The 21st KAMES & The 9th AFMA
International Conference

The Middle East in Change: New Attempts for the Future

❚ Period   Friday, 5 ~ Sunday, 7 October, 2012
❚ Venue   BEXCO & Busan University of Foreign Studies

❚ Organized By
     Korean Association of Middle East Studies (KAMES)

❚ Co-Hosted By
     Korean Association of Middle East Studies (KAMES)
     Korean Institute of the Middle East & Africa, Inc. (KIMA)
     Institute for Mediterranean Studies, BUFS (IMS)
     Institute of Middle Eastern Affairs, Myongji University (IMEA)

❚ Sponsored By
     Busan Convention & Visitor Bureau
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     Korea Arab Society (KAS)
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     Korea Institute for International Economic Policy (KIEP)
     Korea New Network (KNN)
     National Research Foundation of Korea (NRF)

1ˢᵗ Day Friday, 5 OCT. ¹⁾

Venue: Busan University of Foreign Studies

15:30	**Registration**

16:00~18:00	**Session I**

─── Session I ───

❚ Panel 1: Future of Middle Eastern Studies I ❚

Chair: **CHOI, Chang Mo** (Konkuk University)   Venue: **I 101**

꙳ Presenter   **LEVENT, Sinan**
(Graduate School of Asia Pacific Studies, Waseda University, Ph.D. Candidate)

Epistemology of Muslims in Pre-Meiji Japan

❚ Discussant   **HWANG, Eui Gab** (IMS)

꙳ Presenter   **SEO, Jung Min** (HUFS)

Internal Conflicts and Protracted Crisis in Syria

❚ Discussant   **HWANG, Byung Ha** (Chosun University)

꙳ Presenter   **KONDO, Shigeto** (Keio University, Ph.D. Candidate)

Arab Oil Weapon of 1973
: Any Lesson for Today's Gulf-East Asian Relations?

❚ Discussant   **CHOI, Jae Hoon** (Dankook University)

꙳ Presenter   **Eid Mohammed** (Binghamton University)

From Obama to the Arab Spring
: US-Middle East Cultural Encounters in the Season of Change

❚ Discussant   **LEE, Seong Soo** (IMS)

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1) The above schedule may be changed according to the situation.

▌Panel 2: Future of Middle Eastern Studies Ⅱ▐

Chair: **WOO, Duck Chan** (BUFS)   Venue: **I 303**

❖ Presenter   **ENDO, Haruka** (Kyoto University, Doctoral student)

   **Sha'rānī's Reconciliation of Jurists and Sufis
   : The Perfect One with Two Eyes**

▌Discussant   **LIM, Byung Pil** (IMS)

❖ Presenter   **FUTASUYAMA, Tatsuro**
   (Graduate School of Asian and African Areas Studies, Kyoto University)

   **What Becomes a Transmitter of Allāh's Blessing (baraka)
   : The Case Study of Olive in Tunisia**

▌Discussant   **CHANG, Se Won** (DanKook University)

❖ Presenter   **KANG, Ji Hoon** (IMS, Ph.D. Candidate)

   A Study on Electronic Culture Atlas for Mediterranean Region Research

▌Discussant   **KIM, Hee Jung** (HUFS)

| 17:00~18:00 | **AFMA Director's Council** |

▌AFMA Director's Council▐

Chair: **HAH, Byoung Joo** (President in KAMES, Korea)   Venue: **I 106**

▌Directors   **YANG, Guang** (President in CHAMES, China)

   USUKI, Akira (President in JAMES, Japan)

   Nyamzagd S. (President in MAMES, Mongol)

| 18:00 | **Welcoming Dinner** |

2nd Day Saturday, 2 OCT.

Venue: BEXCO

| 09:00~10:00 | Registration |

| 10:00~12:00 | Session Ⅱ |

Session Ⅱ

▌Panel 1: Political Changes in the Middle East▐

Chair: **HONG, Soon Nam** (HUFS)   Venue: **211**

Presenter   **Hamad Mohammed** (HUFS)

Middle Eastern Regional Order: Past, Present and Future

Discussant   **HONG, Mee Jeong** (DanKook University)

Presenter   **Mohammed Elaskary** (Al-Azhar University)

The Arab Spring: a New Middle East Order

Discussant   **CHOI, Jae Hoon** (Dankook University)

Presenter   **JANG, Ji Hyang & Peter Lee** (The Asan Institute for Policy Studies)

Understanding the Syrian Crisis
: Military Cohesion and Regime Resilience

Discussant   **Housam DARWISHEH**
(Institute of Developing Economies, Japan External Trade Organization)

Presenter   **Idiris Danismaz** (Doshisha University)

Arab Muslims' Increasing Interest in the Civil Society Activities in Turkey

Discussant   **LEE, Ji Eun** (HUFS)

❚ Panel 2: Islamic Culture and Thought ❚

Chair: **ARAI, Kazuhiro** (Keio University)   Venue: **214**

⦂ Presenter   **LEE, Nan A** (HUFS)

   **Research on the Case of Contents Expansion of
   Museums of Literary Space**

❚ Discussant   **NAM, Ok Jeong** (Chosun University)

⦂ Presenter   **GWAG, Soon Lei** (HUFS)

   **The Traditional Marriage Customs of Muslims
   : between the Realities of Life and Islamic Fatwa**

❚ Discussant   **AHN, Jung Kook** (Myongji University)

⦂ Presenter   **OKADO, Masaki** (Sophia University)

   **Making One's Own place in an Egyptian City through
   the Daily Practices of Upper Egyptian Migrant Workers and Foremen**

❚ Discussant   **MIN, Byung Wha** (HUFS)

❚ Panel 3: Middle East Affairs ❚

Chair: **SAKAI, Keiko** (Chiba University)   Venue: **215**

⦂ Presenter   **IWASAKA, Masamichi** (Japan Society for the Promotion of Science)

   **Recent Political Developments in Turkey
   : From the Perspective of the Civil-Military (and Judicial) Relations**

❚ Discussant   **USUKI, Akira** (Japan Women's University)

⦂ Presenter   **TAKAOKA, Yutaka** (The Middle East Institute of Japan)
                 MIZOBUCHI, Masaki (Japan Society for the Promotion of Science)

   **The Myth of Lebanese Diaspora Verification by Opinion Polls,
   2010 and 2012**

❚ Discussant   **LEE, Hyo Bun** (KNDU)

Presenter **CHANG, Ah Rum** (Seoul National University)
CHANG, Byung Ock (HUFS)

The Power Structure of the Iranian Government

Discussant **JUNG, Sang Ryul** (Myongji University)

❘ Panel 4: Middle East Society ❘

Chair: **HWANG, Byung Ha** (Chosun University)   Venue: **216**

Presenter **YASUDA, Shin** (Kyoto University)

**The Development of Islamic Tourism in the MENA region
: Its Perspective and Prospect**

Discussant **KIM, Jeong A** (HUFS)

Presenter **YUN, Eun Kyeong** (HUFS)

A Study on the lyrics of Egyptian Folk Song: Focused on Work Song

Discussant **JANG, Hyun Ja** (Chosun University)

Presenter **KIM, Su Wan** (HUFS)

Arab Images on Korean News Coverage

Discussant **LEE, In Seop** (HUFS)

❘ Panel 5: Middle East Economics & Islamic Finance ❘

Chair: **SHIM Ui Sup** (Myongji University)   Venue: **217**

Presenter **FUKUSHIMA, Yasuhiro** (Tokyo University of Foreign Studies)

**Shari'ah Board and Its Membership of Islamic Bank
: A case Study on Malaysia**

Discussant **KANG, Dae Chang** (KIEP)

Presenter **KAWAMURA, Ai** (Kyoto University)

**Dawn of Institutional Practice of Dispute Resolution in Islamic Finance
: A Case Study of Dubai**

Discussant **KIM, Joong Kwan** (Dongkuk University)

: Presenter   **Kifah SALAMEH** (Watamar & Partners SA)

                    Banking on Ethics vs the Ethos of Banking

❙ Discussant   **YOON, Ki Kwan** (Chungnam National University)

❙ Panel 6: Middle East Language and Literature ❙

Chair: **OH, Myung Keun** (HUFS)   Venue: **218**

: Presenter   **KWAK, Sae Ra** (HUFS)

                    Sentential and Constituent Negation in Persian

❙ Discussant   **YOON, Young Soo** (IMS)

: Presenter   **SAH, Hee Man** (Chosun University)

                    **Analysis of the 'Democratic' Speeches by Hosni Mubarak
in the Egyptian Revolution**

❙ Discussant   **KIM, Jong Do** (Myongji University)

: Presenter   **UDO, Satoshi** (University of Tokyo)

                    **Comparative Possibilities between Korean and Algerian Literatures
: Yi Kwang-su and Mouloud Feraoun**

❙ Discussant   **CHANG, Se Won** (DanKook University)

: Presenter   **OKA, Mari** (Kyoto University)

                    **Arab Feminist Writers and their Strategy for
Representing Subaltern Women**

❙ Discussant   **LEE, Dong Eun** (HUFS)

12:00~13:30	**Luncheon**

13:30~15:00	Special Session

Special Session

Venue: **211**

- Welcoming Speech   **WOO, Duck Chan** (Chair Conference, BUFS)

- Ambassador   **Chung, Yong Chil** (Secretary-General, KAS)

- Special Remarks   **JUNG, Hae Rin** (President in BUFS, Korea)
YANG, Guang (President in CHAMES, China)
Akira, USUKI (President in JAMES, Japan Women's University)
Nyamzagd S. (President in MAMES, Mongol)
HAH, Byoung Joo (President in KAMES, Korea)
YOON, Young Soo (Director, IMS, Korea)
LEE, Jong Wha (Director, IMEA, Korea)

- Keynote Speech   **Timochy C. Niblock** (University of Exeter)

                   Explaining the Arab Uprisings and Predicting Their Future Course

15:00~15:30	Coffee break

15:30~17:30	Session Ⅲ

Session Ⅲ

▌Panel 1: Middle East Politics ▌

Chair: **SONG, Gyung Keun** (Chosun University)   Venue: **214**

- Presenter   **CHOE, Young Chol** (Jangsin University)

                  Iran's Nuclear Program and US-Iran Relations

- Discussant   **CHO, Sang Hyun** (Republic of Korea Army Military History Institute)

‡ Presenter **Tayseer Gomaa** (Binghamton University)

Egypt Between Two Revolutions 1952-2011

❚ Discussant **CHOI, Jae Hoon** (DanKook University)

‡ Presenter **Housam DARWISHEH**
(Institute of Developing Economies, Japan External Trade Organization (IDE-JETRO))

Syria and the Arab Spring: from Resilience to Revolt

❚ Discussant **LEE, Kwon Hyung** (KIEP)

‡ Presenter **SUZUKI, Hiroyuki**
(Graduate School of Arts and Sciences, The University of Tokyo, Ph.D. Candidate)

Understanding the Palestinian Intifada (1987-1993)

❚ Discussant **Al-Doraydi Moamen Hasan** (BUFS)

❚ Panel 2: Dynamics of Islamic Finance ❚

Chair: **YOON, Ki Kwan** (Chungnam National University)   Venue: **215**

‡ Presenter **HONG, Seong Min** (HUFS)

The New Silk Road and Energy Silk Road in the 21st Century

❚ Discussant **WOO, Ju Ho** (Dong Eui University)

‡ Presenter **Sherif Heikal** (HUFS)

Islamic Finance and Legal Risks

❚ Discussant **SHIM, Ui Sup** (Myongji University)

‡ Presenter **Nyamzagd. S** (MAMES) / **Khulehsaikhan. N** (MAMES)

**FDI in Mongolia of Middle East Countries
- Possibility and Environment**

❚ Discussant **KIM, Sun Ho** (BUFS)

▌ Panel 3: Social, Cultural and Religious Changes in the Middle East ▌

Chair: **Tim Niblok** (Exeter University)　　　　　　　　　　　Venue: **216**

⁑ Presenter　　　**BILEGSAIKHAN M.** (National University of Mongolia)

　　　　　　　　Falconry is a Cross-Cultural Bridge of Nomads

▌ Discussant　　　**ARAI, Kazuhiro** (Secretary General of JAMES, Keio University)

⁑ Presenter　　　**Kamaruzaman Yusoff & Nik Hasan Suhaimi** (Kebangsaan University)

　　　　　　　　Essential Infra for Urbanization in the North Africa

▌ Discussant　　　**LEE, Hyo Bun** (KNDU)

⁑ Presenter　　　**KUM, Sang Moon** (HUFS)

　　　　　　　　The Study on the penalties in the Moroccan Zaiyan Amazigh Custom laws

▌ Discussant　　　**KIM, Jung Myung** (HUFS)

▌ Panel 4: Mediterranean Diversity & the Middle East ▌

Chair: **CHOI, Chun Sik** (IMS)　　　　　　　　　　　　　　Venue: **217**

⁑ Presenter　　　**JANG, Jee Yeon** (Seoul National University)

　　　　　　　　The Development of Latin Script

▌ Discussant　　　**KIM, Hee Jung** (HUFS)

⁑ Presenter　　　**IMAMATSU, Yasushi** (Kyoto University)

　　　　　　　　Some Dimentions of Saint Veneration from the time of the Ottoman Empire to the Present Day

▌ Discussant　　　**LEE, Nan A** (HUFS)

⁑ Presenter　　　**HIRANO, Junichi** (Japan Society for the Promotion of Science)

　　　　　　　　**Liberalism and the Egyptian Society
: Lutfi al-Sayyid and his Nationalism in Modern Egypt**

▌ Discussant　　　**PARK, Jae Won** (HUFS)

⁝ Presenter   **Gamal M. Selim** (Port Said University)

                   Civil Society and the Road to the Egyptian Revolution
                   : The Global Dimension

❙ Discussant   **HAH, Byoung Joo** (BUFS)

**❙Panel 5: Islam and Muslim's Life: Change of Politics, Economy, Society
in the Middle East❙**

Chair: **PARK, Hyon Do** (Myongji University)   Venue: **218**

⁝ Presenter   **AHN, Jung Kook** (Myongji University)

                   Study on the Life-World of Foreign Muslim-Korean Spouse Offsprings

❙ Discussant   **LIM, Byung Pil** (IMS)

⁝ Presenter   **KIM, Jong Do** (Myongji University)

                   A Study on the Lives of the Arabs in the Era of Jahiliya

❙ Discussant   **YI, Kyu Cheol** (BUFS)

⁝ Presenter   **Mohammad Hassan Mozafari** (Myongji University)

                   The Shi'i Jurisprudence in the Age of *Velayat-e Faqih*

❙ Discussant   **JUNG, Sang Yeul** (Myongji University)

⁝ Presenter   **Louay Hussein** (Building the Strian State, Syria)

                   Building A Democratic State in Syria

❙ Discussant   **PARK, Hyon Do** (Myongji University)

17:30~18:30	**Closing Session**

❚ Closing Session ❚

Coordinator: **Timochy C. Niblock** (University of Exeter, UK)　　　　　Venue: **211**

⁝ Participants　　　　**ARAI, Kazuhiro** (Keio University)

CHOI, Chang Mo (Konkuk University)

CHOI, Chun Sik (IMS)

HONG, Soon Nam (HUFS)

HWANG, Byung Ha (Chosun University)

OH, Myung Keun (HUFS)

PARK, Hyon Do (Myongji University)

SAKAI, Keiko (Chiba University)

SHIM, Ui Sup (Myongji University)

SONG, Gyung Keun (Chosun University)

WOO, Duck Chan (BUFS)

YOON, Ki Kwan (Chungnam National University)

⁝ Closing Remark　　　**LEE, In Seop** (Organizing Chair)

18:30~21:00	**Dinner**

3rd Day Sunday, 7 OCT.

Venue: Busan University of Foreign Studies

| 10:00~12:00 | **Round Table**
"How can we coopreate for Middle East Studies?" |

Coordinator: **HAH, Byoung Joo** (President in KAMES, Korea)

| 12:00~13:30 | **Luncheon** |

| 13:30~15:00 | **Cultural Performance** |

Abbreviation List

AFMA	Asia Federation of Middle East Studies
BEXCO	Busan Exhibition & Convention Center
BUFS	Busan University of Foreign Studies
CAMES	China Association of Middle East Studies
HUFS	Hankuk University of Foreign Studies
IMS	Institute for Mediterranean Studies
JAMES	Japan Association of Middle East Studies
KAMES	Korean Association of Middle East Studies
KAS	Korea-Arab Society
KNDU	Korea National Defense University
KIEP	Korea Institute for International Economic Policy
MAMES	Mongolia Association of Middle East Studies

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Keynote Speech

Venue: **211**

▌**Keynote Speech**   Explaining the Arab Uprisings and Predicting
Their Future Course

Timochy C. Niblock (University of Exeter)

Keynote Speech

Explaining the Arab Uprisings and Predicting Their Future Course

Tim Niblock| University of Exeter

1. Perspective

2011 has been an uncomfortable year for Middle East specialists. The speed at which unrest took root within the Arab world, starting with the death of a fruit and vegetable seller in a small Tunisian town, spreading to the wider Tunisian scene, leading on to the fall of the regimes in Tunisia and Egypt, and then infusing the political scene in many other parts of the region, has been remarkable. Inevitably the question arises: why did all this come as a surprise to Middle East specialists? Why, with their knowledge of the region, had they not predicted such an outcome? The question applies with equal force to all specialists, whether academics, diplomats or journalists.

A defensive response might be that, in any complex system, surprises are bound to occur. Where there are many random factors affecting outcomes, the course of events is inherently uncertain. An unpredictable event (in this case the self-immolation of a fruit and vegetable seller in Tunisia), can set off chain reactions which might not have happened if the timing or location of the event had been different. The failure of economists to predict the global financial crisis, and of international relations specialists to foresee the rapid disintegration of the Soviet sphere of influence in Eastern Europe, have been explained in this manner.

Specialists, however, do engage in prediction, and to explain away failures of prediction in this manner suggests that specialist expertise may be of little practical help to policy-makers. Their professional worth is devalued. What may be more useful, therefore, is to examine the assumptions and pre-suppositions which shaped analysis prior to the

uprisings. What key factors did specialists fail to take into account? These factors will, of course, provide an insight into the dynamics which shaped the uprisings. They constitute the framework within which social unrest was transformed into revolution or attempted revolution.

All Arab countries have been subject to similar influences and transformative pressures. They have, however, been affected in different ways and to different extents. Each country has its own specific characteristics (of history, economic resource, social and ethnic/religious composition, political and security regime, and ideological tradition), and these have shaped the trajectory which the uprising have taken in each. They will be critical in determining the eventual outcomes.

After examining the (mistaken) assumptions which guided pre-uprising analysis, the article will go on to examine the specific dynamics affecting the Arab monarchies of the Gulf, as these are the Arab states with which China has the closest economic ties. Do their particular characteristics weaken the impact of the transformative factors, such that regime change is rendered unlikely (or even, in current circumstances, impossible)?

Ⅱ. Mistaken Assumptions in Pre-Uprising Analysis

There were 5 mistaken assumptions in pre-uprising analysis of the Arab world which will be identified here. These were the belief that populations in the Arab world deemed popular protest neither practicable nor desirable; that while the levels of inequality and injustice in the Arab world were substantial, they were nonetheless tolerable; that the regimes were domestically solid, based on the perceived common interests of presidential, military, security and perhaps business elites; that the regimes possessed a significant level of "secondary legitimacy" at the popular level; and that pan-Arab identification had ceased to be of any relevance to the Arab political scene. The experience of the Arab Spring has shown that none of these assumptions were valid.

i. "The age of popular protest in the Arab World is past". Specialists well-acquainted with Arab history were, no doubt, aware that popular protest had been a key ingredient in Arab political development over a prolonged period. Up to the 1960s, indeed, Arab politics seemed to be infused with protest. Key political developments were shaped by the ability of political leaders or movements to mobilise parts of the population, bring supporters into the streets in demonstrations or riots, and create new regimes or re-enforce existing ones. The term "the Arab street" was no doubt perversely orientalist in its projection of Arab particularity, but its widespread use reflected an element of reality. Street demonstrations, where urban and sometimes rural populations were mobilised to buttress a political cause, were relatively common.

In Egypt, such public protests helped to shape political outcomes during the 'Urabi Revolt of the 1880s, the nationalist revolution of 1919, and the struggles for effective autonomy from British control during the 1930s and 1940s. They also contributed crucially to the overthrow of the monarchy in 1952 and the stabilisation of the Nasserist regime in the wake of the 1956 Suez War. Similar observations can be made about other Arab countries, although protest was not always as persistent and pervasive as in Egypt. The Arab defeat in the 1967 War led to militant and sometimes violent demonstrations across the Arab world.

Although occasional protests have occurred in more recent years, Arab populations have appeared increasingly quiescent. The major exception to this has been in Palestine,wherethePalestinian*intifada*s have given expression to the frustration of a population under occupation. The dynamics of the Palestinian case, however, are different from those shaping events elsewhere.

The structuring of the relationship between Arab peoples and rulers seemed to have become entrenched: power, force and authority were exclusively in the hands of the regimes; while fear and submission were inherent in the attitudes and conduct of populations. It seemed natural to assume that the pattern was fixed for the foreseeable future. There was an apparent rigidity to the relationship, where complex and interacting factors (domestic and international, social and economic, cultural and practical) bound the relationship in place. Change through popular protest did not figure in assessments of future political development.

Yet this assumption was mistaken. In the course of January, February and March 2011, the power and the fear changed sides[1]. Populations began to sense that popular empowerment was a realistic possibility. Regimes, conversely, began to react through fear, sensing that they were in danger of losing control over their peoples. Some regimes struck back with violence, some sought to defuse unrest through reform or increased welfarism, and some pursued a combination of both. The only Arab government which made no change to policy at any level was that of Qatar[2].

ii. "The levels of inequality and injustice, while substantial, are nonetheless tolerable". The existence of substantial social and economic inequality and of injustices in the exercise of

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1) I am indebted to my colleague Marc Valeri for the conceptualisation I am employing here (of power and fear changing sides).
2) The Qatari government's exceptional position is explained by the very high per capita income and welfare (stemming from the scale of oil revenues relative to the population); the privileged position of the heavily-outnumbered native population; the close family ties which bind much of the country's elite together; and perhaps the elements of reform which were already in place.

political power in the Arab world were acknowledged by external as well as domestic observers. The possibility that this was of an extent and character to lead on to regime-threatening unrest, however, was not given serious attention. One reason for this was that the growing inequality appeared to be part of a global trend, set in train by the processes of globalisation. Economic liberalisation has generally engendered significant growth in national GDPs around the world, while increasing income inequalities within states. While the poor may be materially better-off than before, the gap between them and the wealthiest layer of the population has tended to widen. Inequality, therefore, can be interpreted as a side-effect of a wider process which can been projected as both necessary and ultimately beneficial. Without growth societies would be trapped in a cycle of perpetuated poverty.

Some of the statistics of economic growth in the Arab world appeared to give credence to this analysis. The Egyptian economy, for example, was growing at an average 6% per annum for most of the 1998-2008 period – a substantially higher rate than that of any European country. It was easy to assume that the material needs of the Egyptian people would ultimately be satisfied through sustained economic growth. Anger at inequality was, it was believed, being dulled by greater well-being.

The assumption was, nonetheless, mistaken. Four aspects of developments help to explain why the extent of inequality and injustice were not compatible with the maintenance of a stable polity. First, economic liberalisation in most Arab countries (especially those whose GDPs were not dependent mainly on oil revenue), carried with it a fundamental change in the "bargain" between rulers and ruled. Prior to economic liberalisation the political systems of the presidential republics of the Arab world had been based on an informal social contract: regimes would provide welfare and steadily improving social and physical infrastructure for the population, and populations would remain politically quiescent and respectful of regime authority. Economic liberalisation reduced the role of the state in the economy and its ability or desire to maintain welfare and services. Even the state educational facilities, in some countries, began to levy fees and charges. The other side of the contract, however, was maintained: populations were still expected to remain politically quiescent. The "bargain", therefore, had lost its rationale.

Second, populations were hit by a sharply rising cost of living. To some extent this stemmed from the form of economic liberalisation which had been adopted. Populations had in the past benefited not only from relatively cheap food and basic consumer goods. This stemmed in part from government subsidies which kept these goods affordable, and in part from the goods' local origin – they were produced within the country concerned. Government subsidies were reduced or abolished as part of the process of economic liberalisation, and markets were opened up to competition from abroad. While the imported goods were sometimes more expensive than local produce, they also tended to be

of higher quality. This had a negative impact on local agricultural and manufacturing production (especially the undertakings engaged in production of basic goods). The growth of GDP came mainly from the services and trade sectors of the economy. Imports accounted for an increasing proportion of the basic goods consumed by the population. With the rapid rise in global prices of commodities from the middle of the first decade of the 21st century, therefore, populations found it increasingly difficult to cover their primary needs.

Third, notwithstanding the economic growth which was being achieved, the conditions facing a significant part of the population were in fact deteriorating. Of greatest import here were the unemployed - especially the youth unemployed. Rates of overall unemployment were in practice not greatly in excess of those in some European countries (the Arab average was 10.5% of those available for work), but the rates of youth employment were unacceptably high. ILO figures for 2008 show that unemployment in the 15-29 age cohort stood at 21% for Egypt, 38% for Tunisia, 40% for Libya, and 50% for Yemen.[3] The rates of youth unemployment, moreover, had been steadily rising since the early 1990s.

Fourth, populations were becoming increasingly aware of the extent of social and economic inequality in their societies. At one level, this related to the evident and sometimes flaunted wealth of the class which was had drawn most benefit from economic liberalisation. Luxury cars flashed past the housing areas where poorer people lived, engendering suspicions (many well-grounded) about the provenance of this new wealth. Stories of corrupt deals between government/regime personnel and businessmen, to the immense benefit of each, were rife. At another level, more was now known about the amassed wealth at the centre of regimes. The making public of US diplomatic cables by Wikileaks played some part in this. Tunisians, for example, were able to read, in a cable from the US ambassador in Tunis to the State Department in Washington, that more than half of Tunisia's business elite was personally related to President Ben-Ali (much of this through hiswife's family).[4] Egyptians read estimates that the wealth of the Mubarak family ran to billions of dollars.[5] The combination of inequality and perceived injustice generated among the populations an ever-deepening disgust of the ruling establishment.

iii. "The regimes are internally solid, based on the perceived common interests of key elites". Most regimes in the Arab world are kept in power by the close collaboration of presidential, military, security and sometimes business elites. The same applies to many regimes elsewhere also, especially in Africa and Asia. Many observers assumed that these

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3)International Labour Organisation, statistics accessed at the website www.ilo.org..
4) See *The Guardian*, 13 and 14 January, 2011.
5) See *The Guardian*, 12 and 13 February, 2011.

elites were effectively and inevitably bound together by common interest. Division at the top would lead to the loss of power. The military and security needed the regime to safeguard their privileged position in the state; and the presidential elite needed them so as to keep control of the population. They were forced to "hang together, otherwise they would hang separately".

In practice the uprisings revealed that this pattern did not hold universally. In fact, the outcome of the uprisings has in part been dependent on the nature of the relationship between presidential and military/security elites. In Egypt, the army has historically had a sense of national mission, critical to ending foreign interference in Egypt's affairs in the early 1950s and combating Israeli forces with varying degrees of success in the 3 major Arab-Israeli conflicts. Despite the army leadership being closely embroiled with the Mubarak regime, its support had limits. It was ultimately unwilling to oppose a trend which had gained the support of large sectors of the populace. A similar point can be made with regard to Tunisia. The Tunisian army, however, had retained a rather greater separation from the political sphere, in part because the President relied more on the internal security forces than the military.

In Syria, on the other hand, the armed forces had been moulded and shaped by the Ba'thist regime. Its character, command structures, and identity were in effect interwoven with those of the regime. There was, therefore, little possibility that the army leadership might distance itself from President Bashar al-Assad and the Ba'thist leadership. It has, therefore, defended the regime with all the means at its disposal. The extensive loss of life in the uprising derives from this dynamic.

In Libya, the protection of the Qadhafi regime was vested in two main structures: the internal security organisations (some of which came under the Coordinating Council of Revolutionary Committees, while others reported directly to Qadhafi) and the "security battalions". The latter, while formally part of the regular army, were in practice directly under the control of sons of Qadhafi, with the largest force under Khamis. Mercenaries were recruited to strengthen these forces. The main part of the regular army was accorded a position of lesser status in the regime and, relative to the security battalions, was less well resourced – at least in the regime's final decade. Qadhafi sought, in this manner, to limit the possibility of army officers staging a military coup. It is not surprising, therefore, that when the uprising began it was the security battalions and the internal security organisations which undertook the fighting. Much of the regular army, especially that in the east of the country, melted away.

iv. "The regimes retain a significant degree of 'secondary legitimacy' at the popular level". When the presidential/republican regimes of the Arab world first came to power, they enjoyed a significant level of popular support. They had, mostly, come to replace

regimes which were perceived as ineffective in achieving development, dominated by traditional religious and tribal forces, and protective of external commercial, political and strategic interests. The removal of these regimes was widely seen as an extension of the struggle for independence and self-determination. The presidential/republican regimes projected themselves as grounded in popular legitimacy, in so far as their objectives and rationale was to satisfy the needs and demands of the people. No opportunity was provided for this popular legitimacy to be directly tested through competitive elections, but there was nonetheless some basis to their claim.

Over time, and especially once the basis of the social contract had disappeared, popular support for the regimes changed in extent and in character. The far-reaching ideological slogans, envisaging the country's rapid transformation and development, no longer carried weight. The pace of development had proved slow and some of its outcomes problematic, the social order was becoming less egalitarian, and on the international level compromises were being made which belied nationalist agendas. Nonetheless, the regimes continued to enjoy some popular support. Much of this could be described as "secondary": people supported the regime not because they liked it, but because they were afraid of a possible alternative. The feared alternative might be a political trend (e.g. secularists concerned that militant Islamists would take power, or Islamists concerned that ardent secularists might do so) or else a scenario (e.g. the disintegration of the country through divisive conflict).

Most observers believed that a form of secondary legitimacy, based on the support just described, remained strong. In practice, however, secondary support was steadily waning. Opposition groups had begun to reach out to eachother, exploring commonalities in their agendas. There was a strengthening conviction that it was the regimes themselves which were the problem, and not the potential alternatives. Attempts by Egyptian, Lebanese, Moroccan, Syrian, Tunisian and Yemeni opposition groupings to agree on common platforms are documented in the Arab Reform Initiative's report, *Critical Dialogue between Diverse Opposition Groups*. The report was based on contacts made during 2009 and 2010, although it was not published until early in 2011.[6] The report revealed the difficulties encountered as well as the progress made. The critical point here, however, is that opposition groupings were becoming more aware of their shared interests and concerns; an urgent desire to see the removal of the existing regimes was common to all. Political pluralism now appeared more feasible. Regimes, having lost most of their primary legitimacy, were now losing their secondary legitimacy too.

v. "Pan-Arab identification has ceased to be of any relevance to the Arab political scene". Ever since the publication of Fuad Ajami's *The Arab Predicament* in 1977, outside observers had paid diminishing attention to Arab identification.[7] Arab

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6) Arab Reform Initiative, *Critical Dialogue between Diverse Opposition Groups*, accessed at www.arab-reform.net.

nationalism was seen as a spent force, and the conclusion was drawn that Pan-Arab identification carried no political significance. This sentiment was strengthened by the events of the 1990s and early 2000s. The 1991 Gulf War placed in sharp outline the divisions between Arab countries, as also did the 2003 war (perhaps less starkly). The Arab League played no significant role in either war; nor was it active in resolving Libya's Lockerbie issue. UN sanctions remained in place for 9 years. The "War on Terror" (after 2001) further shifted the dynamics of regional security policy outside of regional control or influence.

The Arab uprisings have put Arab identification back on the political map. Events in one Arab country clearly had a major impact on developments in others. Unrest and resistance in one triggered similar phenomena in others. The experience showed that the Arab world constitutes a common ideational space, with information and opinion resting in a shared cultural pool. Satellite television channels (especially Al-Jazeera and Al-Arabiya) have played a key role in creating the contemporary articulation and vitality of this cultural pool. Arab populations currently watch the same television, absorb the same news and views, and relate to the reported developments as integral to their domestic experience and environment. State oppression in one country, therefore, creates echoes and vibrations across the region.

External commentators have highlighted the use which demonstrators have made of twitter and social networking sites. No doubt these were of significance in mobilising people for specific demonstrations, but satellite television was more important. Popular access to a shared source of news and information, located within a common cultural context, enabled the spirit of resistance to spread. It is instructive to compare the experience of the Arab Spring with Arab reactions to the 2009 Iranian Green Revolution. Pro-democracy demonstrations in Tehran and other Iranian cities stimulated no copycat demonstrations in the Arab world. The resonance coming from shared Arab identification was missing.

Ⅲ. Applying the Lessons of the Arab Spring: is Regime Change to be Expected in the Arab Countries of the Gulf?

All of the states of the Gulf Cooperation Council (GCC) have been affected by the Arab Spring. In the case of Bahrain, this has taken the form of a major confrontation between protestors and the authorities. In Oman, there have also been protests, although rather more muted in character. In Kuwait, parliamentary pressures on the ruling family for political reform have become more intense, and (separately) there have been demonstrations

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7) Ajami, Fouad, *The Arab Predicament* (Cambridge: Cambridge University Press, 1981).

by stateless Kuwaitis. The Qatari, Saudi and UAE governments have reacted to the fear of unrest rather than to actual unrest: the Qatari government has raised the salaries of government employees, the Saudi government has introduced a massive programme aimed at improving its population's material welfare, and the UAE government has applied a combination of welfarism and reform. A degree of quiescence has returned to the region, but the future remains worthy of debate.

Assessments of whether regime change can be envisaged in the GCC states tend to emphasise the aspects in which they differ from other Arab states. A well-balanced assessment, however, requires acknowledgement of commonalities as well as differences. The analysis below will focus first on the commonalities, before going on to considering whether these commonalities are outweighed by the differences, "Outweighed" would imply that the dynamic towards regime-change is blunted.

i. Commonalities between the GCC states and other Arab states. On all of the dimensions underlying the "mistaken assumptions", substantial commonality exists.

As in other Arab countries, popular protest has figured significantly in the GCC states' historical background. Indeed, the Arabian peninsula could lay claim to have hosted the last "popular liberation struggle" in the Arab world, prior to the current uprisings.[8] The Popular Front for the Liberation of the Occupied Arab Gulf (later dividing into the PFLO and PFLB, focusing specifically on Oman and Bahrain), remained active as a political movement and guerrilla force in Oman through to the mid-1970s. Its roots stretched back to the mid-1960s. Attempts at popular mobilisation have, of course, also been made on bases of region and religion.

The measures which GCC governments have taken in the wake of the Arab Spring, furthermore, reflect some shift in the power/fear balance. The motivation of the measures (whether repressive, reform-inclined or welfarist) clearly stems from a sense of insecurity. Action was perceived as necessary to buttress the regimes. Some parts of Gulf society experienced a corresponding sense of potential empowerment.

On issues of inequality and injustice, there is also a significant measure of commonality. Despite the image which the GCC states have in the outside world, oil wealth has not resolved some of the urgent material issues facing the population. Youth unemployment, in particular, has remained a serious problem – especially in Bahrain and Saudi Arabia. The rate of youth unemployment in SaudiArabia, according to ILO figures, is higher than it is

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8) The case of the Sudanese People's Liberation Movement, especially when it was led by John Garang, could be taken as a later instance of popular liberation struggle. The SPLM, however, was always strongly regionally-based, with an agenda which had a significant separatist dimension – eventually leading on to the secession of South Sudan.

in Egypt. The figures for 2008 (the most recent available) show that unemployment in the 15-29 age bracket stood at 27% in Saudi Arabia, as against 21% in Egypt. Even more significant was unemployment in the 20-24 age bracket, which stood at 40% for Saudi Arabia. In Bahrain, unemployment in the 15-29 bracket stood at 38%.[9] Unemployment inevitably carries a particular in societies characterised by extremes of flaunted wealth.

The GCC states rank moderately in international corruption indexes. They do not figure among the more corrupt countries in the world. Transparency International's *Corruption Perceptions Index* for 2010 (the most recent to be produced) ranks all of the GCC states more favourably than any African state north of Botswana, and above most Latin American and Asian countries.[10] Yetthepictureprovidedmaybemisleading.The*Corruption Perceptions Index* covers only the public sector, and the "perceptions" are those of development banks, major consultancies etc. Perceptions at the popular level can be different, and the focus may be more on injustice rather than corruption *per se*. "Injustice" here includes practices which can be characterised as "the legal misallocation of resources": where elites benefit massively from procedures to which they have privileged access. The procedures concerned (such land allocation by royal grant) are legally-compliant.

Arab identification affects the citizens of GCC states in much the same way as it does other Arab states. Indeed, the main satellite channels which have enabled news and views to be carried around the Arab world, triggering demonstrations and a new consciousness, are themselves GCC-based. Past attempts to fashion a new Gulf identity, undertaken in the period since the 1991 Gulf War, have no doubt achieved some success. Gulf identity, however, appears now to have constituted an overlay rather than a replacement. Arab identification has retained its vitality among Gulf populations.

Differences between the GCC states and other Arab states. Although the GCC states have been significantly affected by the Arab Spring, and one of them (Bahrain) has seen prolonged and bitter conflict on the streets, it will be contended here that regime change is unlikely in any of the 6 states. In certain key respects, the dynamics affecting their political life are distinctively different from those of the Arab countries which have undergone regime change.

First, while severe social and economic problems face the populations of GCC states (as has been shown above), the acuteness with which inequality and injustice are experienced

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9) International Labour Organisation, statistics accessed at the website www.ilo.org.
10) Transparency International, *Corruption Perceptions Index 2010*, accessed at www.transparency.org. The rankings for the GCC states, on a 1-10 scale where 10 is the best and 1 is the worst, are: Kuwait 4.5, Saudi Arabia4.7, Bahrain 4.9, Oman 5.3, UAE 6.3, and Qatar 7.7. Some European countries rank substantially lower on the scale, suchas Italyat 3.9.

is blunted by greater material welfare. Unlike most other Arab countries, the social contract remains in being in the GCC states. Oil wealth has enabled the GCC governments to maintain levels of service provision, and welfare support, which have been phased out elsewhere. There are, therefore, safety nets which give some support (however rudimentary) to the unemployed and underprivileged.

Salaries for those in employment, moreover, are high relative to salaries elsewhere in the Arab region. This has implications for the unemployed as well as the employed. For as long as one member of a family, or a number of members of an extended family, is in employment, a reasonable standard of family welfare can be maintained. Custom ensures that family support is available to those without the means to provide for themselves.

At one level, moreover, all nationals of GCC states enjoy some measure of privilege. They have opportunities and access to services which migrant workers, mostly employed in the the size and strength of the demonstrations were buttressed by the participation of those from the lowest-paid occupations. In the GCC states (more so in some than in others) migrants dominate this sector of employment. Migrants generally have neither the motivation nor the security to engage in politically-driven movements within their host country. The political dynamics of countries heavily dependent on migrant labour, therefore, differ substantially from those dependent on national labour.

Second, the armed forces and security organisations of GCC states tend to be integral to, and closely integrated within, the regimes. This relationship with the regimes resembles more the pattern found in Syria than that in Egypt. Ruling families, and individuals with close tribal, religious or ethnic links to the ruling families, dominate the command structures of the armed and security forces. Those recruited to the soldiery, moreover, also tend to come from trusted ethnic and religious groupings. The severity with which the security forces in Bahrain ultimately reacted to the unrest in the country reflects the solidarity of the regime-security linkage. The security forces were not likely to adopt an independent line, nor to fear the implications of acting strongly against one sector of the population. Support from Saudi Arabia and the UAE, itself reflecting the pan-GCC character of regime-security linkages, further enhanced the strength and severity of the action taken.

Third, the support and legitimacy bases of GCC regimes are, to varying degrees, different to those in the presidential republics of the Arab world. The regimes in GCC states emerged on a foundation of tradition-oriented legitimacy (ethnic, tribal and/or religious), buttressed in some cases by elements of charismatic legitimacy. The "right to rule" was not projected in terms of satisfying popular demands for radical economic and social transformation. Rather, it rested in traditional patterns of rulership, where the ruler managed power in association with other members of the ruling family and key tribal

and/or religious figures. The latter, in turn, brought with them the support of their tribes or religious movements.

Support of this kind does not necessarily diminish if a regime fails to deliver material benefit or social/political reform. Indeed, when threats arise from other parts of the population or from outside, the core support may strengthen. Core groupings, in such situations, feel impelled to rally around a regime which they helped to create and within which they enjoy privileged status. GCC regimes, therefore, continue to enjoy a significant degree of primary support, although perhaps only within narrowly-circumscribed circles.

Secondary support has also been less likely to ebb away in the GCC states. As the regimes developed after the oil boom, they began to benefit from a new source of legitimacy: eudaemonic legitimacy. Populations began to support regimes because of the welfare and material benefits which the regimes had delivered. Moreover, the rise in oil prices after 2002, and the relatively high levels of oil revenue which have accrued to the GCC states since then, have created boom conditions for significant parts of the population. Material welfare, and the contrast with conditions in many other regional states, have created an increased fear of alternatives. Political division, regional or ethnic/religious conflict, or externally-orchestrated subversion could all threaten this personal and communal well-being. The projection of an "Iranian threat", whether realistic or not, deepened the fear of alternatives, strengthening secondary support among business, professional and state-salaried social groupings.

Ⅳ. Conclusion

The Arab uprisings appeared at the start to be shaped in a similar fashion: popular revolts against authoritarian governments, calling for more open, accountable and representative systems. The manner in which unrest in one state triggered off unrest in others added to this sense of commonality. In practice, however, the manner in which popular frustration with government impinges on individual states, and the likely outcome of the unrest, varies considerably from one state to another. This is most marked when contrasting the states of the GCC with other Arab states – especially Egypt and Tunisia. In practice, however, the other Arab states also present a diverse pattern. Of particular significance in this latter diversity is the differing ways in which the military and security organisations relate to the presidential/monarchical core of regimes. Where the relationship is close and integral, the military/security response has tended to be fiercest. Whether the use of violence will guarantee regime survival in the long-term, however, remains to be seen.

Future of Middle Eastern Studies Ⅰ

Chair: **CHOI, Chang Mo** (Konkuk University)
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   Presenter: LEVENT, Sinan
              (Graduate School of Asia Pacific Studies,
              Waseda University, Ph.D. Candidate)
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   Presenter: Eid Mohammed (Binghamton University)
   Discussant: LEE, Seong Soo (IMS)

Presentation 1

Epistemology of Muslims in Pre-Meiji Japan

LEVENT, Sinan❘
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Ⅰ. Introduction

In this paper, it will be discussed on how Japan comprehended the Muslim world in early Japanese history, which dates back from 8th century through late Edo period. For this examination, here we use early Japanese written materials such as *Nihon Shoki* (日本書記), *Zoku Nihonki* (続日本紀) and also *Kai Tsushoko* (華夷通商考) and *Yon Ju Ni Kokujinbutsu Zusetsu* (四十二国人物図説) written by Joken Nishikawa (1648~1724) in 1708 and 1720 respectively、*Sairan Igen* (采覧異言) and *Seiyo Kibun* (西洋紀聞) formed by Shiraishi Arai (1657~1725) in 1713 and 1715 successively, which tells us the general Japanese history in early time and Japanese understanding concerning the rest of world at the same time. As well-known in Japanese academia, Sugita and Kobayashi`s researches were pioneers in this field.[11]

We review of these works and also consider some key words such as Kokoku (胡(こ)国(こく)),Tarutariya (韃而靼(タルタリア)) in more detailed way to grasp properly on how Japan saw Muslims in medieval and early modern eras.

Ⅱ. Early Perception of Muslims in Japan

1-)Medieval Era (7th~16th Centuries)

The first contact between Japan and Muslim world was made via China in ancient

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11) Kobayashi, 1975; Sugita, 1995.

times. Japanese Islam knowledge dates back 7th~8th century and consisted of a part of its world geography knowledge, which was mainly focused on China and Korea(Chosen). It is very natural that the Islam knowledge was relatively shallow at the time, greatly varied from today and indirect as based on Chinese intermediation. Till 7ᵗʰ~8ᵗʰ centuries, Japanese diplomatic relations was restricted to Korea. But China was added up after Japan dispatched its embassies to China during Sui (589-618) and Tang (618~907) Dynasties. As Japan enhanced its relations with China during the aforementioned period, mainland culture focused on China began to penetrate into Japan intensively. Thus Islam knowledge was assumed to be a part of this mainland cultural in flow.

On the other hand, Muslims` first interaction with East Asia centered on China was the period of the end of Sasan Empire and followingly the rise of Umayyad and Abbasid Caliphates in Muslim world. This was also the period of Sui and Tang Dynasties in China. Diplomatic relations was conducted during Sui-Tang periods. Islam via Arab and Persian tradesmen was introduced to East Asia and adopted by South East Asian folks later on. Accordingly, Japanese embassies were likely to be introduced to Arab and Persian counter-parts in Chinese royal palace too and to gain some information about them from Chinese people.

As for the terminology to refer Muslim or Islam in ancient Japan, four terms are compulsory to define. These are Daishi「大食(だいし)」, hashi「波斯(はし)」, kokoku 「胡(こ)国(こく)」 and Tarutariya (韃而靼(タルタリア)). Contrary to the terms Kaizoku (回族) or Kaikyoto (回教徒) and Kaikyoken (回教圏) used today to show Muslims and Islam area in general, the terms given above were common to name Muslims. These terms were basically ethnic concept-usage at that time more than religious when looking up the meanings. Concretely, while Daishi「大食(だいし)」and hashi「波斯(はし)」used to refer Arap and Persian origin Muslims successively at the time, kokoku「胡(こ)国(こく)」and Tarutariya (韃而靼(タルタリア)) were used to name Turkic origin Muslims in West Asia. It is a common knowledge that Persian, Arap and Turkic ethnical folks were main groups who firstly adopted and later dominated Islam world.

All these terms were also supposed to derive from Persian pronunciation. In particular, 「波斯」 (po-si) and 「大食」 (ta-si) were how Persian at the time called themselves and Arabs in Pahlavi ((Medieval Persian language). Accordingly the most primitive Japanese literatures on Muslims were *Nihon Shoki* (日本書記) and *Zoku Nihonki*(続日本紀). The former document in 660 AD gives about very general information concerning the first meeting of Japanese-Persian Muslim embassies in China 覩貨羅人乾豆波斯達阿、本土に帰らむと欲ひて.[12] Furthermore, it is written about Persian Muslim existence in Chinese Palace in *Zoku Nihonki* at the year of 736 八月庚午、入唐副使従五位上中臣朝臣名代ら、 唐の人三人、波斯一人を率ゐて拝朝す.[13]

As seen above the first documents on Muslim world were on Persians. Followingly registrations on Arab Muslims were made in *Zoku Nihonki* at the year of 754. Just a year

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12) Sakamoto, 1995：360~361.
13) Aoki, 1990：302~303.

before the registration above on Persian in Zoku Nihonki, information concerning Sogdians, whose origin were disputable whether they were Turkic or Persian, was available in the document called *To Daiwajo Toseiden* (唐大和上東征伝). It was to state the list of the people coming to Japan from China Mainland and among them there was a Sogdian origin person, expressed as 胡国人安如宝, accompanying to Chinese embassy. As it is well-known, Sogdians, who used to live in Central Eurasia region and whose origin were disputable whether Turkic or Persian. But in accordance with Divan-i Lugatit Turk, Sogdians were a folk whom great number of them were turkified. From 4th century on, Sogdians began to dominate Silk Road trade from Anatolia in west through Inner Mongolia in east and converted into Islam during Sassanian Empire.[14]

Moreover, there are two sandalwood pieces in the Tokyo National Museum, which have verified that Persians and Sogdians were associated with Japanese in ancient time. One of them is branding iron which can easily be seen the Sogdian carved seal and written 'bookhtoor or bookhtoy' which is reckoned to be a Sogdian name or to mean 'the savior'. The other one is assumed to be a monetary unit on which there is a Pahlavi carved seal and written 'nim-sir', of which 'Nim' means half. Thus Sogdian piece is thought to be trademan's name and Persian piece is assumed to show the cost of the good he brought from West Asia. Both of them are assumed to have been carried to East Asia either Chinese mainland or Indian sea by Sogdian and Persian tradesmen around 8th century.[15]

From 7th century on, Muslim expansion movement from Middle and Near East regions to Central and East Asia started and Muslims met Turkic origin people(突厥) in West-east China and enabled them to convert into Islam. In this conversion, Muslim's assist to Turkic people against China in the Talas War at the year of 751 played a great role.[16] Subsequently Abbasid rulers sent their embassies to China more than Umayyads to build and gradually intensify commercial relations. Especially Tang Dynasty period was the start of the relations between Muslim world and China. Muslims then passed to South-east Asia and took a fundamental role in the conversion into Islam of the people in these areas too. Looking over the route of Muslims from Middle and Near East regions to East Asia, there were two routes. One of them was to arrive through the land and finally settled down in Changan and the second one was to pass the sea in the south and settled in seaport cities such as Kanton (Guangzhou), Senshu (Quanzhou) and Yoshu. Those settling down in these regions used to be called Bankaku (蕃客) or Kokaku (胡客) which literally meant the foreigners coming from North and East Asia.[17]

As expressed above, there was very shallow and unclear perception on Muslims in Medieval Japan when might be started from Nara and Heian eras through Kamakura

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14) Atalay, 2006: 30, 471.
15) Sugita、1995 : 18.
16) See concerning the process of conversion into Islam of the Turkic origin people in Central Eurasia, Matsuda and Kobayashi、1935;1938.
17) Kuroiwa、2002 : 68~74.

period. The reason might be thought that there was no direct relation between Muslims and Japan. Very little interaction via China was naturally not enough for Japanese to understand Muslims properly and vise-versa. Japanese-Muslim shallow interaction in early ancient time also reflected how Muslims viewed East Asia at the time. In other words, Muslim under the rule of Umayyad and Abbasid Caliphates gave all priorities to China and went into the East Asia in the line of western land and southern sea routes, unlike Japan was in the position of North-east market of the China-centric East Asian commercial market. Namely, since Muslims comprehended a China-centric regional order, they did not feel a necessity to get associated with other East Asian states like Japan.[18]

2-)Early Modern Era (outset of 17ᵗʰ~2ⁿᵈ half of 19ᵗʰ Centuries)

It is a common knowledge that Western countries began to invade all Asian land from 15th~16th centuries on by starting from India and expanded the invasion in the South Asia to Far East later on. In particular the arrival of Portugal origin Christian missionaries in the middle of 16ᵗʰ century to Tanegashima Island enabled Japanese to grasp that there was a world different from China, which was a 'Euro-centric'. In later years, missionaries and tradesmen from European countries other than Portugal such as Italy, Holland, Spain etc. let Japanese know much more about Euro-centric world and its regional order and also gave basic geographical and religious information about non-China-centric world at the time. During early modern period commerce was given importance more than ever especially by Shogunate Tokugawa Ieyasu. Trade with Euro-centric world leaped and accordingly Japanese began to be informed about foreign countries more than ever. Around the mid 17ᵗʰ century, knowledge of Japanese elite class who had literacy, was by far more detailed on non-China-centric world than so far.[19] As a part of this data on non-China-centric world, Japanese got informed about Islam and Muslim regions more elaborately. Concretely, there have been 4 mainly-referred books that someone can have ideas concerning Islam perception in early modern Japan. Two of them were *Zoho Kai Tsushoko* (増補華夷通商考) and *Shijunikoku Jinbutsu Zusetsu* (四十二国人物図説) written in 1708 and 1720 respectively by Joken Nishikawa. The others were *Sairan Igen* (采覧異言) and *Seiyo Kibun* (西洋紀聞) formed in 1713 and 1715 successively by Hakuseki Arai. These works have geographical contents and include data about Muslims in Middle and Near East and Central Eurasia. For instance, the people who used Latin characters, (ie non-Chinese characters), used to be classified as 'Gaii (外夷)' in Nishikawa's *Zoho Kai Tsushoko* (増補華夷通商考). The same book also included articles   such   as   Persia   (ハルシャ)、Ottoman-Turkey (トルケイン)、Arabia(アラビヤ)、Egypt (エジット)、Morocco (モラコ)、 Central Asia (回回国(フイフイこく))[20] and gave information concerning each country. On the other

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18) Kobayashi、1975：12.
19) See about the knowledge of foreign countries during Edo Period, Ayuzawa、1943.

hand, in Arai`s *Sairen Igen*, Muslim regions were classified into African and Asian episodes. While Ottoman-Turkey（トルカ−都兒瓦）was set up as African country, Arabia （アラビヤ 亜蝋皮亜）and Persia（ハルシャ 巴爾斉亜）were taken as Asian folks.[21] Furthermore, episode under the name of Tarutariya(韃而靼(タルタリア))on Turkic origin folks in Central Eurasia was drawn the attention in the Asian part of *Sairan Igen.*[22] In this episode it was expressed that *Tarutariya is not a name to point out a single country, but general term for all North-Asian nations and included many Turkic origin folks. The geographical position of Tarutariya was from Frozen Sea in north to Persia, India and China in south and ranged from Pacific Ocean in east through Europe and Russia in west. In the part of the border with Russia there are 4 big rivers, Amu Darya(厄臙設(エニセ)河), Syr Darya （歴那(レナ河), Yenisei (阿比(オビイ)河) and Aral （亜莫児(アムル)河) and those living in this region were mostly Mohammadian (馬哈黙(マホメット)教(きょう)).*[23]
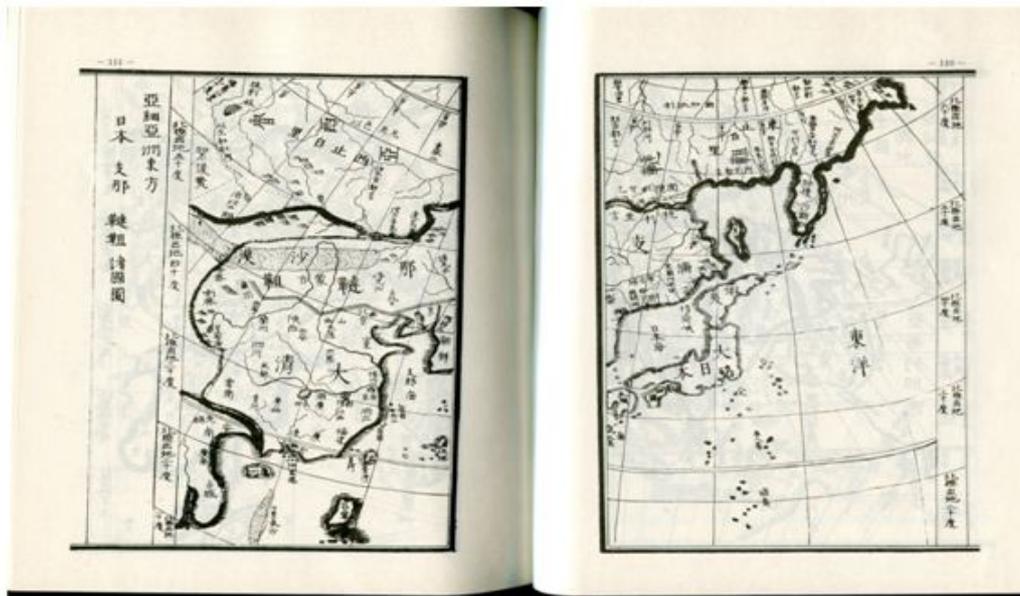
Map of Turkic-Muslim region, called Tarutariya in *Sairan Igen*
Source: Yamamura, 1979: 110~111 .

As seen above in the example of Tarutariya, it is possible to see some introductory data on Islam as religion. But the term Islam was replaced by Mohammadian in the aforementioned early modern Japanese works. For instance, in Arai`s another work, *Seiyo Kibun,* it has been expressed as following about Islam and Muslims, *in accordance with*

20) Sugita、1995：55.
21) Yamamura、1979：727~779.
22) Ibid, 1071~1084.
23) Ibid, 1073~1078.

Sidoti's hearsay, there are 3 religions world-wide. One of them is Christian whose ruler is Christ and those who believe in it are called Christian. The other one is Heiden (polytheism). The last one is Mahammedaan. Those who believe in Mahammedaan, mostly live in Turkey (トルカ), Mongolia (モゴル) and most of the African countries. In Chinese character, Mahammedaan is expressed as Kaikaikyo (回回教).[24] Namely, Arai grasped Islam as one of the religion of which dominant regions were West Asia and Africa, which almost covered today's Muslim countries except for Mongolia. As seen above, Sidoti, Latin name turns out in Arai's *Seiyo Kibun*. This may give ideas on the source of Arai's work. In other words, Arai formed the part concerning religions of his work basing on the hearsay from a European Christian missionary. Sidoti's full name was Giovanni Battista Sidoti (1668~1714) who landed in Yakushima Island in the south of Kyushu at the year of 1709 and arrested by Japanese for missionary activities. During his interrogation by Japanese, Arai attended with him and recorded his remarks and compiled data concerning the non-Chinese world taken from him into the work mentioned above. Furthermore it is also possible to find information concerning manners and customs of Muslims and Hz. Mohammed, the prophet of Islam and also sacred places of Islam, Mekke and Medine in Arai's both *Seiyo Kibun* and *Sairan Igen*.

All works written till mid Edo period were in common with the approach to people in West Asia, which was to consider them in terms of ethnicity such as Harusha, Toruka, Arabiya etc. They did not identify people in these regions as Muslim by putting their religious ID to the fore. They also did not provide information on Islam as a religion except for Arai's two works mentioned above. In terms of giving data about Islam, Arai's works were solitary and pioneered perception about Islam in Japan unlike Nishikawa's works aforementioned.

Ⅲ. Some Remarks

In medieval period Japanese perception concerning Muslims and Muslim regions merely consisted of China-centric data and was very shallow. Essentially it is even doubtable that Japanese at the time grasped people living in Persia, Turkey and Arab countries as Muslim. It was closely related to how Umayyad and Abbasid embassies were introduced to Japanese counter-parts in the Sui and Tang Dynasties' Palaces. If Chinese were aware of their Muslim identification, then Japanese were too. But as understandable from the early period documents in this paper, Muslims coming to China were more identified as their ethnical I.D.

Japanese were informed much more elaborately than in the past about the non Chinese-world along with the arrival of European missionaries and tradesmen during Edo

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24) Arai, 1968: 48~49.

period. As a result of the Western-Japanese interaction, Japan began to have knowledge about Muslim regions and Islam as a part of the data concerning the Latin world. It is truth that Japan did never interact directly with Muslims both in medieval and early modern eras and had to wait for the direct touch with Muslim regions till Meiji era. Finally, perception that Japanese had towards Muslims and Islam before Meiji period was very unconscious because of the fact that China and Europe mediated in this knowledge.

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Internal Conflicts and Protracted Crisis in Syria

SEO, Jung Min│HUFS

The Syrian uprising is an ongoing, violent internal conflict in Syria. It is part of the wider Arab Spring, a wave of upheaval throughout the Arab World. Public demonstrations across Syria began on 26 January 2011 and developed into a nationwide uprising. Protesters demanded the resignation of President Bashar al-Assad, the overthrow of his government, and an end to nearly five decades of Baath Party rule. However, the uprising has been protracted beyond some expectations, not producing the change of regime but resulting in large casualties

This paper aims at examining why the conflicts have been protracted. This research assumes that internal conflicts or fragmentation has been one of the most important factors behind the protracted Syrian crisis. The uprising has sectarian undertones. The opposition is dominated by Sunni Muslims, whereas the leading government figures are Alawites, affiliated with Shia Islam. As a result, the opposition is winning support from the Sunni Muslim states, whereas the government is publicly supported by the Shia and other minority religious and ethnic groups.

In an attempt to explore the divisions and fragmentations of the Syrian opposition, this study has examined the ethnic, factional, and sectarian composition of Syria and the activities and goals of main opposition groups. Furthermore, this research has conducted a field research to forecast the prospect of the Syrian crisis. According to the interview results, most Arab scholars and citizens believe that the Bashar regime has lost its legitimacy in the course of the prolonged nationwide protest and would not be survived in spite of the internal conflicts and fragmentation of the opposition forces.

Ⅰ. Emergence of Various Social and Political Groups in the 21th Century

Bashar al-Assad's assumption of the presidency in July 2000 gave rise to a brief period of unprecedented easing of state repression known as the "Damascus Spring" whereby dozens of discussion forums and associations were created, all calling for political liberalization and democratic openness.

This sector of Syrian civil society came to light with the "Declaration of the 99," signed by numerous intellectuals including Burhan Ghalyoun, Sadeq al-Azm, Michel Kilo, Abdul Rahman Munif, Adonis and Haidar Haidar[1], who demanded: 1) an end to the state of emergency and martial law applied in Syria since 1963; 2) a public pardon to all political detainees and those who are pursued for their political ideas and permission for all deportees and exiled citizens to return; 3) a rule of law that will recognize freedom of assembly, of the press, and of expression; 4) freedom in public life from the laws, constraints, and various forms of surveillance, allowing citizens to express their various interests within a framework of social harmony and peaceful competition and enable all to participate in the development and prosperity of the country.

On January 1, 2001, a group of Syrian lawyers demanded a complete reform of the constitution, the lifting of emergency laws, and the concession of full civil liberties. Shortly thereafter, a group of activists published the founding charter of their civil society committee—better known as the "Declaration of the 1,000."[2] The following day, the Jamal Atassi Forum for Democratic Dialogue was established with the participation of communists, Nasserites, socialists and Baathist critics of the regime, and on March 7, authorization was given to create independent organizations for the defense of human rights as well as cultural and social associations made up of moderate Muslims. This group included the Islamic Studies Center, headed by Muhammad Habash, a progressive scholar opposed to the Muslim Brotherhood, who served as a parliament member. By July 3, 2001, the Human Rights Association of Syria had been established with lawyer Haitham al-Malih as president.

In just a few months, two hundred discussion clubs and forums were created. Reacting to the proliferation of spaces where the future of Syria was being freely debated, the regime pushed back, fearful it might lose its monopoly on power. Invoking a need to maintain national unity in the face of external threats, beginning in September 2001, the regime arrested deputies Riad Saif and Mamoun al-Homsi, economist Arif Dalila, lawyer

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1) "Statement by 99 Syrian Intellectuals," *al-Hayat*, Sept. 27, 2000.
2) Gary C. Gambill, "Dark Days Ahead for Syria's Liberal Reformers," *Middle East Intelligence Bulletin*, Feb. 2001.

Anwar al-Bunni, and Atassi Forum spokesman Habib Issa, followed in short order by Kamal al-Labwani and Haitham al-Malih.[3] All were sentenced to between three and twelve years in jail on charges of "weakening national sentiment" and "inciting sectarian strife." Other important figures were forbidden to leave the country including Radwan Ziyyade, director of the Damascus Center for Human Rights Studies, and Suhair Atassi, director of the Jamal Atassi Forum.

In an open challenge to the regime, prominent figures persisted in the demand for reform. The Damascus declaration stated that the "establishment of a democratic national regime is the basic approach to the plan for change and political reform. It must be peaceful, gradual, founded on accord, and based on dialogue and recognition of the other." This declaration also called on the government to "abolish all forms of exclusion in public life by suspending the emergency law; and abolish martial law and extraordinary courts, and all relevant laws, including Law 49 for the year 1980 [which made membership in the Muslim Brotherhood a capital offense]; release all political prisoners; [allow] the safe and honorable return of all those wanted and those who have been voluntarily or involuntarily exiled with legal guarantees; and end all forms of political persecution by settling grievances and turning a new leaf in the history of the country."[4]

The declaration was the result of efforts made by journalist Michel Kilo to unify the main political forces, including the banned Muslim Brotherhood. Kilo had met with the group's leader, Ali Sadreddine Bayanouni, in Morocco where they agreed on a program based on nonviolence, democracy, opposition unity, and political change. A further public attack on the regime, the Beirut-Damascus declaration, which called on the Syrian regime to recognize Lebanon's independence, establish full diplomatic relations and demarcate the joint border, led to a second wave of arrests during which Kilo and Bunni were imprisoned.[5] With this example, the regime tried to put a stop to its opponents' efforts and to ensure that their demands did not awaken Syrian society from its political lethargy.

Ⅱ. Fragmented Opposition

One of the dissidents' foremost weaknesses was their inability to get their message out due to draconian restrictions on the freedom of gathering and expression. Thus, the fall of Zine al-Abidine Ben Ali in Tunisia, Husni Mubarak in Egypt, along with the upheavals in Yemen, Libya, and Bahrain, had a contagious effect across the Arab world. Most Syrian

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3) *Human Rights Watch World Report 2002 - Syria*, Human Rights Watch, New York, Jan. 17, 2002.
4) Damascus Declaration, Oct. 16, 2005.
5) *The Syria Monitor* (Center for Liberty in the Middle East, Washington, D.C.), May 13, 2007.

dissidents saw the uprisings as the long-awaited opportunity to introduce major changes inside the country.

The revolt began in the southern city of Dara and then gradually and progressively spread across almost the entire country. The demonstrations, which at first mobilized a few thousand people at best, began to enjoy great prestige. Initially, important sectors of the population demanded limited reforms, but Assad's brutal repression raised the bar. Appearing before parliament on March 30, 2011, the president made it clear that any reforms would not come about as a result of popular pressure and that the process of political liberalization would not be hurried. As the unrest has continued, most activists have come to believe that the protest wave has transformed into a revolution that will bring about the fall of the regime.

However, the recent uprising has been an ensemble movement with contributions from different players. The economist and commentator Omar Dahi has identified five clearly differentiated groups taking part in the unrest: traditional opposition parties (socialists, Nasserites, and communists); dissident intellectuals; the youth movement, including the leaders of the Local Coordination Committees (LCC), which has driven the revolution and was joined by other sectors of society; a disorganized cohort of conservative Muslims; and armed Salafist groups who represent a minority.[6]

Most of these groups (with the exception of the Salafi elements) agreed about the need to avoid violence, reject sectarianism, and prevent foreign intervention. On August 29, 2011, the LCC stated,

> While we understand the motivation to take up arms or call for military intervention, we specifically reject this position as we find it unacceptable politically, nationally, and ethically. Militarizing the revolution would minimize popular support and participation in the revolution. Moreover, militarization would undermine the gravity of the humanitarian catastrophe involved in a confrontation with the regime. Militarization would put the revolution in an arena where the regime has a distinct advantage and would erode the moral superiority that has characterized the revolution since its beginning.[7]

Initially, opposition figures urged the creation of a new social pact between the rulers and the ruled, rejecting the use of violence to force Assad from power. Bunni, for example,

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6) Omar Dahi, "A Syrian Drama: A Taxonomy of a Revolution," posted on *Syria Comment* blog by Joshua Landis, Aug. 13, 2011.
7) "Statement to the Syrian People," Local Coordination Committees in Syria (LLC), Aug. 29, 2011.

advocated "a peaceful solution to all the problems" while Kilo urged "a new national contract for a peaceful and negotiated end to the crisis" arguing that "a bloody conflict must be prevented given that exacerbating the sectarian tensions could lead to chaos."[8] At the beginning of August, Kilo warned, "There are some who have chosen to take up arms against the regime, but they only represent a minority of the demonstrators. But if the authorities persist in using violence, then they will become a majority."[9]

At first, national dialogue was also defended, but as the uprising has advanced and the repression intensified, most of the intelligentsia has come to reject this option. In March, the intellectual Burhan Ghalyoun, later named president of the National Transition Council, warned that to get out of the crisis, the whole crisis, the use of weapons must be rejected and political logic must be accepted⋯ The logic of negotiation and political dialogue requires credibility and the recognition of the other. He cautioned, however, that such an attitude seemed lacking in Assad, who continued "to dream about formal reforms within the existing regime, a regime with only one ruler, one party, and one authority."[10]

Confronted with external and internal pressure, the regime indicated its readiness for a national dialogue, authorizing a historic meeting with opposition members in Damascus on June 27. Some members of the protest movement, notably Kilo, Louai Hussein, and Hassan Abbas, chose to participate, yet most signatories to the 2005 Damascus declaration boycotted the meeting and contested the participants' right to speak on behalf of the demonstrators. Then on July 9 and 10, the regime sponsored yet another national dialogue meeting, which was boycotted by almost all opposition leaders. "While the regime is meeting—and that is what today was—there are funerals in other cities, and people continue to be killed and arrested," commented Razan Zeitouneh, a lawyer and prominent LCC member.

The meeting was attended by two hundred delegates, most of them intellectuals and politicians with close ties to the regime, and was presented as a steppingstone to a transition to democracy. Vice President Farouk al-Shara opened the meeting with the expressed hope that "it will lead to... the transformation of Syria into a pluralistic, democratic state where its citizens are equal."[11] In a surprising development, the final statement exceeded expectations by raising the issue of releasing all political prisoners, including those arrested since the uprising began. It also argued that "dialogue is the only way to end the crisis in Syria" and strongly rejected any foreign interference under the pretext of defending human rights.[12] Furthermore, it called for

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8) *As-Safir*, Apr. 16, 2011.
9) *Al-Akhbar*, Aug. 9, 2011.
10) *Al-Jazeera TV*, Mar. 28, 2011.
11) *Al-Watan* (Kuwait), July 8, 2011.
12) Syrian Arab News Agency (Damascus), July 12, 2011.

deeper reforms and stronger efforts to combat corruption and requested the amendment of the constitution to make it commensurate with the rule of law, a multiparty system, and democracy.

Most Syrian activists agreed that the offer to engage in dialogue came too late and that the regime had lost all credibility. In their statement, the LCC dismissed the meeting's results on the grounds that "Syrians who have already been killed and tortured by the thousands will not accept any proposals or arrangements that leave Bashar Assad, the intelligence service, and the death squads in control of their lives."13)

As the uprising intensified and the dissidents' demands grew, the need to form a transition government, given the possible collapse of the regime, was considered. In a subsequent meeting, held in Istanbul on August 23, 2011, the Syrian opposition agreed to create a National Transition Council (NTC) comprised of opposition members both inside and outside the country and presided over by Burhan Ghalyoun, a Syrian academic residing in France. Despite their differences, the intensity of the repression had brought opposition members together.

In September, this group was renamed the Syrian National Council (SNC). It included members of the Damascus declaration, the Syrian Muslim Brotherhood, the Local Coordination Committees, the Syrian Revolution General Commission, Kurdish factions, tribal leaders, and independent figures. One of the first decisions of SNC was to approve a national consensus charter that defined the principles of the Syrian revolution:1) Affirming that the Syrian revolution is a revolution for freedom and dignity;2) Maintaining the peaceful nature of the revolution;3) Affirming national unity and rejecting any call for sectarianism or monopolizing of the revolution;4) Recognizing Syria is for all Syrians on an equal footing;5) Rejecting foreign military intervention.14)

While the opposition members initially rejected any foreign intervention, voices favoring this eventuality began to emerge, albeit still in the minority. Yet given the worsening situation, the opposition has begun to consider different scenarios to bring the dictatorship to an end. Some favor following the Libyan example where the uprising combined with foreign military intervention to bring about the collapse of the regime.

Although these voices still represent a minority, they reflect the growing desperation of the Syrian opposition, which believes that the uprising may lose its muscle if none of the

13) Declaration, Local Coordination Committees in Syria (LCC), Sept. 7, 2011.
14) National Consensus Charter, Syrian National Council, Sept. 15, 2011; Steven Heydemann, "Syria's Opposition," United States Institute of Peace, Washington, D.C., Sept. 20, 2011.

objectives are reached soon. On July 29, 2011, a group of defectors formed the Syrian Free Army (SFA). By mid October, there were an estimated 10,000 to 15,000 defectors especially active in the north and central regions. In the last months of the year, SFA began launching some operations against the Syrian army.

The LCC has tried to nip this debate in the bud, stating in a communiqué, "While we understand the motivation to take up arms or call for military intervention, we specifically reject this position as we find it unacceptable politically, nationally, and ethically."[15] At least for now, then, it seems that a Libya-style intervention is being rejected. Malih concurred, "Any foreign intervention would destroy Syria, just like what has happened in Libya… the revolution in Syria will prevail, and the regime will be brought down by peaceful means." He added that "the revolutionaries will not fall into the trap" of militarizing the uprising.[16]

An eventual militarization could have devastating effects and would likely be exploited by the regime to present itself as the guarantor of internal stability and to regain some of the territory lost to the rebels. The possibility of an outbreak of civil war could have unforeseeable effects on Syria's neighbors since it shares borders with Israel, Lebanon, Turkey, Iraq, and Jordan.

Ⅲ. Future Implications

Although the influence of opposition intellectuals in Syria remains limited, there is little doubt that the Assad regime considers their demands for the release of political prisoners, suspension of the state of emergency, and an end to the single-party system a declaration of war. This further underscores the regime's tenuous grip on power as none of the members of this small opposition group can count on a broad social base or hail from Syrian families boasting great wealth or long lines of politicians.

Given the absence of freedom of expression and the regime's absolute control of the media, the intelligentsia has not been able to inculcate its message to the Syrian "street" or to mobilize it, a task that now falls entirely to the Local Coordination Committees. Some are further hampered by their past: A good portion of their members are Nasserites, communists, or socialists, affiliations that are in decline and lack any significant popular backing. Support for secularism also weakens their influence among the more traditional or devout segments of Syrian society.

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15) "Statement to the Syrian People," Local Coordination Committees in Syria, Aug. 29, 2011.
16) *Asharq al-Awsat*, Sept. 11, 2011.

Internal divisions and lack of coordination have also taken their toll. Some of the leading figures differ over core issues such as whether it is possible to have a dialogue with the regime; what the proper relationship with foreign powers should be; what form a transitional government should take, and how it should rule. These differences have been apparent over the last few months.

These structural deficiencies notwithstanding, the opinions of these intellectuals are followed by an important segment of the demonstrators, who hold the struggle by these thinkers against the regime in great esteem. Indeed, this group of intellectuals and critics is solidly represented in both the Committee for National Salvation and the Syrian National Council spearheading the uprising. Perhaps this uncertain situation will be the most serious obstacle to stability of post-Assad Syria.

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Presentation 3

Arab Oil Weapon of 1973:
Any Lesson for Today's Gulf-East Asian Relations?

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Ⅰ. Introduction

East Asia rapidly increases its dependence of oil on the Persian/Arabian Gulf area in this century. China became net oil importing country since 1993, and 50% of imported oil came from the Middle East in 2009 [USEIA 2010: 8]. South Korea increased its oil imports from the Middle East since its economic developments and the Persian/Arabian Gulf oil accounted for approximately 75% of oil imports in 2010 [USEIA 2011: 2]. Japan became more dependent on natural resources after the Fukushima accident in 2011, and its public opinion strongly insist to pull out of nuclear energy, which probably mean the further increase of dependence on fossil fuels if renewable energy cannot substitute it. All these trends made the Middle East, especially Gulf states more important for East Asian nations.

In this context, it became important to understand the so called historical event 'Arab oil weapon' in 1973, which affected Japanese economy and posed the question of energy security question. It was only Japan that heavily depended on Gulf oil in that time among East Asian countries, so this experience might give useful insight for other countries in East Asia which are increasing dependence on Gulf oil.

From late 1973 to early 1974, Arab oil producing countries reduced its oil production and imposed oil embargoes against the US and Netherlands. Although Japan was not the target of this embargo, Arab oil producing countries also imposed the oil production cut, which affected the amount of oil imports to Japan and it tremendously shocked Japanese government [Katakura 1986: 109]. The actual harm to Japanese economy by this production cut was actually not so big, but it posed the question of energy security.

This event remains the last political venture that Arab oil producers took, which have

large amount of world oil reserves, until now. Few researchers seriously insist that this event will reoccur today, but it still worth discussing this historical event if we consider today's growing Gulf-East Asia relations.

Baring this in mind, this paper firstly analyzes the event of 1973-74 succinctly and tried to abstract the essence of success of the Arab oil weapon. The main focus is put on the decision-making process of King and Amirs as well as oil ministers in Arab Gulf monarchies, and clarifies why they used oil for the sake of Palestinians, Egypt, and Syria. It also clarified why they could adopt the united measures against Israel and its supporting countries even if each country has the different national interests.

Second part of this paper discusses whether or not this kind of event would happen in today's context. I will briefly review important political transformation from 1970s but mostly focus on recent political developments from 2000 concerning Israeli problem and clarifies how the political leaders in Gulf Arab monarchies responded these political developments. Main discussion would be focused on Gulf Arab monarchies leaders' perception of the event such as the Second Intifada beginning in 2000 and Gaza War in 2008.

Ⅱ. The essences of Arab oil weapon in 1973

It is needless to say that the direct cause of Arab oil weapon was the October War in 1973among Israel, Egypt, and Syria. To support Egypt and Syria in this war, Arab oil-producing countries gathered in Kuwait and formulated the common oil policies in October and November 1973; first they decided the oil production cut, secondly imposed oil embargoed against the US and Netherlands. From October 1973 to March 1974, 2.6 millions of barrel oil was reduced on average everyday [Yetiv 2004: 11], and this was one of the most significant oil disruption in the recent history [IEA 2007: 19]. Since the whole story of this episode is too long to depict, I succinctly pick up some essences which led to the success of Arab oil weapon in 1973.

1. Coordination for formulating unified Arab oil policy

Since Arab countries, or more precisely Arab oil producing countries, have different political and economic interests, it is hard to make them to take one policy. The Arab oil weapon policy in 1973 was the very rare successful case in this sense that Arab nations except Iraq took the uniformed foreign policy toward Western countries, and Kuwait played the important role on this unification process of Arab foreign oil policies [Kondo 2012: 1]. Even before the outbreak of the October War, Kuwait's political leaders lead the opinion for Arab states' use of oil weapon in the time of war with Israel [Kondo 2012: 7-15]. After the war breakout, Kuwait's Oil Minister Atiqi summoned Arab oil ministers to Kuwait, and they decided the 'oil weapon' policy [Kondo 2012: 15-19]. So the role of

Kuwait at that time is so important for coordinating Arab oil producer's interests. This role of effectivelycoordinatingconferences and taking initiatives are essential if Arab nations want to be united under the one policy.

2. Political and economic cohesion among key Arab countries

Many dimensions of cohesion among key Arab countries, which were seen since late 1960s, also extremely contributed the success of Arab oil weapon in 1973. Not like before, the relationship between Saudi Arabia and Egypt became dramatically improved after Egypt's defeat in the 1967 War and inauguration of the new president Sadat in 1970. Three Arab oil producers, Kuwait, Saudi Arabia, and Libya, offered economic assistance to Egypt since 1967 (see Table 1), and this generous stance by Arab oil producers for Egypt lasted until 1977 when Sadat broke away from Arab front and visit Israel [Feiler 2003: 31].

Superpowers enjoyed the relatively peace situation called 'detente', and showed indifferences regarding to the situation of Arab-Israeli conflict, even though frustrations in the Arab side were so high because they not only lost vast territories but also suffered from Palestinian refugee problems after the 1967 War. This indifference by super-powers promoted the solidarity among Arab nations.

3. Oil market conditions

Apart from these political points, oil market situation was also important for the success of Arab oil weapon in 1973. Not like in 1967, when the oil is abundant and the share of the Middle Eastern oil in the market was not so high, oil market increasingly changed to seller's market; world oil supply is smaller than oil demand [Yergin 1991: 548-549]. Arab oil producing countries imposed oil embargoes against the US in 1967 War but its effectiveness was so limited; the oil market was extremely buyer's market. In 1973, however, Arab oil countries had the upper hand in the oil market.

This trend also added the pressure for the oil price hike, and it furthermore make Arab oil producers more powerful. Even before the outbreak of the October War in 1973, oil price was increasing, but the War extremely hiked the price 4 times before, which brought large amount of surplus money to Arab oil producing countries. With these increasing revenues, Arab oil producers did not care about slight revenue loss caused by Arab oil weapon policies. This economic condition was very important to think the successfulness of Arab oil weapon in 1973.

4. Reaction by Japanese government

Not like the US and Netherland, that were regarded as 'foe'of Arab countries during the October War, Japan was not the direct target of oil embargoes policies. However, Japan still recognized as 'non-friendly' nation to which oil flow should be reduced by Arab

nations in the early stage of the first oil crisis, though many European countries, including the UK and France, were regarded as 'friendly' nation by Arab. Katakura pointed out that arms sale by the UK and France contributed the positive Arab perception of both countries whereas Japan could not take that option because of the constraint of the Japanese Constitution [Katakura 1986: 120].At this time, Japan announced the Arab-friendly statement in November and dispatched Deputy Prime Minister to Arab countries, and these act were highly evaluated by Arab nations and every'oil weapon' measure against Japan was took away.

Ⅲ. Today's possibility of the reemergence of Arab oil weapon

In the previous section the reasons of successful Arab oil weapon was discussed. Baring in mind these reasons, the recent political and economic developments since 1973 are discussed in this section.

1. Transformation of oil market since 1970s

From 1973, the environment surrounding oil market has substantially changed. In 1973, oil accounted for 44.6 percent of total primary energy supply in the world, but in 2007 the figure decreased to 34.4 percent [METI 2010: 18]. This trend could be enhanced if main competitive energy for oil such as shale gas, nuclear power, or renewable energy substitutes the share of oil. In Japan,78 percent of primary energy was oil in 1973, but this rate declined to 45 percent [METI 2010: 203]. Therefore, oil share in total primary energy was decreased, but still it is the biggest energy source in the world, and the energy of the car and other transporting machineries.

Lessoned from the Arab oil weapon in 1973, OECD member states formed International Energy Agency (IEA) in 1974. This organization arranged various emergency plans such as stock draw and oil facilitation among IEA member countries when oil disruption could happen [IEA 2007: 22-28]. In 1991, International Energy Forum was established, which aims at promoting dialogue between energy producing countries and energy consuming countries. Ministerial meeting were held every year. So compared to 1973, institutions to prevent oil flow disruption were developed.

On the other hand, it is noteworthy that National Oil Company (NOC) became the dominant player in oil market now, sharing more than 80 percent of world oil reserves (see Table 2). In the time of first oil crisis in 1973, International Oil Company was still hold the ownership of oil reserves in Arab Gulf monarchies, but from that time stocks of the companies were bought by oil-existing countries, and nationalization of the companies accomplished in Saudi Arabia in 1988.Oil-producing countries now have a full sovereignty over oil resources in their land, so it became easier to use its resources as political tools than before.

2. Political transformation from 1970s to today

Unlike the period until the October War, wider version of Arab-Israeli conflict which directly involving surrounding Arab countries such as Egypt and Syria has not been occurred for nearly 40 years; more limited version of Arab-Israeli conflicts occurred in these 40 years in Palestine and Lebanon instead. Conflicts between Israel and Egypt and Israel were disappeared after the Camp David Accord in 1979. The battle for Golan Heights has not been happened since 1974. Palestinians and Lebanon's Hizbollah have been the main Arab side of actors in the conflicts. But we cannot rule out the possibility that inauguration of new Egyptian President Mursi possibly changes this long lasted pattern of absence of broader Arab-Israeli conflict.

Sadat's visit to Israel in 1977 and the following Camp David Accord dramatically changed Gulf stance toward Egypt. Egypt could not get economic support any more from the Gulf Arab monarchies, and the US became the main economic supporters of Egypt instead. Both Egyptian economy and military benefitted by US generous aid under the Camp David order (Figure 1).

The Gulf Crisis in 1990 further disassociated the Gulf Arab monarchies and the Palestine problem. After PLO leader Yasser Arafat supported Saddam Hussein during the crisis, Kuwait and other GCC countries stopped their aids toward PLO. Although Kuwait used to be one of the main promoters of the Palestine cause during the October War [Kondo 2010], Kuwait rapidly became foe of the PLO after the incident. Saudi Arabia and Kuwait instead support Hamas in Israeli-Palestine conflicts.

Since the outbreak of the Second Intifada in 2000, anti-Israeli feelings were expressed by members of Saudi royal family. According to [BBC] on 12 October 2001,Prince Walid of Saudi Arabia said to New York Mayor Giuliani that "I believe the government of the United States of America should re-examine its policies in the Middle East and adopt a more balanced stance toward the Palestinian cause". In an August 2001 letter from Crown Prince Abdallah to President Bush alerting the United States to the potential for a serious rupture in relations [Yetiv 2004: 86].

Gaza War in 2008 also fueled anti-Israel feeling among Gulf Arab nations.At this time Saudi Prince Turki al-Faisal wrote the statement in *Financial Times* on 23 January 2009 that if the US administration does not take forceful steps to prevent further slaughters of Palestinians by Israel, the US-Saudi relationship is at risk [Al-Faisal 2009]. Kuwait is also gradually regained the previous pro-Palestine sentiments;16 Kuwait activist rode on Gaza flotilla in 2010 and this act was favorably reported by some Kuwaiti newspapers.

According to the survey of Arab Center for Research and Policy Studies in Doha in April 2012, which was taken place in 12 Arab states, 84 percent of the respondents believed the Palestinian cause to be a cause for all Arabs, and not solely a Palestinian issue [ACRPS 2012: 74].Only 21 percent of respondents expressing support for the peace

agreement signed with Israel by Jordan, Egypt, and Palestine. So Arab sympathy with Palestinians is still lively exists among Arab people.

Egyptian politics, which was the main catalyst for oil weapon in 1973, is fluctuating and it could take more hardline stance against Israel after the Arab Spring; it may rethink their 'cold peace' relationship with Israel under the new president. Newly elected President Mursi said that he feel the need to re-examine Camp David Accord at the interview of [FNA]in June 2012, which restricted the numbers of forces that Egypt could place on the Sinai Peninsula .Reem Abou-El-Fadl insisted that there is the strong anti-Israeli aspect in the Arab spring in Egypt [Abou-El-Fadl 2012: 6].

Mursi visited Saudi Arabia as the first foreign country he visited as a president in July 2012. Before this, Saudi Arabia offers Egypt USD 500 million-worth loan in April [KUNA 2012].Saudi Arabia's Finance Minister expressed that OPEC countries were in the process of finalizing its USD 2.7 billion package for Egypt in May 2012 [Reuter 2012a]. Saudi Arabia approved USD 430 million aid to Egypt in June 2012[Reuter 2012b].These amounts of the cash flow are relatively large in recent Saudi foreign aid history, and the possibly substitute some part of the US economic and military aid total of which are approximately USD 1.7 billion per year.

Ⅳ. Conclusion and implication for East Asian nations

The first oil crisis could not happen without alignment between two key countries of the Arab: Egypt and GCC countries. It is true that Saudi or Kuwaiti officials or publics were sensitive on the situation in Palestine, which is shown in the events such as the Second Intifada or Gaza War. However, it did not make these Arab oil producers to decide to use oil as political weapon against Israel and its supporting countries. If Egypt did not join the battle, it seems least probable to make GCC states to take action. So, Mursi's foreign policy is one of the most noteworthy things when considering another Arab oil weapon. It is quite big problem that whether or not he remains the current international relations and keep Camp David Accords, which possibly affect GCC states' foreign oil policies. Saudi Arabia and other oil producing Arab countries have not been offering the generous aids to their Arab neighbors since late 1980s [Kondo 2010], but if they changed this trend by compensating the US aid to Egypt, and could make again the loose alignment with Egypt, the Middle East situation would change and possibly became somewhat closer to the situation in early 1970s. Therefore, the probability of reoccurrence of Arab oil weapon in today's world is not so high, but we still need to be careful about the Middle East regional development especially on Gulf-Egyptian issues.

In this context, to prevent the oil disruption by GCC states, East Asian nations not only need be care about the relationship with GCC states, but also should be care about the relationship with Egypt and overall development of Arab-Israeli conflict. Concerning to recent development in Syria, China voted veto at UN Security Council on Syrian problem

which caused antipathy among policy makers in GCC, but China immediately sent the special envoyto GCC repaired the relations [Xinhua 2012]. President Mursiin August 2012 also promotes energy security in the broader sense for China. On the other hand, Japanese and Korean dispatch of their troops to Iraq in 2003 was seen negatively by many Arab publics, but this does not harm the two regions' relationship so much. The escalation of the Arab-Israeli conflict could foment the unrest in the relationship between GCC and the US, which could affect the relationship between the two US allies, Japan and South Korea, and GCC countries, so these two countries also need to be careful about the situation not only in Gulf area but also in Egypt and other the Arab-Israeli conflict relating issues.

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Tables and Figures

Table 1. Aid from the oil-producing countries to Egypt 1967-October 1973 (in millions of US dollar)

| Detail of aid	Amount
Khartoum and Rabat aid	1,590
Additional economic aid	220
Military aid	1,250
Total	3,000

(Source) [Feiler 2003: 13]

Table 2. Oil reserves by companies

Rank	Company	Reserves, billion barrel
1	Saudi Arabian Oil Co.	260
2	Petroleos de Venezuela SA	211
3	National Iranian Oil Co.	137
4	Iraq National Oil Co.	115
5	Kuwait Petroleum Corp.	101
6	Abu Dhabi National Oil Co.	92
7	National Oil Corp. (Libya)	46
8	Nigerian National Petroleum Corp.	37
9	Qatar Petroleum Corp.	25
10	OAO Rosneft	18

(Source) [OGJ 2011: 44]

Figure 1. US aid to Egypt (in millions of US dollars)
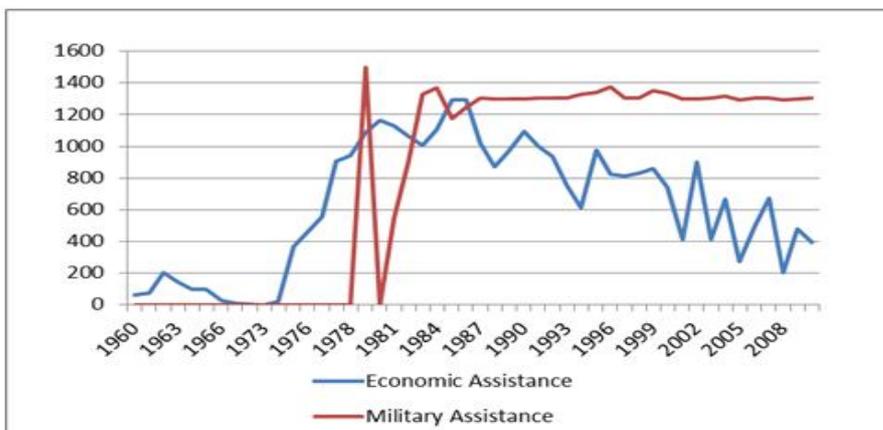
(Source)Made by author based on [USOLG]

Future of Middle Eastern Studies Ⅱ

Chair: **WOO, Duck Chan** (BUFS)

Venue: **I 303**

┃ **Presentation1**
Sha'rānī's Reconciliation of Jurists and Sufis
: The Perfect One with Two Eyes

Presenter: ENDO, Haruka
(Kyoto University, Doctoral student)
Discussant: LIM, Byung Pil (IMS)

┃ **Presentation2**
What Becomes a Transmitter of Allāh's Blessing (baraka)
: The Case Study of Olive in Tunisia

Presenter: FUTASUYAMA, Tatsuro
(Graduate School of Asian and African Areas
studies, Kyoto University)
Discussant: CHANG, Se Won (DanKook University)

┃ **Presentation3**
A Study on Electronic Culture Atlas for
Mediterranean Region Research

Presenter: KANG, Ji Hoon (IMS, Ph.D. Candidate)
Discussant: KIM, Hee Jung (HUFS)

Sha'rānī's Reconciliation of Jurists and Sufis
: The Perfect One with Two Eyes

ENDO, Haruka❙ Kyoto University, Doctoral student

I. Introductions

Since the thirteenth century, the ideas of Ibn ʿArabī (d. 1240) have been spread across the Islamic world by members of his school. He is best known for his doctrine of the "Oneness of Being" or the "Oneness of Existence" (*waḥda al-wujūd*), which expresses "*tawḥid*, or 'the affirmation of God's unity' in the ontological language of philosophy" [Chittick 1989-1990: 6]. Over centuries, those who have inherited Ibn ʿArabī's ideas have systematized and transformed his original metaphysical notions on the basis of their own contexts. Further, although there have been a large number of studies addressing Ibn ʿArabī himself, the ideas of his school have not been widely examined.

In this paper, I shall examine the arguments of ʿAbd al-Wahhāb al-Shaʿrānī (d. 1565) in Egypt and focus on his theory of the "Perfect One with two eyes." Shaʿrānī can be seen as a representative member of the school of Ibn ʿArabī under the Ottoman dynasty. It has already been noted that Shaʿrānī's works were of decisive importance in the spread of Ibn ʿArabī's theories in the Arab world [Chodkiewicz 1993]. His works were also widely read at the advent of Islamic reformism in eighteenth-century Syria [Hudson 2004]. Nevertheless, only a few studies have considered Shaʿrānī's concrete ideas [Johnson 1985; Pagani 2004][1]. This is probably because a number of scholars have identified Shaʿrānī as a historian because of his *al-Ṭabaqāt*, and so, his compositions have been used almost exclusively to study the history, culture, and customs of

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[1] A study on the theory of the saint (*walī*) by Johnson, and an article discussing *ijtihād* by Pagani. The main argument of the first study is that Shaʿrānī's purpose was to re-establish the strong bond between the law and sainthood (*walāya*). The latter study concludes that Shaʿrānī was a pluralist, who attempted only to dissolve the contentions among the different law schools rather than unify them, and thus approved of all their differences.

sixteenth-century Egypt[2], without fully assessing his specific role in Islamic thought.

During Sha'rānī's lifetime, Egypt underwent considerable social upheavals. There was an urgent need to resolve the division between jurists and Sufis [Winter 1982; 1992]. Sha'rānī aimed to unify this world, reconciling the jurists and Sufis. This analysis highlights how he, being both an *ulamā* and a Sufi advocating the teachings of Ibn 'Arabī, managed to unite a community where the opposing parties had been divided. The medium Sha'rānī used was the concept of "the Perfect One with two eyes."

I will begin by briefly summarizing Sha'rānī's background. Then, I will explore the theory of "the Perfect One with two eyes" by discussing its characteristics in detail. I will also attempt to posit this Perfect One as the *axis mundi* of Sha'rānī's thought.

Ⅱ. Sha'rānī's Background

Sha'rānī was born in a small village in Upper Egypt in 1493. Although he was taught along with his father and brother, at the age of twelve, he moved to Cairo for further studies. There, he gradually began to devote himself to Sufism. In 1507, he witnessed the collapse of the Mamluk era and the beginning of the domination of the Ottoman dynasty. Not long after this political transition, his fame and popularity spread across Cairo. His own *zāwiya* (lodge) attracted many disciples from across Egypt, allowing him to lead a lavish lifestyle [Winter 1992: 43-51]. He died in 1565 at the age of 74 years, one year before the death of Suleiman I. His tomb, which lies in the center of Cairo, remains a destination for those who seek help.

Although Sha'rānī belonged to the Shāf'ī school of law, he was also keen on obtaining knowledge from other Sunni law schools. A sturdy belief that all law schools are equal led him to attempt to unite all law schools via a method of mysticism. Sha'rānī also expressed a pro-*ijtihād* attitude in many of his works. Some of them were used by several Islamic reformists or Salafis who advocated *ijtihād* in the nineteenth century [Hudson 2004: 39-68; Sirry 2011: 82-88][3].

As a Sufi, Sha'rānī belonged to several Sufi groups and studied under as many as 50 shaykhs, including Zayn al-DīnZakarīyā al-Anṣārī (d. 1520), Ibrāhīm al-Maṭbūlī (d. ca. 1472), and 'Alī al-Khawwāṣ Burullusī (d. 1532). Sha'rānī identified himself in the theoretical lineage of Junayd (d. 910), a moderate Sufi, and emphasized the importance of obedience to Islamic law. He criticized those Sufis who either dismissed the law or executed supererogatory religious practices. Like his spiritual mentor Jalāl al-Dīn al-Suyūṭī (d. 1505), Sha'rānī defended the ideas of Ibn 'Arabī in the face of opposition. He often quoted from the *Futūḥāt-al-Makkīya*, Ibn 'Arabī's magnum opus. His arguments

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2) The followings are examples of such studies: Goldziher 1872; 1884; 1901; Horten 1915; Padwick 1961; Schimmel 1968; Winter 1982; Geoffroy 1995.

3) Jamāl al-Dīn al-Qāsimī (d. 1914) is an example of a reformer who was in favor of Sufism. Qāsimī used some of Sha'rānī's works when drawing up his ideas [Commis 1990].

countering the charges placed against Ibn ʿArabī, including those regarding the incarnation of God (ḥulūl) and union with God (ittiḥād), appear in many of his compositions.

Shaʿrānī had a strong concern for the Egyptian community [Winter 1973; 1982]. He lived through an age in which Egypt encountered many social problems, such as civil tensions, a shift of values under the new empire, and spread of apocalyptic ideas. Moreover, tensions between jurists and Sufis, as well as infighting among the jurists themselves, further increased social instability [Winter 1982]. Jurists belonging to different law schools opposed each other over legal opinions. Jurists and Sufis also criticized each other, denying the validity of each other's opinions [Winter 1982; 1992].

Faced with a crisis that could have split the community, Shaʿrānī felt it necessary to provide a theoretical solution to the problem. The concept of the Perfect One with two eyes played an important role. It became a means to reconcile jurists and Sufis and unify society.

Ⅲ. The Perfect One with Two Eyes

In this section, I will explore the theory of the Perfect One with two eyes by employing several primary sources. Shaʿrānī discusses this concept in many of his works. Considering the context of each work, this paper collates Shaʿrānī's various descriptions about the Perfect One and analyzes the role of concepts in Shaʿrānī's thought.

Just as Ibn ʿArabī proposed the theory of the "Perfect Man" (insān kāmil), describing him as a possessor of two eyes (dhu al-ʿaynayn), so also Shaʿrānī advocated the concept of "the Perfect One with two eyes" (al-kāmil man naẓara bi al-ʿaynayn) [AM: fol. 128b; BM: 94]. Yet, unlike the Perfect Man who witnesses God's transcendence and immanence, the Perfect One is a person who observes the exoteric and esoteric truths, that is, jurisprudence and Sufism, with two eyes. The Perfect One, who is adept at both paths, plays a role in reconciling jurists and Sufis.

Seeing things with two eyes is normal for human beings. In other words, the original state of humans is their perfect state. However, when a person with two eyes loses sight in one eye, he is degraded into a state of imperfection (qāṣir) [LM: 62] and ignorance (jāhil) [AM: fols. 71b; 86b–87a]. He becomes either a jurist or a Sufi, as "the one who sees things with one eye" (nāẓir bi-fard ʿaynaʿwar) [LM: 62], and begins denying the other party. This is the root of the contention between jurists and Sufis. They cannot understand each other's way of thinking because they lack the sight of the other eye, or lack the knowledge of the other party. This results in their criticizing one another.

In order to reconcile jurists and Sufis and unify the community, the imperfect person with one eye needs to go back to being the Perfect One with two eyes. This process is accomplished by following the paths of jurisprudence and Sufism at the same time. In what follows, I examine the process of the imperfect one returning to the original perfect state, and simultaneously becoming the greatest jurist and a perfect Sufi. I also discuss how

the Perfect One, functioning as a unifying principle of this world, attains the title of the Perfect Saint.

1. Mystical Experience and the Source of the Law

The key to returning to the state of being a Perfect One with two eyes is to return to the source of the law (*'ayn al-sharī'a*). According to Sha'rānī, this is where the realities of things (*ḥaqīqa*), or their real figures, are revealed [MK: 22; *AM:* 71a].

Jurisprudentially, the source of the law is defined as the origin from which each law school, legal opinion (*qawl*), and legal provision (*aḥkām*) evolves [*MK*: 3; 9; 15; 18; 35-36]. This source is the Sharī'a in its primary form, which was given to Muhammad.

Sha'rānī cites several examples to explain the idea of the source of the law. One of these is the metaphor of a triangular fishing net [MK, 3; 9; 15; 35-36]. As a first step in making a triangular net, you knit the first mesh (*'ayn*), which is at the apex of a triangle. Then, with the first mesh as the starting point, you knit meshes under it until it becomes a huge triangular net with many meshes. At first glance, each mesh appears different in size or shape; they might also seem incompatible.

However, all the meshes, however different they may seem, are connected to the first mesh at the apex, and were originally drawn from it. They are not at odds with each other at all since they share a common source. Therefore, if you look at the first mesh, you will notice that every mesh can return to it or can be unified by it. In this example, the first mesh corresponds to the source of the law, while the other meshes are examples of different law schools or legal provisions. Since the first mesh combines the rest of the meshes together, it is the source of the law, unifying different legal viewpoints.

The founders of the Sunni law schools (*a'imma mujtahidūn*) had access to the source of the law. In systematizing the Sharī'a, they derived their provisions from the source itself. Their legal provisions are reliable because they are based on the source of the law where reality is revealed. However, with time, people began to rely on the provisions derived from former jurists, without reflecting upon the source of the law [*MK*, 11; *YJ* 2, 94-95]. They gradually moved away from the source of the law that was presented to Muhammad. This marked the beginning of the *taqlīd* and turning away from Muhammad.

As they are devoid of the source of the law, the legal opinions of these *muqallids* are dubious and susceptible to mistakes. They fail to provide reliable legal provisions to the society in need. They also begin criticizing the opinions of other law schools over trifling matters. They are unable to see the source of the law, which unifies different law schools and legal provisions. They cannot see that their various legal opinions were incompatible with each other in the first place. In order to solve these problems, it is important to recover the source of the law. This is where Sufism finds its way.

There is already a large distance—as much as fifteen generations—between the first mesh (the source of the law) and the meshes at the base of the triangular net (various legal opinions); in other words, between Muhammad and Sha'rānī. The person who has

deviated from the source of the law needs to overcome this distance in order to return to the origin [*YJ*2, 94–95; *MK*, 3–36].

According to Shaʿrānī, it is a mystical experience (*kashf*) that enables this return to the origin [MK, 3–5; 9]. A Sufi can mystically witness the source of the law, jumping back to the generation of Muhammad. After obtaining the source of the law, he will instinctively recognize that different legal opinions are not at odds with one another, but that everything is derived from the same source. In that sense, different opinions are never incompatible. A Sufi with *kashf* can now approve every legal opinion and recognize that they do not conflict with each other [MK, 4–5; 9; 11; 18; 21; 25]. Thus, through mystical experience, he succeeds in eliminating the infighting among jurists.

In addition, the mystical experience enables the Sufi to derive the legal provision from the source of the law, in the same manner as the founders of the Sunni law schools. This legal provision, which is drawn from the very source of the law, is therefore accompanied by certainty. The Sufi who has encountered this mystical experience also becomes separated from *taqlīd* and begins to follow only Muhammad. In other words, by means of mystically witnessing the source of the law, he becomes a *mujtahid*.

> Will a person who has obtained the first source of the law (*ʿayn al-sharīʿa al-ūlā*), join the *mujtahids* in scooping (*ightirāf*) [the legal provisions] from the source of the law? Will he become separated from *taqlīd*? The answer is, yes [...]. He [who has attained the first source of the law] is separated (*yanfakk*) from *taqlīd* toward any *ʿulamāʾ* except God's prophet [*MK*: 16].

There is a difference between common *mujtahids* who do not see the source of the law and those who mystically witness it. This will be the certainty of their legal provisions. The provisions of the common *mujtahids* can be in error. Without knowing all the realities, the common *mujtahids* rely on surmises (*ẓann*) or reflections (*naẓar*) when deriving their legal provisions. However, surmise and reflection are fallible. Therefore, their judgments are prone to errors [*AM*, fols. 46a; 51b; 120a; 225b; *KG*, 4]. On the other hand, the provisions of the *mujtahids* who have mystically witnessed the source of the law are unswerving, for their provisions entail certainty (*yaqīn*) [*AM*, fol. 85a.]. *Mujtahids* who have witnessed the source of the law recognize the true realities of the things. Therefore, their provisions, derived from the very origin of the law itself, are certain.

With reliable provisions based on the source of the law, the Sufi who follows only Muhammad is called "the Perfect One in the path of Sufis" (*al-kāmil fī ṭarīq al-qaw m*[4])*, or the perfect Sufi.

> Nobody can be the Perfect One in the path of Sufis (*al-kāmil fī ṭarīq al-qawm*),
> unless he has become free from *taqlīd* toward *mujtahids* by [obtaining] the

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4) The original meaning of *al-qawm* is "the people." It is translated into "Sufi" on the basis of this context.

knowledge of certainty (*'ilm al-yaqīn*), the vision of certainty (*'ayn al-yaqīn*), and the truth of certainty (*ḥaqq al-yaqīn*). The Perfect One (*al-kāmil*) only has *taqlīd* toward Muhammad, and can derive knowledge of legal provision in the same way as the founders of the Sunni law schools (*a'imma mujtahidūn*) derived the legal provisions themselves. After this, some of the *mujtahids* may ascend to a degree of certainty (*maqām al-yaqīn*), not independently but by being inheritors of Muhammad. No evidence makes him [the Perfect One] waver (*lā tazalzala-hu al-adilla)*, and he does not withdraw what he says [*AM*: fol. 85a].

Therefore, the Perfect One is the person who can derive the legal provisions from the source of the law, which he obtains through mystical experience. He becomes free from *taqlīd* and obtains certainty as an inheritor of Muhammad's knowledge. He is now perfect in the path of Sufis, or in the esoteric way. This enables him to approach the highest degree of the founders of the Sunni law schools as a jurist.

2. The Greatest Jurist as *Mujtahid Muṭlaq*

According to Sha'rānī, the founders of the Sunni law schools are "the Perfect Ones at seeing the source of the law." In terms of jurisprudence, they are called "unrestricted *mujtahid*" (*mujtahid muṭlaq*), the title that is given to the greatest jurist.

As we have seen, a person who attains the degree of the Perfect One through mystical experience can be placed alongside the founders of Sunni law schools. He is now complete in the path of a jurist, or in the exoteric way, becoming the greatest jurist of his age. Backed by his mystical experience, he articulates reliable legal provisions from the source of the law, just as the founders of the Sunni law schools did. However, this does not imply that he can attain the same degree as that of the founders. There is still a gap, which makes them superior.

The founders of the Sunni law schools are specifically referred to as "independent unrestricted *mujtahid*" (*mujtahid muṭlaq mustaqill*), while another jurist in a later period, however great he is, will remain an "affiliated unrestricted *mujtahid*" (*mujtahid muṭlaq muntasib*). The independent, earlier *mujtahid* was allowed to establish a new law school, while the later one does not have such authority. After the four founders of Sunni law schools, no one else, except Ṭabarī (d. 923) can arrive at the degree of *mujtahid muṭlaq mustaqill*[5] [*MK*: 12, 27; *LM*: 181-182].

Nevertheless, a *mujtahid muṭlaq muntasib* has the same ability as a *mujtahid muṭlaq mustaqill* with regard to gaining new legal provisions from the source of the law. As the greatest jurist in his age at least, he can provide reliable provisions and guide the community.

Therefore, by regaining the source of the law, a person can complete both the exoteric

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5) Aside from being a historian and an exegete, Muḥammad ibn Jarīr al-Ṭabarī founded the Jarīr law school

and esoteric ways, or jurisprudence and Sufism. Being the greatest *mujtahid* and the perfect Sufi at the same time, the person becomes worthy of the title of the Perfect Saint, as a true follower of Muhammad.

3. The Perfect Saint and the Step of Muhammdan Sainthood

In order to become *mujtahid muṭlaq muntasib*, or the greatest jurist, a person must have mystical experience as a Sufi. A person who accomplishes both the ways of jurisprudence and Sufism will be conferred with the step of Muhmmadan sainthood (*qadam al-walāya al-Muḥammadīya*).

> Will a person who has obtained the first source of the law [...] become separated from *taqlīd*? The answer is, yes, for the step of Muhmmadan sainthood (*qadam al-walāya al-Muḥammadīya*) does not come true unless he derives the legal provisions of His [God's] law in the same manner as the *mujtahids* [who have witnessed the first source of the law] derive the legal provisions. Then, he [who has attained the first source of the law] is separated (*yanfakk*) from *taqlīd* toward any *'ulamā'* except God's prophet [*MK*: 16.].

A saint who becomes free from *taqlīd* through the source of the law achieves the step of Muhmmadan sainthood. A person who has Muhammadan sainthood can inherit all the knowledge or states of Muhammad directly. Therefore, having even a step of Muhammadan sainthood implies directly inheriting, even if partially, at least parts of Muhammad's knowledge or states. Such a saint has taken a step forward in coming closer to Muhammad.

> Among the saints, unless he derives his knowledge (*'ilm*) from the messenger of God—peace be upon him—without intervention (*wāsiṭa*), and without a need for any interventions (*wasā'iṭ*), the step of Muhammadan sainthood does not come true for him. I said to him [Sha'rānī's teacher, Alī Khawwāṣ], "[Does he not] even [need the interventions of] the imams of law schools?" He said to me, "Indeed [He does not need any interventions]. Among the saints, unless he is free from *taqlīd* except Muhammad—peace be upon him— the step of [Muhammadan] sainthood does not come true for him. This is because the knowledge of the *mujtahid* is [based on] surmise, while the knowledge of the Sufi (*al-qawm*) ascends from there to the knowledge of certainty, the vision of certainty, and the truth of certainty [*AM*: fol. 51a–51b].

When a saint obtains the source of the law and becomes free from *taqlīd* except Muhammad, he is granted the step of Muhammadan sainthood. He keeps the community close to Muhammad, since he can obtain legal provisions directly from the degree of

Muhammad, or the source of the law. As such, he becomes the "Perfect Saint" (*walī kāmil*) as a follower of Muhammad.

> Among the saints, if he says about one saint that he [a saint] is Shāfʿī or Ḥanafī for example, then he [a saint] has not yet attained the degree of the perfection (*maqām al-kamāl*) [...] All the legal provisions that the law reveals are, in terms of where to derive [the legal provisions], clear to the Perfect Saint (*walī kāmil*). This is the same for the founders of the law schools [*MK*:16].

> The legislative prophethood (*nubūwa al-tashrīʿ*) was cut off at the death of the messenger of God—peace be upon him—. After that, the inspiring angel began to enable the saint to understand the law of Muhammad, and inform him of the secrets of the law. As a result, the saint becomes as if he is deriving the law from God's messenger—peace be upon him—without any intervention. If the step (*qadam*) of deriving [the legal provisions] is assured to the saint, he [the saint] guides the community of Muhammad. Then, it is also assured that he stands at the head of their [the people in the community's] prayer to the mighty God [*YJ*2: 72].

Therefore, the Perfect Saint, who follows only Muhammad, can derive legal provisions from Muhammad without intervention from other jurists. As a follower of Muhammad, the Perfect Saint leads the community in the prophet's place, providing people with new knowledge about the law or new legal provisions. These legal provisions are reliable, accompanied with certainty, since they are drawn from the degree of Muhammad, or the source of the law. The step of Muhammadan sainthood is given to someone like this, who is an ideal perfect saint and a genuine inheritor of Muhammad.

As I have discussed, the Perfect One who has followed two paths, that is, those of jurisprudence and Sufism, is granted the step of Muhammadan sainthood. He is now the Perfect Saint as an inheritor of Muhammad. He unifies the exoteric and esoteric ways through the source of the law. As the Perfect One with two eyes, he can firmly reconcile jurisprudence and Sufism.

As an inheritor of Muhammad, the Perfect One with two eyes, or the Perfect Saint, guided people toward God, offered the community new legal provisions, and reunited a divided society. In this original perfect state, there is no differentiation between the exoteric and the esoteric, but they are harmoniously synthesized. However, with time, the Perfect One lost one eye. He was divided into a jurist and a Sufi. Both are ignorant and imperfect, seeing things with only one eye. This led them to oppose one another and marked the beginning of confusion in the community.

The way to overcome this situation is to return to the original perfect state: by recovering two eyes. This can be achieved through mystically witnessing the source of the law; through this, the imperfect one seeing with one eye manages to arrive back at the

place where he can confirm the two truths of jurisprudence and Sufism.

The Perfect One with two eyes, according to Sha'rānī, is worthy of being called the Perfect Saint and as a true follower and an inheritor of Muhammad. As the greatest *mujtahid*, the perfect Sufi, and the Perfect Saint all at the same time, the Perfect One succeeds in reconciling jurists and Sufis without leaning to either side. In this perfect state, there is no such thing as superiority or inferiority between the two ways, but both are requisite in retaining the unity of society.

We can observe the concept of the Perfect Saint, or the Perfect One with two eyes, at the very center of Sha'rānī's thought. The Perfect One stands in a place where differentiation between jurisprudence and Sufism does not exist. His hand gathers everything into one. He is the *axis mundi* from which Sha'rānī's thought evolves into many directions. Sha'rānī used the original state of the Perfect One as his starting point and expanded upon the concept, in order to present the idea of an ideal leader to the entire society.

Ⅳ. Conclusion

In this paper, I have analyzed the concept of the Perfect One with two eyes, and clarified how this original state can be regained. As we have seen, the Perfect One is the *axis mundi* in Sha'rānī's thought. As someone who has mystically witnessed the source of the law, or the very origin of every law school and legal provision, this Perfect One can remove the contentions between jurists and derive new reliable provisions from the original source.

However, I conclude that Sha'rānī's primary achievement lies in his attempt to reconcile the two different disciplines—jurisprudence and Sufism—using the Perfect One with two eyes as his medium. The Perfect One is simultaneously the greatest jurist, as *mujtahid muṭlaq muntasib*, and the perfect Sufi. He is also the Perfect Saint, being given the step of Muhammadan Sainthood. Synthesizing the exoteric and esoteric paths, the Perfect One as the Perfect Saint reconciles jurists and Sufis, and thus unifies this world[6].

Although Ghazālī (d. 1111) had already attempted to reconcile jurisprudence and Sufism in the eleventh century, Sha'rānī's social context differed from that of Ghazālī in two significant ways. First, unlike Sufism in the eleventh century, which was still struggling to justify itself, by Sha'rānī's time, Sufism had already attained legitimacy in the Islamic world. In Sha'rānī's mind, Sufism was on a par with jurisprudence. There was no relation of superiority and inferiority between them. Second, Sha'rānī was greatly influenced by Ibn 'Arabī's theory, which did not exist in Ghazālī's time. Sha'rānī experienced the need to specifically synthesize jurisprudence and theoretical Sufism, that is, Ibn 'Arabī's metaphysical doctrine. It can be said that if Ghazālī established a basis for reconciling jurisprudence and

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6) It can be said that while Ibn 'Arabī's Perfect Man unified the cosmos, combining the One and the many, Sha'rānī's Perfect One aspired at unifying this world, reconciling jurists and Sufis.

Sufism, Sha'rānī further fortified this reconciliation, using the Perfect One as his medium, in order to retain the unity of society right up until the modern age.

As I mentioned at the beginning of this paper, some modern age Salafis refer to Sha'rānī's works when constructing their ideas. The conventional premise is that Islamic reformism arose in defiance against Sufism. However, as Sirry [2011] suggests, some early Salafis were willing to employ Sufism or Ibn 'Arabī's doctrine. I believe that focusing on Sha'rānī's thought can provide new perspectives for the interpretation of Islamic modernity.

Over many years, Islam has experienced considerable transformation in the face of difficulties. This paper hopes to be a step toward a deeper understanding of Sha'rānī, particularly how he provided solutions in an attempt to change situations in society. It also hopes to further clarify the ideas of the school of Ibn 'Arabī, in order to bridge the hitherto disregarded theoretical lacuna in Sufism between the middle and the modern ages.

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What Becomes a Transmitter of Allāh's Blessing(baraka)
：The Case Study of Olive in Tunisia

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Ⅰ. Introduction

The aim of this presentation is to reconsider the transmitter of Allāh's blessing (*baraka*) from the case study of olive tree in Tunisia.

As many researchers have mentioned, *baraka* is one of the most important key concepts to understand Islamic people's belief [Takaki 1988: 246; Akahori 2005: 29-30; Saito 2010]. Geertz, an anthropologist, argued that saint worship in Islamic society is regarded as a transmitter of *baraka* [Geertz 1968: 45-50]. Similarly, Gellner defined that saint is the person who receive *baraka* visually, the person who mediate between Allāh and the devotees and the person who spread *baraka* to the devotees [Gellner 1969: 74]. Thus, *baraka* is one of the most important factor to understand saint worship. At the same time, previous studies about *baraka* by anthropologist consider it concerning with saint worship.

However, some researchers insist that *baraka* can inhabit not only existence concern with saint, but all of the objects and entities ultimately. Therefore it is possible to understand concept of *baraka* from the things as well as man (saint). As described below, in the case of Tunisia,theinhabitantsexplainedthatoliveis*baraka* and *mubārak* (blessed). The peoples present a commodity of silver motifs of olive trees to acquire *baraka*. Hence, this presentation explores how Tunisian peoples consider olive and olive tree as Allāh's *baraka*.

Ⅱ. The previous studies on *baraka*

Baraka is translated as 'blessed', 'honoured', or 'respected' by Allāh in *The Qur'an: an*

Encyclopedia [Leaman 2006: 109-110]. Even in pre-islamic MiddleEast,theconceptof*baraka* has been existed and it has indicated mysterious and supernatural prosperity [Chelhod 1955: 68-88]. Chelhod mentioned that concept of *baraka* was common in whole Semitic religion but remarkable character of Islamic *baraka* is that all forces of it lies to Allāh [Chelhod 1955: 68-88]. In the *Qur'ān*, a lot of specific objects are mentioned as *baraka*. For example, the *Qur'ān* itself (Q 6: 92, 6: 155, 21: 50, 38: 29), Masjid(Q 17:1), greetings of peace(Q 24: 61), rain(Q 50: 9), and olive tree(Q 24: 35) are mentioned in the *Qur'ān*.

However, not only these things, many anthropologists have been reported that *baraka* could inhabit in a various things in Muslim's life. For example, Westermarck who researched at Morocco in the early 20 century, pointed out that vast numbers of the objects and entities could be seen as *baraka,* through for over 230 pages in *Ritual and Belief in Morocco*, such as children, guests, caves, springs, meals, mountains, madman, cannon,sea, salvia of animals, horse, saddle, butter, milk, bread, ants, bee honey, and so on.

From these studies, some anthropologists mentioned that *baraka* ultimately may inhabit all the things in the Islamic world [Takaki 1988; Saito 2010]. However, as Saito mentioned, *baraka* has been considered mainly in connection with saints [Saito 2010]. As saint worship is one of the most major concerns among the anthropologist of Middle East and NorthAfrica,almostallstudiesof*baraka* have been connected to saints worship. As Geertz[1968] and Gellner[1969] demonstrated, these studies have focused on how *baraka* transmit from saint to the devotees to understand people's believing in their society. Not only saint, but shrines, and relic concerning with saints also have been focused on because these things remain and transmit saint's (Allāh's) *baraka* [Taylor 1989: 246-245; Meri 1999: 63-64].

In short, on the one hand some anthropologists mentioned that *baraka* ultimately may inhabit all the objects and the entities, on the other hand, other things (without concerning to saints) has not been focused on to understand concept of *baraka*.

Ⅲ. Methods and field site

In order to consider concept of *baraka* through thing, this presentation focus on olive. Olive is mentioned in *Qur'ān* 6 times and as described below, the people of Tunisia believe that olive has an important significance in Islam.

This presentation is based on field research date during 4 months (from September to November 2010 and February to April 2012). In this research, I listened to 47 inhabitants (informal interview) at interior decorating or gift shops where the commodities of olive motif are sold at 8 areas from north to south Tunisia. And I also conducted an interview at small farm village called Chenini, where olive is a main product in south part of Tunisia. In this village, not only listening to the in habitant's story, but I also participated

in several activities with the inhabitants such as harvesting of olive, pressing olive oil, using olive oil, and making charcoal from olive trees in this village.

The reason why I chose this area in Tunisia is that this area is 75% of whole tree is olive [Fleskens et al. 2005: 614]. Moreover in this village, each family has 100 to 200 olive trees, which produce 500－2000 litres of oil a year [Dieter & Guido 1989]. At this prefecture, 4430 tons of olives and 706 tons of olive oil are produced annually. This quantity is much different from other farm products, such as figs: 987 tons; almonds: 440 tons; pomegranates: 410 tons; and date palms: 35 tons [Office de Développement du Sud 2008: 69-70]. Thus, olive is the main livelihood in this village and this prefecture.

However, not only this prefecture, olive is the most cultivated tree in Tunisia as well—it accounts for approximately 17.5% of all farmland (1,500,000 ha, more than the total for the farmland for all cereal, which measures approximately 1,400,000 ha); moreover, olive oil accounts for 34.9% of all food export values at the national level [FAO 2009].

As well as economic aspect, olive has cultural and social aspect. For example, the name of most authoritative mosque in Tunisia is "Mosque of olive (*Jāmi' al-Zaytūna*)" and a lot of company and institution are named "olive" such as "Broadcast of olive (Idhā'a al-Zaytūna)" and "Bank of olive (Maṣrif al-Zaytūna)". And olive is drawn at both side of 5 millim coin and heads of 1 dinar and tails of 5 dinar coin. Thus, in all over Tunisia, it can be said that olive is the main agricultural product and it is an important things culturally as well as economically.

IV. The results of field research

One of the most reliable evidence that the olive is significant in the religion is that silver motifs of olive trees are sold in interior decorating or gift shops and these are used in people's houses and shops. There are several types of olive motifs, like pictures and miniatures of olive trees. In these shops, olive motif commodities are placed among another religious commodities such as *Qur'ān* and *Ka'ba* (photo). These commodities are found in all 8 areas where I researched. Some sellers and customer explained that

'This motif can bring *baraka* and good luck to the inhabitants when they put it in their houses' (a seller in Tunis2010.11.08).

'We present these goods to newlywed or someone who move into a new house. They put it on the wall of their house for receiving good things' (a customer in Tunis2012.3.16)

In fact, I found this commodity in the house of informants (2010. 11.1).

Gregory Starret mentioned that religious

commodities, such as goods depicting the *Qur'ān* and *Ka'ba,* are associated with divine favours or protection from misfortune [Starret 1995]. I suggest that, in Tunisia, the olive tree play a similar role to that of commodities depicting the *Qur'ān* and *Ka'ba*.

The adjectives that the inhabitants used to express their thoughts regarding olives and olive oil are presented below.

Arabic Tunisian: *khāṣṣ* (special), *muqaddas* (sacred), *baraka* (blessing), *mubārak* (blessed), *raḥma* (mercy), *ṣalāḥ* (useful, helpful), *malika* (queen), *hāmm* (important)

French: *vital* (vital), *symbole de la vie* (symbol of life), *comme des enfants* (like children)
For example, the inhabitants explained that

'Olive is something sacred in our community' (a man in his 60s, 2010.10.14)

'Olive tree has a meaning of giving bless (*baraka*). it is said that olives bring *baraka* to us' (a man in his 60s 2010.10.10)

'Olive is a useful and a blessed (*mubārak*) thing. Fig is also important but olive is different from other trees' (a woman in her teens 2010.10.23).

The results indicate that the olive has special implication that differs from that of any other trees or things. A lot of people mentioned that the olive is *baraka* or *mubārak* (blessed) while some people (not all of them) said that it is a sacred tree (*shajara muqaddasa*).

The inhabitants explained some main reasons why olive is *baraka* and sacred. The reason that almost all peoples mentioned is that olives are described in the *Qur'ān*. In the *Qur'ān*, there are six descriptions of the olive tree and olive oil (Q 6:99, 6:141, 16:11, 24:35, 80:29, 95:1). In particular, interviewees spoke of 24:35, which describes a 'blessed olive tree'[1]. This is the reason many people said 'the olive is the tree of *baraka*', as mentioned above. However, another reasons were explained which makes olive peculiar things that differ from others.

Many inhabitants explained that olives have many beneficial uses, such as providing food, medicine, and food for domestic animals. They explained that

'There are no plants other than the olive tree that bring so much use' (a man in his 60s 2010.10.25)

'Olives can be eaten not only by humans, but lees of oil can be feed for domestic animal' (a man in his 60s 2011.11.06).

'The reason (why olive is regarded as *baraka*) is that olive become food and medicine which cure the pain in the throat and the rough skin.' (a man in his 60s 2012.03.17)

Actually, according to the data of interview and participant observation, olive is used in various applications. For example, trunk, branches and roots are transformed into charcoal which is an energy source for this village and the lees from pressed olives and the leaves feed for domestic animals. As the inhabitants mentioned, among a various uses of olive oil,

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1) 'Allah is the Light of the heavens and the earth. The example of His light is like a niche within which is a lamp, the lamp is within glass, the glass as if it were a pearly star lit from a blessed olive tree, neither of the east nor of the west, whose oil would almost glow even if untouched by fire…' (Q 24:35).

medical uses for headache, pain of muscle, throat and stomach are important role in the village. Abdesmad Zaïed, a Tunisian literary researcher, explained that olive oil protects against almost all diseases and bring us good health; thus, it is the liquid of the divine [Zaïed 2006: 131].

Another reason is that olive trees are most mysterious trees compare with other trees. The local people explained that 'Olive trees live for many years. Some of them live for more than 500 years. There is an olive tree alive in some region where it has not been rain for 15 years. It would be mysterious. That is the reason why olive is special.'(a man in his 40s 2012.04.07)

> '(The reason why olive is different from other trees is) his vital energies. Olive tree do not die. Even when other plants are dying by dryness, only olive tree can live' (a woman in her teens 2010.10.23).

In this way, a lot of informants explained that olive does not die and that is the reason why olive is sacred and *baraka* (*mubārak*). During my participant observation, I heard that some inhabitants said '*baraka*'. For example, at the end of harvest, one of the inhabitants said 'This harvest is *baraka*'.

Furthermore, this presentation shows the ceremony which is done in specific region (Djerba). This ceremony is named *barbūra* which is done during the wedding. The group of young men or women visit to olive tree and go around this tree 3 times then they pray. Through this ceremony, *baraka* is given to newlyweds. Some inhabitants explained that

> This ceremony enables them to acquire *baraka*. In addition, there is another ceremony that children are beaten with olive leaves and branches. This ceremony wishes the children to get marry early. (a woman in his 20s 2012.04.05)

Thus, the relationships between olive and the inhabitants are varied by the area and the persons. However it can be said that all over Tunisia, more or less, olive has a religious meaning and especially meaning of *baraka,* because olive motif commodities are sold around the country.

Ⅴ. Conclusion

In the case of Tunisia, as we can see, the olive(andolivetree) is regarded as a tree of *baraka*, or *mubārak*. The characteristic feature of this tree which inhabitants explained is that it is described in the *Qur'ān*, it gives a lot of benefit such as medicine and it has an unusual ecological power. These characters make the inhabitants to regard it as tree of *baraka*. On the other hand, I have never heard the reason concerned with saint.

According to Otsuka, saints play a role of mediator between Allāh and the peoples 〈 Allāh- saints- peoples 〉 to transmit Allāh's *baraka* [Otsuka 1989: 121-134]. For the devotees, it is necessary to visualize Allāh's *baraka* in order to realize it and saint play this role through curing disease [Akahori 2005: 241]. The olive tree also serves as a

visualization and materialization of Allāh's *baraka* through giving benefit and health. This case indicates that the things also work as transmitter of *baraka* as well as person (saint).

Of course, olive is different from saints, holy places, and relics because it is used for food, energy, and feed in people's ordinary lives. However, there is the context which the people regard it as *baraka* in their lives such as the end of harvest in the farm village in this case.

Thus, not only saints or places and relics concerned with saints, but it is possible to focus on other objects, even though those things are used in their ordinary life. This perspective will lead us to understand profoundly how they realize Allāh's *baraka*.

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Presentation 3

A Study on Electronic Culture Atlas for Mediterranean Region Research

KANG, **Ji Hoon**│ IMS, Ph.D, Candidate

Abstract—Culture atlas represents various aspects related to cultures visually using points, arcs, and more in a map. Thus, it should be an available tool to survey cultures efficiently in digital environments. In this paper, we study on electronic culture atlas to research oversea regions, especially Mediterranean region. The purpose of Mediterranean researches represented by culture atlas would be results exhibition and the spread of study. To do this, in details, this paper proposes culture classification, culture atlas configuration, and culture atlas infrastructure.

Index Terms— *Culture Atlas, Electronic Culture Atlas, Mediterranean Region, Convergence*

I. INTRODUCTION

In recent years, there are many awareness of and demand for digital convergence of the future. In information technology, especially, convergence with other studies such as liberal arts should be needed because information technology is closely related to real life. As a result of information technology convergence, for example, advanced information technology devices such as smart phones would improve human life. Furthermore, it is more popular to focus on convergence with information technology and other studies having dislike properties each other.

Although there are differences in contents of studies such as liberal arts, natural sciences, economies, and so on, learning methods are similar to each other. For example, it is general methods to search related books and papers in libraries and retrieve research

materials through internet. In the age of digital revolution, internet should provide available communication environments among heterogeneous cultures since it is possible to exchange information via internet in despite of the limitations of time and space. Since keyword search is the normal method of information retrieve in the past, therefore, new information retrieval methods based on users' cognitive structures have been proposed actually[1,3,5].

Peter Morville was proposed a new term 'findability' as the ability of information utilization, which means finding ways to retrieve proper information[6]. In particular, to advance findability efficiently, he suggested maps as a basic tool for finding ways to search information. According to his book, also, the use of map to represent and construct related information is efficient method because it should enhance the ability of navigation and usability to search information users tend to need.

Maps are available tools to represent and survey cultures efficiently in digital environments. In this paper, we study the utilization of electronic culture atlas to research oversea regions, especially Mediterranean region. Generally, electronic culture atlasis the combined media, which combines information technology onto liberal arts, regional studies, and cultures. To do this, we survey the concepts of electronic culture atlas and case studies. Also, we inspect conventional methods for classification related to cultures. In this paper, we study on electronic culture atlas to research Mediterranean region.

The purposes of Mediterranean research represented by cultural atlas are results exhibition and the spread of study. Using culture atlas, furthermore, it is possible to take various works related to Mediterranean area easily. In details, results and materials through researches are put on display with time and spatial data visually using atlas. Also, these should be utilized to take new researches.

Ⅱ. Related works

In referenced to culture atlas, some studies have been conducted internationally or nationally. Among them, a significant research is ECAI(Electronic Cultural Atlas Initiative), which is a global consortium of people who share the vision of creating a distributed virtual library of cultural information with a time and place interface[11]. ECAI organizes a range of activities in support of project and technical development, communication, and related research. The goal of ECAI is that all people use them with no limitations by the representation of world cultures in electronic atlas. TimeMap is used for the ECAI community as GIS software for representing cultures[8].

Many online projects are taken based on the ECAI and TimeMap infrastructure. TimeMap Korea, one of these projects, is a visualization of the history of Korea in the First millennium AD[13]. The aim of the atlas is to convey, in an engaging and attractive manner, the growth and transformation of states in the Korean peninsula in their geographical context and to illustrate the development of the first unified Korean state. Fig. 1 shows execution page of TimeMap Korea.

Fig. 1. Execution pager of TimeMap Korea

Chosun culture electronic atlas is the study which is conducted by Research Institute of KoreanStudies[12]. It is built based on Chosun culture as thema, the Korean peninsula as space, and Chosun era as time. Also, the usability of users might be enhanced since it is visualized using a web-based system. Fig. 2 shows a main page of Chosun culture electronic atlas.
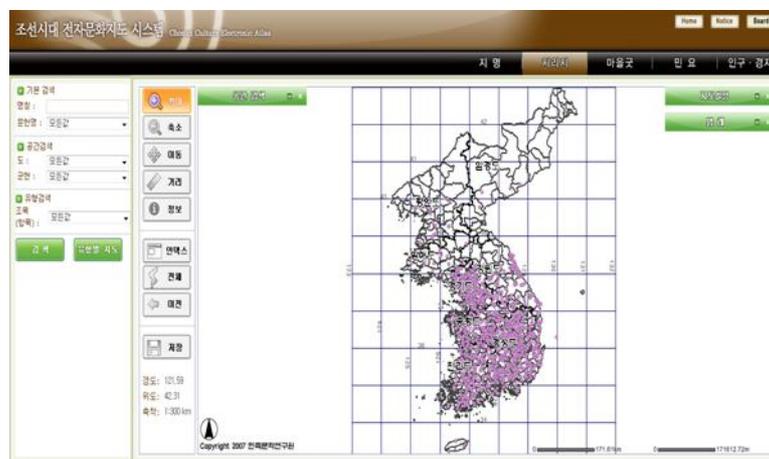

Fig. 2. Main page of Chosun culture electronic atlas

Encyclopedia of Korea local culture is a national project performed by the Academy of Korean Studies[10]. In the project, materials of local cultures in Korea are gathered and analyzed, and digitalized. Also, the digitalized information should be represented into atlas to enhance visualization.

Ⅲ. Composition strategy for mediterranean culture Atlas

3.1 Mediterranean Area Research

In general, Mediterranean Sea is a sea connected to the Atlantic Ocean surrounded by the Mediterranean region and almost completely by land: on the north by Europe, on the south by North Africa, and on the east by the Levant. Therefore, the research of Mediterranean region should focus on the history of the interaction of the cultures and people of the lands surrounding the Mediterranean Sea, especially transport, trade, and cultural exchange between diverse peoples.

Basically, the research of Mediterranean area may be classified two categories: nations and civilizations. Nations are countries included in Mediterranean region such as Greece, Italy, France, and more. Civilizations mean artificial things created by the interaction of the cultures and people of Mediterranean region such as religion, history, philosophy, and so on. Using these categories, in this paper, we will classify cultures, which is necessary to make culture atlas.

3.2 Analysis of Culture Classification

Culture is not simply a literary or an art, but is the result of their collective effort to improve the quality of life of people in various environments[2]. Cultures represented in atlas should be classified earlier because the scope of its concepts is not clear. To classify cultures, in general, there are several methods such as subject classification, hierarchy classification, aspect classification, and so on. Table 1 below shows the utilization cases of classification methods in related works.

TABLE 1
Utilization Cases of Classification Methods

	Encyclopedia of Korea Local Culture	Chosun Electronic Culture Atlas
Method	Subject + Hierarchy	Subject + Aspect
Feature	Strict Classification	Independence of Subject and Aspect

The research on Asia culture atlas mentioned some problems of culture classification methods when constructed culture atlas previously[2]. The main problem is the decline of user convenience and friendliness because of strict classification and hierarchical structure. Thus, it is necessary to solve this problem for building culture atlas. To do this, in this paper, we should apply research theme proposed by Mediterranean scholars with specialized

knowledge.

3.3 Culture Classification for Oversea Region Research

This paper should presuppose on the practical use of research production accomplished by Institute for Mediterranean Studies(IMS). IMS has been studied mainly about civilization exchanges in Mediterranean region based on regional studies and liberal arts[9]. According to the research output of IMS, thus, we would select topics classified for culture atlas. In the process, we would place emphasis on research topics studied by IMS members. These topics such as religion, history, philosophy, language, society will be targets for our classification, which might be important foundation for building electronic culture atlas.

To build Mediterranean culture atlas, in this paper, we classify cultures like as table 2. In the process, we apply a method that combines both subject classification and aspect classification. That is, the conventional method used in the study of Asia culture atlas would be applied properly to suit the research of Mediterranean region.

TABLE 2
Culture Classification for Mediterranean Culture Atlas

aspect / subject	concept	human	event	object
nation/ race	nationalism, thought	king, power holder	major nation event	national key facility
religion/ war	religious thought	mythical character	war, religion event	religious book, ruins, artifact
scholarship/ education	academic thought	philosop- her, educator	academic event, education -al event	academic book
literature/ language	linguistic thought	writer, author	literature event	literary works
custom/ law	living habits	lawer	law event	building food
politics/ economy	political thought	politician economist	political event, economic event	political relic, economic artifact

In the table above, we designate each cell as an atlas thema or culture thema. In other words, the value of each cell would be the thema or subject which is represented visually

in Mediterranean culture atlas.

Ⅳ. Realization plan for electronic mediterranean culture Atlas

4.1 Prerequisite Considerations

In general, culture atlas is to express cultures visually in atlas as media. Also, it would be used to understand the culture of specific region. In culture atlas, thus, it is necessary to utilize three axes simultaneously which are culture as theme, region as space, and era as time. Electronic culture atlas is a digital media of culture atlas using computers. That is, all information of culture atlas should be stored structurally into databases using computer systems. Users can retrieve easily needed information using electronic culture atlas.

In building electronic culture atlas, it is required to consider several things. First, the targets represented on the culture map should be chosen. In this process, the three axes must be considered: theme, space, and time. This is closely related to culture classification mentioned above and structured well in database to combine easily for user's retrieval. Next consideration is that how to construct electronic atlas in the view of progress, that is, step by step or at one go. According to progress methods, design details may vary somewhat.

4.2 Culture Atlas Configuration

In the design of culture atlas, it is an important consideration that user can access information easily in real time. Indeed, it is required to design and build databases which combine theme data, time data, and spatial data. When design database schema, thus, it is necessary that how to store related information efficiently. To construct databases for electronic culture atlas in this paper, we would apply the process, which likes as follows in fig. 3.
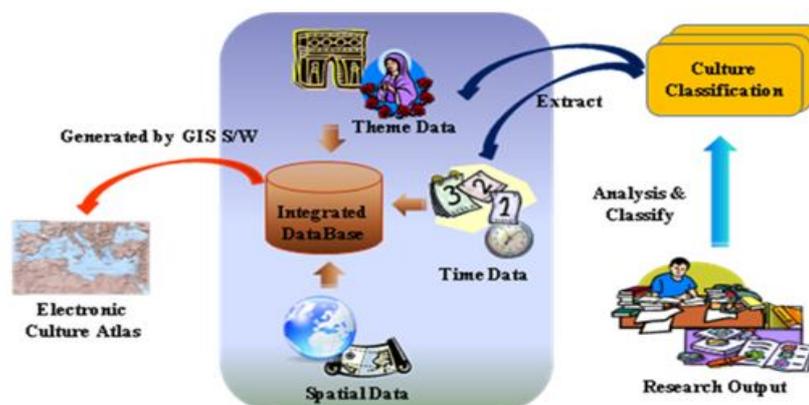

Fig. 3.Generation Process of Electronic Mediterranean Culture Atlas

In the process, we can collect and analyze research outputs studied by IMS firstly. Then, we would classify the analysis outputs and make culture classification for Mediterranean atlas. The next phase is the construction of integrated databases, which is the most important stage in the overall process. Using mapping methods, we should find relationships and design database schema in details to link the related information among theme, time, and space. For example, it is possible for user to access detailed information about Christian culture in the first century in Athens, Greece.

4.3 Culture Atlas Infrastructure

To manage and operate electronic culture atlas, this paper proposes an infrastructure roughly. Fig. 4 shows the infrastructure for electronic culture atlas, which consists of web server, GIS server, and resources server. It is based on web systems in order to access needed atlas or information easily without the limitations of time and space.
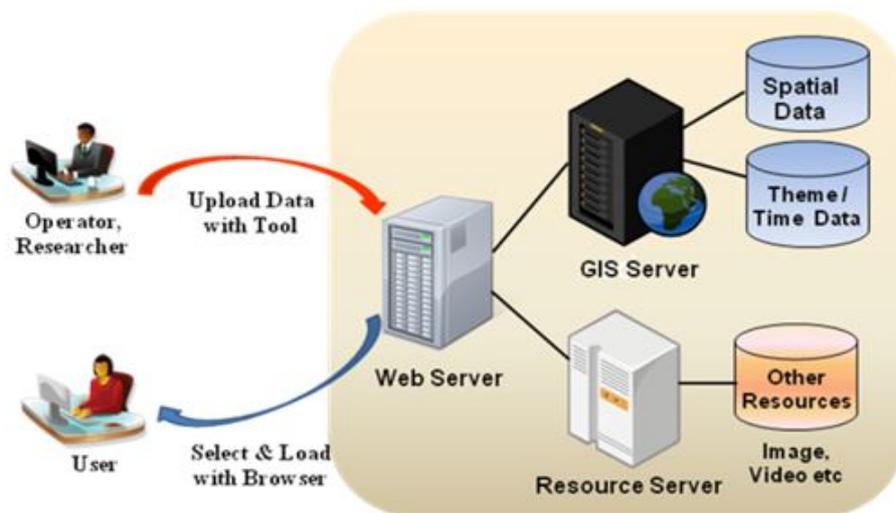
Fig. 4.Infrastructure for Electronic Mediterranean Culture Atlas

In details, GIS server manages all data required to configure culture atlas such as theme data, time data, and spatial data. Resource server supervises supplementary information related to culture atlas such as multimedia, video, image, and more.

Furthermore, it is required to use and combine atlas data and related data from GIS server and resource server to produce enriched results for users. Thus, this service would make existing data more useful.

Lastly, web server is located in the front-end and provides services to users as well as operators. Using web server, users could select and load needed atlas with browsers, on the other hand, operators or researchers could upload and manage atlas with tools.

4.4 Culture Atlas Construction

In this paper, we suggest two methods to construct electronic culture atlas actually. One is the construction method which builds atlas per subject such as religion, history, race, and more. Another is the method that construct atlas per specific thema, in other words, atlas thema. Table 3 shows the comparison of construction methods mentioned above.

The method to build atlas per subject makes electronic culture atlas after the selection of subjects which are universally utilized in the studies of institution. For example, subjects that play an important role to form the culture of the region are selected such as religion, language. Then, build atlas step by step in the scope of subject. In the process of the method, first of all, it is required to build databases on spatial data and time data. On the databases, then, data related to the subject would be added to make electronic culture atlas. This approach has the advantage that build culture atlas rapidly if databases on space and time are initially built. However, it would be faced with the risk of changes in database structures.

TABLE 3

Comparison of Atlas Construction Methods

Building atlas per subject	Building atlas per specificthema
− Select universal subjects − Build atlas step by step in the scope of subject − Make related system rapidly − Risk of changes in database structures	− Select specific thema specialized in institutions − Apply selected thema en bloc − Definitude of related data collection − Maintain atlas efficiently

The method to build atlas per specific thema makes electronic culture atlas on specific thema specialized in institutions which use a lot of culture maps. This method can be applied when data collection related the subject is completed. Because of this character, it has a disadvantage that takes a long time in the construction process. On the other hand, it could be efficient in maintenance due to less modified items after initial construction. Because both thema and its scope are definite, also, it is possible to collect data with fine qualities for culture atlas and reduce risks of changes in database structures.

V. CONCLUSIONS

Culture atlas represents various aspects related to culture visually using points, arcs, and more in the map. Thus, it should be an available tool to survey cultures efficiently in digital environments. For oversea region study, especially Mediterranean region research, we

suggest the way to apply electronic culture atlas in this paper. To do this, first we investigate and analysis the related papers and systems such as ECAI, Chosun culture electronic atlas, and more. On the basis of this work, this paper proposes culture classification, culture atlas configuration, and culture atlas infrastructure in details.

In culture classification for culture atlas, there are several methods in general. According to the characters of Mediterranean region, we apply the method which combines subject classification and aspect classification. Also, we describe the overall generation process in order to configure electronic culture atlas. Finally, this paper propose the infrastructure roughly to manage and operate electronic culture atlas, and two methods to construct them such as building atlas per subject and building atlas per specific thema.

In future research, we will make electronic culture atlas actually for Mediterranean region research. Based on culture classification, culture atlas configuration, infrastructure, and construction methods suggested in this paper, we will design and implementation electronic culture atlas on top of a specific GIS software such TimeMap.

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13. TimaMapKorea: http://ecai.org/Area/AreaTeamExamples/Korea/tm_korea.html

Political Changes in the Middle East

Chair: **HONG, Soon Nam** (HUFS)

Venue: **211**

❚ Presentation1   Middle Eastern Regional Order
: Past, Present and Future

Presenter: Hamad Mohammed (HUFS)
Discussant: HONG, Mee Jeong (DanKook University)

❚ Presentation2   The Arab Spring: a New Middle East Order

Presenter: Mohammed Elaskary (Al-Azhar University)
Discussant: CHOI, Jae Hoon (Dankook University)

❚ Presentation3   Understanding the Syrian Crisis
: Military Cohesion and Regime Resilience

Presenter: JANG, Ji Hyang & Peter Lee
(The Asan Institute for Policy Studies)
Discussant: Housam DARWISHEH
(Institute of Developing Economies,
Japan External Trade Organization)

❚ Presentation4   Arab Muslims' Increasing Interest in the Civil Society
Activities in Turkey

Presenter: Idiris Danismaz (Doshisha University)
Discussant: LEE, Ji Eun (HUFS)

The Arab Spring
: a New Middle East Order

Mohammed Elaskary❘ Al-Azhar University

Revolutions against dictatorial regimes do not happen very often, especially in the Middle East region, but when they do they trigger outstanding changes not only in their vicinities but also in neighbouring countries and, to a great extent, all over the world; the Arab Spring is not an exception.

In this paper I am going to explore the reasons which caused the Arab peoples to rise against their despotic and oppressive rulers who had been ruling over them for many decades. In this regard, I will discuss the economic, social, religious and political background in the Arab world prior to the outbreak of the widespread protests throughout the Arab world that came to be known as 'the Arab Spring'. I will also sketch out a map of the political scene in the area before and after the Arab Spring. In this respect, I would say that the fear of political jihadi Islam and the scepter of having hardliner Islamist rulers residing over the thrones of influential Middle East countries like Egypt or Tunisia have daunted international as well as local countries.

Then, I will examine the reception of the Arab Spring by the main world players (America, Europe, China and Russia) as well as the local and neighbouring powers in the Middle East area (Africa, Asia, the Gulf area and Israel). It must be noted here that the American-European stance towards the Arab Spring played a magnificent role in the initial success of the Arab Spring movement. Had it been to the Bush Jr. administration to react to the emergence of revolutionary sentiment in the Middle East surely the fate of the Arab Spring would have been hazarded. Again, had the Obama administration adopted a different policy from the one it did when it came to dealing with Arab revolutions, i.e. failing to stop the Ben Ali and Mubarak regimes from using unproportioned force against

civilian protesters, the outcome would have been catastrophic; we would not have an 'Arab Spring' at all but an 'Arab Nightmare'.

Finally, this paper aims at addressing the question of the future and the effect of the Arab Spring on world economics and politics. I will argue that the Arab Spring, due to the geo-political importance of the region, is going to dramatically change the eco-political scene not only within the parameters of the Middle East but also in many different parts of the world, especially Africa and Asia.

I. How did it happen and did anyone predict it will?

Tareq (Mohamed) Bouazizi was born on 29/03/1984 in Sidi Bouzid in Tunisia[1]. His father died when Mohamed was three years old and his mother married her late husband's brother so that he would look after her young kids. Mohamed's uncle grew ill and so the little boy had to look for a menial job at the age of ten. He had to leave school and (in spite of the fact that some media outlets reported that Bouazizi has a Bachelor degree) he did not get a university degree. Bouazizi used to sell fruits and vegetables at a local market in his Sidi Bouziz home city. Things were not at their best for Bouazizi and his family; he suffered from repeated rounds of harassment by the police and council officers who were used to receiving bribes from unlicensed street vendors so that they would let them go unharmed. Bouazizi was in a financial difficulty because police and council officials more than one time tossed aside or confiscated his goods.

On 16/12/2010, Bouazizi borrowed $200 to buy the stuff he would be selling the following day. Early morning on 17/12/2010, Bouazizi set his cart and was already serving his customers. Soon appear a female police officer, Miss Fedia Hamdi (35 years old), and her aid, Saber, who confiscate the bakery he is offering for sale. He hurries to his uncle, a nearby pharmacist, who speaks on his behalf to Fedia and his stuff is brought back to him. Only ten minutes later, Fedia and her aid come back and this time they seize Bouaziz's scales and vegetables. Bouazizi is said to have been harassed, humiliated, spat on and slapped on the face by a police officer and her aids for failing to provide a valid vending permit[2]. The young man hurries to the council to protest and to ask for his scales and vegetables to be returned back to him. He speaks to the general secretary of the council who answers him back in very rude language telling Bouazizi he "would

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1) Bouazizi's name is Tareq but his nickname is Mohamed. Biographical details on Bouazizi are taken from the wikipedia website, *Al-Ahram* and *Al-Masry Alyoum* newspapers.
2) According to Bouazizi's brother, Salem, policewoman(Fedia) and her aid(Saber) used to harass his brother for the last seven years before hisself-immolation incident (interview with *Almasry Alyoum* on 19/01/201 (http://today.almasryalyoum.com/article2.aspx?ArticleID=285230).

not speak to scum like him". He rushes to the governor's office willing to complain to him but he is denied access. Minutes later, Bouazizi, who seems to have a nervous breakdown, douses himself in petrol and sets himself alight in front of the city council. He dies from his severe injuries on 04/01/2011.

This is the story of Bouazizi which triggered unprecedented large scale waves of protest all over the Arab world; a story that happened hundreds or thousands of times in the semi-democratic Arab world during the last few decades yet with no scruple. It was not unusual that innocent and vulnerable unlucky persons may have been dragged, beaten, tortured, imprisoned or even killed for little or no reason. Bouazizi, being the breadwinner for his family, could have tolerated the insult (as he had done earlier) had it not been inflicted upon him by a female police officer; something which Arab inherited honour, dignity and pride would not stand[3].

In spite of the fact that protests against the Tunisian regime started only one day after the Bouazizi incident his death unleashed widespread unrest all over Tunisia and ignited revolutionary sentiment throughout the whole Arab world. The result is what came to be known as the Arab Awakening, the Arab Revolution or the Arab Spring. The then Tunisian President, Zine el-Abidine Ben Ali, fled the country on 11/01/2011 after serving more than twenty years in office, only one week after the death of Bouazizi.

Ⅱ. Causes of the revolution:

Apart from the Bouazizi incident, there have been many other genuine reasons which caused and triggered uprisings in the Arab world. The main reasons among these are: dictatorial ruling, dire poverty, utter injustice, severe unemployment and higher levels of corruption. The Arab world has been plagued with authoritarian rulers since the withdrawal of imperial forces in the mid-twentieth century. Yet, no big-scale revolt had had happened in any given Arab country except brief tumults and unrests which were dealt with quickly and duly by the then oppressive police forces[4]. For political, economic and other reasons, world powers kept watching what was going on in the region; human rights violations went unpunished by the international community. Ironically enough, the long serving Arab dictators, Mubarak, Gadafi, Ben Ali and Ali Saleh have gone quickly with a small number of committed followers moaning their toppling or death.

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3) Ibid, it is so offending for an Arab man to be humiliated or beaten by a woman. Bouazizi's brother, Salem,toldAlmasry Alyoum reporter that "according to our tribal tradition in Alhamahma tribe, if you are beaten or humiliated by a female you should wear a feminine costume".
4) For the reasons of the Arab Spring see footnote no. 6.

Under the un-guided rule of ex- Arab despots, millions of hapless citizens had to suffer from malnutrition, poverty, pitiable health services and oppression. According to many world organizations, the number of poor people in the Arab world is alarming, amounting to %40 in a country like Egypt with a daily income of less than $2[5]. If people can live up with low budgets, however, it is so difficult to cope up with tyranny. Many, if not all, Arab countries lived under emergency laws for more than four decades. Thus, for example, Egypt (a leading Arab country) had to resort to emergency laws from 1967 to 2012 with a single periodic interruption in 1980s. Accordingly, mainstream revolts and gatherings were banned and many of those who dared to challenge or protest against the barbaric regime ended up in prison[6].

There are many commentators and thinkers who believe that the causes of the Arab Spring are mainly 'economic'. David Sorenson, for example, argues that poverty, high levels of corruption and flawed electoral system are among the main reasons behind the surfacing of tidal waves of protest all over the Arab world in 2011[7]. There are many commentators and thinkers who believe that the causes of the Arab Spring are mainly 'economic'. David Sorenson, for example, argues that poverty, high levels of corruption and flawed electoral system are among the main reasons behind the surfacing of tidal waves of protest all over the Arab world in 2011[8]. Many of the Arab countries were supposed to be in a reformed mode in line with what has been stipulated by the IMF standards. In 1990s, the privatization process in Egypt went loosely and receded into the ugliest form of 'crony capitalism' with corrupt high profile government officials favouring a small number of businessmen[9].

On the contrary, I agree here with Katrina Dalacoura, who thinks that in spite of the fact that the 'economic' factor is an important trigger it is not the major reason behind the tidal wave of uprisings that hit the Arab world early in 2011. Dalacoura, in this regard, states that it would be "a mistake… to see the uprisings as being driven primarily by economic grievances[10]." What supports my, and others', contention that the Arab

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5) For example, the 2010 Transparency International report,
   (http://www.transparency.org/regional_pages/africa_middle_east/middle_east_and_north_africa_mena_).
6) The number of those detained is between 1700 and 30000 (Housam Ramdan, أسباب قيام الثورة [The causes of the revolution] http://www6.mashy.com/home/tahrir-egypt/revolution-causes). When it comes to human rights, according to the 2010 Freedom House report, none of the Arab countries fitted in the 'free' nations category while only three Arab countries were rated 'partly free' and fourteen 'not free'. The report can be seen at:
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9) Rodney Wilson, "Economy: the root of the uprising", ibid, p.49.
10) Katrina Dalacoura: Democratisation: Uprising, Violence and Reform", in *The Arab Spring:*

Spring is not the revolution of the poor is that the majority of activists all around the Arab world who opposed the autocratic rule of Arab dictators (shortly before the outbreak of the protests on a large scale) were mainly well-off young men and women who fought for their, and our, freedom. No wonder then that at the beginning of the insurgency, Arab regimes used to mock those activists and those who sympathized with them nicknaming their protest as "the facebook revolution", of course with the aim of belittling the heroic deeds of these people and undermining the impact of their protests[11].

On the other hand, we never lack those conspiracy theory fanatics who would argue that the Arab Spring is no more than a wicked plan that aims at destroying the Middle East and that it is either a manifestation of the "creative chaos" theory or the making of international, mainly American and European, intelligence forces. This hapless stance, ironically, has been adopted by the least democratic countries on earth: Russia, China, Iran, Syria and Algeria. These countries aim to keep their peoples away from the 'curse' or 'plague' that hit the Arab world[12].

Ⅲ. The Reception of the Arab Spring by the world:

As has been denoted earlier, the Arab Spring has colossal ramifications on the Middle East as well as the whole world. The reception of the Arab Spring has differed from country to another depending on the loss or gain each might get/lose from it. The reactions toward the Arab Spring can be classified into three main categories: those who supported it (the majority of countries in America, Europe and Asia), those who rejected it (Russia, China, Iran, Syria, Israel and many others), and those who took a neutral stance toward it. To be brief, the overall reaction of the major world countries has been favourable. The general mode in America, Europe, Asia, Africa and Australia has been siding with the revolutionary factions.

In spite of the fact that the American-European stance toward the Arab Spring was little

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Implications for British Policy, p. 54.

11) In addition to the above mentioned reasons, we can add a few more. Among these are: three incidents of high importance which increased the grievances of the Arab people and made others to sympathise with the cause of the angry revolutionary youth generation. These three are flawed parliamentary elections, the killing of Khaled Said (an activist who intended to download on youtube a video which reveals police corruption and brutality) and the torture and killing of Sayed Bilal (a member of a Salafi group whom the police falsely accused of being behind the explosion of the Church of the Two Saints in Alexandria, Egypt, on 31-12-20.

12) The Algerian Prime Minster, Mr Ahmed Ouyahia, described the Arab Spring as a 'plague' that hit the Arab world ["Algerian prime minister calls Arab spring a 'plague'," *The Guardian*, 9 May 2012].

bit hesitant at the advent of the revolution, the common approach there is favouring the revolution. It is fair to say that American and European governments have more than one reason to support the revolution. First of all, the attacks by extremist Muslim groups against American and European interests and personnel have been always justified by those fanatics as being a reaction against America-European unfairness and support to Arab dictatorial rulers such as Mubarak and Ben Ali. Due to the corruptive practices of these rulers, millions of Arab citizens suffered a lot with hundred of thousands of them seeking refuge in America and Europe. These increased numbers of immigrants and asylum seekers put European governments under severe political and economic problems, especially in the wake of economic recession from which Europe, and the world, had suffered during the 1990s. The result was the ousting of pro-labour and moderated governments by conservative and anti-foreign ones. This was the case in, among others, Britain, France, Germany and Holland.

On the other hand, totalitarian countries such as Russia, China, Iran and Syria did not welcome the tidal waves of protest that have swept the Arab world on the eve of 2011. These countries, for internal, economic and political reasons, chose to side with hateful authoritarian dictators some of whom were in power for forty years. The most notorious three among these countries are Russia, China and Iran. These three entities have formed what I may label as "a new axis of evil 'with each one of these has his reasons. China and Russia get oil products at reduced prices from Iran and Syria for military aid and equipment. Russia, China and Iran (inaddition to some other countries) share many similarities with Arab regimes which use violence to crack down on their peaceful anti-government protesters: lack of freedom and democracy, despotism and corruption. Again, all the three countries have internal serious problems with minorities who live in these countries. No wonder then that the Russian, Chinese, Syrian and Iranian (and of course some others) try to propagate and circulate the fallacy that the Arab Spring is the work of secret services. TV channels and websites owned by and loyal to such regimes host speakers and analysts who would usually further and cement such a fallacy[13].

From all the Middle East countries, Israel is having some difficulty coping with the new realities in the area; it was easier to deal with totalitarian regimes whose main goal was to

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13) Many Arab pro-Russian TV channels circulated what can be called the Starkov' scenario. According to this scenario, the Arab Spring is a Western wicked plan to spread violence and anarchy in the area. The evidence they give is the reaped incident in which disguised snipers kill scores of innocent citizens and vanish in the air. See, for example, the following links:

http://www.aljazeera.net/NR/exeres/196AEE54-FFF1-4C76-A3AE-59410AF1D371.htm?GoogleStatID=24, http://thawra.alwehda.gov.sy/_archive.asp?FileName=66137176020110425222351, http://www.annaharkw.com/annahar/Article.aspx?id=275645&date=02062011, and http://www.thawabitna.com/Article/article13-01-11/article5402.htm.

secure their thrones and not their borders. Ronnie Bar-On, the chairman of the Knesset foreign affairs and defense, described the Arab Spring as "an Islamic winter"[14]. Though it might have seemed superficial, the relationship between Israel and ousted Arab dictators was intact and, to an extent, friendly. That is why Israel is worried about, and not welcoming, the Arab Spring, especially after the surge of pro-Islamist governments in many neighboring countries. In this regard, Israeli Prime Minster, Binjamin Netanyahu, described the events in the Arab world as "moving not forward, but backward"[15] while Ehud Barak, Israeli Defense Minister, classified the rise of Islamist parties in parliamentary elections as "very, very disturbing"[16]. Realizing the fact that Israel has ended up a losing [party after the Arab Spring, the U.S. has come to aid an old strategically. Al-Ahram newspaper (an Egyptian daily) reported that the America gave Israel $205 million in military aid since the Arab Spring has started[17]. To cool things down, Hilary Clinton, American Secretary of State, assured the Israeli side in July 2012 that c may represent an 'opportunity' as well as 'uncertainty' in the region[18].

   The Arab Spring does not influence the Middle East region only; it influences the entire globe both politically and economically. When it comes to the U.S., W.Andrew Terrill, a security expert, argues that the Arab Spring will have a significant impact on the U.S[19]. There is a need to broker a smooth transition that would lead to a stable Middle East; something that is of mutual benefit to the Middle East and the whole world. According to Rodney Wilson, the Arab Spring poses more opportunities than threats to Europe and the world on the economic and political levels[20].

Ⅳ. The Future of the Arab Spring:

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14) Ian Black, "Israel'soldcertaintiescrumbleinArabspringfallout", *The Guardian*. July 17, 2012.
15) Netanyahu labeled the Arab Spring as being "Islamist, anti-western, anti-liberal, anti-democratic wave". Harriet Sherwood, "Binyamin Netanyahu attacks Arab spring uprisings", *The Guardian*. Nov. 24, 2011.
16) Catrina Stewart, "Israel fears the force of Arab Spring power shift", *The Independent*, Dec. 6, 2011.
17) *Al-Ahram*, August 29, 2012.
18) *The Daily Star*, a Lebanese newspaper, "Clinton to Israel:ArabSpringanopportunity"
    http://www.dailystar.com.lb/News/Middle-East/2012/Jul-17/180868-clinton-to-israel-arab-spring-an
    -opportunity.ashx#axzz23rkZur5h
19) Terrill states that "the spread of less corrupt and more democratic governments in the Middle East will be of tremendous benefit to the United States, since such governments are more often immune to radicalism and are more moderate, stable, and inclusive.", "The Arab Spring and the Future of U.S. Interests and Cooperative Security in the Arab World", Strategic   Studies   Institute, http://www.strategicstudiesinstitute.army.mil/index.cfm/articles/The-Arab-Spring-and-the-Fut ure-of-US-Interests/2011/8/2 "Reprinted with permission of the Strategic Studies Institute Newsletter, U.S. Army War College."
20) Rodney Wilson, "Economy: the root of the uprising', op. cit, p. 49.

First of all, the political situation in the Arab world, as had been mentioned earlier, was not ideal, nor were the economic or humanitarian conditions. Due to an un-balanced attitude the American and the Europeans had been adopting for decades when it came to the Arab world (especially with regard to the Palestinian-Israeli conflict), there has been an elevated sense of resentment, and sometimes hatred, toward all that is American or European. The outcome was terrorist attacks against American and European interests worldwide. The anti-Western sentiment culminated in the September 11th attacks against America in 2001. Intelligence and political reports revealed that the Arab (and Muslim) world resentment for American unjust policies in the Middle East is among the main reasons behind this ferocious attack and suggested that a more balanced attitude toward the region and a more democratic Middle East should do better for America. That is why George W. Bush, the 43rd President of America, called for his 'freedom agenda' to be introduced and implemented in the Middle East. However, once George Bush was convinced by crone Arab dictators, such as Mubarak and Ben Ali, that his 'freedom agenda' would have definitely meant the arrival of 'heinous' and 'extremist' Islamists to the thrones of the Arab world; Mr Bush relinquished his progressive and democratic bill altogether[21]. What made things worse is that the fanatic Bush sided with the Israeli side in their aggressions against the Palestinians and the Lebanese. It is safer to say that had it been for the Bush administration they would have supported Arab dictators, such as Mubarak and Ben Ali, and the uprisings that swept the Arab world would have been quelled.

On the contrary, Mr Obama has adopted a new balanced policy toward the Arab and Muslim world. I would agree, in this regard, with David Sorenson who stated that the Obama administration "fared somewhat better" when it came to handling the Middle East question[22]. No wonder then that the recent protests in the region "have not been directed against the control of foreign powers of the Arab lands; these focused primarily, if not exclusively, on the Arab regimes themselves….'the enemy within'"[23].

Against the odds, the Arab Spring has done pretty well; Tunisia, Egypt, Libya and Yemen are now free from tyrannical rulers who abused their powers and maltreated their fellow citizens for decades. Democratic elections were held in these countries and Islamists fared pretty well in parliamentary and presidential elections; something that has been expected. This has angered some countries, mainly un-democratic countries or those which

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21) Most recently, on the footprints of his conservative ideal, the current Republican candidate Mitt Romney, in an interview with an Israeli newspaper (*Israel Hayom*) argued that the Arab Spring could have been avoided (Mitt Romney: Arab Spring Could've Been Avoided By Bush's 'Freedom Agenda'", republished in the *The Huffington Post*,07/27/2012). I am not sure if Mr Romney knows that he is telling lies or not.
22) Sorenson, op. cit, p. 42.
23) Christian Koch, "The Arab spring is a real opportunity for Europe". http://www.europesworld.org/NewEnglish/Home_old/Article/tabid/191/ArticleType/articleview/ArticleID/21837/language/en-US/Default.aspx.

are prone to or susceptible to revolution.

W. Andrew Terrill aptly classifies the Arab Spring as "perhaps the most significant event in the Middle East since the fall of the Ottoman Empire" in 1924[24]. Many experts believe that, after the success of the revolution in Tunisia, Egypt, Libya and Yemen, change will come peacefully to the whole region[25]. Revolutions take years to materialize and succeed; moving from authoritarian regime to democratic rule takes time. Jack A. Goldstone, in this regard, states that even after peaceful revolutions it "generally takes half a decade for any type of stable regime to consolidate"; violent revolts may take longer[26]. According to Terrill, the majority of Americans and Westerners "have great hopes for the Arab Spring"[27]. Terrill is confidant that no matter what the type of rule may surface in the region, the U.S. will be able to maintain good relations with the post-revolution Arab world.

When it comes to the type of cooperation or support that the world can offer to the Arab Spring countries, Tariq Ramadan suggests that the Arab world should seek good relations not only with Western countries but also with what he terms a 'South-south' partnership, i.e. South American and Asian countries[28]. El Sayed Amin Shalabi, the managing director of the Egyptian Council for Foreign Affairs, states blankly that what the Arab Spring countries want from Europe, and the world, is "economic assistance and support"[29]. Shalabi argues that in spite of the fact that the EU and G8 countries pledged to donate $31 billion in aid to Egypt and Tunisia, they have already offered less or none. Shalabi, however, clarifies that it is not only the financial support that is needed from the European and world partners; European experience in fields such as education, job-creation, tourism or investment matters most.

The situation in the Gulf region is different from that of the rest of the Arab world countries. For the time being, the Arab Gulf area, apart from Bahrain, seems to be immune to the protests that spread across the Arab world. For economic and tribal

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24) Terrill, "The Arab Spring and the Future of U.S. Interests and Cooperative Security in the Arab World", op. cit. "Reprinted with permission of the Strategic Studies Institute Newsletter, U.S. Army War College."
25) David Sorenson, "Transitions in the Arab World: Spring or Fall?", op. cit, p.44 and Eugene Rogan "Regional Overview", in *The Arab Spring and its Implications for British Policy*", op. cit, p. 4.
26) Jack Goldstone, "Understanding the Revolutions of 2011,' *Foreign Affairs*, 90, no.3, (May/June 2011), p. 14
27) Terrill, "The Arab Spring and the Future of U.S. Interests and Cooperative Security in the Arab World", op.cit.
28) Tariq Ramadan, states that there will be "no effective 'Arab Spring' unless the centre of gravity of the international political and economic order can be shifted both southward and eastward." (Egypt: transition to democracy",in *The Arab Spring and its Implications for British Policy*", op. cit, p.15).
29) El-Sayed Amin Shalabi, "Europe and the Arab Spring", *Al-Ahram Weekly*, 14-20 June, 2012, http://weekly.ahram.org.eg/2012/1102/op6.htm.

reasons, the Gulf region is not engaging in the national uprisings that had seen stuck monarchs and presidents removed from royal thrones they were stuck to for decades. Gulf Sultans and Kings have had to pay dear to have their thrones secured from the ongoing unrest. Introducing a few political changes and spending billions of riyals or dinars in aid or on jobs have, for the moment, kept the Arab Spring 'curse' at arm's length[30]. In this regard, King Abdullah of Saudi Arabia pledged $130 billion in payout to Saudi citizens and institutions while Sultan Qaboos of Oman promised 50000 new jobs which would cost his coffer a $1.3 billion in 2011 alone. In Qatar, the Emir of Qatar, Sheikh Hamad bin Khalifa Al Thani, made some political changes and the government increased the wages of employees between 60-120 percent; something which costed the public treasury $8.3 billion[31].

To conclude, one can safely say that the Arab Spring is one, if not the only, of the most important events in the history of the Middle East region since the withdrawal of occupational Imperial forces in the second half of the 2oth century. There have been a handful of revolts or uprisings in the Arab world ever since but none have the colossal impact the Arab Spring does. A sense of euphoria, and anxiety though, is spreading all through the entire region and its effects have been felt in some other parts of the world. Protests and uprisings have been reported in Spain, France, Portugal, and even America with people chanting the same slogans that were sung by angry protesters in Egypt, Tunisia, Syria or Bahrain. Some writers, in this regard, speak of the end of the post-colonial era and the declining influence of America on the Middle East[32]. However, this does not mean America has become militarily subordinate to Russia or China for example, rather America is now more capable and more destructive than ever. The U.S., to quote the leading American scholar Noam Chomsky, has "close to half of the world's military expenditures… new technology of destruction and murder. It is away ahead of the world. You brought up-so called' soft power'"[33].

For the first time ever, it seems that the Middle East is leading the globe when it comes to freedom and liberty. I am not exaggerating when I say "a new Middle East Order" is underway now, a more democratic and open Middle East where oppressors have little

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30) Salman Shaikh, " Gulf States: The challenge of Reform" in   *The Arab Spring: Implications for British Policy*, p.29.
31) Salman Shaikh, ibid, pp 29-30.
32) Hamid Dabashi argues that the Arab Spring has put an end to the era of Post colonialism while Chomsky states that the United States of America is in decline since 1949. Hamid Dabashi's new book,*The Arab Spring: The End of Postcolonialism*, Zed, London, 2012. Are view of this book was published on Aljazeera English website:
http://www.aljazeera.com/indepth/opinion/2012/05/201257103157208253.html.
33) Noam Chomsky's *Occupy*, Zuccotti Park Press, New Jersey (Occupied Media Pamphlet Series)2012. Are view of Chomsky's book, along with an interview with him, was posted on http://www.alternet.org/story/155116/noam_chomsky_on_america%27s_declining_empire%2C_occupy_and_the_arab_spring?page=0%2C5.

room and while the oppressed take a leading role.

On the economic level, the Middle East region is expected to have a prosperous future with anticipated higher growth levels. Partnerships and commercial trade agreements are expected to move toward Asia and no tAmerica. That is why, for example, the first visit by the Egyptian President Mohamed Morsi was to China and not to America. For many geographic and economic reasons, I think Arab Spring countries are more likely to seek closer ties with such countries as Turkey, china, Korea, Indonesia and others than with America and Europe.

Understanding the Syrian Crisis
: Military Cohesion, Regime Resilience

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Abstract

Most policymakers and analysts have been overly-optimistic in their predictions of the imminent demise of President Bashar al-Assad's regime in Syria. Thus, it is necessary to assess what factors have allowed the regime to survive for so long. This working paper by the Middle East and North Africa Center at the Asan Institute for Policy Studies is organized into three sections. Section one argues that continuing military loyalty to the regime and international protection from intervention have been the crucial variables enabling the regime's survival. Section two argues that there must be a concerted effort to remove key elements of Assad's security apparatus and that those states supporting the opposition must first reach a consensus before dealing with Syria's backers. Section three concludes by outlining how, without adequately dealing with these two variables, a post-Assad Syria could continue to face significant security challenges.

This working paper by the Middle East and North Africa Center at the Asan Institute for Policy Studies is organized into three sections. Section one assesses the principle variables that distinguish the Syrian conflict. It argues that two factors have thus far protected the Assad regime from collapse or defeat. First, core elements of Assad's security establishment have continued to back the regime. Second, Russia and China continue to actively shield the regime from direct foreign intervention, while the United States, the European Union, Turkey, and the Gulf monarchies lack a consensus on how to respond.

Section two considers how the international community can move to change these variables. What is required is a concerted effort to remove key elements of Assad's security apparatus from the current balance of forces, ostensibly by encouraging their defection. At the international level, those states advocating regime change must first reach a consensus on what kind of post-Assad Syria they collectively desire and what they are prepared to sacrifice or accept to achieve it. Mutually incompatible goals do not bode well for presenting a united front against Syria's backers.

Section three outlines a post-Assad scenario to show how his removal alone may not end the violence. Unless the core Syrian military are neutralized and external powers can reach an agreement over the country's future, the country is likely to continue to face daunting challenges.

Understanding the Syrian Crisis: Military Cohesion, Regime Resilience

The uprising that has emerged as the pivotal case for assessing the future of the "Arab Spring" has been Syria. Nearly eighteen months into the conflict, a decisive outcome continues to remain elusive. Yet, how this conflict ultimately ends will have enormous ramifications for the Middle East and the international community. As has become increasingly evident in recent months, continued instability and potential state fragmentation in Syria—a country situated at the crossroads of the region's major powers—is likely to have a greater destabilizing impact than any other uprising that has hitherto occurred.

Until now, however, most policymakers and analysts have been overly-optimistic in their predictions of the imminent demise of President Bashar al-Assad's regime. For months, there have been endless claims of how each new incident and development marked a tipping point in the conflict. From reports of massacres to the defection of particular elites to the rebel advances on the major cities of Aleppo and Damascus, commentators consistently focused on how a breakthrough was imminent only to watch the regime continue its brutal campaign largely undeterred.

In order to draft credible policies for how to end the conflict, it is necessary to realistically assess what factors have allowed the Syrian regime to survive for so long. Without understanding what distinguishes Bashar al-Assad's Syria, international efforts are likely to remain primarily reactive and overwhelming ineffective.

Section One: The Syrian Crisis and the "Arab Spring"

As the Syrian uprising enters its eighteenth month, hopes for a peaceful conclusion to the brutal conflict have largely evaporated. What originally began as part of the wave of popular protests commonly described as the "Arab Spring" has now transformed into a bloody, protracted conflict pitting a fragmented, but highly motivated opposition, against President Bashar al-Assad's deeply resilient regime.

Kofi Annan, the former United Nations special envoy to Syria, and his six-point peace plan proposal to end the violence are little more than distant memory, long forgotten in the chaos that has left more than twenty-thousand dead and hundreds of thousands displaced. Each day seems to herald a new escalation to the violence—last year, it was the militarization of the protests in the face of brutal repression; earlier this year, it was the spate of massacres in Houla and Hama that shocked the world; now, it is the lingering fear that the regime's chemical weapons will fall into the wrong hands, unleashing a regional nightmare.

Yet why has Syria's uprising unfolded so differently from the rest of the "Arab Spring"? After nearly a year and a half of unprecedented political upheaval across the Middle East and North Africa region, analysts and commentators continue to debate why the uprisings have followed such different trajectories. Indeed, despite protests occurring in nearly every country in the region, there were only serious, lasting mass protests in six countries (Tunisia, Egypt, Yemen, Libya, Bahrain, and Syria). And of these, only Tunisia and Egypt's protests succeeded in removing their rulers relatively quickly.

Elsewhere across the region, regimes have resorted to a range of tactics to try and preserve the status quo. Despite the exit of Yemen's Ali Abdullah Saleh, the country appears to have become stuck in political paralysis as decades-old rivalries and regional allegiances inhibit any meaningful progress. In others, such as Jordan and Morocco, leaders have offered de-jure constitutional reforms while replacing unpopular administrations to appease their populations. Meanwhile, the oil-rich Gulf monarchies have tried to buy their way out of the protests with cash incentives and increased spending on public projects and massive social welfare.

In contrast, where the regime has chosen to respond with violence and coercion, we have witnessed an even greater variety of outcomes. Saudi Arabia's military intervention in Bahrain as part of the Peninsula Shield Force has ensured that the al-Khalifa monarchy remains unlikely to contemplate meaningful reforms anytime soon. In sharp contrast, Libya descended into a full-scale civil war that left tens of thousands dead before intervention by the North Atlantic Treaty Organization (NATO) backed by Gulf oil money finally helped the rebels overthrow Muammar Gaddafi.

This diversity of outcomes presents important insights for Syria's conflict. Without knowing the key driving factors that have allowed the violence in Syria to continue for so

long vis-à-vis the rest of the region, international responses are just as likely to exacerbate the situation as they are to resolve it. While there are certainly a diverse range of factors that are prolonging the conflict, the two that appear pivotal to explaining the intensity and prolonged nature of the violence have been the Syrian military's steadfast loyalty to President Assad and the protection of the regime from outside intervention by Russia, China, and to a lesser extent, Iran while the opposition's supporters have lacked a common consensus on how to respond.

Regime Resilience and Military Cohesion

One of the most important factors driving the Syrian conflict has been the steadfast loyalty of key elements of the Syrian military and security services to Bashar al-Assad's regime. Even as many have pointed to the growing defections among the regime's armed forces, the continued loyalty of elite units and the majority of middle to high-ranking officers in the Syrian military establishment, and especially among those belonging to Assad's own Alawite community, has meant that hopes for the regime's imminent downfall may be premature. This in itself is not a particularly new insight. Authoritarian leaders across the world, and particularly in the Middle East, have long sought to protect themselves from coups by consolidating control over their military and intelligence services. Yet the role that the military and security services have played in the region's successful uprisings illustrates how that cohesion has produced widely different results.

For instance, in Tunisia, the military was largely independent of Zine Abidine Ben Ali's regime. This is because, owing to Ben Ali's personal background in the security services, the regime had used the state security and national police forces to control the public while marginalizing the military. Thus, when the uprisings began, the independent, professional Tunisian military quickly stepped in to protect the public while their exclusion from the more corrupt elements of the regime. Similarly in Egypt, the powerful military was essential in stopping a brutal police crackdown on the protests. For the leaders of the Supreme Council of the Armed Forces (SCAF), Hosni Mubarak was not considered essential to the Egyptian military's survival. It is noteworthy that in both Tunisia and Egypt, a united and strong military did not see the leadership as crucial to their survival.

In contrast, Libya's armed forces very quickly fragmented once the uprising against Muammar Qaddafi began, with entire units defecting along regional and tribal lines. Importantly, there were mass defections of entire military units including commanders, officers, and their weapons and vehicles very early into the uprising. This meant that the subsequent crackdown very quickly transformed into a full-scale civil war.

In Syria, by contrast, Assad and his father, Hafez al-Assad, deliberately organized the military to be subordinate to the regime by using select units including the Republican Guard and Special Forces, air force, and intelligence services as a shadow military operating in competition with the conventional ground forces. This alternate military has been crucial in shaping the conflict. For example, early on in the uprisings, many of Assad's most elite units remained stationed around strategically vital locations such as the major cities of Damascus and Aleppo, but also major airfields and lines of communications while it deployed its conventional ground forces into the rural countryside. This also offers an indication into why the rebels have faced so much difficulty in capturing and holding important strategic locations in the major cities.

Assad's reliance upon a select number of elite divisions has ensured that his security network has been able to survive largely intact. Many of these divisions have continued

fighting consecutively for nearly eighteen months, largely without replacements or troop rotations—even as the ranks of the rebel forces have significantly grown over that same period. Indeed, all of these units have had very few defections compared with the largely conscript-based, Sunni-dominated infantry divisions.

This has had important ramifications for the structural composition of the rebels operating under the rubric of the Free Syrian Army. After all, the past year and a half has been less a 'civil war' and rather a diverse constellation of constantly changing rebel groups pitted against the most hard-line elements of the vast Syrian military machine. These rebels groups, mainly composed of low-ranking conscripts, civilians, and a minority of foreign fighters, have had to battle against professional soldiers backed by heavy weapons and air support. The uneven military balance, that is only now slowly beginning to be tilted in the rebels' favor by foreign financial and military support, has created few incentives for regime loyalists and military personnel to defect.

The core military's continued loyalty to Assad means that the serious disparity that exists will remain difficult to overcome in the near future. Even as external supporters begin providing military and financial aid, the lack of high-ranking military defections has severely deprived the opposition of much-needed expertise with which to effectively organize. Unlike in Libya, where the early defection of many officers and entire units allowed the opposition to quickly organize an operational chain of command and collaborate between different militias and rebel groups, the Free Syrian Army has struggled to articulate a strong leadership structure with which to present a viable alternative to the incumbent regime's forces.

Regime Resilience and (the Absence of) International Pressure

The second factor driving the conflict in Syria concerns the role of external powers in protecting the Assad regime from foreign intervention. What distinguishes Qaddafi's Libya with Assad's Syria is that Qaddafi had no allies. In contrast, Assad has been able to use his with relationship Iran and regional proxies such as Hizbollah and Hamas to try and deter direct intervention by any of his immediate neighbors, particularly Turkey. Furthermore, it is clear that after eighteen months of stalled negotiations and numerous failed United Nations Security Council (UNSC) sanctions proposals, Russian and Chinese obstruction present a fundamental challenge to implementing any effective international policies in Syria. Whereas the international community was able to intervene in the Libyan civil war by securing Russian and Chinese acquiescence to what was initially presented as a limited action, the eventual use of the Security Council mandate to support regime change has hardened Russian and Chinese resolve to stop a repetition occurring in Syria.

In contrast to the steadfast backing of Assad's outside supporters, those states that have called for him to step down have largely been unable to effect any meaningful change in the Syrian conflict. The leading regional supporters of Turkey, Saudi Arabia, and Qatar,

and the U.S. and E.U. have all pursued their own policies in support of the rebels, even as they attempt to coordinate with each other via the Friends of Syria grouping. Furthermore, there is a great deal of uncertainty pertaining to what these states are ultimately seeking to achieve by ousting Assad.

With this in mind, it is significant that the world's preeminent superpower has actually played a very limited role during the Syrian crisis. The United States has remained hesitant due to its fear of becoming entrapped in a costly, internal conflict that shows few signs of reaching a clear conclusion. This is part of the wider constraints that have hampered a more active U.S. role in leading, and shaping, the region's uprisings, where its traditional priorities of protecting its energy interests, defending Israel, and stopping transnational Islamist extremism have put it at odds with support for regime change.

Section Two: Policy Recommendations

How can the international community move to change these dual variables of domestic military cohesion and an international environment that favors the regime? It is clear is that the West's current strategy of asking Assad to step down while cautiously arming the rebels is, in and of itself, an insufficient policy that does not fundamentally address the factors prolonging the violence. Instead, what is required is a concerted effort to remove key elements of Assad's security apparatus from the current balance of forces, either through encouraging their defection or targeting those forces more directly. Consequently, the international community should focus on convincing key elements of the Syrian military establishment, especially the Special Forces and Republican Guard, to defect rather than trying to negotiate with the regime's political leadership.

This must also involve the use of cash incentives, promises of amnesty, and definitive guarantees by the rebel forces and the international community that the minority groups to which many of these soldiers belong will be protected in a post-Assad Syria. While this may seem increasingly untenable given the growing sectarian nature of the violence, it is crucial that those core units defending the regime feel that Assad is not the only protector of minorities. Seeking to defeat them through force of arms alone will do little for post-regime stability or reconstruction, even if Assad were to be removed suddenly.

Secondly, at the international level, Russian and Chinese resistance to implementing sanctions or any proposals for intervention at the United Nations Security Council (UNSC) over the past eighteen months should be taken as a strong indicator that the international status quo is likely to prevail for some time to come. While there are few easy or definitive solutions to overcoming the challenges presented by the regime's backers, there are some questions that those states advocating regime change should first agree upon that can greatly improve international action. For instance, the lack of consensus over what a post-Assad Syria should look like, and what the international community is prepared to sacrifice or accept in the interim, impedes coordinating policies. Indeed, for there to be any

hope of gaining Russian and Chinese acquiescence to any future international action on Syria, states such as Turkey, the Gulf monarchies, the European Union, and United States need to first agree among themselves what their ultimate objectives in Syria are. They must ask whether they want a neutral Syria that is no longer part of an Iranian bloc, or to turn the country into part of a regional Sunni alliance, or to simply remove the country's chemical weapons. Competing goals do not bode well for presenting a united front against Syria's backers.

In addition, if the international community does decide that it is serious about stopping the Assad regime, then it must be prepared to offer concessions to Russia and China to secure their reluctant acquiescence, if not support. So far, the international community has not offered any practical reasons for Assad's backers to change their positions. If the U.S. in particular does in fact decide that the violence in Syria has reaching a critical threshold, and that it does not wish to unilaterally intervene, then it must be prepared to negotiate on important Russian and Chinese regional interests such as offering greater roles in the Middle East, relaxing pressure on Iran's nuclear program, or even discussing regional missile defense plans. It remains to be seen whether a re-elected Obama administration, free of the constraints of a first term presidency, would take a more assertive position on the conflict.

Section Three: Beyond Assad

Nevertheless, it remains possible that the rebel forces could eventually overcome the regime. There are growing signs that technological superiority that the military has thus far enjoyed over the rebels is slowly being eroded. Particularly over the past few months, Turkey, Saudi Arabia, and Qatar have dramatically accelerated their support for the rebels in the form of direct financing, covert arms supplies, and the provision of safe havens along key border areas. The growing sophistication of rebel attacks using heavy weapons, improved organizational coordination among different militias, and their attempted advances on Aleppo and Damascus suggest that their capabilities are increasing over time.

But, rather than marking the end of the conflict, any official downfall of the regime that did not comprehensively engage core military loyalists would more likely foreshadow the beginning of an even more chaotic chapter in the conflict. As in post-Saddam Hussein Iraq, the uncontrolled breakup of the regime or attempts to purge the military can lead to catastrophic consequences given the mutual preoccupation with retribution and the limited ability of new institutions to command obedience. A complete de-Baathification of the system would be more likely to cement the growing social, political, ethnic, and territorial fragmentation of the country along sectarian lines.

Consequently, whether out of loyalty to Assad or fear of Sunni retribution, recent months have seen growing Alawite mobilization in support of the regime. This has created a situation in which the rebels are unlikely to stop with the removal of Assad or even his

inner circle, but rather where they may seek to completely overhaul the old political order and its attendant sectarian composition. Consequently, there is the real possibility that Syria could become trapped in a violent paralysis, as different groups become entrenched and permanent.

In this dystopian scenario, the need to address the critical variables of military cohesion and external protection becomes paramount. The enormous bloodshed and ensuing militarization of the country over the past eighteen months has fundamentally altered both domestic and international interests' vis-à-vis the conflict. These are challenges that are likely to remain daunting long after Assad is gone unless the core Syrian security services are neutralized and external powers can reach a consensus.

Presentation 4

Arab Muslims' Increasing Interest in the Civil Society Activities in Turkey

: The "Hizmet" Movement and *ÅiraÕ* Magazine of Turkey

Idiris Danismaz│Doshisha University

Ⅰ. Introduction

The democratization and stability of the Muslim world are two of the most crucial issues facing the world. In this situation, Muslims as well as Western observers, including President Obama, admit that Turkey represents a model of stability.

The reasons for Turkey's exemplariness differ from person to person. While some would describe Turkey as being advanced in terms of its church–state separation or economic development, others focus on Turkey's social and civil life to learn radical solutions to certain problems.

This paper attempts to shed light on the moderate and peaceful faith-based civil organizations in Turkey, in general, and on their transnational interaction with the Muslim Arabic world, in particular. It analyzes the statements made by Arab intellectuals regarding the "Hizmet" ("to serve," in English) Movement (HM)—the largest faith-based civil society organization in Turkey—in the conference titled "MuÕtamar Duwalµ Mustaqbal al-I-l±Æ fµ al-Ô°lam al-Isl±mµ: Khibar±t Muq±rana maÕa Åaraka FatÆ al-Allah Kulan al-Turkµ ("The Future of Reform in the Islamic World: Comparison of Fethullah Gulen's Experiences," in English)" held in Egypt by *ÅiraÕ*magazine of Turkey and Cairo University of Egypt during October 19–21, 2009, and seeks to answer the question, "How do Arab intellectuals see civil society in Turkey?"

This study's methodology combines area studies and literal studies. The idea of studying the civil society in Turkey and engaging the views of Arabs in this study resulted from a fieldwork trip that I undertook in the summer of 2012 to the Istanbul office of *ÅiraÕ* magazine, which functions as a bridge between Turkish society and Arabic-speaking countries by bringing together the work of Turkish activists and the thoughts of Arab intellectuals on how to serve society. However, to be able to understand what the Arab intellectuals think about civil society in

Turkey, especially HM activities, I had to read over 500 pages of the above-mentioned conference papers.

Apart from the introduction and conclusion sections, the paper is divided into three sections: (1) Views on Civil Society and the Muslim World, (2) The Turkish Model, and (3) The Hizmet Movement as a Civil Society Organization.

The first section presents a variety of academic perspectives on civil society in the Muslim world. In this section, we have discussed positive and negative approaches to the Muslim society and the features of civil activities within the society.

The second section deals with what is called the "Turkish model." In this chapter, we have examined different notions regarding Turkey's exemplariness, especially as a model for Muslim civil societies. Although the academic world has largely ignored this aspect, the Turkish model has become a popular theme in the Muslim world in recent times.

The next section—"The Hizmet Movement as a Civil Society Organization"—further describes the role of HM in Turkey's civil society. This section also offers some answers to the above-mentioned question.

Ⅱ. Views on Civil Society and the Muslim World

The concept of a "civil society" originated in the West, and it was first used to describe the associated activities of civilians in the East European countries to democratize their society during the 1990s.

Although it is difficult to provide a widely accepted definition of a civil society, by combining various definitions propounded by different scholars and selecting the most relevant points, this paper offers the following definition:

The term "civil society" refers to the cooperation between members of societies to act together through associated organizations such as clubs, charities, and educational and cultural organizations, which are different from state or government institutions in terms of their ability to fulfill their own economic, cultural, and democratic needs.[1]

Since the term has originated in the West, there has been some debate on whether its context can cover civil movements within the Islamic world. In the studies that were performed in the 1990s, a considerable number of researchers reported the absence of an ideal civil society throughout the Muslim world, because the term also connotes "public activities that are distinguished from religious affairs." For instance, Hall and Trentman (2005), in their book, presented the views of researchers who are skeptical about the existence of a civil society within the Muslim world, along with other readings of civil societies. According to these scholars, there does not appear to be a civil society in the Muslim world, since almost all Muslim countries are ruled by a theocratic leadership, monarchy, or other systems that do not offer freedom to the people (276–279)[2]. Putting "democratization" at the center of the term, they

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1) For more detailed definitions, see (David R. Karp and William M. Sullivan, 1997).
2) For more detail see (Hall, John A. and Trentman, Frank, 2005).

claim that a society requires a participatory political system to realize democracy, and a participative democracy can only exist in a dynamic, active, and free civil society. Moreover, these scholars seem to be obsessed with the assumption that among Muslims, any respect for religious people and the faith itself becomes an obstacle to free-thinking, since a new idea is regarded as an innovation in Islam (bid'a) by Muslim religious scholars, and even if it is good and beneficial for the society, nobody can justify the legality of that idea. To sum up these arguments, the Muslim world lacks a free civil society, and hence, democracy does not exist in the Muslim world.

However, some researchers do dispute this view and claim that the Muslim world has its own civil society, even though it differs from that in the West.[3]

Even though civil society organizations in the Muslim world do not resemble their Western counterparts in terms of organizational structure, initiation rules, membership, and so on, Muslims have always acted within their societies, individually or in associated groups, to fulfill their own needs or to change whatever was in their power to revise, following the exhortations in the Qur'an and Hadith (the Prophet's sayings). For example, a Qur'anic verse states, "Allah will never change the condition of a people until they change what is in themselves," (13:11), while the Hadith adds, "Whoever sees a bad thing around himself is duty-bound to change it" (Muslim, ´m±n, 78). Sourcing their responsibility from an authority that transcends time and space, Muslims have occasionally established movements within the Islamic society to fulfill various needs pertaining to this world as well as the next. "Waqfs" (foundations) that are established by individuals but are supported and accepted by the society after their founding clearly indicate this tendency in Muslim societies. Thus, we can say that if there is a problem in a Muslim society, all Muslims—individually or collectively—will eventually attempt to revise or change this problem.

Although the Muslim society contains several movements that can be described as an "Islamic type of civil society," unfortunately, studies have mainly focused on so called "the immoderate and fanatical" ones, which are a negative reaction against certain external impacts, while largely ignoring moderate civil movements. However, the terms "Turkish model" and "Arab spring" have shown the world the existence of a movement that originates and is dynamized from the grassroots of society, not from outside it, to build up the society, not to crush it. To be honest, no one could have imagined that faith-based movements would have resulted in the emergence of a "model" in Turkey, which Muslims are encouraged to imitate, and a "revolution" that has been described as a "spring" in the Arab Muslim world.[4] Perhaps because of this, when people came out on the streets of Tunisia, the world interpreted their actions as

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3) For instance, Kosugi claims that Muslim societies possess their own civil society model, which Islamic law provides and protects against the state, as compared to the Western notion of a civil society, which refers to an association of individuals. For more details, see (小杉泰, 2006).

4) It should be noted that the civil movements in Turkey differ from those in the Arab Muslim world, as they have originated and taken shape in different circumstances. Hence, there is no organic relation between them. However, these movements may have some similar characteristics and be influenced each other, to some extent.

ordinary people's expression of indignation against the suicide of a Tunisian street vendor who had immolated himself to protest the brutal treatment meted out by the municipal police. However, this act precipitated the downfall of the Bin Ali regime and the triumph of the al-Nahda movement. Likewise, when the Egyptian people began to gather in Tahrir Square, the world focused on images of young Egyptians wearing blue jeans and singing rap music. Influenced by the media, which tends to mainly focus on such scenes, people may have admitted that this movement was very important for the democratization of Egypt, but they could never have guessed that these activities were, in fact, organized and supported by a faith-based civil society of Egypt—the Muslim Brotherhood. Later, when pious Muslims began to emerge as leaders, some Western scholars and journalists even claimed that Muslim extremists had taken over the freedom of the Egyptian people and hijacked the revolution.[5] Nevertheless, in the end, after the collapse of the Mubarak regime, an Ikhan-i Muslim (Muslim Brotherhood) candidate became the president of Egypt.

In conclusion, it appears that the people, or the civil society, in the Arab countries that have experienced an Arab spring were successful in rejecting the regimes that had deprived them of civil rights. Hence, nobody can disregard the presence of civil societies in the Muslim world, as they have played a significant role in changing regimes. Nevertheless, their mission has not been accomplished yet.

Although it can be said that the social movements in different countries have imitated each other very well in replacing old regimes with new ones, they have failed to address several issues, such as preserving security and social order, which were problematic even before the riots. The issues related to security and the economy, for example, have remained unsolved because the new regimes do not know how to ensure security, reconstruct the economy, and regulate the relationship between religion and the state. It is possible that using an efficient example as a model may provide some crucial solutions to these problems. The West, which has already lost its credibility, especially among pious Muslims, cannot provide a suitable model in this context. In recent times, Turkey has been described as such a model by Muslims as well as non-Muslim observers of Muslim countries.

Ⅲ. The Turkish Model

Despite certain pros and cons, in the last decade, Turkey has been proposed as such

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5)One of them is John R. Bradley, a British journalist who wrote extensively on the Middle East and Egypt. He claimed that the Arab spring was a matter of economics and personal dignity. However, the Islamists misused it for their purpose, which was the Islamization of the society (Bradley, 2012: 12-15). In fact, Bradley's intention of portraying the Arab spring in a fundamentalist and Islamic light is evident in the title he has selected for his book and the picture he has used for its cover, which depicts modern-looking youths in the background and apparently fundamentalist people in the foreground. For more information, see (Bradley, 2012).

a model not only by Muslims in the Arab regions but also Western observers such as President Obama.[6]

The relevance of the Turkish model differs from one person to another, although the classical meaning of the term refers to church–state separation (*laïcité*). Turkey is the first country to have implemented the separation of its religious and state systems, despite having a Muslim majority (almost 99%) in its population. Because of this feature, Turkey is often recommended as a model to other Muslim countries. Although some countries did attempt this separation, such as Tunisia, Indonesia, and Azerbaijan, most of the Muslim countries have not accepted Turkey as a model in this regard.

In recent years, the term also connotes liberalization and economic development, which have occurred during the last decade, starting from 2001, when the AK Party (Justice and Development Party) came to power with the huge support of the Turkish people. According to some people, the political society, especially the AK Party, is responsible for the changes and development in Turkey. Hence, other countries wishing for similar improvements would need to establish something like this party. As a matter of fact, some countries did attempt this[7]. **Notwithstanding some individual attempts to implement Turkey's model of a political society, the majority of the Muslim countries do not appear to have incorporated the AK Party's example, probably because almost all Muslim societies have their own political tradition, such as the Muslim Brotherhood in Egypt**[8] **and the al-Nahda movement in Tunisia.**

Although the Turkish model may cover several more approaches, such as those related to Turkey's cultural and public life[9], **in this paper, I wish to focus on the accounts of some inhabitants of Muslim countries who have visited Turkey to learn of its success by observing the faith-based civil organizations of the country, such as HM.**

I personally saw such visitors this summer, when I went to Istanbul to visit a friend who

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6) President Obama first mentioned this in 2009, when he stated, "I'm trying to make a statement about the importance of Turkey, not just to the United States but to the world" in a joint press meeting with Abdullah Gul, the President of Turkey, during his overseas trip to Turkey; Obama's words are regarded as indicative of his new diplomatic approach to Islam, which is more moderate and collaborative than that of the Bush administration.

7) There have been media reports that Kh±lid al-ZaÔfar±nµ, a member of the Muslim Brotherhood in Egypt, has been trying to form a political party with the same name and program as the AK Party. Another such attempt has been reported from Morocco. In fact, Morocco's ruling party even has the same name (Justice and Development Party), although the two namesakes have somewhat different political views.

8) "The Muslim Brotherhood has rejected the AK Party model, arguing that it will chart its own path to Islamic democracy" (Nasr, 2009: 241).

9) Recently, there has been an increasing interest in Turkey in terms of tourism. According to surveys, Arabs are attracted to Turkey because of its delicious halal food, religious and historical similarities with the Arab nations, and natural beauty. Apart from spending short holidays in Turkey, some tourists are even buying houses there for longer stays, according to newspapers. Another topic of increasing interest is the Turkish film sector. Serial dramas made in Turkey—like "Kurtlar Vadisi" (The Valley of the Wolves), which reflects the public life in Turkey—have become increasingly popular. It is reported that Turkey now produces 40 such dramas, and their viewers exceed 85 million.

works as an editor for a magazine called *Åira̅*. During my visit to his office, which is located in a building complex (see picture 1) that includes a mosque, a library full of Arabic books, a boarding Qur'an school, and the offices of other publication companies under the umbrella of "Kaynak Holding," the parent company, I noticed some Arab-looking youths who were listening to a presentation. A magazine employee was conducting the presentation, which explained why the movement was called "Hizmet."

Picture 1: Complex Building in which *Åira̅* Office is Located

According to my friend, almost every day, at least three or four delegations from Arab countries visit this place. It appears that hosting Arab visitors is part of the magazine employees' usual routine. In this particular instance, the young visitors hailed from Morocco and were to be recruited as teachers at the Turkish schools in Morocco (see picture 2). Hence, they had come to attend a training program to learn about HM and how to serve the society in the manner of the Turkish people.

Picture 2: Moroccan young employee during a presentation about HM

ÅiraÕ is a monthly magazine being published since 2005; it is the only Arabic magazine in Turkey and is devoted to Islamic culture. In fact, the magazine is not merely a publication; it acts as a cultural bridge between the Turkish and Arab people. The magazine has over two hundred Arab and Turkish contributors, including famous Arab intellectuals such as Rama±an al−B¹tµ (see picture 3). In addition to publishing articles, the magazine conducts workshops and conferences in Turkey as well as Arab countries. In the following chapter, I have discussed how Arab intellectuals view the civil movements in Turkey, in general, and HM, in particular, based on the papers presented at one such conference held in Egypt in 2009.

Picture 3: Some of the Arab and Turkish Intellectuals writing for *ÅiraŎ*

Ⅳ. The Hizmet Movement as a Civil Society Organization

As we already know, HM is a civil society organization that has been supported by Turkish volunteers since the 1970s, when the movement was launched by Fethullah Gulen (see picture 4), a Turkish religious scholar[10]. **Over the years, it has become an international civil organization that runs hundreds of cultural, educational, and humanitarian institutions in Turkey and other countries.**

The schools run by the movement—which teach modern science as well as universal moral values—are regarded as models for imparting education by civil organizations in Muslim and non-Muslim countries. These schools were first accepted by the Central Asian countries after the collapse of the Soviet Union; thereafter, they have spread to the East European countries. In the 2000s, Western countries began to accept these schools, and in recent times, they are being set up in the Arab world.

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10) Muhammed Fethullah Gulen is one of Turkey's key social leaders. Affectionately called "Hocaefendi" (the master), he was born in Erzurum, eastern Turkey, in 1941. After graduating from a classical private divinity school in Erzurum, Gulen obtained his license and began to preach about piety, the importance of mutual understanding, and tolerance toward others. His efforts made him one of Turkey's best known opinion-makers during the 1960s. He is also a prolific writer and has authored over 50 works, apart from delivering innumerable sermons. Since 1999, Gulen has been residing in the US because of health problems. However, he continues to hold the attention of the media and academia, both in Turkey and abroad. There have been many reports about him in the international media, and he and his movement (called "hizmet" [service]) have been discussed in several conferences.
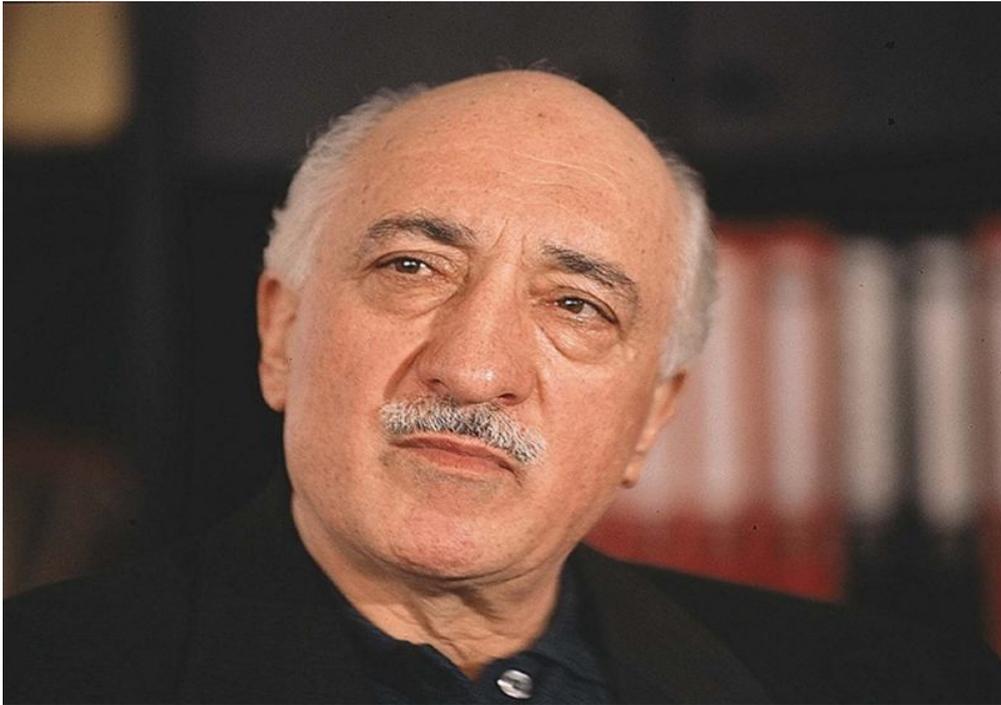
Picture 4: Fethullah Gulen (1942 –)

The relationship between Turkey and the Arab countries has suffered because of some negative perceptions resulting from their shared history under the Ottoman reign, and because of some internal controversies. For example, the Arabs believed that "the Turks prevented free thinking during their rule," while the Turks believed that "the Arabs betrayed the Turks during the First World War by entering into a secret agreement with the Entente Powers and acting with them until the Ottoman Empire collapsed." While these controversies helped the rulers of both sides to protect their respective nation states, established along artificial borders, the relationships between the civil societies continued to be good and have only improved during the last decade, as seen in the conference titled "The Future of Reform in the Islamic World: A Comparison of Fethullah Gulen's Experiences," held in Egypt by *ÅiraÕ* magazine of Turkey and Cairo University of Egypt during October 19–21, 2009.

In this chapter, I will discuss the Arab view of Turkish society through an analytical reading of the testimonies of Arab intellectuals at this conference.

I will begin with the words of ÔI-±m ᵃul»±n, a lawyer and activist from Egypt, who discussed whether the movement is religiously sound as follows:

"I can give testimony that they (the volunteers of HM) completely believe in Islam . . . When you see them, you feel as if they are the companions of the Prophet (ᵃaÆ±ba) and other pious people who came after the companions" (ᵃul»±n, 2009: 529).

In pious Muslim societies, it is very important to be on the same path as the companions of the Prophet. Evaluating a certain religious theory or practice by using references from the Prophet and his companions is a tendency that is seen in all reformist movements in the Islamic world. The general idea is this: if there is any disorder in a society, it can be said to result

from a deviation from the way, and it can be corrected only by returning to the way, namely, the way of the Prophet and his companions (ahl−al−sunna).

The description of HM as being the way of the companions can be regarded as an important testimony for the civil society in Turkey, since it means a step up from the negative religious images of Turkey that have spread throughout the Muslim world, such as "being but lately adopted (in the eleventh century) to Islam" (Nasr, 2009: 241). Moreover, Turkey's moderate format of Islamic life combined with secularism is held up as a model for an ideal Islamic civil society.

In the conference, Arab intellectuals also made an observation regarding the civil society's contribution to the latest economic and social developments in Turkey. Åasan Ab¹ º±lib, an Egyptian journalist who writes on political strategies for al−Ahram, claims that the positive changes in Turkey are not because of its political society but because of its civil society organizations, which have transformed the society (Åasan Ab¹ ºalib, 2009: 523).

This statement is especially important because it contravenes the general understanding of many Arab journalists and intellectuals who assert that Turkey's political society is responsible for its transformation.[11]

In reality, however, the political society cannot be given this credit, because the transformation occurred only after the Turkish people, who were fed up with political corruption and distrust, turned away from the political society and political activities and began to focus on social activities in the civil society. In fact, Mr. Hazama Yasushi, who is a researcher at the Institute of Developing Economies Japan External Trade Organization (IDE−JETRO), arrived at the same conclusion in his research on Turkey's civil society in Turkey that was conducted in 1990. He adds,

"As a result of political corruption and distrust in Turkey, people turned to the faith−based civil organizations. A short while later, we will witness a big change in Turkey, and the political society will benefit from it" (Hazama, 1998: 160, 162, 169).

Prof. Naito Masanori, who has studied the Turkish society for over 25 years, echoes the view that the so−called success of the political society in Turkey is not the cause but the result of the change; the society itself has realized this change. In other words, the AK Party has not, in fact, successfully changed the society; the party has merely noticed the changes in the society, implemented certain new and appealing policies, and by garnering sufficient votes, has become Turkey's ruling party.

These views ring true, because the AK Party is not supported by any civil society organization that can bring about social change. It is true that while Milli Gorus was a part of Erdogan's background, when he established the new AK Party instead of joining the Saadet Party (the Felicity Party) of Milli Gorus, he also lost the support of Milli Gorus. Moreover, both Erdogan and the other founders of the AK Party deny any connection with Milli Görü©[12]. Consequently, it is important to note Åasan Ab¹ ºalib's attribution of change

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11) I came across this notion in almost all the essays or columns that contained the term "Turkish model" (al−namudhaj al−turki) in their title.
12) In a public conference, Erdogan clearly denied this link, saying, "We have already taken off

to civil society movements, like HM, and not to the political society, and his suggestion that the civil society in Turkey, not the political society, should be regarded as a model.

The last testimony is regarding the vision and practice of the HM. F±tina Õ°mµn Sh±kir, a Saudi academician and a woman, points out the central position of practice in the movement, aimed at "building up a human"—a new type of man that does not exist in Arab societies (F±tina, 2009: 533). Adding an important point regarding the credibility won by the movement in the Western societies because of its educational model and institutions, she calls on Arab societies to promptly accept this model (F±tina, 2009: 535–38), which is constructive and not destructive (F±tina, 2009: 536).

In fact, before social movements like those of the Arab spring, which targeted the reclaiming of civil rights, several civil society activities have been conducted in a peaceful manner, unlike the "aggressive" activities of the Arab spring. The civil society in Turkey, for example, achieved social transformation and regained its rights without holding big demonstrations or resorting to violence. Although we cannot say that Turkey has never seen any reactional street demonstrations, the HM has always preferred acts of appeasement such as keeping its followers away from street conflicts and exhorting them to remain calm.

The fact that Professor F±tina made her statements in 2009, prior to the Arab spring, only confirms that Arab intellectuals already knew what was needed and what should have been avoided. If only Turkey's civil society had been proposed as a model before!

As mentioned earlier, HM could have served as a good example for Muslims even before the Arab spring. Hiba RaÕ¹f ÔIzzat, a professor of economics and politics at Cairo University seems to support this idea. According to her, "[The] Hizmet Movement is like a mirror in which the Arab societies can see their wrongs." She also mentions some specific wrongs such as the lack of good education and desire for authority, among others (Hiba, 2009: 551–53). To correct these wrongs, she recommends that the Arab nations follow the example of HM.

Ⅴ. Conclusion

This paper provided an overview of the civil society in Turkey, which is believed to hold the key to solving certain problems that have beset the Muslim world, related to security concerns, economic stagnation, and so on. For this, the paper analyzed the views of Arab intellectuals who participated in the conference titled "The Future of Reform in the Islamic World: A Comparison of Fethullah Gulen's Experiences" held in Egypt by *ÅiraÕ*magazine of Turkey and Cairo University of Egypt during October 19–21, 2009.

The paper, however, did not attempt to provide a solution to these problems. Instead, it sought to understand how Arab intellectuals see the civil society in Turkey. Through this, we could understand not only their level of awareness regarding the current issues but also how they think

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our shirt of Milli Görü©".

these problems can be solved.

The results of our analysis are hereby summarized as follows:

First, the Arab intellectuals evaluate HM as follows:

（1）The theory and practice of HM is religiously sound and creditable.

（2）The positive changes in Turkey resulted not from the legislative activities of its political society but from the activities of its civil society institutions such as HM.

（3）HM approaches these problems with a positive and constructive attitude.

（4）Therefore, HM and its activities can serve as a model for Arabs, not only for solving their problems but also correcting their past mistakes.

Second, I have found that the Muslim intellectuals who have either visited Turkey and observed HM members and their activities or read the publications of *ÅiraÕ* magazine seem to believe that every problem in a certain society can be solved if the members of that society change themselves first, as indicated in the Qur'anic verse. Based on my understanding of their statements, instead of determining how to solve the problems, they prefer to discuss the actors who are solving these problems in Turkey. For example, F±tina stressed the importance of "building up a human" through the movement and ªul»±n likened HM members to the companions of the Prophet.

Third, the Arab intellectuals who participated in the conference tended to refer to Turkish society in terms of how to generate constructive and religiously sound civil activities. Based on their statements, I realized that they consider HM to be the best example of a civil activity that can remedy the issues of the Muslim world.

Finally, although this paper discussed the theoretical aspects of the Turkish model, the model has also seen some practical applications, such as the Salahaldin Turkish International School opened in 2009 in Egypt alongside with other schools opened before 2009 in other Arab countries such as Morocco and Tunisia. This school which is in Cairo already has 880 students. Despite charging a slightly higher education fee of $6000 per annum, the school appears to have a good image in the society, given that its first branch opened in another province in 2011 and its second and third branches will soon be set up in the cities of Alexandria and Mansura.

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Islamic Culture and Thought

Chair: **ARAI, Kazuhiro** (Keio University)

Venue: **214**

❚ Presentation1   Research on the Case of Contents Expansion of museums of Literary Space

> **Presenter:**   LEE, Nan A (HUFS)
> **Discussant:**   NAM, Ok Jeong (Chosun University)

❚ Presentation2   The Traditional Marriage Customs of Muslims : between the Realities of Life and Islamic Fatwa

> **Presenter:**   GWAG, Soon Lei (HUFS)
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❚ Presentation3   Making One's Own place in an Egyptian City through the Daily Practices of Upper Egyptian Mugrant Workers and Foremen

> **Presenter:**   OKADO, Masaki (Sophia University)
> **Discussant:**   MIN, Byung Wha (HUFS)

Research on the Case of Contents Expansion of Museums of Literary Space

LEE, Nan A| HUFS

Ⅰ. Introduction

21st century is an age of speed. Everything accelerates and every event that occurs around the globe can be tracked with computers in real time. Then which path, should literature take in this time? From the times when literature was understood in the perspective of philosophy and esthetics, it has fallen to be taken in as something of momentary pleasure, choice, and entertainment. The question of how literature can be approached to the public and be consumed is merged with the survival methods of literature and the meaning of universal existence.

The rise of popular culture and electronic image media dealt a critical blow to literature. Rapidly growing, they have ousted literature that had reigned as the ruler of printed media and established their empire. The argument that literature which focuses on subjective intuition and sensibility is superior to science or history which is based on objective phenomenon or fact can also be understood as the **creativity** that literature carries. Additionally, literature provides opportunities for self reflection and self introspection. Having an internal conversation through literature is an intellectual adventure and research of human's large scope of mind.

Philosopher Gilles Deleuze has emphasized that the most unforgettable factors in this age of crisis should be escaping, cross the horizon, and merging into another form of life. Literature is an essential genre not only for dreaming of another world, embracing other's lives, and going through true changes and creation, but also for experiencing true internal changes. In other words, it is something that has to pursuit ultimate perfection by blowing fresh and free ideas into our accustomed principles and behaviors. In this sense, the

importance of expansion of cultural contents of literature is magnified.

The far reaching powers of cultural contents newly changes the network of production and consumption of literary works and expands the concept and category of literature like other various genres. Literary environment is being shifted such as from printed literary work to visual work and new production through the usage of multimedia. Also, literary space is recreated into various cultural contents and are utilized as field trips and a place to experience literature.

Meanwhile, analysis of literary works should be requisitely carried out together with analysis of place and time. Narrative space may differ from place to place depending on the location the author actually deals with, but it may also be an imagined space or a changed space. These various spaces maximizes the creativity of the readers, and can also be recreated into a new space by the reader. In this way, literary space becomes a shared memory between the author and the reader, and serve as a space to experience the past, present, and future. Understanding a work means understanding the experiences and the created space of that author.

Orhan Pamuk, (1952~), the first Nobel Prize winner in the history of Turkish literature in 2006, has shown many works that served as models for researches of how literature can reform into cultural contents in the age of cultural growth of 21st century.

In this research, the detailed examples of how literary space can be combined, changed, and coexist with contents of other genre in the situation where the concept of cultural contents has a large scope and constantly expands will be given and discussed through 『The Museum of Innocence』 written by Pamuk.

Ⅱ. Museum Contents of 『The Museum of Innocence』

The reason why representative western classics, 『Greek and Roman Mythology』 for example, constantly display powerful existence can be attributed to the continuously undertaken reinterpreted works in culture, conversation, film, play, and game fields and as a result, have settled in as a familiar content to the public. Pamuk also reenacted the 〈The Museum of Innocence〉, which is a literary space of the female protagonist's house, as a real museum and is being visited by endless number of galleries.

〈The Museum of Innocence〉 is very distinctive in the sense that whereas the existing literary spaces are spaces focused on the author, such as birthplaces of the author and the contents of the works, the museum vividly displays the objects of the novel, in other words, it is a museum focuses around objects.

Novel 『The Museum of Innocence』 is the first novel written by Orhan Pamuk after he received the Nobel Prize and it draws a love story of a man (Kemal) who established a 'museum' to preserve memories of his love (Füsun) who swayed his life, and is also the name of the museum Pamuk established in the actual location of the setting of his book.

A peculiarity that distinguishes this novel from works of previous writers is the actual

establishment of 〈The Museum of Innocence〉 which carries the same name as the novel. Kemal restores the house that Füsun, whom he had loved for his entire life, to remember her for eternity and opens it to the readers around the globe in the same name as that of the novel.

Orhan Pamuk himself has said " 『The Museum of Innocence』 is not only a novel that I wanted to write, but also a museum that I wanted to establish in Istanbul for a long time. I have established a museum Çukurcuma that Kemal wanted to establish for Füsun on one hand. After making this decision, I bought a building in Çukurcuma 9 years ago and changed that building into a museum space. Then, I have started to collect objects by thinking of myself as Kemal. Then, I have explained these objects in the novel", stating that the writing of his work and the task of museum establishment were carried out at the same time. In other words, Pamuk has borrowed the words of Kemal in the novel to explain it in words and also displayed those objects in real life.

Pamuk has already purchased the space that would serve as the setting of 〈The Museum of Innocence〉 before starting to write the novel and had directly participated in the production of the museum. His actions can be interpreted as Pamuk's intention to provide contents that readers can continue to experience after reading the novel by creating real life museum.

The objects collected one by one in 〈The Museum of Innocence〉 may be composed of memories of short but long love of Kemal and Füsun, but it also includes many memories shared by people of different classes of Istanbul since the year 1975. In this sense, the novel 『The Museum of Innocence』 can be directly concluded as 'the transformation of artistic imagination to reality'.

『The Museum of Innocence』 was already said above that it is an obsessive love story of a man toward a woman. However, it is also a story about objects passionately collected by the man with love and remembrance of that woman. In the novel, each memory of Kemal and Füsun is reflected with each object, and the ambition of collecting these objects to establish a museum means Kemal's love to love her beyond space and time. In other words, many objects and the stories of those objects is the main content of the novel, and the novel itself deals with the process of conversion of cultural content

For instance, Kemal repeatedly mentions that he wants to 'display this object in the museum' or he wishes 'the readers to feel have [this kind of feeling or thoughts] when they see [this object] in the museum', but Pamuk is explaining all of his collections of 〈The Museum of Innocence〉 one by one. In this sense, the novel serves the purpose of a **catalogue of displays.**

〈The Museum of Innocence〉 opened in April, 2012 in the presence of media from all over the globe is composed of 4 stories. What is interesting is that even though Pamuk gave up in the process, he majored in architecture. He has perhaps tried to release all of his talents as an architect and his knowledge as an author at once, by bringing back his passion of his youth at the age of seventy.

The building which was transformed into a museum, is a 4-story wooden building

constructed in 1897 and was purchased by Pamuk in 1999 in the process of planning out his novel. Objects, pictures, clothing, and films that reflects the life style of the years between 1950 and 2000. Of course, these objects are mentioned in the novel. In a press conference, Pamuk expressed his wish for 'the objects to be more magnified rather than the space'.

To write in a more detailed manner, ⟨The Museum of Innocence⟩ is a space where each object in each chapter of the novel are displayed in each box. As soon as one enters the entrance of the museum, 4,213 cigarette butts smoked by Füsun are displayed in year and date on the right side, and on the wall right next to it, a video of Füsun's hand which can bring up imaginations of her various emotions while smoking. The 1st basement floor which can be reached through the stairs on the left is the museum store that sells a set of butterfly shaped earrings which is Füsun's earrings and the logo of the museum, postcard with drawings, Pamuk's works translated into various languages, and other diverse items. This basement is connected from the museum, but the ceiling is specially all made of glass, so a visitor can know that it was a garden.

As it can be seen, the display concept of the museum is that objects in each chapter are displayed in relation to the process of the novel. These objects are either touched or used by the protagonist Füsun. It can also be said that the objects in ⟨The Museum of Innocence⟩ exists in the present, but also a space to keep the time of the past through objects. In the front pages of ⟨The Museum of Innocence⟩, the location of the museum is marked on a map, and the ticket in the middle of the novel remind the readers of the existence of the museum and let them forget of the fictional aspect of the novel. Pamuk used these dvices to connect the fictional novel and the real life museum, tearing down the boundary of the two. It is a moment when fiction and reality coexist.

Ⅲ. Conclusion

Until now, this paper discussed how the objects written in the novel is displayed in a real life museum, in other words compared text with displayed contents, keeping in mind that 『The Museum of Innocence』.

In an anthropological sense, 'museum' was born due to collectors, and this place was the only space where we can look into the past and imagine the life style of that time period. The items in a museum proudly lives on to display their existence, but the person who possessed those objects no longer exist. Orhan Pamuk perhaps wrote 『The Museum of Innocence』 based on the attractive topics of 'museum' and 'collection' as it can be seen. Pamuk has elaborately prepared and worked on his work and reached the point of completing the fictional novel work and the establishment of his museum ⟨The Museum of Innocence⟩ which displays the most detailed parts of the book at the same time.

⟨The Museum of Innocence⟩ established by Orhan Pamuk has characteristics in some perspective. First, ⟨The Museum of Innocence⟩ is a space where fiction (novel) is

actualized (museum). Second, ⟨The Museum of Innocence⟩ is a display space planned together with the novel. Third, the museum is another form of creation of the author that he has created himself. Fourth, it is a space composed of realistic contents to make a fiction feel real.

Orhan Pamuk published a photograph collection *The Innocence of Objects*(2012) which is a story telling of the objects displayed in the museum in relation to the progress of the novel. If a novel is a text of a museum and a catalogue, the fact that Pamuk established a museum with the same name as the novel, and republishing the objects into a collection of pictures and is telling another story about the displayed objects, it can be said that this collection is a representative example of a test where a literary work was transformed into another form of cultural content.

Making One's Own place in an Egyptian City through the Daily Practices of Upper Egyptian Migrant Workers and Foremen

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Ⅰ. Introduction

This presentation explores how migrant workers from Upper Egypt live in the city by using their social networks. Upper Egypt is the upriver district of the Nile river. Compared to the fertile cultivated land in the lower river Nile Delta region, the cultivated land is narrow, and is alongside the river between mountains and behind the desert. Because of this, it cannot support many Upper Egyptian people's livelihoods. Many people thus migrate to different cities, except for those who find jobs in their hometowns, becoming teachers, peasants, or public servants (cf. Toth 1999).

Utilizing the anthropological method, this presentation will describe how they personalize their surroundings in a place they have not been before, on whom they depend, and how they work in the city. I focus on an Upper Egyptian foreman who hires migrant workers mainly from his kinship relations as a case study. He is in his late thirties, and will be referred to as "foreman Waheeb." a fictitious name. He has worked in Alexandria, the second largest city in Egypt, since high school age during his summer vacations. He was also started out as a construction worker and eventually became a foreman. This presentation is based upon knowledge from fieldwork in Alexandria, which was conducted over multiple years until 2010 (Okado 2008; 2012).

By showing their daily practices, this presentation also compares the different experiences between migrant workers and the foremen, and discusses the meaning of making one's own place in the city.

Ⅱ. How and where do they find construction work?

In Egypt, there are many traditional coffee shops. These coffee shops have no walls and are open to the street, and serve water pipes and various kinds of inexpensive drinks, making them easily frequented by many people (Hattox 1985). Almost all customers are men who use them to drink as well as to meet with many friends. The coffee shops of the lower district that I visited were often frequented by migrant workers hailing from the same village, many of whom were also members of the same extended family. These workers used the coffee shops to expand their social networks (cf. Abu-Lughod 1961: 32).

There are 16 coffee shops on one street of the lower district in Alexandria. Each coffee shop has regular migrant customers who are from the same hometowns in Upper Egypt, who visit them with the intention of finding work, shelter, expanding their urban bases, and exchanging valuable information. In the coffee shop I focused my investigation, there were 70 workers in total. Of those 70 included 37 workers from foreman Waheeb's extended family, 12 workers from his maternal kin (see Fig.1 of Appendix, No.37 is Foreman Waheeb), and the rest from the same village or from neighboring villages.

They worked in building projects in Alexandria, which entailed the pouring of wet concrete into the wooden frames of buildings. One day's work typically completed one floor, while the next day, all the pillars of the floor are constructed and poured into wet concrete. The following day, workers would move to a different work site to do similar work. Even after three or more than five days of this, the workers would return to the first site to continue the next step of their task. The time interval between construction works at one site is generally irregular, and depends on the carpenters and iron workers who build the wooden frames with reinforcing bars. Thus, construction workers ideally have two or three work sites at any given time.

Construction work thus needs many physically unskilled laborers. Migrant workers can easily obtain such work the very day they relocate to the city by using their social networks, which are based on kinship with blood relatives and other members of their home community, which are already established in their home village prior to moving into the city.

Workers and foremen from the same village usually congregate in one coffee shop where in the evening, after the day's work is complete; the foremen assign the next day's work to the workers. In foreman Waheeb's case, five foremen from his extended family including himself are the ones that typically distribute the work (See Fig.2 of Appendix, All of the numbers correlate the numbers of Fig.1. It shows relationship between four foremen and workers). Their social networks thus operate on daily work in the city.

Ⅲ. Social network as a means of livelihood and place

In Egyptian social networks, it is important to mention the Egyptian family system: *Ø°Ùila* and its blood ties. The term *Ø°Ùila* refers to a family that includes more than one generation of paternal grandparents and is distinguished from the family system called *usura* in Arabic. *Usura* also refers to a family; however, in this case, a family constitutes parents and their unmarried children. In reality, it has been assumed that *Ø°Ùila* means an extended family and *usura*, a nuclear family. The difference between them depends on whether or not the family members live together. *Usura* rests on the premise that they live together, but *Ø°Ùila* does not.

An *Ø°Ùila* includes many members who are from the paternal side and are divided by previous generations, and have vast human networks. A member of an *Ø°Ùila* has responsibilities and obligations toward other members of the group, including offering moral and financial support (Rugh 1984: 55). Occasionally, brood vendettas between members of different *Ø°Ùila* in Upper Egypt do occur. In those times of crisis, members in an *Ø°Ùila* are mobilized to retaliate against opposite members of an opposing *Ø°Ùila* through their shared sense of family solidarity. Similarly, in elections for the local council, they call upon members to support candidates from their *Ø°Ùila* for their local empowerment (Akahori 1994: 364; Springborg 1982: 26). Foreman Waheeb's *Ø°Ùila* is based upon five generations, and has many *Usura* within it (see Fig.1 of Appendix). The workers who share a grandfather from their *Ø°Ùila* live together in the city and meet other members of *Ø°Ùila* beyond their grandfather's line at the coffee shop. They migrate to the city alone, leaving their wives behind if they are married.

Ø°Ùila has been studied in Japan mainly in the context of Egyptian rural communities (Kato 1983; Kimura 1973; 1975; Nakaoka 1973). In this case, an *Ø°Ùila* owns a unit of land in order to prevent its subdivision by equal inheritance to each individual. *Ø°Ùila* is considered a community of farmers who have linked their lands. This cultivation unit includes a tenant farmer who is not a blood relative of the other members; therefore, it is believed that *Ø°Ùila* can include such a farmer by their solidarity. While *Ø°Ùila* in rural areas have been extensively investigated (Iwasaki 2006; Ohtsuka 1983), it is also necessary to understand whether or not their members maintain ties with each other after leaving their land. As shown before, migrant workers rely on their connection of *Ø°Ùila* for their daily work by gathering at coffee shops in the city.

On the contrary in Egyptian urban areas, such networks are aimed at satisfying the various needs of their members through mutual support. Compared with rural areas, the network is not always formed around *Ø°Ùila*. Previous studies of urban settings have paid attention to the network among women in the neighborhood as a tactic of livelihood (Rugh 1984: 102; Singerman 1995: 157). They usually meet on the way to completing daily chores and financially help each other by organizing a mutual loan association for their meager incomes (Bibars 2001: 129). This network covers multiple aims beyond just work.

Although previous studies have considered the mutual aid promoted in social networks, they have not taken into account the places where a network is created and expanded. Such places can function as a base that provides migrants with opportunities for mutual exchange in a

network that has several starting points. Namely, the coffee shop in Egypt is the place where migrant workers engage in social networking.

Ⅳ. From the coffee shop to the street, expanding social gathering

Foreman Waheeb usually employs workers from his near relations in *∅°Ùila*, his maternal kin and his neighbors from his hometown. He usually needs about 15 workers for one daily construction site and finds them by recruiting them in the coffee shop. Each worker has a foreman upon whom he usually depends. Waheeb's workers not only obtain construction work regularly from him, but also depend on other foremen in the coffee shop when they are unable to find daily work (See Fig.2 of Appendix, All of the numbers correlate the numbers of Fig.1. The numbers in the square are the foreman.). Frequenting the coffee shop, the worker can thus get information about work. Even on their days off, they drop in to the coffee shop to ask about the next day's work. Without the coffee shop as a meeting place, it would be difficult for them to find daily work in the city. Therefore, the amenity-serving coffee shop becomes an integral piece in making their social network fully functional.

However, construction workers passively acquire work depending heavily on their foreman's condition of employment. If their foreman is unable to offer sufficient work, laborers either cannot work or may have to search for vacancies by interacting with other foremen without the advantages of any social network. This usually happens in front of the station in the early morning, where many migrant workers and foremen gather before going to their work sites. Workers may also leave to search for jobs in a different city, depending on their relatives there.

For instance, in 2006, the new governor of Alexandria revised construction standards, which restricted the height of buildings in some district. As a result, the amount of construction work declined to accommodate the fewer numbers of floors needed to be built. Many workers thus could not manage to find daily work and left Alexandria as a result. However, foremen can also improve their earnings by reducing the number of workers they employ. As long as the foreman has enough work to assign their many workers, the coffee shop gathering allows them to acquire their daily earnings. Although workers have social networks, they often don't make new relationships beyond their hometown,whichmayprovidethemwithnewopportunitiesfordailylifeinthecity.

The experience between foremen and workers thus differs. The former uses coffee shops not only to assign work to the latter, but also to visit many other foremen at different coffee shops on the same street. Each foreman holds many opportunities and knowledge for work, and they can sometimes work together and invest in new opportunities. Foreman Waheeb also finds many opportunities for work with other foremen by interacting with them in the coffee shops, and can thereby overcome the changing construction standards by finding other types of construction work.

By visiting many coffee shops, foremen convert them into a meaningful space which extends to the street. Meanwhile, workers stay at one coffee shop to gather with those of the same village. Thus foremen feel the street encompassing many coffee shops are a resource for many

opportunities. However, workers consider the street an ordinary passageway to the coffee shop, devoid of potential value. Their different experiences thus reflect the same their different view of the street (cf. Elyachar 2005: 48).

Ⅴ. Conclusion

In summary, I discuss the migrant workers' use of social networks originally from their hometown in their search for work in the city. In that instance, I explained how they congregate at the coffee shop for the purpose of interacting with one other. Then, I described the Egyptian family system as a social network that is of great utility to their daily life in the city. Finally, I illustrate how workers and foremen utilize the coffee shop and contrast their different experiences of them in the city.

In conclusion, firstly, migrants can make the most use of their social networks in the city. In addition, they must find ways to expand their networks through their work or the places they frequent, and also find another place to meet in order to acquire better conditions of livelihood. Although social networks from their hometown are useful and they use the coffee shop as a place to exercise them, it is not enough for workers to steadily secure earnings in the city. Their use of the coffee shop is essentially like a passage point which does not become a place that connects to other places--in other words, a three-dimensional space like in the foremen's use of the coffee shop. For many workers, the city does not become a lived-in space (Lefebvre 1991: 39). Also, their place does not constantly exist in the city. It is produced by their daily practice by frequenting the coffee shop. If they do not frequent the coffee shops, their place will disappear; but the coffee shop remains, nevertheless (de Certeau 1984: 117). Foremen have a various places to socialize with many different people and apply these places toward expanding relationships through their networks. As such, foreman Waheeb can continue to stay in the city even when hard times--like when other workers have to leave--occur.

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Ⅵ. Appendix

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Middle East Affairs

Chair: **SAKAI, Keiko** (Chiba University)
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❚Presentation1   Recent Political Developments in Turkey
: From the Perspective of the Civil-Military
 (and Judicial) Relations

        Presenter: IWASAKA, Masamichi
                      (Japan Society for the Promotion of Science)
        Discussant: USUKI, Akira (Japan Women's University)

❚Presentation2   The Myth of Lebanese Diaspora Verification by
Opinion Polls, 2010 and 2012

        Presenter: TAKAOKA, Yutaka
                      (The Middle East Institute of Japan)
                      MIZOBUCHI, Masaki
                      (Japan Society for the Promotion of Science)
        Discussant: LEE, Hyo Bun (KNDU)

❚Presentation3   The Power structure of the Iranian Government

        Presenter: CHANG, Ah Rum (Seoul National University)
                      CHANG, Byung Ock (HUFS)
        Discussant: JUNG, Sang Ryul (Myongji University)

Recent Political Developments in Turkey
：From the Perspective of the Civil-Military (and Judicial) Relations

IWASAKA, Masamichi❘
Japan Society for the Promotion of Science

The most important event in Turkey which occurred during a decade of the government of the Justice and Development Party (JDP, Adalet ve Kalk ı nma Partisi) is the progress of democratization. Because of the origin of the party and the personality of its leader, the Prime Minister RecepTayyipErdoğan, the party's Islamic tendency has frequently paid attention to and often exaggerated. On the other hand, the fact that the government has diminished the influence of the military over politics and promoted the civilianization of many political institutions tends to be overlooked.

Such changes which the JDP government brought have drastically transformed the Turkish political structure and shook strongly the traditional Republican "establishment" ––– a group of institutions which is faithful to Ataturkismas a kind of "establishment principle,"such as secularism and republicanism, represented by the military. as well as the military, has drawn the attention in recent years. In fact, he judiciary has been considered as being independent form the "establishment" gradually. For example, the Constitutional Court (AnayasaMahkemesi) it rejected the closure case of the JDPin July 2008, and even conflicted with the military over the planned conspiracies against the JDPcalled "Ergenekon" and "Balyoz" which began in October of the same year.In this sense, it can be said that the judiciary is at the forefront of the Turkish civil-military relations and democratization.

However, there are few preceding studies on the judiciary in Turkey with such point of view, and only Shambayati published several paperson the role of the judiciary in the Republican "establishment" [Shambayati 2004; Shambayati 2008b; Shambayati and Kirdiş 2009].Though the studies on the civil-military relations and democratization are relatively abundant [Heper 1985; Heper and Evin 1988; Hale 1994; Iwasaka 2008;Iwasaka 2011], there are no study on the judicial-military relations except Özbudun, Yaz ı c ı and some scholars' workson the civil-military relations and constitutions [Karatepe 1993; Yaz ı c ı

1997; Yazıcı 2009; Hekimoglu 2010; Özbudun2011]. On the other hand, [Aybay 1977; Ünsal 1980; Hazama 1996; Karacioglu 2003; Karacioglu 2004; Belge 2006; Özbudun 2006; Shambayati 2008a; Saygili 2010; Shambayati and Sütçü 2012] 。 many scholars have published on the Constitutional Court, which is a top organization of the Turkish judiciary, especially on its judicial review and closure cases of political parties [Aybay 1977; Ünsal 1980; Hazama 1996; Kogacioglu 2003; Kogacioglu 2004; Belge 2006; Özbudun 2006; Shambayati 2008a; Saygili 2010; Shambayati and Sütçü 2012].

In this paper, in order to understand the changes in the democratization and the judiciary in recent Turkey, I will analyze the civil-military and judicial relations, focusing on the Constitutional Court which has had a close relationship with the military. The Court was established after the military coup of 1960 which is the first coup of the Republic, and it is one of the institutions that have been most affected by changes of the system by the military. Moreover, referring to Ataturkism as the "establishment principle" of Turkey, I will try to answer the questions why and how the democratic reform was accepted by the military and the judiciary.

Ⅰ. The Judiciary under the 1924 Constitution: Non-independent Judiciary in the Years of Independence

Before considering what was expected the Constitutional Court when its foundation was planned, I will try to analyze the judiciary's feature inearly Republican period. he first constitution of the Republic of Turkey was established in 1924 and the judiciary was recognized as an independent power for the first time as "KuvveiKazaiye (judicial power)" in its Article 53-60. However, at this point it was only the constitutional independence; in reality, it was under the strong influence of the Republican People's Party (RPP, CumhuriyetHalkPartisi) which was the ruling party from 1923 to 1950. The RPP was founded by Mustafa Kemal Atatürk, the first President of the Republic and *Pater Patriae* of Turkey, and had maintained a government under a de facto one-party ruleuntil the multi-party system was installed in 1946.

In the early RPP period, the judiciary was expected to be a guardian of "establishment" and restricted its independent activities, because the basis of the new Republic was under establishing after the fall of the Ottoman Empire. For example, the Independent Court (İstiklâl Mahkemesi) which was responsible for and composed of members of Parliament was opened ad hoc, and tried people against the Republican principle. This was clearly contrary to the concept of independence of the judiciary, and it was obvious that the articles in the 1924 Constitution were ignored. In addition, according to the Law on Judges (HâkimlerKanunu, No.2556) which was enacted in 1934, the Ministry of Justice has jurisdiction over the appointment of judges and their promotion and alteration, and the executive could control the internal matters of the judiciary. Furthermore, the Administrative Court (Danıştay orŞûrayı Devlet) dealing with administrative litigation and

reestablished in 1927, was under the Office of the Prime Minister, and Parliament elected its members. The role of the Administrative Court was firstly an advisory body andits jurisdiction had been limited by the executive [Ünsal 1980: 77-79]. Thus, under the one-party rule of the RPP, the judiciary wasfar from independent ofboth of the legislative and executive.

After 1950, when the Democratic Party (DP, DemokratParti) came to power, the independence of the judiciary was not completely achieved yet. The DP government announced that it had a will to achieve the independence of the judiciary, which was defined in the Constitution of 1924; however, in order to wipe out the RPP's rule that spans more than 25 years, the DP intervened frequently to the judiciary. In 1953, the DP government amended the Pension Fund Law (EmekliSandığı Kanunu, No.5434), which was enacted in 1949, and tenure of public officials (including judges)was reduced to 25 years from 30 years. Nevertheless, the DP applied the law in an extremely arbitrary manner, therefore in fact there were some judges who continued to work more than 25 years. On the other hand, the RPP which had become an opposition party strongly condemned this situation, and made a proposal to establish a new High Council of Judges (YüksekHâkimlerŞûrası) as an institution to be independent of the Ministry of Justice over the appointment of judges [Ünsal 1980: 70].This became an origin to establish the High Council of Judges (HCJ, YüksekHâkimlerKurulu) by the Constitution of 1961. Additionally, the RPP planned the establishment of the Constitutional Court to realize the independence of the judiciary and monitor the legislature [McCally 1956; Aybay 1977].

Under the 1924 Constitution, the independence of the judiciary in Turkey had not been achieved, and the government had evidently influenced on the judiciary. It was the RPP which became an opposition party that tried to realize the judiciary's independence, though it had seta precedent of non-independent judiciary. This would be a significant impact on the nature of the judiciary under the Constitution of 1961,because supporters of the RPP would be involved in the process of creating new constitution after the coup in 1960.

Ⅱ. The Foundation of the Constitutional Court: A Dream of "HukukDevleti"

The DP government was overthrown by the coup of May 27, 1960, and the National Unity Committee (NUC, MillîBirlikKomitesi), the military regime lasted for a year, established a new constitution in 1961 and the Constitutional Court. In order to clarify the purpose of the NUC to set up the Court, here I will try to explain a primordial form of the Turkish judicial-military relations.

The NUC's tendency to attach importance to law and the judiciary already appeared in the provisional constitution (Law No.1) in June 1960. The independence of the judiciary was noted in Article 5: "Jurisdiction is exercised by neutral and independent courts, in the name of the people within the framework of the law." This article, along with the concept of the RPP that I have mentioned, implied how to handle the judiciary in the 1961

Constitution. A draft of the constitution was created in the Constitutional Committee (AnayasaKomisyonu) which set up by the Constituent Assembly (KurucuMeclisi), composed of the NUC and the Assembly of Representatives (TemsilcilerMeclisi). A Commission's draft was changed by the NUC at the final stage to some extent, thus of course the NUC also discussed the Constitutional Court and the new judicial system.

According to the minutes of the NUC, idea of institutions conducting the judicial review was already discussed in September 1960, and establishment of the Constitutional Court and the introduction of a bicameral legislature were also decided in November [MBKGKT: C1/B9/O2: 12-13] [MBKGKT: C3/B34/O1: 17]. In addition, treatment of the law which the Constitutional Court finds unconstitutionality was hotly debated [MBKGKT: C6/B86/O2: 22-23]. The NUC also decided the establishment of the HCJ to confirm the autonomy of the judiciary for personnel affairs, however there were some opinions that it might make the judiciary too autonomous [MBKGKT: C6/B86/O2: 17-18]. Thus, in the process of establishment of the 1961 Constitution, it can be pointed out that the realization of the independence of the judiciary from the legislative and executive had been one of the important issues. The Constitutional Court initiated by the Law No.44 in April 1962 was defined by Article 145-152 of the Constitution of 1961, and has been the first institution granted judicial review in Turkey. Moreover, it was regarded that the Court embodied a concept of *Rechtsstaat* (hukukdevleti)[1] [Ünsal1980:71;Özbudun 2000:113-123]. The 1961 Constitution as a whole was in contrast to the 1924 Constitution which gave the legislature a very strong influence over the judiciary.

In terms of the independence of the judiciary, the HCJ has been achieved the autonomy of the judicial personnel affairs. Though Minister of Justice could participate in the HCJ, he/she did not have the right to vote. The Administrative Court changed its major role from an advisory body to the judicial institution, and its judges got elected by the Constitutional Court. On the other hand, as observed in the discussion of the NUC, some measures were taken to curb the excessive independence of the judiciary; Parliament and newly established Senate got right to elect a third of members in each of the Constitutional Court judges and the members of the HJC. (see Table 1)

In this way, by the Constitution of 1961, the independence of the judiciary was ensured to a significant extent. It was primarily brought by autonomy of personnel affairs and check to the legislative and executive by the Constitutional Court and the Administrative Court. In this sense, it can be said that the 1960 coup and the new constitution was a starting point of an independent judiciary in Turkey. However, at the same time, it should be paid attention to that the military brought such change when the civil-military and judicial-military relations after the 1960s are analyzed. In fact, the military made an important institutional change in order to maintain its power after transition to civilian rule; for example, the National Security Council (NSC, MillîGüvenlikKurulu) has been established as an advisory board to the Cabinet, and then the military has been able to

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1) "Rechtsstaat" should be distinguished from a concept of "rule of law," however no clear distinction was made in articles on Turkish politics.

legally participate in the executive. Furthermore, a tacit rule that the former Chief of the General Staff becomes the President has created a new channel of political participation of the military.

Ⅲ. The Judicial-Military Relations in the 1961 Constitution Period: Miscalculation and Breakdown

Unlike the military's expectation, Turkey under the 1961 Constitution had been highly polarized into supporters of the RPP and the Justice Party (JP, AdaletPartisi) which is the successor of the DP. Neither of them could get a parliamentary majority because of newly introduced proportional representation electoral system to prevent the emergence of a strong ruling party like the DP, while, thanks to the system, minority parties like the Nationalist Action Party (MilliyetçiHareketPartisi) and the National Order Party (MillîNizamPartisi) held a casting board and brought the era of unstable coalition governments.

Including this situation, the 1960s was a series of unexpected events for the military. Firstly, within the "pro-establishment" RPP, Bülent Ecevit who strongly criticized the political intervention of the military came to the fore. This young powerful figure held "left of center (ortanın solu)" in 1965 and changed the line of the party, and he became a leader of the RPP instead of İsmet İnönü, the second President and a hero of War of Independence. The establishment of the rule of Ecevit in the RPP meant that there would be no leading political party which supported the military implicitly or explicitly. Secondly, such political polarization was not irrelevant to the judiciary. The Constitutional Court was inclined to the Ecevit's RPP, which had become critical of the military's political intervention, and gradually went away from the hands of the military [Dodd 1983: 25-26]. This tendency had continued even after a quasi-coup in 1971, and crucial confrontation had emerged between the judiciary and the military.

On March 12, 1971, the military forced the JP government to resign by the memorandum and had kept power for about two years while maintaining Parliament. The military carried out many amendments of the Constitution and laws in this period, and conflicted with the autonomous judiciary on the military court. At first, Article 15 and 23 of the Martial Law (Sıkı yönetimKanunu, No.1402) which was enacted in 1971 were abolished by judicial review of the Constitutional Court [T.C.AnayasaMahkemesi 1972]. More significant disputes were about the newly established Military High Administrative Court (AskerîYüksekİdareMahkemesi) and the National Security Court (DevletGüvenlik Mahkemesi). The military tried to strengthen the presence of the military in the judicial sphere by these installations, the Constitutional Court decided that the National Security Court was unconstitutional and ordered to close it [T.C.AnayasaMahkemesi 1975].

These judgments by the Constitutional Court which were contrary to the intention of the military gave a huge impression of the crack between the autonomous judiciary and the military. Although the military increased the influence over the executive by strengthening

the NSC, it had no measures to put pressure on the judiciary. Such situation had not changed throughout the 1970s, and it might be one of the causes that the military could not settle down the social disorder "legally."

Ⅳ. The 1982 Constitution: Reconstruction and Reapproach of the Judicial -Military Relations

The chaos of the 1970s came to an end by the military coup of September 12, 1980. The National Security Council (MillîGüvenlikKonseyi, it is different from MillîGüvenlik Kurulu) which the Chief of the General Staff KenanEvren chaired seized the power, the new constitution of 1982 and Evren's Presidency was approved by a national referendum. The junt a which had lasted until 1983 closed all political parties, including the RPP, and tried to reconstruct a political order by the 1982 Constitution. It also carried out judicial reform to ensure the influence of the military over the judiciary.

Judicial reform by the junta was implemented through the expansion of the executive authority which had already controlled by the military. More specifically, it was carried out by moving power from Parliament to the President or the NSC. Firstly, in the 1982 Constitution, the HCJ was reorganized into the High Council of Judges and Prosecutors (HCJP, Hâkimlerve Savc ı lar Yüksek Kurulu) and the number of the members of the Council and the Administrative Court which elected by the President was increased. Secondly, the military was become excluded from judicial review by the Constitutional Court and all judges of the Court came to be elected by the President. Thirdly, members of other institutions to elect the judges of the Court were also got elected by the President or the HCJP. Therefore, it is not reasonable that Hazama's claim that the Court had strong autonomy under the constitution of 1982 [Hazama 1996: 312-323]. The military also reestablished the National Security Court which had once closed by the Constitutional Court in the 1970s and secured its sphere within the judiciary. (See Table 1)

Taking into account such points, judicial reform under the 1982 Constitution was not to enhance the restrain on Parliament [Belge 2006] but to support the military's influence over the executive. In fact, in the abstract judicial review 1984-1992, cases appealed by the President were approved in 85.7%, which was higher than any other institutions [Hazama 1996: 324-326]. Likewise, the approval rates of the Presidents who had the military background were relatively high. Furthermore, since 1983, the number of closure cases of political party rapidly increased: only six parties were charged 1961-1982, whereas 41 were charged 1983-2011 and 19 parties were closed. In other words, under the 1982 Constitution, the Constitutional Court played a role in political and social change, and it tried to set Turkey on the way which the military expected.

Ⅴ. Recent Development in Democratization and Civilianization: Toward the Independence of the Judiciary?

The judicial-military relations which had changed under the 1982 Constitution was assumed to functioned with the President from the military as a knot, however the military miscalculated again as well as under the Constitution of 1961; the Motherland Party (Anavatan Partisi) led by Turgut Özal won the general election in 1983 for transition to civilian rule, against the Nationalist Democracy Party (Milliyetçi Demokrasi Partisi) supported by the junta, and he became the first civilian President after Celal Bayar (1950-1960).The Presidency has been occupied by civilians after him, and this meant that the military was no longer able to influence on the judiciary through the President. Nevertheless, the military still could check the judiciary as well as the executive by the NSC and some informal pressure.

This situation has not changed until the 2000s when the political power of the military clearly declined by democratization and civilianization reforms. One of the main reasons why the military accepted these reforms was its devotion to "Ataturkism." Throughout the 1980s, the military attempted to restore the national integrity which was on the brink at that time by infiltrating Ataturkism as "establishment principle"into the public. In general, Ataturkism includes some concepts such as secularism and nationalism, however "to reach the level of modern civilization" is also regarded as an important element of it. According to Atatürk, "modern civilization"meant European countries, therefore the Turkey's accession to the EU has been supported and justified by the successive Chief of the General Staffs under the name of Ataturkism [Iwasaka 2008: 89 - 91]. When Turkey became a candidate of the EU membership at the Helsinki European Council in 1999, the Prime Minister Ecevit, who newly found the Democratic Left Party (Demokratik Sol Parti), the President Ahmet Necdet Sezer, who was former president of the Constitutional Court, and the Chief of the General Staff HüseyinKıvrıkoğlu, who supported the accession to the EU strongly, has started democratization reform which was indispensable to join the EU. The reform was further promoted in 2003 and 2004 by the Prime Minister Erdoğan and the Chief of the General Staff HilmiÖzkök, who was known as a relatively liberal figure.

Significant decline of institutional influence of the military on the executive weakened the control of the military over the judiciary through the President and the NSC. In particular, since Abdullah Gül, a former Foreign Minister in the JDP government, became the 11th President in August 2007, it has been remarkable. In July 2008, the Constitutional Court rejected the appeal that the JDP violated the principle of secularism and should be closed down. What is noteworthy here is the presiding judge HasimKılıçwho held the key to the trial. He was appointed to judge of the Constitutional Court by the President Özal in 1990 and against both of the closure cases of Islamic Welfare Party (RefahPartisi) and the Virtue Party (FaziletPartisi). After that, he became the Chief Justice in October 2007 by the President Gül.He admitted that the JDP's democratization reform was necessary for the EU

accession, and explained it when the judgment was delivered [T.C.AnayasaMahkemesi 2008].

Since2010, the trend of judicial independence from the military is accelerating. By a constitutional amendment in 2010, Parliament can elect three judges of the Constitutional Court, and the President also can elect four of the HCJP. (See Table 1) Moreover, now civilian cannot be tried in military courts, and the military involvement in the judiciary is eliminated. Cases like "Ergenekon" and "Balyoz" and the start of the trial for the 1980 coup in April 2012indicate that the judicial-military relations have entered a new phase.

The resignation of the Chief of General Staff Iş ı k Koşaner and the Commanders of the Army, Navy and Air Force, and the promotion of former Commander of Gendarmarie Necdet Özel, who are regarded as being tolerant to the JDP government, to the Chief of the General Staff maybe considered as the military's defeat against the JDP. However, achievement of the independence of the judiciary from the military and civilianization (or becoming apart of the JDP) of the Presidency which would be a knot between the judiciary and the military are the very week point of the system established by the military. Furthermore, it should not be overlooked that the judiciary also "rhetorically entrapped" [Sar ı gil 2007] by the EU-oriented Ataturkism as well as the military.

As I have mentioned, the judiciary in Turkey since 1983, the Constitutional Court in particular, has played a role to make Parliament and the "establishment" coexist as a part of the latter. Today, however, in Heper's word [Heper 1985], the Constitutional Court is not a member of "state elites" but under a strong influence of "political elites."This may be similar to the fact that the Court was close to the RPP under the Constitution of 1961. In this sense, the debate which always looks on the Court as on the side of the "state elites" would not correspond to the reality.

Whether "hukukdevleti" in the 1961 Constitution will be achieved or the judiciary will be much closer to the JDP government, there is a need for paying attention to the forthcoming constitution under preparation.

Table 1: Judicial Appointment and Institutions

Institution	'61 Constitution	Amendment '71-'73	'82 Constitution	After '10
Constitutional Court	Permanent/Sub [15/4]	–	Permanent/Sub [11/4]	Permanent [17]
	Supreme Court [4/2] Admin. Court [3/1] Court of Accounts [1/0] Lower House [3/1] Upper House [2/1] President [2/0]		Supreme Court (2/2) Admin. Court (2/1) Court of Accounts (1/0) Mil. Sup. Court (1/0) Mil. Admin. Court (1/0) Higher Ed. Board (1/0) Other (3/1) President [11/4]	Supreme Court (3) Admin. Court (2) Mil. Sup. Court (1) Mil. Admin. Court (1) Higher Ed. Board (3) Other (4) President [14]
				Court of Accounts (2) Other (1) Parliament [3]

Administrative Court	Constitutional Court [all members]	–	HCJP [3/4 of members] President [1/4 of members]	–
HCJ/HCJP	Permanent/Sub [18/5]	Permanent/Sub [11/3]	Permanent/Sub [6/5]	Permanent/Sub [20/12]
	Supreme Court [6/2] Lower House [3/1] Upper House [3/1] 1strankJudges[6/1]	Supreme Court [11/3]	Supreme Court (3/3) Admin. Court (3/2) President [6/5]	Supreme Court [3/3] Admin. Court [2/2] 1strankJudgesandProsecutors[7/4] 1strankAdmin.JudgesandProsecutors[3/2] Law Academy [1/1] President [4/0]

*[n] = elected number, (n) = nominated number

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Presentation 2

The Myth of Lebanese Diaspora Verification by Opinion Polls, 2010 and 2012

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Introduction

Certain widespread stereotypes have been formulated about the Lebanese people; for example, they are considered to be cosmopolitan, multilingual, business-oriented, and possessing an entrepreneurial spirit. These images have led to the Lebanese being commonly known as the "New Phoenicians," or a typical case of "Trade Diaspora." According to Robin Cohen (2008),from the seventeenth to the twentieth century, a huge number of Lebanese, who were motivated by positive ambitions (such as achieving wealth) rather than negative ambitions(such as escaping from persecution or the civil war), had been immigrating to the Mediterranean region or the North and South American continent. Even today, such Lebanese emigrants frequently intercommunicate with their original homeland, Cohen argued. Similarly, Salim Nasr (2003: 145) maintained that "A land of old migration and emigration, a major receiver and sender, contemporary Lebanon has been both at the heart of one of the first global diaspora and the objective of many in the region who aspired to and moved to become part of it."

These perspectives are strengthened by banter that some prominent Lebanese-origin figures—including Carlos Slim Helú, a Mexican business magnate and philanthropist who is currently ranked as the richest person in the world (2012), or Carlos Ghosn, a Brazilian-born businessman who is currently the Chairman and CEO of Japan-based Nissan (both are Lebanese-origin Maronite)—occasionally come back to their original homeland and engage in talks with Lebanese politicians or other prominent figures. On these occasions, they always emphasize a strong relationship between Lebanese diaspora and their homeland.[1]

In fact, however, do such widespread stereotypes of the Lebanese actually reflect the real picture of Lebanese society as a whole? Are the deep and strong human networks that have been postulated both inside and outside Lebanon actually capable of bearing the empirical test? For ordinary Lebanese people, are Lebanese diaspora and the world they recognize through diaspora truly familiar?

Based on an awareness of these problems, we reconsider the experiences and perceptions of Lebanese people with respect to cross-border movement and a precise picture of the human network interacting between Lebanon diaspora and their homeland. Additionally, to this end, we took original data sets: "Middle East Opinion Poll (Lebanon 2010)" (Aoyama *et al.* 2010) and "Middle East Opinion Poll (Lebanon 2012)" (Aoyama *et al.* 2012); both were conducted by the Beirut Center for Research and Information (MarkazBayrut li-l-Abhathwa al-Ma'lumat; BCRI)[2] in corroboration with our Japanese research team[3] in May–June 2010 and July 2012.

The remainder of this article is organized as follows. Section I reviews previous studies about Lebanese diaspora and the relationship between them and their homeland. Section II summarizes our last study (Takaoka, Hamanaka and Mizobuchi 2012),which is based on the "Middle East Opinion Poll (Lebanon 2010)" (Aoyama *et al.* 2010),and in doing so, we criticize previous studies and raise a new hypothesis. Section III reconsiders some problem points intrinsic to our last opinion poll and study and describes some points of modification to our second opinion poll. Finally, we state future prospects.

Ⅰ. Lebanese Diaspora and Homeland Relations: A Review

Lebanese Diaspora

The history of the Lebanese cross-border movements dates back to the seventeenth century[4]. At that time, Lebanon as a modern nation state did not exist yet; it was a

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1) Recently, Helu arrived in Beirut in March 2010. He met with President Michel Sleiman at the Presidential Palace in Baabda and received Lebanon's honorary golden medal. According to a statement from Baabda Palace, Helu discussed possible investment projects in Lebanon with Sleiman. The president expressed his wish to reinforce ties between Lebanon and the Lebanese diaspora, especially with Lebanese expatriates who had become leading business people or had occupied political or economic positions. For more information, see his website
(http://www.carlosslim.com/reconocimiento_beirut_ing.html).
2) For further information about BCRI, see itswebsite (http://www.beirutcenter.info/).
3) This Japanese team includes the following members: Hiroyuki AOYAMA, Associate Professor, Institute of Global Studies, Tokyo University of Foreign Studies; Shingo HAMANAKA, Associate Professor of Comparative Politics, Department of Systems Science and Information Studies, Yamagata University; Dai YAMAO, Lecturer, Graduate School of Social and Cultural Studies, Kyushu University; and TAKAOKA, MIZOBUCHI.In addition, both opinion polls were carried by grant-in-aid for Scientific Research (B), supported by the Japan Society for the Promotion of Science (JSPS), and so, we are grateful to the JSPS for supporting our projects.
4) For more details on the historical trend of emigration from Lebanon, see Houraniand

political subdivision of Syria. The Lebanese peoples' migrations extend to a wide area that includes the United States, Europe, South America, Australia, and West Africa. Nonetheless, from the seventeenth century to the early nineteenth century, the number of migrations was still small. A massive wave of migrations from Lebanon began rapidly in the late nineteenth century.

There are some background factors worth mentioning. First, this phase was primarily characterized by a major growth in the population of Mount Lebanon. According to Charles Issawi (1992: 22-23), between 1840 and 1895, the annual rate of population growth was between 0.7 and 0.8 percent. In numerical terms, between 1783 and 1860, the population had risen from 120,000 to about 200,000; two decades later, the population grew to 280,000, and by 1913, there were 414,800 people living in the Mountain (Khater 2001: 59). Second, this increase in the number of people living in the Mountain was accompanied by the rise of the middle class and "a growing number of educated men, and a smaller number of women, who looked for opportunities to use their newly acquired skills" (Issawi 1992: 4). They crossed the sea to improve their economic conditions and to have the opportunity to be active, without having to experience either religious persecution or political oppression. Third, in the wake of the relative downfall of the silk industry, which was a major industry in Mount Lebanon in this period, a large number of Lebanese left their homeland. For them, the "only option that appeared on the economic horizon was emigration" (Khater 2001: 61).

Lebanese migrants have established migrant communities in each country, and business people and merchants who freely speak various languages and are good at conducting business have settled there. Jewishdiaspora had just started businesses and some of the merchants were successful. A lot of people were able to amass large fortunes. Most notable are the aforementioned businessmen Carlos Slim Helúand Carlos Ghosn, who are both Maronite Christians with origins in Lebanon.

In this way, the Lebanese migrants were often "outstanding"figures in an economical and political sense in each country and area. For this reason, there are a certain number of studies on Lebanese migrants and diaspora. Such studies have placed a particular emphasis on the connection between Lebanese diaspora and their homeland. These studies insist that Lebanese diaspora continue to have strong attachmentsto their homeland based on dense human networks, and almost all Lebanese have a strong interest in foreign countries through such human networks. "New Phoenicians" isan analogy of the modern Lebanese derived from these arguments.

Lebanese Diaspora and Their Homeland Relationship

Robin Cohen (2008),for example, maintained that Lebanese diaspora, along with Chinese diaspora, is a typical case of "Trade Diaspora." According to Cohen, "The Lebanese trade

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Shehadi(1992)orTabar (2009).

diaspora comprised two initially distinct groups, merchants and laborers," (p. 91) and he insisted, quoting Kohei Hasimoto's (1992) argument, that "People leave Beirut and the villages, then return from abroad, only to depart again not too long later" (p. 94). Cohen then asked himself, "What draws the Lebanese overseas back to Lebanon from such far-flung destinations?" and explained that "One important explanation is the extraordinary hold the imagined homeland has over the diaspora, despite bitter-ethnic conflict, civil war, Syrian domination and Israeli invasions, the latest 2006" (p. 94).

Likewise, Guita Hourani (2008) emphasized the dense human network between Lebanese diaspora and their homeland. Hourani cited facts such as Lebanese migrants being assisted by Lebanon and its people by sending remittances, by visiting the country, by creating businesses and trade, and through philanthropic activities.

Based on these facts and this evidence, Hourani (2008: 3) clearly maintained the following:

> It is almost an uncontested truth that every Lebanese household has been touched by migration, be it a family member, a relative, or a friend. (⋯) Lebanese migrants have maintained pulsating networks with each other and with their homeland. Their memory and vision of the homeland further stirred by visits or news and their commitment to restoring Lebanon to its old glory has driven them to maintain and nurture a continuing relationship with the homeland. (⋯) Whether individually or collectively, Lebanese migrants have always created solidarity with Lebanon and maintained it.

According to these studies, whether individually or collectively, Lebanese migrants have always created solidarity and dense human networks with Lebanon. To maintain these solidarities, diasporic communities "preserve regular contacts with their homelands. (⋯) create elaborate networks that permit and encourage exchanges of money, political support and cultural influence with their homelands and other segments of the diaspora whenever these exist" (Sheffer 1997).

Dalia Abdelhady's(2011) recent argument is a little more nuanced. Abdelhady has conducted many anthropological fieldworks in Lebanese diasporic communities in Montreal, New York, and Paris, and has drawn valuable testimonies from many Lebanese diaspora. Regarding these testimonies, Abdelhadystated that "The desire to return was rarely mentioned [by Lebanese diaspora] (⋯) as political and social condition[s] in Lebanon continue to be unfavorable. In a global world, the myth of return is no longer meaningful, even as a rhetorical device, since moving back and forth is relatively easy" (p. 177),and then, she mentioned the following:

> Lebanese immigrants sustain their social and political engagement with homeland and maintain relations with family and friends in Lebanon. (⋯) Religious, social, and cultural practices allow them to continue identifying with the homeland. Cultural

activities (such as exhibitions, lectures, seminars, and festivals) are popular strategies for maintaining a connection to the homeland. The immigrants' philanthropic activities are also aimed at increasing public awareness of Lebanese issues as well as providing material assistance to certain groups in Lebanon that are in need. Interest in the homeland has distinct meanings for the different immigrants. In some instances, maintaining continuous communication with family and friends still in Lebanon or staying informed about political, social, or cultural events in Lebanon are common strategies that shape transnational attachments (p. 177).

To summarize this point, most ofthe previous studies have assumed solidarity and a dense human network between Lebanese diaspora and their homeland as characteristic features. Furthermore, the large amount of remittance from Lebanese diaspora has been pointed out by almost all of the previous studies as clearevidence of such networks. In fact, the World Bank assessed that the remittance from Lebanese diaspora amounts to $8 billionper year and occupies approximately 20% of the Lebanese GDP (Mohapatra, Ratha and Silwal 2011: 3). This huge remittance amount was considered clear evidence of "strong family ties and fervent nationalistic feeling toward Lebanon" (Hourani 2007: 5), and this data also showed that Lebanese diaspora have a powerful influence over Lebanese politics and society.

Ⅱ. Lebanese Diaspora: Myth or Reality?
"Middle East Opinion Poll (Lebanon 2010)"and an Alternative Hypothesis

We, however, have been dissatisfied with these previous assertions because most of the studies never exhibited clear and factual quantitative (large-*n*) evidence; nearly all of them depended on qualitative field research. Thus, to test previous studies and the preceding hypothesis, we conducted a large-scale opinion pollin May-June 2010throughout Lebanon. In this survey, we discovered some new findings and, based on those, we made an alternative hypothesis. To then confirm our last study and hypothesis, we revised some question items and conducted a second opinion poll survey in July 2012.In addition, the "Middle East Opinion Poll (Lebanon 2010)" (Aoyama *et al.* 2010) is the former's and the "Middle East Opinion Poll (Lebanon 2012)" (Aoyama *et al.* 2012) the latter's fact sheet (both are available via the internet).

"Middle East Opinion Poll (Lebanon 2010)"
As the first step, in this part, we discuss the first survey. The detailed survey method includes the following:
- *Survey data*: May-June 2010

- *Survey Type*: A cross-sectional survey is to be conducted using a stratified random sampling of the Lebanese population (aged18+). The data source will be a sampling frame conducted by the Consultative Center for Documentation (CCD) adapted by the BCRI.
- *Survey Site*: A poll survey is to be conducted in Lebanon.
- *Target Population*: The target population is anyone who meets the following criteria:
(a) Inclusion criteria: 914 individuals, both adult males and females, aged 18+ are to be targeted.
(b) Exclusion criteria: Anyone who refuses to participate at any time and for any reason.
- *Sample Size*: A survey on a stratified random sample of 914 respondents for mall over Lebanon will be conducted. Household interviews will be conducted taking into account respondents' gender and age group distribution. The sample was designed to be representative of the population under study. The sampling frame consisted of the sample (n=914) obtained from the Consultative Center for Documentation. The sample was chosen from the five governorates (Beirut, Mount Lebanon, North, South, and Bekaa), and distributed by different sects in the districts (see Table Ⅱ-1 and Ⅱ-2). The number of clusters within the governorates is 26.

Table Ⅱ-1: Cross Tabulation: 2010 (Governorates and Sects)

Sects \ Gov.	Beirut	Mount Lebanon	North	South	Bekaa	Total
Sunni	90	34	67	15	21	227
Shiaa	56	96	6	64	40	262
Maronite	17	75	58	18	20	188
Druze	10	39	0	11	4	64
Orthodox	18	11	27	8	7	71
Catholic	11	7	1	10	15	44
Arminian	14	8	0	0	5	27
Christian min.	6	0	1	1	2	10
Alawite	0	0	10	0	0	10
no response	7	1	0	2	1	11
Total	229	271	170	129	115	914

Table Ⅱ-2: Distribution of the Sample: 2010 (Governorates and Sects)

Governorates	Size of the Sample	Sects	Size of the Sample
Beirut	229	Sunni	227
Mount Lebanon	271	Shiaa	262
North	170	Maronites	188
South	129	Druze	64
Bekaa	115	Orthodox	71
Total	914	Catholic	44
		Arminian	27
		Christian minorities	10
		Alawite	10
		no response	11
		Total	914

- *Questionnaire*: The questionnaire, which was prepared by our Japanese team in consultation with BCRI, is composed of 4-5 pages. The total expected time to fill out the questionnaire was estimated to be approximately 25-30 minutes.
- *Data Collection*: Survey teams, data collectors, and supervisors will be identified and trained by the BCRI.

Lebanese Diaspora: New Findings and an Alternative Hypothesis

The results of the "Middle East Opinion Poll (Lebanon2010)" (Aoyama *et al.* 2010) went against the expectations suggested by most of the previous literature. In fact, itshowed that the ratio of Lebanese who had lived abroad for more than six months in the past represents a mere 19% (men: 24%, women: 15%) of the whole.When comparing the respondentsin age, educational background, and residential area (*muhafaza*), there is no significant difference. When comparing them inreligious confession, as Figure Ⅱ-1 shows,there is no significant difference in Sunni, Shiaa, and Maronites (exceptionally, only Druze had an extremely low ratio). In contrast, when comparing the respondents in income level, we find a clear difference. As Figure Ⅱ-2 shows, more than 40% of people who receive a monthly income of 5-8 million LL ($33,333-53,333), and more than half of the respondentswho receive a monthly income of 8 million LL ($53,333) have lived abroad for more than six months. We found 5 million LL to bean important threshold. In other words, embodying "an existing image of Lebanese in the cross-border movement" are the respondents who receive a monthly income over 5 million LL.

Figure Ⅱ-1: The ratio of Lebanese who have lived abroad for
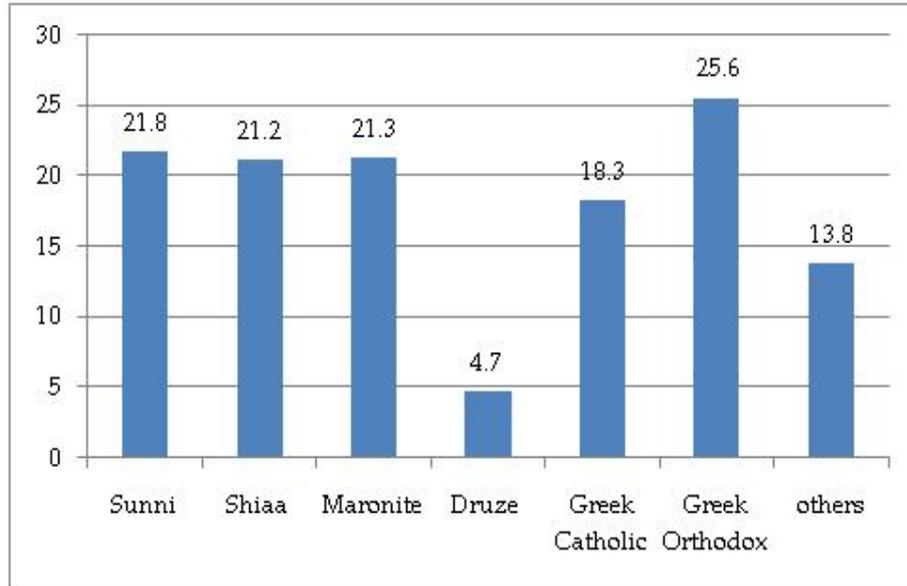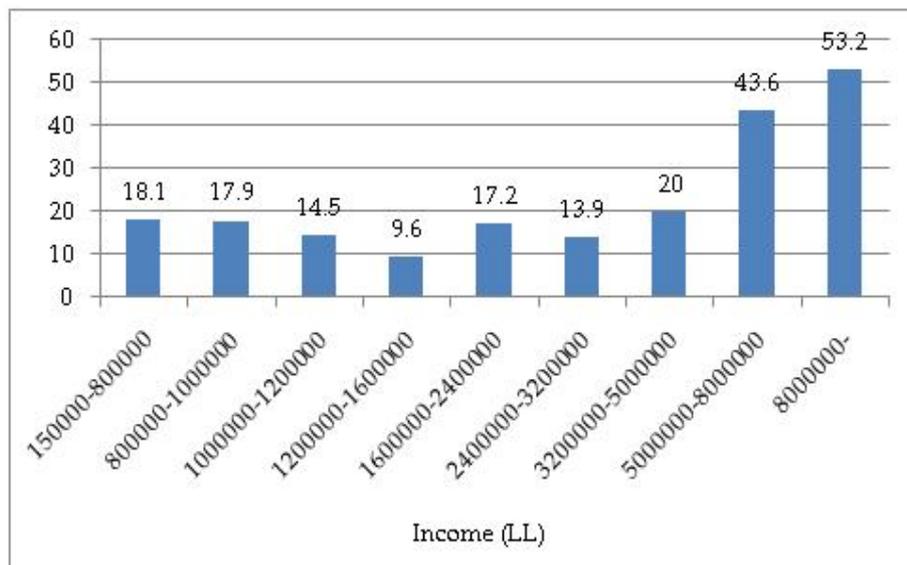more than six months: Sects (%)

Figure Ⅱ-2: The Ratio of Lebanese who have lived abroad for
more than six months: Income (%)

Furthermore, Figure Ⅱ-3 shows how many Lebanese who have experienced migration hope to repeat their cross-border movement. Figure Ⅱ-3shows that half the Lebanese respondents who have experienced migration hope to never migrate again. Given the fact that more than two-thirds of Lebanese who have experienced migration display a negative attitude toward further cross-border movements, it is quite difficult to justify the

stereotypical image of Lebanese diaspora as those who "leave Beirut and the villages, then return from abroad, only to depart again not too long later" (Cohen 2008: 94).

Figure Ⅱ-3: To what extent do you want to live abroad again?
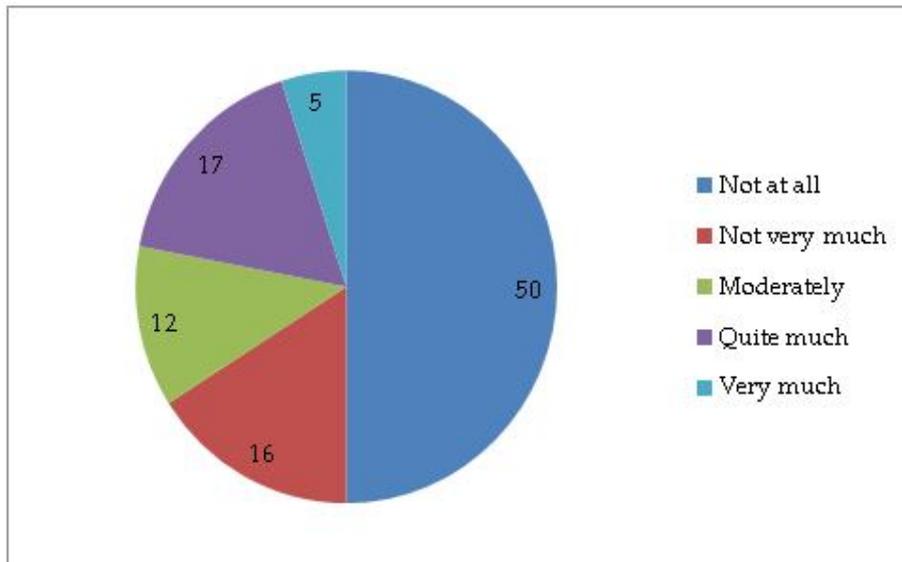
Finally, we consider the family, or the relative networks between Lebanese diaspora and their homeland. Only 17% of Lebanese who have experienced migration stated, "there are family or relative networks" as the most important reason for migration. The largest number of Lebanese who have experienced migration stated "good income" as the most important reason for migration (31%), and the second is "to acquire specialized skills" (21%). "There are family or relative networks" is the third largest reason. Given these survey results, it is quite difficult to conclude that "strong family ties are the most important reason for migration."

In accordance with the abovementioned discussion, we have to conclude that there is a good reason to reconsider the previous literature and common beliefs about Lebanese diaspora. On the other hand, it is true that the detailed observations of Lebanese politics and the economy, however, show that there is considerable evidence to support the previous stereotypical images. For example, the abovementioned large amount of remittance from Lebanese diaspora is obvious proof that there are strong networks between the Lebanese communities both inside and outside Lebanon. Why did a large gap develop between the common beliefs in previous studies and our findings from the "Middle East Opinion Poll (Lebanon 2010)"?

To answer this question, SalimNasr's (2003:143) description seems to bea good starting point. He pointed out that there are two societies in contemporary Lebanon: "A wealthy, extrovert, spending and ostentatious minority, living and moving at par with [the] globalised world elite to which it aspires to belong; and a pauperized, expanding majority, stuck with a receding economy, limited horizons and declining opportunities,"and, he

insisted that the disparity between the two societies continues to widen.

In our last study (Takaoka, Hamanaka and Mizobuchi 2012),the idea of which we derived from Nasr's above description, we focused primarily on Lebanon's vertical social structure, namely patron-client (*za'im-zalame*in Arabic) relations[5]. And then, we discussed and assumed the following hypothesis: *za'im*, a social group composed of political, fiscal, and social elites, monopolizes the access to the resources and benefits from the cross-border movement of Lebanese diaspora, and the large part of ordinary or low-income Lebanese does not receive any benefit. Thus, only the former embodies the images of "New Phoenicians" and "Trade Diasporas."

At the same time, however, we felt the necessity to conduct another opinion poll in Lebanon to confirm our abovementioned tentative hypothesis. Therefore, we conducted a second opinion poll survey in July 2012.In the next chapter, we take a look at the second opinion poll.

Ⅲ. New Data and Inspections:
"Middle East Opinion Poll (Lebanon 2012)" and Verification of the Last Hypothesis

"Middle East Opinion Poll (Lebanon 2012)"

The details of the survey methods in the second opinion poll in Lebanon are as follows.

- *Survey data*: July 2012
- *Survey Type*: A cross-sectional survey is to be conducted using a stratified random sampling of the Lebanese population (aged 18+). The data source will be a sampling frame conducted by the Consultative Center for Documentation (CCD) adapted by the BCRI.
- *Survey Site*: A poll survey is to be conducted in Lebanon.
- *Target Population*: The target population is anyone who meets the following criteria:
(a) Inclusion criteria: 812 individuals, both adult males and females, aged 18+ are to be targeted.
(b) Exclusion criteria: Those who refuse to participate at any time and for any reason.
- *Sample Size*: A survey, based on a stratified random sample of 812 respondents from all over Lebanon, will be conducted. Household interviews will be conducted taking into account respondents' gender and age group distribution. The sample was designed to be representative of the population under study. The sampling frame consisted of the sample (n=812) obtained from the Consultative Center for

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5) For more details on patron-client relationships in Lebanon, see Johnson (1986),Khalaf(1987), and Khalil (1985).

Documentation. The sample was chosen from the five governorates (Beirut, Mount Lebanon, North, South, and Bekaa) in distribution of different sects in districts (see Table III-1 and III-2). The number of clusters within the governorates is 26.

Table Ⅲ-1: Cross Tabulation: 2012 (Governorates and Sects)

Gov. / Sects	Beirut	Mount Lebanon	North	South	Bekaa	Total
Sunni	85	15	97	15	21	233
Shiaa	43	95	0	67	33	238
Maronite	18	89	32	9	9	157
Druze	3	33	0	3	6	45
Orthodox	11	19	20	3	7	60
Catholic	7	11	0	10	15	43
Arminian	13	9	0	0	3	25
Christian min.	1	1	0	0	0	2
Alawite	2	0	7	0	0	9
Total	183	272	156	107	94	812

Table Ⅲ-2: Distribution of the Sample: 2012 (Governorates and Sects)

Governorates	Size of the Sample	Sects	Size of the Sample
Beirut	183	Shiaa	238
Mount Lebanon	272	Sunni	233
North	156	Maronites	157
South	107	Orthodox	60
Bekaa	94	Druze	45
Total	812	Catholic	43
		Arminian	25
		Christian minorities	2
		Alawite	9
		Total	812

- *Questionnaire*: The questionnaire, which was prepared by our Japanese team in consultation with the BCRI, is 4-5 pages long. The total expected time to fill out the questionnaire is estimatedat approximately 25-30 minutes.
- *Data Collection*: Survey teams, data collectors, and supervisors will be identified and trained by the BCRI.

Modificationstothe Questionnaire and New Findings

To verify our last hypothesis and to provide further details of the cross-border movements and human networks of the Lebanese, we made some modifications to the questionnaire in the second opinion poll. The most important modification was inserting new question items about the human network: "Q. How frequently do you contact your relations, acquaintances, or friends abroad? Which country are they living in? How strong is the connection between you and them (family member, relations, friends, colleagues, and others)?" Our objective in asking these questions is to find out what kind of networks the Lebanese have and how frequently they use those networks. When our hypothesis is true, the respondents with high-incomes enjoy a high frequency of contact with their human network abroad. By contrast, respondents with mid-income or low-incomes have little access to their networks abroad, or they do not have such networks at all.

The results of the "Middle East Opinion Poll (Lebanon 2012)" (Aoyama *et al.* 2012) show that, similar to the "Middle East Opinion Poll (Lebanon 2010)" (Aoyama *et al.* 2010), only 20.3% of Lebanese have lived abroad for more than six months. This result also went against the expectations suggested by most of the previous literature. Compared with the results of the polls in Syria (20.3% in 2007) and Palestine (26% in 2009, 23.3% in 2012), these percentages are not high. When comparing respondents in age, educational background, and residential area (*muhafaza*), there is no significant difference in the "Middle East Opinion Poll (Lebanon 2012)"; when comparing them in religious confession, the percentages of each sect are nearly the same tendency as the"Middle East Opinion Poll (Lebanon 2010)"; specifically, there are no significant differences in Sunni, Shiaa, and Maronites; only Druze showed an extremely low ratio .This percentage means that the majority of Lebanese were not active in the cross-border movement. In addition, Figure III-1 shows that 37.5% of Lebanese who receive more than 5 million LL($33,333)of monthly income, had lived abroad for more than six months. In other words, their experiences increase the average. Thus, these facts support our hypothesis.

Figure Ⅲ-1: The ratio of Lebanese who have lived abroad for
more than six months: Income (%)
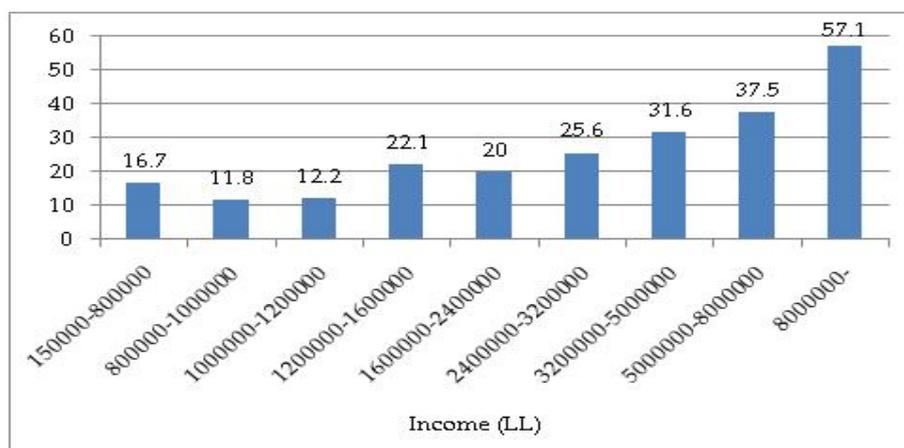
Among the Lebanese, 52.9% of those who have lived abroad for more than six months considered "good income" as an important factor in their decision to go abroad. "Study" (24%) and "live with their relations" (23.1%) followed. This tendency, which is the same as the results of the "Middle East Opinion Poll (Lebanon 2010)," challenges assumptions in previous studies about the cross-border movement of Lebanese and Lebanese diaspora, because these studies consider the role of a strong human network between Lebanese diaspora and their homeland in cross-border movement as self-evident truth.

In addition, on the new question added in the second opinion poll, we found that 62.0% of Lebanese communicate with their family members abroad "very frequently" and "frequently," while39.3% communicate with their relations, 23.7% with friends, and 14.4% with colleagues. These results also support our assumption, because they reveal that Lebanese counterparts are usually limited to their members, and the majority of Lebanese do not have a wide human network outside of their families. However, the correlation between income and the ratio of close communications with their family members or relations is some what obscure. Although most Lebanese whose monthly income exceeds 5 million LL have close communications with their family members or relations, this does not completely support our hypothesis. Lebanese with a mid-level monthly income(650 thousand LL-5million LL)also frequently communicate with their family members who live abroad.

Conclusion

The analysis of the "Middle East Opinion Poll (Lebanon 2012)" is only in the preliminary stage still now; a detailed analysis is expected to be published in the near future. Thus, in this stage, we can provide the following provisional conclusions.

The "Middle East Opinion Poll (Lebanon 2010)" (Aoyama *et al.* 2010) and the "Middle East Opinion Poll (Lebanon 2012)" (Aoyama *et al.* 2012)presented serious challenges to most of the previous studies and the self-evidenced myth of Lebanese diaspora and the cross-border movement of Lebanese people. Both opinion polls showed that general attitudes of ordinary or low-income Lebanese toward the cross-border movement are not active; we have to conclude that it is quite difficult to consider them as typical "Trade Diasporas" or "New Phoenicians." Hence, we believe that further quantitative analysis is necessary to studies in this field.

On the other hand, our hypothesis was not clearly verified in this stage. Lebanese with higher incomes are relatively active in migration and communication abroad through Lebanese diaspora. Therefore, further surveys and analyses will be necessary to reach a conclusion.

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The Power Structure of the Iranian Government

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Ⅰ. Introduction

In this paper we are going to read about the structural and institutional factors that influence debates, policymaking, and policy implementation in the Islamic Republic of Iran. The formal context serves as a backdrop to the intense, often brutal political environment that is dominated by factional competition and informal networks. The aim of this part is to review Iran's major institutions and the formal powers accorded to them by the constitution. Perhaps most significant is the clear disparity between the official authority of these political organs and the actual authority they exercise. In effect, the daily dynamics of Iran's political system do not accurately adhere to the formal structures described in the country's constitution. There are at least three main reasons for the differences between prescribed and exercised authorities.

First, an office's title is only as meaningful as the person who holds it. In other words, the relative influence an institution has in policymaking depends not only on the constitutional powers ascribed to it but also on the influence of the personality in charge.

Second, the duality of theocracy and republicanism in the Iranian system complicates matters further. The Iranian constitution empowers unelected, appointed institutions to challenge, undermine and override the decisions made by the elected president (and his cabinet) and parliament. Unelected bodies, such as the Guardian Council, also vet candidates for elected office and disqualify candidates deemed unworthy based on a perceived lack of their adherence to revolutionary and Islamic values. The dominance of these unelected bodies thereby circumscribes the authorities of the legislative and executive

branches and suppresses freedom of speech, assembly, due process, and other democratic principles.

Finally, the establishment and empowerment of multiple institutions that perform identical or similar functions and therefore compete with each other for resources and status has generated a diffuse and complicated political system. In theory, this multifarious, redundant design prevents any one center of power from gaining undue influence over the entire system and ensures the overall survival and security of the regime and the central position of the Supreme Leader. In reality, however, it results in friction and competition, even among state elites at the highest levels. For instance, the executive branch shares some of its policymaking responsibilities with the Supreme Leader; the legislative branch is comprised of two separate institutions, the Guardian Council and the Majles (the Iranian parliament), and the Guardian Council has direct authority over the Majles' elections and legislation; and the armed forces are bifurcated between a regular army (the Artesh) and the Islamic Revolutionary Guard Corps (IRGC). Iran's leadership has made some effort to mitigate these overlapping authorities; for example, the Expediency Council was created to break a recurring logjam between the Majles and the Guardian Council. Additionally, in an effort to streamline the executive, the position of the prime minister was eliminated in 1989, and the president was put directly in charge of administrative and budgetary matters. These constitutional changes, however, do not seem to have liberated the system of functionally similar institutions in competition with each other, and stasis and deadlock still frequently occur.

Thus, Iran's constitution and formal political institutions do not fully shape or describe the entirety of the country's political system. However, it is important to understand these formal institutional structures as a playing field upon which other, less-formal parts of the system interact. This figure outlines the hierarchy of Iran's political institutions and their relationships with each other.
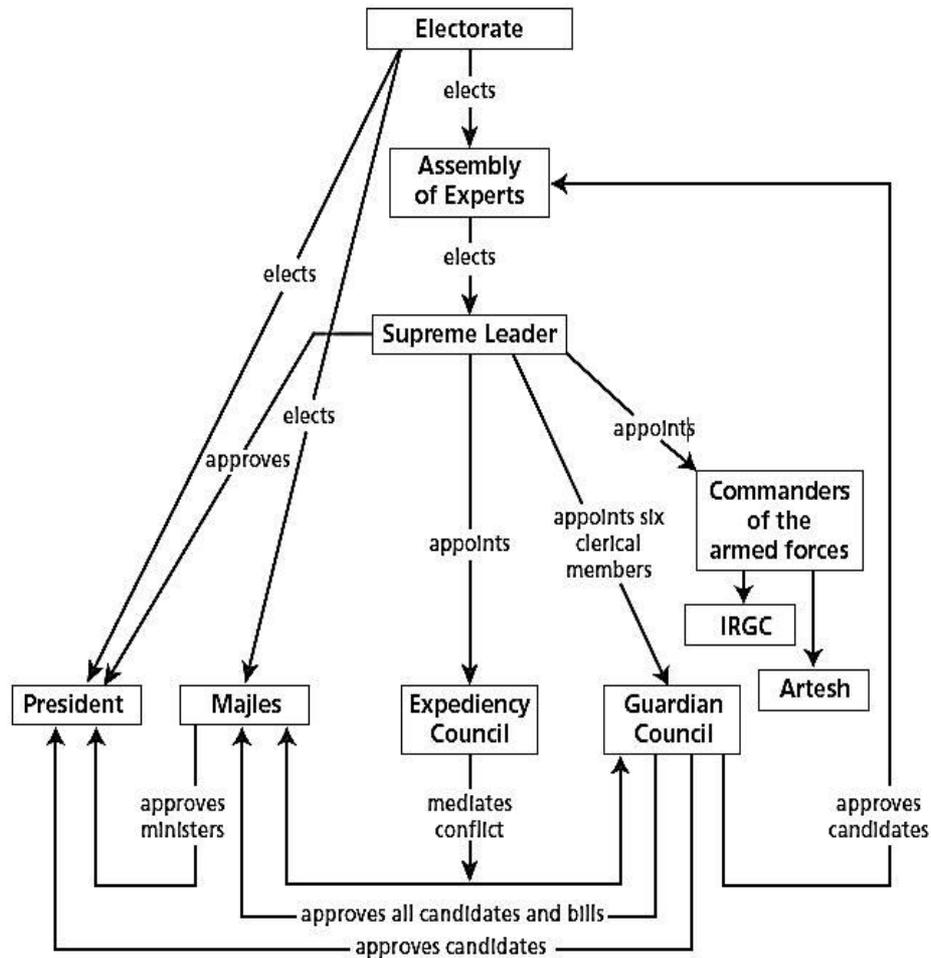
As one can see, the Supreme Leader sits at the top and center of Iran's political system and has direct and indirect reach into all other government organs. This diagram is a starting point for the rest of the chapter, which describes in greater detail Iran's principle governmental organizations, their formal and informal powers, and their relationships with other institutions.

II. The Executive/Administration

1. The Supreme Leader

The Supreme Leader, who is appointed for life by the Assembly of Experts, sits at the apex of Iran's formal power structure. His authority is derived from Khomeini's principle of *velayat-e faqih*, which was codified in the constitution after the Islamic Revolution. The

constitution gives the Supreme Leader the authority to delineate "the general policies of the Islamic Republic" and to supervise "the proper execution of the general policies of the system." The Supreme Leader ratifies the electorate's choice of president and directly appoints senior state officials. He is commander in chief of the armed forces and appoints the commanders of the IRGC, the Artesh, and the Joint Staff of the Armed Forces. He appoints the heads of the judiciary and of Islamic Republic of Iran Broadcasting, and he appoints and dismisses the clerical jurists of the Guardian Council.

The Supreme Leader also appoints numerous so-called special representatives throughout the government [and in various religious and cultural institutions] who serve as his eyes and ears and enable him to exert influence and control throughout the political system and ensure that his policies are implemented by various agencies. These representatives include the directors of cultural bureaus based in Iran's worldwide embassies, allowing the Supreme Leader to shape Iran's foreign policy independently. The Supreme Leader also appoints all Friday-prayer leaders, who disseminate his political message and ideology to the larger population.

The Supreme Leader also appoints the directors of Iran's foundations, which function as independent economic entities and patronage networks unaccountable to the state. Finally, the Supreme Leader relies on his own powerful secretariat, the Office of the Supreme Leader [*daftar-e maqam-e mo'azzam-e rahbari*] for advice in all fields, including defense and foreign policy.

2. The President

The president, the formal head of the executive branch, is ostensibly the second highest ranking official, next in line after the Supreme Leader. The president is elected by popular vote every four years for up to two terms, although the Guardian Council must approve all presidential candidates. As the chief executive, the president is responsible for the day-to-day administration of the country and for enforcing the constitution. Additionally, he heads the Council of Ministers and chairs the Supreme National Security Council (SNSC), implements laws passed by the Majles or by referenda, signs international treaties and agreements, takes responsibility for state budgetary and administrative matters, accepts the credentials of foreign ambassadors and signs the credentials of Iran's ambassadors, and nominates and terminates the tenure of cabinet ministers.

Although the president's authority is limited constitutionally in deference to that of the Supreme Leader, the administrations of Khatami (1997-2005) and Ahmadinejad (2005 present) have tested the bounds of presidential authority. Khatami attempted to inject greater openness in to Iranian political life and society in general. The Supreme Leader was wary of Khatami throughout his presidency, a reflection of the deeper tensions between

religious rule and the reformist aspirations of Khatami and many of his Iranian followers. The historical tension between the office of the Supreme Leader and the presidency increased significantly during Khatami's term in office. This tension was evident in the 2004 Majles elections, which saw the disqualification of many reformist candidates by the conservative Guardian Council, whose members are appointed (directly and indirectly, as discussed in a later section) by the Supreme Leader. In contrast, Ahmadinejad, who has sought to shape Iran's foreign and nuclear policies, has a closer relationship with the Supreme Leader. Khamenei favors Ahmadinejad, who is more conservative than Khatami, and expressed his support for Ahmadinejad in the 2005 presidential election, the 2008 parliamentary elections, and the most recent presidential election. Conversely, Khatami's efforts at reform were greatly hindered by Khamenei's opposition to the president's agenda. The differences between the Khatami and Ahmadinejad cases highlight the importance of personal ties and worldview in the relationship between the president and the Supreme Leader in terms of the ability of a president to pursue his own agenda.

Further, although the constitutional authority of the Supreme Leader certainly dwarfs that of the president, the two offices share some responsibilities. This has led to institutional competition and, at times, strategic stalemate. For instance, although the Supreme Leader commands the armed forces and offers overall strategic guidance, the president may drive formulation and implementation of specific domestic and foreign policies. And, although the Supreme Leader is the ultimate decision maker, the president can frame a foreign or domestic issue in such a way that the Supreme Leader has little choice but to support the president's position. A good example of this is Ahmadinejad's assertion that Iran's nuclear program is a national right. Painting the issue as a fundamental matter of sovereignty and independence makes it difficult for anyone to compromise with the international community.

The president has the authority to choose the Council of Ministers (his cabinet), but the Majles must first approve the candidates and has the right to impeach ministers it judges to have performed unsatisfactorily. For example, the Majles rejected several of Ahmadinejad's first-term nominees for the key post of oil minister, a huge embarrassment for the president and a sign of the independence and power of the legislative branch. In another area of potential overlapping authorities and conflict, the Council of Ministers and the Office of the Supreme Leader both concentrate heavily on security- and foreign-policy issues, thereby rivaling each other's efforts.

3. The Supreme National Security Council

Chaired by the president, the SNSC is the Islamic Republic's key national defense and security body. Article 176 of the constitution states that the SNSC's responsibilities include determining "the defense and national security policies within the framework of general

policies determined by the Leader"; coordinating "activities in the areas relating to politics, intelligence, social, cultural, and economic fields in regard to general defense and security policies"; and exploiting "materialistic and intellectual resources of the country for facing the internal and external threats." The SNSC evolved in 1988 from the earlier Supreme Defense Council and was mandated by the revised constitution of 1989. In addition to the president, formal members of the SNCS include the ministers of foreign affairs, interior, and intelligence; the chiefs of the IRGC and Artesh; the heads of the legislative and judicial branches; and two personal representatives of the Supreme Leader.

The SNSC's membership is fluid, and the identity of participants in policy discussions is determined by the issue under consideration. In the area of Iran's nuclear program, it appears that Rafsanjani, Larijani (the previous chief nuclear negotiator and the previous SNSC secretary), the head of the Atomic Energy Organization of Iran, and Ali Akbar Velayati and Kamal Kharrazi (special advisors to the Supreme Leader on foreign affairs) are involved. According to Larijani, the secretary of the SNSC spends "about 20 percent of his time" on nuclear issues. It appears that decisions made in the SNSC, once approved

by the Supreme Leader, become consensus decisions. This implies that further discussion is proscribed, and the press is advised accordingly. Under Ahmadinejad, the SNSC has recently gone further than just warning the press of the limits of discussion It has provided guidelines (or official spin) on to how the Iranian press is to report and depict the "nuclear story."

4. The Strategic Council for Foreign Relations

Although it is not a constitutionally mandated body, the Strategic Council for Foreign Relations (SCFR) is an important advisory council to the Supreme Leader. Khamenei established the SCFR after Ahmadinejad had been in office one year, possibly to maintain access to seasoned foreign-policy advice in light of the Ahmadinejad team's inexperience. Kharrazi, foreign minister during Khatami's administration, heads the council. Other members include Velayati, a longtime foreign-policy advisor to the Supreme Leader and foreign minister under the Rafsanjani administration, and Ali Shamkhani, former defense minister under Khatami.

5. Iran's Security Forces

Like Iran's political system, Iran's security institutions are marked by overlapping, redundant responsibilities that at times bring organizations into competition over funding, equipment, and influence. Iran's armed forces are divided into two branches, the IRGC and the Artesh, a division that reflects the revolutionary regime's early concerns about the loyalty of the Shah's armed forces.

The IRGC and the Artesh field separate armies, navies, and air forces, and both play roles in the defense of Iran against external aggression. The Artesh is the larger and more conventional of the two branches. In addition to defending Iran against external threats, the IRGC pursues missions related to internal security and regime survival (even more so since the 2009 election), where its roles overlap with those of the Law Enforcement Forces (LEF) and the Ministry of Intelligence and Security (MOIS). Importantly, the IRGC controls most of Iran's missile forces and is heavily involved in Iran's nuclear program. The IRGC has gained political and economic power during the present decade and likely played a major role in Ahmadinejad's declared electoral "victory" in June 2009. The IRGC–Qods Force, other elements of the IRGC, and the MOIS all play a role in collecting intelligence, intimidating dissidents, and nurturing pro-Iranian proxies in foreign nations. Finally, the MOIS shares its domestic-security responsibilities with other institutions: the Basij militia, the LEF, and some vigilante or pressure groups often associated with prominent ultraconservative clerics.

Used by the IRGC and the regime as a vehicle for indoctrinating the populace, the Basij Resistance Force is a popular reserve force headed by an IRGC principal with an active strength of perhaps 300,000 and a claimed mobilization capacity of 5 million. The Basij are present in virtually all sectors of Iranian society: There are specially organized Basij units for university students, local tribes and villages, factory workers, and so forth.

The LEF, which is subordinate to the Ministry of Interior, has diverse responsibilities, including counternarcotic, riot control, border protection, enforcing morality laws, and anticorruption. In some ways the LEF, which employs roughly 120,000 personnel, resembles European-style gendarmeries because it functions much like a national police force responsible for fighting organized and petty crime. The LEF should also be viewed as an internal-security force ready to crush dissent, much like the IRGC and the Basij.

Ⅲ. The Majles

The 290-member Majles has the constitutional authority to review and approve government budgets, propose bills, ratify international treaties, and review the performance of the president and his ministers. When the Majles passes a law that is controversial and whose adherence to Islamic law and the constitution is questionable, the law becomes subject to the Guardian Council's intervention and, in case of conflict between the two bodies, to the decisions of the Expediency Council.

The Majles speaker has the ability to define the relationship between the Majles and the presidency. Gholam-Ali Haddad-Adel, a former Majles speaker and a relative of Khamenei by marriage, was largely supportive of the Ahmadinejad administration until the last few

months of his speakership. Larijani, the current speaker, has been much more critical of Ahmadinejad-particularly in the foreign- and nuclear-policy realms and has insinuated that the Majles may oppose some of Ahmadinejad's policies.

However, the speaker's disagreements with the president over foreign policy do not change the fact that the Majles deputies are overwhelmingly concerned with local as opposed to national affairs. Perhaps only one-quarter of the 290 deputies are interested in broader issues. In addition, the Supreme Leader has the last word on all policies because all Majles candidates are vetted by the Guardian Council to ensure loyalty to the regime and *velayat-e faqih*.

V. Islamic Power Group

1. The Assembly of Experts

The Assembly of Experts is a body comprised of 86 senior clerics, each vetted by the Guardian Council and elected by popular vote to eight-year terms. Headed since 2007 by Rafsanjani, the assembly's primary task is to appoint and "supervise" the Supreme Leader, and for this reason all of its members are required to be experts in *fiqh* [Islamic jurisprudence]. As expected, most members of the assembly are religiously and socially conservative. The assembly's meetings are not based on a predetermined schedule, and its deliberations remain closed and secretive: The assembly has not published a single public report. Members gather at least once a year for a two-day meeting, usually in Tehran, and can hold consultative meetings when crisis situations demand them. The body is considered an essential pillar of Iran's formal political system because it has the authority to dismiss the Supreme Leader if he no longer meets the criteria set by the constitution or is unable to execute his duties satisfactorily.

Despite its constitutional importance, traditionally, the Assembly of Experts has not been a very active player in Iranian political discourse. In appointing Khamenei as Khomeini's successor in 1989, its role was more to serve as a rubber stamp on Khomeini's wishes rather than to act as an independent decision maker.

2. The Guardian Council

The Guardian Council, an appointed body with a traditionally conservative outlook, consists of 12 jurists, six of whom are *foqaha* [Islamic jurisprudents] selected for six-year terms by the Supreme Leader. The remaining members are nonclerical jurists appointed by the Majles at the recommendation of the head of the judiciary, who is in turn appointed by the Supreme Leader. Ayatollah Ahmad Jannati has been the head of the council since 1996. Under Article 98 of the constitution, the council has the authority to interpret the

constitution and can block legislation that it deems un-Islamic or in violation of the constitution. If the laws do not pass such examination, the council refers them back to the Majles for revision. A council ruling reached by three-fourths of the members assumes the same validity as the constitution itself.

Article 99 of the constitution grants the council supreme oversight over all public referenda and the elections for the Majles, the Assembly of Experts, and the presidency. In effect, the council has the power to shape the elections in such a way that the electorate must choose from a list of vetted candidates who are compatible with the council's (and the Supreme Leader's) outlook. Based on an examination of candidates' Islamic convictions and loyalty to the regime, the council decides whether these parliamentary and presidential aspirants are qualified to run for office. Indeed, there has been much controversy over the Guardian Council's use of its assigned powers, particularly its right to exercise *nizarate-e estisvabi* [approbatory supervision], which allows it to disqualify candidates who do not meet its standards.

As one scholar argues, this supervisory power, which gives the council's six clerical members extensive oversight over Iranian elections, is one of the main obstacles to the development of a true democracy in Iran. Reformist attempts to reduce the council's vetting powers have proved unsuccessful, exemplified by the disqualification of more than 1,000 candidates (including all of the female candidates) prior to the 2005 presidential elections. In addition, the Guardian Council was viewed by reformists and even many conservatives as having favored Ahmadinejad during the 2009 presidential election dispute. The Guardian Council's predisposition to extend its hand and influence elections reaffirms the duality of theocracy and republicanism in Iran.

3. The Expediency Council

Khomeini decreed the creation of the Expediency Council in February 1988, envisioning it as a body that would break deadlocks between the Guardian Council and the Majles and advise the Supreme Leader on his constitutional responsibilities. Since 1989, the Supreme Leader has relied on the Expediency Council for advice on domestic policies. Currently headed by Rafsanjani, the council is composed of some 35-40 permanent and temporary members representing many major government factions, the heads of the three branches of government, and the clerical members of the Guardian Council.25 The Supreme Leader appoints permanent members for five-year terms; the temporary members who represent government ministries and the Majles are selected when issues under the council's jurisdiction come before it. The Supreme Leader can ask the council to explore any issue he deems necessary.

Following the election of Ahmadinejad in 2005, Khamenei granted the Expediency Council undefined "supervisory authority" over the three branches of government,

presumably including foreign affairs; some have speculated that this was done to limit Ahmadinejad's authority.

Ⅳ. The Judiciary

The 1979 constitution made the judiciary an independent power and charged it with the enforcement of Islamic law. Another formal purpose of the body is to nominate the six lay members to the Guardian Council. The head of the judiciary (as of August 2009, Ayatollah Sadeq Ardeshir Larijani, a brother of Ali Larijani), serves a five-year term and is appointed by and reports directly to the Supreme Leader. This allows the Supreme Leader to shape the makeup of the lay section of the Guardian Council, and it strengthens his influence over the council's vetting of candidates. The head of the judiciary works with the minister of justice, who is chosen by the president and is responsible for all matters concerning the relationship between the judiciary and the executive and legislative branches. Importantly, the fact that the president chooses the minister of justice and the Supreme Leader chooses the head of the judiciary illustrates yet another area of overlapping formal authority in the system and a potential source of friction between the president and Supreme Leader.

Ⅴ. Conclusion

Despite constitutional requisites designed to build consensus and separate powers, the Iranian political system remains bifurcated, with political authority traditionally split between *velayat-e faqih* (embodied in the person of a religious Supreme Leader) on the one hand and a popularly elected executive and legislature on the other (although the ongoing militarization of Iranian politics under the Revolutionary Guards undermines the viability of elections). The unelected theocratic institutions tend to dominate the elected republican ones, and many of Iran's institutions have overlapping missions. Even the institutions created to mitigate such overlap, such as the Expediency Council, have themselves fallen victim to the system and become key participants in factional conflict. This helps insulate the regime against internal threats to stability and its own survival. This same competition, however, introduces excessive complexity and paralysis into the system features that are further compounded by multiple informal power centers. Often more influential than official institutions and structures, these informal networks enable network members to wield power and influence in the system.

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Middle East Society

Chair: **HWANG, Byung Ha** (Chosun University)
Venue: **216**

❚ **Presentation1**   The Development of Islamic Tourism in the MENA Region
: Its Perspective and Prospect

        Presenter: YASUDA, Shin (Kyoto University)
        Discussant: KIM, Jeong A (HUFS)

❚ **Presentation2**   A Study on the lyrics of Egyptian Folk Song
: Focused on Work Song

        Presenter: YUN, Eun Kyeong (HUFS)
        Discussant: JANG, Hyun Ja (Chosun University)

❚ **Presentation3**   Arab Images on Korean News Coverage

        Presenter: KIM, Su Wan (HUFS)
        Discussant: LEE, In Seop (HUFS)

The Development of Islamic Tourism in the MENA region
: Its Perspective and Prospect

YASUDA, Shin | Kyoto University

Ⅰ. Introduction

From 2000 onwards, the relationship between Islam and tourism has dramatically changed in the Middle East and North Africa(MENA) region. Before the 2000s, many people did not associate tourism with Islam, assuming that the former concept was based on Western values and lifestyles, which are irreconcilable with Islamic ones [Ritter 1975]. Moreover, even though tourism has developed in Islamic societies in the MENA region, Islam rejects its commercialization and materialization. In fact, the tourism industry considered Islamic regions unsuitable for tourism because Islam imposes many limitations on tourism activities with regard to alcohol, foods, apparel, and gender segregation. However, this view has completely changed in recent years with the emergence of anew tourism activity called "Islamic tourism" that has dramatically spread across the world, in both Islamic and non-Islamic societies. Although the term "Islamic tourism" was first used in the 1990s[1], it spread worldwide in the 2000s. As the concept spread, many researcher sand business persons began to join in its discussion, further constructing and modifying it. The intense efforts they put in the discussion have shaped Islamic tourism.

Consequent to the discussion, this phenomenon has exploited new demands from the MENA region; achieved great success in Southeast Asian countries such as Malaysia, Singapore, and Brunei; and suggested new ideas for Islamic tourism activities in South Asia

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1) In 1995, Riyadh-based World Assembly of Muslim Youth (WAMY) used the word "Islamic tourism" in its publication titled *Islamic Future*. In the book, WAMY stresses that "Islamic tourism should be in line with the Quranic instruction: 'Say: Travel through the earth and see what was the end of those who rejected truth' [*Moneyclips* 23 Aug 1995]."

and Central Asia. Even in non-Islamic societies, many stakeholders have now joined the field and begun to focus on this phenomenon. As shown in figure 1 in the appendix, Muslim tourists, who are the core consumers of Islamic tourism worldwide, spent more than 126 million dollars on this kind of tourism in 2011[2], and this expenditure is estimated to grow in the near future, as shown in figure2 [Dinar Standard & Crescentrating 2012:4,8]. Moreover, figure 3reveals the share of out bound tourism expenditure by Muslim tourists worldwide. The figure indicates that the MENA region attracts 60% of Muslim travelers in the world [Dinar Standard & Crescentrating 2012:4,8].

This global growth of Muslim travelers has awakened investment in the field. In particular, the hotel industry in the MENA region has received substantial benefits from such investments, and the region has seen a proliferation of Sharia-compliant hotels. Some hospitality management companies began to operate Sharia-compliant hotel chains in the MENA region from the mid-2000s and gaineda good repute among both Muslim and non-Muslim tourists [Henderson 2010b].For example, in 2006, the UAE-based KM Properties invested 2.3 billion dollars in a real estate development fund to develop the hotel chain Tamani Hotels and Resorts, based on the new concept [*AB* 17 Jun 2006]. In addition, the UAE-based Almulla Group has launched Almulla Hospitality, which operates Sharia-compliant hotels such as Clifton wood Hotel, Adham Hotel, and Wings Hotel [*AME* 29 Oct 2007]. The development of Sharia-compliant hotels has served as an impetus for Islamic tourism in the MENA region.

Therefore, in most of the previous studies, researchers have focused on the development of Sharia-compliant hotels in the MENA region when discussing the growth of Islamic tourism in the region [Hassan 2004, 2007, 2008; al-Hamarneh& Steiner 2004; Henderson 2008, 2010b; Rosenberg & Choufany 2009; Stephenson *et al* 2010; Zamani-Farhani & Henderson 2010; Duman 2011]. However, the previous studieshave overlooked two points. First, they do not determine why business persons have focused on Sharia-compliant hotels and paid little attention to other tourism-related infrastructure such as transportation, tourism promotion, and entertainment, like museums and theme parks, which are also important for Islamic tourism activities. Second, despite the researchers' positive attitude toward Islamic tourism since the 1990s, they have not explained why investors and business persons showed little interest in Islamic tourism or investing in it until the mid-2000s.

This study, therefore, seeks to explore the development of Islamic tourism in the 2000s

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2) The Study did not cover the core Muslim religious travel segment of ḥajj&ʻumra given the unique nature of, and its focus primarily on one destination. The Study however does put forth estimates for Hajj/Umrah spending in Saudi Arabia which it estimates to be $8.4 billion in 2011 and expected to reach $14.3 billion by 2020. If added on to the overall Muslim tourism estimate given above, Hajj/Umrah would represent 6.2% of the total Muslim tourism expenditure. Note: This estimate does not include international air travel expenditure related to Hajj/Umrah, which in 2011 has been estimated at an additional $6.3 billion (included in the $126.1 billion Muslim tourism expenditure estimate for 2011) [Dinar Standard &Crescentrating 2012: 7].

by tracing the history of the discussion regarding Islamic tourism in the MENA region and beyond. It will also attempt to determine why researchers and business persons began to focus on Islamic tourism and Sharia-compliant hotels only toward the end of the 2000s.

Ⅱ. The Islamic Tourism Concept

1. The Problem of Tourism from the Islamic Perspective

As mentioned earlier, until the 1980s, many people were under the impression that Islam and tourism were completely dissociated. In particular, mass tourism—or the Western style of tourism—was regarded as harmful to Islamic values in the MENA region. Kadir Din, a Malaysian tourism researcher, indicated two aspects of this problem from the Islamic perspective: the internal aspect and the external one. Regarding the former, he stated that Muslims as hosts and guests are repeatedly enjoined to support in the cause of God, and one way to achieve this goal is through travel. Thus, Muslims are encouraged to travel around the earth so that they appreciate the greatness of God by observing the 'signs' of the beauty and bounty of His creations, which can be seen everywhere, both in the realms of the past and the present [Din 1989: 551-552].He also remarked that profligate consumption and all forms of excessive indulgence are prohibited; the goal of travel is to help instill the realization of the smallness of man and the greatness of God. While the spiritual goal is to reinforce one's submission to the ways of God, the social goal that follows is to encourage and strengthen the bond of Muslim fraternity among the *umma*(the Muslim community) [Din 1989: 552]. Therefore, traveling in Islam is viewed as a trying task that subjects individuals to the tests of patience and perseverance. There is no division between the physical and spiritual aspects of travel [Din 1989: 552].

With regard to the external aspect of the problems, however, he explained that tourists, especially Western ones, bring in alcoholic beverages and pork, non-halal meat, sexual permissiveness, prostitution, and other secular influences thatare induced by tourism [Din 1989: 556]. However, he also noted the similarities between Islam and tourism, and mentioned that Islam and Islamic societies have great tourism potential if they overcome the problems that he had pointed out [Din 1989].

Following his remarks on Islam and tourism, many researchers began to study the similarities and problems between Islam and tourism. Their research formed the basis of Islamic tourism in the 2000s.

2. Islamic Tourism in the MENA Region

In this way, researchers in the 1990s began to discuss how to establish an alternative form of tourism, especially in the MENA region, which was the main target for Islamic way of tourism. In 2001, the Iraqi tourism business person ʿAbd al-Ṣāḥib al-Shākirīfurther

conceptualized Islamic tourism. He published a tourism magazine called "Islamic Tourism Magazine" (*Majalla al-Siyāḥa al-Islāmīya*),and in its September 2001 issue, he described a platform to develop the concept of Islamic tourism. He first described Islamic tourism as a tool to enhance communication between the Arab and Muslim peoples; preserve their heritage, traditions, and values; develop their culture and economy; and finally encourage solidarity and confidence among the Arab and Muslim societies in the world [*ITM* 2001]. Although he first focused on the cultural and economic aspects of Islamic tourism, he expanded this concept as the discussion developed in his magazine [Shakiry 2008]. He frequently showed thes imilarities in Islamic tourism, religious tourism, and cultural tourism[Shakiry 2008: 19-22, 147-150, 155-158]. However, he indicated that the concept of Islamic tourism is not limited to religious tourism but extends to all forms of tourism, except those that contradict Islamic values[3] [Shakiry 2008:112].

Following Shakirī's discussion, Ala al-Hamarneh and Christian Steiner further conceptualized Islamic tourism as based on three aspects: the economic, cultural, and religious-conservative aspects [al-Hamarneh& Steiner 2004]. The economic aspect of Islamic tourism is an expansion-oriented concept that focuses on the importance of intra-Muslim and intra-Arab tourism in terms of the inclusion of new tourist markets and tourist destinations. The cultural aspect of Islamic tourism includes visions and ideas regarding the inclusion of Islamic religious-cultural sites in tourism programs with "pedagogical" and self-confidence-building elements. The religious-conservative aspect of Islamic tourism has not been theoretically articulated so far [al-Hamarneh & Steiner 2004: 179, 180].

Other tourism researchers like A. R. Hassan have emphasized the religious and ethical aspects of Islamic tourism as follows: "Islamic tourism means a new ethical dimension in tourism. It stands for values generally accepted as high standards of morality and decency. It also stands for the respect of local beliefs and traditions, as well as caring for the environment. It represents a new outlook on life and society. It brings back values to the central stage in an age where consumerism is rife and everything is available for use and abuse in the most selfish way. It also encourages understanding and dialogue between different nations and civilizations and attempts to find out about the background of different societies and heritages" [Hassan 2004]. He explained in another editorial in the Islamic Tourism Magazine that "in its narrow sense, it may mean 'religious tourism' (visiting shrines all over the Islamic world). But in its wide sense, it is the type of tourism that adheres to the values of Islam. Most of these values are shared with other religious and non-religious beliefs (for example, the ethical code promoted by the World Tourism Organization). It calls for respect for local communities and the local environment, benefiting the locals, decency, and learning about other cultures" [Hassan 2007].

In short, the abovementioned researchers have conceptualized Islamic tourism as based on an internal attitude, like individual religious motives, as well asa social religious attitude toward tourism activities, and they believe that Islamic ethics, values, and lifestyles should

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3) *Islamic Tourism Magazine* Vol. 26 [ITM 2006].

be reflected in Islamic tourism. This attitude contributes to the development of the individual Islamic value and Islamic lifestyle and promotes the solidarity and unity of Muslims and their societies.

The discussion of Islamic tourism in the MENA region, however, was not directly connected to the development of Islamic tourism. It merely explained how to substantialize internal aspects such as religious motives, ethics, and attitude in a certain tourism activity. Therefore, business persons initially hesitated to participate and invest in the field of Islamic tourism. The discussion did, however, contribute to promote religious tourism in the region. As the researchers recommended developing religious tourism as an ideal model for Islamic tourism, business persons began to participate in the religious tourism field and make huge investments in the region's religious sites. This is because religious tourism, as mentioned by the above researchers, is a form of tourism that largely expresses Islamic values and ethics. Consequently, the tourism industry and its economic supporters have made huge investments and launched large projects at religious sites in Saudi Arabia, Iran, Syria and Iraq, while expanding the scale of their activities. Luxurious hotels, in particular, have proliferated at these religious sites as a result of the tourism industry's huge investments. However, these investors have not encouraged any other type of Islamic tourism apart from religious tourism because they still have doubts regarding the righteousness of non-religious tourism.

Ⅲ. Development of the Islamic Tourism Market

While the discussion of Islamic tourism in the MENA region has contributed to the development of religious tourism in the region, another type of discussion has occurred in Southeast Asia. Southeast Asian countries such as Malaysia, Singapore, and Brunei seek to promote tourists and investments from the MENA region, especially those from the Gulf Cooperation Council (GCC) countries, in order to cultivate their new tourism market and investments. However, they do not own Islamic heritages that are of religious importance and globally recognized. Therefore, they made efforts to create new type of Islamic tourism that is not based on Islamic religious heritages in the region. The tourism industry in Southeast Asia has actively created a new marketing segment to attract Muslim tourists from the MENA region [Henderson 2003;Hashim, Murphy & Muhammad 2003].

Jean Henderson was the first to indicate the development of the Muslim market in Malaysia and conceptualize Islamic tourism from the Southeast-Asian perspective [Henderson 2003]. She describes Islamic tourism as "tourism mainly by Muslims, although it can extend to unbelievers motivated to travel by Islam, which takes place in the Muslim world" [Henderson 2009a]. She adds, "all product development and marketing efforts [are] designed for and directed at Muslims. Motivations are not always or entirely religious. Participants could be pursuing similar leisure experiences to non-Muslims, albeit within the parameters set by Islam, and destinations are not necessarily locations where Shariah or the

full Islamic law is enacted" [Henderson 2010b].

Following this definition by Henderson,researchersinterested in Southeast Asia began to focus on the economic and commercial aspects of Islamic tourism, and they performed experimental studies on these aspects' elements in order to develop the market [Reisinger*et al* 1997; Saeed*et al* 2001; Hashim*et al* 2007; Henderson 2008, 2009a, 2009b, 2010a, 2010b; Ariffin*et al* 2009; Bon *et al* 2010; Hashim*et al* 2010; Zulkifli*et al*2011].In their studies, they regard Islamic tourism as a specific branding in the tourism market and seek to establish a common standard, which is frequently referred to as "Sharia-compliant" or "Sharia-compliance."However, there appears to be some confusion about the exact meaning of "Sharia-compliant," and there is no firm consensus among the stake holders. Therefore, despite intensive discussions on the meaning of "Sharia-compliant," the researchers have failed to reach any conclusive answer, except in the hotel industry. In the hotel industry, however, they have reached a certain consensus on Sharia-compliant hotels, because they recognize the fact that hotels constitute the core interest of Islamic tourism customers and influence the customers' destination choice[Rosenberg & Choufany 2009; Henderson 2010a; Battour*et al* 2011]. Moreover, Naseem Javed said in Hospitality-net that "the thought of creating hospitality concepts under specific religious and cultural lines is nothing new; Islamic hotel brand concepts to accommodate billions of Muslims are not any different than the current Western hotels, or what we may call for a minute 'a Christian hospitality experience'" [*Hospitality-net* 25 Jun 2007].Based on this consensus, the business persons and researchers began to standardize the element of Islamic hospitality in hotel industry. As a result, they have identified five core elements of Sharia-compliant hotels: accounting capital, location, food and beverages, prayer facilities, and gender segregation[4] [Battour*et al* 2011: 529-532].

In order to spread the Islamic tourism branding, standard, and market, both public and private stakeholders in the region, especially in Malaysia, have frequently hosted various kinds of activities pertaining to Islamic tourism. The Malaysian government, in particular, has held international seminars, conferences, and travel fairs for Islamic tourism like International Islamic Tourism Conference & Travel Mart (ITCM) and World Islamic Tourism Mart (WITM);established a research and promotion center called "Islamic Tourism Centre" in 2009 [ITC 2012]; and encouraged related research projects in the universities. In the private domain, portal websites on Islamic tourism, such as *Crescentrating* in Singapore, evaluate tourism services based on their own standards, which are widely accepted in the Islamic tourism field[5] [Crescentrating 2012]. As a result of this research and discussion, Islamic tourism in Southeast Asia has obtained a high reputation, and the number of Sharia-compliant hotels has increased in this region.

Based on the travel experiences of Muslim tourists, international discussions, and promotion of Islamic tourism in Southeast Asia, the researchers in the MENA region began

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4) The requirements of Sharia-compliant hotel are listed in appendix 4.
5) The standard of Sharia-compliant hotelsapproved byCrescentratingis shown in figure 5 in appendix.

to adopt the concept [Hassan 2008; Stephenson *et al* 2010; Zamani-Farhani & Henderson 2010; Duman 2011]. The tourism stakeholders in the MENA region also approved of the concept of Islamic tourism as practiced in Southeast Asia and recognized the potential of the Islamic tourism market. Since the mid-2000s, investors began to invest in this market. Those from the GCC, in particular, showed strong interest in the field and began to launch huge investment projects and build luxurious Sharia-compliant hotels in the MENA region. As shown in figure 6, some major Islamic investment companies have joined the field in recent years. For example, the S. S. Lootah Group from the UAE has launched the Al Jawhara Hotel Apartment and opened three Sharia-compliant hotels in Dubai since 2010 [*HME* 2008], while the Guidance Financial Group of Bahrain has launched the Shazachain of hotels in the MENA region [Shaza 2012].

The increasing consensus regarding the Sharia-compliant standard in Islamic tourism among the stakeholders and customers saw a corresponding increase in investments toward the end of the 2000s. Despite the rapid incorporation of the Sharia-compliant standard and the master-branding of Islamic tourism in the hotel industry, in the form of Sharia-compliant hotels, this consensus has not spread to other related industries such as transportation, entertainment, and travel companies.

Ⅳ. Conclusion

This study examined the development of Islamic tourism in the MENA region. The discussion regarding Islamic tourism in the MENA region has resulted from the demand to shape an alternative form of tourism that accords with Islamic values. However, the concept mainly focuses on internal aspects such as the individual and social motives, ethics, and values of Islamic tourists. This tendency has discouraged the development of Islamic tourism in the region, to some extent. On the other hand, the tourism stakeholders in the region have focused on promoting religious tourism, in the form of pilgrimages and religious visits, as an ideal form of Islamic tourism. This has led to a dramatic growth in investments at religious sites in Saudi Arabia, Iran, Iraq, and Syria.

However, the situation changed from the mid-2000s, as the discussion of Islamic tourism in Southeast Asia began to influence the MENA region. Islamic tourism in Southeast Asia sought to develop the market by creating its own branding. In order to build the value of Islamic tourism branding, the stakeholders attempted to reach a consensus regarding an Islamic tourism standard through public and private research projects, international conferences, and seminars. Based on this discussion, they arrived at a certain consensus for the hotel industry, in which public and private economic stakeholders could invest. This is one reason that Sharia-compliant hotels became the focus of Islamic tourism in the 2000s. However, the stakeholders have not reached such consensus regarding other tourism-related industries, and hence, these industries have yet to attract huge investments. The phenomenon in Southeast Asia has strongly influenced the MENA region, and stakeholders

have opened Sharia-compliant hotels in this region based on the standard that is adopted in Southeast Asia.

The development of Islamic tourism in the MENA region can be described as the rise of Islamic motives and values, accompanied byan increase in the number of Muslim tourists and their expenditure in the global tourism market. However, this study reveals that the stakeholders' consensus-building regarding the standard of Islamic tourism has crucially contributed to its development. This can be inferred from the encounter between the discussion in the MENA region, which focuses on value, and that in Southeast Asia, which focuses on the market.

Ⅴ. Appendix

Figure1: Global Tourism Expenditure (in US$ millions)
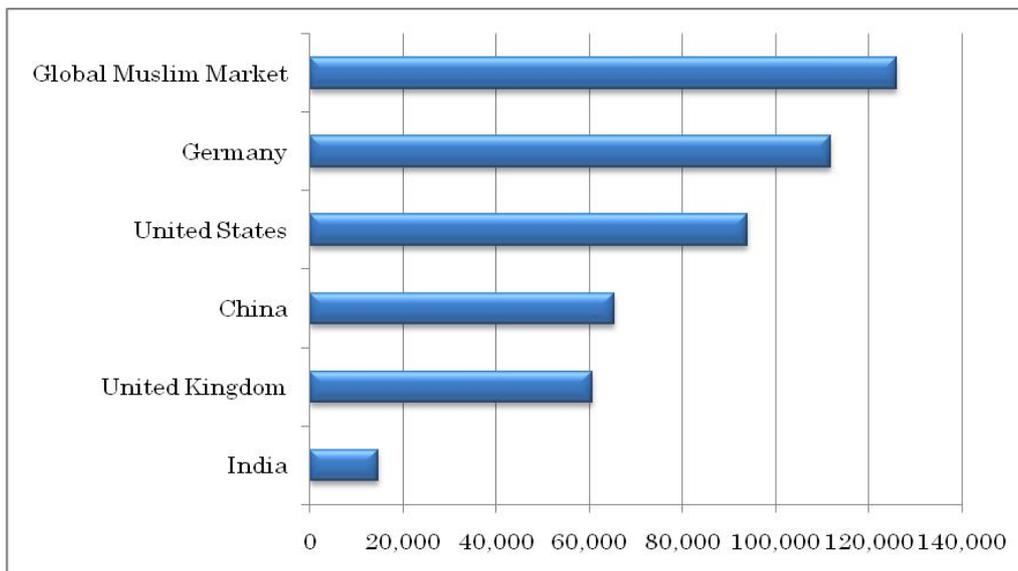
Source: [Dinar Standard & Crescentrating 2012: 4]

Figure2: Outbound Tourism Expenditure, 2006-2017 (in US$ millions)
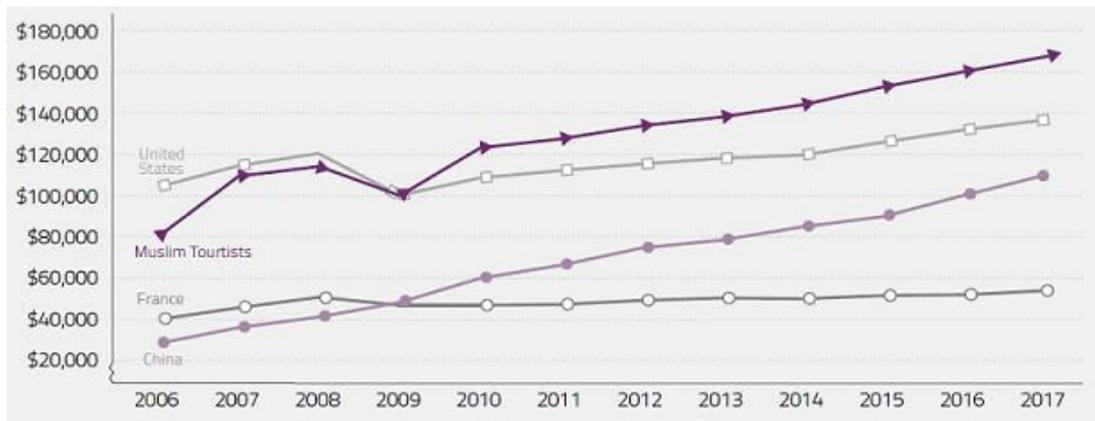
Source: [Dinar Standard&Crescentrating 2012:8]

Figure3: Regional Breakdown of Global Muslim Travelers Share of Outbound Tourism Expenditure
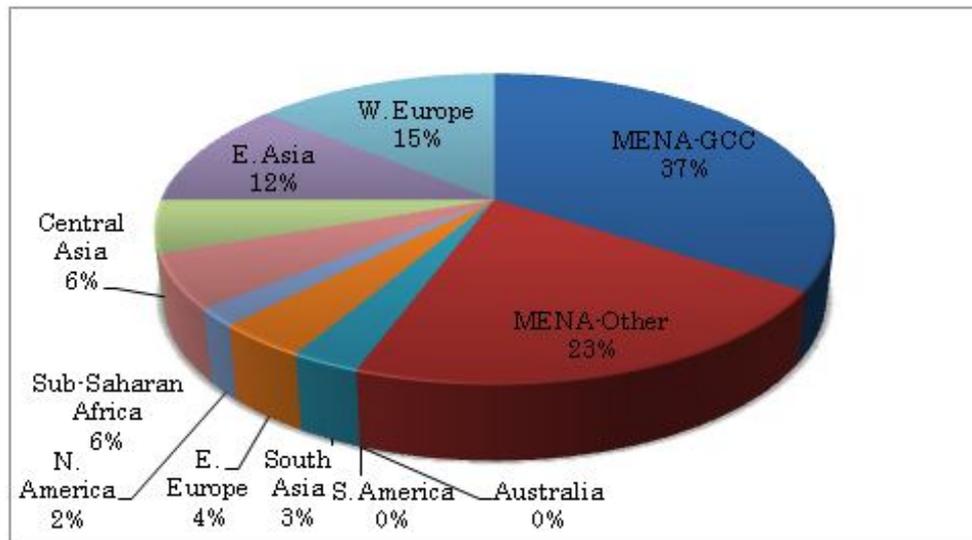
Source: [Dinar Standard & Crescentrating 2012: 8]

Figure 4: The requirements of a Sharia-compliant hotel
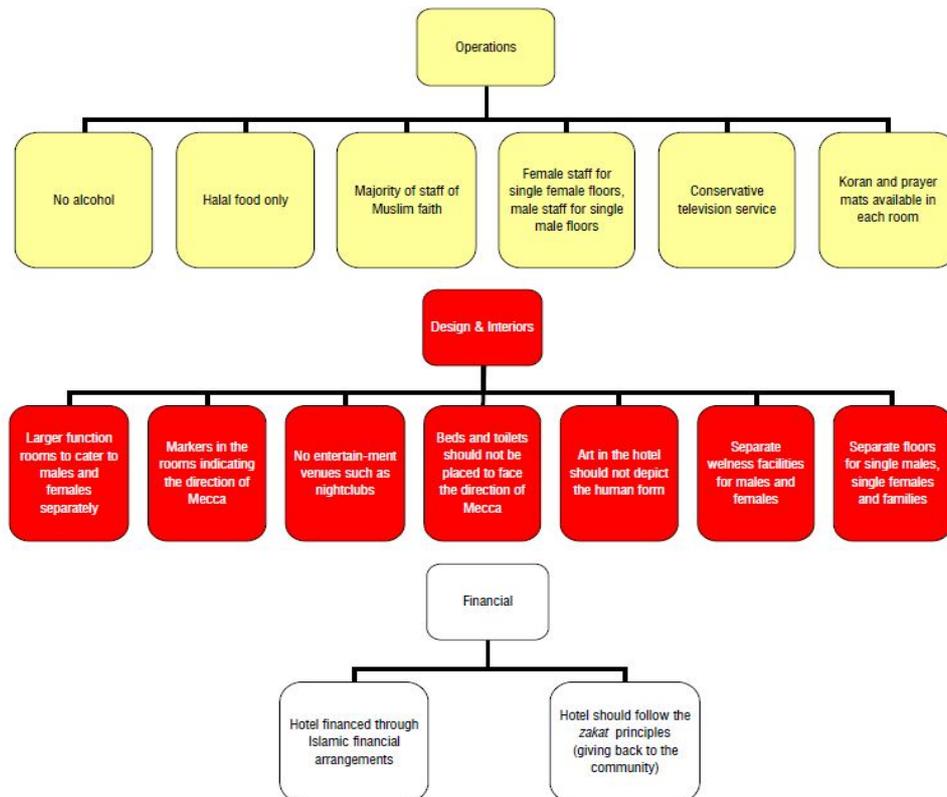
Source: [Rosenberg & Choufany 2009: 2]

Figure4: Halal Friendly Services and Facilities Icons Guide for Hotels by Crescentrating

Source: http://www.crescentrating.com/en/component/k2/item/94-icons-guide-for-hotels.html

Figure 5: Major Sharia-compliant Hotels in MENA region

Hotel Name	Company (Country)	Establishment	Existing properties in MENA region
Coral International Hotels, Resorts & Spa	Hospitality Management Holdings (UAE)	2003	9
Five Continents Hotel	Five Continents Hospitality Group (UAE)	2007	2
Adhan Hotel	Almulla Hospitality (UAE)	2007	---
Shaza Hotel	Shaza Hotels (UAE)	2008	1
Tamani Hotels and Resorts	Tamani Hotels and Resorts (UAE)	2008	3
Copthone Hotel	Millennium Hotel and Resorts (UAE)	2008	1
Holiday Inn	Intercontinental Hotel Group (UK)	2008	1 (Dubai)
Al Jawhara Hotel Apartment	Lootah Hotel Management (UAE)	2009	4
Rayhaan Hotels & Resorts	Rotana Group (UAE)	n.d.	1
Porto World Resorts & Spa	Amer Group (Egypt)	2010	5 (Egypt & Syria)
Serai Hotel	Serai Group (UAE)	n.d.	---

Source: [Rosenberg &Choufany 2009; Henderson 2010; Dinar Standard &Crescentrating 2012]

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Presentation 2

A Study on the lyrics of Egyptian Folk Song
: Focused on Work Song

YUN, Eun Kyeong❙ HUFS

1. Introduction

The lyrics of the songs reflect the various aspects of people's lives living in a certain era. Generally, as the people's song, popular music paints a portrait of the public's enjoyment of culture and part of the socio-culture. Through popular music, the whole of the socio-culture can be understood. The lyrics of popular music are combined with melody to express the thoughts and feelings of the populace. The lives, emotions, and the social aspect of people living in the same era are directly or indirectly embedded in the lyrics of popular music. As the form of music changes according to the needs of the common people of the society, the song texts of the music contain the lives and the rituals of the common people of that era. Thus, it can be implied that cultural phenomena, social aspects, and the way of thinking of the common people can be interpreted through the study of the text of songs.

In order to understand the culture and customs of the members of a certain society, the social class – upper, middle, lower class– in which the people belong to must first be observed. Moreover, in order to comprehend the universal culture of the society, it is important to appreciate the culture of the lower class commoners, who constitute the majority of the populace. This is because the general public has carried on the role of maintaining the history and the culture of the local area. As it would be impossible to comprehend the real aspect of a society or nation without the full understanding of the general public's emotion and way of thinking, the understanding of the underlying culture (Kultur der Grundschichten) has taken an important part in the research of overseas regional studies.

This paper will mainly focus on Egyptian work song lyrics. First, the paper will introduce Egyptian work song and then closely examine the lyrics with the representation of the expressions of sacredness and secularity in the work song and categorize them according to the themes and examine the Egyptian way of thinking based on the themes.

Ⅱ. Egyptian work song

Egyptian music is thought to have originated during the reign of pharaohs. Images of ancient Egyptians playing the harp, flute and other instruments of that era vividly remain in murals. However, the development of musical notation at that time was not developed and therefore songs that were widely sung by the people were not documented. After 7[th]century AD, Arabs from the Arabian Peninsula came into Egypt and neighboring regions of northern Africa. Since then, traditional Arab music established during the Syrian Omayyad period was introduced into Egypt. The Arabic music introduced into Egypt developed through an evolvement with the indigenous folk music of Egypt.

Egyptian songs can be classified into the following – Egypt's traditional folk song including the work song, religious music, contemporary popular music, etc. A consistent definition of traditional folk music is elusive. The terms folk music, folk song, and folk dance are comparatively recent expressions. They are extensions of the term folk lore, which was coined in 1846 by the English antiquarian William Thoms to describe" the traditions, customs, and superstitions of the uncultured classes." The term is further derived from the German expression Volk, in the sense of "the people as a whole" as applied to popular and national music by Johann G. Herder and the German Romantics over half a century earlier. Traditional folk music also includes most indigenous music. However, despite the assembly of an enormous body of work over some two centuries, there is still no certain definition of what folk music (or folklore, or the folk) is. Folk music may tend to have certain characteristics but it cannot clearly be differentiated in purely musical terms. One meaning often given is that of "old songs, with no known composers", another is that of music that has been submitted to an evolutionary process of oral transmission, the fashioning and re-fashioning of the music by the community that give it its folk character. Such definitions depend upon cultural processes rather than abstract musical types, upon continuity and oral transmission... seen as characterizing one side of a cultural dichotomy, the other side of which is found not only in the lower layers of feudal, capitalist and some oriental societies but also in primitive societies and in parts of popular cultures. One widely used definition is simply "Folk music is what the people sing". From a historical perspective, traditional folk music had these characteristics. It was transmitted through an oral tradition. The music was often related to national culture. It was culturally particular; from a particular region or culture. A work song is a piece of traditional folk music closely connected to a specific form of work, either sung while conducting a task (often to coordinate timing) or a song linked to a task or trade which might be a

connected narrative, description, or protest song. Records of work songs are roughly as old as historical records, and anthropological evidence suggests that all agrarian societies tend to have them. Most modern commentators on work songs have included both songs sung while working as well as songs about work, since the two categories are seen as interconnected.

We can divide the Egyptian work songs into domestic, agricultural or pastoral, sea shanties, and so on. Most agricultural work songs were rhythmic a cappella songs intended to increase productivity while reducing feelings of boredom. Rhythms of work songs serve to synchronize physical movement in groups, as they in parts of Africa with drum accompaniment, coordinating sowing and hoeing. The usage of verses in work songs are often improvised and sung differently each time. Improvisation provided singers with a sometimes subversive form of expression. Improvised verses sung by sailors spoke of ills with work conditions and captains. Many work songs serve to create connection and familiarity between workers.

Ⅲ. The lyrics of Egyptian work song

1. God's omnipotence, appraisal of the prophets and saints

The Koran is considered the base in Islamic and Arabic countries. Since Arabic music was heavily influenced by religion, sometimes verses taken from the Koran are sung as it is or to express belief, faith, or awe towards Allah. The Islamic religion has had a profound impact on Arabic music overall, and religious factors appear in all musical expression. Lyrics rooted from religion can also be found, such as calling out, 'Allah', 'O Lord' asking for redemption.

Motifs related to religion in Egyptian work song lyrics involve saints, God, the prophet Mohammed, Imam and such that provide insight to the Almighty God's power and providence, man's absolute obedience to God, appraisal of the prophets and saints, the insights of the prophets and saints, unerring accuracy of the saints and Imam, sacredness and such.

" kullu mā yashdu maḥamel⋯ linnabi qalbi yehim⋯
kullu mā yashdu maḥamel⋯ linnabi qalbi yehim⋯
la sa'iy we 'azur annaby we 'army ḥumuly 'aleh
we 'in ḥasalak daym nade yā 'imām 'ali⋯"
(All that he sang... has been laden... / the prophet...
to take my heart into interest ...
All that he sang⋯has been laden... /the prophet...
to take my heart into interest ...

It doesn't matter …I'll visit the prophet and throw my load to him …
And if you were insulted… let's call … Oh Imam 'Ali…)

The lyrics above is part of a song sung by Egyptian fishermen, while fishing in groups, in the northern lakes of the Nile delta – Manzala and Borullus. This tune is repeated continuously and the fishermen move on to other tunes in this manner until the work is finished. A religious motif, the mentality of the fishermen expecting a full load of fish through the prophet's generosity, can be read in the lyrics. Like the first half of the song, religious motifs that express the fishermen's dependency on the prophet and Ali Imam for more fish to be caught occur repeatedly in the latter part of this song.

Religious motifs such as the appraisal of the apostles and saints, the insights of the saints and prophets, unerring accuracy of the saints and Imam, sacredness, and such appear thoroughly in songs .

" wallāhi in ṭāla zamani la shaki legādi elghram
liashki legādi elghram … liashki legādi elghram
'eshg elbanāt ya gādi ḥarām we 'ille ḥallāl
ḥarām we 'ille ḥallāl… ḥarām we 'ille ḥallāl
ḥarām lilmtazawj 'ama 'azeb ḥallāl
'ama 'azeb ḥallāl
: we 'in kāna ḥarām ya qādi 'uktub li bil ḥallāl
'uktub li bil ḥallāl … 'uktub li bil ḥallāl
karāmah li nnabi…: karāmah li nnabi…
biṣṣalāh 'ala nabi …biṣṣalāh 'ala nabi …"
(If time is delayed, I will appeal to the judges...
Judge... is it Haram or Halal to love a girl.../
to a married man, it is Haram...
to a bachelor, it is Halal...to a bachelor, it is Halal...
Judge...even if it is considered Haram...
Write it as Halal...... Halal...
respect to the prophet… pray to the prophet...."

The song above, asking a judge whether it is a sinful or not to love a woman, contains a rather comical element. The fact that it is forbidden for a married man to love a woman other than his wife but for a bachelor it is allowed shows Egyptians' ritual of faithfully following the Islamic doctrine. In addition, the Egyptian's view of religion can be seen through the lyrics of the song which says that even though love is forbidden, it should be ruled as Halal and is pleading for tolerance that it be allowed.

2. Love

Lyrics in Egyptian songs that deal with themes of sex are mainly about the love between a man and a woman, and the motifs that are dealt with include longing for marriage or a lover and the sadness of parting and others. Among them, a song about the emotions stirred up in a love between a man and a woman is the following:

> " yā ḥellāwa l melqā yā saydi... we ssalām min yadik liyadi...
> yā ḥellāwa l melqā yā saydi...we ssalām min yadik liyadi...
> leilat l melqāwe nadāha...
> we banāt l kull hedāha...same'tni ḥusn leghaha...masaktni 'albi biaydi...
> yā ḥellāwa l melqā yā saydi... we ssalām min yadik liyadi...
> yā ḥellāwa l melqa yā saydi... we ssalām min yadik liyadi..."
> (O sweet encounter ... You ... peace from your hand to mine....
> O sweet encounter ... You ... peace from your hand to mine....
> When we meet at night⋯he called to her....
> All the girls whispered to her ... He sang to her in sweet words...
> He touched my heart ...
> sweet encounter...Peace from his hand to mine...
> peace from his hand to mine)

The song mentioned above is usually sung by Egyptian women during the cotton harvest and depicts the various sides of a human being, as well as the feelings of happiness and sorrow. Most of them express the general feelings of happiness on the eve of an engagement or wedding day. This phenomenon is attributed to two main factors. First, it is due to the nature of the cotton harvest work. The people who are deeply burdened are young virgins and young girls who do not easily reveal their thoughts because of their young age. They prefer the subject of marriage and their hopes for it, including feelings of love they hold in their hearts. So most of them prefer to express their feelings about their lovers or describe the happiness of meeting their lover, instead of lamenting about their hardships during labor or talking about their pains of life. Especially in the song above, feelings of sweet encounter and love between the young Egyptian man and woman are expressed. Egyptian's awareness of love can be seen through the whisper or the action of a lover which is metaphorically expressed and sung in a peaceful atmosphere.

3. Rural Life

Egyptian song texts that are associated with social life motifs are usually songs that depict rural life. Songs that are sung during the cotton harvest describe a celebration or a

festive atmosphere of the town. Cotton harvest is deeply associated with celebrated events in the Egyptian region. After cotton is harvested and sold, the family enjoys a bountiful life and wedding ceremonies are held with the money earned. Also, the people buy new clothes, jewelry, and other materialistic goods that they had hoped to buy. In other words, the cotton harvest season is considered a season of both economic and materialistic prosperity in the Egyptian rural community. Egyptian women, mainly virgins who are in charge of the cotton harvest, sing songs which express feelings of joy while working. The songs do not explicitly describe the cotton harvest, but indirectly express hope for an auspicious year bound with fortunate events.

" yā sanah khudrah⋯ 'awal sinin assanah di⋯
yā sanah khudrah⋯ 'awal sinin assanah di⋯
khawelina ja' ed ejnna ⋯w sanatna khudra assanah
khawelina ja' ed ejnna ⋯w sanatna khudra assanah⋯"
(Oh, the year of the green ... This is the first year...
Oh, the year of the green... This is the first year...
The khawlisitsintheroom...Theyearofthegreenisours...
The khawli sits in the room ... The year of the green is ours ...)

The khawli that is frequently mentioned in this song refers to the director in charge of the cotton harvest. Through the conversation between the young virgins and the khawli, both feelings of optimism and happiness are expressed. Also, the color green (khudrah), which appears in this song, is traditionally favored by the Arabs because it symbolizes prosperity and peace.

Expectations and happiness of good things that will result from the cotton harvest are implied in the song.

"ta'esh yā khawelina yā jalleb sebaya...
ta' esh yā khawelina ya jalleb sebaya...
khawelina rāḥ yamla' el qela...
atshater we malaha mal...
khawelina rāḥ yamla' el qela...
atshater we malaha mal...
(Our khawli, the woman trader ... Long live he ....
Our khawli, the woman trader... Long live he ....
The khawli went to fill up the pot ....
as smart as he is .... will fill up the money. ..
The khawli went to fill up the pot ....
as smart as he is .... will fill up the money⋯)

The lyrics of the song express a feeling of discontent towards the khawli. The way in which the khawli takes on the share of the wealth in return for the virgins' labor is repeated in derisive phrases. Also, various emotions and contents that are felt in the course of labor are expressed while complaints about the era and hopes of improving the situation also appear.

Until now, we examined the representatives of the Egyptian work song lyrics. The subject of work songs are very diverse. One of the remarkable things is that the subject of work song has no relationship with its labor, except for a very few cases. It is not only features that appear in Egyptian work songs, but also in the work songs of all the countries. The Egypt work song is related with universal rhythm and movement depending on the type and characteristics of the labor, but is not related with the subject of the labor. Rather, it is dealing with a variety of information and emotions felt in everyday life, or in the labor. These include longing, love, complaints about the era, hope for improving the situation, depending on the almighty God , request seeking success rely on the mercy of God, and the faith in the Prophet and so on.

Ⅳ. Conclusion

The paper examined the underlying culture of Egyptian people through the references based on the expression of sacredness and secularity found in the lyrics of work song that were categorized by topic. In the text of the songs, the life and emotions, ideals of society during that period are directly and indirectly expressed. Like the format of the songs change according to the social and cultural needs of the general public, the life and way of thinking of the people are embedded in the text of the songs. This, in turn, implies that a cultural phenomenon, the ideal of a society, and the consciousness of the people can be read through the research of the text of songs.

The Egyptian way of thinking in steering closer to Allah can be seen through religious motifs such as the authority and providence of the Almighty God, man's absolute obedience to God, appraisal of the prophets and saints. Motifs related to love include the candid feeling of love felt between a man and a woman, a yearning for a lover, love that can never come true and regret. Motifs associated with social life can be classified into lyrics that contain pastoral and rural ambience.

Between the 7ᵗʰ and the 14ᵗʰ century, Islam was at the center of the Middle Eastern civilization, impacting the Arab's way of thinking and structural development of the common people. And it can be said that to this day, it still comprises an insurmountable portion of popular culture, there by providing understanding of sacredness. The firm belief in the one and only God, a believer's ideal virtues, compliance to the Islamic doctrine, and such are established in the Egyptian people's way of thinking as an element of holiness.

The way of thinking about sacredness implied in the Egyptian songs emphasize the

Islamic doctrine and absolute obedience to the Almighty God, keeping the faith in the Prophet, on the other hand, a universal yet simple way of thinking that express secularity about true feelings about love exists as the intersecting ranges between sacredness and secularity that somewhat lead a balanced life.

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Middle East Economics & Islamic Finance

Chair: **SHIM, Ui Sup** (Myongji University)
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❚**Presentation1**   Shari'ah Board and Its Membership of Islamic Bank
 : A Case Study on Malaysia

Presenter: FUKYSHIMA, Yasuhiro
 (Tokyo University of Foreign Studies)
Discussant: KANG, Dae Chang (KIEP)

❚**Presentation2**   Dawn of Institutional Practice of Dispute Resolution
 in Islamic Finance: A Case Study of Dubai

Presenter: KAWAMURA, Ai (Kyoto University)
Discussant: KIM, Joong Kwan (Dongkuk University)

❚**Presentation3**   Banking on Ethics vs the Ethos of Banking

Presenter: Kifah SALAMEH (Watamar & Partners SA)
Discussant: YOON, Ki Kwan
 (Chungnam National University)

Shari'ah Board and Its Membership
of Islamic Bank
: A Case Study on Malaysia

FUKUSHIMA, Yasuhiro| Tokyo University of Foreign Studies

Ⅰ. Introduction

One of the managerial duties of an Islamic bank, a bank which complies with Shari'ah (Islamic Law) and eliminates anti-Islamic elements from its business, is to organize a Shari'ah board[1]. The range of Shari'ah applied to the Islamic bank, or the scope to exclude anti-Islamic factors from the Islamic bank, includes financial products such as deposit and financing, also in addition to asset management, business administration, documents, advertisements, and so on. The Shari'ah board, as the independent body which consists of Islamic experts, plays a significant role to certify the Islamic bank as Shari'ah compliant. Therefore, we comprehend the roles and functions of the Shari'ah board and its membership considering the managerial characteristics of the Islamic bank from an Islamic point of view.

This article aims to (1) describe the outlines and functions of the Shari'ah board, (2) clarify careers of members of Shari'ah boards, and (3) compare the similarities and differences of the regulatory framework for Islamic affairs between the Islamic banking industry and another industry influenced by Islamic practices, namely the Halal food industry, focusing on cases in Malaysia. To fulfil these aims, I have analyzed the annual reports and official websites of Islamic banks, Malaysian laws related to the banking industry, and guidelines established by Bank Negara Malaysia(BNM), which is the Central Bank of Malaysia.

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[1] In some Islamic banks in Malaysia, this kind of body is called "Shari'ah Committee" or "Shari'ah Council." However, even if their names are different, their functions and roles are the same in all cases. Therefore, the term "Shari'ah board" is used throughout this article for convenience.

In the last decade, several articles have been devoted to the study of Shari'ah boards of Islamic banks. Ahcene Lahsasna (2010) explained the roles and functions of the Shari'ah board in Malaysia by comparing them with the regulatory of Accounting and Auditing Organization for Islamic Financial Institutions[2](AAOIFI). However, Lahsasna's paper focused only on the Islamic banking industry without a comparative study and did not clarify the inherent characteristics of the Islamic banking industry. This article describes the roles and functions of the Shari'ah board in Malaysia based on Malaysian laws and guidelines by BNM in SectionⅢ "Function of a Shari'ah Board." It further identifies inherent characteristics of the Islamic banking industry by comparing it to the Halal food industry in SectionV "Consideration: Comparison between Islamic Banking and the Halal Food Industry." Etsuaki Yoshida(2007) states that some Islamic scholars have been appointed to more than 50 Shari'ah boards simultaneously, he says that "it will be a challenge to overcome the shortage of Islamic scholars" (Yoshida 2007:163–164). In Arab countries, it is permissible for one expert to be appointed as a member of the Shari'ah board of more than two Islamic banks at the same time. However, in Malaysia, it is not allowed, in principle[3], for an Islamic bank to appoint board members of another Islamic bank. This article clarifies careers of members of Shari'ah boards by the analysis of a primary source in SectionⅣ "Career of Members." The results of this analysis will show how Malaysia overcomes the shortage of experts in Islam.

Ⅱ. Role of a Shari'ah Board

This section aims to describe the role of the Shari'ah board from the Islamic point of view. Especially, the relationship between the Shari'ah board and the judicial and administrative organizations for Islamic affairs in the local and federal government is made clear by analyzing the laws and guidelines related to Islamic banking.

Islamic Banking Act 1983 (IBA) defines an Islamic bank as "any company which carries on Islamic banking business and holds a valid license; and all the offices and branches in Malaysia of such a bank shall be deemed to be one bank" (IBA 2). As of June 2011, there are 17 Islamic banks[4] and five International Islamic banks[5] in Malaysia[6]. One

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2) Accounting and Auditing Organization for Islamic Financial institutions is the international non-profit organization to prepare accounting, auditing, governance, ethics and Shari'ah standards for Islamic financial institutions. It was established in 1991. Its headquarters is located in Manama, Bahrain.
3) It is allowed that one person is appointed as a member of a Shari'ah board of an Islamic bank, a Takaful company, and a securities company at the same time within one financial group which have a capital ties one another.
4) On May 2011, EON Bank Group, which includes EONCAP Islamic Bank, merged with Hong Leong Bank Group, which includes the Hong Leong Islamic Bank. Therefore, 16 Islamic banks are the accurate number in Malaysia. However, as of June 2011, both Islamic banks began to operate separately. So, in this article, the number of Islamic banks is 17.

of the conditions in order to attain a license for Islamic banking business is as follows: "there is, in the articles of association of the bank concerned, [a] provision for the establishment of a Shari'ah advisory body (…) to advise the bank on the operations of its banking business in order to ensure that they do not involve any element which is not approved by the Religion of Islam" (IBA 3 (5) (b)). Therefore, all the Islamic banks in Malaysia, which carry on Islamic banking business, have organized Shari'ah boards.

The relationship between the Islamic bank and its Shari'ah board is defined by "the Guidelines on the Governance of Shari'ah Committee" ("the Guidelines"), which were developed by BNM. According to Article 22 of "the Guidelines," the status of the Shari'ah board is "an independent body of the Islamic financial institution." The importance of this article in defining this relationship cannot be overemphasized. This article means that members of Shari'ah boards of Islamic banks are external auditors, this post is non-permanent, and board membership is not the primary occupation of the members.

BNM, as the central bank, also establishes a Shari'ah board, called Shari'ah Advisory Council (SAC). Article 51 (1) of Central Bank of Malaysia Act 2009 requires BNM to establish SAC. The relationship between Islamic banks and BNM from the perspective of Islam is determined by Article 13A (1) of IBA. The article says that "an Islamic bank may seek the advice of the Shari'ah Advisory Council on Shari'ah matters relating to its banking business and the Islamic bank shall comply with the advice of the Shari'ah Advisory Council." Furthermore, Article 16 of "the Guidelines" gives BNM the right to disqualify any member of Shari'ah boards who fails to meet the requirements[7]. The contents of these articles reveal that BNM and its SAC are authorized to regulate

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5) According to Article 2 of IBA, the definition of "international Islamic bank" is "any company or an office of any foreign institution which carries on international Islamic banking business and holds a valid license," and "international Islamic banking business" means "Islamic banking business in currencies other than ringgit or such other Islamic banking business as the Central Bank may specify."

6) In addition to full-fledged Islamic banks under IBA, there is another type of company which carries on Islamic banking business in Malaysia. The licensed financial institutions under Banking and Financial Institutions Act 1989 are able to offer Islamic banking services using the irexisting infrastructures and brand names under "Skim Perbankan Islam(Islamic Banking Scheme)" issued by BNM. The body to provide Islamic banking services is located in the Islamic banking division, namely apart of a licensed financial institution. This division is called "Islamic windows." As of June 2011, there are six governmental financial institutions, seven privatein vestment banks, and two foreign private commercial banks, which have Islamic windows, in Malaysia. These banks also have to establisha Shari'ah board for their Islamic banking division. This article, however, focuses on the cases of full-fledged Islamic banks under IBA, and does not consider the cases of Islamic windows.

7) Article 16 shows the following requirements: a) he/she has acted in a manner which may cast doubt on his/her fitness to hold the position of a Shari'ah board member, b) he/she has failed to attend 75 percent of meetings scheduled for a Shari'ah board in a year without a reasonable excuse, c) he/she has been declared bankrupt, or a petition under bankruptcy laws is filed against him/her, d) he/she was found guilty for any serious criminal offence, or any other offence punishable with imprisonment of one year or more, or e) he/she is subject to any order of detention, supervision, restricted residence or banishment.

Islamic banks and their Shari'ah boards from both the financial and Islamic points of view.

Let us now consider the relationship between Islamic banks and the judicial and administrative organizations for Islamic affairs in Malaysia. First, Malaysia implements a parallel justice system. One is the secular justice system, which consists of superior courts and inferior courts whose authority is affected by Common Law. The other is made up of the Shari'ah courts, which are based on state laws and are independent of the secular justice system. The Shari'ah courts exercise jurisdiction over both criminal and civil actions whose defendants and plaintiffs are Muslims. Especially in cases of civil actions, Shari'ah courts mainly deal with lawsuits related to Islamic family law such as marriage, divorce, inheritance, and so on. (Imaizumi 2012: 235-237). In contrast, some articles of IBA state that the competent court for lawsuits with defendants or plaintiffs who are Islamic banks is the high court in the secular justice system, not in the Shari'ah courts. IBA does not stipulate clearly the reason that the competent court is not the Shari'ah court. It is likely that IBA is not a state law but a federal law and federal laws are determined by the secular justice system.

Second, the governmental administrations for Islamic affairs are divided into two levels: the state government level and the federal government level. On one hand, in each state[8], there are Islamic Religious Councils(*Majlis Agama Islam*), whose members are appointed by Sultan and its head is called *Mufti*, and Islamic Religious Departments (*Jabatan Agama Islam*), whose business is to deal with Islamic affairs like marriage and divorce by Muslims and a planning permission of *masjids* (mosques). On the other hand, the National Fatwa Council (*Majlis Fatwa Kebangsaan*) makes the decisions for Islamic affairs on the federal level, and the Department of Islamic Development Malaysia (*Jabatan Kemajuan Islam Malaysia*, JAKIM) puts them into practice. Tasks related to Islamic banks, such as the collection of the annual license fee or permission to open a new branch, are within the sphere of the Ministry of Finance or BNM. Therefore, two different administrations for Islamic affairs, namely the Islamic Religious Department in each state's government and JAKIM in the federal government do not participate in these tasks. In Malaysia, Fatwa issued by Islamic Religious Councils in each state or the National Fatwa Council, are not accepted as legally binding. However, Fatwa, as juristic rules that guide the everyday life of Muslims, indirectly influences Islamic banking.

The Fatwa issued on the 98th conference of the National Fatwa Council on 13-15th February 2012[9] is enough evidence to show that a Fatwa affects Islamic banking indirectly. The National Fatwa Council issued the Fatwa[10] that Muslims as

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8） In some states, the names and roles of the Islamic Religious Council and Islamic Religious Department are different. See Tawada (2005).

9） The Star Online, "Forex trading 'haram,' says National Fatwa Council," on 15th February 2011, http://thestar.com.my/news/story.asp?file=/2012/2/15/nation/20120215221746&sec=nation (accessed on 1st June 2012).

individuals[11] are forbidden(*haram*) to engage in Forex trading (foreign exchange trading) using the internet, because there are doubts of its compliance with Shari'ah as it involves speculation and uncertainty[12]. Meanwhile, BNM refuted the Fatwa in its press statement on 16th February. The statement said that "buying and selling of foreign currency in Malaysia is only allowed with licensed commercial banks, Islamic banks, investment banks and international Islamic banks(⋯). In addition, Shari'ah-compliant financial products, including foreign exchange related transactions, offered and transacted by licensed Islamic financial institutions are approved by the Shari'ah Committee of the respective financial institutions with endorsement from the Shari'ah Advisory Council of Bank Negara Malaysia."[13] This rare cases hows that the National Fatwa council can indirectly influence the regime of Islamic banking by issuing a Fatwa, not to Islamic banks or their competent authorities, but to Muslim customers of Islamic banks.

Ⅲ. Function of a Shari'ah Board

This section aims to clarify the criteria for the selection of members of Shari'ah boards and the functions of a Shari'ah board, referring to "the Guidelines."

"The Guidelines" have several articles related to the membership of a Shari'ah board. According to these articles, the Shari'ah board consists of a minimum of three individuals (Article 14), and it is prohibited to outsource to a company or institution like a Shari'ah consulting firm (Article 11). The members are appointed by the board of directors of the respective Islamic bank upon the recommendation of a nomination committee organized by the Islamic bank (Article 8). The Islamic bank has to obtain the written approval of BNM before the appointment or reappointment of the members (Article 8). A member's term of office is two years, with an option for reappointment (Article 8). The combination of offices, that is, the appointment of the same member to more than two Shari'ah boards of two Islamic banks at the same time is prevented by Article 19. According to Article 19, it is prohibited that an Islamic bank appoints a person who is currently a member of SAC

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10) Majlis Fatwa Kebangsaan, "Hukum Perdagangan Pertukaran Matawang Asing oleh Individu Secara Lani (Individual Spot Forex) Melalui Platfom Elektronik" http://www.e-fatwa.gov.my/fatwa-kebangsaan/hukum-perdagangan-pertukaran-matawang-asin g-oleh-individu-secara-lani-individual-sp (accessed on 1st June 2012).

11) National Fatwa Council, however, allowed other forms of trading in foreign currencies, such as by money changers or between banks, because they are within the normal business of these companies.

12) Speculation like gambling (*Maisir*) and uncertainty (*Gharar*) are recognized as unlawful (*Haram*) in Islam. Therefore, Islamic financial institutions do not deal with commodity and financial futures contracts because of this recognition.

13) Bank Negara Malaysia, "For Immediate Release: Foreign Currency Trading (Ref N o . 0 2 / 1 2 / 0 7) , " http://www.bnm.gov.my/index.php?ch=en_press&pg=en_press_all&ac=2406&lang=en (accessed on 1st June 2012).

(Article 19(a)) or another Islamic bank (Article 19(b)). "The Guidelines" explain that the reason that a combination of offices is not permitted is to avoid conflicts of interest and for reasons of confidentiality within the Islamic banking industry (Article 19). However, there are not any articles forbidding a member to have another job outside the Islamic banking industry.

The criteria for membership of a Shari'ah board are determined in Articles 12 and 13. According to Article 12, the proposed member of a Shari'ah board must have qualifications or possess necessary knowledge, expertise, or experience in the field of either *Usul al-Fiqh* (Islamic jurisprudence) or *Fiqh al-Mu'amalat* (Islamic transaction and commercial law). However, according to the next article, paper qualification on the above subjects is not mandatory as long as the candidate has the necessary expertise or experience in the above field (Article 13).

Let us consider the functions of a Shari'ah board. Article 20 of "the Guidelines" indicates seven main duties and responsibilities of a Shari'ah board. These are to (1) advise the board of directors on Shari'ah matters in its business operations, (2) endorse the Shari'ah Compliance Manuals, (3) endorse and validate relevant documents including proposal forms, contracts, agreements, and other legal documentations used in transactions, product manuals, marketing advertisements, sales illustrations, and brochures used to describe its products, (4) assist related parties, like the legal counsel, auditor or consultant, on Shari'ah matters for advice upon request, (5) advise the Islamic bank on matters to be referred to SAC, (6) provide written Shari'ah opinion when the Islamic bank makes reference to SAC or when the Islamic bank develops new Islamic financial products, and (7) assist SAC on any matters referred by the Islamic bank for advice.

Article 20 identifies the areas of authority of a Shari'ah board in the Islamic bank. The Islamic banks have to make decisions from the Islamic point of view in the following aspects: creation of Islamic financial products, contractual coverage of financing, calculation of *Zakat*, contents of advertisement and brochures, other business administration, manuals, relationships with legal advisors, auditors, consultants, and the board of the directors. The state of Islam in an Islamic bank is formed by its Shari'ah board with advice of SAC.

IV. Career of Members

We can examine the members of Shari'ah boards, their careers and photos on official websites and annual reports of the Islamic banks. In general, the main contents of these sources include members' names, titles[14], educational backgrounds, current and former primary jobs and posts, and work experiences[15]. In addition, for academicians,

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14) That is, *Dr.* for Doctorate degree holders, *Prof.* for professors, *Sheikh* for Islamic Scholars, *Ustaz* for teachers in Malaysian traditional Islamic school, and *Dato'* and *Tan Sri* as Malaysian titles given by *Sultan* or *Agong*.
15) However, all the Islamic banks do not show members' nationalities on their official websites

the titles of their books, articles, and presentations are listed. This section aims to clarify the appointments of members of Shari'ah board, focusing on members' educational backgrounds and job experiences.

This article uses the latest data, as of October 2011, on the websites and annual reports of 17 full-fledged Islamic banks which are granted licenses for Islamic banking business under IBA. The Islamic bank with the most members on its Shari'ah board is the Bank Islam Malaysia Berhad, and it has seven members. As for the others, one Islamic bank has six members, seven Islamic banks have five members, three Islamic banks have four members, and five Islamic banks have three members, which is the minimum number to organize the Shari'ah board, according to Article 14 of "the Guidelines" as mentioned above. Nobody is appointed to more than two Shari'ah boards simultaneously in line with Article 19 of "the Guidelines." Therefore, 75 persons (66 males and 9 females) are members of Shari'ah boards of Islamic banks in Malaysia. The average number of members on a Shari'ah board is 4.41members.

Table 1 shows the members educational qualifications as per the country of graduation. According to the table, excluding 3 members, whose academic backgrounds are unknown, of the others, 72 members hold bachelor degrees, 70 members (93.3% of the total) hold master degrees, and 56 members(74.7% of the total) hold the doctorate degrees. Most members received bachelor and master degrees in Malaysia. However, most members with doctorate degrees received these in the UK(22members),with Malaysia second(17members).

Table 2 indicates the number of bachelor, master and doctorate degrees in each specialty studied by Shari'ah members. For members with bachelor degrees, the most popular specialty is Islamic jurisprudence including Islamic law, Shari'ah, *Sunnah* and *Hadith*. But in the case of the master degrees, social science, like comparative law, economics, and management studies, are the most popular specialties. However, regarding the doctorate degrees, Islamic jurisprudence, especially *Usul al-Fiqh*, which is the study of the origins, sources, and principles of Islamic jurisprudence, is the main specialty for members.

Let us now consider the members' job experiences. Table 3 shows the number of members in each professional position. The most common occupation is that of teachers and scholars. Of those reviewed, 58 members (77.33% of the total) come from these two professions. The rest hold positions such as Shari'ah consultants, who belong to Shari'ah consulting firms, staffs of Islamic banks[16], independent Shari'ah scholars, a lawyer in Shari'ah courts, and an independent Shari'ah advisor. The past or current simultaneous non-permanent jobs of the examined individuals include members of Shari'ah boards of not only Islamic financial institutions, namely Islamic banks, Takaful companies and securities companies but also competent authorities such as central banks, securities commissions, and the Ministry of Finance in and outside Malaysia. Some members also have previous or current experience in non-permanent positions

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or annual reports.

16) In some cases, Islamic banks give a staff member the post of secretary-general of the Shari'ah board and recognize him/her as a member of the Shari'ah board.

of several committees related to Islamic affairs in local and federal governments in and outside Malaysia.

It is possible to point out the current situation of members of Shari'ah boards by drawing a comparison between members' careers and the criteria for the selection of members mentioned in Articles 12 and 13 of "the Guidelines." First, most of members hold master and doctorates degrees, which are related to Islamic jurisprudence or Islamic studies. Therefore, this kind of higher academic achievement satisfies the qualification required by Article 12 of "the Guidelines." Second, 77.33% of members are teachers and scholars. The knowledge, expertise, and experience obtained in the areas of research and education are considered necessary for members of a Shari'ah board. For members who are not teachers or scholars but have other jobs, their professional experience in Shari'ah consulting companies, Shari'ah courts, accounting firms, or committees related to Islamic affairs in local or federal governments also coincide with the necessary knowledge, expertise or experience required in Articles 12 and 13 of "the Guidelines" as a qualification for membership of a Shari'ah board. Islamic banks appoint candidates as members of their own Shari'ah boards as candidates' academic backgrounds and job experience satisfy the criteria mentioned in Articles 12 and 13 of "the Guidelines." BNM ratifies this decision of Islamic banks even though it has the right to reject the decisions of Islamic banks.

Ⅴ. Consideration: Comparison Between Islamic Banking and the Halal Food Industry

As mentioned in former sections, the Islamic banking industry is required to organize independent bodies of Islamic experts in each Islamic bank, is regulated by competent authorities such as the Ministry of Finance and BNM, and is required to keep a distance from other judicial and administrative organizations for Islamic affairs. This section aims to identify the inherent characteristics of the Islamic banking industry by comparing it to the Halal food industry.

First we must discuss the definitions of Halal and the Halal industry. Halal is one of five categories of *Hukm* (plural of *Ahkam*) which means "provisions" in Islamic jurisprudence. Halal is defined as any substance or action recognized as "lawful" or "permissible" from the perspective of Islamic jurisprudence. The opposite category, namely "unlawful" is *Haram*. Nowadays, the industry, which provides "lawful" commodities and services from the Islamic point of view, is called a Halal industry. This Halal industry includes manufacturing industries like foods, beverages, medicines, cosmetics, sanitary goods and clothes, service industries such as hotels and tourism, transportation, wholesale, retail, advertising, finance, and so on. In general, when Muslims use the term "Halal industry," it is common that the term means "Halal food industry" which consists of manufacturing and processing foods and beverages, slaughtering animals, restaurants and catering. The Islamic banking industry, however, is a kind of Halal industry in a wider sense. Therefore, in this

article, the term "Halal food industry" is used in a strict sense, instead of "Halal industry" to avoid confusion.

In Malaysia, the federal government certifies that foods and beverages satisfy the conditions from the Islamic point of view, that is, attain Halal certification. The certification standard is based on "MS1500: 2009, Halal Food – Production, Preparation, Handling and Storage – General Guideline (Second Revision),17)" which was issued by the Department of Standards Malaysia, Ministry of Science, Technology and Innovation, in 2009. JAKIM is the administrative organization in the federal government for Halal certification. Violation of Halal certification is subject to criminal actions under the secular justice system, not Shari'ah courts. For example, in the case that a food manufacturing company marks a Halal certification logo on its products in spite of the fact the company has never been certified by JAKIM, this company is in violation of the Trade Description Act 1972.

It is possible to point out the similarities and differences on the guarantee of justifiability for Islam and the administration for Islamic affairs between the Halal food industry, which holds Halal certifications, and the Islamic banking industry, which has Shari'ah boards. The similarities are the certification system by a competent authority and the structures in each company to decide on Islamic affairs. The differences include the specialization and independence of the persons in charge of Islamic affairs of each company.

Some of the similarities between the two industries are the certification system by a competent authority and the structures in each company to decide on Islamic affairs. In the Halal food industry, JAKIM implements Halal certifications. This certification system is same as licensing system for Islamic banks issued by BNM in the Islamic banking industry. Structures to judge Islamic affairs are instilled in both industries. In the case of the Halal food industry, Article 3-1-1 of "MS1500: 2009" asks companies to "appoint Muslim Halal executive officers or establish a committee which consist of Muslim personnel who are responsible to ensure the effectiveness in implementation of [an] internal Halal control system." This article is similar to Article 3 (5)(b) of IBA that an Islamic bank has to establish a Shari'ah board. In conclusion, the structure of certification system by the administrative organizations of the federal government, namely JAKIM to the Halal food industry and BNM to the Islamic banking industry, is common between both industries.

A Halal executive officer and committee for the Halal control system in a food company, on the other hand, differ from a Shari'ah board of an Islamic bank in their positions and member qualifications. In the case of the Halal food industry, the persons in charge of Islamic issues are Halal executive officers or members of committees of Muslim employees. These are positioned as the internal auditors for Halal issues within the company. The Shari'ah board, however, is an external and independent body, which consists of non-permanent members and experts of Islam, especially *Usul al-Fiqh* or *Fiqh al-Mu'amalat*, for its Islamic bank. The members' qualifications are also different between

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17) The term "MS1500: 2009" is used throughout this article for convenience, instead of its formal title.

both industries. Article 3-1-2 of "MS1500: 2009" asks management to "ensure that they [Halal executive officers or members of a committee] are trained on the Halal principles and its application." However, there are no articles that mention any qualifications, necessary knowledge, expertise, or experience in this field for Halal executive officers or members of a committee, unlike a Shari'ah board, except for Article 3-1 which states that they must be Muslim.

The cause of differences in qualification requirements and positions for the persons charged with Islamic affairs between both industries are the differences in matters and ranges of interpretations of Islam to commodities and services provided by each industry. In the Halal food industry, on one hand, foods and beverages are kept compliant with Halal by avoiding touch, mixing with, or contamination with non-Halal things during the processing of foods or beverages, that is, preparation, slaughtering, processing, handling, packaging, storage, distribution, and sales. Therefore, the necessary knowledge of Islam for Halal foods and beverages in a company or factory is the ability to make a decision regarding whether or not non-Halal things are included in the process of food or beverage production. In the Islamic banking industry, on the other hand, Islam affects many aspects of an Islamic bank and its business as Article 20 of "the Guidelines" indicates. A Shari'ah board has the responsibility to audit its Islamic bank, as the present company which deals with complex financial products, about issues related to its products, its board of directors, manuals, documents, and related parties, from the Islamic point of view as an independent body.

Both the Halal food industry and Islamic banking industry are industries based on the philosophies of Islam. However, there are disparities related to the targets influenced by Islam, the commodities and services based on Islam, and the specialty of necessary knowledge, especially Islamic jurisprudence like *Usul al-Fiqh* and *Fiqh al-Mu'amalat* between both industries. These disparities cause the differences of corporate governance for Islamic affairs.

VI. Conclusion

The aims of this article are to (1) describe the outlines and functions of the Shari'ah board, (2) clarify careers of members of Shari'ah boards, and (3) compare the similarities and differences of the regulatory framework for Islamic affairs between the Islamic banking industry and another industry influenced by Islamic practices, focusing on cases in Malaysia.

The above analysis and the related results can be summarized as follows: The Shari'ah board, which consists of experts, most of whom are scholars or teachers, have mainly studied the Islamic studies in graduate schools, and have experience in the field of Islamic banking, is an independent body of the Islamic bank. This body plays a significant role to ensure that financial products, business activities and management of its Islamic bank are

completely compliant with Shari'ah. The establishment of a Shari'ah board is decided by IBA as one of the conditions for Islamic banks to receive a license to carry out Islamic banking business. Islamic banks and their Shari'ah boards have to obey the guidelines issued by BNM and orders and decisions by SAC of BNM. A Shari'ah board is not directly affected by the administrative organizations for Islamic affairs in both local and federal governments and Shari'ah courts. Therefore, a Shari'ah board is recognized as the body charged with maintaining the Islamic characteristics of an Islamic bank as a market player in the Islamic banking industry. The structure of the Islamic banking industry is similar to the Halal food industry with regard to the implementations of certification system by a competent authority. However, the differences in degrees of specialization required and objectivity in the membership cause the disparity between the Halal food industry, whose companies appoint Muslim Halal executive officers or establish an internal committee of Muslim employees for Halal issues, and Islamic banking industry, whose companies organize a Shari'ah board as an external audit body.

As E. Yoshida states, the prohibition to hold seats in more than 2 Shari'ah boards simultaneously by one expert contributes to the shortage of suitable experts for Shari'ah boards. However, Article 12 of "the Guidelines" asks the proposed member of a Shari'ah board to have qualifications or possess necessary knowledge, expertise, or experience in the field of either *Usul al-Fiqh* or *Fiqh al-Mu'amalat*, and most of members hold doctorate and/or master degrees and occupy their positions in universities. BNM recognizes their academic degrees and job experience as substantially fulfilling the criteria shown in Article 12. As a result, Malaysia enables itself to overcome the problem of the shortage of Islamic scholars.

In Japan, the Ordinance for Enforcement of the Banking Act was amended in 2008. As a result, it is possible for a subsidiary company of a bank to deal with Islamic banking products. However, no Japanese companies conduct Islamic banking businesses inside Japan. One of the reasons for this is the shortage of Japanese experts in Islam, especially in the field of Usul al-Fiqh or Fiqh al-Mu'amalat. If the Japanese government hopes to promote the Islamic banking industry in Japan, it is necessary to have suitable human resource development for Shari'ah boards, who have studied Islamic jurisprudence in Malaysia, the UK, or Middle Eastern countries and have attained doctorate and/or master degrees in these fields.

Table1: Number of Bachelor, Master and Doctorate Degrees in Each Country

Region	Country	Doctorate	Master	Bachelor	No Data
OIC Member Country	Malaysia	17	28	38	−
	Saudi Arabia	4	4	5	−
	Egypt	3	8	8	−
	Jordan	2	6	3	−
	Pakistan	·	4	3	−
	Sudan	·	1	2	−
	Algeria	·	·	2	−
	Syria	·	·	2	−
	Kuwait	·	·	2	−
	Qatar	·	·	1	−
	Iran	·	·	1	−
	Afghanistan	·	·	1	−
	Subtotal	26	51	68	−
OIC Non−Member Country	UK	22	9	0	−
	US	3	4	0	−
	Australia	1	0	0	−
	Canada	·	1	1	−
	Singapore	·	·	1	−
	Subtotal	26	14	2	−
Unknown		4	10	13	3
Total (Cumulative)		56	75	83	−
Total (Actual)		56	70	72	3

OIC: Organization of Islamic Conference

Source: Created by the author based on data collected   from annual reports and official websites of Islamic banks.

Table 2: Number of Bachelor, Master and Doctorate Degrees in Each Specialty

Specialty	Doctorate	Master	Bachelor	No Data
Usul al-Fiqh	12	10	7	–
Islamic jurisprudence (Islamic law, Shari'ah, *Sunnah*, *Hadith,* etc.)	11	18	38	–
Social Science (comparative law, economics, management studies, etc.)	7	24	13	–
Islamic Banking or Finance	4	5	0	–
Islamic Studies	4	4	7	–
Human Science (Historical Science, Education, etc.)	1	0	3	–
Unknown	17	14	15	3
Total (Cumulative)	56	75	83	–
Total (Actual)	56	70	72	3

Source: Created by the author based on data collected from annual reports and official websites of Islamic banks.

Table 3: Members' Primary Occupation

Occupation		Number	Proportion
Scholars and Teachers	Professor	13	17.33%
	Associate Professor	17	22.67%
	Assistant Professor	10	13.33%
	Lecturer and Researcher	17	22.67%
	Teacher in an Islamic School	1	1.33%
	Subtotal	58	77.33%
Shari'ah Consultant		8	10.67%
Staff of an Islamic Bank		4	5.33%
Islamic Scholar		2	2.67%
Shari'ah Lawyer		1	1.33%
Accountant		1	1.33%
Governmental Organization		1	1.33%
Total		75	100.00%

Source: Created by the author based on data collected   from annual reports and official websites of Islamic banks.

Abbreviations

AAOIFI: Accounting and Auditing Organization for Islamic Financial Institutions

BNM: Bank Negara Malaysia

"The Guidelines": "the Guidelines on the Governance of Shari'ah Committee"

IBA: Islamic Banking Act 1983

JAKIM: Department of Islamic Development Malaysia(*Jabatan Kemajuan Islam Malaysia*)

"MS1500: 2009": "MS1500: 2009, Halal Food – Production, Preparation, Handling and Storage – General Guideline (Second Revision)"

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Dawn of Institutional Practice of Dispute Resolution in Islamic Finance
：A Case Study of Dubai

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Introduction

This paper aims to discuss and clarify the dispute resolution system within the sphere of Islamic finance by focusing on the pioneering new system that is rapidly developing nowadays in the United Arab Emirates (UAE), especially Dubai.

Dispute resolution mechanisms in Islamic finance have been overlooked in spite of the gradual development of the Islamic financial market. Although the world's first Islamic bank began operations in 1975 in Dubai, the Islamic financial market remained small until the2000s. The Islamic financial industry has grown more than 20% annually and it is said that the Shari'a compliant asset had reached almost 1.3billion dollars in the end of 2011 [The City UK 2012 :3]. In addition, the Islamic financial market remained comparatively stable, while the conventional financial sector suffered in the aftermath of the Lehman Shock.

On the contrary, some Islamic financial institutions had to deal cases related to their products in the conventional legal system, which caused a massive debate over Shari'a compliance. The most well-known representative case was that of Shamil Bank of Bahrain v Beximco Pharmaceuticals Ltd [2004], which was heard in the British court system[1]. In this case Shari'a was recognized as non-state law which means that it had no capacity to be come a governing law for the court in the UK. However, Shari'a is the main source of law for differentiating an Islamic financial product from a conventional one: an Islamic financial product must be Shari'a compliant in every

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1) Shamil Bank of Bahrain (Islamic Bankers) v Beximco Pharmaceuticals Ltd. and Others [2004] EWCA Civ 19.

aspect.

Recently, Malaysia has developed an alternative dispute resolution system for Islamic finance parallel to the conventional financial system dealing cases in the Kuala Lumpur Region Center for Arbitration. In addition, some studies about dispute resolution for Islamic finance in Malaysia have been developed [Yaacob 2009].

However, the dispute resolution system in the UAE region has been over looked for two primary reasons. One is because UAE court decisions, unlike those in Malaysia, are basically issued and documented in Arabic. This poses a challenge to legal scholars who must examine cases in the Arabic language. Malaysian courts, by contrast, have the choice to issue case documentation in Malay or English. The second reason is that there has not been much field research done in the UAE. As I have personally done field research in the UAE region's dispute resolution system, it seems that not many scholars have been focusing on the UAE. This is related to the first reason, as the courts fairly exclusively deal with cases in Arabic. This has meant that fewer people are willing, interested, and able to work in the realm of UAE Islamic finance studies.

Therefore, my research aims to fill a gap in Islamic finance studies by addressing the dispute resolution system in the UAE. The first section will focus on the Islamic finance system in the UAE and go through previous studies about the UAE legal system. Then the second part will explain current legislation governing Islamic finance in the UAE. In the third part, I will detail the court system in Dubai and introduce some landmark Islamic financial cases. Next, in the fourth part, I will describe the founding of my field research in Dubai and the Special Judicial Committee, and then close by way of some general conclusions.

Ⅰ. Islamic Finance in the UAE

Finance is a regulated industry. Therefore, the legal system for the financial industry is directly connected to sustainable development. Regulation, inspection and supervision are elements that are essential for the legal system to accommodate matters offinancial business. As a result, every financial institution needs to be legalized and new financial institutions need new regulations and up-to-date legislation. An unregulated organization cannot legally carry out financial activities.

This section will first describe the broad concepts governing the legal system in the Gulf region. Then we will turn to the matter of legislation for the Islamic financial industry in the UAE.

The Gulf region, for the scope of this study, includes six countries: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the UAE. These countries experienced British protection during the nineteenth century and modernized their legal system. The civil codes in these countries represent a blend of Egyptian civil law and Western civil law. Egyptian civil law, in turn, was formed by modeling the French civil code. Therefore, most of the civil law in

the region has been modernized based on the civil code, except for Muslim family law and to some extent property law [Amin 1985; Ballantyne 1986; Brown 1997]. Muslim family law and other branches of Islamic law are heard in the Shari'a courts, which are separate from the Western law courts. In addition, interest islegal for commercial transactions [Hasan 2010: 91]. It is said that commercial laws in the Gulf countries are based on Western law, as some of the contracts were formed by law firms dealing with common law [Al-Tamimi: 2003; Mallat 2000].

The first Islamic bank was established by the decree of Dubai in 1975 and became fittingly known as the Dubai Islamic Bank. The Dubai Islamic Bank was recognized as a commercial bank by the Decree of the Dubai public joint stock company in 1984, according to the Commercial Company Law.

In the United Arab Emirates there are now seven local Islamic banks. These banks were all established by local assets from both from the public and private sectors. The total assets for the UAE Islamic financial institutions amounted to 127,094,000 dollars in 2011. This ranked them among the top five countries for Islamic finance assets in the world. According to *Khaleej Times*, it is said that the UAE has the largest share of banking assets in the Gulf region as of 2011[2].

It is said that the commercial law of the UAE is a hybrid of Islamic law and its statutory law, which is derived from the French [Al-Tamimi 2003: 5]. For example, the UAE Civil Code once prohibited all kinds of interest from being charged in transactions. However, Federal law No.11 of 1992 made charging interest in commercial transactions permissible. It is said that this modification was taken in view of necessity, which is mentioned by *Dharuriyat*as "for the economic stability and the needs of the people" [Hassan 2010: 91-92]. Hence, in some aspects, it is difficult to say that the UAE law took Islamic law into proper consideration. In addition, most of the law firms were said to come from common law backgrounds, and this resulted in the fact that English law was frequently applied when forming contracts in the UAE.

Ⅱ. Legislation for Islamic Finance in the UAE

Union Law No.10 of 1980, which legitimates the role of the central bank of the UAE, stipulated that all financial institutions would be regulated under the Central Bank of the UAE. However, this law does not mention anything about Islamic banking or any financial institutions applying Sharī'a law. Therefore, the legitimacy of Islamic banking and finance is based on Federal Law No. 6 of 1985. Also, the Central Bank Board of Directors Resolution gives operational guidelines for the country's Islamic financial institutions. However, from my field research in Dubai in 2011, Federal Law No.6 of 1985 has not

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2) John, I. 2012 (May 16). "UAE Accounts for 31% of GCC Banking Assets,"*Khaleej Times* ⟨http://www.khaleejtimes.com/biz/inside.asp?section=uaebusiness&xfile=/data/uaebusiness/2012/may/uaebusiness_may244.xml⟩ (visited 2012/8/21)

been put into practice as the legal procedure has not yet been completed.

Moreover, it could be said that this Federal Law No.6 of has not been enacted for another reason. In Article 5, it is mentioned that a High Sharīʿa Authority would be placed in the Ministry of Justice. This High Sharīʿa Authority was only recently established in May 2012[3].

In 2010, it was said that a new law was in the process of being legislated for the Islamic banking and finance sectors. Although Federal Law No.6 of 1985 has not practically entered into effect, it is recognized as the governing law for the Islamic financial industry[Saito 2010:168-169; Kawamura 2012: 14-17].Therefore, this section will show how it has been governing Islamic finance in a manner different from the approach of conventional finance. In the Federal Law No.6 of 1985, Article 2, it says:

> 2: In respect of whatever is not particularly provided for herein, these banks, institutions and companies shall be subject to the provisions of Federal Law No. 10 of 1980, Federal Law No. 8 of 1984 previously referred to, and other established laws and regulations and prevailing practices.

Therefore, if there is no instruction in the Federal Law No.6 of 1985, the law automatically reverts to the conventional legal system. Islamic banks are placed along side the conventional banks for another, related reason: Islamic Banks are categorized as conventional commercial banks by the Central Bank of the UAE [Central Bank of UAE 2010].

However there are some exceptions mentioned in the Federal Law No.6 of 1985.In Article 4, it is stated that "Islamic banks, financial institutions, and investment companies incorporated" in UAE will be exempt from "Clause (a) of Article 90 and Clause (e) of Article (96) of Union Law No (10) of 1980." The reason for exempting these clauses derives from the special aspects of Islamic finance.

Specifically, the reason for these exceptions is the nature of Islamic financial products. Clause (a) of Article 90 of Union Law No.10 of 1980 had prohibited banks from carrying out their own business by "acquiring, owning or trading" goods. However, the mechanisms of the Islamic finance scheme, like Murābaḥa, require an intermediate owner to deal with the financial needs and to comply with Islamic and Sharīʿa laws[4]. So ensure that Murābaḥa constitutes legal business, Islamic banks and other financial institutions were made exempt from the mandates of this clause.

Clause (e) of Article 96 of Union Law No.10 of 1980 states that the interest rates

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3) Haider, H. 2012 (May 24). "Call for Federal Shariah Board." *Khaleej Times*, http://www.khaleejtimes.com/biz/inside.asp?xfile=%2Fdata%2Fuaebusiness%2F2012%2FMay%2F uaebusiness_May389.xml&section=uaebusiness (visited 2012/8/ 20)
4) Murābaḥa is a cost-plus-sale contract where a financier purchases specific item for an entrepreneur who does not have an ability to purchase by oneself. The entrepreneur will need to pay back the financier with mark-up price. For more explanation see [Iqbal and Mirakhor :87-90].

should be determined by the Board of Directors of the Central Bank of UAE. As is widely known, Islamic finance is a financial instrument characterized by not using and charging interests. Islamic finance uses cost-plus or mark-up schemes instead. Therefore, it is understandable that this clause should not apply to Islamic financial institutions. However, it is known that Islamic Banks use the Emirates Inter bank Offered Rate as a benchmark for determining the rate of these cost-plus and mark-up charges.

However, nothing is mentioned about dispute resolution nor arbitration in Federal Law No.6 of 1985. The dispute resolution system for finance has been an outstanding issue that requires prompt attention to prevent the stalling of financial transactions. Alternative Dispute Resolutions, known as ADR, have been put forward as a solution for finance dispute resolutions internationally. As a result, most countries have established special judicial systems for Islamic finance cases[5]. Therefore, the next section will discuss how the courts are dealing with cases related to Islamic finance in Dubai.

Ⅲ. The Court System in Dubai

Before going into details about the Dubai court system, this section will offer a briefly overview of the federal court system. In the federal court system, five out of the seven emirates fall under the jurisdiction of the federal court of the UAE located in Abu Dhabi: Abu Dhabi, Ajman, Al Ain, Fujaira, Sharja, and Umm Al Quwain. Dubai and Ras Al Khaima have a court system that is independent from this federal court. The federal court has jurisdiction over Dubai and Ras Al Khaima only when a case involves more than two of the emirates. Dubai and Ras Al Khaima are the only emirates that have their own court systems separated from the federal court. The trial system for Ras Al Khaima consists of a first instance court and appeals court. On the other hand, the Dubai court isa three-trial system, consisting of:

- The Dubai First Instance Court
- The Dubai Appeals Court
- The Dubai Court of Cassation

All cases are brought first to the Dubai First Instance Court. If the dispute is not resolved at this level, the case is next brought to the Dubai Appeals Court. If the decision rendered in the case is further appealed, the case is brought to the Court of Cassation, which will assess whether or not the ruling handed down by the previous court is lawful according to the Constitution. All the judges need to have the ability to hear domestic law cases of the UAE and Dubai, but likewise they must also be qualified to hear Islamic law

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5) For example, Malaysia has established the Kuala Lumpur Regional Centre for Arbitration which deals with Islamic finance dispute cases according to "the Rules of Arbitration of Kuala Lumpur Regional Centre for Arbitration Islamic Banking and Financial Services 2007."

cases. This element was discovered through field research in Dubai in July 2012. All of the judges need to speak Arabic as the official court language is exclusively Arabic. In addition, Islamic law is basically in Arabic, so automatically the judges are required to have both knowledge of the UAE law and Islamic law.

It is obvious that Islamic financial cases are heard in the Dubai courts, as corroborated by the field research in Dubai in 2012.

〈Case 1〉Dubai First Instance Court Case No.491 of 2003
  ― Decision on May 24, 2004
  ― Brought to the Dubai Appeals Court and decision made on December 21, 2004
  ― Brought to the Dubai Court of Cassation and decision was made in June 5, 2005

〈Case 2〉 Dubai First Instance Court No.219 of 2008
  ― Decision made on May 14, 2008
  ― Brought to the Dubai Appeal Court and decision made on November 2, 2008
  ― Brought to the Dubai Court of Cassation and decision made on April 13, 2009

After the financial crisis, some Islamic financial institutions were affected and needed fast solutions, as demonstrated in the Nakheel, Amlak, and Tamweel cases[6]. In order to stabilize this situation, the Dubai courts formed a unique solution called the Special Judicial Committee.

Ⅳ. Special Judicial Committee

This section details one of the representative cases of the Special Judicial Committee. The Special Judicial Committee was formed according to Dubai Decree No.56 of 2009,"Forming a Special Committee for Cheques Related to Real Estate Transactions" [Dispute Resolution Practice 2009]. Further, Dubai Decree No.61 of 2009 is the legal framework for every case related to the Amlak finance company and the Tamweel company [Maḥikam Dubai 2009a].

Article 1 of Dubai Decree No. 56 of 2009 prescribes that the Committee will be formed by three judges. The chairman for the Committee will be a Dubai Court of Appeals judge. The other two judges will be sourced from the Dubai Court of First Instance and from the Dubai Land Department, respectively [Maḥikam Dubai 2009b].

Article 6 of Dubai Decree No.56 of 2009 and Article 3 of Dubai Decree No.61 of 2009 specify that cases which fall under the heading of the Decrees are not to be heard in the

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6) Kasolowsky, R. and A. Abocar.2009 (Dec. 3) "Legal Minefield Awaits Dubai's Nakheel B o n d h o l d e r . " *Reuters*〈http://www.reuters.com/article/2009/12/03/businesspro-us-dubai-debt-law-idUSTRE 5B21YH20091203〉 (visited 2012/8/21)

Dubai court system, but rather the Special Judicial committee in a single trial session. Therefore, no case could be brought to the general courts after being heard by the Special Judicial Committee. Analogous to the court system in Bahrain, one of the three judges is from the Court of Cassation and has strong authority to decide the case[7].

In addition, Article 7 of Dubai Decree No.56 of 2009 and Article 6 of Dubai Decree No.61 of 2009 mention that the Special Judicial Committee will apply laws in the following order of supremacy:

> First: Laws and ordinances applicable in the Dubai
> Second: Islamic Law, Shari'a
> Third: Custom
> Fourth: Equity and fairness

Laws and ordinances mentioned here include federal laws of the UAE and the codified decrees of Dubai.

According to an interview with Judge Mohammed Khamis Bassiouni, most of the cases are tried under domestic law. And if there is no provision applicable, then Islamic law becomes the governing law. Most of the cases take about two to five months before a decision is rendered, as it takes some time to translate materials in other languages to Arabic. However, if the Committee case time is compared with its general court system equivalent, it is fast indeed; usual court generally takes more than half a year.

The Committee's proceedings differ slightly compared to those of the general court in Dubai. First the case is brought to the First Instance Court. If the case is relevant to Decree No.61 of 2009, then the case is brought before the Special Judicial Committee and the Dubai court system will not be able to try the case thereafter. Another characteristic element of Special proceedings is that trials are held behind closed doors as in arbitration. In addition, the committee has an Islamic accountant on hand to check details from a financial point of view [Abdallah and Baroudi 2011]. Every individual decision thus is crafted from a broader perspective: incorporating the legal expertise of the judges and the financial knowledge of an Islamic accountant.

Ⅴ. Conclusion

In conclusion we might say that Dubai could deal with Islamic financial dispute cases in two ways. Generally Islamic financial cases are tried in the general court system, whose judges have the ability to deliver judgments based on Islamic law. In special cases, which the government of Dubai determines it a special priority to resolve certain cases, the

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7) According to Professor Habib Ahmed, Bahrain has a similar system in which the Supreme Judicial Council has full authority to judge the cases brought before it. The Council is comprised of five judges from the Court of Cassation in Bahrain.

Special Judicial Committee becomes the forum of choice. This paper briefly identifies the composition of the Special Judicial Committee that is convened to hear cases pertaining to specific Islamic financial companies and specific Islamic financial transactions. This Special Judicial Committee is a unique type of dispute resolution system for finance. It arranges a compromise between the court and arbitration systems. Therefore, the Special Judicial Committee could be a benchmark for financial dispute resolution systems generally.

There are three elements that distinguish the Special Judicial Committee of Dubai. First, although Islamic financial institutions are not instructed how to bring dispute resolution cases at the federal level, Dubai has formed a solution for generating Islamic financial dispute resolutions. Dubai Decree No.56 of 2009 and Dubai Decree No. 61 of 2009 have effectively set up the Committee system.

Second, the Special Judicial Committee formed according to the Dubai Decree No.61 of 2009 has the ability to try cases with both the legal perspective of the judges and the financial perspective of an Islamic accountant. Therefore, the case is potentially afforded a more detailed look by the Committee.

Third, the Committee is independent from the ordinary court system. While the ordinary court operates on a three-trial system, the Special Judicial Committee is a one-trial system. On the hypothesis that the Special Judicial Committee is comprised by high court judges, so the lower courts do not have to waste their effort, but merely pass the case along to the Committee.

For these reasons, Dubai's Special Judicial Committee could be seen as a prototype for dispute resolution for Islamic finance, but also for conventional finance cases. Commonly, financial disputes are problematic in that they take time and are often tried by those who are legal professionals. As one can see, the Special Judicial Committee has a number of advantages compared to the ADR and the general courts.

In conclusion, there is a strong possibility for this Special Judicial Committee to become a pioneering dispute resolution system for both Islamic finance and conventional finance alike.

	Ordinary Court	Special Judicial Committee
Procedure	Open (According to the Procedure Law)	Closed (First Instance Court⇒Special Judicial Committee)
Speed	Same as general cases	2~5 month
Judges	1~3 Judges from Dubai Court	3 Judges from Dubai Court + Islamic Accountant
Trial	3	1
Language	Arabic	

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Banking on Ethics vs the Ethos of Banking

Kifah SALAMEH❙ Watamar & Partner SA

The paternity of Islamic finance certainly is a matter of debate. The question of establishing a financial system that would be compatible with Islam's ethical principles started to become a pressing one in the GCC with the oil boom as it was not possible anymore for people to follow a strict interpretation of shariah with regards to money. A more effective system for allocating capital was needed for people in these countries to integrate in the world economy without feeling in conflict with their ethical beliefs.

This was the context in which HRH Mohammad al Faisal bin Abdulaziz al Saud, together with a handful of shariah scholars and economists, have put in place the initial principles and contracts of Islamic banking in the early 1970s. The Prince's name and legitimacy were instrumental in launching one of the first experiences of shariah-compliant banking in the Arab Middle East in the late 1970s, under the holding structure of the Dar al-Mal al-Islami (DMI) Trust – the *House of Islamic Finance*.

The early experiments of Islamic banking were respectful of the industry's ethical foundations. However their management and operations were often not professional enough and lead to some commercial misfortunes. As of the second half of the 1990s, a new generation of managers took over Islamic banks and turned them into leaner and more effective commercial outfits. The participation of Western conventional banks in the Islamic financial industry emulated Islamic banks to perform and grow in line with the financial industry's standards.

However, Islamic financial institutions got dragged into the rapid growth of the GCC and progressively turned away from their original ethical principles. The DMI Group

unfortunately followed this path.

This paper will therefore offer a case study of the DMI Group's rise and downfall in order to identify some of the major issues that need to be addressed to strengthen the Islamic financial industry as a whole.

The bedrock of Islamic banking: Saudi Arabia in the 1970s

Commercial Islamic banking was not tolerated until recently in Saudi Arabia. For the Kingdom's establishment, allowing shariah-compliant banks would indirectly mean that all the other banks operating in the country were haram – or sinful. This was not only absolutely unacceptable for the Custodian of the Two Holy Mosques; but it was also a threat to the most prominent families of the Kingdom who were all principal shareholders of existing banks. As such, the idea of Islamic banking was systematically dismissed in Saudi Arabia. And the regulators would never grant a license to a financial company that would claim to operate in compliance to Islamic principles. Nonetheless, Saudi Arabia has been undoubtedly both the incubator and the catalyst of the development of modern Islamic finance. And this was not a coincidence. The country offered in the 1970s many factors that were instrumental to the emergence of this industry – even if the first Islamic banks were incorporated in other countries and were managed outside of the Kingdom.

Saudi Arabia is the largest and most populated GCC country. It was one of the first Arab countries to become independent and not be later colonized. Yet, it remained a traditional, tribal society, with a very basic state apparatus. And it was still in the 1940s one of the world's poorest countries. As soon as oil started to generate income, the Kingdom entered in a state of dependency towards the USA. At first a reliance on US oil companies for the country's only source of revenues, it rapidly became a political and strategic unbalanced relationship. There was definitively some common grounds between the Saudi royal family and the US government, especially concerning the fight against communism and against what was considered to be its Arab proxies, namely secular pan-arab movements and in particular Nasser's Egypt. Hence, the traditionalist, rigorous Islamic kingdom of proud bedouin warriors had become a rent-seeking monarchy hosting a growing contingent of US workers, soldiers and officials.

When Faisal bin Abdulaziz Al Saud deposed his brother Saud and became king in 1964, the kingdom was in a dire condition. Public finances were in deficit; yet very little was actually achieved in terms of modernization. The population was tensed and resentful towards the royal family, perceived as betraying the country's Islamic heritage through its lavish lifestyle and obedience to the USA. Thus King Faisal strived to rescue the country's finances, to reform the administration and cut down on bureaucracy, and to modernize the

country's institutions and infrastructure. He also gave Saudi Arabia a more prominent role in international affairs, and started to actively promote a pan-Islamic alternative to secular pan-arab ideologies that were dominating the Middle East at this time. He was also much more sensitive to the Palestinian question than his predecessors. And as per his foreign policy objective of regional leadership, he had to take action on the issue. Hence his decision to withdraw Saudi oil from world markets in 1973 and to initiate the nationalization of Aramco, the US consortium producing Saudi oil, in response to the West's backing of Israel.

Upon King Faisal's death in 1975, Saudi Arabia had significantly matured. It had institutions, rigorously managed public finances, economic policy and planning, and modern armed forces. It had also started to nationalize oil production, hence becoming more in control of how the country would benefit from its oil reserves rather than simply receiving a rent from foreigners. In turn, as the state was becoming more independent from foreign firms for generating its revenues and from foreign governments for its governance, the Saudi private sector evolved from small trading houses to larger corporations, with a wider international scope, and a nascent industry. Saudi people and businesses needed appropriate financial tools to pursue their development.

In parallel, King Faisal's reign was also the start of a revival of the Muslim identity in the Middle East and also in the wider Sunni world. Until then, the political and cultural expressions of rigorist Islam were suppressed – with varying degrees – both under the rule of secular minded revolutionary leaders such as Nasser, Ataturk or Burghiba, and under the rule of western-influenced monarchies such as Jordan or Iraq. In general terms, the political debate in the Middle East was essentially focused on social issues. The emerging Arab identity was channeled through ideologies such as Nasser's pan-arabism, the Baath party, the Syrian Social National Party, the socialists or the communists. Even the resistance movements against Israel were essentially secular, lead politically and militarily by left wing parties. There was no question of holy war at the time. It is only from the late 1970s that religion stepped into politics, in particular with the reemergence of the ideology of a Sunni ummah that would extend beyond the borders of the states. And Saudi Arabia was the epicenter of this trend, providing both dogmatic content as well financial support to the spread of a rigorist type of Islam from Africa to Afghanistan.

By the mid 1970s, the combination of economic independence and religious revival paved the way to the emergence of Islamic finance. There was a strong popular demand for financial tools that would allow Muslims to integrate in a globalizing economy without abandoning their ethical principles.

Pioneering role of Prince Muhammad al Faisal and creation of the DMI Group

This is the context in which H.R.H. Prince Mohammed al Faisal Bin Abulaziz al Saud launched the first commercial bank to operate according to the principles of Islam. Son of King Faisal and direct brother of Minister of Foreign Affairs Prince Saud al Faisal and of former Head of Intelligence Prince Turki al Faisal, Prince Mohammed didn't pursue a career in government. Born in 1935, he is amongst the first Saudi princes to have graduated from a US university. Trained in economics and business administration, familiar with Western culture and society, Prince Mohammed nonetheless grew up under the aura of his father King Faisal and was very attached to his country's traditions, its religious identity and ethical principles. Thus, following his first professional position at the Saudi Monetary Authority (SAMA), Prince Mohammed, together with a group of scholars, elaborated the conceptual foundations and the first instruments of modern Islamic finance.

Prince Mohammed left definitively government functions in 1977, a few years after his father's assassination, to give life to this new approach to banking. As mentioned above, Islamic finance was not recognized in the Kingdom, and it was not permitted to incorporate a bank that would abide to Islamic principles. Thus Prince Mohammed opened his first venture in Egypt in 1977, named Faisal Islamic Bank of Egypt – a retail bank in the most populous Arab country that was meant to serve as a template for future operations. The same year, he opened Faisal Islamic Bank (Sudan) in Khartoum. Both banks were officially and formally operational in 1979, and Prince Mohammed was preparing an expansion.

In 1981 was created the Dar al Mal al Islami (DMI) Trust – incorporated in the Bahamas, with its operations based out of Geneva, and constituted by Prince Mohammad together with a handful of prominent Saudi families – to serve as holding company for the various entities about to be established. The DMI Group was going to become the first and largest commercial shariah-compliant financial group that was not created and funded by a government. In order to avoid the resistance of the establishment in his home country, Prince Mohammed established in the main cities of the Kingdom the Private Offices of HRH Prince Mohammed al Faisal to act informally as the front office of the DMI Group in Saudi Arabia. In parallel, he established in 1982 Faisal Finance (Switzerland) SA in Geneva, a Swiss licensed securities dealer, which could open accounts and invest money on behalf of its clients, but was not a fully fledged Swiss bank. Faisal Finance was meant to cater to affluent clients to offer shariah-compliant asset management services. The same year as well, he opened in Bahrain the Masraf Faisal al Islami, a retail and commercial bank under the supervision of the Bahrain Monetary Authority, which would later be renamed Shamil Bank of Bahrain.

In practice, the Private Offices of HRH Prince Mohamed Al Faisal Al Saud were created to collect funds and provide client relationship within the territory of the Kingdom. The money collected was then booked "offshore", either in Bahrain or in Switzerland, depending on the needs of the customers. To launch the Saudi operations, Prince Mohammed, accompanied by his advisors, scholars and a Swiss banker, visited prominent families in each province of the Kingdom during the month of Ramadan and collected close to USD 1bn within one month. The person of the Prince, the reputation of his late father together with the strong ethical foundations of its ventures were a compelling factor to the success of this fundraising effort and subsequent growth of the client base.

The expansion of the Group then took two main directions. The first one was a geographic expansion of retail banks, under the brand Faisal Bank, especially in populous developing Muslim countries. Faysal Bank Ltd, created in Pakistan in 1987, grew as the most successful of these experiences. But Faisal Islamic banks were also created in the 1980s and early 1990s in Senegal, Guinea, Turkey and Niger. The second direction of the development of the Group was to establish more innovative lines of business to support the Group's clients with shariah-compliant investment banking, asset management and trade finance solutions. Faisal Finance in Switzerland was part of this line of business. But also Faisal Investment Bank of Bahrain E.C. in 1984, later renamed Ithmaar Bank BSC; and the Islamic Investment Company of the Gulf (IICG), created in 1987 in Bahrain to pool the deposits of the clients of the Group worldwide into a rolling mudaraba, and later to structure private equity real estate investments mainly in the USA.

In a little more than one decade, Prince Mohammed's experiment in Egypt had grown to become one of the largest Middle Eastern financial groups, with operations spread on three continents, a solid yet growing client base and covering retail banking, corporate banking, trade finance, asset management and private banking. As discussed above, the time was ripe for the expansion of Islamic banking in the Muslim world since the mid-1970s. In addition, Prince Mohammed had the financial capacity to invest in such an adventure. But the success of the expansion phase of the DMI Group certainly owed to a large extent to the person of the Prince himself. The al Faisal branch of the Saudi royal family were considered with great respect throughout the Arab world – and even more so during the rule of Khaled and Fahd – not only because their father stood up against the West, but also because of their reputation of ethical and religious integrity. And as such, the biggest strength of the DMI Group was the loyalty of its clients.

Banking on ethics

The way the Group was built was largely influenced by Prince Mohammed's religious upbringing and ethical principles. Although his goal was not to transform modern finance

in compliance with Islamic principles but rather to find solutions to make finance the least haram as possible, Prince Mohammed was definitely placing ethics at the core of its enterprise. This was reflected in the emphasis on the partnership between the bank and the clients, on risk and profit sharing, and on the necessity for a financial institution to ensure that its financial management achieved real social benefits within the communities where it operates. Clearly, ethics was more important than profits. In the management of the Group's companies, the same principle applied, with a stress on the social and human dimension of employment rather than the quest for performance.

However, a commercial company – especially once it becomes a complex, interlinked international structure – cannot be run like a charity. The DMI Group suffered severe blows throughout the 1990s, with heavy losses for the Group, heavy losses for clients, and a growing book of liabilities. At some point, some of the Group's entities were on the verge of bankruptcy. Yet, the Prince bailed out the Group and the clients, and succeeded to save the client base – which was due entirely to clients' loyalty to the Prince and his father rather than on the performance of the bank. Indeed, corporate and human resources management was not up the requirements of a budding multinational company. Bad investments were regularly wiping out profits and weighting on the balance sheet. In parallel, some employees were taking advantage of unusually generous employment conditions. It was not in the corporate culture at DMI to sack employees. As a result, productivity was low, redundancies were not eliminated, managers were not accountable and it was not too difficult for ruthless employees to abuse the system.

The suboptimal level of professionalism and competence in many entities of the Group was getting more obvious as global conventional banks, attracted by promising business opportunities, were jumping into Islamic finance. Although the DMI Group retained a clear advantage from its Islamic legitimacy compared to, for instance, Citibank or UBS, the newcomers in the industry definitely raised the professional standards. And although a Muslim client would be wary about Islamic finance within a conventional bank, chances were that new ventures would emerge, run by a new generation of professionals who integrated Islamic principles with the highest standards in the global financial industry. Thus, after injecting capital in the loss making entities of the Group and bailing out clients on bad investments, Prince Mohammed took the measure of the management challenge facing the group and decided to appoint new blood to restructure the Group to ensure its sustainability as a business enterprise.

The corporate turn of the DMI Group

In 1998, Khalid Abdulla Janahi was appointed Group CEO of the DMI Administrative Services – the service company based in Switzerland in charge of the executive

management of the Group – and became board member of each entity of the Group. A Bahraini national, Khalid Janahi is a UK trained chartered accountant and auditor, with a solid background at PriceWaterhouseCoopers, where he left as a partner before joining DMI. Well versed into Islamic finance, he was also very familiar with the books of the DMI Group, and as such was an ideal choice to undertake the restructuring.

Khalid Janahi started his mandate by trying to place the right managers where needed – with a bias towards former auditors – and then consistently strived to clean up the books of each entity, to refocus them on their core activities, to get rid of redundancies, to establish more rational operational processes, to reinforce due diligence for new investments and to increase margins wherever possible. The restructuring was starting to yield results when Prince Mohammad and the DMI Group were hit by surprise by a class action lawsuit of families of victims of the 9/11 terrorist attacks. The lawsuit was built on weak foundations, and had little consequences on the DMI Group. However, the wave of resentment towards Muslims after 2001 resulted in the resurgence of Islamic identity in the Middle East, Asia but also in large parts of Europe and Africa. This translated in a renewed interest for Islamic banking, which had by then become a much more developed industry. And the restructured DMI Group was well positioned to take advantage of this trend.

By 2003, Janahi had accomplished a tremendous work in the Group, transforming it in a much leaner and efficient machine able to generate profit, whilst maintaining its cultural heritage. Hence, his leadership was generally accepted within the Group's companies to the extent that Prince Mohammed, aging and less available, gave Janahi full authority to continue the strategic turnaround of the Group. The next step was to bring a corporate revolution to the Group by structuring the holding in line with international corporate standards.

In 2003, Faisal Investment Bank of Bahrain EC was renamed Ithmaar Bank and, through a complex swap of shares between the various entities belonging to the DMI Trust and reattribution of roles and specializations, would become the executive holding company of the Group. The Group had a strong retail banking pillar, Shamil Bank of Bahrain, Faisal Islamic Bank of Egypt, and Faysal Bank Ltd in Pakistan. It was beefing up its private banking pillar with Faisal Finance (Switzerland) SA, which obtained full banking license in 2006 and was renamed as Faisal Private Bank, becoming the first ever shariah-compliant Swiss bank. Finally it was developing Islamic insurance, or takaful, with Solidarity Co. in Bahrain. All investment banking, corporate finance and investment management roles were to be removed from each individual entity to be concentrated at Ithmaar Bank, striving to become the first Islamic investment bank.

Ithmaar Bank made an IPO on the Bahrain stock exchange. The DMI Trust became

then purely a holding structure for the Prince and its early partners, still principal shareholders of Ithmaar Bank and its subsidiaries. However it was more sensible, in the mid 2000s, for a financial group with global ambitions, to be consolidated under a publicly listed bank in Bahrain, main Middle Eastern hub for Islamic finance, rather than under a Bahamian Trust managed out of Geneva and whose known face was a Saudi prince. And the capital raised with the IPO allowed Ithmaar to become a credible partner for other major financial players in the GCC.

A missed opportunity

We were then in 2007, before the outburst of the global financial crisis. And the DMI Group − under its new structure − was poised to a brilliant future. In theory, the principles of Islamic banking − and in particular the prohibition of securitizing and trading debts − should have provided a protection against the brutality of the credit crisis. Yet, Ithmaar Bank eventually went bust; its share price collapsed, got recapitalized by the DMI Trust and was merged with Shamil Bank to become nothing more than a retail bank. Faisal Private Bank is also on the verge of bankruptcy. And the clients, who suffered heavy losses and could not anymore identify with the early values of the Faisal Islamic banks, started leaving the Group. After the passing of Prince Mohammad and following pressures from the Bahrain Monetary Authority and the Swiss FINMA, Prince Mohammad's eldest son Amr took control of the Group and demoted Janahi.

What could have been an outstanding Middle Eastern success story had ultimately failed miserably. And although the DMI Group was not exactly representative of Islamic banking in general, its failure provides useful insight on the structural weaknesses and threats of this industry. There are several factors that could explain the fall of the DMI Group − some that are specific to the development of Islamic banking, and others that are linked to the general context of the GCC economic boom. And all these factors reminisce of the ethical foundations that gave its full meaning to this industry, but got washed away the more Islamic finance evolved.

Lack of industry standards

The factor the most specific to the Islamic banking industry is the absence of universally accepted standards for shariah compliance. Without such standards, there cannot be independent and transparent auditing of a bank's or a product's shariah-compliance. This leads to the reliance on certifications − or fatwa − issued by self-appointed shariah scholars. In turn, clients base their choice on the reputation of the scholar who certifies a bank or a product. It is therefore extremely difficult for new names to emerge, as

reputation is built over time and roots its legitimacy in the past. The outcome is the domination of a small number of scholars who are systematically solicited by financial institutions who want to ensure that their product will be well perceived by clients. It is expected that scholars hold a high degree of integrity. However, Islamic banking was a lucrative business in the 2000s, and financial institutions – especially commercially aggressive conventional banks – have paid a high price to have reputable scholars issuing fatwa on a plethora of financial products that were mimicking conventional products, including such things as Islamic options and derivatives or Islamic hedge funds.

The DMI Group remained close to traditional Islamic banking, whereby the aim was not to reproduce all the instruments of conventional finance but to provide only those that best match Islamic principles. Therefore, they could not compete against other banks – not only conventional banks with an Islamic window but mainly GCC banks that were distributing white labeled products structured by these conventional banks. The DMI Group didn't have the same range of product offering, and thus could not cater to the new generation of sophisticated Muslim clients. This entailed an opportunity cost, which translated in lower profit growth than many of its peers.

The culture of greed

The West's reaction to 9/11 involved restrictions for Muslim investors according to 'black lists' or to stricter banking procedures regarding potential terrorism financing. Perceptions of prejudice also hurt Muslims and triggered another wave of revival of Islamic identity. Thus, the massive liquidity generated by oil and gas revenues was not anymore invested and spent in the USA or the UK, but was put at work at home, mainly in the GCC, but also in other Arab and Muslim countries. Although restrictions later eased in the West and Arab money was again invested in the US and Europe, the few years of inward investing were sufficient to boost local economies to an unprecedented level and created opportunities that would definitively change Arab investor's attitude towards the West, and towards investment in general.

When Arab investors returned to the West in the mid-2000s, they did so with an attitude, and with conditions. They were chased by bankers and fund managers from New-York to Singapore or Geneva, who then bowed to their requests. Muslim investors had an alternative, and became increasingly reluctant to Western capital market investing not only because of identity reasons, but also because investments in matured markets were yielding at best 10% to 15% p.a while they were making the double or triple in their home market. Arab investors became greedy. They also were blinded by the economic boom in the GCC and did not realize the financial risks in their home market. They enjoyed the thrill of speculating. Shariah investors – especially the new generation that has

a certain level of financial sophistication – were then more attracted by the innovative products that replicated conventional instruments, in spite of dubious shariah compliance. Again the DMI Group did not appeal to this new investment culture and could not capture more market share.

Access to capital

The DMI Group was the only private sector Islamic banking group. All the other major Islamic banks and financial groups were held – directly or indirectly – by a government. They were capitalized by public funds that were replenished by oil and gas revenues. In addition, banks owned by governments had a privileged access to major infrastructure financing opportunities because these were contracted and lead by government agencies. And in Islamic finance, it is impossible to underwrite a sukuk simply on the basis of the issuer's balance sheet, as it would be a pure interest baring financing. It required being able to pledge the underlying assets of the transaction that was to be financed through a sukuk. And as these transactions and their underlying assets were controlled by the governments, there was a natural bias to mandate publicly-owned Islamic banks to do the underwriting.

The DMI Group had neither the capital to be able to underwrite a sukuk issuance, nor the favours of GCC governments to obtain the pledge on the underlying assets of a deal. The DMI Group was thus bound to stick with simple financial instruments and small real estate deals, limiting both its profitability and its visibility as a major regional banking group.

Shariah compliant asset management and the GCC real estate bubble

Shariah compliant asset management is a delicate exercise. It follows the logic of conventional portfolio management, with an asset allocation comprising cash, equities and fixed income. Whilst Islamic finance offers the instruments to manage cash and equity allocations, it is not equipped for the fixed income allocation. Indeed, Islam's approach to debt and the securitization of debts entails a very limited universe for fixed income instruments. Sukuks, which are mudarabas structured more or less like bonds, are more difficult to issue because they have to be asset backed, and can rarely yield a fixed income. Therefore, the sukuk universe is not sufficient to provide enough diversification to build a bond-like fixed income allocation in a shariah-compliant portfolio. Thus, the quasi-natural shariah compliant alternative to bonds was real estate. One major product offered by Islamic banks was private equity investments in real estate, ie shareholding in a special purpose vehicle whereby the bank in partnership with the investors would purchase

real estate properties or developments for a period of rental (income generating) followed by a sale (capital gain on exit). Until 2001, Islamic banks were offering private equity investments in properties in the USA and Europe. After 2001, these investments were made in the GCC.

The economic integration of the GCC entailed a revision of property rights whereby any citizen from the GCC could purchase a property in any country of the GCC. This meant that, for instance, Saudis could invest in the Dubai real estate market, and vice versa. This flooded the GCC real estate market with liquidity and pushed the prices of real estate so fast that this market became a perfect field for speculators. Eventually, bubbles appeared in Dubai, Qatar and to some extent Bahrain, as investors were over leveraged and started flipping properties. Arab investors' greed could be satisfied with a booming local real estate market, and could be channeled islamically through private equity type of investments. This massive capital flow in the local real estate market was mirrored in the regional stock exchanges with the explosion of the share prices of local contractors, developers and banks that were involved in local real estate financing. Thus greedy Arab investors became over exposed to the real estate bubble in the GCC through direct real estate investments, private equity real estate investments and a portfolio of equities linked to real estate – either conventional or shariah compliant.

In theory, shariah compliant investors could have avoided the 2008 financial crisis because they were not exposed to Western credit markets nor to conventional banks. Yet, they eventually got hit by the outburst of the GCC real estate bubble. The outburst was amplified by a common practice in real estate private equity investments in the GCC, whereby the financial institution that manages the investment takes a sizeable upfront fee before the project was even built. Once the market turned around, clients' equity was then totally wiped out. And Ithmaar Bank, like all banks and financial institutions in the GCC, was heavily involved in the local real estate market.

Concluding remarks: corporate governance in the GCC

The factors briefly discussed above illustrate how ethical considerations, which used to be Islamic finance's actual *raison d'être*, eventually ended up being overwhelmed by the sort of 'Wall Street syndrome' that unfortunately dominated the ethos of banking in the beginning of this century. Even the DMI Group, founding pioneer of Islamic banking, enjoying a reputation of legitimacy and integrity, did not resist against the ethical turnaround of the industry. It shows how difficult it is for an Islamic bank to strike the right balance between profitability and ethics in a globalised economy awash with liquidity. If the DMI Group failed to strike such a balance, it owes also to some extent to the flaws in corporate governance that were unfortunately common practice in the GCC at the peak

of its economic boom in the second half of the 2000s.

In the GCC, corporations were generally owned by one or several families, more or less close to their state's ruling families. And even when some of these corporations grew significantly and opened their capital to other private investors or even to the general public through IPOs, their founding families remained most of the time principal shareholders. And in the Gulf culture, majority shareholders are the owners of their businesses. Their company is their property; and it will always remain theirs unless they decided otherwise. And as owners, they don't need to be intimately involved in the executive management of their companies. They hire managers to do this for them. There is a distance between the owners — represented by the board of directors – and the life of their companies. In the DMI Group, the Prince — as well as a few other reputable and powerful families — was the owner of the banks. He was leading the Group, giving strategy and directions, giving his name and reputation to them. But he was not managing the banks. It was not his role.

At the other end of this hierarchy were the clients. And in the case of the DMI Group, clients were the clients of the bank of Prince Mohammed because of who he was and of the values he represented. To some extent, the management or the staff did not really matter. Clients were loyal to their bank in spite of suboptimal financial management simply because it was the bank of the Prince. And even if they were not satisfied, they would not complain because one cannot complain against a Prince in a monarchy like Saudi Arabia. Thus the managers appointed from the 1990s — generally with Western education and professional experience in international corporations — to implement the corporate turn of privately owned businesses in the GCC were in a situation of complete freedom of movement. The ownership was distant and did hardly interfere in the day-to-day executive management of the company. And they had clients which loyalty was not a function of the quality of the products or services offered but because clients had no choice but to accept the management appointed by the owners of the company, especially when competition was scarce or when being loyal to a powerful family could bring other advantages or avoid problems.

When Khalid Janahi became CEO of the DMI Group, he had the difficult mission to restructure a damaged yet potentially interesting group of companies, with a strong heritage. But on the other hand he faced very little pressure and oversight from the shareholders. And he had a strong and loyal client base who would quietly accept the way the company evolved without easily switching to the competition if unhappy. Thus Janahi enjoyed total power over the DMI Group, and so did the managers of each entity that were appointed by Janahi. Moreover, this happened during the frenzy of the GCC economic boom, when local and international media, PR and communication companies and conference organizers converged to the GCC attracted by the prospects of a very

lucrative market. And as the region did not have many other success stories to exhibit than business success stories, all the attention of these communication companies was put on business leaders, who were keen on gaining more visibility to develop their businesses, but also progressively to cater to their personal ego.

Thus at the peak of the GCC boom from 2003 to 2009 – until Dubai was bailed out and the frenzy of the GCC halted – senior managers and executive business leaders benefited from unchecked total authority within their companies and became famous and respected public figures thanks to a mercantile star-system constantly showcasing regional business leaders and allegedly reform-minded monarchic rulers. This is when even the smartest people make mistakes. When Khalid Janahi started leading the DMI Group, he was still a modest, serious and diligent accountant who had a tough job to do, namely in our case to restructure the Group and its entities to ensure a sustainable business model. Yet by the time he listed Ithmaar Bank on the Bahrain stock exchange, he had become a famous business leader, very well connected with the Bahraini ruling family and some other ruling families of the Gulf, and enjoying speaking of economic reform in the Middle East in international conferences and on TV shows.

Many other business leaders throughout the GCC were also like Mr Janahi: rich, famous, connected with powerful people, enjoying total control of the companies they were leading, unchecked neither by the owners nor by the clients, and having their ego flattered by a complacent regional and global media. And these business leaders were competing with one another, using their companies and the media to please their personal ambitions. For instance, one of the deals that sunk Ithmaar Bank was the badly negotiated purchase of Bank of Bahrain and Kuwait (BBK) on top of the market, when the global financial crisis had already begun in the West. The purchase of BBK by Ithmaar did not entail a strong business case and was done at a valorization much too expensive. But it was still concluded by Khalid Janahi simply because he was in competition against Maha Al Ghuneim from the Global Investment House in Kuwait – another once booming financial group which came near to bankruptcy in 2009. Similar circumstances were very common within the GCC's flamboyant private sector of the 2000s. Islamic finance 'made in the GCC' lost a lot of credibility amongst pious Muslims as cases of misconduct, abuse, deceit and sometimes plain fraud were unveiled in the wake of the burst of the Dubai real estate and credit bubbles. Yet, as political Islam is gaining momentum throughout the Arab world, chances are that new ventures will soon emerge to address shariah compliant finance with a fresh new light, and a return to the ethical inspirations that gave birth to this industry.

Middle East Language and Literature

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Presentation 1

Sentential and Constituent Negation in Persian[1]

KWAK, Sae Ra❘ HUFS

Ⅰ. Introduction

Negation is a fundamental notion in natural languages. All human languages have negative forms corresponding to their affirmative counterparts (Kwak 2010). Therefore, studies on negation in many various languages have been conducted in various fields of linguistics such as syntax, semantics and pragmatics. Among these fields, negation is one of the most important subjects in syntax because it brings various debating issues. The existence of Neg projection and licensing condition of negative elements are the subjects which are importantly discussed.

Even though studies on negation have been investigated cross-linguistically, there exist relatively a few works on Persian negation. Moreover, constituent negation has not been focused yet.

In this paper, we will investigate the difference between sentential and constituent negation in meaning and structure.

Ⅱ. Sentential Negation in Persian

1. Negative marker

There are three main elements which are used in negative sentences in Persian; negative marker, negative polarity items and negative concord items. When negative sentences are

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1) Earlier version of this paper is presented in Kwak(2010)

generated, one of the negative elements, i.e. negative marker, plays the most important role. In fact, we cannot make negative sentences without using negative marker, with the exception of inherently negative verbs.

The Persian negative marker, which corresponds to the English negative marker 'not' is *na-*, and it has three other allomorphs – *ne-, ni-,* and *ma-*. As a prefix, these markers are attached to auxiliaries, main verbs or the light verbal part of complex predicates. The negative marker *ne-* goes only with the durative marker *mi-*, which carries present tense or progressive, *ni-* only with the 3ʳᵈpersonsingularformofverb*budan* 'to be' and *na-* with the other cases(Kwak 2007). *ma-* is hardly used in contemporary colloquial Persian.

Sentences in (1) to (7) below show the distribution of each negative marker.

(1)   Mariam   ne-mi-tavānest- ø   taklif   ro   anjām   be-dah-ad.
        Mariam   neg-dur-could-3sg   task   rā   completion   subj-give-3sg
        Mariam could not complete the task.

(2)   Emruz   pish-etun   ne-mi-ā-m.
        Today   in front of-you   neg-dur-come-1sg
        Today, I'm not coming to you

(3)   In   ketāb-e   ali   ni-st
        This   book-EZ   Ali   neg-is
        This is not an Ali's book.

(4)   Ali   na-xāh-ad   raft- ø
        Ali   neg-will-3sg   went-3sg
        Ali will not go.

(5)   Na-bāyad   be-r-am   xune.
        Neg-must   subj-go-1sg   home
        I must not go home.

(6)   Diruz   na-raft-am   madrese.
        Yesterday   neg-went-1sg   school
        I didn't go to school yesterday.

(7)   Dige   ma-pors- ø
        Any more   neg-ask-3sg
        Don't ask any more.   (Kwak 2010, 622-623)

Those sentences show the distribution of a sentential negative marker and the function of the sentential negative marker, which leads whole propositions to be negative. Next, we will propose that the NegP exists in Persian and suggest the structure of sentential negation.

2. The existence of NegP

Even though there exists a work like Baker (1991), which denies the existence of NegP considering 'not' in English as an adverb, I will assume that NegP exists in Persian negative structure following Pollock (1989), Taleghani (2006), Kwak (2008) and others. The followings are evidences which show that Persian has NegP as an independent functional category.

Firstly, bearing in mind that negation that we are investigating is sentential negation, the sentential negation should be distinguished from constituent negation. Sentential negation negates whole sentence or proposition, while constituent negation negates only a constituent. In other words, sentential negation functions as a sentential operator. Thus, we can rewrite the sentence (8) into logic language as in (9).

(8)   Ali   ketāb   ne-mi-xun-e.

       Ali   book   neg-dur-read-3sg

       Ali does not read a book.

(9)   ¬ read (Ali, book)

The negative marker as a sentential operator in the structure of sentential negation should be placed above lexical categories as in (10)

(10)   sentential negation
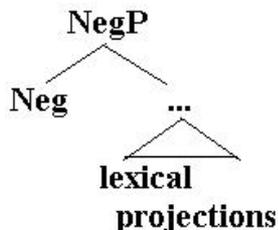
The second evidence of the existence of NegP comes from blocking effect. As is shown in (11a) and (12a), when a negative element *hičkas* scopes over Persian *wh*-phrases *či-* or

čerā-, sentences are ungrammatical. Only the sentences with *wh*-phrases outside the NCI domain are grammatical (11b, 12b). As is widely known, *wh*-phrases need to check its [wh] feature against [wh] in CP to make a sentence convergent. However, the sentences in (a) do not satisfy the condition. It is because that there is another category between CP and *wh*-phrase, which blocks their checking relation. And, we assume that the category is NegP which NCI can be placed. As Karimi(2005) also pointed out, based on the minimal link condition(13), when *neg* and *wh* compete for the same position and *neg* is nearer than *wh*, *wh* cannot move.

(11) a. * [CPOP[Hičkas   či-ro   na-xarid-ø]?
              No one   what-rā neg-bought-3sg

      b. [CPOP[FocPči-roᵢ   hičkas   tᵢ   na-xarid-ø ?
            What was it that no one bought?

(12) a. * pro fekr   mi-kon-i   hičkas   čerā   na-yām-ad?
              Think   dur-do-2sg no one   why   neg-come-3sg

      b. pro fekr   mi-kon-i   čerā   hičkas na-yām-ad?
          Why do you think no one came?

(13) Minimal Link Condition (MLC)
K attracts α only if there is no β, β closer to K than α such that K attracts β. (N. Chomsky, *The Minimalist Program* (MA, 1995):311)

In the sentence (14), too, the *wh*-prepositional phrase, *az koja* can move up when there is no negative element interrupted, while sentence (14b) is ungrammatical since a negative element *na-* is interrupted and blocks *wh*-phrase to move up.

(14) a. Az   kojāᵢ   goft-id   ke   Mariam tᵢ   un   pul-ro   dozd-id?
          From   where   said-2sg that   Mariam   that   money-rā stole-2sg
          Whereᵢ did you say that tᵢ Mariam stole the money?

      b. *Az kojāᵢ na-goftid ke Mariam tᵢ un pul-rodozdid?   (Kwak 2008, 101)

Lastly, the ellipsis of VP also proves Persian has NegP. Potsdam (1997), following Bresnan (1976), argues that only head can license the ellipsis part of VP. Thus, the sentences in (15a~c) are grammatical, since each sentence has a head which licenses the ellipsis of VP. The heads are 'must', 'did', and 'not', respectively. However, (15d) is

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ungrammatical because there is no appropriate head which can license the ellipsis.

(15)　　a. I'll try the guacamole ice cream if I must ø.
　　　　b. Boxer auditioned for the choir and his roommate did ø too.
　　　　c. Some of the guests tried the appetizers but most did not ø.
　　　　d. * John didn't leave but Mary ø.

(Potsdam 1997, 534)

Persian, too, seems to show the same phenomenon. The grammaticality of the sentence (16b) shows that there is a head which licenses the elliptical part of VP, while (16a) is ungrammatical since it does not contain such head. We can conclude that *na* in the sentence (b) plays a role as a head of a category. And, the category is NegP.

(16)　a.　* Ali　dishab　　　bimārestān　raft-e　　　vali　Mariam ø.
　　　　　　　Ali　last night　hospital　　　went-3sg　but　Mariam

　　　　b.　Ali　　　　dishab　　　bimārestān　raft-e　　vali　Mariamna　　ø.
　　　　　　　Ali　　　　last night　hospital　　went-3sg　but　Mariamneg
　　　　　　　Ali went to the hospital, but Mariam did not.

(Kwak 2008, 102)

In this section, we proved that Persian has NegP as an independent functional category. In addition, following Laka (1990)'s Basque example and Taleghani (2006), I will assume that Persian NegP is placed above TP.

3. The structure of sentential negation

Another assumption that I will adopt to explain the structure of sentential negation in Persian is a notion from Distributed Morphology. In distributed morphology, terminal elements (or morpheme) exist as a combination of features in syntax. In other words, only their features are entered into the syntactic level. And they are realized overtly by means of a word formation rule. I will follow this assumption and suggest that the Persian sentential negative marker is not overtly entered to the syntactic structure and, rather, the covert operator (Op) which contains interpretable negative feature, [+neg], occupies the head position of NegP[2]. And this operator will be realized by the word formation rule after syntax.(17) exemplifies the structure.

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2) As Chomsky (1995) claims, the interpretability of features can be defined by their semantic properties. Therefore, it is natural that we assume that the negative marker in negative structures whose main role is to negate whole proposition contains interpretable negative feature.

(17)
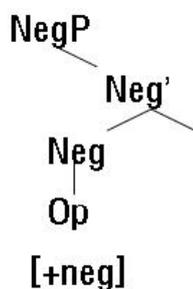
NegP
    Neg'
Neg
Op
[+neg]

Sentential negation in simple sentence is expressed with negative marker, which makes the whole sentence to be negative. As is mentioned above, a negative marker, as a covert sentential operator, is placed in the head of NegP. And, we mentioned that a word formation rule is necessary for the marker to be realized overtly. I will use Agree mechanism of Chomsky's recent minimalism as a word formation rule for the realization of negative marker. In Agree relation, we need an uninterpretable feature and an interpretable feature of the same kind, and the uninterpretable feature should be deleted through Agree with the interpretable feature before LF for Full Interpretation. Then, the sentence can be convergent.

Ouhalla (1991) suggests that negative elements tend to have uninterpretable verbal feature, [−verbal], when the element is a prefix to verbs. Persian negative marker is a prefix which is attached to verbs. Thus, following Ouhalla (1991), I will assume that Persian negative marker, or covert negative operator in the head of NegP contains [−verbal] as well as [+neg]. The [−verbal] feature of the operator needs to be checked against [+verbal] feature of verbs. In this regard, we can derive sentence (18) from the structure (19) below.

(18)   Ali   ketāb   na-xund-ø.
       Ali   book   neg-read-3sg
       Ali didn't read a book.

(19)
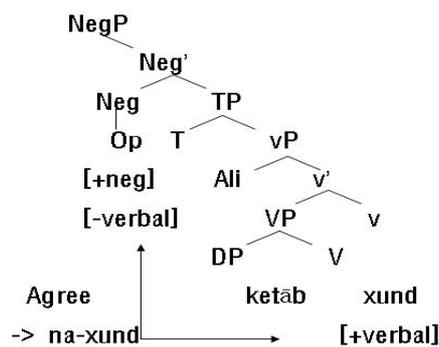
(Kwak 2008, 114)

Ⅲ. Constituent Negation in Persian

Negation in natural languages contains constituent negation as well as sentential negation. While sentential negation negates whole sentence or proposition, constituent negation negates only a constituent.

In English, the sentential and constituent negative marker shares the same morphology 'not', and therefore, as Payne(1985) pointed out, it can derive ambiguous structures as in (20).

(20) a. He [may not] come.
      b. He may [not come].

The sentence in (20a) is an example of sentential negation and it delivers the meaning of "There is no possibility that he comes". However, sentence (20b), as constituent negation, delivers the meaning of "It is possible that he does not come"(Payne 1985, 240). As is shown above, the sentential negative marker in English comes after auxiliary (20a) and constituent negative marker comes before main verb (20b). However, it is difficult to distinguish a sentential negative marker from a constituent negative marker by means of the position of the markers in English without any pause or stress on a particular word.

The constituent negation in Persian is also realized with the same negative marker as sentential negation. Unlike English, we can distinguish Persian sentential negative marker from constituent marker apparently by their position in the structure. The sentential negative marker is attached to the auxiliary verb as a prefix(21a), while the constituent negative marker is attached to the main verb(21b).

(21) a. Ali   na-bāyad   xune   be-rav-ad
          Ali   neg-must   house   SUBJ-go-3sg
          Ali [must not] go home.

      b. Ali   bāyad   xune   na-rav-ad
          Ali   must   house   neg-go-3sg
          Ali must [not go] home.

These Persian examples also show the scope of negation. In other words, in (21a) negation scope over the auxiliary and in (21b) auxiliary scope over the negation.

Moreover, even though Persian negative markers are mostly realized as a prefix, constituent negative marker can have an independent form (22).

(22) Ali   ketab   khand,   na   mariam
      Ali   book   read,   neg   Mariam
      Ali read a book, not Mariam did.

In most cases, the negative marker in constituent negation comes just before any constituent which needs to be negated. The constituent can be a verb (23), a pronoun (24), a noun (25) or an adverb (26) in Persian. While the sentential negative marker plays a role as a sentential operator, constituent negative marker can be classified as an adverb since it can have relatively free order and can be placed just before any constituent which it negates.

(23) Ali   ketāb-o varq   zad- ø,   na-xarid- ø.
      Ali   book-rā page   hit-3sg   neg-bought-3sg
      Ali turned a page, not bought the book.

(24) Na   man   chini   sohbat   mi-kon-am,   na   ānhā.
      Neg   I   Chinesespeak   dur-do-1sg   neg   they
      Neither I nor they speak Chinese.   (Mahootian 1997, 90)

(25) Man   ketāb   mi-xun-am,   na-majale.
      I   book   dur-read-1sg   neg-magazine
      I'm reading a book, not a magazine.

(26) Ruzi   do   sā'at   ketāb   mi-xun-am,   na   har   ruz.
      A day   two   hour   book   dur-read-1sg   neg   every day
      I read a book two hours a day, not everyday.   (Kwak 2008, 76)

Since we classify the constituent negation, whose marker should be posited right before the constituent that needs to be negated, as an adverb, we can assume the structure of the constituent negation as follows in (27).

(27) constituent negation

neg   constituent

Ⅳ. Summary

The Persian negative marker "na-", which is sometimes realized as "ne-, ni-, or ma-", has two functions. One of the functions is to negate whole sentences or propositions and the other function is to negate constituents in sentences. The former marker leads sentential negation and the latter leads constituent negation. In this paper, we assume that the two negations − sentential negation and constituent negation − have surely different syntactic structure and meaning.

In order to draw the structure of sentential negation, we studied some data to show whether Persian has independent negative projection and we came to the conclusion that blocking effect and Minimal Link Condition and other phenomenon on Persian negation allowed independent negative projection. Moreover, negative marker occupies the head of the projection so that it, as a sentential operator, can negate the whole sentence.

In addition, the negative marker in constituent negation acts like an adverb. Unlike sentential negative marker, it can precede any constituent of the sentence which should be negated. Thus, in the structure of constituent negation, the negative marker is an adjunct which is attached to the constituent which is negated by the marker.

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Analysis of the 'Democratic' Speeches by Hosni Mubarak in the Egyptian Revolution

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Ⅰ. Introduction

Hosni Mubarak ruled Egypt for 32 years since he came into power in 1981 after the assassination of President Anwar Sadat. A modest man, he comparatively provided stability for the sake of development in the beginning but although he came to power promising reform and vowing not to seek more than one term, Mubarak quickly became enamored with the power of the presidency and saw himself as indispensible to Egypt's future. He built a small, narrow constituency for his rule among big business, the police, and the army and relied on force and the threat of violence to keep the population under control(Steven,p.86). From about 2004, the economy began to grow rapidly but the gap between rich and poor also became wider and larger. The protestors that came out on the streets from January 25 accused the regime of corruption, brutality and political repression.

Before he stepped down, Mubarak tried hard to win the masses over to his promises of reform and some concessions but he failed to convince the protesters and massive protest continued across the nation.

As I examine Mubarak's last three speeches while in power delivered during the period of seventeen-day revolution, I was expecting a major shift in the genre of discourse and in the way this discourse was produced because he faced the demand of 'Democratization' by the Egyptian people after a long dictatorial rule. On this account, I have supposed the existence of a new type of speech that I might take the liberty to call it "democratic speech". That is why I gave the same title to this research.

The analysis centers on the three speeches Mubarak gave after the eruption of the protests in Egypt until he stepped down. The analysis will treat the strategies used in the

speeches, the substance and the language, as well as the structure of these speeches. A textual analysis will be adopted to examine the shift in language and discourse of Mubarak throughout the duration of the protests.

Before I begin the full-scale analysis of the speeches, it will be more suitable for me to give a brief summary of the three speeches.

[Contents of the speeches]

Speech 1(28 January, 2011): As protests began to spread across the nation, Mubarak fires his Cabinet and promises political and economic reform but refuses to step down and defends his crackdown on demonstrators, calling the protests "part of a bigger plot to shake the stability and destroy legitimacy."

Speech 2(2 February, 2011): Mubarak caves a little, saying he won't seek reelection but will remain in power until September to ensure a smooth transition of power. But he still claims the destabilizing protests have been "manipulated by political forces" and refuses to suffer the same fate as Ben Ali. "I will die on the soil of Egypt," he declares.

Speech 3(11 February, 2011): Amidst the expectation that he would announce his resignation, Mubarak declares that he will delegate day-to-day authority to Vice President Omar Suleiman but still reiterated his vow to remain in office until elections in September, offering only minor concessions and largely restating the regime's positions of recent days. The details were not that important. He did talk about "national dialogue" with a group of opposition. And he talked about constitutional amendments having to do with restrictions on presidential candidacy and judicial supervision of elections. He warned that he would not be "dictated to by the orders of outside forces" and that the youth on the streets "would be the first victims" if the "intolerable" situation there continued.

Ⅱ. Linguistic features in the speeches

1 The language of the speeches

Mubarak consistently spoke modern standard Arabic throughout his speeches, not Egyptian dialectal Arabic in contrast with Zine El-Abidene Ben Ali of Tunisia who used Tunisian colloquial in his last speech, speaking like ordinary people do in their homes and on the streets. Thus, while Ben Ali was clearly reaching for a Tunisian nationalism and fellow-feeling through speaking in Tunisian colloquial(Blog Johnson:1), Mubarak went for a grave speech in Modern Standard Arabic, looking calm and composed while delivering his speeches.

It may be supposed that there are two reasons for doing so. First, he wanted to focus on those educated middle-class people said to be behind the revolution. Another reason

could be related to his desire to maintain the prestige of leadership with a good command of prestigious language(Mustapha   ,p.11). He really performed that role well through his speeches.

2 Identity Construction

It is well-known that the political speech performs certain identity construction. For example, by staking a claim to a certain public identity, it seems that a speaker must thereby make a claim about his/her position relative to other players and to the power structure(Dunne, p.73). He will try to do it in the way of serving his interests and accomplishing his goals.

Mubarak created three entities in his speeches. As in the following excerpt, he is the ruling president representing the regime.

"bi-mūjab mā yu<u>kh</u>awwilu-hu lī ʔddustūr min ṣalāḥiyyāt"
(according to the competence which the constitution entrusts to me)
(Speech 2)

"ka-raʔīs li-ʔljumhūriyya........ wa bi-muqtaḍa ʔṣṣalāḥiyyāt ʔal-mu<u>kh</u>awwala li-raʔīs ʔljumhūriyya.
(as President of the Republic ....and in accordance with the competence endowed in President of the Republic)
(Speech 3)

The second entity is the youth protesters who were led gradually into transition from freedom of expression to chaos.

"ʔiḥtirāman li-ḥaqqi-him fī ʔttaẓāhuri ʔssilmiyy.....wa qabla ʔan tataḥawwalu hā<u>dh</u>ihi ʔttaẓāhurāt li-ʔaʿmāl <u>shagh</u>ab
(in respect of their right to demonstrate peacefully....and before this demonstration change into riot)
(Speech 1)

And the last entity is the political forces which are taking advantage of the crisis.
muḥāwalāti ʔl-baʿḍ li-ʔiʿtilāʔ mawjat ʔl-muẓāharāt
(attempts by some to mount the wave of the demonstrations)
(Speech 1)

quwa siyāsiyya saʿat ʔila ʔttaṣʿīd wa ṣabb ʔzzayt ʿala ʔnnār
(the political forces which attempted to pour oil to the fire)
(Speech 2)

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In the second speech, the character of the entity structure changed as Mubarak turned from the autocratic president to the person Hosni Mubarak who voluntarily assumes the responsibility. It can be noticed he is referring to himself in the third person.

> ḥusni Mubārak ʔalladhī yataḥaddath ʔilay-kum ʔal-yawma yaʿtazz bi-mā qaḍā-hu min sinīn ṭawīla fī khidma miṣr wa shaʿbi-hā
> (Hosni Mubarak who talks to you today is proud of what he spent of long years in the service of Egypt and the people)
> (Speech 2)

This technique has affected the way that appeared evident from the withdrawl of some demonstrators in the Tahrir square second Wednesday of February. It also provided moral excuse for evacuating the protesters by force(Ahmad,p.3).

In connection with this change of structure of entity, the speech employed   two rhetorical techniques.

Firstly, praising the entity (Hosni Mubarak) as a sincere Egyptian citizen and committed officer.

> "ʔinna hādhā ʔl-waṭan ʔl-ʿazīz huwa waṭanī mithlamā huwa waṭan kulli miṣriyy wa miṣriyya fīhi ʿishtu wa ḥārabtu min ʔazli-hj
> (this dear country is my country as it is the country for every Egyptian in which I lived and fighted for)
> (Speech 2)

Secondly, praising the silent majority

In Mubarak's eyes, demonstrators are terrorists. We can notice in these speeches a genuine effort to depict the 'real" good Egyptian as being peaceful and silent. This aims to attribute the demonstrations to "terrorist members" who infiltrated them. The real citizens are the ones who stay at home, do not care about public life. If this good citizen happens to participate in a demonstration, then they have breached one of the foundations of good citizenship which means total subservience to the dictatorial regime.(Brahim El Guabli, p.2)

3 lexical substitution

The political speech is also a linguistic text that pursues its effectiveness through suitable choice of words and syntax and rhetorical devices. The speeches wanted to activate lexical softening by choosing words and expressions which introduce some exterior facts in a relaxed way. Thus instead of mentioning "thawra" or "ʔintifāḍa", Mubarak talked about "taẓāhurāt" which is a neutral word hiding the political character of protest(muẓāharāt) (Ahmad, p.3)

4 Syntactic inversion

On the level of syntax, the speeches followed the syntactic rules generally applicable within the range of Modern standard Arabic, except only one phrase uttered in context with the strategy of intimidation used in the first speech, in which Mubarak talked about some examples of countries which were thrown into chaos by riot.

"*fa-lā dīmūqrāṭiyya ḥuqqiqat wa lā ʔistiqrāran ḥufiẓat*"(Speech 1)
(*then no democracy was realized nor stability was not maintained*)

In the above extract, the object and the verb are inverted. This kind of inverted phrase is used usually in the Classical Arabic, just like in the Quran.   This syntactic structure is employed for the sake of rhetorically emphasizing the notion that the continuing demonstrations might hinder the stability and frustrate realizing democracy at the same time.

Ⅲ. Some rhetorical strategies in Mubarak's speeches

1. The strategy of blame and denial

As an analysis of the first speech by Mubarak, it is obvious that he blamed external forces for the unrest, insisting that the protests were driven by foreign agents whose aim was to undermine Egypt. Mubarak put the blame on a minority of protesters supposed to be manipulated by foreign agents who are working against the nation's interests, The 'perpetrators' are referred to anonymously and described as violent mobs.

When Mubarak referred briefly to foreign dictations to a domestic audience, he was implying the United States. It can be supposed that by implying that the United States is exerting pressure on him to resign, he might have expected this would make the Egyptian people in favor of him. or somewhat positive towards himself. In the past, of course, that kind of a discourse would have affected the Egyptian public, saying "We don't want foreign intervention". But this time that did not happen. Mubarak also might have believed that the Arabs would support his government against any foreign intervention. But this strategy too was seen to fail.

When this strategy failed and the protesters showed no signs of backing down, Mubarak tried blaming Islamists for the unrest - an approach designed in part to maintain Western support by magnifying the Islamist threat. Mubarak used vaguer terminology expecting that his audience would read it as a reference to the Muslim Brotherhood and others rather than referring to Islamists in a explicit way. This strategy also failed because the Islamist element in the protest movements was relatively small(Mustapha,p.4). Now, Mubarak tries

to employ another strategy of emphasizing the danger of chaos along with mentioning "law and order".

2. "Either me or chaos" strategy of intimidation

Mubarak established a strategy of intimidation in his first speech, in the context of the word 'fawḍa'(chaos) to give the people a scare, at the same time when the official State mass medias were busy spreading news that may terrify the people and coincide with distorting the images of the protesters. It is really a scare tactics. He also escalated this strategy further more in his second speech by setting forth the phenomenon of the chaos in detail, to the extent of giving the impression of inflating the facts. Finally, Mubarak forces the masses to make a choice between chaos and stability(Abdul Hamid,p.2).

Actually, the dictators have always used the word "chaos" and the "fear of chaos" and "stability" in the speech in the context of mentioning "law and order". As for Mubarak, it is meant to be avoiding the major issues such as his resignation and new presidential elections. But at the same time, he might have been preparing the way for a greater military intervention in the situation. Therefore, by signalling this and emphasizing law and order. it could be inferred from this that Mubarak was intimidating the Egyptian public(Mansoura, p.61). Here we find a strong intention to impose the equation: either me or chaos. He equates his rule with the nation's security. The only choice that Mubarak has presented to Egyptians and the world was between Mubarak and his regime. or absolute chaos(Brahim El Guabli,p.2).

3. Acknowledging reality

Mubarak shifted from a strategy of intimidation to a strategy of acknowledging reality. It was because the protest seemed not to subside though he tried to persuade and appease the public. Mubarak recognized that the situation was uncontrollable and that change was inevitable(Mustapha, p.6). This is the first time in decades that the dictator admits the reality that his country is facing and suffering from.

There is a reference in his last speech that he has been misled about the situation in his country, and he promised to bring those responsible for this to justice. This was meant to shift the focus from his own incompetence and corruption in the hope that this would calm down the protesters.

4. Discourse of reforms

Mubarak referred to 'ʔiṣlāḥ'(reform) in the speech. admitting the need for social, economic and political reforms. It has been very rare for the dictator to admit that his country is not God's heaven on earth. Mubarak admitted that economic reforms were needed in order to deter the unemployment and poverty in society. While stressing that

good progress had been made economically, he admitted that more work and effort were needed to improve the economy.

Although Mubarak's speeches focused on the economic situation and the way to improve the lives of the Egyptian people, he also mentioned political and social reforms such as eradication of corruption, the constitutional amendments aimed at facilitating the conditions for presidency, and providing more services for education, health and housing.

The focus on economic social and political reforms was designed to persuade the audiences that Mubarak was listening and was willing to act on the demands of the protests(Mustapha, p.10).

5. Emotional appeal:

5.1. Prattling about reminiscences

In the second and last speeches, Mubarak started to tell about all the things he had done for the nation since his youth. By repeating his achievements and individual records in government, he tried to remind the young behind the uprising of the services he had performed for his country. He tried to directly relate to the people by saying that he was young once, just like all of those protesting. He shows them that he is just like them. He is an Egyptian as well, not just a leader, but one of the people. As with all Egyptian men, he went into the military as a young man and learned the value of defending his people. He learned self-sacrifice and is willing to do anything for his country. He aims to connect with the common Egyptian in the hope of winning sympathy and persuading people to let him stay in power in dignity(Mustapha, p.9).

He also attempts to connect with his audience's emotions, their pathos when he says he feels the pain of those who lost their loved ones,

5.2. Begging

In the speeches, Mubarak used many of rhetorical appeals to persuade the demonstrators with his points of views because it is well-known that Egyptian people are emotional people. For example, in the second and third speech he tried to make the people feel pity and sympathy towards him when he declared he was not going anywhere and die on the soil of Egypt unlike Tunisia's Zine al-Abidine Ben Ali, who fled in the face of an uprising. Here, the dictator's speech carries a tinge of begging(Brahim El Guabli,p .9).

6. Declaring non-reelection

Another strategy Mubarak adopted was to make promises in the second speech that he would not stand for re-election. His rhetoric is interpreted as that he is appealing to the public to let him finish his term of office, Actually, after announcing that he would not

seek re-election in September but vowing to stay on for now to see through democratic reforms, the number of protesters in the streets had dwindled significantly. As a result, Mubarak had convinced many Egyptian people with his rhetoric that democracy was coming and the revolution was over and with food and fuel running short it was time to get back to normal.

7. Paternalism

One of the main things he does in the last speech is to stress that the citizens of Egypt are all his sons and daughters, and that all he tries to do is watch over them and protect them as any father would. He cares about them and says he is proud of them for standing up for what they believe him. He tries to show them that he is supportive and the fact that they are making their grievances known is very good and worthy of praise, and that he will reciprocate by appeasing them(Zachariah,p.1).

Thus, he wants to generate the sense of the family between him and all the Egyptians, as he assumes that he is father in order for the people to obey him, and as it is not ethical to punish father, In an effort to portray himself as a caring, paternalist man of the people, he said he was on the side of the poor and understood the protesters' grievances, including the "lawful aspirations for more democracy."

When Mubarak also says he feels the pain of those who lost their loved ones, and that he will punish those who committed those crimes against the innocent, it is once again the "father figure caring for his children" idea(Zachariah.p.2). He reaches out to their feelings of patriotism, speaking of his happiness of an Egyptian victory in 1973 when he lifted the Egyptian flag over Sinai.

8. Stimulating religious motive

Mubarak makes many references to how God protects the land of Egypt and will grant it security. He opens with the statement "In the name of Allah, the merciful, the compassionate, dear fellow citizens, my sons, the youth of Egypt, and daughters, I am addressing you tonight to the youth of Egypt in Tahrir Square, with all of its diversity," and closes by appealing to Allah again, "May God keep Egypt secure and may God defend its people. And peace be upon you."

He also says that he will live by the oath he swore by God to protect the people and adhere to their demands. This was intelligent because the Muslim faith and the state of Egypt are closely intertwined, and many Egyptians are Muslim, so this appeal went straight to them. Even the Christians could relate to the message of the leader being supposedly close to God and entreating him to help the state(Zachariah,p.2)

Ⅳ. Conclusion

In this paper I have presented a linguistic and rhetorical analysis of the three speeches used by Hosni Mubarak the former president of Egypt in his last weeks in power. As I mentioned in the introduction, I have originally named the discourse delivered by Mubarak to address the uprisings as the type of "democratic discourse", expecting for myself that he would positively respond to the democratic demands from the Egyptian public in his speeches.

But the analysis showed that he followed strategies, passing through a series of stages as earlier strategies failed. In this context, he chose to take a hard line initially but quickly grew more conciliatory as he grew more desperate. He promised 'democracy', 'freedom of expression', 'prosperity' and 'liberty' in order to appease protesters. but despite his attempt to use the discourse of unity, patriotism and change, his discourse was regarded as deceptive and lacking credibility.

The language of Mubarak's three speeches are not different from his previous speeches delivered during his past dictatorial rule. It became obvious that this was contradictory to the purpose of delivering the speeches which is to present the regime's changed look in an attempt to save the regime. Rather, his speeches were lack of seriousness and seemed likely to be seen as an attempt to cling to power rather than take concrete steps to solve some of the pressing problems facing the Egyptians.

Therefore, as a result of the analysis, it has become natural and obvious that I would call these speeches "the dictatorial speech" rather than the "democratic speech". Disappointedly it turned out to be the typical type of "dictatorial speech" contrary to my expectation. not so different from his previous speeches.

It is interesting to point out that Mubarak stepped down after delivering his last third speech, which is coincidently similar to Tunisia's Ben Ali who also fell after the third speech. But rhetorically speaking, the second speech by Mubarak was the most effective in which he had invoked his past achievements in peace and war. By comparison, the other two speeches had seemed ineffectual. Mubarak had never had the rhetorical flair of either Abdel Nasser or Sadat but rather his delivery was monotonous. It can be also concluded that Mubarak used more rhetorical strategies from the emotional aspects than from the rational and logical aspects.

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Presentation 3

Comparative Possibilities between Korean and Algerian Literatures
:Yi Kwang Su and Mouloud Feraoun

UDO, Satoshi│ University of Tokyo

The title of this presentation might seem peculiar, because the authors mentioned did not even know each other and belonged to very different literary traditions. I had the idea for this comparative treatment when I was invited to an international symposium commemorating the Algerian literary pioneer, Mouloud Feraoun (1913-1962). One of the organisers of that conference suggested that I compare Feraoun to some Japanese authors. She said that would be interesting for an Algerian audience. So, I decided to speak on the reception of the Western novel as a new literary genre and talked largely about East Asian pioneers of literary modernisation: that is Natsume Sôseki (1867-1916), Lu Xun (1881-1936), Yi Kwang-su (1892-1950) and Döndrup-Jya (1953-85).

When contrasting these authors with Mouloud Feraoun, I realised that Yi Kwang-su, the author of *Mujŏng* (*The Heartless*; 1917) which is commonly recognised as the first Korean novel, lived in more similar conditions with Feraoun than did the Japanese writers and in a milieu that shared certain issues with Algeria. As modern Korean literature and Algerian literature were both founded under colonial regimes, these foundational authors were equally challenged by a strange mixture of modernisation and colonisation that characterised their times. And both of them despite their goodwill and focus on reform and renewal, were accused of collaborating with the colonial power.

First, I should briefly introduce Mouloud Feraoun and Algerian literature. In the North African countries also called 'Maghreb'—that is Algeria, Morocco, and Tunisia—literary renewal occurred rapidly and suddenly in the 1950s, during the last years of colonial era. Mouloud Feraoun published his first novel *Le fils du pauvre* (*The Poor Man's Son*) in 1950; it is now recognised as the first novel of quality and originality written by an indigenous author in the Maghreb. Thus, Feraoun is, with Moroccan Driss Chraïbi and

Tunisian Albert Memmi, regarded as one of the pioneers of Maghrebi literature in French (*la littérature maghrébine d'expression française*).

But why in French? Algeria had suffered French colonial rule since 1830, forming three prefectures of the French Third Republic. Arabic literacy education was so dammaged by colonial rule that illiteracy reached almost 90 percent, and with the exception of religious intellectuals, indigenous élites were educated mainly in French. In a reaction to this situation, young Algerian intellectuals tried to create their own literature first in French, and the emergence of the Algerian novel in Arabic was delayed until the 1970s.

Le fils du pauvre is an autobiographical novel, as are most Maghrebi novels. In 1913, Feraoun was born in Tizi Hibel, a small village in the Kabylia region; the Kabylians are a branch of the autochthonous North African Berber minority. In the most part of the novel, Feraoun depicts traditional country life of his childhood, until his protagonist gets a scholarship to become a schoolteacher.

Feraoun himself studied at the Normal School in Algiers and became a schoolteacher, publishing his first novels before being named inspector of the *Centres Sociaux d'El-Biar*. But, in 1954, the Algerian War broke out, and just four days before the cease-fire, on 15 March 1962, a commando of the *OAS* (Secret Armed Organisation) attacked the *Centres Sociaux* and slaughtered Feraoun and five researchers working there. On 15 of March 2012, in commemoration of the fiftieth anniversary of his assassination, an international symposium for Mouloud Feraoun was held for the first time at the National Library of Algeria in Algiers.

It is surprising that such an important author should have had to wait half a century for this commemoration, considering that other Algerian authors like Kateb Yacine and Mouloud Mammeri have been honoured several times both in Algeria and in France. Being a schoolteacher under the colonial regime, Feraoun was regarded as collaboration oriented, although he was nevertheless assassinated by French colonial extremists. His literary works have also been criticised for a lack of Algerian national sentiment, even though *Le fils du pauvre* is undoubtedly the most read Algerian novel in Algeria.

Le fils du pauvre has been long esteemed as heart-warming but simple and 'ethnographic'. However, recent studies are illuminating out, little by little, its narrative subtlety and complexity. *Le fils du pauvre* is the retrospective confession of the childhood by Fouroulou Menrad, the alter ego of the author. It is the schoolteacher Menrad who talks to us about the life of the boy Fouroulou, whose village life with its innocence, ignorance, and superstitions, is narrated warmly but sometimes ironically by Menrad, who has become educated.

The encounter with western modernity, for Fouroulou, is realised through public schooling (primary school in his village), where his Kabylian teacher teaches him French. Fouroulou admires his teacher and the ability to write (his father was an illiterate peasant). For him, French was the only language of literacy, because Arabic was not taught at his school and his mother tongue, Kabylian, did not have a written tradition.

Retracing his childhood in the writing of his novel, Mouloud Feraoun tried to reconcile his modern self with his traditional origin. Modernisation and Frenchification were inextricable in colonial Algeria, and Feraoun believed[1] in Gallic humanism (which he learnt from Montaigne and Rousseau) as a universal value. However, he also wished to conserve the Algerianness of his people and raise their profile in the world[2].

Yi Kwang-su had a clearer intention than Feraoun to educate his people through his fiction[3]. He was influenced by Darwin's theory of evolution (especially by its distorted adaptations in Japan) and feared that the Korean people could degenerate and diminish[4] as had the Ainu minority in Japan (cf. ch. 123 in *Mujŏng*). Yi studied at Meiji Gakuin University 明治學院大學 in Tokyo and published for the first time in the student newspaper, a short story written in Japanese. After graduation, he returned home in 1910 to become a schoolteacher, as Korea was being annexed by Japan. Five years later, Yi returned to Tokyo to study at Waseda University 早稻田大學 and began writing articles for 每日申報[5] 매일신보, the only Korean-written newspaper allowed under the colonial regime. *Mujŏng*, the first modern Korean novel, was serialised in this newspaper in 1917, when the author was 25.

Newly founded novels often needed young authors and young protagonists both in East Asia and in North Africa, because they are representatives of new values in the transforming societies. And new-born western-style teachers formed important intellectual group which produced both authors and readers for the novels.

Mujŏng is a melodrama, centring a young Korean intellectual, 'the story of a love triangle among three youths during the Japanese occupation. Yi Hyŏng-sik is a young man in his mid-twenties who is teaching English at a middle school in Seoul. Brilliant but also shy and indecisive, he is torn between two women. Kim Sŏn-hyŏng is from a wealthy Christian family; she has just graduated from a modern, Western-style school and is

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2) Please check that I have understood what was meant here by 'presence' and 'better known'.

3) Do these points relate completely to each other? It would seem that Darwinism and evolution have been influential ideas not only in Yi's youth, but also 21 years later in Feraoun's youth, and in fact at every point from their development through to the present day.

4) Note that degeneration is not a part of mainstream Darwinism or evolution theory. Are you perhaps referring to social Darwinism, which was an influential extension of Darwin in the late 19ᵗʰ and early 20ᵗʰ centuries but should not be attributed to him, or to broader ideas of degeneration/decay/decadence which were in vogue atthat period? Please consider clarifying this point, ideally with citations that demonstrate Yi's specific sources.

5) Please also give a transliteration of this title in Roman letters.

planning on continuing her studies in the United States. Pak Yŏng-ch'ae is a musically gifted young woman who was raised in a traditional Confucian manner; due to family misfortune, she has become a *kisaeng* [妓生] but remains devoted to Hyŏng-sik whom she knew as a child'[6].

Hyŏng-sik's divided loyalties between the two girls are symbolic: Sŏn-hyŏng represents modern values while Yŏng-ch'ae embodies traditional morals. Hyŏng-sik is attracted to Sŏn-hyŏng because she can offer him prosperity, but also feels indebted to Yŏng-ch'ae, whose father was his benefactor. His desire leaves him feeling oppressed by Confucian social values and his own puritan convictions, which leads him to have sombre hallucinations about Yŏng-ch'ae's virginity. Hatano Setsuko, the Japanese translator of *Mujŏng*, points out that Hyŏng-sik unconsciously wishes that Yŏng-ch'ae might have lost her virginity, because he could then evade the responsibility to marry her[7].

Virginity obsession is a common phenomenon found both in the Arabo-Berber[8] world and in Confucian countries. Actually, as I read *Mujŏng*, Hyŏng-sik's hallucinations reminded me of an Arabic-language Lebanese novel by Rashīd al-Da'īf, *Tistifil Meryl Streep!* In this novel, too, the protagonist is obsessed with the sexual fidelity and modesty of his wife, and he spins a hallucinatory monologue on these topics redundantly through the book. One researcher of Arabic literature has pointed out the reference to King Shahariyār's obsession (with having a new virgin wife every night and killing her in the morning) in the *Arabian Nights*[9]. It seems clear that

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6) Ann Sung-hi Lee, *Yi Kwang-su and Modern Korean Literature: Mujŏng*, New York, Cornell University East Asia Program, 2005, back cover.

7) Hatano Setsuko, *Yi Kwang-su: a Study of* Mujŏng, Tokyo, hakuteisha, 2008, p. 202.
   [波田野節子『李光洙・『無情』の研究』白帝社]

8) Please consider whether, given the context, it might be more appropriate to refer to the virginity obsession you are asserting exists or existed in the Maghreb as pertaining to the 'Arab world' (or 'Arabo-Berber world') rather than the 'Mediterranean world'. That is, is this sentiment likely to be more closely related culturally to similar sentiments in other Arab countries or to Mediterranean countries, which include Arab countries like Egypt and Syria but also European countries like France and Spain where you may not wish to assert that a strong 'virginity obsession' exists.

9) Maher Jarrar, "*The Arabian Nights* and the Contemporary Arabic Novel", Saree Makdisi and Felicity Nussbaum (ed.), *The Arabian Nights in Historical Cotext*, p. 312: "The Lebanese Rashīd al-Da'īf invokes the frame story of the Nights, alluding to Shahrayār's aggressive 'visual desire' in order to amplify the protagonist's (Rashshūd's) obsession with sex. The story line is simple, and it ends with Rashshūd's divorce from his wife who gets pregnant and whom he accuses of being involved in an affair with a French student. This melodramatic theme is typical of al-Da'īf's last three novels, where melodrama functions as a means of revising notions of value and behaviour. His strategy in this novella is mostly built on voyeurism, the manly gaze, secrecy and hypocrisy. In fact, Rashshūd (incidentally the diminutive form of Rashīd, the author's own name) is obsessed with two things: owning a TV set, and sex—goals that would make possible acts of male power and surveillance against women's bodies. Al-Da'īf's reference to the Nights' frame story is fragmentary; that is, he only draws on a single aspect of the latter in the form of a collage and leaves it free-floating without further examination, in a one-dimensional attempt to enforce the notions of jealousy and cheating and to stress the narrator's strikingly conservative, macho attitude towards women."

jealous manhood will also be a fruitful topic in comparative studies of the literatures of these societies in the future.

In Yi's novel, when Yŏng-ch'ae leaves Seoul intending to commit suicide, Hyŏng-sik travels as far as to P'yŏngyang, searching for her in vain. Believing her drowned in the river, he visits her father's tomb to grieve over her death, but instead feels a strange joy:

> Hyŏng-sik did not feel sad as he looked at the graves, though. He was too happy to be sad about anything. Hyŏng-sik thought it was better to rejoice over the living, than to mourn the dead. Rather than think about his pitiful benefactor's body, which had rotted away leaving nothing but bones, Hyŏng-sik preferred to <u>rejoice over the flowers on the grave, that were fed by the decaying flesh</u>. Hyŏng-sik thought about Yŏng-ch'ae. He imagined her corps floating down the Taedong River. He did not feel sad, though, but felt a boundless happiness when he looked at Kye-hyang standing beside him.
>
> (ch. 64 in *Mujŏng*, quoted from Ann Sung-hi Lee, *op. cit.*, p. 218)

Being a stranger in P'yŏngyang, Hyŏng-sik is freed from the restraints of the social order that demanded a demonstration of moral manners (mourning) on his part. Stripped of his superficial social self-consciousness, he suddenly becomes aware of his essential self. Here we can observe

[1] unconditional affirmation of a true egoism and vitality (according to Prof[10]. Hatano, its mechanism can be explained with reference to the philosophy of Henri Bergson[11], but this theme should also be argued in the wider comparative range of world literatures and world cultures. For example, this antimoralist affirmation of ego and praise of vitality evoke *The Immoralist*[12] by André Gide, which depicts a French young man's self-discovery in North Africa); [2] rejection of Confucian morality that could require the sacrifice of children for the sake of their parents (Hyŏng-sik demands in contrast that the 'decaying flesh' of parents should be sacrificed to nourish their children); and [3] the sacrifice of women to men and unconsious patriarchy (the hallucinatory, Ophelian[13] vision of beautifully floating Yŏng-ch'ae, implies that Hyŏng-sik wants to finish with her, since this would be convenient for him).

Here, I would like to mention some affinities between this story and Algerian literature. The sense of alienation from parents seems likely to be shared by pioneer authors in the Maghreb, because of rapid social change and the huge generation gap.   Feraoun, for

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10) If this is short for 'Professor', please change to 'Prof.', and if it is short for 'Doctor', please change to 'Dr'.

11) Cf. Hatano, *op. cit.*, pp. 219-257.

12) Although *The Immoralist* is a very good illustration of your point, consider whether, since you are trying to make the argument that these themes are very broadly resonant in world cultures and that Hatano's Bergsonian reading is only one among many, it might be a good idea to adopt an example that is not also French (or, of course, Maghrebi or East Asian).

13) Note this change—*Hamlet* is a widely enough recognised work that the character of Ophelia does not need to be explicitly connected to Shakespeare.

example, remembers his illiterate family warmly but with regret, and Kateb Yacine laments that, by learning French, he alienated his mother, who was a rare educated Arab woman but a non-Francophone[14].

In the Maghreb in this period, mothers were generally attached to tradition and to vernacular languages (spoken Arabic, Berber languages); they often have an important presence in memoiristic novels or *Bildungsromane* such as the ones mentioned above, where the sacrifices of parents, the older generation, and women in the process of modernisation are all represented by the mother figures.

What makes *Mujŏng* a bit peculiar is the absence of the protagonist's mother, though his benefactor (Yŏng-ch'ae's father) stands in as a symbolic father. Hyŏng-sik is an orphan (as was the author), and perhaps this lack of tradition-rooted 'motherness' in his life urges him on to support for radical modernisation.

In addition, Korean literature encounters Algerian literature through the exophonic struggles and linguistic exile experienced both by characters and by authors. Mouloud Feraoun and other Algerian authors had no choice, in the 1950s, but to write in French to express themselves; similarly, although Yi Kwang-su was able to write his masterpiece in Korean thanks to the tradition of Korean *Hangul* writing, some other Korean writers had to[15] choose Japanese as their medium of expression (both before and after the Second World War). Such a linguistic problem is also pointed out by Kim Sŏk-bŏm, the most renowned Korean Japanophone author, in his sincere afterword to the Japanese translation of *L'Opium et le baton*[16] (*The Opium and the baton*, 1965, Jap. tr. 1978) by Mouloud Mammeri[17].

In this paper, I have mentioned only some of the affinities between Yi Kwang-su and Mouloud Feraoun. My intention is to open up the possibilities for comparison between these antipodal edges of the Orient—East Asia and the Arabo-Berber world—in providing these different literary traditions with a common platform for discussion. That achievement has the potential to contribute to the relativisation of our studies of individual literary works and enrich our reading of world literatures.

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14) As to the case of Kateb Yacine (1929-1898), see especially the last episode of *Le polygone étoilé* (Paris, Seuil, 1966).
15) Could it be clarified why Korean was open as a written language to Yi but not to these other writers (for example, due to the occupation?)?
16) As above, consider providing an English translation and date.
17) Kim Sŏk-bŏm is an eminent Korean novelist of the Japanese language, who exiled to Japan just after the Second World War to take refuge from the genocide of the Cheju uprising in 1948. He writes the afterword in an unclear manner, reflecting his complicated sentiment towards modern history. Kim first notes that the Algerian novel climaxes with a tragic defeat; destruction of the village and death of the characters. He mentions the agony in the last scene, recalling the monologue of the protagonist Bachir: "The reality was such far beyond words." This "literary reality" described in the novel urges us to imagine a more terrifying reality that is "beyond words." Moreover, Kim compares this novel about the war for independence with the "defeat of the revolution" in South Korea, which was still under the military regime at that time. Then, he supposes he should describe the defeat on the basis of the historical defeat of the Cheju uprising. At the end of the afterword, Kim draws an analogy between North African francophone literature and Korean japanophone literature, concerning "bilingualism" or the use of the language of "others."

Presentation 4

Arab Feminist Writers and their Strategy for Representing Subaltern Women

OKA, Mari[1]│ Kyoto University

Ⅰ. Introduction; Arab Feminist writers and the question of subaltern.

Since GayatriSpivak's critical essay'Can the Subaltern Speak?' was published in 1988, representation of "the Subaltern" by the intellectual has become one of the main concerns in the discursive space of postcolonial criticism[2]. The subaltern women, when represented by the intellectual, are suffered from double 'subalternization'; their voices are deprived of, firstly just being a subaltern, and secondly being arbitrarily represented by the intellectual. Here arises an ethical question for feminist writers; how is it possible for them to represent the experiences lived by their subaltern sisters without depriving them of their authentic voices? But off course that is in principle impossible.

This paper will discuss, taking for examples three Arab feminist writers, Nawal el-Sa'dawi (Egypt), Fatima Mernissi (Morocco), and Ghada Samman (Syria-Lebanon),how they address this ethical problem and represent subaltern women's lived experience in their literary works, and explores what sort of literary devices these writers employ to present the lived experiences of subaltern women trying not to suppress their agency, and shows in conclusion that these writers creating an imaginary space where the subaltern women can "speak" with their own voice and make thereby the impossible possible,.

Ⅱ. Nawal el-Sa'adawi and "A Woman at Point Zero"

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1) Graduate School of Human & Environmental Studies, Kyoto University, Kyoto, Japan
2) Spivak, G.C., 'Can the Subaltern Speak?' in "Marxism and Interpretation of Culture", Nelson, C., and Grossberg, L. eds., University Illinoi Press, 1988.

An Egyptian feminist activist,Nawalel-Sa 'adawi(b.1931) is a prolific writer— she published more than ten novels —, but ᐧ *imra'a'indanuqtatsifr* (A Woman at Point Zero, 1975) is definitely her representative work. This novel has been generally received as a feminist denunciation of patriarchal oppression against women in Arab-Islamic society through harsh lived experiences of the protagonist, Firdaus, a female prisoner sentenced to death and her fatal struggle with the patriarchy.

While this interpretation is not wrong, it sees only one side of the coin. The novel presents two axes of confrontations; an overt confrontation between Egyptian patriarchy and its victim, Firdaus. Along with this, there is another axis, the confrontation between a female doctor— an elite intellectual woman—and Firdaus, the Subaltern. The latter is often overlooked by feminist reading of this novel focusing on patriarchy as the only source of women's oppression. Though, what makes this novel a masterpiece— not only among Sa 'adawi's works, but also of postcolonial novels in general–is the fact that it addresses this double confrontations and presents im/possibility of representing subaltern voices by intellectuals, the very same question G.C. Spivak would later pose in her essay "Can the Subaltern Speak?".

The problematic of "an elite intellectual" – "writing" – "subaltern women"is already found in Sa'adawi's debut work, *muzakkirattabibat* (Memoir of a Female Doctor, 1960). After obtaining her doctorate degree in medicine in the United States, Sa'adawi became a physician by profession and was assigned as a clinician in rural Egypt, where she witnessed women suffering of various patriarchal oppressions. "Memoir of a Female Doctor"is her autobiographical novella based upon her own clinical experience at the time. The novella spells how a female doctor, the protagonist, develops her awareness of harsh reality of patriarchal oppression of her society as well as her *Noblesse Oblige*as social elite in the class-based society. The work can be regarded as the author's coming-of-age story as an Marxist feminist. Being a committed Marxist feminist in the third world like Spivak, it was only natural that Sa 'adawi shared Spivak's awareness of the problems involved in representing Subaltern women of the intellectual.

Fifteen years later, Sa 'adawi develops this theme in "A Woman at Point Zero"with more literary sophistication both in narrative and construction. The novel consists of three chapters; The first chapter in which a woman psychiatrist narrates in the first person how she encountered a condemned criminal, Firdaus, the second chapter in which Firdaustakes a place of the first person narrator and tells her life story, and the final chapter that is only three pages long and in which the doctor narrates again. The life story of Firdaus narrated by herself in chapter two constitutes the majority of and the main plot of the novel.

One day, the doctor heard of a very unique female death-row inmate, who even rejected a special pardon offered by the president. Her professional interest stirred up, the doctor eagerly wanted to see this criminal but her request was rejected by Firdaus. Sometime later, the doctor was asked by Firdaus herself to come to see her. The doctor visited Firdaus' prison cell. There, she was made to sit down on the floor and Firdaus starts to talk. The first chapter ends here, and in the next chapter, Firdaus occupies the

position of first person narrator and tells her own life story, since her childhood in rural Egypt, then how she became a successful prostitute, and ended up with killing a pimp and becoming a condemned criminal.

As is clear from the above, "A Woman at Point Zero" is a typical frame story. However, the frame part of the novel is,like frame tale of Scheherazade and the king in "One Thousand and One Night", not a mere frame only to introduce the narrative of Firdaus. [3]Rather, despite its shortness, two chapters(One and three) constitute an essential and integral part of the novel indispensable for understanding the significance of the work, without which the novel would have been just another example of misery the third world women endure under the local patriarchy(and that is the usual reading of the book).This introductory part is fundamentally significant, firstly because it reveals the true nature of relationship between a feminist doctor and Firdaus, and secondly because, with this chapter, Firdaus is made possible to "speak" as she remains subaltern and that is actually impossible in the real world.

The doctor is an elite intellectual who can freely interpret and represent Firdaus. To her, Firdaus is just an informant to serve the doctor's interest. In other words, Firdaus, the subaltern, is intellectually exploited by the elite woman as her social resource. The significance of "A Woman at Point Zero" as a feminist novel lies here, not in the mere fact that it discloses the stark nature of women's oppression under Egyptian patriarchy, but it reveals the complex nature of feminism, showing that proletariat women are not only exploited economically and sexually by menunder the androcentric patriarchal system, but also exploited intellectually by feminist elite women as their social resources.

Being a Marxist feminist of third world origin, Sa'adawi challenges the western feminist claim that sisterhood is global. Women are not monolith and cannot be equalized as victim of men in disregard of differences among women, as the patriarchal oppression against women is not the only one the third world women have to endure. Historically speaking, they were oppressed by the western imperialism that colonized them and deprived them of their national autonomy, and today, more so by the contemporary exploiting global economic system. Women in the former imperial countries, i.e. the developed countries of the north are responsible for the oppression of third world women. They might be victims of the patriarchy of their own society, however, they are oppressors in relation to women in the third world. They cannot simply claim that they are "the same women" as their third world counterparts[4], and the same is true for elite feminist intellectuals in the third world in relation to the subaltern women of their society.

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3) Because of a space constraint, reasons for comparison of these three Arab writersto Scheherazade are not fully discussed in this text, but there are intrinsic reasons for this more than that they are Arab intellectual women, like Scheherazade, who narrate a story. Especially, in the works of Sa'adawi and Mernissi, Scheherazade and "One Thousand and One Night" constitute a significant motif of their novels. I hope to discuss on the subject in another occasion.

4) Sa 'adawi emphasizes this point to western readers in the introduction to the English version of her critical essay on Arab women, *al-wajh al-'arilil-mar'a al-'arabiya*, 1977("The Hidden Face of Eve", 1980).

Intellectual feminist elites interpret and represent the subaltern women, using their professional knowledge, taking advantage of their sharing the same culture and the same language as their subaltern sisters, which enables them to claim the authenticity of their knowledge on the subaltern women[5]. The lived experiences of the subaltern women are the social resource for feminist intellectuals to make further social achievement. The first chapter of "A Woman at Point Zero" reveals this exploiting mechanism of the subaltern women by feminist intellectualelites.

The woman psychiatrist, who was carrying out a psychological research on female prisoners, was informed of a female condemned criminal who rejected the president's pardon, and had strong desire to see her, feeling that the prisoner would certainly make a great contribution to her project. She asked an interview with her, but her request, to her surprise, was turned down by the criminal. The doctor had her self-esteem deeply damaged by her rejection. Then, she thinks that Firdaus refused to see her just because she did not know who the doctor was. If Firdaus knows that she is a well-known, highly esteemed psychiatrist, she must see her. The doctor told her assumption to a female prison guard, but the guard outright denied the idea. Feeling insulted, the doctor convinced herself that a prison guard, who is washing the floor of prison, knew nothing about psychoanalysis and she should not care whatever such an ignorant woman says.

These two episodes described in chapter one preceding the doctor's meeting with Firdaus manifest her elitist mindset; She feels contempt for women of working class, which implies that to her, Firdaus and other female prisoners are mere informants or tool to realize her further social achievement. In short, they are her social resource and nothing more. Like men exploit Firdaus' body and sexuality, what the doctor plans to do is also to exploit intellectually Firdaus'subaltern experiences for her own personal interest. Firdaus refused to meet her because she knows that, and the prison guard dismissed the doctor's self-conceited assumption because she knows, too, that the doctor is one of "them", those who possess the power and authority, and exploit Firdaus.

Here the ordinary relation of the learned and the unlearned is radically reversed. The doctor thinks herself the leaned, possessing the special knowledge, feeling there by that she is almighty and that Firdaus and the prison guard are ignorant because of their lack of higher education. But in reality, it is they who know the truth the doctor is utterly ignorant of. The doctor, who does not realize her total ignorance of the subaltern, cannot understand this fact. As Spivak writes in the very last of her essay, to hear the subaltern voice, a feminist intellectual has to unlearn what she learnt in the process of her intellectual formation.

Eventually, in the end of chapter one, the doctor meets Firdaus. It is Firdaus who "allowed" the doctor to see her, "made" her sit down on the floor and "ordered" her not to talk to her, nor interrupt her. The text emphasizes the master position of Firdaus, and

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5) What Spivak emphasizes is that Westernaized urban intellectuals do not share the same language as their subaltern counterparts', and the subaltern lived experience is no less alien and incomprehensible to them than to the western foreigners.

here, again, the usual relation of who orders and who obeys is reversed. In a small prison cell, Firdaus is the master and the doctor is totally denied her authority and prohibited from intervening Firdaus'own representation of herself. That is to say, she is metaphorically castrated and is obliged just to listen to her. Only then, Firdaus speaks.

Chapter two represents Firdaus' narrative as it is spoken by her. In the Arabic original, her lengthy narrativethat continues over one hundred pages is divided only in paragraphs with no sub chapter or breaking space6), emphasizing its linear nature and showing that it is as if presented without any reconfiguration by the others. Of course, it is a fiction."A Woman at Point Zero" is based on the author's encounter with a real condemned criminal, a model of Firdaus7). The life story narrated to Sa'adawi by real "Firdaus" was reconstructed by the author and presented as Firdaus'sone. The novel itself proves that the subaltern talk cannot be represented without the intervention and reconfiguration by the intellectual (Sa 'adawi in this case).However, in the internal fictional world of the novel, the author sets Firdaus' prison cell as theutopia − literally means"no place"−where the subaltern can speak, reversing the usual relation of the master and the servant, and the learned and the unlearned. There, the feminist intellectual learns to unlearn what she learnt, and only then, she can hear the subaltern talk.

Fatima Merrnisi also resorts to the same tactics employed by Sa 'adawi, a metaphorical castration of alter ego of the author ,the feminist intellectual, and creating an imaginary space where subaltern women can speak.

Ⅲ. Fatima Mernissi and "Dreams of Trespass"

A Moroccan sociologist, Fatima Mernissi was born in 1940 in Fez, Morocco, to distinguished Mernissi family. She is one of the last generation of Moroccan women who were raised in traditional harem and witnessed women's secluded lives there. Like Sa'adawi, Mernissi also obtained her doctorate degree in the states (in sociology in her case)and is well known as one of the leading feminists of North Africa.

"Dreams of Trespass: Tales of a Harem Childhood "(1995) is her autobiographical fiction, and as the subtitle shows, her recollection of her childhood in harem in Fez. Mernissi usually writes in French, as is usual with Maghreb intellectuals, but "Dreams of Trespass" is originally written in English. The fact suggests that the book is intended to directly address the readers outside of her culture, i.e. those in the western world who are certainly affected by orientalist ideas about Arab Muslim women.

The book is autobiographical since the story is based on the author's experiences in her

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6) Japanese version of the novel divides chapter 2 into subchapters which do not exist in the original and damages thereby the author's intention.

7) This fact is mentioned by the author in the introduction to the English version, which causes readers to naively regard the female doctor in the novel as Sa'adawi herself.

childhood in harem of Mernissi family, while it is also a fiction partly because various women characters of the harem who appear in the book as little Fatima's aunts' are actually not. Before that, Mernissi worked on a project of collecting life histories – or herstories–of ordinary Moroccan women, and interviewed with dozens of them. Lived experiences of Moroccan women of various backgrounds narrated by themselves in colloquial Arabic were selected, interpreted into French and edited by Mernissi, and published under the title, "Le Maroc Raconté parses femmes" in 1986, a collection of testimonies by Moroccan women of their daily lives[8]. When writing her autobiographical novel, the author picked up some episodes from the life histories of Moroccan women she had collected before, and weaved them into the book and presented them as experiences of the protagonist's aunts.

From the above, two main purposes of the book become clear; First, to present to western readers a counter image of Arab Muslim women. They are not passive victims of Arab-Islamic patriarchy as the western readers usually expect, but they are active agents challenging the system. They are "feminists" in their own way, long before the western word "feminism" comes into their lexicon. Harem is certainly a part of patriarchal system that oppresses them and deprives them of their freedom, but it is also true that their resistance against and rocentrism was nurtured by their harem tradition. To them, the tradition is not always oppressive. It is positive as well and sometimes even empowers them. And never forget that they are not only deprived of their freedom as women by patriarchy, but also they are deprived of national freedom as Moroccan by Western imperialism.

And secondly, the book intends to present the lived experiences of subaltern women in Morocco. Here, again, in order to present the subaltern voices, the feminist author elaborates literary measure not to reproduce hierarchical relation of the feminist intellectual who represent and the subaltern women who are represented. To reverse this asymmetric power relationship and let the subaltern women speak with their own voice, Mernissimetaphorically "castrates"the alter ego of the author in the novel, just like Sa'adawi does in her work, but in a quite different way. Mernissi sets the narrator as a little girl who knows nothing about the world (Children, too, are a kind of Subaltern). It is little Fatima who is ignorant, and it is the subaltern women who have the knowledge about the world. They teach Fatima and not the other way around. Little Fatima's mind is full of questions and she has to listen to the women around her to learn. In this way, Mernissi practices Spivak's word "to unlearn". The harem of Mernissi family in "Dreams of Trespass" is a prison cell of Firdaus in Sa'adawi's novel, an utopian space where the subaltern talk can be received by the intellectualas it is spoken by them.

The subaltern women cannot speak, but that does not mean that they do not express themselves at all. Actually they do in their own manner that the intellectual cannot understand. Grown up in a traditional harem, Mernissi must know that very well. To let their voice be heard, the key question is how we learn to listen to them. Setting the

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8) English translation, "Doing Daily Battle: Interviews with Moroccan Women"(1988).

narrator as a little girl is Mernissi's literary tactics to let the subaltern women's voices be received as they are spoken without intellectual intervention.

Though, however well written Fatima's narrative is as a little girl's, it is not the authentic one. It is a fictional narrative created by the author and disguised as a little girl's, just like Firdaus' Subaltern narrative is reconstructed by Sa'adawi. The text is still determined by the "intellectual representing the subaltern" composition. It cannot be otherwise due to the fundamental nature of subaltern. The essential point is that Mernissi, as well as Sa'adawi, constructs the inner world of the novel as completely independent one from the discursive intervention of the intellectual, where the subaltern can speak and her talk can be heard as it is.

Ⅳ. GhadaSamman and 'Beheading a Cat'

A Syrian-Lebanese writer, GhadaSamman's was born in 1942 in Damascus. Her short story 'Beheading a Cat' depicts the oppressed subaltern voice in a quite different manner from the two novels already discussed above.'Beheading a Cat' is included in one of Samman's collections, "A Square Moon", an unique anthology in terms of collecting only "ghost stories", in which ghosts or hyper-natural beings appear in various fashions. In 'Beheading a Cat', anold female ghost wearing a black Abaya-dress appears before the protagonist, Abdel-Razzaq, a Lebanese immigrant residing in Paris.

Abdel-Razzaq is wavering between proposing to his girlfriend Nadine or not, unable to make up his mind. Nadine is a modernized girl who, like Abdel-Razzaq, immigrated to France in her childhood fleeing from the civil war in her homeland and has well assimilated herself to the western gender values. Nadine is a self-independent liberated girl, claiming the total equality between men and women and is not afraid of bungee-jumping into the air. Literally, she is a woman who does not have "fear of flying"[9]. Unlike his girlfriend who happily bid farewell to the patriarchy of her homeland, Abdel-Razzaq, irresistibly attracted by Nadine and desiring to marry her, cannot accept a modern girl like her as his wife. Only superficially assimilated into the western culture, he cannot forget, deeply in his mind, the traditional patriarchal value in his homeland that gives him all privileges as a Sultan just because he is a man[10].

One day when Abdel-Razzaq finally makes up his mind to propose Nadine, a mysterious old woman in traditional black Abaya appears before him and recommends for him ideal girls as his wives. The woman is seemingly a matchmaker and she talks on and

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9) Quite obviously, Nadine who is not afraid of bungee-jumping implies "Fear of Flying" by Erica Jong in 1973.

10) It is worth remembering that Nadine's self-formation as a modern intellectual feminist resulted from her immigration to France from Lebanon where the civil war continued, and thus the freedom and self-autonomy she enjoys was made possible only by the destruction of her homeland and sacrifices of many lives of her compatriots, especially of those who had no alternative other than remaining there.

on about girls, obedient like slaves and never saying 'No' to their master-husband, in a word, girls totally opposite to Nadine. The old woman disappears mysteriously just like when she appeared and Abdel-Razzaq realizes that the woman is his aunt Badia, who loved him so much and treated him like her son and died of cancer long time ago when he was small. Then, Abdel-Razzaq goes to see Nadine. Driving a car, with Nadine sitting beside him, he notices aunt Badia desperately running besides the car. Between Nadine and Badia's ghost, Abdel-Razzaq gets torn between two ideas, to or not to propose her, and the story ends.

The title of the story comes from what the matchmaker tells Abdel-Razzaq; The most important thing is to behead a cat on the threshold at the wedding night so that the bride knows that this would be her fate if she does not obey her husband.

The match maker seems a phantasm that Abdel-Razzaq' sunconscious desire created, since what Badia's ghost tells him about ideal wives is actually what he dreams about his wife-to-be. In this sense, 'Beheading a Cat' is a story of Abdel-Razzaq, an indecisive Lebanese Hamlet who is torn between two cultures and left behind by his female compatriot who liberates herself and goes her way so far for her self-realization, not dependent on her husband nor marriage. The main motif of the story is this gender contrast between modernized women embodied by Nadine and men still sticking to the old patriarchal value which will be sooner or later out of date. But the story has another axis of contrast other than gender, the one between Nadine and Badia.

Badia might be aphantasm Abdel-Razzaq' sunconscious desire created and her narrative is a reflection of his desire, just like a ghost of Banquo is a phantasm that unconscious pang of conscience of Makbeth created. But what if Badia's ghost appears, like the king Hamlet, the ghost does, with a grudge deeply seated in her soul? Describing Abdel-Razzaq as a Lebanese Hamlet, which is because of his indecisiveness, Samman might suggest that the ghost that appears before him is not Makbeth's ghost, but Hamlet's.

Woman's value is only in being somebody's wife and somebody's mother, says Badia to Abdel-Razzaq, "What values a woman has unless she is a wife of somebody?" Though, Badia herself died unmarried. She was a woman who did not share any characteristics of those girls she recommends for her nephew as his ideal wives. She was not wanted by any men as a wife and remained unmarried. In the society where the woman has no value unless she is a wife of somebody and the mother of somebody, a woman like Badia who has no appealing to men and remains unmarried is valueless. Her remark "What value a woman has unless she is a wife of somebody" is seemingly Badia's negation of Nadine and her westernized way of life from Badia's interiorized patriarchal point of view, but it is her negation of herself as well. In traditional patriarchal society, for unmarried Badia, being a matchmaker and reproducing the patriarchal values is the only way to gain some value and respect for herself, but ironically, this is nothing but a self-denial and self-degradation for her.

And now, a few decades later, here in France, the girls of her next generation enjoy their freedom and self-independence, showing their contempt for the old patriarchal value.

For them, their mothers and aunts who live in the old value system should be denied from their feminist point of view[11]. Fort hem, a matchmaker like Badia who believes that woman's value is only in being somebody's wife is just an ignorant fool, and accomplice of the patriarchy.

What value a woman has unless she is married? How many times did she say this phrase when matchmaking? Only thing that is certain is every time when she mentions this, her own word must hurt her. Her feminist daughters who live in totally different world don't know that pain and sorrow. Badia had no alternatives. Like Nadine, who pursues her self-realization, now here, Badia also pursued hers, then, there, in the society where there was no other option. For Nadine, a young westernized feminist intellectual, Badia is just an accomplice of the patriarchy, who should be denied. Badia'spain and sorrow are totally alien to Nadine, who has everything to privilegedly enjoy the equality of both sexes as modern western feminist.

Through Badia's endless narrative like a monologue, the author depicts the pain of an old woman living under the patriarchy. She never articulates it, but just lives it. For westernized feminist intellectual of younger generation, a woman who devoted her life in matchmaking, praising and recommending obedient girls as ideal wives is just an accomplice of the patriarchy, and ignorantly supports the very system that oppresses herself. But this is her painful self-realization, the only possible way for herto gain social respect.

Unlike the two novels previously discussed, in which the lived experience of the subaltern women are articulated by themselves, in 'Beheading a Cat', Badiais much more sub alternized; she does not tell anything about herself. Her sorrowful lived experience is just suggested performatively through her repeated matchmaking talk. Thus, her desire is not understood by Abdel-Razzaqnor Nadine. Only when focusing on Badia's subaltern voice, we see that this is a story about her subaltern life doubly neglected by both the patriarchy and Feminism. Badia's talk is,at the superficial level, a narrative reflecting Abdel-Razzaq' sunconsious desire, but at deeper level, it is a narrative expressing her own sorrow and pain of her life, and even aspiration for her unfulfilled dreams, through which we can touch a Subaltern lived experience.

The author makes it possible for us to hear Badia'sown subaltern voice, making her appear as a ghost, and suggests that there are women's experiences ignored and denied by feminists. Samman is well aware that those subaltern women are easily discarded by their feminist daughters, as accomplice of the patriarchy, or at best pitied as passive victim of androcentrism, just like western feminists see them, and their lived experience and agency are simply ignored in westernized feminist perspective, which could be another form of oppression of subaltern women by feminist intellectual. Thus, the author inscribes in her story the subaltern talk as a ghost narrative. Badia's ghost will not cease to appear and

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11) For the negation of the mother by a daughter who is struggling for her self-liberation from the patriarchy, see for example,*anaahyaa*(I'm alive)byLaila Ba 'albaki(1958) and *al-bab al-maftuh* by Latifa al-Zayyat(1960).

whisper her matchmaking talk until her desire, which is deeply embedded in her narrative and cannot be overtly articulated by herself, is fully recognized by her feminist daughters. The author shows that when the feminist intellectuals enjoy their liberated life in the sunshine, there is always the subaltern desire, unarticulated voice, which is longing to be heard, in the shadow of those feminist sisters.

Ⅴ. Conclusion

We have discussed how three Arab feminist writers represent the lived experiences of their subaltern sisters; Sa ʻadawi and Mernissimetapholically castrate the feminist intellectual so that relation of the learned and the unlearned is reversed and create an utopian space, where the subaltern women can speak with their own voices, and they can be heard and received as they are. Samman resorts to a ghost story and let her subaltern sister appear and talk as a ghost, and suggests that there is always the subaltern voice ignored by the feminism. Through the fictional subaltern narrative, these writers show not only the patriarchal oppression their subaltern sisters suffer, but also the oppressive relation of feminist intellectual and their subaltern sisters, and their feminist aspiration for changing relation, with listening to the subaltern voices.

Middle East Politics

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▌Presentation4   Understanding the Palestinian Intifada (1987-1993)

Presenter: SUZUKI, Hiroyuki
(Graduate School of Arts and Science, The
University of Tokoy, Ph.D. Candidate)
Discussant: Al-Doraydi Moamen Hasan (BUFS)

Presentation 3

Syria and the Arab Spring
: from Resilience to Revolt

Housam DARWISHEH❙

Institute of Developing Economies, Japan External Trade Organization (IDE-JETRO)

At a symposium in Tokyo in early 2012[1], Lisa Anderson notes, "in trying to establish why the region seemed so different from the rest of the world they (scholars and researchers) neglected the extent to which the countries of the region differ among themselves." These differences lie in the variation of their domestic power structures and regional and international relations. The inability of the United Nations Security Council to reach consensus on Syria, as it did on Libya, and the involvement of various contending outside actors in the crisis explain part of the complexity and importance of the country's regional and international context.

The current struggle for Syria also brings to mind the old Arab cold war between monarchical and republican regimes in the 1950s and 1960s over hegemony and legitimacy in the region. The main similarity during the current upheavals is in the mobilization by conservative monarchies attempting to contain another wave of revolutionary change across the regional system (Ryan 2012). The Arab Spring has provided Arab monarchies, Saudi Arabia in particular, with a chance to expand their regional influence and global profile. Their participation in the Libyan conflict, direct military intervention in Bahrain and backing of the armed opposition in Syria demonstrates their military and financial capacity and the active role they are expected to play in influencing and shaping the events and trajectories of the Arab Spring years to come. The fight for Syria between Iran and Saudi Arabia blocs demonstrates Syria's importance in the regional balance of power.

Internally, the specificities of each Arab state, in terms of their socioeconomic, political, social and institutional structures, have shaped different trajectories and prospects of the

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1) An international symposium, organized and sponsored by Institute of Developong Economies, the World Bank and Asahi Shimbun Company, was held in Tokyo on January 31, 2012. http://www.ide.go.jp/English/Events/Sympo/120131.html

Arab Spring. Syria's crisis and impasse is indeed a case in point. The institutional nature of the Ba'thist regime in Syria has been a vital factor in its resilience and reaction to crush a peaceful popular uprising that turned into an armed insurgency under the pressure of a brutal crackdown. Unlike regimes in Egypt and Tunisia, the Syrian regime's decision to focus on a security strategy to quell the protest movement indicates that the ruling coalition lacks any political mechanisms or processes that can help contain domestic challenges without the use of military force. Whereas Egypt's regime was highly flexible, adaptable and its institutional structure allowed for much room to maneuver in an abruptly changing environment, in fact the Syrian regime seems unable to bend without breaking. However, this does not mean that the Ba'th Party has ruled Syria for more than 40 years through coercion alone. Actually consent, through mobilizing the rural periphery to raise agricultural incomes of Syrian society, has been vitally important to ensure legitimacy and stability of the Ba'thist regime. Interestingly enough, however, this same periphery in the current revolt has clearly been the main force driving the uprising against the Asad's rule. In this paper, I attempt to shed light on some of the overlooked reasons behind the Syrian revolt and the institutional dynamics of regime resilience and vulnerability.

Ⅰ. The Ba'thist Regime in Syria

Syria was established after the First World War as a French mandate and gained independence in 1946. Syria's experience as a state, the fragmented nature of its society, lack of national identity, the nature of the opposition and being caught in the center of a geopolitical game by regional and international actors dictated how the Ba'thist regime constructed its power and legitimized its rule. Whereas Egypt enjoyed a strong national identity and centralized rule, Syria was trapped in heterogeneous society divided across ethnic, sectarian and rural and urban lines. These social elements have instructed the nature of the political path under which the Ba'th regime emerged.

The Ba'th Party came to power in a military coup in 1963 after the collapse of the United Arab Republic in 1961. The rural-urban and class divide is one important reality around which the populist agenda of the Ba'th Party capitalized for mobilization, consolidation and maintenance of power. In the per-Ba'th era, rural regions of the country as well as the urban working class were deprived of power, marginalized, immobilized and hence unrepresented at the political arena, which was exclusively an urban game (Hinnebusch1979: 4). The marginalization and deprivation of the rural regions were not only driven by the urban hold on wealth and power but also due to the rural fragmentation along clan, tribal, sects and village lines. (ibid: 5).

These realities worked for the benefit of mobilizational regimes in postcolonial Syrian society. The Ba'thist regime focused on the mobilization of the country's rural periphery to gain power. Building political power through engaging mass mobilization of the rural regions and drastic socialist reforms shifted power politics in the country. The most

apparent transformation under the Ba'th Party has been its ability to change the nature of the ruling class: a new rural-based elite replaced the urban rich of Damascus and Aleppo who used to form the old regime. The Ba'th Party recruited its main support base from those who were outside the system of patronage and connections such as the rural professionals, teachers, doctors and students, and minorities. The promise of income distribution and reduction of inequalities between the periphery and center, and rich and poor also produced sectarian mobilization among the depressed groups that benefited from the reduction and upward mobility, mainly the minorities.

By redistributing power and resources to the agricultural communities that was drawn into social and political mobilization, the Ba'thist regime could break the power of the old elite and destroy their control over land and market. This was further advanced through a socialist transformation that replaced capitalist and feudal production relations in the countryside through redistributive land reforms, public land distribution and other forms of cooperative and collective organizations of rural populations. The promise of egalitarianism through modernizing agrarian 'revolution' would be the pillar upon which the Ba'th Party legitimized its rule through institutionalization of state linkage to peasants, farmers and working class.

Furthermore, nationalizations of industry and commerce were decisive in the transformation of power and social structure in the country and brining the economy fully under the control of the Ba'thist state. Under the Ba'thist regime, Syria established a privileged relationship with the communist block while following a non-capitalist road to development (Trentin 2010). The early stage of the Ba'thist rule was very much pro-rural and anti-cosmopolitan/urban which alienated the urban bourgeoisie, upper middle class and the traditional religious establishment. The Ba'thist promises to advance the future of the rural and working middle class, therefore, gave them a stake in preserving the dominant role of the state over the private sector.

Ⅱ. The Rise of Hafez al-Asad

The radical course of revolutionary social transformation took a different path after Syria's decisive defeat in the Arab-Israeli War of June 1967 and Israel's capture and annex of the strategic Golan Heights. The defeat caused a split inside the Ba'th Party, between reformists led by Hafiz al-Asad and radicals led by Salah Jadid, in how to deal with the consequences of war. The reformist wing, which had a strong base in the military, thought that radical Ba'thist reforms undermined national unity. With Asad's coup of 1970 (the Corrective Movement) ended the struggle between the two wings for the reformists' and set the stage for realist politics that maintained the broad lines of the Ba'thist program but was moderate and less ideological.

Ⅲ. Asad's Consolidation of Power

Contrary to a fragmented society, Asad maintained a pyramid-shaped structure of power where in the bottom inclusive policies aimed at mobilizing cross sectarian and rural constituencies but at the top level loyalists and Alawi officers around the president "combined privileged access to him with positions in the party and control of the levers of coercion. They were, therefore, in an unrivalled position to act as political brokers and, especially in times of crisis, were uniquely placed to shape outcomes (Hinnebusch 2001: 69). Furthermore, what worked to the Alawites' advantage was the fact, "whereas the Alawite officers were overwhelmingly of rural origions, peasant extraction, common regional provenance… the Sunni officers were hopelessly divided in political, regional and class terms (Batatu 1981: 342)

On the other hand, al-Asad allowed for a certain degree of opening of access points into the system for investors to lessen the alienation of the urban landlords and rural bourgeoisie. This was achieved by allowing certain changes to the agrarian reform law.Through the penetration of religious and ethnic minorities and exploiting the rural-urban the regime was able to establish its control through a set of personal relations and formal and informal institutional structures and patronage networks that link society with the state through inclusionary and exclusionary strategies. This was further enforced in the 1973 constitution, which granted the Ba'th Party alone the position of leading both the state and society. Mobilization for the Party was further enhanced nationwide by constructing national projects and dams that created electricity and advanced irrigation. Massive expansion of the state bureaucracy and of the military intelligence services expanded the Asad's control nationwide. This massive expansion of the state and its ability to exercise economic distribution was made possible by the flow of foreign aid after 1973, as well as by the dramatic increase of oil prices. The society was organized into a regime controlled popular organizations, such as peasant and trade unions, which were directly linked to the Ba'th Party through which loyalty and implementation of government directives were enforced (George 2003: 75).

These social and economic networking with the society were also instruments of surveillance and social control, allowing the regime to gain obedience through extensive local networks of informers. Speaking of the Assad's levels of power structure and their basic characteristics, Batatu identifies four levels.

> First, the Assad's undisputable authority to the general direction of policy and to the questions crucial to his regime, such as security, intelligence, military and foreign affairs; second, unpublicized chiefs of the multiple intelligence and security networks which function independently from one another, enjoy broad latitude and keep a close watch on everything in the country that is of concern to his regime. On same second level, and also answerable to Asad, are the commanders of the

politically relevant, regime shielding, coup deterring, elite armed formations, such as the Republican Guard, the Special Forces, the Third Armored Division, and before 1984, the Defense Companies. It is these formations, which alone are allowed in the capital, that constitute the essential underpinning of his power and not the regular armed forces; third, the Ba'th party command, whose Secretary General is Asad, serves as a consultative body for Asad and at the same time watches, through the party machine, over the proper implementation of his policies by the elements on the fourth level, namely the ministers, the higher bureaucrats, the provincial governors, the members of the executive boards of the local councils, and the leaders of the party's ancillary mass organizations and their subordinate organs (Batatu 1999: 206-207).

The regime's constructed broad social 'coalition' had been narrowed down since around the beginning of mid 1980s. This took place with the inability of the state economy to generate enough domestic resources under server economic crises in the 1980s. The regime was running out of revenues for his constituency. Its response to the crisis was twofold: the mobilization of the private capital through a process of privatizations; and a decrease in the state's grip over the market and the advancement of limited liberal measures. Through this process, the regime strategy was to consolidate its rule through extending and shifting its patronage networks to the private sector while it controlled access to resources and market in order to limit the control the privatization process and limit it to selected members and organizations.

This remodeling of the sociopolitical base of the regime made its first appearance in 1990 parliamentary elections when, for the first time, the parliament was open to independent, nonparty candidates. From the total 250 seats, Hafez al-Asad allocated 82 seats in the parliament for nonparty members. This allowed the regime to not only expand its patronage networks to the business and commercial elements but also to the religious community through allowing a number of prominent Shaykhs seats in parliament. However, the regime did not attempt to accompany economic liberalization with any meaningful political liberalization that would allow for the creation of a political party that openly defends or takes responsibility of the reform process. This was because the regime's decision to advance economic liberalization did not emerge from economic imperatives alone but it was rather politically motivated to ensure regime survival. Whereas authoritarianism was justified and used to advance populist measures, it was used later on for forcing economic liberalization to privilege-narrowed elite circles around the president.

Hafes al-Asad's economic liberalization was somehow manageable in the short term thanks to Arab aid, foreign assistance and oil revenues, which continued to support the regime's budget and autonomy in the 1980s and early 1990s. However, the path of liberalization later on significantly aggravated Syria's economic problems as the government ran out of revenues. The end of the cold war also withered the Soviet/Russian support for its clients in the Middle East, including Syria, which forced the regime to change course in

allying itself with the UN-sponsored force to liberate Kuwait from Iraq in 1990. This resulted in large-scale Western aid. This also explains how Syria also used its role in the peace process between Israel and its Arab neighbors as well as its control of Lebanon with the consent of the international community in the context of post-Cold war period.

Through selective policies, the business class became dependent on its relationship with the state officials to get benefits and contracts. Populist policies declining economic public sector were replaced by major economic reforms when Bashshar, who inherited the presidency from his father in 2000, ushered Socialist Market Economy in 2005 during the Ba'th's tenth Regional Command Conference. But 'socialist' *infitah,* which ended decades of socialism that gave entrepreneurs easy access to the economy, challenged the regime's traditional economic, political and ideological legacy that used to act as social cooptation and political legitimacy. By 2008, unemployment increased rapidly to almost 30 percent and the spread of slums in the city became a usual phenomenon.

The regime's long protected beneficiaries and institutions were increasingly exposed to market forces and international competition. Accordingly, under reforms of economic liberalization the long established alliance between the regime and peasants and workers and promises of economic development were severely undermined. A new empowered mafia-like alliance of regime supporters between capitalists and bureaucrats were increasingly becoming the main beneficiaries of the public sector's networks of patronage. These new social climbers have become a source of significant animosity in a country where displays of wealth were unknown in recent memory (Marshall 2012) Even though the regime was increasingly giving up the most important components of political legitimacy: collective ideology and egalitarian policies, the regime did not attempt to open up the political system. On the shifting social alliances and authoritarianism in Syria, Salwa Ismail notes:

> Families and clans tied to the regime have become major economic actors. For instance, Rami Makhlouf, the president's maternal cousin, has a virtual monopoly over mobile phone services, the running of the duty free markets on Syria's borders, the country's top private English language school, sole representation of Schindler elevators and various restaurant chains. Others, who enjoyed similar privileges, include the son of Mustafa Tlas, sons of 'Abd al-Halim Khaddam, the son of Bahjat Sulaiman (the head of the internal security until June 2005), the Shalishes (cousins of the president) and other immediate members of the Assad family as well as members of the extended clan (2009: 18-19).

This means that networks of patronage and loyalty have increasingly been narrowed down to families rather than party members. Despite these changes in the socioeconomic alliances, the Syrian regime remained essentially unchanged. It is no wonder then that Rami Makhlouf became the focus of the protest movement in its early stage which forced the regime to state that Makhouf quitted business and channeled his wealth into charity and

development projects.

The loss of allegiance from the rural and working class was replaced in an increase of the security services in all state institutions and popular organizations. As Perthes notes "a combination of political incapacitation and depoliticization, open repression, and selective incorporation, the regime has managed to keep the civil-society threat at bay… as long as the security architecture holds, alternative power centers cannot merge, clientalism continues to fragment key societal groups, discontent remains unorganized, and social demands can be dealt with selectively; the ability of the regime to act, by and large, on its won preferences is not in question" (1995: 262).

In addition to relying on keeping those with proven loyalty in their posts, the regime's coalition with selected rich urban bourgeoisie, the Sunni Damascene in particular, made the latter have a direct interest in the preservation of stability and their relations with the regime as long as their business continued to prosper (Van Dam 2011: 142). This alliance seems to have endured during the current uprising, as Damascus and Aleppo had been for more than a year immune to the unrest and protest movement. The regime's inability to pursue mass cooptation, social mobilization and hence social control of the country through its party organization, however, explains why security measures were the only solution to deal with the protest. The regime's former capacity of control through networks of patronage with societal notables such as tribal elders was symptomatic to the "mid-decade outbreak of several localized sectarian/tribal conflicts, which manifested an erosion of the regime control" (Hinnebusch 2012: 99).

From the very beginning, the Asad state has been defined in terms of its capacities to penetrate society and regulate social relations. But as Migdal argues in *Strong Societies and Weak States,* efforts to utilize such capacities produce "paradoxical" results. In its encounter with the society, it is the state which itself is changed, losing much of its coherence and its ability to shape events (1988). However, no matter how irrelevant the Ba'th Party came to be seen by the many observers, its nationwide organizational infrastructure was instrumental in providing information for political surveillance and control of opposition elements and civil society at large. Whereas it used to be an instrument of social mobilization and control, the party has been increasingly transformed to a network of political surveillance which added to the resentment of its former rural base. The erosion of Party's ideological and populist pillars and the increasing role of security forces to fill the vacuum made the increasingly alienated youth see in the regime a mere repressive machine that can be challenged only by mass protest as happened in neighboring countries.

Ⅳ. The Rural Base of the Syrian Protest Movement
: Brining back the Old Regime

As argued above, the class structure and social basis of the regime have undergone radical transformation. However, this transformation were not accompanied by serious

political arrangements that allow for a changing socioeconomic order to express itself or for the emergence of civil society organizations to address the deteriorating socioeconomic conditions. Instead, the Syrian government has strengthened an alliance with the new bourgeoisie, particularly with its commercial and business segments.

Many observers were taken by surprise when the protest movement began in Dar'a, formerly a Ba'thist stronghold that benefited from the Ba'th reforms, employment and high posts in the government. But as the Ba'thist social contract collapsed, the inability of the public sector to provide employment, the rapid falling of the oil reserves, and loss of job opportunities in Lebanon after Syria was forced to withdraw its troops from Lebanon in 2006, led the majority of Syrian workers to return home. It was also a blow to the regime's long-term survival because of Lebanon's importance to Syria's economy and the financial benefits many Syrian officials enjoyed for decades.

Moreover, climate change was also an important factor that challenged the legitimacy of the regime and led to a clear demographic transition caused by internal migration and exacerbated by streams of refugees from Iraq. Waves of drought, which caused severe rural poverty and massive rural migration to the cities, created an unprecedented polarization between urban and rural areas and between the haves and have-nots, a situation that did not exist in Syria before. The resultant rapid urbanization put further pressure on the state's ability to provide basic vital services such as housing, clean water and health services. This social consequence of internal migration produced absolute deprivation and grievances. Whereas big cities like Damascus and Aleppo with relatively developed infrastructure were able to absorb waves of migrants, other underdeveloped cities, such in Dar'aa, Hama and Homs, aggravated the already bad economic conditions of these cities.

The severe drought since 2006 exacerbated the water scarcity problems in the northeast region where around 95 percent of the affected population live. In 2010 the World Food Program started distributing emergency food packages more than 200,000 people in Raqqa, Deir Ezzor and Hasaka, three vast semi-arid provinces in eastern Syria that were once the nation's breadbasket[2]. Many of the affected populations were in need of urgent help but lack of enough foreign funds due to political tension between Syria and the United States resulted in cutbacks in aid programs (ibid). WFP measures were not enough to mitigate the losses of livestock and preserve food security of herders and their families living in the Syrian Steppe (WFP 2009). The consequence of drought and the government's lack of interest in addressing the problem had driven the majority of people from these areas towards the interior governorates, mainly Damascus, Aleppo, Hama, Homs and Dar'aa.

In addition to creating demographic changes, the internal migration has also produced many humanitarian, social and health problems (Ali 2010). This has directly affected school enrolment, with high dropout rates since around 2008. According to a UN needs

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2) "110,000 in Syria 'will be deprived of food aid'," The National
   http://www.thenational.ae/news/world/middle-east/110-000-in-syria-will-be-deprived-of-fo
   od-aid(AccessedJuly28,2012)

assessment, enrolment in some schools in eastern Syria has decreased between 70 and 80 percent (United Nations February 2010). Syria suffered from waves of droughts since as early as 1990 but the last one, which lasted from 2006 to 2010, was the longest and hardest Syria experienced in its modern history. Thanks to government's subsides, famers in the past were able to withstand short-term droughts but the last one was the longest and coincided with the erosion of state subsides which made agricultural communities severely vulnerable.

Drought and subsidies cutbacks must have exacerbated poverty in the rural area but we should also look at the negative impact of populist measures adopted under the Ba'thist regime, which focused on the cultivation of certain crops that needed enormous amount of water. These policies are related to the basic objectives of the regime strategy in attempting to enhance national security by achieving self-sufficiency in the most 'strategic' but water-consuming crops, wheat and cotton, and increasing agricultural production for this purpose. But very little was done in managing and sustaining water irrigation. As a result, too much usage of irrigation increased the salinity of the soil and aggravated drought crisis (Juusola 2010). Policy mismanagement and lack of urgent government planning contributed to the inability of agricultural system to cope with the drought and its aftermath. Economic liberalization accompanied with decrease in subsidies on basic commodities such as diesel fuel increased the cost of pumping water for irrigation as well as transporting products to market. Cutting subsidies coincided with severe drought, a situation that made farmers increasingly vulnerable to risks and pushing their communities deeper into poverty.

In addition to the decrease of government subsidies to the agricultural sector, economic liberalization was selective and benefited only those wealthy connected to the regime. Lack of any serious measures from the government to face water-related challenges and the resultant demographic transition, stimulated by unprecedented rural exodus to the cities, meant that the social structure was undergoing a change that was gradually chipping away the regime's base of support and 'legitimacy.' The regime's social contract that promised food security and economic stability was no more valid.

Asad's continued support for Hezbollah as well as Hamas and Islamic Jihad and his strong stance against American aggression in Iraq in 2003 and the acceptance of more than 1.5 million Iraqi refugees into Syrian earned him more power within Syria and the region. Through these policies the Asad regime was struggling to avoid regional isolation caused by regime change in Iraq, and the loss of Syrian control over Lebanon. "Global war on terror" also encouraged Israel to take a harder stance against Syria through the 2006 war against Lebanon and Gaza in 2009. However, the open border policy to Iraqi refugees had negative impacts at home such as homelessness, inflation, and unprecedented increase in food and rent prices, unemployment, and economic inequalities that caused a huge shift in the social dynamics in the country. These developments paved the way for increasing internal instability in the country and regional and international isolation of Syria left the Asad regime with the most vulnerable front, the domestic socioeconomic crisis at home.

Ⅴ. Understanding Regime Resilience and its Limits

With the erosion of regime's traditional constituencies, it was doomed to the trends set in Tunisia and Egypt. However, Asad has been able to turn formal and informal power structure to his advantage during its current crisis. Lack of institutional defection demonstrates the complex and intertwined power relations in the regime. Its strong and organically connected ruling institutional setup has enabled the regime to stay united and maintained elite cohesion. However, whereas other regimes in the region have succeeded in turning over domestic upheavals through working out new elite and opposition coalitions, the Syrian regime seems resilient but lacks these options of adaptability that are essential in times of crisis.

Accordingly, security measures have been the only solution that the ruling coalition seems to have agreed upon in order to prevent regime disintegration. The nature of the ruling coalition and the use of massive security crackdown have also left the regime faced with an opposition that it can neither co-opt nor crush. How can we account for regime resilience in Syria? Why did not the Syrian regime follow the example Egypt, for instance, when the military establishment replaced the presidential institution or make use of its power in order to avoid the disintegration of the regime? In fact, institutional level analysis is essential to the understanding of the Asad's regime resilience and structural intransigence.

Ⅵ. Power Structure in Egypt and Syria

Although the military establishment in Egypt used to be considered to form the backbone of the regime since the Free Officers overthrew the monarchy in 1952, the military did not exercise a direct political role in Egyptian politics and regime preservation since early 1970s. The military establishment has been politically marginalized after the defeat in 1967 June War. This process of depoliticization the military had accelerated since Sadat came to power in 1970 through the "demilitarization" of the cabinet and bureaucracy and filling them with civilian technocrats and liberalizing parts of the state-owned and military controlled public sector (Cooper 1982). Political neutralization of the military enhanced the military's image of themselves as professionals and has led them to see themselves as servants of the state rather than the regime (Finer 1988). While initiating restricted political "pluralism," the main engine of elite cooptation had been the ruling National Democratic Party and the main institution that enjoyed omnipotent power has been the presidency.

Egypt's homogenous society with no significant ethnic or sectarian cleavages relieved the regime from expanding state institutions to seek mass mobilization through institutional building that allows for the ruling party to ideologically penetrate the coercive apparatus and bureaucracy. This also made the ruler in Egypt grant a certain space of freedom to

advance a level of restricted political pluralism, while "power was still heavily concentrated in the hands of the president" (Blaydes 2011: 196). These realities relieved the regime from adhering to populist and nationalist ideologies, as means of legitimacy. The regime could set certain rules of electoral participation in order to coopt important opposition elements, such as the Islamists, who had been were suppressed but at the same time allowed to participate in the political process as long as they abide by the regime's orchestrated political rules. While the presidential institution was placed at the very top of power, almost the only constrain on the executive authority in Egypt came from external actors such as the United States and international financial institutions, the World Bank and International Monetary Fund (ibid). While Egypt's presidential institution had centralized authority, it used the ruling National Democratic Party to extend economic and political networks of patronage and to secure the cooptation of the elite and opposition.

In Syria, however, cooptation into the regime counts on a wider set of state institutions that in turn allow for power sharing mechanisms. As Hinnebusch notes, the Ba'th Party and the presidency have shared power that rests on three overlapping pillars: "the party apparatus, the military-police establishment and the ministerial bureaucracy. Through these interlocking institutions the top political elite seeks to settle intra-elite conflicts and design public policy, and, through their command posts, to implement policy and control society" (2011: 111). The Ba'th Party apparatus penetrates all state institutions and civil society organizations while the Party's military organization exercise political control over military members (ibid). The overlapping of state institutions in Syria makes the ruling coalition and the political system far more institutionally interlocked than its counterparts in other authoritarian Arab regimes and the process of preserving such a coalition becomes of a vital importance for the survival of the regime.

Thus, elite cooptation is not only the function of the ruling party but the process extends to all state institutions that are directly involved in recruitment and gathering support for the regime. The regime has survived the heterogeneity of the Syrian society through building its opposite: a cohesive unitary regime. The nature of such a coalition makes it difficult for any actor to attempt coups against others without risking its own survival. This explains why the Egyptian scenario has been off the table during the last 18 months of the Syrian unrest. This also explains why no other state institution has attempted to take over the presidency to ride out the crisis.

Another important institutional element in regime cohesion has been the unquestionable support from the coercive apparatus and the ruling inner circle, a far more sectarian institution and highly controlled and represented by the Asad clan. This has been ensured by the presence of highly trained and loyal units inside the military and the security services, such as the Republican Guard and the Fourth Armored Division, whose leaders have been carefully selected and placed under the command of officers who belong to the president's family and clans such as the Makhloufs and Shaleeshs (Gambil 2006). All key posts in the military and security services are under the control of closely related families. For instance, the president's brother, Maher, commands the Republican Guard, an elite

force whose six brigades protect the regime from domestic threats, and heads the fourth armed division; one of the army's best equipped and highly trained force. The president's brother-in-law Asef Shawkat, who died in July 2012, was the former commander of Syria's intelligence agency, and then deputy chief of staff of the Syrian military.

As the Ba'th Party was becoming less of a vehicle for mass mobilization and 'representation' of its traditional constituencies and with the concentration of power in Bashar al-Asad's inner core, the regime has increasingly relied on the security services as an instrument of state control in the last decade. Moreover, as the majority of defecting soldiers are Sunni, more and more Alawites are brought in and the elite army units are increasingly acting as Alawite militias. Although there are Alawites who oppose the regime's brutal crackdown on the opposition, like many of other sects, fearing reprisals should the government fall, the fate of these militias is more and more bound up with the survival of the regime. This fear also explains the rise of the initially armed Alawite youths, Shabbiha, who became the hallmark of the government's response to dissent. The fall of the regime would only follow the collapse of these highly trained and equipped army units and not only the overthrow of the head of the state. This institution is becoming less relevant as the regime is attempting to bring about a civil war. With the disintegration of an institutionalized state as a political entity, the ruling elite are becoming less in a position to respond to pressure or make political compromises to end the violence.

Ⅶ. Concluding Remarks

The existing power structure, which makes the Syrian regime resilient and able to sustain its cohesion and unitary so far, constrains, at the same, policy options for the reform and the ability to modify essential political arrangements in order to neutralize domestic challenges without waging a war against its opponents and the society at large. The dilemma, however, is that the security strategy does not seem to be a workable solution during the current crisis where the struggle for revival now is taking place in Aleppo and Damascus. Indiscriminate regime crackdowns have forced the Syrian society into learning how to defend themselves and cross socioeconomic and communal boundaries. However, the performance of the external political opposition and its fragmentation is a cause for concern if it were to play any essential role in a post-Asad transition period. In the end, it is not only about toppling a regime but also about uprooting the current system, which "is based on keeping Syrians hostage to communal divisions and regional power plays. Indeed, the regime's residual legitimacy derives entirely from playing indigenous communities and foreign powers off each other, at the expense of genuine state building and accountable leadership" (Harling & Birke 2012).

The literature on authoritarianism has often strove to explain the resilience of autocrats in the Middle East but it missed the importance of the nature of the ruling coalitions and the variety of their cooptation mechanisms, which have influenced the strategies Arab

regimes adapted in their response to domestic challenges.

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Understanding the Palestinian Intifada(1987–1993)

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Preface

This article aims to answer the question of why the Palestinian Intifada (*al-Intifāḍa*, the significant uprising in 1987) broke out 20 years after the Israeli occupation of the West Bank (*al-Ḍiffa al-Gharbīya*) and the Gaza Strip (*Qiṭā' Ghazza*). Previous studies of the Intifada have been limited by their excessive focus on the PLO's activity outside the territories, which leads these scholars to treat the uprising as "surprising," or a product of the "changing role of the occupied territories." These studies ignored the fact that the Intifada had developed inside the occupied territories beyond the will of the PLO, and was led by the non-armament movement and not by PLO guerrilla activity.

This article focuses on an analysis of Arabic records such as newspapers and leaflets. Although there are many theories related to contentious politics, including the resource mobilization theory or the political opportunity theory, this article does not employ any of them. The evolution of the recent mass mobilization called the "Arab Spring" suggests that close analysis of a specific region is important for understanding the background of the mobilization, instead of arbitrarily imposing a particular theory onto the movement.[1] Based on this recognition of the importance of analyzing the facts of a particular region's history, the article is principally concerned with analysis of the evidence from Arabic articles and other sources.

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[1] Beinin and Vairel [2011] note, in respect to social movement studies of North Africa and the Middle East, that "studies of the Middle East and North Africa that have employed SMT (Social Movement Theory) have usually limited themselves to using these regions as a source of case validate the classical concepts of political opportunity structure, collective action frames, mobilizing structures, and repertoires of contention." This article is very conscious of this fact, treats the case of the Intifada as it is, and thus is expected to contribute to existing theories.

Ⅰ. Studies of the Intifada and the Key Concepts

Hiltermann [1991] provides the most relevant analysis of the Intifada's history and development. This study points out that the mobilization of competition among the trade unions and women's organizations in the 1970s and 1980s was very important for the Intifada. Hiltermann thus explains the background of the Intifada's mobilizing power by adapting the resource mobilization theory. However, the study does not explain how the leadership coordinated the uprising or how the young students were mobilized.

Alimi [2007b] also provides a remarkable study that builds on Hiltermann's analysis by adapting the political opportunity theory. This study takes into account the political, economic, and social environments in the occupied territories as factors affecting the "willingness" for the movement within the region, and considers organizational activity such as that of trade unions as a factor in the "readiness" for the movement. Alimi [2007b] thus concludes that the Intifada occurred because of political opportunity inside Israel produced by peace movements such as Peace Now. It is a very interesting point that unarmed mobilization occurred as a result of the peace movement inside Israel. However, Alimi does not consider former uprisings ("Intifadas"), instead considering the 1987 Intifada as the only uprising in the territories.

al-Qashṭīnī [1990] provides a remarkable Arabic study that contains an explanation of the uprisings before the Intifada. al-Azʿir [1991] also usefully deals with seven uprisings in the territories, in the years 1967, 1974, 1976, 1982, 1985, 1986, and finally the Intifada in 1987. These two studies explain the historical development of the mobilization inside the territories, whereas Japanese and English studies merely refer to "angry accumulation."

In contrast with these previous studies, this article is dedicated to explaining the development of Palestinian political activity in the occupied territories and tying this development to the emergence of the Intifada. The key concepts for discussion in this paper are "Civil Resistance" (*muqāwama madanīya*), "Governmental Political Sphere," and "Popular Political Sphere."

The concept of "Civil Resistance" can be paired with the concept of "Armed Resistance" (*muqāwama musallaḥa*) in the Arabic articles (al-Dajjānī [1988] al-Qash≫īnī [1990], al-Azʿir [1991]). al-Qash≫īnī [1990] includes, in addition to demonstrations and strikes, the establishment of schools and laboratories along with the production of films in the concept of "Civil Resistance." Therefore, there is a difference on this issue between Arabic "Civil Resistance" and the English civil resistance. Of course, this categorization is not a perfect one because it strongly affirms all Palestinian political activity as a form of resistance. However, after analyzing the evidence of Palestinian political activity inside the territories, it becomes clear that these concepts are useful for labeling the entire range of activities.

It has been argued that the nation state is the typical political sphere in the modern era. However, the Palestine-Israeli conflict has evolved beyond the nation state, so a new

analytical tool is necessary in this case. In light of this fact, this article adopts a new pair of concepts, the "Governmental Political Sphere" and the "Popular Political Sphere." The former refers to the political sphere that derives its authority from activities such as municipal elections, and the latter indicates the public political sphere in which demonstrations or strikes occur. This article shows the transition in the political sphere in the territories from a governmental sphere to a public sphere.

The advantage of using these two concepts is that this mode avoids vague analysis such as abstractly referring to "the people." In the 1970s and 1980s, there were Palestinian mayors who acted as outstanding political leaders. Through their activities, it became clear why the significant mobilization took place in the occupied territories.

Ⅱ. Increasingly Pro-PLO Leaders

In the 1970s and 1980s, Palestinian mayors (*ra'īs al-baladīya*) were very active political leaders of the "Civil Resistance" in the occupied territories. When the West Bank had been annexed to Jordan, the mayoral positions were distributed to notable Palestinian families through patronage-client relations in Jordan (al-Jarbāwī [1989:36]). The municipal election of 1972 in the West Bank was held because Israeli authorities intended to recreate these relations as their own (Ma'oz [1984:12], Sahliyeh [1988:39]). Jordan also supported the pro-Jordanian candidates, so that notable pro-Jordanian individuals were re-elected as mayors. However, the election of 1976 also revealed increasing pro-PLO tendencies.

There are three relevant points in the case of the pro-PLO candidates' victories: these are the PLO's full commitment to political activity inside the territories, the disappearance of Jordan's authority, and the revision of municipal election law (Aronson [1990:50−51], Sahliyeh [1988:44, 64], Rabah and Fairweather [1993:76]). Palestine National Front (*al-Jabha al-Waṭanīya al-Filasṭīnīya*, PNF), which was established by the PLO in 1973, included Fatah, the Communist Party, and other organizations as well as a few pro-PLO mayors (however, this organization was mostly controlled by communists who intended to establish an independent state in the West Bank and Gaza strip). As well, the diminished commitment of Jordan in the Yom Kippur war confirmed that Jordan could not assume a positive role in Palestine's liberation, which weakened its authority. Furthermore, it is also important that the constituency populations expanded threefold, from 1972 to 1976, because of a 1976 revision of the municipal law that granted women and the poor the right to vote.

The outcome of the election in 1976 shows victories for pro-PLO candidates. 153 out of 205 seats were taken by new faces, and 14 of 24 mayors were newly elected (Ma'oz [1984:136]). The defense minister of Israel, Moshe Dayan, said after the election, "We missed the opportunity for developing a moderate leadership that might have been ready to reach an independent agreement with Israel" (Aronson [1990:55]).

Karim Khalaf (*Karīm Khalaf*) of Ramallah and Bassam Shaka (*Bassām al-Shak'a*) of

Nablus were very significant mayors in the territories. These mayors confirmed their position as political leaders inside the territories after the Camp David accord of 1978. The rejection of the accord led to the establishment of the National Guidance Committee (*Lajna al-Tawjīh al-Waṭanī*, NGC), which the mayors took a main role in forming. This organization included almost all political factions in the territories, including Fatah, the Communists, and the Ba'athists. Besides Khalaf and Shaka, other mayors such as Fahd Qawasimi (*Fahd al-Qawāsimī*) of Hrbron, Muhammad Milhim (*Muḥammad Milḥim*) of Halhul, and Ibrahim Tawil *(Ibrāhīm al-Ṭawīl*) of al-Bireh also participated in this committee. In addition to the mayors, leaders of the trade unions, women's organizations, and student organizations also participated in the NGC (Jamal [2005:51], Sahliyeh [1988:73]).

In comparison with PNF, in which Communists were a majority, NGC included more Fatah members (Ma'oz [1984:166], Sahliyeh [1988:73−75]). The PLO factions, including Fatah, Popular Front for the Liberation of Palestine (PFLP), and Democratic Front for the Liberation of Palestine (DFLP), had challenged communists' hegemony inside the territories because previously only the Communist party had a headquarters in the territories. This competition is very important for understanding the political activities in the West Bank and the Gaza Strip. The Palestinian Communist party did not participate with the PLO during this period, but PLO factions were increasingly interested in political activities inside the territories, such as the establishment of PNF and the Sumud committee.[2]

Communists' power depended on the activity of popular organizations such as trade unions and women's organizations. NGC, which was formed by the elected mayors in the "Governmental Political Sphere," included these organizations as well. This inclusion contributed to the expansion of the political sphere inside the territories, because mobilizing competition among the factions began after the establishment of NGC. This means that the "Popular Political Sphere" came to be the main arena of political competition in the territories after the late 1970s.

Ⅲ. Mobilizing Competition among the Popular Organizations

After the late 1970s, many factional popular organizations were established in the occupied territories. Hiltermann pointed out that the mobilizing of this competition was the background for the mobilization of the Intifada (Hiltermann [1991]).

DFLP was the first faction that established their own trade union, Workers' Unity Bloc (*Kutla al-Waḥda al-'Ummālīya*), in 1978. The Communists responded to DFLP's decision by establishing their own organization, the Progressive Workers' Bloc (*Kutla al-'Ummālīya al-Taqaddumīya*), in 1979. By 1980, all four factions had their own trade unions as Fatah

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2) The Joint Committee of Palestine and Jordan for Supporting the Solidness of Palestinians in the Occupied Land (*al-Lajna al-Urdunnīya al-Filasṭīnīya al-Mushtaraka li-Da'm Ṣumūd al-Sha'b al-Filasṭīnī fī al-Arḍ al-Muḥtalla*).

and PFLP established Workers' Youth Movement (*Ḥaraka al-Shabība al-'Ummālīya*) and Progressive Unionist Action Front (*Jabha al-'Amal al-Niqābī al-Taqaddumīya*). These factional organizations competed in professional trade unions such as printing or restaurant trade unions, and competed in the General Federation of Trade Unions (*al-Ittiḥād al-'Āmm li-Niqābāt 'Ummāl*). The General Federation of Trade Unions, led by communist Adil Ghanim ('*Ādil Ghānim*), elected thirteen new members to its committee on August 7, 1981 (Hiltermann [1991:73]). The Workers' Youth Movement of Fatah opposed this election beforehand, so they elected their own committee, led by Shahada Minawi (*Shaḥāda al-Mīnāwī*), on August 28. The factional competition depressed the general organization's activity and finally ruined it. However, factional organizations' competition in mobilizing people actually contributed to the establishment of mobilizing mechanisms in the territories.

The disruption of the General Federation of Trade Unions stemmed from the fact that it was not a PLO organization. Women's organizations, however, displayed cooperation rather than competition because their general organization was established by the PLO. In 1965, the PLO established the General Union of Palestinian Women (*al-Ittiḥād al-'Āmm li-l-Mar'a al-Filasṭīnīya*) as the general organization for all Palestinian women in the region, including the occupied territories.

The first faction which mobilized women in the territories was DFLP (Hiltermann [1991:132－134]). The Federation of Palestinian Women's Action Committees (*Ittiḥād Lijān al-'Amal al-Nisā'ī al-Filasṭīnīya*) was only a voluntary organization established in 1978 in the West Bank, so it did not display any factional tendencies. However, some communist members left this organization because they felt that it had a pro-DFLP nature and established the Union of Palestinian Working Women's Committees (*Ittiḥād Lijān al-Mar'a al-'Āmila al-Filasṭīnīya*) on March 8, 1981. Following this move, the Union of Palestinian Women's Committees (*Ittiḥād Lijān al-Mar'a al-Filasṭīnīya*) was established in 1981 by PFLP, and the Union of Women's Committees for Social Work (*Ittiḥād Lijān al-Mar'a li-l-'Amal al-Ijtimā'ī*) was established in 1982 by Fatah. This means that all four factions had formed their own women's organizations.

In contrast with the trade unions and women's organizations, mobilization of the students began without a general organization. Because the establishment of the first four-year university inside the territories did not happen until 1972, there was no efficient general organization for students. The Progressive Students' Action Front (*Jabha al-'Amal al-Ṭullābī al-Taqaddumīya*) of PFLP was established in 1979, and other factional student organizations were established around this time.

These student organizations had their own branch in every university, and competed in the election of student councils. The secretary general of the student council of Birzeit University was regarded as the top student organization leader in the territories, and very intensive competition developed. These competitions took place on campus, and when losing a seat seemed probable, these four blocs formed alliances against rival organizations. In fact, between 1979 and 1983, these organizations formed alliances against Islamic student organizations (Sahliyeh [1988:126]).

Ⅳ. The Regulation and the Uprisings

The "iron fist" policy played a very important role in developing the political activities that led to the Intifada. Although the iron fist policy was officially declared by defense minister Yitzhak Rabin on August 4, 1985, in practice this policy began in the early 1980s.

The mayors were the main targets of the Israeli authorities because they maintained nationalist stances. For the members of NGC in particular, regulation was very harsh. On May 2, 1980, two mayors, Qawasimi of Hebron and Milhim of Halhul, were deported outside the territories by the Israeli government (Sahliyeh [1988:83]). These two mayors were very remarkable leaders and their interview was cited in the *Journal of Palestine Studies* (JPS, ed. [1979]).

Finally, the regulation of mayors resulted in their discharge in 1982. Tawil, leader of the municipal council of al-Bireh, was discharged on March 18 (*al-Quds*, 19 Mar. 1982.), causing huge demonstrations and strikes in the West Bank. This is referred to as the Uprising of 1982 (*al-Intifāḍa 1982*). Because of this uprising, Israeli authorities decided to discharge Khalaf and Shaka on March 25. NGC was also deemed an illegal organization and banned (Maʿoz [1984:193−194]). At this point, the "Governmental Political Sphere" had been shut down by the Israeli government and the "Popular Political Sphere" came to be the only arena for political activities.

The political activities inside the territories thus turned out to be leaderless uprisings. There were two uprisings between the discharge of the mayors and the Intifada, the uprisings of 1985 and 1986. Both uprisings started with a clash between Israeli authorities and the Palestinian students.

The 1985 uprising started when four students from Bethlehem University were injured in the demonstration on April 1. As the demonstrations spread in the territories, a Palestinian taxi driver was killed in Jerusalem on April 23, and a general strike occurred in Jerusalem on April 25 (*al-Quds*, 2, 24−26 Apr. 1985.). The uprising of 1985 reveals the changing nature of these political activities. It did not have leaders such as the mayors; instead, the students took a very active role in the demonstrations. The first casualties caused another clash on the next day.

The 1986 uprising occurred after the deaths of two students from Birzeit University during a demonstration in protest of a new checkpoint on December 4. After this incident, large demonstrations and strikes occurred in the West Bank and the Gaza strip (Aronson [1990:320], Johnson [1987:138]). There was a very active demonstration in the Balata refugee camp, as there were two casualties in that camp. The protests continued for several days, and resulted in four deaths, with 25 people injured (al-Azʿir [1991:55]).

It has also been noted that the uprising of 1986 was leader-less and students took the main roles in the action (Johnson [1987:138]). The nature of the development of these uprisings is very similar to that of the Intifada of 1987. These uprisings started as successive leader-less clashes. From this point of view, the Intifada of 1987 should be

understood as a continuation of previous uprisings. It is thus harder to conclude that the Intifada occurred because the political opportunities in Israel changed (Alimi [2007b]). Especially after 1982, the uprisings had become daily events. Therefore, the Intifada was not the only uprising in the territories.

Ⅴ. The Intifada and the Leadership

Although there are many similarities between the Intifada and the former uprisings, only the Intifada of 1987-featured leadership that issued leaflets designed to increase mobilization. The history of why the Intifada of 1987 was the only uprising after 1982 that developed leadership will be better understood by analyzing the effects of the Lebanon war (1982).

The PLO saw their base for armed resistance deported from Lebanon as a result of the war. Therefore, the conflict inside the PLO intensified. The 17th Palestinian National Council(PNC) in November 1984 was acrucial meeting forgetting past this dead lock; the product of this meeting was the Amman agreement(*Ittifāq 'Ammān*). Yasser Arafat (*Yāsir 'Arafāt*) sought to sustain the power of his Fatah organization by striking an agreement with Jordan. However, this agreement caused more harsh clashes between the factions. After many attempts, the reconciliation was realized at the 18th PNC in April 1987 (al-Åūt and al-Åūt [1990:980−981]). At that meeting, Fatah dismissed the Amman agreement and the Palestinian Communist Party participated in the PLO for the first time.

These circumstances inspired the factional organizations (Fatah, DFLP, PFLP, and Palestinian Communists party) inside the territories to form the United National Leadership of the Uprising (UNL, *al-Qiyāda al-Waṭanīya al-Muwaḥḥada li-l-Intifāḍa*). Although the UNL was quickly formed to organize the uprising, its organizational structure was still very much affected by former political activities. The members of UNL were anonymous, and they rotated the roles (Hiltermann [1991:237]). In addition, the UNL had a dual group of leaders who determined political directions and issued leaflets (Qumsiyeh [2011:139], Ashrawi [1995]). From these perspectives, UNL had a very strong organizational structure in place to resist the regulation of the Israeli authorities.

Islamic Resistance Movement (Hamas, *Ḥaraka al-Muqāwama al-Filasṭīnīya*) also issued leaflets, and tried to mobilize the people from leaflet number 6 (issued on February 23, 1988). However, compared with UNL (until late 1988)[3], Hamas issued many fewer commands. Therefore, it is believed that there was not much confusion in the leadership in the early months. Inaddition, UNL and Hamas agreed on a general strike every ninth day of the month after May 1988(Jamal [2005:114]).

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3) Legrain [1991] is the main source for these leaflets. This text includes almost all of the leaflets from the beginning of the Intifada to the end of 1988. There is also an English translation, Mishal and Aharoni [1994], but it includes some misleading documents, especially the Hamas' leaflets.

UNL leadership coordinated the uprising by setting the day and the action, and contributed to organization of the movements as well. UNL also brought ideological direction to the uprising by calling for support for the PLO and proclaiming the independent state as their goal. But it must be recognized that the role of UNL was just "coordinating" rather than "commanding," because some commands were not practiced by everyone (Hiltermann [1991:185], Emerson [1991:155]).

The UNL's "coordination" is one of the contributing reasons for the sustainability of the Intifada, which lasted until 1993. However, even with this leadership, the Intifada clearly faced a very critical turning point in its first year. King Hussein of Jordan declared his intention to separate the West Bank from his kingdom on July 31, 1988. This caused new conflicts among the factions because some organizations, like Fatah, aimed for the independence of Palestine, which consisted of the West Bank and Gaza strip.

Hamas' leaflet number 28 (issued August 18, 1988, the first day of 1409 H) insisted that "some of our people gladly accept this [Hussein's] decision⋯and consider it as the best acquirement of the Intifada⋯how can we say to who lost their lives in these years for liberation of Palestine?" (Legrain [1991:210]). On the same day, Hamas issued the Charter (*Mīthāq Ḥaraka al-Muqāwama al-Islāmīya*), which was intended to provide clear recognition of this period, and said in article 13 that "if you abandon any piece of Palestine, it means abandon of the piece of religion."

There were also the conflicts inside UNL as PFLP reacted to Fatah's agenda. In particular, after the PNC conference of November 1988, which declared the independence of Palestine, PFLP issued their own leaflet that claimed "We, People's Front for Liberating of Palestine veto attending the (PNC's) meeting, then excluded from it⋯What we believe is the PFLP is the last unity force to correct the PLO" (Legrain [1991:290]). Finally, Hamas issued a call for a three-day strike, beginning November 13, without coordination with UNL. UNL subsequently criticized Hamas in their leaflet number 29 (there are two version of the leaflet; one of them includes this criticism and the other does not). After this conflict, the character of the Intifada began to change.

Conclusion

The pro-PLO mayors who were elected in 1976 acted as the political leaders of the "Civil Resistance." The mayors, who were elected in the "Governmental Political Sphere," established the NGC in 1978. This organization included trade unions, women's organizations, and student organizations. At the same time, PLO factions came to be interested in political activities inside the territories, and challenged the communist hegemony over organizational activities. They established their own factional organizations such as trade unions, women's organizations, and student organizations. The point can be made that the political sphere inside the occupied territories transitioned from "Governmental Political Sphere" to "Popular Political Sphere."

Israel's "iron fist" policy closed the "Governmental Political Sphere" by discharging the pro-PLO mayors. However, on the other hand, the policy caused leaderless uprisings in the "Popular Political Sphere." These uprisings began as a reaction to regulation and casualties in the battles, but then faded without any united leadership until the uprising of 1987.

After these uprisings, the Intifada occurred. Only this uprising featured united leadership of the four PLO factions. This leadership coordinated the uprising, so that it endured longer than the former uprisings. In short, there were continuous uprisings inside the territories after 1982, but only the uprising of 1987 was coordinated by united leadership, and because it was thus sustained for several years this uprising came to be known as the "Intifada."

This conclusion has been reached by analyzing the first years of the Intifada. However, more comprehensive studies are needed that include the entirety of the Intifada. The "interaction" between the Israeli authorities and the movements must also be considered. These tasks are left for future studies.

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The New Silk Road and Energy Silk Road in the 21st Century

HONG, Seong Min｜HUFS

Ⅰ. Introduction

The 9/11 event in the late 2001 caused epochal changes in the world economy. One of the impacts is what you call an appearance of the New Silk Road. The Gulf region's oil dollars began to turn away from the US. China began to exercise her economic power to Central Asia and the Middle East with rapid economic growth. Hence the Gulf region's capitals and China's foreign capitals stockpiled a large share of global currency reserves.

After five centuries of estrangement, the ancient Silk Road came back to life again in the world economy. Trade in CHIME(China-Middle East) region has been rising steadily since the 9/11 event. The main actors on this new route are the Gulf Countries' investors finding for right places to invest their oil dollars, including Islamic capital and Sovereign Wealth Fund (SWF) and Asians expecting to secure energy supplies and find commercial markets.

In this process pipelines as the pathway of energy resources and the railroads in the transportation through the Central Asia, as the center of the eastern and western trade route, brought about the importance of the ancient Silk Road. Today's the New Silk Road between Asia and the Middle East is an example of sustainable growth in emerging markets, validating the strategic economic partnerships with China and India.

The New Silk Road is a region that stretches from North Asia to North Africa, includes 61% of the world's population, and accounts for 33% of the world's economy. It is a group of countries that have historically accounted for much of the world's trade. The New Silk Road's share of the global economy is rising steadily. Its share rose from 15% to 33%, on a PPP-basis, between 1980 and 2009.

However, the New Silk Road does not simply mean only energy resources. NSR also

interchanges man, commodity and information as source for ideas, culture, and religion existing the east and the west. Trade between the Middle East and Asia is expanding with oil, gas, petrochemicals, water technology and banking moving east, while commodities, migrant labor, investment, and so on, is moving west. This is establishing a new trade route that is reviving the historic trade of the ancient caravan network across the mountains, deserts and steppes of Asia.

This paper aims to examine the meaning of the New Silk Road, particularly Energy Silk Road in the modern context. It also examines the importance and role of Central Eurasia between the Middle East and China. Lastly it analyzes the role of Energy Silk Road as the New Silk Road in the 21ˢᵗCentury.

Ⅱ. The New Silk Road and the Middle East

1. Definition of the New Silk Road

The Silk Road is generally called as an extensive interconnected network of trade routes between the East and the West. Its name originated from the lucrative silk trade, which began during the Chinese Han Dynasty(206 BCE – 25 AD) and connected trade routes into an extensive trans-continental network. It has been known that the Silk Road was first opened during the first half of the Han Dynasty. The name of 'Silk Road' was first coined in 1877 by the German geographer Baron Ferdinand von Richthofen (1833–1905), who made seven expeditions to China from 1868 to 1872[1].

We have known that two events occurring within days of each other in late 2001 brought about an epochal change in the world's strategic system, drawing China and the Mid-East oil powers into each other's arms again after five centuries of estrangement. The old Silk Road came back to life. The Twin Towers attack of 9/11 – and the backlash that followed – caused the Arab world and its money to turn away from the US. China's breakneck growth over the next seven years lifted the price of oil from $18 to a peak of $148 a barrel. In synergy, China and the Gulf capitals amassed a vast share of global currency reserves. It is the link between the two events. Ben Simpfendorfer, the author of "*The New Silk Road*" *said* [2] ;

"The New Silk Road is much like the old one, then a network of trade

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1) Ciolek, T. Matthew. "Old World Trade Routes (OWTRAD)". Asia Pacific Research Online. http://www.ciolek.com/owtrad.html.

2) Simpfendorfer, Chinese economist at the Royal Bank of Scotland said "These are regions with very rich civilizations that both experienced colonial occupation, and feel that they have fallen. Both peaked around the same time in the golden years of the 1500s, and now there is this sense of shared destiny that China and the Middle East are back and rising again together," at the annual FIKR Arab Thought summit in Kuwait. *The Telegraph,* "Arabia takes the New Silk Road to China, spurning the West," Friday 21 January 2011

caravans moving dates, spices, medicines and cloth east in return for oranges, roses, jade, musk, satins and silks, along countless routes stretching across Central Asia. In the West we think of Marco Polo: the Arabs have their own Ibn Battuta, a Moroccan Berber who roamed much of the known world in the 14th century and reached imperial Fujian in a junk."

Simpfendorfer says China's rise will be rocky. The "big bang" reforms of the 1990s that allowed the Chinese to buy property and opened up markets for WTO accession will not be repeated. There is nothing like that this time. China is pinning too much hope on the revival of Western demand. It is irking the rest of the developing world by holding down the yuan. As for the West, there is still much ruin in our civilization, to paraphrase Adam Smith.

"We're seeing the rise of the East, but I don't think we're seeing the fall of the West. China and the Middle East are for the most part massively short of food and water. The US, Australia, France and Germany are all food exporters, and if climate change is serious, that is a huge strength for the West[3]."

In recent years the term of the New Silk Road (NSR) has been widely used since 2000s. To be exact the name of NSR was coined after the 9/11 event in 2001 in the US. It caused the Arab world and its money to turn away from the US. The main actors on this new route are Arab investors looking for right places to invest their oil dollars, including Sovereign Wealth Fund (SWF) and Asians seeking to secure energy supplies and find markets for the goods produced by their factories. In this process pipelines as the pathway of energy resources and the railroads in the transportation through the Central Asia gave rise to the importance of the Old Silk Road. Accordingly the Central Asia is spotlighting as the center of the eastern and western trade route.

However the New Silk Road does not simply imply only energy resources but carry many cultures along this route. NSR also interchanges as source for ideas, culture, and religion flowing the east and the west. It carries the knowledge and wisdom of the east to the advanced technology and the wealth of the west. The New Silk Road is important in every aspect of the modern civilization.

Today the word of "The Silk Road" has used the extended meaning, expressing the trade route between the east and the west beyond the meaning of the route for silk. Really the term of "The Silk Road", a proper noun has changed into a common noun, symbolizing the modern trade route as "The New Silk Road". It is necessary that the term of the "The Silk Road" has to define a modern meaning with the current of the times. In its synthetic meaning, I dare to define that the New Silk Road is "The Civilization Road" in the 21st century.

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3) *The Telegraph,* "Arabia takes the New Silk Road to China, spurning the West," Friday 21 January 2011.

The New Silk Road is a group of countries that are bound together by history, geography, and culture. It is a region that stretches from North Asia to North Africa, includes 61% of the world's population, and accounts for 33% of the world's economy. It is a group of countries that have historically accounted for much of the world's trade.

The New Silk Road's share of the global economy is rising steadily. Its share rose from 15% to 33%, on a PPP-basis, between 1980 and 2009. The gains have come not only at the expense of the developing world, but also Eastern Europe and Latin America. The region's rise will not be a straight-line trajectory, and there are road bumps that might yet cut potential GDP growth rates. For example, East Asia has yet to rebalance away from exports towards private consumption, while the Middle East is still overly reliant on oil. Nonetheless, based on our 10-year nominal GDP forecasts, the new Silk Road's growth rates will be higher than those of the developed economies, and the region's share of the global economy will rise from 33% to 46%, on a crude PPP basis, between 2009 and 2020.

The region's rise will only strengthen the argument for a rebalancing of global institutions. For instance, the new Silk Road accounts for just 20% of the IMF's quotas, or less than its actual share of the global economy. Efforts to raise quotas have only just begun. Not all the region's countries are equal. East Asia and South Asia are the region's growth engines. China, India, and Korea alone account for 66% of the New Silk Road's economy. By contrast, Saudi Arabia, the world's largest oil producer, accounts for 3% and ranks between Taiwan and Thailand. It also matters that East Asia has maintained an average 6% growth for 30 years. By contrast, South Asia and the Middle East have impressed recently, but have yet to be tested in the medium-term. It is thus encouraging that both are recovering from the crisis[4].

2. New Silk Road and the Middle East

The Arab world and Asia have a legacy of trade ties dating back to caravans that transported textiles and spices across the desert on the so-called Silk Road and to Gulf traders that sailed the blue waters of the Indian Ocean in chunky ships known as dhows. Today a new Silk Road leads from the busy ports of Shanghai, Hong Kong, and Singapore to the Gulf region - and from sparkling airport lounges in Dubai and Riyadh back to Asia's bustling cities. The merchants on this new route are Arab investors looking for smart places to park their oil dollars and Asians seeking to lock up energy supplies and find markets for the goods churned out by their factories[5].

For more than 1,000 years, the Silk Road that ran for 11,000km from the Mediterranean across Asia to China brought east and west together and helped lay the

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4) *The Gulf Intelligence,* "A shift in the world's centre of economic gravity," The New Silk road: China Dubai Forum - Q1, 2011.
5) *Bloomberg Businessweek*, "The New Silk Road," Emerging Market Report, November 6, 2008.

foundations of the modern world. The fabled network circled the planet, until, in the 16th century, it faded into history as ships were able to transport goods cheaper and faster to far-off Cathay than over the hazardous land route that crossed some of the world's most inhospitable terrain.

Now, more than five centuries later, the New Silk Road is emerging, a commercial corridor that runs from the Middle East, with Dubai as its unofficial commercial capital, to Beijing, Shanghai and Hong Kong, Mumbai, Chennai, Kuala Lumpur, Singapore and Tokyo.

Trade between the Gulf and Asia is mushrooming with oil, gas, petrochemicals, water technology and banking moving east, while consumer products, migrant labor, energy investment, and so on, is moving west. This is establishing a new strategic link that is reviving the historic commerce of the ancient caravan network across the mountains, deserts and steppes of Asia.

Since 2006 Asia has been the main trading partner of the six GCC states, which collectively form the equivalent of the 16th largest economy on the planet. The Standard Chartered Bank estimated that in 2007 some 55% of the GCC's total trade of $758bn was with Asia. Oil, of course, accounted for much of the eastward traffic but the volume of manufactured goods is increasing[6].

The New Silk Road is largely the result of the confluence of China's and India's economic growth and high oil prices. China and the six oil-rich members of the Gulf Cooperation Council (GCC) are flush with cash. What's more, Chinese and Indian energy needs will ensure that the GCC region – the equivalent of the world's 16th-largest economy – continues to grow. By 2025, forecasts show, China will import three times as much oil from the Gulf region as the United States. Key caravan posts on the New Silk Road are regional economic winners or rising stars[7].

The old Silk Road civilization centers such as Persia (Iran), the Levant (Lebanon, Syria, Jordan) and Mesopotamia (Iraq) lag behind. Dubai, it might be argued, is the unofficial Middle East capital of the new Silk Road – a gathering place of capital, ideas and traders fueling the growth – and Iran, once a central force, are the sick man, albeit with enormous potential.

Investors from the GCC have been pouring money into real estate, banking and infrastructure across Asia. Meanwhile, Chinese, Korean, Indian and Japanese companies are active in Middle East real estate, consumer products and industrial investments. China and Egypt – another Silk Road laggard, just now sputtering to life – have pledged to double trade in the next few years. This new Silk Road is not only boosting economies (the India deal is expected to create 100,000 jobs) but is changing the geoeconomic and geopolitical landscape of the East, with serious ramifications for U.S. policy[8].

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6) "Weaving a New Silk Road: Power is Moving from West to East," http://www.thefreelibrary.com
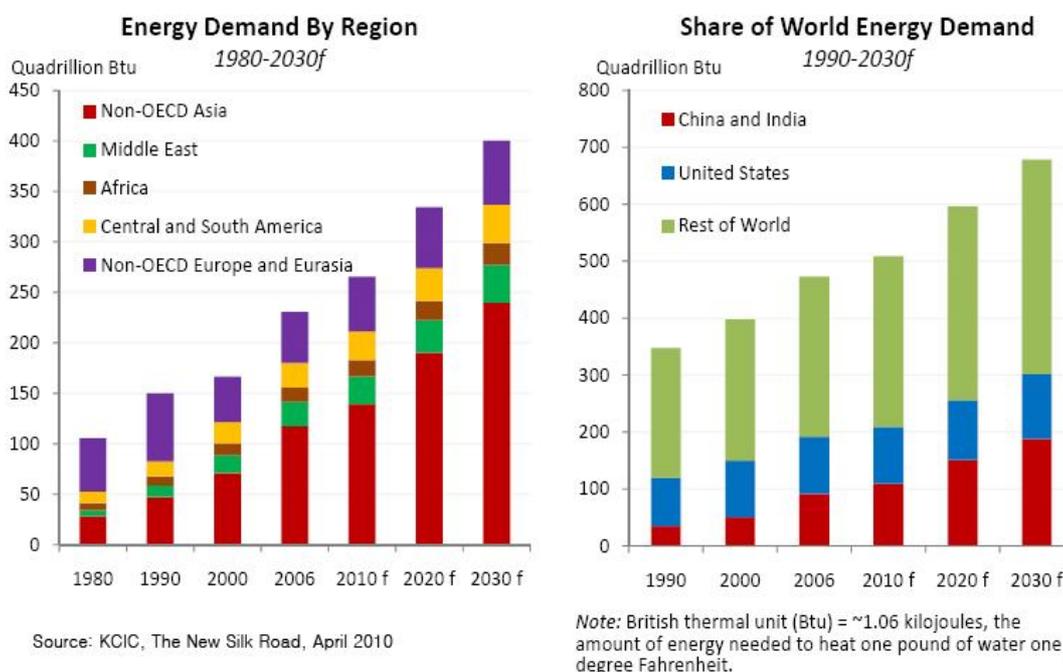7) There are Dubai, Beijing, Mumbai, Chennai, Tokyo, Doha, Kuala Lumpur, Singapore, Hong Kong, Riyadh, Shanghai, Abu Dhabi.
8) Afshin Molavi, "The New Silk Road," *The Washington Post,* Monday, April 9, 2007.

The New Silk Road between Asia and the Middle East is an example of sustainable growth in emerging markets, validating the strategic economic partnerships with China and India. Trade in the China-Middle East region (CHIME) has been rising steadily, with the UAE as China's 5th largest trade partner, registering a surplus of US$ 7.6 billion in the first half of 2007.

Oil and gas will remain key Gulf exports to Asia, primarily to meet the growing needs of China and India. Half of Saudi Arabia's oil production of some 8m barrels a day is now going to Asia. Industry forecasts indicate that by 2025, China will be importing three times as much the Gulf oil as the United States. Aramco has signed a deal with the state-run China Petrochemical & Chemical Corporation (Sinopec) to boost Saudi oil imports to 1.5m barrels per day by 2015, almost double its 2008 level.

[Figure 1] Trend of Energy Demand Share by Region

Source: KCIC, The New Silk Road, April 2010

Note: British thermal unit (Btu) = ~1.06 kilojoules, the amount of energy needed to heat one pound of water one degree Fahrenheit.

Historic bonds between the Middle East and Asia are being revitalized in a torrent of trade and investment in energy, infrastructure, and manufacturing. The New Silk Road spans the globe, connecting companies and consumers in Latin America, the Mideast, Asia, and Africa, and generating some $2.8 trillion in trade, according to the World Trade Organization. The U.S. and other developed countries hope to find their place on the Silk Road, the central player is China. Chinese exports to the emerging world accounted for about 9.5 percent of its gross domestic product in 2008, compared with 2 percent in 1985. The New Silk Road will also boost trade between Beijing and Brussels, and create extraordinary economic opportunities for the Central Asian countries. The Arab world will find a reasonable way and it will remain a key element in the changing global trading patterns that will shape the economies of the 21st century.

[Map] Old Rout, New Trade
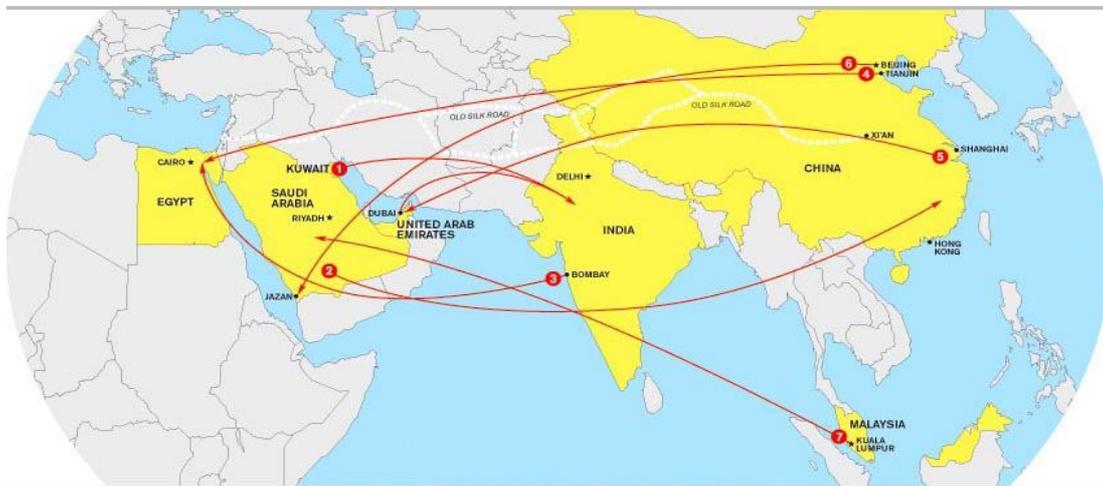
1. **Gulf money** is pouring into Indian real estate
2. Saudi Arabia ships **790,000 barrels** of oil a day to China
3. Indian textile manufacturers are setting up near the **Suez Canal**
4. A Chinese group is building an **industrial zone** on the Red Sea coast
5. China exports **$68 billion in goods** to the Mideast annually
6. Chinese contractors are planning **an aluminum smelter** at Jazan Economic City, near the Saudi border with Yemen
7. Malaysia's MMC is a partner in Jazan; Kuala Lumpur is becoming a center for **Islamic finance**

Source: http://www.businessweek.com/magazine/content/08_46/b4108046862940.htm

As good luck would have it this new trade route nearly coincides with the Old Silk Road which had stopped since the 17th century. Basing on this reason, many of us widely call the new route by the name of the New Silk Road on the one hand and by the name of Energy Silk Road, emphasizing the energy resources on the other. Most of the roads in the Central Asia were ruled by Russia before 1990s. Now Russia and China are still competing for the hegemony of oil and gas development in this area and the struggle between US, participating EU and Japan, and China with Russia and Iran is upholding after the Afghanistan War[9].

Ⅲ. Energy Silk Road and Central Asia

1. What is the Energy Silk Road

Ancient Silk Road has connected China and Central Asia for a long period of time. However, this route of trade and culture lost its previous influence with the change in

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9) AMEinfo, "New Silk Road has Global Significance for Dynamic Economies," September 10 – 2007.

patterns of trade, the initiation of other routes and attitudes of people towards each other and destructive effects of wars throughout this geography. Currently, ancient Silk Road gas revived with the energy trade between China and Central Asian states. Revival of the Silk Road has constructed a kind of a two way road between China and Central Asian states. Both sides have different gains, interests, aspirations and calculations in the formation of energy trade which has already transcend to other issue of areas.

The Silk Road is rising again today. Having long remained economically secluded from a global economy that privileged maritime transportation, it has been regaining its former place as a lynchpin between Asia and Europe. Its reemergence has been fuelled by several factors. The breakup of the Soviet Union, the birth of the European Union in the early 1990s and, most recently, the rise of the Chinese and Indian economies and their bullish reentry in the world markets, when combined with parallel growing energy demands of Asian countries, the need for inland transportation, and the development of new energy technologies and resources have made the Silk Road once again an indispensable corridor for transportation and cultural exchange.

However, while the Silk Road's ancient role as cultural and commercial bridge has been revived, the "New Silk Road," as it is now called, differs in that its Central Asian home is today as important as a production zone as it once was as a trade corridor: Central Asian oil and gas are quickly turning the region into a full-fledged international player in its own right. As a result, all roads no longer merely run through Central Asia, they run to it, marking first power reversal between East and West in five centuries. Further, in what could well be the most significant geopolitical realignment of the 21ˢᵗ century, the new energy scene is re-centering the MiddleEast eastwards.

Since the mid-1990s Asian energy demand has increased at truly stunning rates as consumption of the full range of fossil fuels—oil, natural gas, and coal—has rapidly grown. Quite naturally then, energy trade and investment between Asia and the Gulf have boomed since the mid-1990s. This is one important manifestation of a rapidly shifting architecture of global oil and gas markets away from a system dominated by flows of oil and LNG from the key producing regions to the rich, industrialized world of the United States, Europe, and Japan and toward fast-growing markets in developing Asia. New capital flows, energy partnerships, and strategic relationships are rapidly being built based on this historic shift in energy demand[10].

Energy trade between China and Central Asia that is regarded to be the revival of the Silk Road in terms of energy trade has constructed a state of interdependence among the parties. In fact, recent events have proven the fact that energy interdependence has spread to political aspects. Political unrest of Uigur Turks in Xinjiang province of China did not find any kind of support from Central Asian states. Central Asian states have tended to regard the issue as a domestic issue of China and refrained to interfere in the issue in one way or another. Both sides have proven to be careful not to deteriorate the course of relations that has been institutionalized through the interdependence structured by the

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10) Ibid., pp. 514-515.

energy trade[11].

Energy trade among Central Asian republics and China, which can be regarded as the revival of the Silk Road in terms of energy trade[12], acquires not only an economic significance but owns a great amount of strategic importance at the same time. However, the success and the strength of every project are linked to the behaviors of the parties, as it is the case in almost all international engagements. The success of any kind of international engagement is directly proportional to the importance and prominence that have been attached by the participants. Energy Silk Road is no exception to that. It is evident that the new Silk Road cannot be accomplished on the cheap. It will require significant resources, regional cooperation and focus by policymakers[13].

These momentous changes, however, leave the New Silk Road vulnerable to the ambitions of powerful states such as the European Union, Russia, China, India, and the United States. Besides having competing designs, these powers exhibit varying degrees of concern for and involvement in issues such as regional development, transportation, trade, and resource exploitation. This in turn intensifies the pressures on an ancient prime land corridor now in search of identity and structure[14].

2. Role of Central Asia in the Energy Silk Road

Central Asia has always been a region of utmost importance for China throughout the history. Current Chinese interest toward Central Asia has an aim to reduce her reliance upon Middle Eastern oil supplies that have to travel via the Indian Ocean, the Strait of Malacca and the South China Sea. Since China endeavors to strengthen her presence in Central Asia, she pursues active oil diplomacy. In strengthening her position throughout the region where both hydrocarbon resources and overland pipeline routes are not subject to the domination of the United States, China has participated in various economic activities that provide ground for interdependence that open another reason for strengthening various relations in different aspects[15].

Since the beginning of the 21st century competition among great powers over energy resources and pathways have gotten remarkably intense, promoting rapid growth in energy prices and geopolitical considerations involving energy security. Central Eurasia (CEA), forming the heart of the crescent Eurasian space, has been of particular interest to the great powers due to its vast energy resources and strategic location.

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11) Ibid., pp. 514-515.
12) The National Bureau of Asian Research (NBR), in coordination with the Global Energy and Environment Initiative at the School of Advanced International Studies of the Johns Hopkins University, organized a major conference entitled "The New Energy Silk Road: The Growing Asia-Middle East Energy Nexus," in May 2009 in Washington, D.C.
13) Ibid., pp. 531-532.
14) Board of Trustees of the University of Illinois, 2009, Central Asia: "The New Silk Road's Gordian Knot?," http://www.historycooperative.org/journals/whc/6.1/carls.html
15) Ibid., p. 526.

Central Eurasia is a region where the effects of geopolitics and great-power competition have perhaps been more clearly seen than elsewhere. Ethnic and religious conflicts, domestic political turmoil, energy competition among big oil and natural gas companies, and strategic positioning have been a recurrent feature of great-power competition in the region. This, in turn, has made CEA a pivot in the new world order, and especially so when seen in context of its rich energy reserves and the growing world energy demand. As stated in a report by the U.S. National Intelligence Council: "Growing demands for energy—especially by the rising powers—through 2020 will have substantial impacts on geopolitical relations."[16]

Energy Silk Road between China and Central Asia has established a kind of interdependence among the participants. Interdependence among the parties that has initialized with the use of energy trade has transcended to other areas as well. Each party has benefited from this engagement in different ways. Central Asian states have huge hydrocarbon potentials which are not explored completely. Central Asian states seek foreign participation in developing their hydrocarbons. In addition, Central Asian states are looking for foreign participants in order to transport their hydrocarbons to consumption markets. In this context, there are many actors that want to be active and influential in Central Asian energy calculations.

[Map 1] Central Asia's Oil & Gas Map: Fields and Pipelines
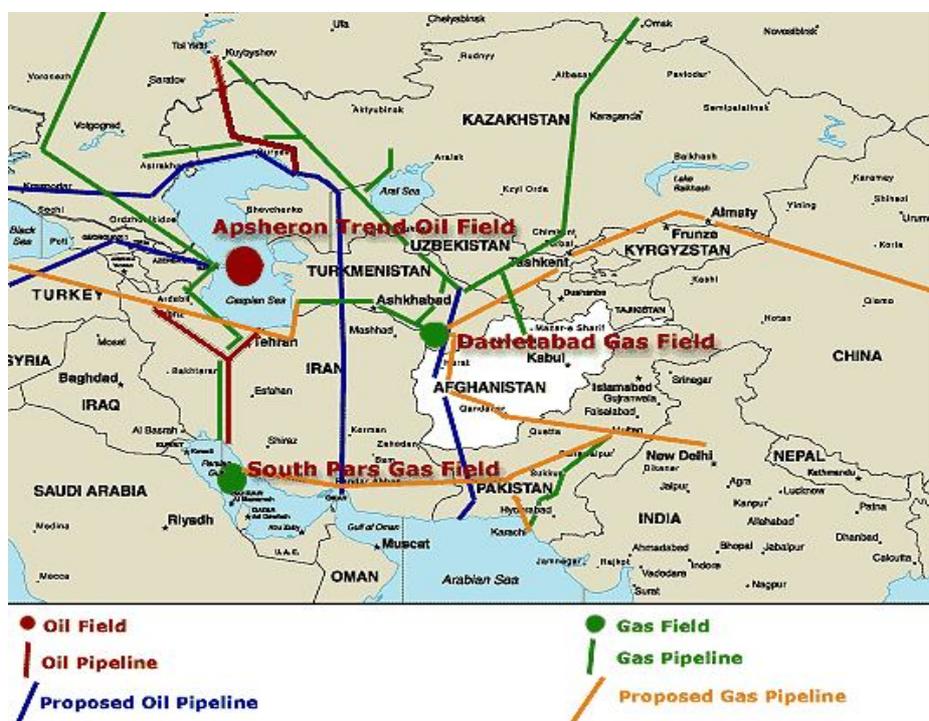
Source: http://www.worldpress.org/images/maps/central_asia1.gif

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16) Guo Xuetang, "The Energy Security in Central Eurasia: the Geopolitical Implications to China's Energy Strategy," *China and Eurasia Forum Quarterly*, Vol. 4, No. 4, Central Asia-Caucasus Institute, pp. 117-118.

China has appeared out to be a prominent figure among other actors. China finds an opportunity to access crude oil by participating in equity shares in different production areas of the region. Moreover, China finds an opportunity to buy crude oil from her border neighbors by the use of pipelines. China buys crude oil mainly from the Middle East. Transportation route between China and the Middle East is under the dominance of the navy of the United States. Therefore, China attaches great importance to Central Asian sources and routes. Central Asian states do not want to rely only to Russia and/ or the United States in formulating various alliances. These newly independent states want to establish economic, political and diplomatic relations with different partners. Energy cooperation between China and Central Asian states has proven to be beneficial for both sides in many aspects[17].

Central Asia (includes Caucasus in this discussion) historically has been a region where major powers fought for control of the overland trade routes between China on the east, Europe on the west, and Russia to the north. The various "silk" routes crisscrossed the region carrying out an active inter-regional trade. The rise of the Soviet Union in modern times changed the political dynamic of the region as Russia brought the five "stans" of Central Asia and the Caucasus within its political sphere. With Russia's dominance, the energy trade developed in a north-south pattern with all pipelines and other modes, rail, electric power lines, and water, all moving north into Russia. Today, the effort to break this monopoly on transport routes is at the forefront of energy politics in the region.

The players include Russia attempting to maintain its political and economic hegemony over the region; China entering into long term relationships to sustain economic growth and satisfy its energy security; EU seeking new sources of energy (primarily gas) to meet future demand and enhance its en‐ergy security; U.S. seeking to enhance its political and economic influence to counterbalance Russia and China; and the region's countries working out a delicate balance among all these competing interests. In this heightened political atmosphere, pipelines become the new Silk Road—the control over them is seen as the way to maintain Russia's political and economic hegemony or the way for each of the other players to break Russia's dominance and at the same time help the countries of the region diversify economically and politically[18].

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17) İdris Demīr, 2010, *Revival of the Silk Road in Terms of Energy Trade, Sos. Bil. D.,* Gaziantep Üniversitesi Sosyal Bilimler Dergisi, p. 513.
18) Leonard L. Coburn, "Central Asia: Pipelines Are the New Silk Road," *International Association for Energy Economics*, Fourth Quarter 2010, p. 19.

[Map 2] Two Prominent Energy Routes

Source: http://leftwrite.files.wordpress.com/2008/08/oil-pipelines-east-and-west.jpg
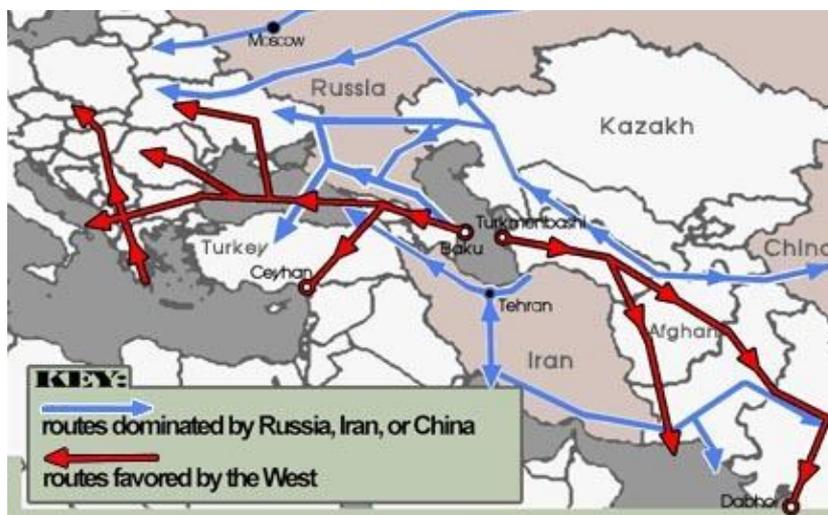
IV. Energy Silk Road as the New Silk Road in the 21st Century

1. The Rise of the Central Eurasia, CEA in the New World Order

Since the beginning of the 21st century competition among great powers over energy resources and pathways have gotten remarkably intense, promoting rapid growth in energy prices and geopolitical considerations involving energy security. The Central Eurasia (CEA), forming the heart of the crescent Eurasian space, has been of particular interest to the great powers due to its vast energy resources and strategic location. Indeed, CEA is a region where the effects of geopolitics and great-power competition have perhaps been more clearly seen than elsewhere. Ethnic and religious conflicts, domestic political turmoil, energy competition among big oil and natural gas companies, and strategic positioning have been a recurrent feature of great-power competition in the region. This, in turn, has made CEA a pivot in the new world order, and especially so when seen in context of its rich energy reserves and the growing world energy demand[19].

As stated in a report by the U.S. National Intelligence Council: "Growing demands for energy—especially by the rising powers—through 2020 will have substantial impacts on geopolitical relations."[20]

Geopolitically, the CEA region belongs to what Mackinder[21] designated as the

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19) Guo Xuetang, "he Energy Security in Central Eurasia: the Geopolitical Implications to China's Energy Strategy," Central Asia-Caucasus Institute & Silk Road Studies Program, China and Eurasia Forum Quarterly, Volume 4, No. 4, 2006, pp. 117-118.

20) "Mapping the Future," Report of the US National Intelligence Council's 2020 Project, NIC December 2004, p. 59.

21) Sir Halford John Mackinder (15 February 1861 – 6 March 1947) was an English geographer

"heartland" and is the center of Zbigniew Brzezinski's "black hole" of power, equating to "the Eurasian Balkans" implying a major risk of ethnic conflicts and great-power regional rivalry[22].

According to the BP Statistical Review of World Energy, proven oil reserves of the five Caspian littoral states total 216.4 billion barrels, while total gas reserves are estimated at 2819. trillion cubic feet. In terms of percentages, the five Caspian littoral states have about 18.8 percent of the world's total proven oil reserves and 45 percent of the world's total proven gas reserves. (Note, [Figure 2] and [Figure 3])

[Figure 2] Caspian Proved Oil Reserves (2008)
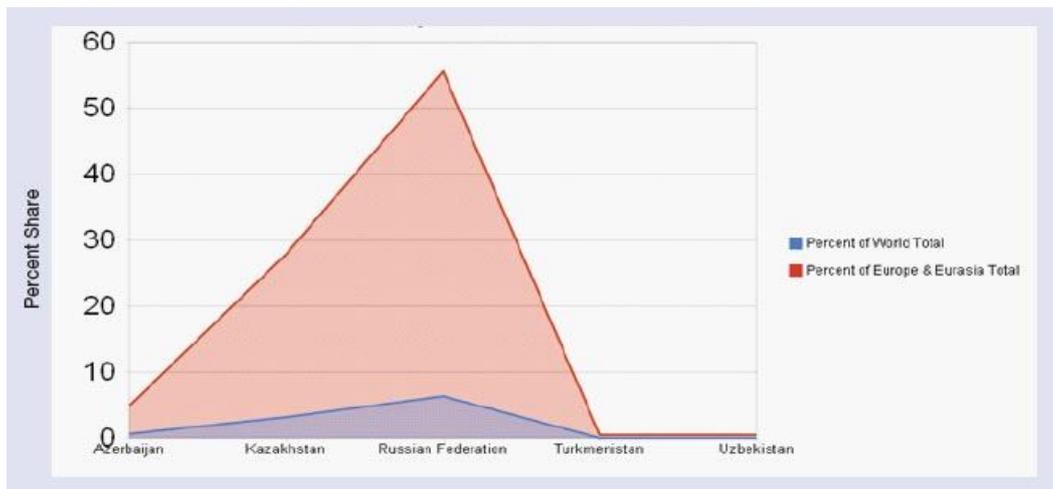
Source: British Petroleum, *BP Statistical Review of World Energy*, June 2009,
http://www.bp.com/statisticalreview.

[Figure 3] Caspian Proved Gas Reserves (2008)
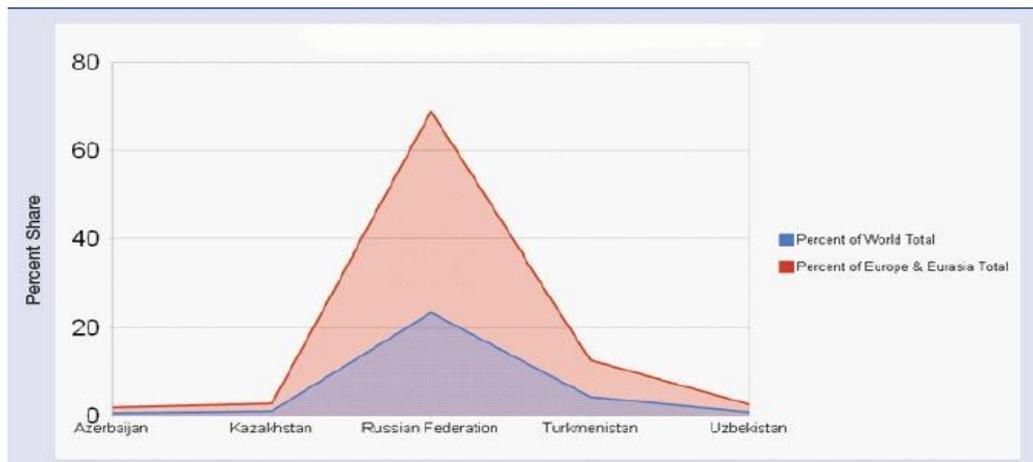
Source: British Petroleum, *BP Statistical Review of World Energy*, June 2009,
http://www.bp.com/statisticalreview.

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and is considered one of the founding fathers of both geopolitics and geostrategy.
22) Zbigniew Brzezinski, 1997, *The Grand Chessboard: American Primary and Its Geostrategic Implications,* chapter 4-5, (Basic Books).

Officials and analysts from the U.S. Energy Information Agency stated in 2004 that the world's unproven oil reserves are expected to double in the next two decades, where states located in the former Soviet space will account for a projected fourfold increase. As such, there should be no doubt that total Caspian oil and gas reserves are set to be adjusted upwards in the coming years, where the major share of this increase will flow from Kazakhstan, Turkmenistan and Azerbaijan. Meanwhile, the proportion of the Caspian region's energy exports as a share of total world energy supply has increased[23].

The emerging strategic landscape of the region has not only affected the interests of the U.S., but also the national interests of neighboring countries, such as Afghanistan, China, Iran, Pakistan, Turkey and even Ukraine, as well as outsiders like the European Union, India, and Japan. All of these contest for influence in one way or another, although some are more successful and have more leverage over the CEA states than others[24].

2. Geopolitical Rivalry on the New Silk Road

This great-power rivalry which has primarily manifested itself in the early 21st century has penetrated CEA affairs politically, economically and militarily to the extent that it has been described in terms of a "New Great Game". This game was intensified by the precarious situation that the CEA states found themselves in as the Soviet Union disintegrated.

All CEA states faced major problems in achieving domestic social stability and economic growth. This, in turn, created a power-vacuum in CEA igniting geopolitical turmoil over the vast energy resources found in the post-Soviet successor states. As Mehdi Parvizi Amineh, an expert on CEA energy security notes:

> "With the end of Soviet control over CEA and Caspian region natural and human resources, there emerged a New Great Game amongst the many players interested in access to the region's oil and gas reserves (…) This mixture of changing world politics suggest that the post-Soviet New Great Game for the influence and control of CEA and the Caspian resources is far more complex than the 19th century competitive colonization of the region by the Anglo-Russian Powers."[25]

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23) In 2001, the five Caspian littoral states exported a total of about 9.2 trillion barrels of oil and 12.05 trillion cubic feet of natural gas to the international market, but exports are estimated to increase to 31.5 trillion barrels of oil and 41.5 trillion cubic feet of natural gas by 2010.

24) Guo Xuetang, "The Energy Security in Central Eurasia: the Geopolitical Implications to China's Energy Strategy," Central Asia-Caucasus Institute & Silk Road Studies Program, China and Eurasia Forum Quarterly, Volume 4, No. 4, 2006, pp. 118-120.

25) Mehdi Parvizi Amineh, 2003, *Globalization, Geopolitics and Energy Security in Central Eurasia and the Caspian Region,* (The Hague: Clingendael International Energy Program), p.209.

This has sparked interest from China to US, India to Russia, and Japan to Belgium. National leaders and corporate executives have today stepped up their efforts to gain control over major sources of oil and natural gas in Central Eurasia. Events such as the 1973 oil crisis[26], a rapidly growing world demand, increasing dependency on the Middle East, and the collapse of the Soviet Union have intensified this race to secure alternative and diversified supplies[27].

Following the end of the Cold War, U.S. strategists began to pay more attention to the CEA region, and the Clinton Administration showed particular interest in CEA's energy and economic potential. The Bush government has also promoted massive and active involvement in CEA affairs both to restrict China's geopolitical rise and influence in the region while simultaneously coveting Russia's Central Asia "backyard". This was perhaps primarily seen in United States' support for the color revolutions that swept the region in the past few years, starting with the "Rose revolution" in Georgia in 2003, the "Orange revolution" in Ukraine in late 2004, and the "Tulip revolution" in Kyrgyzstan in early 2005. The domestic turmoil created by these revolutions also alerted the member states of the Shanghai Cooperation Organization (SCO) (China, Russia, Kyrgyzstan, Kazakhstan, Tajikistan and Uzbekistan) which demonstrated growing concern over this turn of events. Yet, the color revolutions were followed by another incident which perhaps proved to have even more profound influence over the regional geopolitics.

For centuries, Russia's control of the CEA region has had long-term and profound geopolitical implications for other great powers. Even though Moscow used natural gas as leverage to exert pressure on Ukraine in the winter of 2005 and has put increasing emphasis on energy diplomacy, its foreign policy towards these countries is not driven primarily by hopes of recapturing great oil wealth, but by geopolitical dominance[28].

With regards to China, it has gradually given CEA increased geostrategic significance since the end of the Cold War. As the U.S. established a military presence in Central Asia and the United States' carried out preventive military activities against China in East and South Asia by strengthening the U.S.-Japan alliance, deploying more strategic submarines and other deterrent weapons, and ingratiating with the Indians to counterbalance China's rising power, China's leadership has faced tougher geopolitical competition over Central Asia. Considering that China shares 3000 kilometers of borders with the three Central

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26) A central reason for "energy security" was that the 1973 oil crisis represented a triple threat: day-to-day life was disrupted; there was an economic threat; and there was a political threat. See John Mitchell with Koji Morita, Norman Selley and Jonathan Stern, *The New Economy of Oil: Impacts on Business, Geopolitics and Society*, Energy and Environment Programme (The Royal Institute of International Affairs and Earthscan Publications Ltd., 2001), p. 176.

27) Guo Xuetang, "he Energy Security in Central Eurasia: the Geopolitical Implications to China's Energy Strategy," Central Asia-Caucasus Institute & Silk Road Studies Program, China and Eurasia Forum Quarterly, Volume 4, No. 4, 2006, p. 120.

28) Ibid. 120-122.

Asian countries of Kazakhstan, Kyrgyzstan and Tajikistan, its importance for China's stability should not be underestimated. Besides, China's thirst for oil and natural gas to support its booming economic growth requires Beijing to develop close and stable relations with these countries, especially in terms of energy cooperation.

The U.S. is not the only energy rival of China in CEA. China is increasingly competing with India, since both countries are struggling to ensure future supplies by either buying into new foreign oil and gas fields or by signing supply contracts.

Fortunately, both China and India know they have similar energy strategies, acknowledging that traditional approaches to attain energy security may not be a solution to a forthcoming energy shock or shortage of supply. In April 2005, both parties reached an agreement on strengthening energy cooperation when Chinese Prime Minister Wen Jiabao visited India. Apart from the alliance established between China Gas Holdings and GAIL (Gas Authority of India Limited), India's largest energy conglomerate, the two countries have launched cooperation over the Greater Nile Oil Project in Sudan on oil refining and transportation, in which CNPC holds a 40 percent stake and India a 25 percent stake[29].

Iran has been striving for a dominant role in CEA through control of offshore oil and gas fields in the Caspian Sea, but disputes with Azerbaijan, an ally of the U.S., over the offshore fields have somewhat impeded full realization of Iran's strategy. Meanwhile, the dispute with the EU and the U.S. over its nuclear program entered a stalemate in 2006. Since the EU, Russia, China, Japan and India have major oil interests in Iran, the Iranian nuclear crisis will present a vital foreign policy challenge to Mahmud Ahmadinejad's government.

As the global struggle for energy has intensified, Japan has also been alerted to the potentials in Central Asia, especially since it lack resources itself and is heavily dependent on the Middle East. Currently, 87 percent of Japan's oil imports come from the Middle East, marking an urgent need for diversification of energy supplies. Central Asia presents a viable necessary, practical and effective choice for Japan to ensure a stable and sufficient flow of oil and gas supplies.

In 2006, representatives from 40 countries participate in a two-day Ministerial Conference on Transport, sponsored by UNESCAP. China, Indonesia, Laos, Korea, Cambodia, Russia, Turkey, Azerbaijan, Armenia, Kazakhstan, Iran and others designed an 81,000 km railway network linking 28 countries through tracks and ferry routes to boost Asia's economic development and direct route to European markets. The plan is to develop routes between Asian countries, then expand to its Central neighbors, and unto Europe.

However, Christina Lin(2011) insisted that the revival of the Silk Road is not a new concept. It had its first inception in 1959 when the United Nation Economic and Social Commission for Asia and the Pacific (UNESCAP), a UN organization based in Bangkok, initiated a project of a Trans-Asian Railway (TAR) network (See [Map 3).

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29) Ibid., p. 123.

[Map 3] Trans-Asian Railway Network

Source: UNESCAP, http://www.unescap.org. 2011.

In 2011, China conducted a test run of the 2nd corridor of the Eurasian Land Bridge. This is based on the original 2nd corridor launched In September 1990, when China's Beijing Line linking Urumqi and Alashankou was connected to Kazakhstan Railways, thereby linking Lianyungang and other ports in east China directly by rail with Rotterdam. An extremely long and narrow corridor crossing the belly of the Eurasian heartland connects these two bridgeheads (See [Map 4][30].

[Map 4] Route of New Asia-Europe Land Bridge and Trans-Siberian Railway

Source: Reproduced from Christina Lin, 2011, "The New Asia-Europe Land Bridge—Current Situation and Future Prospects," *Japan Railway & Transport Review*, December 1997.

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30) Christina Lin, 2011, "China's New Silk Road to the Mediterranean: The Eurasian Land Bridge and Return of Admiral Zheng He," *ISPSW Strategy Series: Focus on Defense and International Security*, No. 165, Oct 2011, pp. 2-4.

The United Nations General Assembly conference on September 22, 2011, U.S. Secretary of State Hillary Clinton, German Foreign Minister Guido Westerwelle and Afghan Foreign Minister Zalmay Rassoul issued a joint statement to revive the ancient Silk Road via a combination of modern highways, rail links and energy pipelines running across Central Asia, as a way of preparing Afghanistan's economy for post-2014 when coalition forces pull out of the country. In 1999 and 2006, U.S. Congress issued and updated *The Silk Road Strategy Act* to maintain U.S. influence in Eurasia. In 2004, Chinese Communist Party (CCP)'s mouthpiece *China Daily* published an article outlining China's concept of its Silk Road as an Eurasian Land Bridge connecting China to Europe across the Eurasian continent

In October 2010, China and Turkey conducted joint air combat exercises in the Mediterranean, whereby Turkey replaced Israel with China in its annual Anatolia Eagle exercise with other NATO members and partners. Pakistan and Iran participated as Chinese warplanes refueled in both countries en route to Turkey. Turkey, Pakistan and Iran are key nodes on China's New Silk Road, with access to the Mediterranean Sea, the Gulf, and Indian Ocean as well as overland access to Western China[31].

According to Christina Lin, a rising China appears to be expanding its western strategic frontiers across Eurasia via a quasi-Manchu State's policy. It is building a New Silk Road via its Eurasian Land Bridges and militarizing its transport corridors. Under Shanghai Cooperation Organization (SCO) and Economic Cooperation Organization (ECO) auspices, China is cooperating with Turkey, Iran and Pakistan to build railways across Central Asia and Afghanistan to link trains from Beijing to Istanbul and onto Europe.

At any rate, the New Silk Road as Energy Silk Road between China and Central Asia has established a kind of interdependence among the participants. Interdependence among the parties that has initialized with the use of energy trade has transcended to other areas as well. Energy cooperation between China and Central Asian states has proven to be beneficial for both sides in many aspects.

Transportation routes are regarded to be a source of geopolitical rivalry, as well. It is because of this fact that there are five different routes that are promoted and are fore grounded to carry the energy sources from the producing points to consuming markets. Different routes that are proposed for the unique situation of Central Asia include Northern, Southern, Western, Eastern and Southeastern routes. Russia, the Western countries and China appear out to be influential partners for Central Asian States in transporting their hydrocarbon resources to the consuming markets. Therefore, there is a strong struggle over the power of influence in the region among these actors[32].

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31) Ibid. 6-7.
32) İdris Demİr, 2010, "Revival Of The Silk Road In Terms Of Energy Trade," *Sos. Bil. D.* Ahi Evran University, p. 518.

Ⅴ. Concluding remark

Korea has long been major buyers of both crude oil and natural gas from the Gulf region. The rise of China and India as major energy buyers and investors in the Gulf coincides with their broader rise as economic and political powers regionally and globally. Conversely, the Gulf oil producers have also increasingly recognized that Asia, and particularly China and India, look like the region's largest and fastest-growing oil and gas export markets in the future.

As a result, the Gulf oil producers are busy developing new energy trade, investment, and diplomatic relationships with the newly rising Asian countries while also maintaining their traditional market and political relationships with them. This situation has caused to know the importance of the New Silk road. To some extent, NSR is the result of the connecting with Chinese and Indian rapid economic growth and high oil prices.

On this reason, Central Asia has become the reason for the great confrontation of global powers again. Current rivalry of influence over the region stems from the huge energy potentials. Both global and regional powers wish to be active and influential in acquiring larger share in CEA's energy markets.

China, buying crude oil mainly from the Middle East, wishes to find an opportunity to buy crude oil and gas from its border neighbors by the use of pipelines. Transportation route between China and the Middle East is under the dominance of the navy of the United States. Therefore, China has a great concern with the importance to CEA's resources and routes.

Today Central Asian countries do not want to rely only to Russia or the United States in formulating various alliances. They want to establish economic, political and diplomatic relations with different partners. In many aspects energy cooperation between China and CEA has proven to be beneficial for both sides.

For that reason, CEA wishes to play a pivot in the new world order in the future, and especially in context of its rich energy reserves. CEA has effects of geopolitics and great-power competition has perhaps been more clearly seen than elsewhere. Ethnic and religious conflicts, domestic political turmoil, energy competition and strategic positioning have been a recurrent feature of superpower's struggle in the region.

Moreover the New Silk Road has a various transportation functions such as a railroad, a traffic, trade and financial markets and tourist transits besides the function of energy moving. Since the beginning of the 21st century rivalry among great powers over energy resources and pathways have gotten remarkably intense, promoting rapid growth in energy prices and geopolitical considerations involving energy security.

Nowadays the NSR does not simply mean the route of energy resources, capitals and commodities. It became to imply the arena of competition by the superpowers. Nevertheless NSR will remain the important road to interchange sources for ideas, culture, and religion between the east and the west. Trade between the Middle East and Asia seems to be

expanding with oil, gas, petrochemicals, water technology and banking moving east, while consumer products, migrant labor and energy investment is moving west. This situation enables a new important connection that is reviving the historic commerce of the ancient caravan network across the mountains, deserts and steppes. Thus the New Silk Road seems to play a great role to spread the modern civilization between the East and the west as "the Civilization Road" in the 21ˢᵗ century.

Islamic Finance and Legal Risks

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Introduction

The modern Islamic finance movement started in a humble way as a small community finance effort in Egypt (1963) and grew gradually to become a small emerging finance industry in the Middle East (1973). Today, with the increase in demand for oil and gas and the increase in energy prices, many of the Gulf's oil-producing countries have accumulated large amounts of cash. Some of the owners of this cash have decided to use Islamic banks to manage it. This has helped the Islamic banking industry become high-growth industry. Moreover, as Islamic banking is relatively new, the risks inherent in the instruments used are not comprehended. Islamic banks can be expected to face two types of risks: risks that are similar to those faced by conventional financial intermediaries and risks that are unique owing to their compliance with sharia.

This paper discusses only legal risks that pertain to sharia compliance, which are distinctive in Islamic finance. Legal risks for Islamic banks are significant and arise for various reasons; as most countries have adopted either the common law or civil law framework, their legal systems do not have specific laws/ statutes that support the unique features of Islamic financial products. For Example, whereas Islamic banks' main activity is in trading (murabaha) and investing in equities (musharaka and mudaraba), current banking law and regulations in most jurisdictions forbid commercial banks undertaking such activities. Non-standardization of contracts makes the whole process of negotiating different aspects of a transaction more difficult and costly. Financial institutions are not protected against risks that they cannot anticipate or that

may not be enforceable, use of standardized contracts can also make transactions easier to administer and monitor after the contract is signed. Sharia Supervisory Boards have unclear mandate in governance, might be expected to achieve certain limitations on otherwise unacceptable conduct on the part of those charged with management. Finally, Islamic courts that can enforce Islamic contracts increases the legal risks of using these contracts.

I. Legal Risks in Applicable Law and Appointed Court

The legal and sharia framework is an integral pillar in the sustainable development of Islamic finance. The issue is extreme significant for Islamic financial institutions due to their fundamental objective to be complaint with sharia and given the fact that almost all Muslim countries are not strictly applying sharia as governing law upon commercial transactions in their business contracts.

Some middle Eastern countries where sharia is considered to be the fundamental source of legislation,the laws that have been enacted by the state relevant authority can be variance with the sharia. Many laws that have been passed have strong civil code influence, which is understandable as often their roots can be found in the Egyptian law, which in turn, can be traced to the French civil code system.(Zeti 2007: 1)

Consequently, even the party of certain Islamic financial transaction structure their agreements according to a classical Islamic legal form, the laws that govern the interpretation and enforcement of these agreements usually are wholly ignorant of that form. For example the ban on interest and excessive risk and uncertainty (gharar), the governing national law may apply principles that contradict Islamic law, such as the payment of interest even against the losing party's contention that the contract is un Islamic. At the same time, if the parties have agreed on terms that are questionable under Islamic law but allowed under local law, the local legal system will almost certainly enforce it, enabling parties to push the limits or even avoid Islamic law.

The practice of having the national law if a specific country or jurisdiction as the governing law in islamic finance agreements, despite it being based on civil or common law, raises some fundamental questions regarding the sharia compliance of islamic finance agreements. Indeed Islamic finance has to be complied not only with sharia principles, but also with the national law so as to be enforceable in the state civil courts. It is not enough that these agreements are approved by the sharia board as being sharia complaint if they conflict with the national law. Such conflicts will make these agreements vulnerable to judicial challenge in national courts. More importantly, what complicates the issue is the fact that even judges in those courts may not have

any sharia background and at the same time they are not under obligation even to refer to sharia experts for clarification on sharia issues before deciding on any dispute.(William 2005: 1)

An illustrative example about this challenge is a recent appeals court decision in an English case, Shamil Bank of Bahrain E.C. (Islamic Bankers) v Beximco Pharmaceuticals Ltd. And Others ("Shamil Bank v Beximco"), focuses on the enforceability issue in the context of a sharia-compliant transaction in which the governing law provisions of the relevant legal contracts contained the following language: "Subject to the principle of the Glorious Sharia, this Agreement shall be governed by and construed in accordance with the laws of England." This case provides a good starting point for achieving an understanding of how enforceability issues are addressed in a the state civil courts.

Shamil Bank v Beximco

In 1995, two companies in the Beximco group of companies (the "Beximco Companies") executed a murabahah agreement (the"1995 Murabahah Agreement") with Shamil Bank pursuant to which Shamil Bank advanced funds to the Beximco Companies for the purchase of specified goods. The 1995 Murabahah Agreement was guaranteed by two directors of the Beximco Companies and by the parent company of the Beximco Companies (the "Guarantors"). One of the Beximco Companies made several payments under the 1995 Murabahah Agreement in accordance with a payment schedule to that agreement. In 1996, the Beximco Companies entered into a second murabahah agreement (the "1996 Murabahah Agreement") with Shamil Bank, and funds were advanced pursuant to the 1996 Murabahah Agreement. The second of the Beximco Companies made various payments to Shamil Bank pursuant to the 1996 Murabahah Agreement and its related payment schedule. (Rose 2003: 2)

By late 1999, both Beximco Companies were in admitted default under the 1995 Murabahah Agreement and the 1996 Murabahah Agreement (collectively, the "Murabahah Agreements"). In 1999, the Beximco Companies entered into two Exchange in Satisfaction and User Agreements with Shamil Bank, and these were later amended in 2001 and 2002 (as amended, the "Ijarah Agreements"). Pursuant to the Ijarah Agreements, certain assets of the Beximco Companies were transferred to Shamil Bank in satisfaction of the Murabahah Agreements, the Beximco Companies were granted the right to use those transferred assets, and the Beximco Companies agreed to make payments to Shamil Bank in respect of such use. Each of the Ijarah Agreements was guaranteed by the guarantors. Pursuant to the constitutional documents of Shamil Bank, the sharia supervisory board of Shamil Bank ascertains that the "investments and

activities" of Shamil Bank conform to the sharia. The Shamil Bank board of directors has the responsibility, pursuant to the constitutional documents, to "ensure that all the investments and other business transactions [of the Bank] have been referred" to the sharia supervisory board. It is not clear from the reported decision whether or not the sharia supervisory board of Shamil Bank reviewed the precise transactions, and related documentation, pertaining to the Murabahah Agreements, the Ijarah Agreements, and the related guarantees. This presumably would be a factual matter to be determined at a trial. (Delorenzo and McMellen: 162-164)

In mid-2002, both of the Beximco Companies were in default under the Ijarah Agreements and defined "termination events" had occurred thereunder. Shamil Bank provided notices of default and made claims for approximately US $ 49.7 million the Ijarah Agreements and the guarantees provided by the guarantors. The lower court awarded judgment to Shamil Bank for approximately US $ 49.7 million. The lower court determined that it was not necessary to concern itself with sharia principles.

The governing law provision of each of the Ijarah Agreements reads: "Subject to the Glorious Sharia, this Agreement shall be governed by and construed in accordance with the laws of England." The governing law provision of each of the guarantees reads that such guarantee: "is governed by and shall be construed in accordance with English law" (there being no reference to the sharia). The critical issue at the appellate court level, as well as at the lower court level, in Shamil Bank v Beximco was whether the governing law clause in the Ijarah Agreements required the consideration of the sharia. The appellate court, like the lower court, determined that the governing law clause did not require consideration of the sharia. (Rose 2003: 2)

The appellate court opinion begins by noting that an English court must interpret a contract in accordance with the commercial purpose of the parties and the contract, and must thus take cognizance of "the genesis of the transaction, the background, the context, the market in which the parties are operating" and similar factors. In the instant case, this requires recognition of the fact that the contracts at issue (that is, both the Murabahah Agreements and the Ijarah Agreements) were intended to provide working capital financing with long-term repayment provisions and were to be binding upon the parties to those contracts. Further, and in acoordance with that same principle in respect of commercial purpose, the court noted that "insofar as each of the clauses provides in clear terms that 'this agreement shall be governed by and construed in accordance with the laws of England', the proviso that such provision shall be 'subject to the principles of the Glorious Sharia should be approached on a basis which is reconcilable with the purpose evident from the words which follow, rather than operating to defeat such purpose." (Delorenzo and McMillen: 164-166)

Turning to the governing law issues, the court noted that there can be only one law governing enforceability of the provisions of the contracts at issue. By concession in this case, that law is the law of England and not both English law and the sharia. The opinion notes that the Rome Convention has the force of law in the United Kingdom, and that the Rome Convention allows the parties to a contract to choose the law applicable to that contract, but that the law so chosen must be the law of a country. The court also notes that article 1.1 of the Rome Convention "is not on the face of it applicable to a choice between the law of a country and a non-national system of law, such as lex mercatoria, or 'general principles of law', or as in this case, the law of Sharia. Concurring with the lower court, the appellate court characterizes the sharia as a set of "Islamic religious principles" and "religious and moral codes," rather than laws of a nation.(Dutton 2004: 5)

The opinion the addresses the concept that the law of a nation (such as England) may govern a contract, but that contract may incorporate provisions of another foreign law or a set of rules as terms of the contract whose enforceability is to be determined by such national law.

It is clear from this case that resorting to Civlil court such as English court in this case may not be ideal or the appropriate venue to solve Islamic finance disputes. This is due to the basic that the English court is not a court abiding by sharia principle and this will be the case even with a court in a Muslim countries that does not abide by sharia principle. On the other hand, if the terms and conditions of the agreements are always clear and well documented, this could have simplified the task for the English court judge and the judges would have been in a position to judge primarily based on the intention of the parties. However, this is not generally the case in most of such agreements as it was the case in the Shamil case.

Moreover, even if the agreements are clear, there is a need for a minimum understanding of sharia by the judge in order to give a fair opinion on the litigation. In reality this may not be the case whether the judge is an English judge or judge in Muslim country, not trained in sharia issues.

Mitigations

One of the widely used solutions is to qualify the governing law clauses by including expressions that restrict the applicability of Western (English) Law or even the local law to the extent that it does not contradict with sharia principles. So the expressions to be added to the governing law clause such as "as long as it does contradict sharia principles" or "subject to sharia rules" or "without prejudice to the Islamic sharia principles" (Agha and Grainger: 1)

Another solution is to include a clause to the effect that the parties agree that the agreement shall be in compliance with sharia principles without direct reference to the governing law. Sometimes the governing law is drafted to include expressions such as "subject to the terms and conditions of transaction or the agreement" the agreement will be governed by the appointed law such as English law.

One more solution is that to avoid some of the complications of subjecting an Islamic agreement to non Islamic court or Jurisdiction, when the drafting clauses that subject the laws of a country to sharia, the parties could identify the specific governing principles of sharia that will apply to the contract, such as the exclusion of interest (riba).(Agha and Grainger: 2)

One of the most effective suggested solutions to the problem of governing law and the jurisdiction, for the short and medium terms, is the development of arbitration mechanism as an alternative method of dispute resolution in islamic finance. Since it is difficult to the courts based on the western legal system to resolve fundamental differences between scholars about sharia principles. So, parties looking to enter into agreements incorporating sharia principles should consider including a dispute resolution provision referring disputes about sharia and its applicability to sharia expert chosen by the parties or by suitable institution, for arbitration.(Khan 2011: 1)

Arbitration in Islamic financial disputes has improved in recent years. In 2009, for example, Malaysia passed the Bank Negara Malaysia Act 2009, which makes the decisions of the Sharia Advisory Council, binding upon the courts. The Kuala Lumpur Regional Centre for Arbitration (KLRCA) Rules for Islamic Banking and Finance Arbitration state specifically that the award of the arbitrator is binding, and the tribunal has the power to judge on matters concerning its own jurisdiction . The view that an agreement to arbitrate is binding is almost a consensus among states heavily involved in Islamic finance. This is reflected in Saudi Arabian Law of Arbitration and also in the UAE Civil Procedure Code.[1] (Agha 2009: 33)

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1)The Kuala Lumpur Regional Centre for Arbitration (KLRCA) houses a specialized department to arbitrate Islamic financial disputes. The Asian-African Legal Consultative Organisation (AALCO) established KLRCA in 1978 to facilitate commerce between its 47 member states. AALCO membership includes preeminent nations in Islamic finance, such as the UAE, Bahrain, Qatar, Saudi Arabia, Malaysia, Brunei Darusalam, and emerging economic power Nigeria. The KLRCA promulgated the Rules for Islamic Banking and Finance Arbitration (KLRCA Rules), a specialized regulation applicable to any "commercial contract, business arrangement or transaction which is based on Shariah principles." The KLRCA Rules suggest a model arbitration clause, to which they add: "Parties may wish to consider adding the law applicable to this agreement/contract shall be that of . . . ." Rule 38 states that "if the arbitration law of the country where the award is made requires that the award be filed or registered by the arbitral tribunal, the tribunal shall comply with this requirement within the period of time required by the law." It is obvious that, as with any modern arbitral tribunal, the KLRCA

Reasons for Recurrence

Despite the solutions suggested above to mitigate the legal risk accompanied by the applicable law in the Islamic financial transactions, there are several reasons indicate to the potential occurrence of cases similar to Shamil case or give motivations to the contracting parties in certain Islamic financial transaction to resort to civil court in order to avoid sharia courts or arbitration:

First, as mentioned above regarding the suggested solutions the adoption of an appendix of foreign law principles such as the exclusion of interest (riba) or gharar is subject to the judge's discretion and the case suggests such adoption of foreign principles needs to be capable of being sensibly applied in the country. (Hoyle 2008: 80)

Second, Although, the views of most modern Shariah commentators reflect the nearly global consensus that a valid agreement to arbitrate is binding. However, courts called on to refuse recognition of an arbitration award from a combined-law, Shariah-compliant contract should be wary of arguments that the procedure of the arbitration was not Shariah-compliant. There are still differing opinions concerning the validity of an agreement to arbitrate that is made before the actual dispute arises. Moreover, an unhappy party might opportunistically object to the religion or gender of the arbitrator. These problems should be cause for concern for a lawyer seeking to protect the client's interests, even though the issues have not yet presented themselves. (Habbas and Abdullah 2008: 64-65)

Third, The site of the arbitration will govern the arbitration process, and this determines the likelihood of receiving either help or interference from the local courts. Therefore, the importance of the place of arbitration should not be underestimated. A problem could foreseeably arise in jurisdictions where combined-law contracts would be repugnant to their choice of law doctrine. The law of the place of arbitration can be evaded by agreeing to make a country with a favorable procedure the place of arbitration, but agreeing to meet in another country.(Rau Et. Al 2006: 363)

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allows parties to choose the law which shall govern the arbitration. As a forum specialized in Islamic finance, the KLRCA also provides in its rules that "the arbitral tribunal shall apply Shariah principles and the law designated by the parties as applicable to the substance of the dispute." This statement explicitly provides for the application of Shariah law in combination with the chosen law of the parties as necessitated by the terms of the contract and facts surrounding the conflict. However, the KLRCA presupposes that when a Shariah principle is in dispute the arbitrator will not be competent to judge the matter. In such cases where a Shariah principle is in dispute, Rule 33 provides that the arbitrator shall adjourn the proceedings and refer the issue to either the Shariah Advisory Council of the Central Bank of Malaysia or a Shariah expert agreed upon by the parties.

However, Enforcement can be refused if the agreement is not valid or if the composition of the arbitral tribunal is not in accordance with the chosen law.

Fourth, Non -existence, in almost all Muslim countries, of well recognized Sharia courts handling Islamic financial matters and therefore, in cases of dispute, the parties have no choice but to resort to local conventional courts which are bound to deliver their verdict based on local rules and regulations influenced by Civil or Common law.(Thani 2007: 9)

Fifth, Although in some countries, some principles of Islamic commercial and financial law are incorporated into local legislations, principles if Islamic law with regard to the prohibition of Riba, in particular, have not been incorporated into the commercial law of these countries and there is no legal prescription as to what does or does not constitute "Islamic" banking or finance. The situation is sometimes confusing especially to foreign observers who are told that Islam is the main source of legislation in Gulf Cooperation Countries, for instance. The situation is not so different in other Middle Eastern or Muslim countries in general.(Adam 2004: 19)

There are clear provisions in local laws that permit the charging of interest in loan or delay payment. The issue may not need too much argument if we consider the fact that the main banking and financial systems in all these countries are based on interest. Thus, declaring interest non-permissible by law means declaring the illegality of the whole financial system. Moreover, and despite the constitutional provisions in many Muslim countries which are clear that Sharia is the main source of legislation, the civil and commercial codes are not institutionalizing interest. Thus, article 226 of the Egyptian civil code provides that "if the object of an obligation is payment of a sum of money, the amount of which is known at the date of filing a claim, and the debtor delayed the payment, then the debtor shall pay the creditor as compensation for delay 4% interest in civil matters and 5% in commercial matters. Such interest shall be calculated as from the date of filing the case". Given the fact that the Egyptian law is the backbone of many Arab countries legislation in particular, the above provision is replicated in other countries such as Kuwait, UAE, Jordan, Libya and Iraq in one way or another or even if some of these codes make a distinction between civil and commercial matters. The reality is that the importance of the Islamic prohibition of Riba lies less in the judicial practice, but rather in the influence this doctrine has on investors' choice.(Thani and Othman 2008: 22)

Sixth, There is no specific legislation nor strong sharia framework governing Islamic financial system and transactions. In many countries where the vast majority of Islamic financial institutions are operating, with the exception of counties such as Malaysia and Kuwait (this can be seen in table no. 1), where there is specific legislation, the Islamic financial system is governed by conventional banking legislation.

Table 1 Sharia Framework in Jurisdiction

Country	Sharia advisory council in Central Financial Authority	Fatwa Issuance at National Level	Islamic Banking Law	Approval required by Central Financial Authority
Malaysia	Sharia Advisory Council	Exist	Islamic Banking act 1983. Takaful Act 1984, Resolution of Security Commission SAC 2007	Exist
Bahrain	National Sharia Board of Central Bank of Bahrain	Non	Prudential Information and Regulations for Islamic Banks Regulations for Islamic Banks	Non
UAE (Dubai)	Non	Non	Dubai International Financial Center Law no. 13 of 2004 Islamic Financial Business and Islamic financial Business Module of the Dubai Financial Services Authority Rulebook ISF/Ver1/250/ 09−04	Non
Kingdom of Saudi Arabia	Non	Non	Non	Non
Kuwait	Fatwa Board of Ministry of Awqaf & Islamic Affairs	Non	Law no. 30 of 2003 on the addition of a special section on Islamic banks to chapter III of law no. 32 of 1968 Central Bank of Kuwait	Non

Source: www.bnm.gov.my;   www.sc.com.my;   www.cbb.gov.bh;   www.centralbank.ae; www.sama.gov.sa; www.cbk.gov.kw

Seventh, Even if the case is heard by a sharia judge, the problem is that "each jurisdiction approaches the sharia elements of financial structures in different ways, according to the requirements of its own local law. Neither debtor nor creditor should assume that a single interpretation of the sharia principles shall be applied universally, just because the structure has been determined to be sharia compliant. (hereinafter will be referred)

Eighth, In some countries such as Saudi Arabia where the system is supposed to be based on sharia and despite the fact that the court is presumed to be abiding by sharia principles, there are some exceptions. In practice when a dispute arises between a bank and customer, the dispute must first be referred to the Banking Dispute Settlement Committee of the Saudi Arabian Monetary Agency (SAMA) for settlement. The SAMA committee aims to propose settlements in accordance with the terms of the agreements under dispute, and has tended to apply sharia principles less strictly than the mainstream Saudi Arabian courts so as to give effect to practices that are recognized in international banking practice. Thus, even in Saudi Arabia the law applied in explicitly commercial matters such as companies, banking and commercial paper laws, strongly resemble French and Egyptian laws. (Thani and Othman 2008: 22)

Ninth, Under such a judicial system or arbitration as suggested above, even if a

financial issue is referred to a Sharia court or Islamic arbitration, one particular difficulty that might arise is the predictability of the outcome of court decisions or arbitration resolutions, since previous decisions may not be recorded and, even if recorded are not generally regarded as a binding precedent for later court cases or arbitrations.

Tenth, Another important issue facing both courts and arbitrations together is that the principles of Islamic commercial law until today are not codified in a set of rules which may be referred to with any degree of certainty. Thus, issues are left to the mercy of the interpretation of different scholars from various schools of jurisprudence

Eleventh, The practice of Islamic banking is marked by degrees of differences of opinions within the Islamic world. At least four key schools of Islamic Fiqh exist. It is not uncommon for differing views to exist in a particular issue even within each school of jurisprudence. Moreover, every Islamic financial institution has its own Sharia Board which advises on the compliance of its products and transactions. This can and does give rise to differing transactions, both within a particular jurisdiction and across different sharia jurisdictions. This can be seen in table no. 1 since the absence of sharia advisory board in central financial authority in many countries. Moreover, fatwa issuance at national level can be found only in Malaysia but the other countries not.

II. The Role of Sharia Boards and Legal Risks

The purpose of including a Sharia Board in the governance structure of an Islamic financial institution is to be enable the institution, its shareholders, stakeholders, and clients, and to some extent the local financial authorities to be ensured of the Sharia compliance of its internal and external operations. In Sharia-compliant financing, members of the Sharia Boards-Muslim jurists specialized in Fiqh al mu'amalat (Islamic commercial laws) and other areas of relevant expertise.

Members of the Sharia Boards have a direct involvement in the legal and contractual matters relating to an IFI's transactions. Their priority is to endorse the sharia compliance of products or operations. In cases where there are no pre-existing opinions or cases, they then interpret, approve, and review Islamic finance contracts and underlying product structures. This interpretation, for new products, is done through the process of ijtihad in which Muslim jurists, with a specialization in Fiqh al muamalat, interpret the source of the Sharia that guide commercial matters.

In some countries such as UAE (Dubai), and in Kuwait, Bahrain, Saudi Arabia, the Sharia Boards are not centralized in the way that the Sharia Advisory Counci in

Malaysia.(refer to table no. 1) Some have a centralized board but it does not function in the same way as the Sharia Advisory Counci in Malaysia. Most of the countries implementing Islamic finance such as the GCC countries have their own legislation whether it is specialized or not with regard to Islamic banking and finance operations, the authorities in these countries give freedom to the IFIs and other industry players to decide on the activities and process relating to sharia matters in Islamic finance. In this sense, it gives authority and influence to each set of Sharia Boards as well as to their members to dictate the Fatawa and matters for each IFI. These scholars in the GCC states are seen to have the strength to influence the market. Based on the function and role of Sharia Boards and their members, in the centralized Sharia framework of Malaysia or the decentralized framework of several countries such as the GCC countries, it can be noted that sharia scholars have similar roles across the countries. Yet the method by which they endorse products for Sharia compliance is dependent on the relation between individuals IFI's Sharia Boards and the central and regulatory authorities. These frameworks themselves may contribute to regional variances. Moreover, Sharia scholars are naturally of diverse training and intellectual preferences, not to mention their varying geographical and cultural backgrounds. (Mohd 2008:14)

It is common for Sharia scholars to have varied interpretations of the Sharia-compliant investment principles and to have differing approaches on any particular fatwa. It can be noted that Gulf scholars and A-Azhar trained scholars may generally have different views within the Middle East. Some working in the GCC may have been trained in Al-Azhar, but to work in the GCC they generally adopt more Hanbali view, as opposed to their own Shafii views and the Hanafi views that they would have learned formally, as they form the remnants of Ottoman laws still being used in countries like Jordan. This reflects the record of the history of Islamic jurisprudence, when scholars were diverse and were of different interpretive views. Such differences are likely to persist and Sharia allows that. So, a locally accepted fatwa can be rejected by scholars, demonstrating that the view on the permissibility of a product or a transaction is not recognized internationally, or at times − as in the case of the first few Sukuk structures − a small amount of scholars may come up with a fatwa which then becomes accepted by the majority of Sharia Board members. (Antonio 2008: 5)

So, the lack of uniformity has been raised in many forums and research studies. The topic corps up at almost every forum on islamic finance. (Freshfields 2006: 2) Thus it is repeatedly maintained that:
Islamic jurisprudence is not definite and still lacks of homogeneous interpretation and uniform recognition. Islamic jurisdiction is not bound by precedent and legal opinions may deviate from previous decisions made by other sharia scholars. Sharia law is open

to interpretation and religious boards frequently hold divergent views on key sharia issues. There is no consistent ruling of Islamic courts on the religious compliance of the eligibility of certain assets and transaction structures for securitization. Moreover, Islamic law itself is divided in different juristic schools of thought (madhahib), which provide guidance in the interpretation and application of the general principles of the sharia based on interpretation (ijtihaad) or analytical reasoning (qiyas) (Andreas 2007: 27-28)

Voicing its concerns, the governor of the Central Bank of Malaysia has to say the following:

Key challenge in managing operational risk in islamic banking is ensuring sharia compliance. Bank supervisors in their assessment would need to give due attention to the adequacy of the financial institutions' board and management oversight, policies, producers, abd limits, risk measurement, monitoring and management information system, and internal controls ... Notwithstanding the significant progress made so far, there are still outstanding issues confronting the islamic financial system today, particularly the different interpretations of the sharia injunctions, internationally, there continue to be debates among sharia scholars on the compliance to the sharia principles. (Zeti 2006: 1-4)

A similar statement has been made by the Governor of the State Bank if Pakistan. She maintained that:

One of the issues faced by Islamic financial industry is lack of standardization sharia rulings within the same jurisdictions and among various regions. The diversity provided by different schools of thought on same issues at times creates confusion in the minds of the general public, but if properly harmonized across the globe, can become a great strength for the Islamic financial services industry thereby providing different options suitable to the varying needs of customers. (Akhtar: 4)

Someone may say that the benefits of this type of approach are that it allows quick progress in the development of products and growth in the industry, however, the risk is the lack of regulation. This risk was made evident by the February 2008 pronouncement of the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) with regard to the purchase undertaking or the put option prohibition where substantial numbers of Sukuk issuance – mainly from the Middle East – were drastically affected. This incident caused a drastic drop in the issuance of sukuk in the Middle East, which has had a negative impact in the industry and also affected the credibility, from the perspective of market players, of the scholars who had earlier approved these structures. (Zaidi 2008: 4)

Another example, the case of Japan Bank for International Co-operation (JBIC). It is

upheld that JBIC was preparing to launch one of the first sovereign sukuk issuances to fund its activities and international development projects. JBIC had selected Citibank from Dubai and CIMB of Malaysia to arrange a deal. However, the respective sharia boards of the two banks disagree on the compliance of the deal with Islamic Law. The transaction had to be restructured which meant adding to the cost, time and frustration for the issuer. (Ravalia 2008: 18)

III. Non Standardized Contracts

As it is explained above the differences of opinion may be identified in contracts that are exclusively offered in some regions or by particular IFIs and an analysis of this was made based on the composition of background of their Sharia Boards. These differences included those surrounding the application of the wadiah contract, the application of the mudaraba contract to the takaful model, the application of the contract of qard to deposit accounts, the use of the bai' alina contract for cash financing and as the basis of the deferred payment scheme of the bai'bithaman ajil scheme, the use of the tawarruq financing contract, the use of the murabaha contract in asset financing underlying the bai'bithaman ajil scheme, the application of the wakala contract in the takaful model, and the use of bai'al dayn in the Malaysian secondary market.(Antonio 2008: 5)

The wadiah contract is a readily available Islamic finance contract in the Malaysian market for savings and current accounts. From a sample of Malaysian Islamic financial institutions: all are Malaysia-based Islamic banks, and the contract of wadiah, as applied to deposits and current accounts, is approved by Bank Negara Malaysia's Shariah Advisory Council. Two Islamic banks headquartered in the GCC with regional subsidiaries in Malaysia were observed not to apply the contract of wadiah for deposits and current accounts, but they both use the mudaraba and qard contracts for such purposes. Wadiah is not used for banking products in GCC-based Islamic banks.

In Islamic insurance or takaful, the mudaraba contract is predominantly used in Malaysia. The GCC seemingly has a preference for the use of wakala(agency-based) takaful. There is however evidence that the preferred structure is moving towards a hybrid of wakala and mudaraba. Although there seems currently to be a trend towards the mudaraba-wakala takaful model, the single use of the contract of mudaraba as a base structure for the takaful model is popular mainly in Malaysia. From the information available from the study, it is mainly GCC-based companies that offer wakala-based takaful products.

The qard ul Hassan contract, which is meant to be benevolent in nature, is generally

not used by Malaysian Islamic banks for savings accounts. The contract of qard is applied by banks originating from the GCC in Malaysia but not buy Malaysian Islamic banks. The use of the contract of qard or qard ul Hassan for deposits is prevalent in the GCC-based Islamic banks. From the study, the make-up of Shariah Boards approving these is Saudi Arabian, Kuwaiti, Bahraini, Egyptian, Qatari, and Emarati.

The contract of bai' al ina in its application for cash financing is widely utilized in the Malaysian Islamic banking context but not in the GCC.

With regard to tawarruq (commodity murabaha or reverse murabaha), it is a recognized concept in the two regions and is increasingly regarded as a viable alternative to the bai' bithman ajil based on the bai' al 'ina contract in Malaysia, but there still is a considerable amount of debate among Islamic finance scholars on its permissibility. The concept of bai' al dayn as applied in the secondary market is only applied in Malaysia and is rejected by scholars from the Middle East. There is no application of bai' al dayn in the GCC Islamic financial system, and there is therefore no Islamic money market in the GCC The Islamic financial institutions of the GCC have to function with the conventional money market to some extent. In Malaysian Islamic financial institutions bai' al dayn refers to the sale of two types of debt: the sale of debt arising from the sale of a commodity and the sale of debt arising from credit.That the debt is sold to a third party at a discount is the main point of divergence between scholars of the GCC and Malaysia.

So. Non-standardization of contracts among IFIs in different countries or even in one country gives uncertainty since permissibility and the acceptability of certain type of contract in one Islamic financial institution may be reviewed to be waived. (Abdel Khaleq and Crosby 2009: 21-22) In other words risk here refers to the possibility of change of sharia scholars' opinion about the basis of the pronouncement that declared a specific contract to be sharia compliant. Given the fast development and transformation in the industry, including sharia complaint issues, this possibility or this risk could not be excluded. Thus sharia board which has approved a specific contract may not approve similar contract based on its new stand.

Moreover non standardization makes the whole process of negotiating different aspects of a transaction more difficult and costly. It means that this risk would arise when another sharia board disapproves the contract this can be realized in sukuk structure. There is no assurance that a structure approved by one sharia aboard will be approved by another board. Thus the investor in sukuk are generally advised to obtain their own sharia independent sharia advice as to whether the contracts, certificates, and transaction documents meet their individual standards of compliance. This risk cannot be mitigated without standardization of the contracts and related matter among Islamic financial institutions. (Akhtar 2009: 4)

Another type of risk related to non standardization of the contracts is that there can be no assurance that the contracts will be enforced by the court or the judicial authority selected as the sole court for jurisdiction, thus although the sharia supervisory committee of the sharia advisor in particular contract has issued a pronouncement confirming that the contract is compliance with sharia principles, such a pronouncement would not bind a local court or judicial committee, including in the context of any related legal issues such as insolvency or bankruptcy proceedings, and any local courts or judicial committee will have the discretion to make its own determination about whether the contract and related issues comply with sharia principles and are therefore enforceable or not. (Howladar 2010: 6)

IV. Legal Documentation

Flowing the ambiguous legal documentation, one of the most contentious topic in the Islamic Finance is the rights of Sukuk holders in the event of non-payment or default. Some sukuk issues are documented as unsecured sukuk and it remains unclear what claims sukuk holders might have on a company's assets, or even whether they would have a concrete claim to any assets in the event of a default. Similarly, there is confusion on the difference between "asset-based" and "asset-backed", and it is sometimes stressed that not all Sukuk are secured by an underlying asset. At the same time, another core issue in this confusion lies in the distinction between 'beneficial right' and 'legal right' to the assets. It is also sometimes said that "the assets in asset-based deals are frequently there merely for Sharia compliance and have no bearing on the risk or performance of the transaction". The risk, therefore, is essentially corporate in nature. "To maintain Sharia compliance there has to be a transfer of assets but because investors have no recourse to the assets, the transactions do not focus on assets risk but on the sponsors of the Sukuk. (Ossa 2009: 2)

Theoretically, where there has been a real transfer of asset ownership to a special-purpose vehicle (SPV) that has been formed to issue the sukuk, the investors would have a legitimate claim on that particular asset that has been sold to them. Asset ownership, in this instance, would strengthen the investors' rights on the underlying assets in the event of default or liquidation. Asset-backed sukuk are characteristically non-recourse sukuk, with the underlying assets forming the lone source of profit and capital payments. Without a true sale (i.e. assets not transferred to the Sukuk holders) it is believed that the legal recourse and cure for the sukuk holders is likely to be no more than those of unsecured creditors and therefore, everyone will be entitled to a share of the assets. The way that Islamic finance in general and sukuk in particular are unique is the focus on linking financing to an

underlying tangible asset. That means that sukuk holders could insist on being repaid before banks, upending the traditional bankruptcy hierarchy. This is well advocated by Sharia scholars. However, there is often a wide gap between this idea and the reality of what investors can expect during bankruptcy case.

In October 2008, East Cameron Gas Co. filed for bankruptcy protection after its offshore Louisiana oil and gas wells failed to yield the expected returns, partly because. of hurricane damage. Some $167.8 million of sukuk were affected. The issue in this case was again whether the Sukuk holders actually own a portion of the company's oil and gas or not. The company argued that there had been no real transfer of ownership of production revenues, known as royalties, into a "special-purpose vehicle" formed to issue the sukuk. Instead, they claimed the transaction was really a loan secured on those royalties. That would mean the Sukuk holders would have to share the royalties with other creditors in the event of liquidation. Fortunately, the bankruptcy judge, Robert Summerhays, has so far rejected this contention. He ruled, according to court records, that "holders invested in the sukuk certificates in reliance of the characterization of the transfer of the royalty interest as a true sale". However, the judge gave East Cameron leave to find further arguments to support its case, but if he maintains his position, the Sukuk holders' rights will be strengthened. (Fidler 2009)

In the other case, the Nakheel Sukuk, the asset was valued at $4.2 billion based on the development plan for the land that backed the sukuk and also on assumptions about the timeframe for that development. It is reported that there was a discount rate used for future value to bring it back to a present value. The land itself was not worth $4.2 billion had there not been plans to develop it into the Dubai Waterfront. (Blake 2011) In theory Nakheel PJSC creditors may win the right to seize a strip of barren waterfront land the size of Manhattan if the company defaults on the $3.5 billion bond backing the development. Investors will be able to seek foreclosure on the property's mortgages should the Dubai World unit fail to repay the loan, according to the bond's prospectus. It is equally important to point out that Nakheel Sukuk were secured by existing real estate developments and land that incurred about 50% decline, which left investors with largely depreciated securities. However, it has been reported in the Nahheel case that sukuk holders have received legal advice that they have no recourse to assets of the government of Dubai. This is because, as it has been tightly pointed out by one observer "If you looked at the documentation it was clear that the Dubai government would not back Dubai World. It was just a misleading market myth – maybe wishful thinking – that it ever would do so." Thus, the right of investors is limited to the sukuk asset and it is clear that the sukuk are secured on property originally intended for development as Nakheel's waterfront project. (Kane and

Harnischfeger 2009: 12)

Sukuk defaults will definitely expose how the courts interpret the legal documentation of sukuk given the widely held position that investors in Islamic finance are expected to have better legal redress than conventional bondholders. However, this depends on the manner the sukuk assets have been transferred to investors. The underlying assets have been either truly transferred to investors or not. This is because there are conflicting positions between Sharia scholars and lawyers. While Sharia scholars uphold that assets are truly transferred from Sharia perspective, lawyers are not. Thus, most lawyers are maintaining that most sukuk are structured as asset- based instruments, rather than asset-backed securitization. If it is asset-blocked, investors will always have a claim over those particular assets which have been sold to them earlier.

The issuer customarily declares a trust over the assets in favour of the Sukuk holders, with the latter having beneficial ownership of the underlying asset(s). Legal ownership, however, remains with the original asset owner. The intent of the issue in this instance is to have an unsecured funding source.

Thus, it is widely upheld that insofar the legal documentation governing most of the sukuk, the transaction firmly renders a sukuk issuance just simply a financial obligation, listening the sukuk holders as creditors (as opposed to owners or equity holders) and ranking them pari passu with conventional creditors. The issue of beneficial ownership, legal ownership and equitable ownership seems to be at the heart of the problem of many sukuk. (Evans 2007: 3)

This is a major problem facing not only the sukuk industry but the Islamic financial system in general. Documentation of transactions in Islamic finance is not about lawyers alone or Sharia scholars independently. It is about a close collaboration between the two. This seems to be the missing link so far. It is not enough that each group is interpreting certain principles based on its understanding and perspective.

Lack of cooperation in this area is determined to the industry. As an example of this problem, some lawyers held "Sharia scholars are the main obstacle for Islamic finance lawyers, due to their inconsistent judgments. Scholars sometimes change their mind, which makes it difficult to predict how a transaction will have to be structured."However, such a bold statement seems to be based on misconception rather than fact. To justify the above claim, two transactions in the United Arab Emirates which took place within three weeks of one another have been cited. These are the DIFC and DP World Sukuk. Thus, it is maintained that while the DIFC Sukuk was declared Sharia −compliant with no assets, DP World had to invest in an asset for the

transaction to be approved. The misunderstanding is based on the fact that the first transaction was Mudarabah transaction while the second was a Musharakah.In Mudarabah the capital is provided by one party which is the issuer of the sukuk and this represents the case of DIFC, while the Mudarib or the investment agent will provide only its business expertise. In contrast, in a Musharakah agreement the capital shall be provided by all parties including the issuer and therefore, DP World must contribute some assets to the Musharakah assets. Although the difference between the two contracts is a basic one, failure to conceive these could lead to some genuine problems in documentation and a waste of valuable time and resources. (Evans 2007: 7)

Conclusion

Universally accepted principle of applicable law upon certain contract and most other matters is the law of nation as precisely defined in that nation. The law will include both substantive legal principles, regarding to the nature of contracts and their interpretation, and procedural law such as with respect to how a given claim is brought in the courts of that nation or enforced under the laws of that nation. As it was mentioned in this paper sharia incorporated jurisdictions do incorporate the sharia into the national law either generally or in specific instances. However, even in sharia incorporated jurisdictions, the degree of incorporation varies considerably and is often general rather than specific such as several countries in the Middle East. As the universal accepted principle the national law will govern the interoperation of contracts. Moreover the law of most of countries allow the parties to a contract to choose the law that will be applicable to the enforcement of hat contract. Based on that approach the applicability and interpretation as well of sharia is ambiguous and adding significant legal risks to the Islamic financial industry. This can be seen in Shamil case and there are a several reasons to predict the occurrence of similar cases in the future even with the existence of several suggested solutions such as arbitration.

Moreover, the governance issues, especially the sharia compliance of products contracts, and activities, constitutes a major legal risks in Islamic finance industry. Although fatwas issued by legal scholars are disclosed, there are currently no unified principles on the basis of which sharia scholars decide on the sharia compliance of new products and convey their assessment. These rulings are not consolidated, which inhibits dissemination, adoption, and cross-fertilization of jurisprudence across different countries and schools of thought. As a result there is still considerable diversity and inconsistency in corporate governance principles and opinions of sharia boards even inside one jurisdiction. Moreover, there is still considerable heterogeneity of scholastic opinions about sharia compliance, which undermines the creation of a consistent regulatory framework and governance principles. Therefore, the fragmented opinion of sharia boards, which acts as regulatory bodies, remain a source of continued

divergence of legal opinion. Yet the issue of common concern in Islamic Finance especially in Sukuk is the issue of documentation. A genuine issue remains about the manner contracts have been documented, this is vertical issue sukuk since if they are documented as an unsecured transaction, then there should be no difference with conventional bonds and the same legal redress and avenues will be explored as with an issuer of conventional bonds. Without that clarity on the issue, it is very probable that multiple creditors may claim on a company's assets after a default, leaving unanswered the question of who has rights to them.

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Social, Cultural and Religious Changes in the Middle East

Chair: **Tim Niblok** (Exeter University)

Venue: **216**

❚ **Presentation1**   Falconry is a Cross-Cultural Bridge of Nomads

> **Presenter:**   BILEGSAIKHAN M.
> (National University of Mongolia)
> **Discussant:**   ARAI, Kazuhiro
> (Secretary General of JAMES, Keio University)

❚ **Presentation2**   Essential Infra for Urbanization in the North Africa

> **Presenter:**   Kamaruzaman Yusoff & Nik Hasan Suhaimi
> (Kebangsaan University)
> **Discussant:**   LEE, Hyo Bun (KDNU)

❚ **Presentation3**   The Study on the penalties in the Moroccan Zaiyan Amazigh Custom laws

> **Presenter:**   KUM, Sang Moon (HUFS)
> **Discussant:**   KIM, Jung Myung (HUFS)

Presentation 1

Falconry is a Cross-Culture Bridge of Nomads

BILEGSAIKHAN M.❘ National University of Mongolia

Introduction

It is believed that Falcon symbolizes strength, fortune, wealth, honesty, eternal blue sky, bravery and wisdom of the country, home or land. There are numbers of countries, provinces and organizations that have made image of a falcon their symbols and logos.

Falcons have been used in nomadic cultures as a method of finding food and in royal families, as hunting game tools. At the moment, there are thousands of people, men, women of all ages, who are interested in falconry in over 90 countries, which indicates that falconry has became a very widespread cultural element. In these cultures falconry is used as a family activity, during when the children could learn life lessons and cultural education from their parents and grandparents. The trust and commitment that develops between the falconer and falcon is the true uniqueness of falconry. Falconry has formed the basis of specific cultural clothing, food, music and songs, dances, clubs and competitions games. Therefore information of the history and modern state of this wide cultural heritage falconry will be provided in this article.

A Culture History[1] of Falconry

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[1] Speakers at the Symposium whose work has been used in this article: Mr. Majid Al Mansouri (UAE); Mr. Jevgeni Shergalin (Estonia); Mr. Ali Yazdani (Iran); Teruo Morimoto San (Japan); Mr. Frank Bond (USA); Dr. Helen Macdonald (UK); Dr. Adrian Lombard (South Africa); Prof. José Manuel Fradejas Rueda, (Spain); Mr. Carlos Bernabéu González (Spain}; Dr. Xiaode Ye (China); Brig. Ahmed Mukhtar, (Pakistan); Mr. János Tóth (Hungary); Mr. Ata Eyberdiev (Turkmenistan); Dr. Nick Fox (UK); Mr. José Manuel Rodríguez-Villa (Spain);
Other speakers at the Symposium whose work was not used here were: Mr. Gadi Mgomezulu, UNESCO; Dr. Benno Boer, UNESCO; HE Mohamed Al Bowardi (UAE); Prof. Baudouin Van den

Falconry was practiced by the Mongolian, Chinese in Asia, at a very remote period, some 2000 years BC, and the art of falconry was in very high favor at that time. The Kazakhs in Western Mongolia are also known to be excellent falconers[2].

In written records, Nihon Shoki, the first official chronicle edited in 720 A.D., dates the first hawking in Japan as of 355 A.D. According to the record, a prince from Pekche dynasty of Korean Peninsula trained a unfamiliar and mysterious bird named kuchi and King Ohsazaki (Empereor Nintoku; literal reign 313-399, often deemed dating down to early 5th century) enjoyed hawking with it, jessed and with bell ounted on tail. Afterwards, the king established the regime of state falconers[3].

Historical information about falconry has been taking place in many publications such the Mongolian Secret History (13ᵗʰcentury), Hittites (north-central Anatolia around the 18ᵗʰ century BC), Srednevekovoi Evropi zakon Loi Gambette (501A.D), Peoin the Short (760A.D), The Holy Koran, Hadith, Kitab Manafi AlTair.

Emanating from the mobile horse-based societies of the Central Asian steppe, falconry spread to countries with suitable geography. Thus it had spread across the northern temperate zone and with forest clearance for agriculture, the new patchy habitats were ideal both for the game and the falconry. Therefore it flourished in areas of: Mongolia, China, Japan, Korea, Indian subcontinent, Persia, Iraq, Arabia, Middle Asia, Mediterranean countries and Europe north to Moscow[4]. For example:

o Tahmooreth, a king of the Pishdadid dynasty, 2000 years before Zoroaster who himself lived around 6000 BC.

o In the sub-continent, falconry appears to have been known from at least 600years BC.

o Falconry in has an ancient history, its roots found probably in the 8th and 9th centuries.

o in since the 5th century and is most remarkable for its tradition offlying passage sparrowhawks at quail.

o Arab falconry techniques were imported into Europe through Spain and through the court of Frederick II of Hohenstaufen, in Sicily. He employed Arab, English, Spanish, German and Italian falconers, and translated important Arab falconry works. His masterwork distils the falconry knowledge of many cultures.

o From Seventeenth century falcon-traders brought falcons to the French Court from

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Abeele (Belgium); Mr. Christian de Coune (Belgium); Mr. Mohammed Nour Eddine Fatehi (Morocco); Prof. Thomas Richter (Germany); Dr. Robert Kenward (UK); Lieut. Col. Kent Carnie (USA); Dr. Thomas Cade (USA).

2) history and heritage of falconry in the sub-continent brig. ahmed mukhtar (pakistan) falcon foundation international. a draft document in preparation for submission to UNESCO.

3) a brief history of Japanese falconry. by teruo morimoto of the national conference for Japanese falconry

4) falconry: a world heritage by dr. nick fox. a draft document in preparation for submission to UNESCO. falconry as part of the world's cultural heritage.

Flanders, Germany, Russia, Switzerland, Norway, Sicily, Corsica, Sardinia, the Balearic Islands, Spain, Turkey, Alexandria, the Barbary States, India, ,,,Czech-Moravian, Austro-Hungarian, The South Africa.

Falconry wasn't merely an amusement; it was a fierce articulation of social and political power; a deadly serious pastime, considered among the finest of all earthly pursuits – and big business.

Figure 1 Hunter with dogs and falcons. Emily Eden.1844.
Figure 2 Depiction of early Mongol falconer mounted on camel. Munkhzul B.

Falconry in Ancient Mongolia

Falconry has been practiced in many forms for thousands of years by many cultures. Some speculate that falconry dates back as far as 4000 – 6000 BC in Mongolia, Egypt, and possibly Asia, however there is no concrete evidence to support those speculations.[5] Falcon was a symbolic bird of ancient Mongol tribes[6]. The golden crown with golden falcon has found from Dalan black mountain in 1970, which has approved that the first Khun state of nomadic people of 8th to 3rd century BC had a belief off alcons.

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5) http://www.themodernapprentice.com/history.htm
6) International Association for Falconry and Conservation of Birds. A brief History of Falconry.

Figure 3 Khun dynasty, Shaniu's golden crown

During the Middle Age, fast and big falcons such as falcon rusticolus, falcon peregrinus, falcon cherub called "akshonkur" in Turkey, "shonkhor", "khaichin" or "khai-tun-chin" in Mongolia were used for hunting to catch crane, duck and goose. According to information in the Mongolian Secret Book, crown of khiad had white falcon, Falco cherrug. Academician Ch.Dalai wrote "White falcon is one of beliefs of steppe Mongolians".

In the 63rd chapter of the Mongolian Secret Book, there is a line that mentions a white falcon: "Yesukhei, last night I had a good dream that white falcon came to my hand bringing me sun and moon. We see sun and moon through our eyes. But it is really wonderful dream that white falcon brought me sun and moon. I wanted to tell the people about my dream. But it has a reason that Yesukhei comes to my house with his son. Token of Khiad Borjigon came to my dream."

Royal people used to bring good falcons mainly from Baikal Lake, Manjuur, Far East, Korea and Bohai. It is certain that white falcon is a home bird of Mongolia. An Italian tourist, Marco Polo wrote in the 74ᵗʰ chapter of his book "Interesting things of the world "that "I had four days journey and reached to the Northsea. There were many white falcons in that place and the king brought those birds as much as he wanted".

In the 29ᵗʰ chapter of the Mongolian Secret Book wrote that "they requested from Bodanchir to leave his hawk, but Bodanchir did not leave". In the 39ᵗʰ chapter wrote in 1207, soldiers of Zuchi passed Tumen Oirad territory and reached to Shishged river, then khirgis and oirad loyal people met them with gifts such as white falcons, white horses, and black swords". It is also mentioned that Kore state in times between 918-1392 used to give shon koi me or falcon as taxes to the greater king.

Last year, in 2011, Marco Polo monument with white falcon in his right shoulder was built at the center of Ulaanbaatar city. Marco Polo had lived in palace of Khubilai, great khan of Yuan state and grandson of Chinggis khan for 17 years and has performed many diplomatic and administrative missions by the order of the great khan.

In modern time, falcon is used as a symbol of Mongolian customs, police, intelligence office, and some political parties. Moreover, it is used in title of wrestler and wrestler's flop. Today, Kazakh nation of Bayan-Ulgii province has been using falcon and eagle for hunting and saved the tradition of many years history until today's date.

Falcon Population

Falcon has long wings shortened to its edge and a cone shaped tale. In size, it differs from small and big and has big head, curve nibs and black eyes. Their eyes have a sharp line. Female bird has a bigger figure than male one. Its powerful upper curve nib has something like teeth inside. These teeth are used for cutting back of animals. Falcon flies strong and dives suddenly due to its long wings and long tale. Ability of falcon's flight and change of its direction suddenly is the most outstanding among vultures. It has an ability of flying 150 km/h. Falcon never has own cell. Falcon has built its cell between rocks or plain place. When the first time falcon is taught in hunting, at the same time sport for hunting is appeared.

Dark   Intermediate   White

Figure 4 Three plumage categories of the studied Gyrfalcons

Today, falcon's hunting has become an element of culture and hunting has been refreshed again throughout the world. Falcon's hunting has less poison than weapon and its influence to nature is much less. Therefore it can be said that falconry hunting has its own ecological advantages and is widespread all over the world.
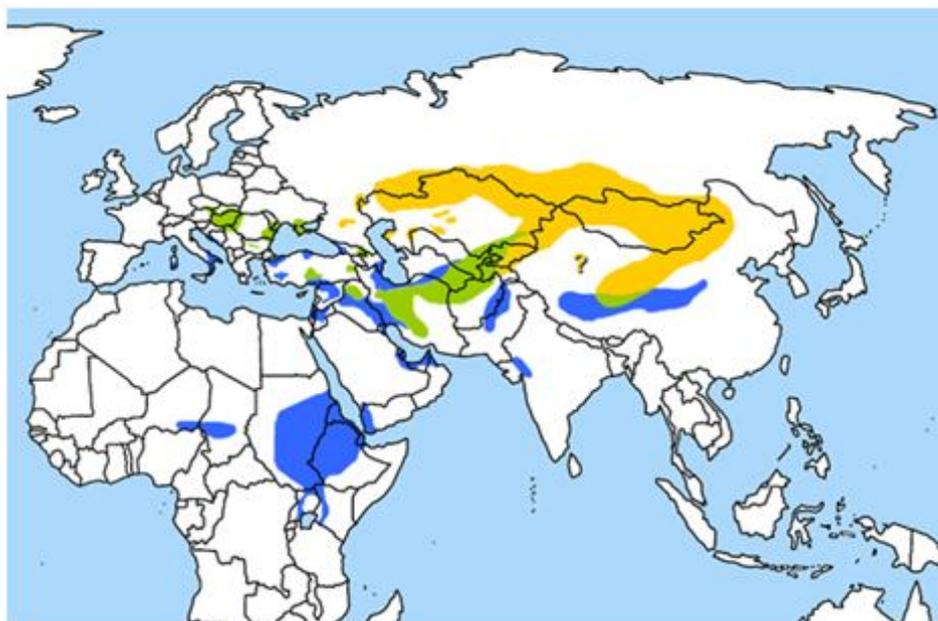
Figure 5 Saker Falcon Population. Global distribution of Sakers: yellow = summer, blue = winter, green = permanent (image: Wikipedia)

Falconry in Middle East

Falconry is a traditional entertainment for Arabs and they consider it as a cultural heritage. Arabs consider their own place as a home place of bird's hunting. State flag of the United Arab Emirates represents the united governance decorated with yellow falcon. Seven piles of falcon represent seven emirates of the state.

Between 1096 and 1204, hunting methods of western and eastern people were mixed. In Arab books it is written that Falconry was first introduced when Mongolians has intruded Bagdad city in 1258. Since then, it haven't disappeared and Arab people have inherited the tradition. Qatar, Bahrain, Kuwait in south and north of Arab peninsula and the United Arab Emirates are the main places for falcon's hunting. In western places, Falconry has reached to art level from use of exploiting food and it has called a sport of gentlemen. Falconry is widely spread in Emirates, Kuwait and Saudi Arabia, Qatar and almost every man of these countries has a falcon. While in Syria, Jordan, Oman and Yemen, it is rarer.

In the Middle East, Falconry has reduced and turned into entertainment. Nowadays camel riding competition is a leading competition. Dignity of Arab people, particularly sheikh has an honor of having a falcon. It is their dignity, entertainment and sport. Although Arabs have many methods of catching a falcon, they need to buy falcons from Asia by using their relations and cooperation with other countries.

Almost 50 % of the world's falconers exist in the Middle East, which includes the Arab

region. In the philosophy of the region hunting trips teach patience, endurance and self-reliance and bravery can be learned from falcons.

In Arab countries, this kind of tradition has a very unique principle. In Arabian wide dessert, it is very hot in summer and life is very movable in autumn, winter and spring. In autumn, many thousand birds come to desserts and some remain while others immigrate to Africa. Along with these birds many vultures come to this area too. Beduns catch those birds and teach them for hunting. When spring comes and it is above 40 degrees hot, birds fly to north and vultures follow them. Nomads cannot keep vultures and they have to set them free.

According to tradition, falcon has to be set free with season's ending. But in modern time, in European countries where they are used to feed birds, they keep birds in a cooled room in summer. It is difficult to say which method is right or wrong. But it is certain that traditional method has been changed.

Saudi Arabia is a country that keeps its tradition strong. Syria has moved to Christian community and the United Arab of Emirates share both. Saudi Arabians like to use aged falcon for hunting and others use young falcon. Saudi Arabians consider that the older falcons know the wild nature the most, but other countries consider that it is easy to teach young falcon for hunting.

It is expensive to buy birds, to prepare food for them, to create living environment for them with special equipments as gloves and different accessories. Therefore, it costs a lot to teach birds for hunting. To teach falcons is not easy job too. Various methods and activities are required to teach vultures. After buying a bird, the owner has to make him own. Making his own requires a lot of tolerance, it requires trainee to be alone with falcon in special room for a long period of time. The exercise begins with several day diets for falcon having a hat on head and continues until falcon begins to eat meat from hand. In the beginning, short beads are used and replacing it with longer beads is used until the falcon flies and comes to its owner's hand. To teach hunting, dead birds are used for catching in the beginning. This is a teaching method for falcon.
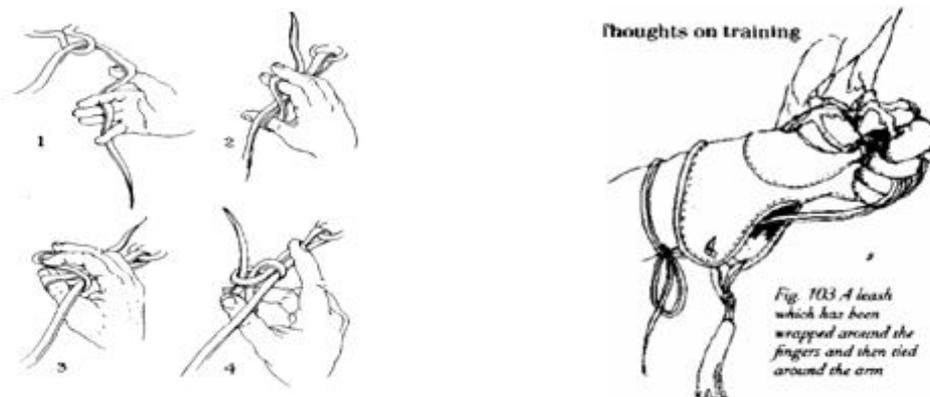
Figure 6 From Falconry principles and Practice. Roger Upton. 1990. London.

Figure 7 From Falconry principles and Practice. Roger Upton. 1990. London

Figure 8 From Falconry principles and Practice. Roger Upton. 1990. London

Six month old bird is taught in 20 days by professionals. Hunting begins in September, therefore, birds are brought in one month or one and half month before for exercising. Then hunting continues until March.

Entertainments of Arabs are camel riding competition, Falconry and horse riding competitions. It has a history that a price of riding horse has reached to 7 million used. Riding camel is comparatively cheap. It is about 1 million. But falcon costs approximately 59 thousand used. One of 55 people is billionaires and it is usual for them to spend such money for entertainment. Good hunting falcon costs from 100 to 300000 used. It is recorded that falcon flies 250 km/h.

The 3rd festival for Falconry was organized in Al Ain of Arab Emirates and represented by 80 different countries from all around the world. The festival program contains excursion, meeting, seminar and also introductions of hunting, exercising, treatment, influencing other birds, research, survey, methods of protection and new information.

When it is to buy a falcon with high price, its photo, color, size, size of eyes are scrutinized previously and then initial payment is made and order is dispatched. In each year, in Arab market the demand of 4000-5000 falcons is created. 25 percent of them are provided by breeding of youngsters and remaining part is provided by import. The main importer is Mongolia.

Saker Falcon Protection in Mongolia

There are 28 species of falcons in the world and 10 of them occur in Mongolia in summer time. In 2011, it was decided to export only 150 falcons abroad because between 2000 and 2010, about 2700 falcons were exported to other countries. According to surveys of rare and most rare animal reserves in 2010, 17000 falcons were counted in 2001 and 6835 falcons were counted in 2009. According to statistics of 2009, it is calculated that net price of a falcon is 12000 USD, 10800 USD for payment, 960 USD per a tax. Between 2006 and 2010, hunting income was 5006.4 million tugrik, out of this, falcon's income

was 12614.9 million tugrik. Male falcon has 3 million, female has 3.9 million, young has 5.1 million tugrik of ecological and economical value. Mongolia began exporting limited numbers in 1994, mainly to Gulf Arab countries such as Saudi Arabia, the United Arab Emirates, Kuwait and Qatar. The Mongolian Government decided at a cabinet meeting to export only 150 valuable saker falcons in 2012.

The decrease of normal growth of falcons in Kazakhstan in 1990s has considered with the illegal trade. The illegal catching has a direction in Altai, Khakas, Tuva and Mongolia. Mongolian falcons are considered as valuable and illegal actions are sometimes occurred. But it is the most difficult to transport falcons through Ulaanbaatar international flight therefore they export them through Russia and Kazakhstan.

Wildlife Conservation Society, CITES (Convention on International Trade in Endangered Species for International Trade) has made introduction on research works and activities of the Mongolian saker falcons to the Animal committee and Standing Committee. Then export of saker falcons is approved and has committed to send the report on the protection to the Animal Committee of the Convention.

In order to protect falcons by the agreement between the Ministry of Nature and Environment of Mongolia and Environment Agency Abu Dhabi (EAD), the United Arab Emirates has invested 2.5 million USD for building 5000 cells and its installation work. By the implementation of this project, it would be a new channel for Mongolia to cooperate with the United Arab Emirates.

Ornithologist Andrew Dickson wrote that although the work on protection of falcons has made for the last 20 years in Pakistan, Afghanistan and Kazakhstan, no good achievements at all. Moreover, it is good thing that this project contains aim of supporting nomads financially who are fighting against falcon's robbery.

With the influence of Buddhism, falcons have remained comparatively protected and the amount of the project money is not only for building cell and also spending for fee as a keeping peace for falcons.

In Mongolia undertook our 3rd field season of research at the Bayan artificial nest experimental area in the central Mongolian steppe zone. have established grids of artificial nests in two areas of central Mongolia where there are very few alternative nesting sites available for Saker Falcons. We have monitored the productivity and the post-fledging survival of young from these artificial nests. The first grid of 100 nests, spaced 2 km apart over an area of 324 km^2, was established in autumn 2005 at Darhan district ,Khentiy province. We experimented with four different designs of nesting boxes in order to determine if Saker Falcon occupancy and/or breeding success was influenced by nest box design. Occupancy rates increased annually from 3 pairs in 2006, 10 in 2007, 12 in 2008 to 17 in 2009 despite the fact that small mammal densities were low in the area throughout this period. In our study, Sakers showed a marked preference for the Closed Box design of artificial nest site. The second area selected for placement of artificial nests was at Bayan district, Tov province[7]. We experimented with four different

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7) Artificial Nests for Saker Falcons I: their role in CITES trade and conservation in Mongolia.

designs of nesting boxes in order to determine if Saker Falcon occupancy and/or breeding success was influenced by nest box design.   Occupancy rates increased annually from 3 pairs in 2006, 10 in 2007, 12 in 2008 to 17 in 2009 despite the fact that small mammal densities were low in the area throughout this period.   In our study, Sakers showed a marked preference for the Closed Box design of artificial nest site.   The second area selected for placement of artificial nests was at Bayan district, Tov province.

The best way to ensure the co-operation and compliance of falconers in defeating any threat to our biodiversity, be it the unsustainable hunting of bustards or the use of significant numbers of exotic raptors, is to continue to permit a controlled, limited and sustainable harvest of wild raptors for falconry purposes[8].

Ammunition for a Falconry

There are many items such as leather hood, short and long beads of leather circle for paws, dummy for calling bird back, owner's gloves. For example;

Falcon. The Newsletter of the Middle East Falcon Research Group Issue No. 35 Spring 2010.P-4

8) The Hunting of Bustards in South Africa: An assessment of the potential risks and challenges. Falco. The Newsletter of the Middle East Falcon Research Group Issue No. 35 Spring 2010.P-17

Figure 9 Hoods for falcon. 5000-300000 USD

Figure 10 Tethering and training equipment used in falconry
Figure 11 Raptor, hoods

Falconry, a living human heritage

On the one hand UNESCO recognizes the cultural importance of falconry, yet on the other hand many conservationists believe that Arabic falconry is the main driving force behind population declines of Saker. Falcons and Houbara Bustards.[9]

Falconry is natural, ecological, pure, safe and friendly to environment. Therefore, it is widely spread at international level and registered in the list of intangible cultural heritage of UN. In 2008, eleven countries the United Arab Emirates, Belgium, Czech, France, South Korea, Mongolia, Morocco, Qatar, Saudi Arabia, Spain and Syria had nominated traditional behavior of hunting birds for registering intangible cultural heritage of the world. The traditional bird hunting behavior was registered by UNESCO in November, 2010 in intangible cultural heritage list and officially declared. The original certificate is kept in the National history museum and copies are kept in Bayan-Ulgii provincial museum and Cultural Heritage Center.

The Committee (⋯) decides that [this element] satisfies the criteria for inscription on the Representative List of the Intangible Cultural Heritage of Humanity, as follows:[10]

○ R.1: Falconry, recognized by its community members as part of their cultural heritage, is a social tradition respecting nature and the environment, passed on from generation to generation, and providing them a sense of belonging, continuity and identity;

○ R.2: Its inscription on the Representative List could contribute to fostering cultural diversity and intercultural dialogue worldwide, thus enhancing visibility and awareness of intangible cultural heritage and its importance;

○ R.3: Efforts already underway in many countries to safeguard falconry and ensure its transmission, focusing especially on apprenticeship, handicrafts and conservation of falcon species, are supplemented by planned measures to strengthen its viability and raise awareness both at national and international levels;

○ R.4: Communities, associations and individuals concerned have participated in the elaboration of this nomination at all stages and have provided plentiful evidence of their free, prior and informed consent;

○ R.5: Falconry is included on inventories of intangible cultural heritage in each of the submitting States.

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9) Falco. The Newsletter of the Middle East Falcon Research Group Issue No. 35 Spring 2010.P-3
10) http://www.UNESCO.org/culture/ich/en/RL/00442
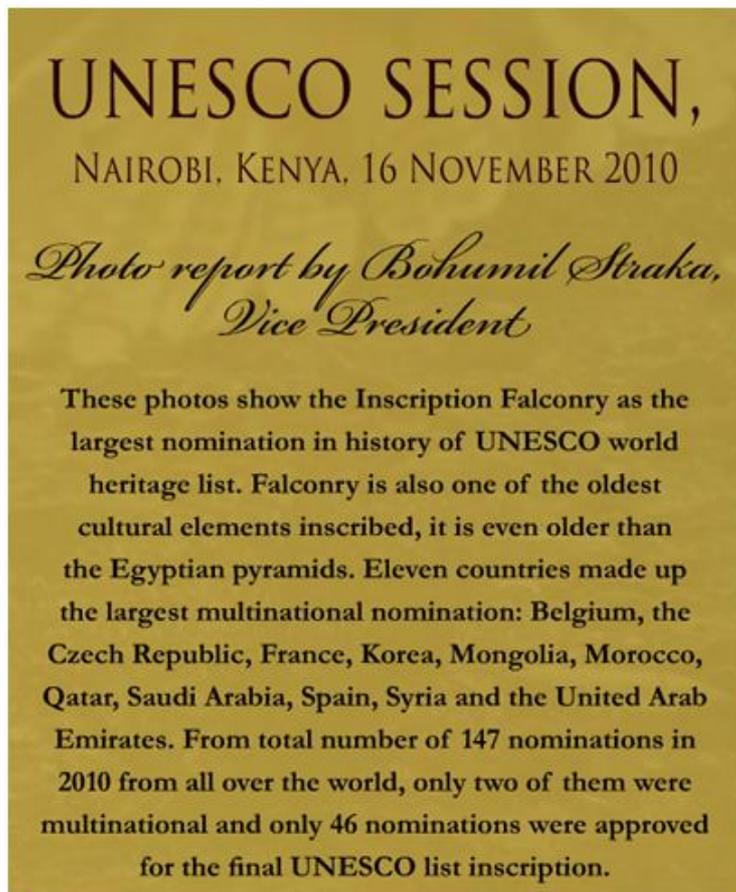
Figure 13 From International Journal of Falconry 2011

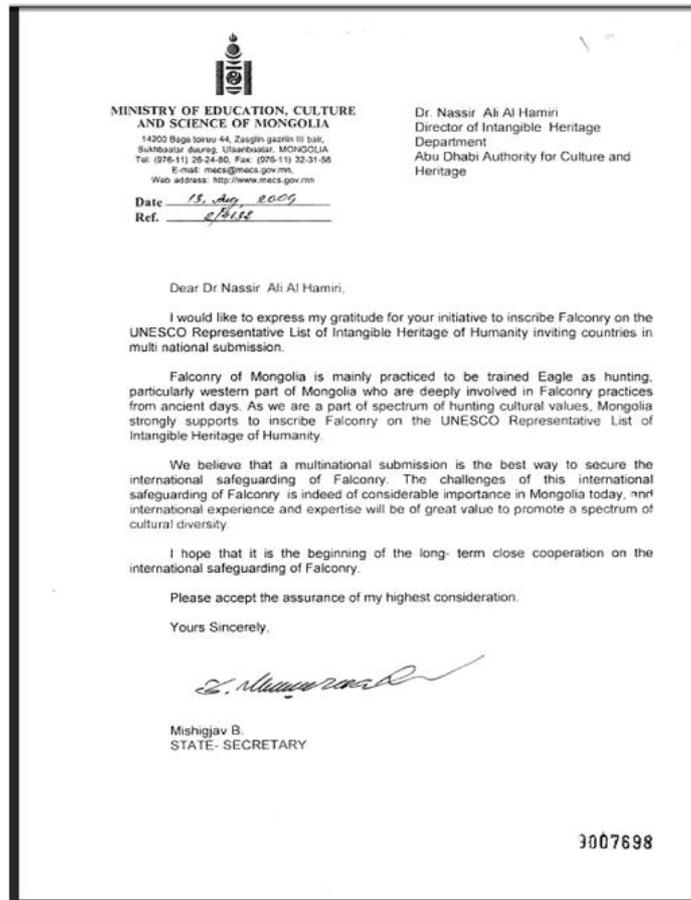Figure 14 From International Journal of Falconry 2011
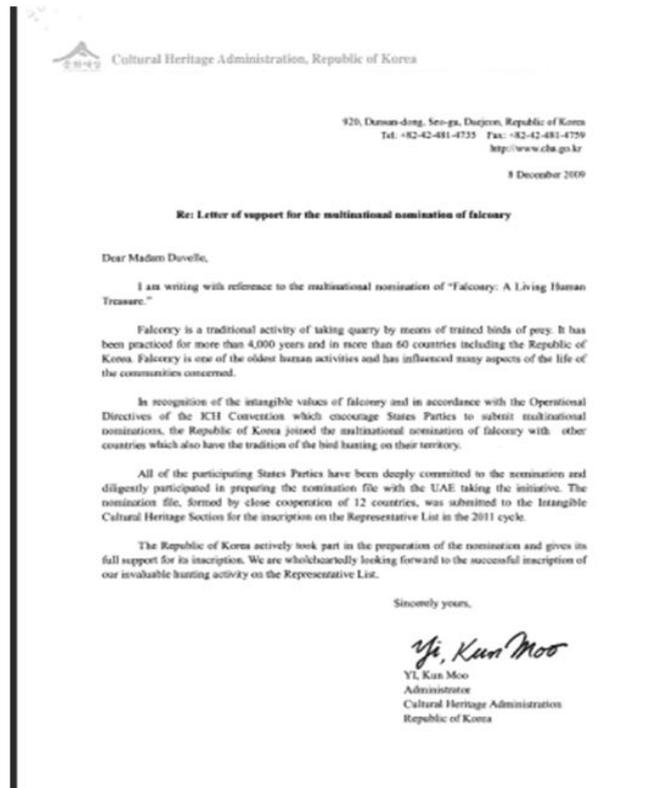
Figure 15 Mongolian official supports letter

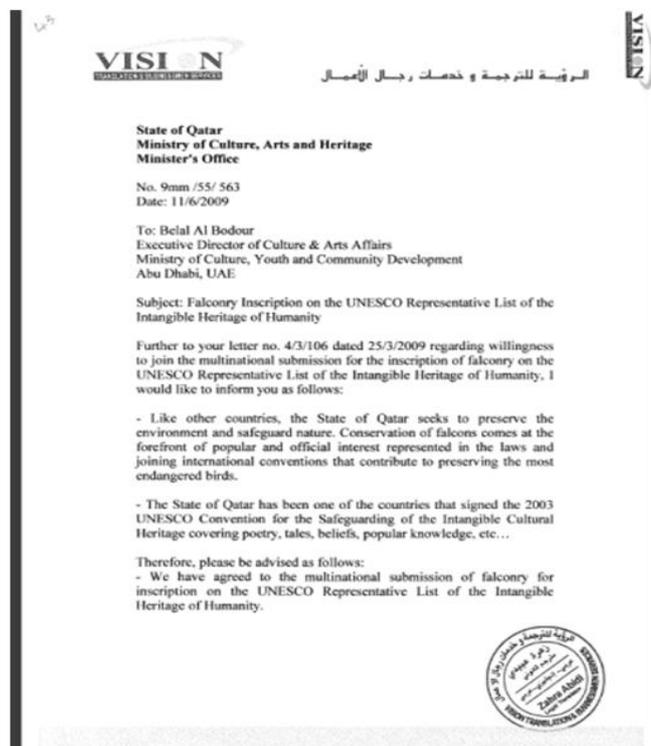Figure 16 Korean official supports letter

Figure 17 Qatar's official supports letter

Summary

It is already confident that people let birds hunt is a cultural heritage of the world. It does not understand well. I would say that Native or local people of the countries which have such a culture are keeping this heritage in their traditional ways. In order to protect and keep world heritage and expand cooperation with the Middle East, I summarized the following;

- ○ Conduct survey in detail on influences behavior of hunting by birds towards the country's tradition and behavior ethics
- ○ Re-consider "national program on saker falcon's protection of Mongolia" of 2003 based on further environmental situation
- ○ Expand survey on falcon's habitat and distribution, increase openness of information access, to determine proper numbers of the bird for use per year
- ○ Improve nature and environmental law enforcement and animal protection
- ○ Protect prey species of falcons
- ○ Develop cooperation network on falcon conservation between interested stake holder-countries.

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http://www.themodernapprentice.com/history.htm

http://www.UNESCO.org/culture/ich/en/RL/00442

The Study on the penalties in the Moroccan Zaiyan Amazigh Custom laws*

KUM, Sang Moon** ❘ HUFS

I. Preface

The indigenous peoples of North Africa are the Imazighen, commonly know as the Berbers. The Imazighen include the nomadic and oasis dwelling Tuareg in the southern part of the region.[1]

Specially, the most of Imazighen live in the Morocco territory and the Morocco legal system, however they have their own legal system based on the Imazighen custom law. And the customary legal system of indigenous in North Africa coexisted with the Islamic system of justice continually. The first blow to the Amazigh customary legal system in Morocco was the Protectorate Convention in Morocco in 1912 as the Protectorate authorities and the French colonialism and their allies promulgated French laws during the period from 1912 to 1930.

Then, What is Custom Law? Eddie Durie defines custom law as " law generated by social precedent and acceptance as distinct from institutional law generated from organization of a superordinate authority."[2] And, Custom law is a recognized source of law within jurisdictions of the civil law tradition, inferior to both statutes and regulations. In addressing custom as a source of law within the civil law.[3] Civil law tradition, inferior to both statutes and regulations. In addressing custom as a source of law within the civil law tradition, John Henry Merryman notes that, though the

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1) http://www.ipacc.org.za/eng/regional_northafrica.asp
2) http://lianz.waikato.ac.nz/PAPERS/wayne/what%20is%20custrom%20law.pdf
3) http://en.wikipedia.org/wiki/Custom_(law)#Customary_law_within_contemporary_legal_systems

attention it is given in scholarly works is great, its importance is "slight and decreasing."[4] Is it true to say that custom law is no longer appropriate in a modern legal system.[5]

Returning to the context, the Imazighen custom law system has important role in Imazighen Society. Namely, Imazighen custom law system affects Imazighen way of life. An Amazigh customary legal system has been set up over thousands of years in North Africa covering all aspects of life. In fact, there were custom laws regulating the individual, collective, cultural and political life, and the system of ownership of lands, forests, waters and minerals[6], and penalties for crimes, for example, Criminal code, libel, theft, commit adultery, marriage etc.

Of course, In spite of that the Morocco Constitution and laws block to preserve the Imazighen society and Imazighen custom law, the Imazighen custom law system is functioning properly in Imazighen rural society.

As for the Imazighen custom law system, it does not recognize death penalty. In fact, the utmost penalty was exile outside the tribal society. It was based on the financial principle instead of physical penalties.[7]

But, this Imazighen custom law does not introduce to Korean academic world.

Only few papers are exist about the Imazighen culture and history fields in Korean academic field.

In this context, this paper raises the questions as follows. What is the legal system of penalties in the Morocco Amazigh custom laws. And what is a kind of the penalties for crimes in the Imazighen custom law? And what is the essence of the Imazighen society through the study of the legals system of the penalties in th Morocco Amazigh custom laws. And what are the functions of custom laws in the Imazighen society? Throgh this paper we will find the social moral value and individual moral value.

The methods of this research are based on the literatures and an on-the-spot survey which are carried out from 01. 26. 2012 ~ 02. 26. 2012.

Ⅱ. The framework of the research

This paper does not dealt with the statics of the violent crime rate. Rather, this paper deals with the viewpoint in the sociology of law.

The sociology of law (or legal sociology) is often described as a sub-discipline of sociology or an interdisciplinary approach within legal studies. More specifically, the sociology of law consists of various sociological approaches to the study of law in society, which empirically examine and theorize the interaction between law and legal institutions,

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4) http://en.wikipedia.org/wiki/Custom_(law)
5) http://www.studyzones.com/questionzone/answer/72103x1609/Custom-law
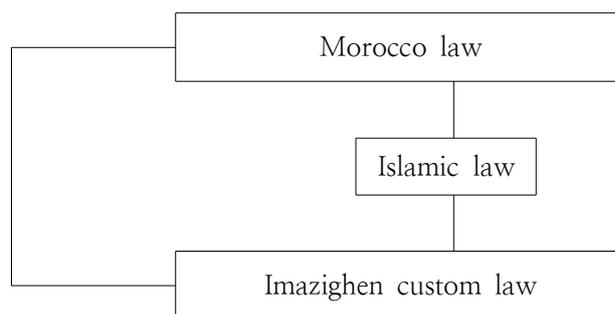6) http://www.mondeberbere.com/societe/actu/20021111_tamaynut.htm
7) Ibid.

on the one hand, and other (non-legal) social institutions and social factors, on the other. Areas of socio-legal inquiry include the social development of legal institutions, forms of social control, legal regulation, the interaction between legal cultures, the social construction of legal issues, legal profession, and the relation between law and social change. In Fundamental Principles of the Sociology of Law, Eugen Ehrlich developed a sociological approach to the study of law by focusing on how social networks and groups organized social life.8) This paper shall be considered above mentioned the discuss.

And the Imazighen customary courts established in the 1930s during the French Protectorate of Morocco(1912 - 1956) were key sites of negotiation over legal affairs in rural Moroccans. Certain aspects of allegedly Imazighen custom law and Islamic law were retained.

After independence of Morocco, there are three penalty system in Morocco. namely It is Morocco national penalty system, Islamic state penalty system, Iamazeghen penalty system.

〈picture 1〉 status of Imazighen cutomary law penalties

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                    ┌─────────────────────┐
          ┌─────────│    Morocco law      │
          │         └─────────────────────┘
          │                    │
          │            ┌──────────────┐
          │            │ Islamic law  │
          │            └──────────────┘
          │                    │
          │         ┌─────────────────────┐
          └─────────│ Imazighen custom law│
                    └─────────────────────┘
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So, in this context, this paper deals with the status of Imazighen penalty system. under the Moroccan law system and Islamic law system.

Imazighen converted to Islam from natural religion follow Islamic law and Moroccoan constitution about 60% among Imazighen instead of following the Imazighen custom law.

Ⅲ. The justice in system of the Imazighen Customary Law

The concept of justice in the Imazighen Custom Law bases on the social moral value and individual moral value through tribe council namely Jama'. The Jama' appoint the Judges. Usually The judges were usually appointed among pious men of the tribe to carry out the duties of judges or wise men (Inflas or Aït Rïin)9) under the name of

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8) http://en.wikipedia.org/wiki/Sociology_of_law#Sociological_Approaches_to_the_Study_of
9) http://www.mondeberbere.com/societe/actu/20021111_tamaynut_index-en.htm

Justice.

The Justice in the Imazighen customary law is realized to Anehkam institution. Anehkam institution is as ancient as the jamaat among Amagigh people. Anezzarfu acts as a judge upon agreement by the litigants, given that an individual is not allowed to take his rights within his own hands.[10]

As for, the system of Amazigh justice and the official regime and their relationship, after the independence of Morocco, the official legal system did not completely abolish the customary legal system as stated previously. In fact, the legal system of communal lands preserved a part of the native system of ownership and maintained some customary laws and procedures to settle disputes. However, not all disputes are submitted directly to the courts of the official system of justice. In fact, they are submitted to a special body set up by the customary law and the judges of the customary justice. A special body created by the trusteeship authority, which is the Moroccan Ministry of the Interior, can be appealed to about their judgements.

This system is characterized first by the fact that the representatives of the communities settle disputes through the Administration especially that this task is entrusted by the central authority that control those representatives. This system becomes complicated because the task of settling disputes is entrusted to people who usually understand the customary law but are subject to the recommendations of the Administration due to their illiteracy.

The

And looking at the system of reforming justice and discrimination against the Amazigh people through the exclusion of the principles of the Amazigh system of justice, there are continual attempts to reform the system of justice in Morocco, but none of these attempts took into consideration the Amazigh principles of justice (the customary system of justice) so far, especially those principles related to the adoption of financial instead of physical penalties, the principle of respect of life by abolishing the death penalty and the principle of Tamazalt related to the equality between men and women as regards the acquired wealth in case of divorce. The measures taken until now are limited in eradicating bribery in the judicial system and did not extend to the respect of the Amazigh linguistic, cultural and legal identity.[11]

On 16 May 1930, a dahir namely decree designed by Protectorate of was issued by the Moroccan sultan. Often called the" Imazighen Dahir,"it built on an 11 September 1914 decree that stated France's intention to retain customary law i among those rural Imazighen tribes following it rather than Islamic law. In this system, justice of the imzighen custom law was functioned at least.

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10) Lhoussain Rachid. Mohamed Ouakrime(tr). *The Memory Imprint Amazigh Landmarks in the National Culture*. Rabat, Institut Royal De La Culture Amazighe. 2005. p.132.
11) Ibid

Ⅳ. The types of the penalties for crimes in the Imazghen Customary Law

1. the bases of the Criminal code

In Pakistan, custom law is very severe for example, because the congratulators danced in wedding ceremony, the most congratulators danced were sentenced to the death penalty in according to the custom law.[12]

While, Zaiyan Imazighen does not recognize the death pernalty. In fact, the most sever penalty was banishment outside tribe society. [13]

The Original source of the Imazeghen penalties system is based on the discussion of community ie jama'. Jama decides the kinds of crimes and the punishment of crimes.

This system bases on the finance supplement instead of the physical penalty.[14] The Criminal code Judges were appointed among open minded tribe people and holy men.

2. the types of crimes and penalties

① Diya(reparation) against the body demage

In the custom law of Zayan Imazighen, when a person has been damaged or caused to die by another, the compensation paid to the heirs of a victim as follows.[15] These custom law regulates the value of money for the compensation that prevail at that times. At this time, The Value of Diyya is decided by the tribe council.[16]

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12) ytn. 2012. 5. 30.
13) In Saudi Arabia, in case of kill the person, the prescribed blood money rates are as
   follows[8]：
300,000 riyals if the victim is a Muslim man
150,000 riyals if a Muslim woman
150,000 riyals if a Christian or Jewish man
75,000 riyals if a Christian or Jewish woman
6,666 riyals if a man of any other religion
3,333 riyals if a woman of any other religion
14) 20021111_tamaynut_index-en.htm 2012. 3.22
15) http://en.wikipedia.org/wiki/Diyya 2012. 3. 21
16) David M. Hard,.*op.cit.,* p.61.

loss of sexual ability	:	clarify the provisions on the Izlef
lose the sight of one eye	:	1/2 reparation
loss of one's eyesight	:	entirely reparation
broken right or left side rib	:	1/2 reparation
demage of two internal organ	:	entirely reparation
demage of three internal organ	:	entirely reparation
demage of four internal organ	:	entirely reparation
demage of thumb	:	1/2 reparation
demage of stop finger	:	1/4 reparation
demage of the ring finger	:	1/4 reparation
demage of two ear	:	entirely reparation
demage of one ear	:	1/2 reparation
earing loss	:	entirely reparation
severance of man's nose	:	1/4 reparation
severance of woman's nose	:	1/2 reparation[17]

② Libel

In the Zayan customary law, the libel is limited to the women. In particular, the honor of woman is very important in the Zayan society. Also Zayan customary law respects to the honor of the married women. It is proper measures according to crime dode of customary law in order to protect not committed the Adultery.

③ Theft

The theft is banned. In general, when stealing is detected, a theft was punished with a fine. The sufferer should get paid for the stolen by wrongdoer. And the stealer must pay his fines to Amghar instead of the custody.[18]

④ Faithless marriage, and commit adultery, marriage

As for the marriage according to Imazighen customary law, the marriage of brother or sister, sons or daughters of paternal side and maternal side, sons or daughters of kinfork is prohibited.[19] This contrast to Islamic custom law, which is allowed to marry with his or her cousin. But, in face, Imazighen marry with his or her cousin by the influence with Islam. To the Imazighen, the families are consisted of the father, the

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17) Rubir, Asbinyun, Muhanmad, Awrlgh(tr). *Araf Qabail Zayan.* Rabat, Institut Royal De La Culture Amazighe.2007, p.39
18) *Ibid.,* p.70.
19) *Ibid.,* p.78.

mather, sons, and daughters by marriage. Namely father, mother, sons, daughters are basic unit of the Imazighen families.

While, as the procedure of marriage, when a man want to marry with a women, a man must give diyya according to the conditions of bride. In this case, a man who want to marry a certain women must give some head of cattle to the bride.

According to the Imazighen customary law, the legal age of the marriage to Imazighen girl is 16 years old at least. However, 12 years old girl usually appears in the marriage market. During Islamic period, the legal age of the marrage to the Moroccan girls is 16 years old. Recently After that Moroccan government revises the personal law, according to new family law article 19, the legal age of the marriage to women is 18 years old. However according to Imazighen custom usually, Imazighen girl marry from 15 years olds from 18 years old. In the side of bride, and the mother of girl selects the bridegroom[20]

Recently, owing to rapid influence of the west countries, and participation of Moroccan women to society, the age for marriage is higher and higher, what is worse, single women are increased in Imazighen society.

In the Imazighen society, a husband and wife are faithful to their married life.[21] When a married woman committed an evil act like single or double adultery, her husband has right to kill his wife.[22] This honor killings exist customarily in Islamic states like Egypt, Saudi Arabia, Pakistan, Iran etc.

This penalty is a typical phenomenon appeared in the tribal nomadic society.

⑤ The other Izlef

Besides, Imazighen Izlef regulates cutting a forest, lumbering except aiming at living and disaster. Until now, several councils of town in the Imazighen societies apply to customary law of land affairs in the Mountain of Atlas. This application to cuatomary law is against the policy of the Morocco government which encourage the arable land in the result of the cutting.

The Amazigh Izlef is regulated that owner of land can not split the land and transfer his land to non tribal member.

The foundation stones of the Imazighen Izlef are consisted of proprietary rights of land and own trees. The exclusion of the non tribal member is operating in order to sustain the system of the Imazighen customary law. Thus, the exclusion of non tribal member is shunned in the Imazighen community. For example, the system of the tenant farming in Ait Att' tribe, equally this system in Zayan customary law is came alive and sustained well.

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20) Anan Virkama, *Discussing Moudawana Perspectives on Family Code Reform, Gender Equality and Social Change in Morocco*. Berlin: Lambert Academic Publishing, 2010.p.29.
21)http://www.everyculture.com/Africa-Middle-East
/Berbers-of-Morocco-Marriage-and-Family.html 2012. 6. 30
22) Rubir Asbinyun., Muhanmad Awrlgh(tr). *op.cit.*,p.58.

The method of the payment in terms of the tenant is that the tenant must pay 1/5 of a harvest in the past but nowadays the ower of land provides the 1/2 of expenses like arable land, seeds and equipments. At the same time, the tenant provides the 1/2 of expenses.[23]

And, in many regions, the long-held legal tradition known as Tamazzalt namely the Tamazzalt Right was adopted in the case of divorce. This right allows the married couple to divide between them the wealth acquired by the husband or by both of them after marriage until the divorce or death occurs.[24]

Ⅴ. The difference between Imazighen Custom Law and Morocco Law of the penalties for crimes

Morocco is an Islamic state attached to its national and territorial integrity and the preservation of the components of its national identity, which is unified through the coalescence of all its composing elements, Arabo-Islamic, Amazigh, and Hassania Sahrawi, and rich of its African, Andalussi, Hebrew and Mediterranean tributaries'.

In this conditions, there are three penalty system; Morocco national penalty system, Islamic state penalty system, Imazighen penalty system. Imazighen penalty system is operated within Morocco national penalty system,

〈figure 2〉 The penalties of crime within Moroccan Society
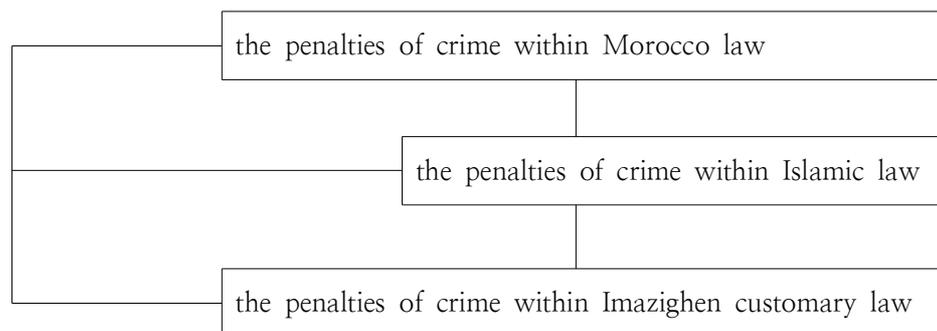
Islamic penalty system as above figure affects to the Moroccan penalty laws. In this reason, Recently, day by day, Imazighen customary law is weaken because   Moroccan

23) Anna Natividad Martinez,"Intertribal Conflicts and Customary Law Regimes in North Africa:
A Comparison of Haratin and Ait 'Atta Indigenous Legal Systems"
http://tlj.unm.edu/tribal-law-journal/articles/volume_5/intertribal_conflicts_and_customary_law_re
gimes_in_north_africa_a_comparison_of_haratin_and_ait_atta_indigenous_legal_systems/content.ph
p 2012. 2. 15
24) http://www.mondeberbere.com/societe/actu/20021111_tamaynut_index-en.htm

government forces Imazighen to obey the Moroccan positive law including the penalties of crime.

Furthermore, Imazighen converted to Islam from natural religion follow the penalties of crime about 40% among Imazighen instead of following the penalties of crime.

And looking at the Discrimination against the Imazighen as regards the official system of justice, The first discrimination felt by the Imazighen litigant particularly that he does not speak the official language is that he is deprived from the right to defend himself in his mother language and from understanding what is being said in his mother tongue.

Moreover, as soon as this litigant is inside the court, he finds himself outside the sphere of the customary law by virtue of which he acquired most rights that he may be deprived from once he gets in contact with the official justice.

The major discrimination suffered by the imazighen is the total exclusion of their Imazighen culture from the establishments in charge of training the officers of justice, which make a number of judges understand neither him nor his culture, nor his customary law, nor the aborigine system of justice. Many judgements prevent the Imazighen from choosing Imazighen names for their children.

And traditional family law also provided much more severe penalties for crimes against women and sexual harassment than the revised law.

So what the government describes as historically significant, said Ahmed Asid, researcher at IRCAM, is "nothing new" for Morocco's Imazighen. The only difference is that "the new laws are packaged and diffused in a Western and modern style rhetoric."

And he told as follows:

"We want the government to reexamine our history and acknowledge its mistakes of wiping out an indigenous legal system "[25]

Ⅵ. Conclude

This paper already raise the questions as follows, What is the legal system of the penalties in the Morocco Amazigh custom laws. And what is the essence of the Imazighen society through the study of the legals system of the penalties in th Morocco Amazigh custom laws. And what are the functions of custom laws in Imazighen society? Throgh this paper we find the social moral value and individual moral value.

The concept of justice in the Imazighen Customary Law bases on the social moral value and individual moral value through tribe council namely Jama'. While, Islamic laws is based on the Divine Quran and prophet Muhanmad.

As for, the system of Amazigh justice and the official regime and their relationship, after the independence of Morocco, the official legal system did not completely abolish the

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25) http://www.myspace.com/amazighroots/blog

customary legal system

there are continual attempts to reform the system of justice in Morocco, but none of these attempts took into consideration the Amazigh principles of justice

And this paper mentioned that the types of the penalties for crimes in the Imazighen Customary Law. These penalties for crimes in customary law regulates the value of money for the compensation that prevail at that times.

And this paper illuminated that there are three penalty system; Morocco national penalty system, Islamic state penalty system, Imazighen penalty system. Imazighen penalty system is operated within Morocco national penalty system,

However, recently Imazighen penalty system is recognized due to the Imazighen identity movement. Namely Because of the Imazighen Renaissance is begun. the penalty sytem of Imazighen shall be increased among Imazighen society. The family code, widely known by its Arabic name Mudawana, was enacted in 2004 to update an existing 46-year old set of laws in a move the government said was aimed at improving gender equality and protecting women's rights but that activists reject as less stringent than their traditional laws.[26]

The further study shall be remained near future.

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Mediterranean Diversity & the Middle East

Chair: **CHOI, Chun Sik** (IMS)
Venue: **217**

❚ **Presentation1**   Development of Latin Script

            Presenter: JANG, Jee Yeon (Seoul National University)
            Discussant: KIM, Hee Jung (HUFS)

❚ **Presentation2**   Some Dimentions of Saint Veneration from the time of the Ottoman Empire to the Present Day

            Presenter: IMAMATSU, Yasushi (Kyoto University)
            Discussant: LEE, Nan A (HUFS)

❚ **Presentation3**   Liberalism and the Egyptian Society
: Lutfi al-Sayyid and his Nationalism in Modern Egypt

            Presenter: HIRANO, Junichi
                         (Japan Society for the Promotion of Science)
            Discussant: PARK, Jae Won (HUFS)

❚ **Presentation4**   Civil Society and the Road to the Egyptian Revolution
: The Global Dimension

            Presenter: Gamal M. Selim (Port Said University)
            Discussant: HAH, Byoung Joo (BUFS)

The Development of Latin Scripts

JANG, Jee Yeon | Seoul National University

Ⅰ. Capitals (*Capitalis*)

Capitals are the first bookhand for Latin. The letter forms are more or less the same as those of inscriptions. The letterings of inscriptions, called Monumental Script, are, being inscribed on stones, characterised by straight strokes, right angles and the same height of the letters. When the Monumental Script was applied to softer materials such as papyrus and parchment, the letter forms became somewhat less angular. The Square Capitlas preserves the characters of the Monumental Script intact, while the Rustic Capitals swerves slightly from the inscriptional pattern.

1. Square Capitals

Square Capitals reaches it perfection in the 2nd century AD and mainly used for titles. As a text script, only three parchment fragments of Virgil of the 4th to the 6th century are extant. For titles and special purposes it continued to be used for centuries and was revived by the humanists in the 15th century.
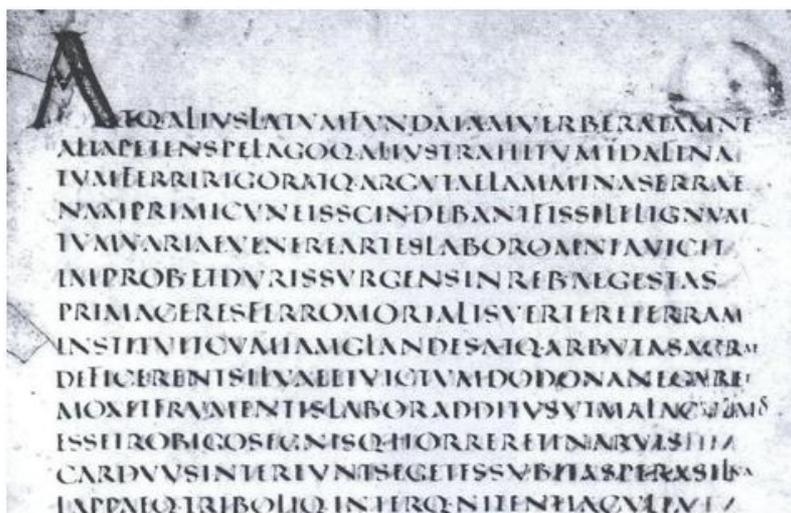
Plate 1. Italian(?), *s.* iv, Biblioteca Apostolica Vaticana, Vat. Lat. 3256, f.3v.[1]

The letters are of the same height with the common exception of F and L which project above the line. O and Q tend to be perfect circles. No word division is made (*scripta continua*) and abbreviations are used sparingly. The scale of letters is reduced at line-ends.

2. Rustic Capitals

The Rustic Capitals is the formal bookhand of the Romans and flourished in the 1st century AD. As a deluxe text script it was used through the 6th century and for titles and other special purposes for centuries longer. Fragments of about twenty manuscripts are extant and four more or less complete manuscripts of Virgil and one manuscript of Terence of the 4th and the 5th centuries are preserved.

Plate 2. Rome, *s.* v², BibliotecaApostolicaVaticana,Vat.Lat.3867,f.3v.

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1) Full bibliographical details of the plates are provided in the List of Plates at the end.

The letters are of the same height, with the exception of F, L, B. The bows of B and R are minimal. Medial point was used for word division. Compared to the Square Capitals, straight lines tend to curve and letters are more compressed. Curvaceous feet at the minims are notable. The figure is Virgil, the author of the text.

Ⅱ. Uncial (*Littera Uncialis*)

The Uncial script is a modification of the Capital script with its characteristic curved strokes. The use of curves makes it possible to write a letter with fewer strokes than the Capital scripts. For instance, the letter M is written with four strokes in the Capital script, but in Uncial three strokes are used. The earliest extant manuscript written in the Uncial script is of the 4th century AD, but it is probable that the script developed earlier. It seems that the Uncial script was the most popular bookhand in the 5th to the 8th centuries. Abbreviations and ligatures are infrequent as in the Capital scripts. Bibles and patristic works are written in the Uncial script, not in the Capital scripts.
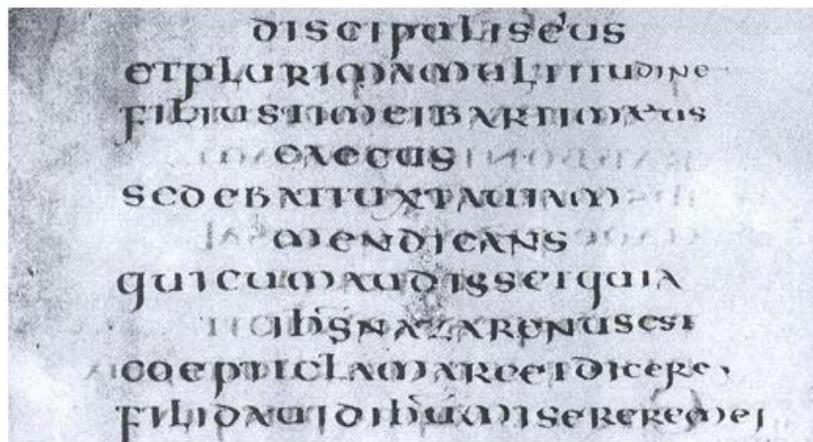
Plate 3. Italian, *s.* vi, British Library, Harley 1775, f.193r.

Characteristic Uncial letters with curved strokes are A, D, E, H and M. Q is also different from the Capital script. F, P, Q project below the writing line, L and H above the line. These features are due to the influence of cursive writing. The text is written without word division but the line division is made *per cola et commata*, i.e. according to the semantic units of the text.

Ⅲ. Half-uncial

As the name of the script suggests, the Half-uncial developed from the Uncial script.

The crucial difference between Uncial and Half-uncial is that Uncial is a majescule, that is, a capital script, while Half-uncial is a minuscule (the so-called lower case letters) script. Half-uncial is the first almost complete minuscule script in Latin. The relative ease with which it could be written contributed to its popularity as a bookscript during the 5th to the 7th centuries. Half-uncial was highly influential in the development of later scripts, especially the national scripts and the Caroline minuscule. Ligatures are more freely used than the Capital scripts and Uncial. Most of the texts written in Half-uncial are Christian works.
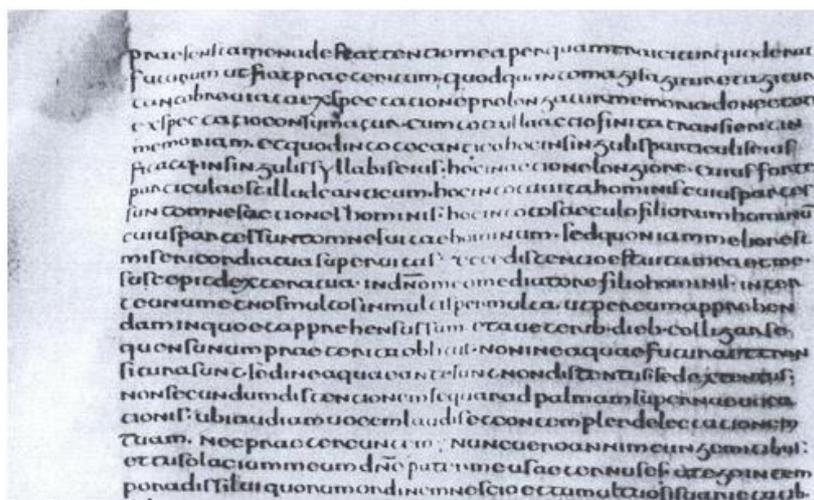
Plate 4. Italian, *s.* vi, Biblioteca Apostolica Vaticana, Vat. Lat. 3375, f.29v.

The letter forms of A, B, D, G, M, R and S are different from the Uncial script. A has the 'oc' form; ascenders and descenders are perpendicular to the writing line; long S is used; R does not have the loop; G has a flat-top. N is the only capital letter used in the Half-uncial script.

Ⅳ. Insular Scripts

Insular (comprising Ireland and Great Britain) scripts were developed from the Half-uncial script, whereas Continental national scripts (discussed in Section 5) are based on the Roman cursive script. The Insular scripts may have begun the development by the late 6th century in Ireland. The scripts show rather heavy use of abbreviations. The Insular scripts were gradually replaced by the Caroline minuscule from the 9th century onwards.

1. Insular Half-Uncial

The Insular Half-uncial script is characterised by its thick perpendicular strokes with triangular wedges at the top and the rotundity of the letters. The script is broad and

vertically compressed. The descenders do not go far below the writing line.
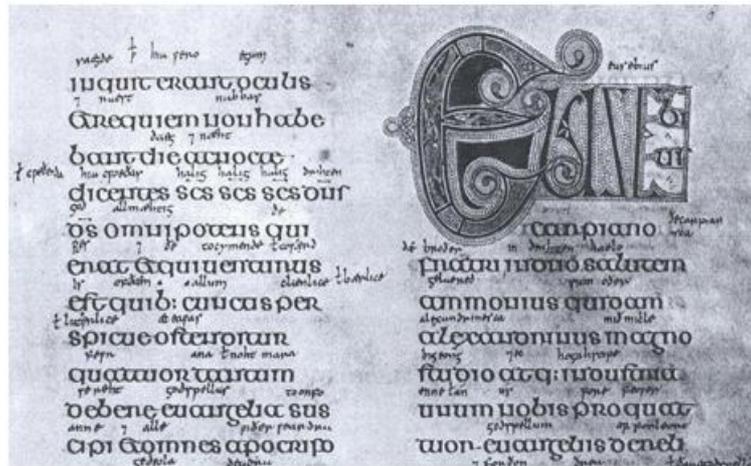

Plate 5. England, Lindisfarne, c. 698, British Library, Cotton Nero D. IV, f.8r.

Characteristic Insular pattern of initial decoration with dots and interlaces and zoomorphic figures is used for the beginning of the text. The glosses are in Old English. Both the minuscule and the Uncial forms are used for D, R and S; 'oc' form of A is used. The big round bows of B and P are peculiar.

2. Insular Minuscule

The Insular minuscule script is less formal than the Insular Half-uncial with relatively long ascenders and descenders. The ascenders have trianular terminals.
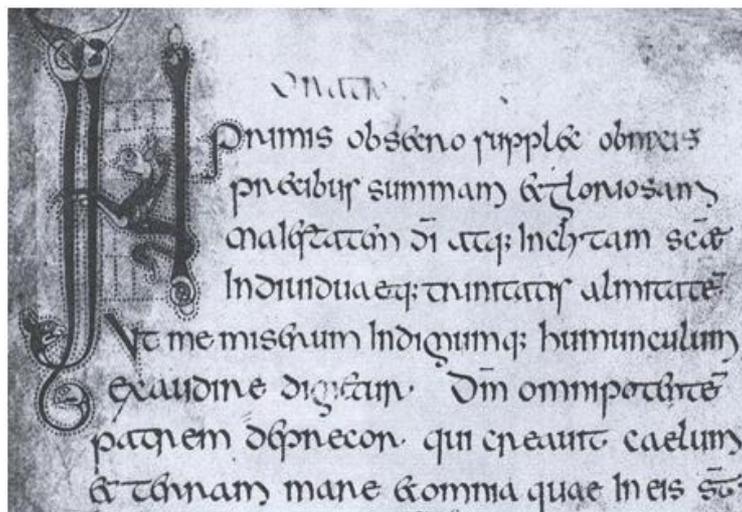
Plate 6. England, Mercia, *s.* ix^{in},BritishLibrary,Royal2.A.XX.f.17r.

Insular initial decoration for the word *In* at the beginning; Uncial S and D are used.

The pointed A with an angular bow is noteworthy. The letter E is frequently ligatured with the following letter. The ET ligature later develops into the ampersand in Caroline minuscule. Flat-top G is used.

Ⅴ. Continental National Scripts

1. Luxeuil Minuscule

The Luxeuil minuscule was developed at the Abbey of Luxeuil during the 7th and the 8th centuries. It was mainly based on the Roman cursive script, but features of Uncial and Half-uncial are also found. The script is characterised by the juxtaposition of round and angular forms and the long and clubbed ascenders.
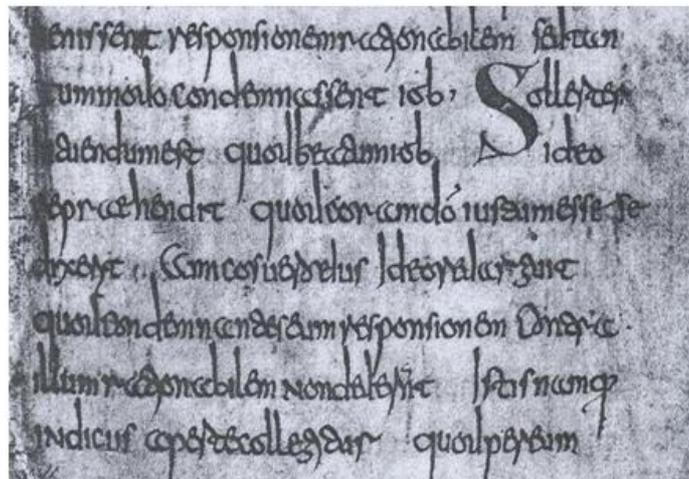
Plate 7. French, Luxeuil *s.* viii (second quarter), British Library, Additional MS 11878, f.11r.

The bow of D is open when it is ligatured with a letter on the left; the left stroke of A is angular and open; long S is used. Both the capital and the minuscule N is used. Ligatures are very frequently used for CT, EC, ET, FI, RI, RO, ST, TE, TI and TU.

2. Visigothic Script

The Visigothic script was developed during the 8th and the 9th centuries in Spain and used until the end of the 12th century. Although it was based on the Roman cursive, the influence of Half-uncial on the formation of Visigothic script is grerater than on the other continental national scripts.
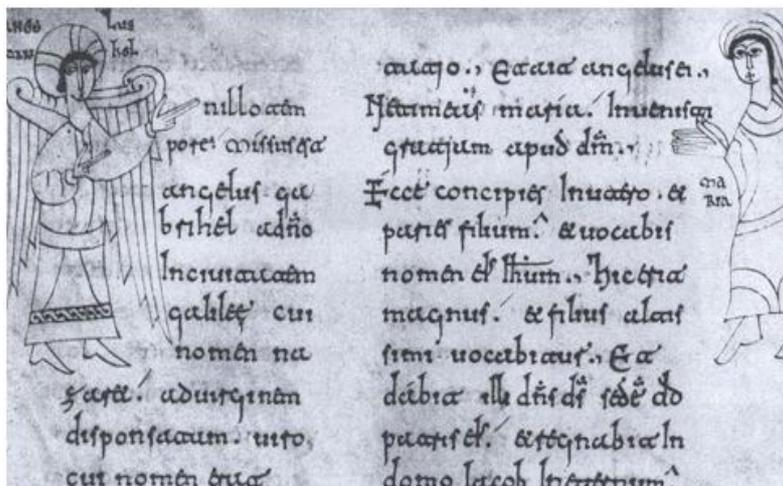
Plate 8. Spain, *s.* x, British Library, Additional MS 30844, f.41r.

ET ligature and EN ligature, wedged ascenders and Uncial G are to be noted. The space between letters and word division contribute to the high legibility. The anthromorphic initial I at the beginning of the text is peculiar.

3. Beneventan Minuscule (Lombardic Script)

The Beneventan minuscule, primarily based on the Roman cursive script, was developed in the southern Italy, particularly in the Benedictine monastery of Monte Cassino from the mid-8th century. It continued to be used until the end of the 13th century. The overall rotundity of the script is to be noted.
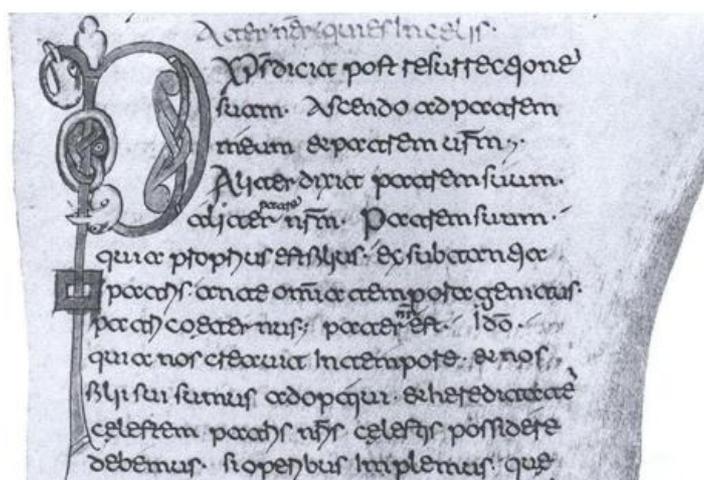
Plate 9. Southern Italy, *s.* ix[in],BritishLibrary,AdditionalMS16413,f.31r.

Some of Half-uncial forms are used, such as 'oc' form of A and round D. Noteworthy

are the shape of E; T with descending head-stroke; high-shouldered R. Ligatures are used, especially for those of ET, FI, RI, ST and TI. Ę is used for AE.

VI. Caroline Minusule

The Caroline minuscule is characterised by its clarity and uniformity of letter forms which resulted in a high degree of legibility. It first appeared at Corbie in the 770s and was soon spread all over Western Europe. It was the most popular bookhand in Europe during the 9th and the 13th centuries. The script was developed from the mixture of Frankish pre-Caroline minuscule and Half-uncial with some Insular features. The script has overall round aspect, but the minims are straight. The use of abbreviation is minimal and ligatures are avoided as far as possible, with the exception of ET, NT, RT, ST and OR ligatures. Both AE and Ę are used. The Capital scripts and Uncial are employed for display scripts for titles and the opening lines of texts. At the later stage of its development, the Caroline minuscule underwent lateral compression and the letters became taller and the curves more angular.
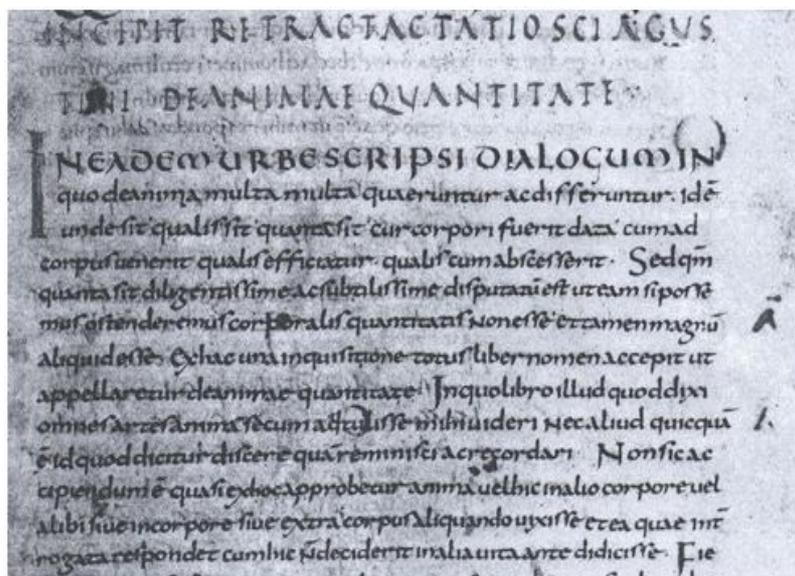

Plate 10. German(?), possibly Lorsch *s.* ix[1], British Library, Harley3012,f.1r.

Long S and Uncial S are both used; the abbreviations are reserved for very common ones; Uncial A with a small bow is used; D has a straight back-stroke; minuscule G with two circles is used.

Ⅶ. Gothic Scripts

The Gothic script began to appear from the 12th century and reached its full-fledged form in the 13th century. The most prominent feature of the Gothic script is that all the strokes stand on the writing line. Another characteristic feature is the pratice of biting, i.e. sharing of one stroke by two contiguous letters. Angularity and lateral compression also characterise the script. The tendency of elaboration of the minims increased along with the development of the script. Abbreviations are heavily used and the practice of line-filling with decorative patterns is common.

1. Textualis Prescissa

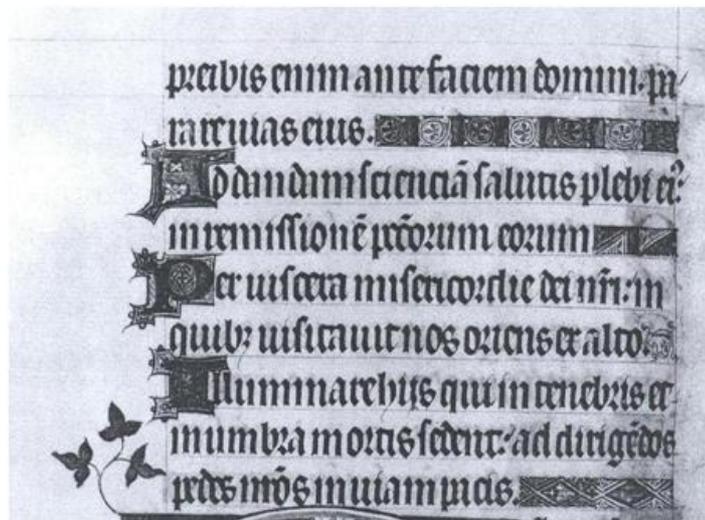The bottoms of minims terminate almost horizontally on the writing line.

Plate 11. English, *s.* xivⁱⁿ(c.1310-20), British Library, Royal 2. b. VII, f.296v.

Biting of D and O in *domini* in the first line; fine serifs are used for the head of I and at the bottom of the second stroke of H; upright D and Uncial D are both used; both the long S and Uncial S are used; the shape of R in the biting of P or O is noteworthy. Initial decoration and bar line-fillers are used.

2. Textualis Quadrata

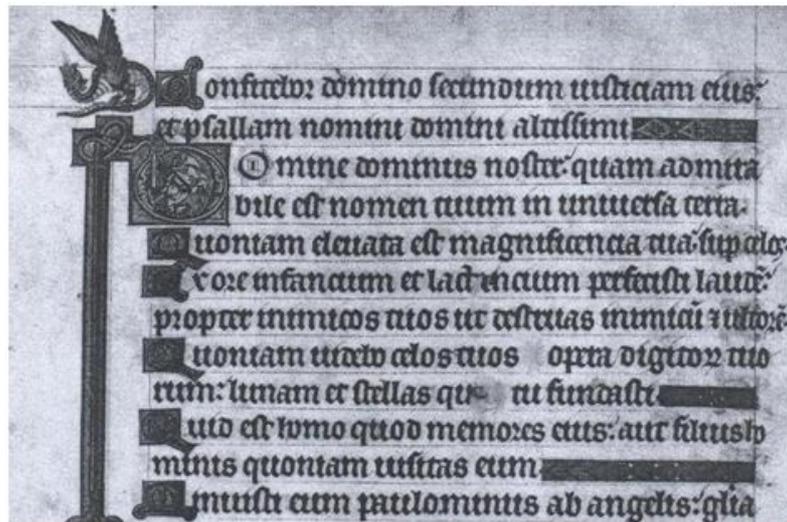The minims are fractured and the bottoms of the minims have square feet.

Plate 12. English, *s.* xiiiᵉˣ,BritishLibrary,AdditionalMS24686,f.14v.

Fine serif is used for I; long S and Uncial S are both used; the first line is below the top line; biting is frequent; decoration of large and minor initials; bar line-filler is used.

3. Textualis Rotunda

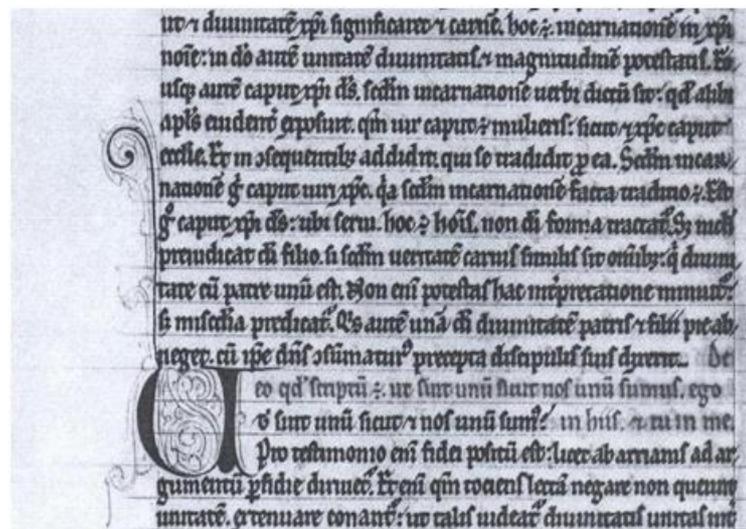The minims are without breaking and the bottoms of the minims are round.

Plate 13. English, *s.* xiiiⁱⁿ, British Library, Burney282,f.37v.

Abbreviations are heavily used and the 7-shaped abbreviation for ET is notable; serifs for the letter I; word division is rather prominent; the top of ascender is wedged; decoration of the initial U with fine lines.

Ⅷ. Humanistic Book Script

The Italian humanists in the 14th century began to simplify Gothic scripts. At the end of the 14th century the direct imitation of the Caroline minuscule is attempted with the result of Humanistic book script based on the Caroline minuscule with a few distinctive features.
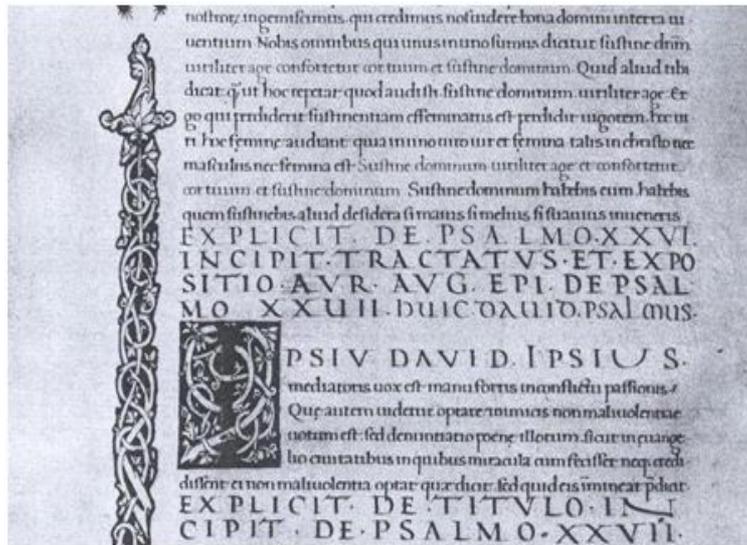

Plate 14. Italian, 1478, British Library, Additional MS 14779, f.71v.

The strokes are vertical and the letters have round aspect. Letters are well separated, but Caroline ligature of ST is used; minuscule N is used; Capital scripts and Uncials are used for display purposes as in the Caroline manuscripts; decorations with entwined vine motif.

List of Plates

Plate 1. Italian(?), *s.* iv, Virgil, *Georgics*, Vatican City, Biblioteca Apostolica Vaticana, Vat. Lat. 3256, f.3v; Brown (1990), p. 17.

Plate 2. Rome, *s.* v², Virgil, *Eclogues*, Vatican City, Biblioteca Apostolica Vaticana, Vat. Lat. 3867, f.3v; Brown (1990), p.19.

Plate 3. Italian, *s.* vi, Gospels, Mark, London, British Library, Harley 1775, f.193r; Brown (1990), p. 25.

Plate 4. Italian, *s.* vi, Eugippius, *Excerpta ex Operibus*, Vatican City, Biblioteca Apostolica Vaticana, Vat. Lat. 3375, f.29v; Brown (1990), p. 27.

Plate 5. England, Lindisfarne, c. 698, Eusebian Preface (the Lindis farne Gospels), London, British Library, Cotton Nero D. IV, f.8r; Brown (1990), p.51.

Plate 6. England, Mercia, *s.* ixⁱⁿ, Prayerbook, London, British Library, Royal 2. A. XX. f. 17r; Brown(1990),p.55.

Plate 7. French, Luxeuil *s.* viii (second quarter), Gregory the Great, *Moralia*, London, British Library, Additional MS 11878, f.11r; Brown (1990), p. 43.

Plate 8. Spain, *s.* x, Offices and Masses of the Mozarabic Liturgy, London, British Library, Additional MS 30844, f.41r; Brown (1990), p. 47.

Plate 9. Southern Italy, *s.* ixⁱⁿ, Theological works, London, British Library, Additional MS16413, f. 31r; Brown(1990),p.119.

Plate 10. German(?), possibly Lorsch *s.* ix¹, St Augustine, *Retractationes*, London, British Library, Harley 3012, f.1r; Brown (1990), p. 69.

Plate 11. English, *s.* xivⁱⁿ(c.1310-20), Psalter, London, British Library, Royal 2. b. VII, f. 296v; Brown(1990),p.83.

Plate 12. English, *s.* xiiiᵉˣ, Psalter, London, British Library, Additiona lMS24686, f. 14v; Brown(1990),p.85.

Plate 13. English, *s.* xiiiⁱⁿ, St. Ambrose, *De fide*, London, British Library, Burney 282, f.37v; Brown (1990), p. 89.

Plate 14. Italian, 1478, St Augustine, *In Psalmos*, London, British Library, Additional MS 14779, f.71v; Brown (1990), p. 131.

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Islam and Muslim's Life
: Change of Politics, Economy, Society
in the Middle East

Chair: **PARK, Hyon Do** (Myongji University)

Venue: **218**

▌**Presentation1** Study on the Life-World of Foreign Muslim-Korean Spouse Offsprings

> **Presenter:** AHN, Jung Kook (Myongji University)
> **Discussant:** LIM, Byung Pil (IMS)

▌**Presentation2** A Study on the Lives of the Arabs in the Era of Jahiliya

> **Presenter:** KIM, Jong Do (Myongji University)
> **Discussant:** YI, Kyu Cheol (BUFS)

▌**Presentation3** The Shi'i Jurisprudence in the Age of *Velayat-e Faqih*

> **Presenter:** Mohammad Hassan Mozafari
> (Myongji University)
> **Discussant:** JUNG, Sang Yeul (Myongji University)

▌**Presentation4** Building A Democratic State in Syria

> **Presenter:** Louay Hussein
> (Building the Strian State, Syria)
> **Discussant:** PARK, Hyon Do (Myongji University)

Study on the Life-World of Foreign Muslim-Korean Spouse Offsprings

AHN, Jung Kook❘ Myongji University

According to the Reuters recent report, Islam has surpassed Roman Catholicism as the world's largest religion. It says Catholics accounted for 17.4 percent of the world population, while Muslims were at 19.2 percent. Moreover, when we consider the birth rates of these two religion, Muslim's birth rates are far higher than that of Catholics. Muslim families, as is well known, continue to make a lot of children, Christian ones on the contrary tend to have fewer and fewer, thus we can carefully predict that in the foreseeable future Islam will be the dominant religion in the world. The world's largest Muslim populations are in fast-growing countries such as Indonesia, Bangladesh, Pakistan, India, Egypt, and Iran. Islam also happens to be the fastest growing religion in Europe, where an influx of Muslim immigrants from North Africa, Turkey, and South Asia has sent shock waves into a mostly Christian and secular population whose birthrates have stagnated. The "Muslim question" has empowered anti-immigrant parties in many European countries, while sparking a fierce debate over the place of women in Islam and symbols of faith like the Muslim head scarf. Charismatic movements are sweeping throughout the Western world, while high birth rates among immigrants are provoking soul-seeking in the historically Christian West. Although such matter seems to have less relevance or influence with the Korean Society, due to its homeogenous society, our research intend to looks at the fast-growing faith that are upending the world order.

Korea is known as homeogenous nations throughout the history. But Korea's long history of being a homogeneous nation is facing a rapid change as Korea is fast becoming a multi-ethnic society with a growing number of foreign migrant workers, international students, and inter-racial marriages. About a decade ago, Korea was a country where foreigners stood out among the crowd. But now, it is easy to see foreign communities scattered around the Seoul metropolitan area and outside the capital. There is even a

prime time talk show solely dedicated to what foreign residents in Korea think about the country. With the growing number of foreign brides, migrant workers and foreign students, the number of foreign residents exceeded the 1 million mark as of August 2007. Considering that the number stood at a mere 40,000 in 1990, it is truly a dramatic change. Although multi-cultural Korean society is the fastest growing debate in the Korean society, there is a big lackness that deals on the muslim community or immigrant in Korea. According to immigration office data, among 1 million foreign immigrants in Korea, there are an estimated 104,427 Muslims living in Korea, occupying 10% of foreign residents. Considering the high birth rates among muslim immigrants and stagnated birth rates of Koreans, it is worthwhile to investigate muslim communities in Korea. Perhaps, it is the right time to research on Muslim immigrants in Korean society.

Considering the mentioned above, this research focuses on the influx, adaptation, and social network of Muslim Immigrants in Korea as the first year subject of the government sponsored project on "Acculturation and Adaptation of Immigrant Muslims in Korean Society: Coexisting with *Koslims* (Korean-Muslims) in a Multi-Cultural Society". To investigate and to collect data from various muslim groups in Korea, this study divided the *Koslims* into five categories; Arab-Muslims, non-Arab-Middle-East-Muslims, Central Asian-Muslims, South Asian-Muslims, and South East Asian-Muslims. In order to outline the Muslim communities in Korea, initially, this research has employed various statistic data as qualitative method. Based on fieldwork among Arab, non-Arab-Middle-East, Central Asian, South Asian, and South East Asian Muslim communities in Korea, this article examines the present condition and social network of the Muslim immigrants in Korea. It investigates not only the general situation of the *Koslims* in Korea but also explores their adaptation and attitude toward the Korean community.

〈Table 1〉 Muslim Sojourners in Korea, March, 2011_without naturalized citizen(unit: person)[1]

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1) 전체적인 수치뿐만 아니라 국가별 수치 또한 전체 속에서 비교해 볼 필요가 있을 것으로 생각되어, 가독성이 떨어짐에도 불구하고 지역별로 표를 분할하지 않고 총63개국에 대한 수치를 한 표에 모두 넣었다.

	nationality	grand total	sex	total	muslim ratio %	number of Muslims(est.)		
·	grand total foreign sojouners	1,308,743		1,308,743	7.03%	92,059		
			(M)	737,013	10.36%	76,352(82.9%)		
			(F)	571,730	2.75%	15,707(17.1%)		
South East Asia		grand total	sex	total	muslim ratio %	number of Muslims	sex ratio	taotal
1	Malaysia	3,471	(M)	1,673	60.4%	1,010	48.2%	2,096
			(F)	1,798		1,086	51.8%	
2	Myanmar	5,121	(M)	4,705	4.0%	188	91.7%	205
			(F)	416		17	8.3%	

		grand total	sex	total	muslim ratio %	number of Muslims	sex ratio	taotal
3	Brunei	51	(M)	29	67.0%	19	55.9%	34
			(F)	22		15	44.1%	
4	Singapore	1,642	(M)	784	14.9%	117	47.8%	245
			(F)	858		128	52.2%	
5	Indonesia	29,644	(M)	26,372	86.1%	22,706	89.0%	25,523
			(F)	3,272		2,817	11.0%	
6	Cambodia	13,193	(M)	7,231	2.1%	152	54.9%	277
			(F)	5,962		125	45.1%	
7	Thailand	41,491	(M)	27,140	4.6%	1,248	65.4%	1,908
			(F)	14,351		660	34.6%	
8	Philippines	48,063	(M)	27,524	5.0%	1,376	57.3%	2,403
			(F)	20,539		1,027	42.7%	
.	total	142,676	(M)	.	.	26,816	82.0%	32,691
			(F)			5,875	18.0%	(35.5%)
Central Asia		grand total	sex	total	muslim ratio %	number of Muslims	sex ratio	taotal
1	Afghanistan	281	(M)	251	99.0%	248	89.2%	278
			(F)	30		30	10.8%	
2	Azerbaijan	124	(M)	85	93.4%	79	68.7%	115
			(F)	39		36	31.3%	
3	Uzbekistan	27,930	(M)	21,506	88.0%	18,925	77.0%	24,578
			(F)	6,424		5,653	23.0%	
4	Kazakhstan	2,171	(M)	1,176	47.0%	553	54.2%	1,021
			(F)	995		468	45.8%	
5	Kyrgyzstan	2,640	(M)	1,756	75.0%	1,317	66.5%	1,980
			(F)	884		663	33.5%	
6	Tadjikistan	223	(M)	171	90.0%	154	76.6%	201
			(F)	52		47	23.4%	
7	Turkmenistan	26	(M)	16	89.0%	14	60.9%	23
			(F)	10		9	39.1%	
.	total	33,395	(M)	.	.	21,290	75.5%	28,196
			(F)			6,906	24.5%	(30.6%)
South Asia		grand total	sex	total	muslim ratio %	number of Muslims	sex ratio	taotal
1	Nepal	10,741	(M)	9,217	4.2%	387	85.8%	451
			(F)	1,524		64	14.2%	
2	Maldives	4	(M)	4	100.0%	4	100%	4
			(F)	0		0	0%	
3	Bangladesh	13,106	(M)	12,516	83.0%	10,388	95.5%	10,878
			(F)	590		490	4.5%	

		grand total	sex	total	muslim ratio %	number of Muslims	sex ratio	taotal
4	Sri Lanka	18,932	(M)	18,200	7.6%	1,383	96.1%	1,439
			(F)	732		56	3.9%	
5	India	7,629	(M)	5,880	13.4%	788	77.1%	1,022
			(F)	1,749		234	22.9%	
6	Pakistan	10,615	(M)	9,974	95.0%	9,475	94.0%	10,084
			(F)	641		609	6.0%	
·	total	61,027	(M)	·	·	22,425	93.9%	23,878 (25.9%)
			(F)			1,453	6.1%	
non Arab Middle East		grand total	sex	total	muslim ratio %	number of Muslims	sex ratio	taotal
1	Iran	1,452	(M)	1,242	98.0%	1,217	85.5%	1,423
			(F)	210		206	14.5%	
2	Turkey	805	(M)	605	99.8%	604	75.1%	804
			(F)	200		200	24.9%	
·	total	2,257	(M)		·	1,821	81.8%	2,227 (2.42%)
			(F)			406	18.2%	
Arab		grand total	sex	total	muslim ratio %	number of Muslims	sex ratio	taotal
1	Lebanon	50	(M)	42	59.7%	25	83.3%	30
			(F)	8		5	16.7%	
2	Lybia	122	(M)	90	97.0%	87	73.7%	118
			(F)	32		31	26.3%	
3	Morocco	241	(M)	162	98.7%	160	67.2%	238
			(F)	79		78	32.8%	
4	Mauritania	7	(M)	6	100.0%	6	85.7%	7
			(F)	1		1	14.3%	
5	Bahrain	11	(M)	9	81.2%	7	77.8%	9
			(F)	2		2	22.2%	
6	Saudi Arabia	838	(M)	558	100.0%	558	66.6%	838
			(F)	280		280	33.4%	
7	Somalia	8	(M)	7	99.0%	7	87.5%	8
			(F)	1		1	12.5%	
8	Sudan	231	(M)	177	70.0%	124	76.5%	162
			(F)	54		38	23.5%	
9	Syria	325	(M)	308	90.0%	277	94.9%	292
			(F)	17		15	5.1%	
10	UAE	128	(M)	113	96.0%	108	88.5%	122
			(F)	15		14	11.5%	
11	Algeria	135	(M)	100	99.0%	99	73.9%	134
			(F)	35		35	26.1%	

		grand total	sex	total	muslim ratio %	number of Muslims	sex ratio	total
12	Yemen	70	(M)	56	100.0%	56	80.0%	70
			(F)	14		14	20.0%	
13	Oman	82	(M)	43	97.0%	42	52.5%	80
			(F)	39		38	47.5%	
14	Jordan	458	(M)	396	94.0%	372	86.5%	430
			(F)	62		58	13.5%	
15	Iraq	384	(M)	292	97.0%	283	76.1%	372
			(F)	92		89	23.9%	
16	Egypt	801	(M)	720	90.0%	648	89.9%	721
			(F)	81	90.0%	73	10.1%	
17	Djibouti	6	(M)	6	94.0%	6	100%	6
			(F)	0		0	0%	
18	Qatar	15	(M)	13	77.5%	10	83.3%	12
			(F)	2		2	16.7%	
19	Comoros	0	(M)	0	98.0%	0	0%	0
			(F)	0		0	0%	
20	Kuwait	78	(M)	61	85.0%	52	78.8%	66
			(F)	17		14	21.2%	
21	Tunisia	100	(M)	71	98.0%	70	71.4%	98
			(F)	29		28	28.6%	
22	Palestine	29	(M)	23	97.0%	22	78.6%	28
			(F)	6		6	21.4%	
.	total	4,119	(M)	.	.	3,019	78.6%	3,841
			(F)			822	21.4%	(4.17%)
other OIC countries		**grand total**	**sex**	**total**	**muslim ratio %**	**number of Muslims**	**sex ratio**	**taotal**
1	Gabon	71	(M)	48	12.0%	6	66.7%	9
			(F)	23		3	33.3%	
2	Guyana	4	(M)	1	7.2%	0	0%	0
			(F)	3		0	0%	
3	Gambia	8	(M)	8	90.0%	7	100%	7
			(F)	0		0	0%	
4	Guinea	22	(M)	17	85.0%	14	77.8%	18
			(F)	5		4	22.2%	
5	Guinea Bissau	5	(M)	2	50.0%	1	33.3%	3
			(F)	3		2	66.7%	
6	Nigeria	1,915	(M)	1,566	50.0%	783	81.7%	958
			(F)	349		175	18.3%	
7	Niger	5	(M)	4	80.0%	3	75.0%	4
			(F)	1		1	25.0%	

8	Mali	18	(M)	16	90.0%	14	87.5%		16
			(F)	2		2	12.5%		
9	Mozambique	11	(M)	8	17.8%	1	50.0%		2
			(F)	3		1	50.0%		
10	Benin	9	(M)	8	24.4%	2	100%		2
			(F)	1		0	0%		
11	Burkina Faso	9	(M)	7	50.0%	4	80.0%		5
			(F)	2		1	20.0%		
12	Senegal	55	(M)	42	94.0%	39	76.5%		51
			(F)	13		12	23.5%		
13	Suriname	10	(M)	5	19.6%	1	50.0%		2
			(F)	5		1	50.0%		
14	Sierra Leone	16	(M)	14	60%	8	88.9%		9
			(F)	2		1	11.1%		
15	Albania	9	(M)	8	70.0%	6	85.7%		7
			(F)	1		1	14.3%		
16	Uganda	156	(M)	101	12.1%	12	63.2%		19
			(F)	55		7	36.8%		
17	Chad	5	(M)	5	53.1%	3	100%		3
			(F)	0		0	0%		
18	Cameroon	238	(M)	166	20.0%	33	70.2%		47
			(F)	72		14	29.8%		
19	Côte d´Ivoire	156	(M)	107	38.6%	41	68.3%		60
			(F)	49		19	31.7%		
21	Togo	23	(M)	17	20.0%	3	75.0%		4
			(F)	6		1	25.0%		
	total	2,745	(M)			981	80.0%		1,226
			(F)			245	20.0%		(1.33%)
	grand total	246,219	(M)			76,352	82.9%		92,059
			(F)			15,707	17.1%		(100%)

* OIC 57 countries and 10 non OIC countries in South East/South Asia

* CIA The World Factbook[2]

Since the globalization, many changes are occurring in our society. Multicultural phenonmenon in the society is becoming one of our major concern in the Korean society. Thus, this study is focusing on the multicultural phenomenon that we are facing since the globalization in Korea. No doubt that immigration is a growing force influencing the demographics of Korea.

Since the mid-1990s, immigrant children and children from mixed marriage have become the fastest growing and the most extraordinarily diverse segment of Korea's child

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2) https://www.cia.gov/library/publications/the-world-factbook/index.html.

population. Until the recent past, Korea's major social attention has focused on adult immigrants to the neglect of their offspring, creating a profound gap between the strategic importance of the new second generation and the knowledge about its socioeconomic circumstances. In other words, there is a significant lack of studies on children of migrant, particularly from the Muslim background living in Korea.

International marriage has grown rapidly in Korea since the late 1990s, and this phenomenon is especially common in rural farming communities. Most brides come from China, followed by Vietnam and other southeast Asian countries. However, there are certain number of Muslim bride coming to Korea. There are about 100 thousand muslim peoples living in Korean society. Among them 2.92% are Muslim immigrants' intermarriage with the Koreans. As a result, there are growing number of muslim brides and bridegroom settling in Korea, which would eventually create muslim families in growing korean multicultural societies.

Since the new milleniun, the term Kosian is widely spoken in Korean society. The term, Kosian was first coined in 1997 by intercultural families to refer to themselves. The term is most commonly applied to children from the mix-marriage between the Korean and Asian migrant. It indicated the multicultural family which mixes Korean and other Asian cultures. As mentioned, its use spread in the early 2000s as international marriages became more common in rural areas. Currently such children make up about 0.5% of children born in Korea, however, some projections suggest that this will grow to 30% by 2020. This trend is partly due to the low birthrate in South Korea, and partly to rising rates of international marriage. Today, there are approximately 30,000 Kosians in Korean society. Bearing this in mind, this study specify its research on the muslim fixed family by focusing on the offsprings of the muslim background. Our research team has created the new term on such research subject by using Koslim. Koslim is a 1.5 and 2ⁿᵈ generation from the Muslim back ground family living in Korea. Thus, the objective of this study is to examine the awareness and the perception of Koslim by the Korean mainstream people. By doing so, it can analyze the general attitude of Koreans towards the Koslim people. No, doubt, in Korean society, the term multicultural or mixed-race has a definitely discriminating connotation. As a result, the children of intermarriages, which includes Koslim, are now categorized as belonging to cultural groups different from the homogeneous mainstream of Korean society.

As a result of a research, it can be concluded that students who has direct or indirect relationship with Koslims have a higher degree of open attitude and positive perception toward Koslims than the group who doesn't have any relationship. From the point of positive awareness domain, students with direct and indirect experience perceived Koslims positively as the degree of relationship got more intimate. Also, as a results of survey, there was a difference in attitude, openness and perception towards Koslims among different religions. Catholic christians were shown to be more open in all aspects of openness, including to have more negative awareness toward Koslims in all manners.

Survey showed that many Koreans are beginning to accept the social transformation of

Korean society, and they were aware of the need for social transformation to a successful multicultrual society. More importantly, it showed that positive awareness of Koslims can refrain people having a stereotype attitude. Also, the fact that higher intimacy level of contact with Koslims showed open and positive attitude, can be analyzed as whether or not a person who has experienced Koslims is an important variable.

In reality the number of foreigners in Korea has exceeded one million and comprises two percent of the population. Intermarriage also makes up over 10 percent of all marriages, reminding us that we have already trodden toward the new path. However we need to be more realistic before hastily applying foreign-based multiculturalism. As universal as its value sounds, there's still a need to adjust it to the Korean context. This is because Korea is not a nation formed of immigrants but of natives that have long shared common values and bloodlines. Korea needs a step-by-step approach to establish its own multicultural society; one that embraces Korean values. Right now, at the first stage of opening up the society, we need to first guarantee basic needs, especially to children, who will be future Korean. Through non-discrimination acts and other active policies for minority groups, we need to widen opportunities for them (including Koslim) to take part in the mainstream. Korean society and the government should encourage mainstream groups to recognize minority groups as their equal. Further, the country needs to re-establish its identity as a people united not by blood or race but by citizenship and broaden education about the meaning of multiculturalism. In this sense this study intends to play a groundwork to promote successful coexistence between Korean and Koslim. It is anticipated that this research can lay the basis for Koreans to have more open and tolerant attitude towards our new members of society that is increasing everyday.

While it is common for foreign nationals residing in Korea to form a community based on nationality, Muslims constitute a community in terms of their religion, emphasizing the differences between themselves and other foreign groups in their expression of a unique cultural identity. One of the cultural practices which is representative of the differences between members of Muslim communities and the native population is the former's eating habits, which differ greatly from those of Koreans.

The influx of immigrant workers, and immigrants belonging to other Muslim groups, and the fact that it is mostly men, rather than women, who tend to marry Koreans, are factors which have led to claims that a so-called Koslim generation has emerged in Korea. Traditionally, children born to Muslim families automatically become Muslims in accordance with the religion, and this will, of course, proceed for subsequent generations.

The history of international migration began a hundred years ago, when the settlers in the West experienced the subsequent social adjustment problems that Muslims in our society are experiencing now, and for two generations, these issues in Korea have so far been ignored.

This study focuses on marriages between immigrant Muslims and Koreans, and the experiences of the children of parents belonging to two generations of immigrant Muslims. The research could be significant in that it has yielded some insight into the ways in

which Muslims adjust to Korean culture, thus providing a basis for evaluating the future prospects of this group, and understanding the ways in which their activities affect Korean society .

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A Study on the Lives of the Arab in the Era of Jahiliya

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Ⅰ. Introduction

The Arabian Peninsula that was origin of the Arab was mostly made of steppe or desert without water except for Yemen. In Yemen, the agriculture was developed owing to plenty of the water in mountainous ares to let residents settle down. Permanent residents lived their lives at oasis uneasily and impatiently to defend them against nomad's attack. The Arabian Peninsula that was mostly made of desert did not allow foreigners to get access and to have almost no net of road and to be isolated. Red Sea coast and some of trade routes were opened. The trade routes were already developed for strategic purpose to connect Africa, Asia and the Mediterranean region and to be much influenced by rise and fall of the West and the East. With such a historical background, the Arabs largely lived nomad lives based on tribal society. Before advent of Islam, the Arab's lives were simple to have almost no record. The era was called Jahiliya that meant 'ignorance' in the Arab language. The era of Jahiliya could be misunderstood to be all of the eras before Islam: In fact, Jahiliya meant 150 to 200 years before advent of Islam.

At that time, not only the Byzantine Empire but also the Sassanid Empire fiercely fought each other to govern silk road trade and to come to a state of a lull. Both empires did not pay attention to desert tribes and did not contact the tribes because of difficulties of geographic access. When both empires were much tired, Islam made appearance to conquer the region easily in the 7th century. Not only the Ghassan Empire[1] but also

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[1] The Ghassanids were a group of South Arabian Christian tribes that emigrated in the early 3rd century from Yemen to the Hauran in southern Syria, Jordan and the Holy Land where some intermarried with Hellenized Roman settlers and Greek-speaking Early Christian communities. The term Ghassan refers to the kingdom of the Ghassanids (http://www.ghassanidkingdom.com/ghassan/).

the Lakhmid Empire[2] that was small kingdom of the Christians played a role of buffer at boarder of both empires. The Ghassan Empire believed in monophysitism, while the Lakhmid Empire did nestorianism. Nestorians fled to Persia when Council of Ephesos suppressed them. This was because Persia was rather generous toward other religions. Under such a situation, there was doubt about the Arabs' lives. The research on the Arab's lives had background of Islam's advent to inspect religious thought of Muhammad, founder of Islam religion.   Therefore, research on life of Jahiliya could be valuable to research the early history of Islam.

This paper examined lives of the Arabs who lived life in the era of Jahiliya. The paper investigated previous researches and their contents and the Arabs' lives in the era of Jahiliya by religion, women, tribal society and others.

Ⅱ. Previous Researches and their Contents

The Arabs in the era of Jahiliya had almost no record at home and abroad to have a part of researches. Books of the Arabian literature and/or the Arabian history books introduced a part of Jahiliya. In other words, some of prose works of the literature described life of the Arabs. Most of them were inherited verbally and were edited at the end of Umayyad Dynasty (661~750)[3]. So, research on life in the era of Jahiliya had difficulties at shortage of the literature. In Korea, some of papers only examined Jahiliya, for instance, Mu'allaqat written by Dr. Kim Neung-woo (2012), and 'Research on the Arabian society and culture before Islam of the Arabian poems in the era of Jahiliya' published by Dr. Jang Se-won (2011).   Dr. Kim Neung-woo described characteristics of the Arabs before Islam religion by seven of poem translation and notes that were written by seven of excellent poets in the era, for instance, tribalism, generosity, manhood and respect for honor. In particular, Dr. Kim investigated operation of Normadism motifs by notes. Dr. Jang   investigated the society of the Arabic poems in the era of Jahiliya by tradition, custom, religious life and economic life.

At that time, the Arabs lived not settlement life based on the tribe but nomad life that

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2) The Lakhmids (Arabic: اللخميون), Banu Lakhm (Arabic: بنو لخم), Muntherids (Arabic: المناذرة), were a group of Arab Christians and nowadays, Muslims who lived in Southern Iraq, and made al-Hirah their capital in 266. Poets described it as a Paradise on earth, an Arab Poet described the city's pleasant climate and beauty "One day in al-Hirah is better than a year of treatment". The al-Hirah ruins are located 3 kilometers south of Kufa, on the west bank of the Euphrates. Their descendants today are the Mandharis, who are a prominent tribe who are considered Sheikhs in Iraq, the United Arab Emirates, and the Sultanate of Oman. The Abbabids, another prominent tribe in Yemen and the southern part of The Sultanate of Oman. And the Na'amanis, another Arab tribe in Oman. All of the tribes mentioned before belong to either Ibadhi or Sunni Islam. Some other famous descendants include the powerful Druze Arslan princely family
(http://en.wikipedia.org/wiki/Lakhmids).
3) Nicolson said that it was recorded by Muslim scholars at early Abbas Dynasty.

was not needed to record. Holy Koran said the word of Jahiliya as many as four times, and commented 'ignorant people (الجاهلية)' of Verse 154 of Chapter 3, 'the era of ignorance (الجاهلية)' of Verse 50 of Chapter 5, 'the era of early ignorance (الجاهلية الأولى)' of Verse 33 of Chapter 33, and 'the era of ignorance (الجاهلية)' of Verse 26 of Chapter 48. At that time, the Arabs were ignorant to obey to power of the nature and to respect idol and to suffer from retaliatory murder at group level because of tribalism, adultery, drinking, gambling and slavery. Mohammad who was founder of Islam religion, new religion, could not find out values of Islam. Professor Gibb called the era of Jahiliya as 'era of heros' that war heros governed by his writing of 'Arabic Literature, An Introduction' (Gibb: 13). This was because brave heros and poets took courageous actions. They took courageous actions by honor and loyalty to the tribe. Tribe members had duties of retaliation that was applied to Mesopotamia region as well. So, the Code of Hammurabi adopted lex talionis. Nicolson said, "First of all, they retaliated repeatedly. They could not go to bed and lost appetite and health without retaliation. It was a kind of mad disease of honor to solve problem of pains(Nicolson: 156). In other word, the Arabs respected of the honor as much as their lives. Currently, in some countries, the tradition was inherited to do honor killing.

Ⅲ. Lives of the Arabs in the Era of Jahiliya

The nomad that was group based on tribalism was not individuals but group. Groups had blood relations to survive under surrounding bad environment to strengthen internal solidarity. They lived lives under no government to put the cattle and sheep to pasture and to deprive caravan and/or neighboring settler of properties that was sole means to survive by themselves. The nomad did not admit of private property, and jointly owned grass land and water. Individuals were permitted to keep simple personal belongings. They looked to live lives of soldiers at military unit, and had no military training. Chief of the tribe was called Sheikh(شيخ) to play a role of not governor but mediator. The chief of the tribe had no right to ask his members to do something and to punish. He was elected at Majlis(مجلس) that was meeting of the elder representing tribes officially. Not only nomad but also settler lived lives by keeping symbiotic relationship. The nomad lived closed life than settler did, and rode Arabian camel to live nomad lives. They lived lives under worse environment than settler did, and they deprived others of properties to distribute it effectively again. The settler lived at small sized community around oasis that had political nature. Many tribes around oasis made a coalition, for instance, Kinda Kingdom. The kingdom was prosperous in North Arabia from latter half of the 5th century to latter half of the 6th century, and it was finally destroyed by not only the Byzantine Empire but also the Sassanid Empire.

1. Religions

The ones who lived lives in the Arabian Peninsula believed in not only animism but also

polytheism to rely upon living thing and/or lifeless thing. They served rock, the moon, men and stars, and thought that the world was filled with spirits that rode lizard. Article 26 of Chapter 15 of the Koran said, 'the Allah created invisible thing at disturbing flame' that indicated Jinn. In the era of Jahiliya, other religions than Islam were propagated in the Arabian Peninsula, for instance, Zoroastrianism from Persia, Christian religion, Judaism and serving of an idol. The settlers believed in Zoroastrianism, Christian religion and Judaism, while the nomad having no settlement lived disordered life, for instance, gambling, drinking and taking low fellow action to have goal of the life seeking for visible pleasure and joy. So, the nomad did believe not in high religions but in Fetishism.

The nomad's religion was similar to ancient Semitic religion to serve god of the tribe, and object of the belief included tree, fountain and rock (Kim Jeong-wee: 24). The Arab commonly served god to exceed level of the tribe, for instance, Manat, Uzza and Alaat (Kim Jeong-wee: 11). The three gods were governed by Allah, the highest god. No monk controlled religions. The temple that was important organization of life owned enormous properties and wealth, and the highest monk controlled properties. The incense was thought to be sacred, and one third of the output was supplied to monks. At last, monks possessed enormous wealth to have power. Religions had not personal nature but tribe and/or group nature, and serving alone of belief object was to take rebellious actions. The chief of tribe kept symbol of the tribe at his home to have religious dignity. The god and religion that the Arab served identified each tribe's status to show coalition of the tribe (Jang Se-won: 93). The Arab sought for the god at difficult situation and did not worship regularly, for instance, the Allah. The Allah indicated the highest god of the Mecca people. Since advent of Islam, the Allah has taken position of the highest god, that is to say, the Creator.

2. Women

The Arab lived social life at social community that had many different social classes. The women could enjoy high ranking status among the noble to be respected. They could have plenty of freedom and were forced to make decision from time to time. They thought much of honor to fight against enemies in order to defend it. In fact, the women could be the most important factor of bleeding fight and/or peace. In the era of Jahiliya, the women rode sedan chair to move that was similar to the Korean custom, and that they hid them to keep their chastity. Some of the women in the noble class could enjoy privilege, and family system of the Arabs largely followed patriarchy. An woman's marriage contract absolutely relied upon legal sponsor. She should follow sponsor's saying to get married. The society that prostitution and pornography prevailed had another social class.Abu Daud said four kinds of marriage before Islam[4]: The first type of the marriage was: A man agreed with marriage portion firstly and gave his daughter that was similar to today's marriage process. Currently, such a marriage practice still prevailed at the Arab world.

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4)http://www.prophetmuhammadbiography.com/pre-islam-arabia/religions-of-the-arabs-the-religious-situation.html(Search for Sepbtember24,2012)

The second type of the marriage was: A husband made his wife have sexual intercourse with another man after menstruation to be pregnant. After being pregnant, the husband allowed another man to have sexual intercourse with his wife continuously that was common marriage practice at that time. The third type of the marriage was: Less than ten men in group had sexual intercourse with one woman. When she was pregnant to deliver baby, she called those men. All of the men who had sexual intercourse should accept her call. The one who did not accept her call was decided to be the baby's father. When they visited her home, she told them, 'Do you know what you did? I already delivered a baby.' And, she pointed at one man with finger and said, 'You are father of the baby.' Then, the man should follow her saying unconditionally. The practice gave warning to today's man who denied birth of his baby. The fourth type of the marriage was: Many men had sexual intercourse with prostitutes. The prostitute put specific flag on her house door to lure a man whom she liked. When the prostitute was pregnant to deliver baby, she called men who had sexual intercourse. And, she invited an woman prophet to let her say who is the baby's father. The man who was said to be father of the baby announced that he was father. When prophet Muhammad announced Islam in Arabia, he nullified other types of sexual intercourses than current Islamic marriage. This was because sexual intercourse was out of order too much to disturb social order. Men were always accompanied by women at the war, and winners could enjoy sexual intercourse with the women at discretion. However, men were responsible for pregnancy.

Before Islam, the Arab men had no limit of number of wives. They got married to two sisters at the same time. When their father's wives got divorced or became widow, they got married to those women. Men had considerable power at the divorce. The adultery prevailed at most of social classes, and very much small number of men and women controlled their desire of the adultery. The women having freedom had better conditions than women slave who were born with the greatest misfortune had. Before Islam, most of the Arab did not feel shameful at the adultery. Abu Daud said that a man told Muhammad, "Dear prophet, the child is my son. Before Islam, I had sexual intercourse with his mother."

Muhammad said, "Islam does not debate problem before Islam. The son belongs to owner of the bed that he was born." At that time, punishment of throwing stone was often done because of frequent adultery. Since then, the punishment had influence upon Islam to be used in some of Islamic countries so far. The Arab's life before Islam that expected of offspring was thought to be melancholy and sorrowful. Some of the Arab people loved their children much by hugging and were suffered from the poverty and shamefulness illusion to kill children by burying alive. However, practice of child killing was not done to protect boys. The custom that the Arab buried girls alive destroyed ethics and morality that was caused by frequent famine as well as wrong idea of the honor. When their daughters were caught to be prisoner at worse situation of famine and Acts of God, they could be given shameful punishment. So, the Arabs thought that birth of

daughter could create misfortune. Article 150 of Chapter 6 of Koran said, "Do not kill your child because of poverty. A girl who was buried alive gave question." So, baby killing was thought to apply to not only girls but also boys. At advent of Islam, Muhammad thought that such an action was great sin and crime, that is to say, Al-Kiiir. Article 57 to 59 of Chapter 16 of Koran said that the Arabs made change face color into black at the news of birth of daughter. So, baby killing was wrong practice caused by the poverty in the era of Jahaliya.

3. The Tribal Society

In the era of Jahaliya, the Arab world was said to be tribal society. Today, the Arab world still kept the tradition. The Arab nomad had deep solidarity of their family to keep Bedouin community emotionally. The Arabs were confident of either family or tribe to support them strongly and to combine Bedouin society. The Arab's jus sanguinis (lineage) was made by tribe's confidence to support them. The Arabs had literary goal of "You shall support your brothers regardless of oppressor or oppressed.". The support of oppressor brother could violate Islamic principle that did not permit crime: Today, the Arabs often supported oppressor brother to justify them. The Arabs who thought much of honor and leadership triggered so many tribe wars despite common 'survival and coexistence' motif, for instance, wars between AWS and Khazraj, and between Abs and Dhubyan, and between Bakr and Taghlib. Internal tribe relation was easy to weaken and break down because of continuous war of attrition. The Arabs who loved and respected religious misbelief deeply controlled impulsive nature to settle down conflict of the blood. To remove groundless roots of the dispute and create spirit of the harmony successfully, the Arabs relied upon dependence, loyalty, coalition, respect and others. The Arabs kept time-honoured custom that suspended wars during several months, for instance, Muharram, Rajab, Dhul-Qa'dah and Dhul-Hijjah, and that was accepted in favorable way to have chance to live peaceful lives together. They did not keep the custom depending upon each tribe's profit. In the era of Jahiliya when bloody wars often triggered, they suspended drinking, women and insense by themselves until retaliating an enemy. (Kim Neung-woo: 26). Such an action was thought to keep good attitude until completing great event. The retaliation was thought to be an essential duty to let their tribe survive.

4 Miscellaneous

Before Islam, the Arabs took enormous evil actions from another person's perspective. At that time, the evil prevailed in the society. In the Islamic society, drinking was prohibited: Mu'allaqat said that drinking culture prevailed in the society to have various kinds of brewery shops. The Arabs were generous toward drinking that was common custom in the society. The drinking was a tool that could make good human relation same as today's drinking for entertainment. In the era of Jahiliya, the Arabs were proud of drinking. After

advent of Islam, Muhammad said that drinking could be root of all of the evils.

The Arabs who had good harmony with darkness and ignorance were fallen into misbelief that paralyzed their mind to let them live animal lives. The heads of tribes made decision of self-oriented policies to earn wealth and to win in useless wars. The economic situation kept pace with social atmosphere and the Arabs' lives could reflect such a phenomenon definitely. The trade was the commonest means to supply necessary things for living life. The caravan could not travel for trade unless safety was guaranteed, and peaceful coexistence among the tribes was guaranteed when the Arabs opened Ukaz, Dhil-Majaz, Mijannah' and other meetings. The Arabs were always forced to bleed at wars except for several months prohibited. They were not familiar with industries from psychological point of view. In Arabia, the ones from Yemen, Hira and border of Syria mostly did knitting and tanning. Arabia had some of farming and grazing, and most of the Arab women worked for spinning that was threatened at wars continuously. In the era of Jahiliya, the Arabs suffered from poverty, famine and poor clothing. The Arabs were generous toward gambling. This was because a part of gambling money was always used for charity that put an emphasis upon not means but goals. Verse 219 of Chapter 2 of Koran emphasizes that profit of drink and gambling should not be neglected, and that crimes of drink and gambling were larger than profits.

Ⅳ. Summary

This paper examined lives of the Arabs in the era of Jahiliya. The author had difficulties at investigation into the Arab's lives because insufficient records, and found that the Arabs lived polytheistic lives and some of noble class women enjoyed considerable honor by not only researches but also poems in the era of Jahaliya. The Arabs killed baby because of poverty and honor of the family that was bad custom. The Arab was proud of drinking to give great damage, so that Muhammad prohibited drinking. In the era of Jahaliya, the Arabs could develop coalition consciousness to retaliate, and could build up power that construct the Islam Empire when not only the Byzantine Empire but also the Sassanid Empire lost power at wars.

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The Shi'i Jurisprudence in the Age of *Velayat-e Faqih*

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This paper discusses Shi'i jurisprudence in the age of *Velayat-e Faqih*. Passing through various stages, the Shi'i jurisprudence, like any other knowledge and skills of mankind, has experienced its own developments. After the Prophet and Imams, at each stage of the jurisprudential development, the prominent jurists have enriched the Shi'i legal tradition. Facing the emerging issues and problems, some of them presented new ideas and methods, as a result of which new schools of jurisprudence have been established. The history of the Shi'i jurisprudential development could be classified as follows: the establishment stage; the development age; extreme and moderate time; the moderation age; the accomplishment era (Shahroudi 1390, 28–45) and finally the age of *Velayat-e Faqih*.

Jurisprudential Approaches

All the past and present jurisprudential theories and interpretations can be categorized into two schools of jurisprudence: the traditional jurisprudence and the moderate jurisprudence. Today each of these two approaches has its own supporters and followers. It is worth mentioning that any legal opinion of a jurist is just his personal interpretation of the religious texts and not necessarily the exact and real Islamic rules and law. So any fatwa or interpretation belongs to an individual scholar: when he dies, his theories and decisions cannot be followed by laymen. It has, however, its scientific value for research by later generations of scholars at the academic level.

The Traditional Jurists and the Static Jurisprudence (Non-Political Jurisprudence)

The traditionalist school of jurisprudence has individual and micro perspectives on the social-economic and cultural issues. It neglects the objectives of the religious commands and other elements such as social changes, the needs and demands of the circumstances and the conditions of the time and place which could play an important role in deducing the religious orders (Scholars n.d., 23). Justifying their views, this group of jurisprudents state that although Islam has a wide range of individual and societal rules and regulations, the right of ruling and guardianship (*Velayat*) is just for Allah, His Prophet and the infallible Imams. Therefore, when the infallible Imam is not accessible, the jurist scholars have only limited jurisdiction and authority in the field of "the public duties towards the social Affairs" (*Umour Hesbiyeh*). More than this limited guardianship cannot be deduced from the Quran and *Sunnah*. "The public duties towards the social Affairs" are some individual and social matters for which any legal scholar are responsible. In case such person is not available, everyone in the community has a duty towards them, and as long as some of them did not take any action to do their duties, every single one of them are responsible (Shaikh Ansari 1380, 270).

Therefore the jurists should not involve themselves in the macro social and political affairs. The most important duty of every human being is to observe justice in all aspect of life at individual and social levels, to prevent any injustice from being done to others, and to be responsible for the daily needs of the society. Of course, in these issues, if people attempted to keep the duty, the society would be free (*Vajibe Kafaei*). However, for the establishment of the rule of law and justice, we should just pray and wait for the Imam Mahdi, observing our personal obligations and duties. This is enough for the happiness and obtains salvation.

The traditionalists believe that the objective of Islamic jurisprudence is not to administer the society, nor does it intend to address the needs of the society. Rather, the main function of Islamic jurisprudence is to invoke the Divine Commandments given in the Qur'an, *Sunnah* and the principles and rules of jurisprudence. Moreover, the fatwas may even create problems for the society or for some people at the local and, even international, level. They believe that a human being is bound to perform his duty without keeping in view its result. The traditionalists have so much attachment not only to the old rules, principles and method, but also to the old texts, views of jurisprudence and even the old issues and subjects that either do not exist anymore or have changed.

For example, based on the "principle of free utilization of common natural sources," (according to the Fiqh "*Mub'ah'at*"), they give a decree that whoever obtained any amount of common natural sources earlier (Shaikh Ansari 1380, 226)canhavepossessionoverthese,

and as long as they want it in their rightly justified want to get benefit by their utilization, no one should deny them their right. Keeping in view the rule of "right of priority," we find that when someone is already occupying certain portion of space in these public places or properties viz., in a mosque, or a public Hall, or moving in places, described as public property, others may also claim their share like the seating in a mosque, and the divers in a Sea (Najafi 1382, 103).

Consequently, whoever makes use of his right to utilize or possess any part of the free and common natural resources viz., land to set up a factory, he is not bound to get permission from others or inform them even if it causes pollutions or injury to the environment, including damage to the Ozone layer. The term "common" in the phrase "the free and common natural resources," does not mean that these belong to all, or are to be shared by all the people, or that they belong to the community and all the individuals who are the shareholders in them. Obviously, if they are the shareholders of the free and common natural resources, no one could take any decision about them without the consent of all the shareholders, and that if any of them registers opposition to any plan or project, it is not to be implemented. Similarly, based on this type of observation, everyone has the right to do whatever he wants to do in his properties: it is just like when he decides to make a fire and smoke at his home, he doesn't need to inform and get permission from others regarding his plan. If such an activity causes any harm and injury to his neighbors or others, he must just pay compensation (Ata'ei Daftar e Istefta'a't 2008).

However, the more we go back to the previous periods, the more widespread and intense this point of view is. As we get closer to the recent time, this belief becomes weaker and its advocates are less. About the distribution of *Khums* (one fifth of the income), Shaikh Tusi has written that the Imam's share (half of it) should be buried, or it should be handed over to the trusted person until eventually it reaches the Imam's hand. Anyhow, Shaykh Tusi finally accepted the idea (R. A. Khomeini 1372). With the passage of time, these ideas develop into somewhat more moderate and rational: today no jurist does think like those in the past. They use it in the field of education and strengthening the religion teachings (Kkomeini 1365). For example, the Grand Ayatollah Khoi considers the burying of the *Khums* as wastage of the wealth (Boroujerdi Mortaza and Khoei Abul Qasim 1367), but he did not support the religion involvement in the political and macro-public sphere. Especially he did not seek to establish an Islamic state. Accordingly, during the Islamic Revolution of the Iranian people and Imam Khomeini's struggle to establish the Islamic Republic, he did not do anything.

The Moderate Jurists and the Dynamic Jurisprudent (Political Jurisprudence)

Against the narrow view of traditionalists on the issue of the "public duties towards the social affairs," the modern jurisprudents have their own interpretation. According to them, the same arguments that prove the public duties towards the social affairs in individual and small social matters confirm the same duty in all public affairs, like "commending the right and forbidding the wrong" (*al-'Amr bi al-ma'ruf wa al-nahy 'an al-Munkar*); defense; establishing the judiciary system for the law enforcement; handling the public endowments; protecting the properties of orphans, absents and mentally and physically incapacitated people (I. R. Khomeini 1385, 497).

Every qualified *faqih* and every member of the community have a duty towards them, and as long as some of them did not take any action to do their duties, all of them are responsible. Regarding the right of ruling and guardianship of *faqih* (*Velayat*), it is nothing but the continuation of the same rights of Allah, His Prophet and the infallible Imams. Therefore, when the prophet and the infallible Imam are not accessible, law and orders could not be stopped: the jurist scholars have all jurisdictions to carry on their authority.

The moderate intellectuals believe that the objective of Islamic jurisprudence is to administer the society and to answer its needs by invocation of the Divine Commandments given in the Qur'an, *Sunnah* and the principles and rules of jurisprudence. Needless to emphasize that the dynamic jurisprudence involves itself not only in minor issues affecting individuals and the society as a whole, but also in the collective issues at the local, national and international levels as well. During the 'Constitutional Movement' in Iran, these two schools of jurisprudence opposed each other: while the traditionalists were against the establishment of parliament, the moderates were in favor of it. The traditionalists believed that there is no deed of the parliament as long as jurisprudence exists. Today, however, no jurisprudent opposes the constitution of Parliament.

The dynamic jurisprudence believes that the Islamic jurisprudence and the Divine Commandments have philosophy and objectives other than providing better spiritual and material destiny for mankind, both at the individual and social levels. An Islamic jurisprudent should essentially consider the public interest and concentrate on all the aspects of life in the invocation process of his decrees.

The moderates criticize the traditionalists and static jurisprudence for their narrow approach and disinclination towards social, general and collective affairs and inclination in the direction of minor matters, ritual formalities and its negligence of the social changes, the new needs and demands of the circumstances and conditions. According to them, many new cultural, socio-economic and political issues have appeared in today's world. It is due

to the on-going progress of science and technology that jurisprudents are required to have dexterity and enlightened principled approach, keeping in view the conditions of the time and place to help tackle issues of life and man's important role in analysis, decision making and commensurate efforts on road to progress as His creature. After all, change is to be necessarily managed. No one can deny that the changes that emerged in different dimensions due to the progress of science and technology are affecting physical and human environment. When we compare today with a few decades ago, we find changes are very fast, deep, wide and fundamental. Any wise jurisprudent cannot ignore them.

For instance, concerning the conditions of the time and the place, the two important elements in Islamic jurisprudence, Imam Khomeini says, "Time and place are the two effective elements in jurisprudence. A jurisprudent should be well versed in all the affairs of his time··· the fundamental aim is 'how we want to implement the principle of the strong jurisprudence in the action of an individual and society, and to have answers to the problems' (R. A. Khomeini 1372 , 15 Vol. 259).

Opposing the traditional Views and considering the conditions of the time and the place in the process of issuing decrees in accordance with the "principle of free utilization of common natural resources," the dynamic jurisprudents take into consideration the conflict of interests, especially at the private and public levels in their analyses. One of the jurisprudential rules, "No injury – *La zarar*" (Naraqi 1408, 15), is widely used in the case of the conflict of private and public interests. As a result of this sort of pronouncement, no one can utilize and exploit the common natural sources, unless the necessary permission from the liable authorities has been obtained by him/her. Further, he/she is not free to take any action that causes injury to the health, life and dignity of others, or makes harm to the environment and the public interest. According to some decrees, it is not necessary to inform others about his/her programs if all the standard precautions are being observed, the exception being in case of vital issues and about the activities that essentially require observance of certain state regulations.

To clearly understand the difference between the traditionalists and the dynamic jurisprudents, it will be beneficial to refer here to a letter of Imam Khomeini, written to Ayatullah Ghadir, a traditional jurisprudent. As mentioned earlier, while the traditionalists, sticking to their attachment to the old methods of jurisprudence, emphasize more on minor issues, the interest of individuals and the private sector, the moderates attach more importance to 'time' as an important element in their effort to invoke decrees. Further, when there is a conflict of interests, they attach importance to social good. In reply to Ayatullah Ghadiri, Imam Khomeini said:

> "I should regret your understanding of the Traditions and the Divine
> Commandments. Based on what your Excellency has written in your letter that the

Poor Tax (*Zakat*) is only for the poor people and for other affairs which are mentioned, and that today when this expenditure has increased to hundreds-folds, there is no solution. The chapter on horse and shooting competition (*Sabq* and *Rama'yeh*) in *Fiqh* is merely about competition in horse race and so on that have been used in the past conflict and battles, and still these terms should be used in the same context! And (then) come the natural resources (*Anfa'l*) that have been gifted (and made *Halal*) by the *Shari'a*. Today's machines and technology can destroy all the forests and wipe out everything without any check, even though these are essential for the conservation and health of the environment. Thus they threaten the life of the millions of people. But no one has the right to check them in order to solve the traffic problems and to save thousands of life. Houses and mosques that cause hindrance to roads construction should not be destroyed. In brief, as you understand from the Traditions and Sayings (of the Holy Prophet, PBUH) in general, the new civilization should be removed completely and people should settle under the primitive shelters and live in the deserts forever! (R. A. Khomeini 1372 , 150 Vol. 21)."

However, in the case of *Mobaha't* (common natural resources: Gifts of God), the static jurisprudence allows the right of priority in exploitation to a person who acts earlier. It is subject to payment of compensation, if any loss occurs to his activity and does not recognize any role for others to play. Interestingly, in the past, Imam Khomeini's view on the exploitation of natural resource is just like that of the traditionalists (R. A. Khomeini n.d., Chapter: Ihyaul Mavat / AlMaden). After a few decades, his *fatwa* dramatically changed, and in general he coordinates his ideas with the theory of sustainable environment. This change could be made due to several fundamental changes in the circumstances like the tremendous technological advancements, depletion of natural resource and the environmental problems and pollutions. At that time, the environmental problems were not so serious. As seen in the above-quoted response to Ayatollah Ghadir, he has severely criticized the jurists that in the interpretation they extremely relied on the words and phrases (the Quran and traditional texts) and neglect the conditions of time and place. It is, of course, possible that this evolution of thought was partly due to his awareness as a leader (R. A. Khomeini 1372).

According to modern *fatwa*s, the right to exploit the resources gifted by the Creator (*Mobaha't*) is not absolute: it is within the frame work of public right and popular participation. In the Islamic Republic of Iran, the *Vali-ye Faqih* is the guardian and protector who acts according to the Islamic provisions and the real welfare of the people as a whole. Considering *Mobaha't* as falling under public ownership, Imam Khomeini took great care to see that undue exploitation leading to evil effects on 'sustainable development' and healthy environment should not be allowed.

Ve*layat-e Faqih* (Organized and Comprehensive Fiqh from Theory to Practice)

As discussed above, the theory of *Velayat-e Faqih* is a dynamic jurisprudence and lays in the second category of *Fiqh*. It is the most political schools of jurisprudence that believes that Islam is nothing but the enforcement of the Islamic law and justice. In one of his speeches, Imam Khomeini emphasized: "I swear to God that the whole Islam is politics" (Shahroudi Sayed Mahmoud and Sadr Mohammad Baqir 1375).Accordinghim, establishing an Islamic government is a prerequisite of the implementation of the political, social, cultural and judicial laws of Islam. For him, "the government, which is a subsidiary of the absolute guardianship of the Prophet (PBUH), is one of the primary precepts of Islam, and above all the commandments of Islam, even prayer, fasting and *hajj*. Governor can stop any matter that opposes the interests of Islam, whether religious or non-religious." (R. A. Khomeini 1372 , 170, Vol. 20).

Imam Khomeini is the most prominent contemporary figure among the *Shi'i* jurisprudents. In addition to his knowledge in the *Fiqh* and other Islamic sciences, his comprehensive theory of "*Velayat-e Faqih*" made him a unique personality among all the Muslim jurists. For the first time, and according to reason and theological and jurisprudential principles, he justified not only the role and the rule of "the qualified jurist" in the field of deducing the religious orders from the Quran, Sunnah and principles (*Istenb'at*), but also established a Islamic leadership and government, leading the Muslim society in all aspects of life (Amuli 1378, 277-287).Hetheorizedthe*Velayat-e Faqih* and the Islamic government. After a tough struggle against two thousand and five hundred years of the Iranian monarchy and finally implemented his theory and established an Islamic republic (1979). Imam Khomeini's school of thought is the most socio-political *Fiqh* in the Islamic world. The theory of *Velayat-e Faqih* was first reflected in the Iranian constitution.

The theory of *Wilayat Faqih* had a significant impact on the Islamic Republic of Iran and its constitution. According to article 5 of the Constitution: "the *Velaya* and leadership of the *Ummah* devolve upon the just ('*adil*) and pious (*muttaqi) faqih,* who is fully aware of the circumstances of his age; courageous, resourceful, and possessed of administrative ability, will assume the responsibilities of this office in accordance with Article 107". Article 107 states:

> After the demise of Ayatullah al-'Uzma Imam Khumayni (the eminent jurist, the leader and founder of the Islamic Republic of Iran), it is a responsibility of the experts assembly to review and consult among themselves concerning all the Fuqaha' who possess the qualifications specified in Articles 5 and 109 and to select someone who is better versed in Islamic regulations, the subjects of the Fiqh, in political and social Issues, possessing general popularity and special prominence and appoint him as a new Leader. About the essential qualifications of the leader, that are mentioned in the article 109 of the I.R. Iran are:

a. Scholarship, as required for performing the functions of mufti in different fields of Fiqh.

b. Justice and piety, as required for the leadership of the Islamic Ummah.

c. Right political and social perspicacity, prudence, courage, administrative facilities and adequate capability for leadership. In case of multiplicity of persons fulfilling the above qualifications and conditions, the person possessing the better jurisprudential and political perspicacity will be given preference.

According to article 4 of the constitution, all law and regulation should be in accordance with Islamic *Fiqh*, and the jurist scholars (*fuqaha*) of the Guardian Council are responsible in this regard. The article states: "all civil, penal financial, economic, administrative, cultural, military, political, and other laws and regulations must be based on Islamic criteria. This principle applies absolutely and generally to all articles of the Constitution as well as to all other laws and regulations." (Markaze Pajuhesh'haye Majlese Shawraye Islami).

Therefore the modern age of *Velayat-e Faqih* is one of the most important periods in the history of Islamic jurisprudence. In the past, the evolution of the jurisprudence was in debt of individual and personal efforts only. After the establishment of the system of *Velayate Faqih*, the jurisprudence enjoys today both the individual and organizational supports.

In this systematic method of *Fiqh*, parliament makes laws and regulations, and they should go to the Guardian Council of the Constitution to ensure their compliance with the jurisprudence and teachings of Islam. If the Guardian Council finds them in conflict with Islamic law and the constitution, these laws have to be returned to the parliament for amendment.

If the parliament and the Guardian Council insist on their opinions in certain issue, the disputed law must be submitted to the Expediency Council for further examination and ultimately ratifying and communicating it to the parliament and the government for implementation. The members of the Expediency Council with a broader view will take all the circumstances and the deferent interests in their considerations. Laws that are passed by the Expediency Council may be different from or not well-matched with the original orders of *fiqh*. In addition, the *Vali-ye Faqih* sometimes refers certain or important issues like the comprehensive plans, goals and the country's vision to the Expediency Council for study and consultation. For this reason the *Vali-ye Faqih* is no more just an individual jurist, but it is a system and an organized jurisprudence alongside of the personal and individual jurists.

Conclusion

The theory of *Velayat-e Faqih* along with its practical model finds its way into the academic discussions: detailed and technical debates on its roots in the religious sources and jurisprudential principles, and its scope of powers are in the progress among the proponents and opponents. There were two extreme views: those of the traditionalists that do not care about today's conditions, changes and developments in the political, social, economic, cultural matters; those of a secular liberal Islam that believe the Islamic law is not enforceable in the present circumstances or basically treat religion as an individual matter. Between the two extreme views, the theory of *Velayat-e Faqih* has chosen a middle approach. All through his academic and political life, Imam Khomeini challenged these two groups (R. A. Khomeini 1372).

Whatever introduced in the above discussion on the traditional and moderate schools of jurisprudence was a general classification: in practice, there is often an overlap. It means that a non-political and traditional jurist may maintain the same views in some subjects as the moderates do, or vice versa.

Another important issue is the specialization of *Fiqh* and the jurists. At least for a few decades, the subject is under debate and some scholars emphasized on this point. They argue that in the past the human information and knowledge was limited and a person might also have different specialties and could issue *fatwa* in many issues; but now the number of scientific subjects have increased, their range happened to be much wider and deeper, so it is almost impossible for a jurist to issue *fatwa* in every subject (Motahari 1375, 106).Based on this view, the Guardian Council of the Constitution that supervises the laws in the Iranian system should have jurist scholars who are experts in different fields (Hashemi 2012) . In the age of globalization, the current and future generations of jurist scholars should discuss the various treaties, conventions and protocols on many issues on the international law such as human rights, natural resources, environment, cyber law, contracts on trade, investment, transportation, insurance, peace and security etc. However, it is now an important test for *Velayat-e Faqih*, religious scholars and jurists at the theory and practical levels to respond to legal needs of society in all aspects in both national and international levels.

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