# Islamic Normativity in the Public Sphere

**by Dr Ezieddin Elmahjub, School of Law, Swinburne University of Technology**

**Chaired by Associate Professor Arif A. Jamal, Faculty of Law, NUS**

**5 April 2018, Thursday, 12.00pm – 1.15pm**
Lee Sheridan Conference Room, Level 1, Eu Tong Sen Building
NUS (Bukit Timah Campus)

## ABSTRACT

I aim to undertake a thought experiment to determine whether it is possible to introduce Islamic normativity into the public sphere through public reason as an input to "the idea of overlapping consensus". I propose to do this through accessible language that takes into consideration "the fact of pluralism" in modern societies. So the thought experiment will explore possibilities to reconcile Islamic normativity with widely debated normative theories, namely consequentialism and deontology.

Islamic jurisprudence maintains that Islamic comprehensive doctrine (ICD) has a positivist pedigree. The scriptures are the ultimate authority on good and evil. The first point of reference on what is morally required as "the good thing to do" is what is promoted by the scriptures as "the right thing to do". However, the revelation stopped since the 7th century but societies kept changing.   Muslims past and present in different parts of the world, particularly in plural societies, seek to understand how to situate their conception of the good in pluralist social orders.

Since the 10th century a number of Islamic jurists suggested that the structure of the positivist texts shows that the Lawgiver is acting with a normative vision centred around the promotion of a good life on earth. A recurring theme throughout the textual sources indicates that promoting life, fairness, wealth and dignity is the essential objective of Islamic law. But should this theme be understood in consequentialist or deontological terms? In my paper, I show that normativity under ICD has links to deontological ethics but does not banish consequentialism. Overwhelming Islamic sources show that deontological values such as the right to life, fairness and dignity from a first order principle, while the utilitarian promotion of wealth being deemed secondary.  In other words under ICD, the overarching purpose of the Lawgiver's order is the people themselves.

I show that Islamic normativity benefits from comparative normative theories on human flourishing to construct a conceptual framework for modern Islamic law-making. The theories of Rawls and Sen, among others, share common ground with ICD: they promote the interest of people as the ultimate purpose of the social order by emphasising that the morally required choices are not necessarily those which maximise the good consequences for the majority. Rather, the goal is to establish society that promotes life, good health, knowledge and opportunities.

The paper opens the door to foster productive dialogue between Muslims and non-Muslims living together in Muslim minority and majority countries. It shows Muslims in Indonesia, Singapore or India share common values and agree on essential commitments with widely accepted global measures for human flourishing. The concerns of modern theories on human flourishing around promoting human rights, access to knowledge, protecting the environment and distributive justice are also fundamental concerns of  Islamic normativity. The paper presents an opportunity for those who view Islam as a source of violence to rethink their assumptions. It also sends a clear message to those who receive any global normative movement with great scepticism, that the values preached by comparative legal philosophies are not necessarily tools to dominate the Muslim world and undermine its Islamic legal heritage. There are more venues for harmony than there are for disagreement on the basic values of human flourishing.

## ABOUT THE SPEAKER

**Dr. Ezieddin Elmahjub** is a Lecturer in the Law School at Swinburne University of Technology in Australia. He completed his Masters and Ph.D. at Queensland University of Technology on the interaction between Islamic legal philosophy and global intellectual property (IP) regimes. He also obtained Masters of Civil Law and LL.B. from Tripoli University in Libya and was ranked the top of his class throughout his undergraduate and postgraduate degrees. His major interests include Islamic studies, comparative legal philosophy and IP. He teaches Copyright, Real Property, Contemporary Legal Issues and Research Methodologies. Before moving to Swinburne University, Ezieddin held teaching and research positions at the University of New England and Queensland University of Technology in Australia.

## REGISTRATION

There is no registration fee for this seminar but seats are limited.
Light lunch will be provided upon registration.

Closing Date: **2 April 2018, Monday**

For enquiries, please contact Chris Chan at asli@nus.edu.sg

To register, go to https://goo.gl/NtXgqM

**Or scan the QR code**