differentiate it from Islamic jurisprudence. So Haqqani is essentially constructing a jurisprudence for issues not included in the jurisprudence compiled by the great jurors of Islam.

There must have been some reason why these jurors did not deem fit to include political theory in the topics dealt with in their works of jurisprudence. One reason is that political theory or statecraft – like education – does not stay static from one era of history to another. It changes according to changing needs and human development, triggered by the furtherance of learning, new influences *and experiences*. What would have been the point of jurors several centuries ago prescribing for things that would be outdated within a short period of time? The Holy Book and sayings of the Prophet have not prescribed for such things, so how can jurors do so? What Islam does is present principles of governance and justice

that stand the test of time. How these principles are applied differs from time to time and place to place.



Boys and men prepare for the entrance exam at Darul Uloom Deoband seminary in the north Indian state of Uttar Pradesh.

Photo: Sajjad Hussain/AFP, 8 September 2011.

We can see two distinct parts in Islam. On the one side, there are our devotions and our dealings, our worship of the Almighty and our relations with our fellow men and women – divine rights and human rights. These remain constant. These are the things that are dealt with in Islamic jurisprudence. Then there are things that are relative to the time and place in which we live. Education and statecraft – the two main themes discussed in Haqqani's book – come within the second category. The problem with Haqqani's treatise, despite its evident and outstanding scholarship, is that he constructs a jurisprudence – an 'Islamist jurisprudence' – based on the principles of Islamic jurisprudence but applied to things which are relative to time and place. The jurisprudence being misplaced, attempts to implement it have been tentative.

CHAPTERS OF AL-EMARAT AL-ISLAMIYA WA NIDHAMUHA

In the list of contents at the end of the book, the names of sections of each chapter are given, along with the names of the chapters themselves. I have made do with listing the names of chapters:

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Emirate Chief Justice Abdul Hakim Haqqani (left) and acting Minister of Mines and Petroleum, Shahabuddin Delawar.

Photo: Institute for East Strategic Studies (IESS) [website](#) based in Mashhad, Korossan-e Razavi Province, Iran, undated.