Hamid M. Khan: Classical and Contemporary Islamic Conceptions Concerning the Rule of Law

Since Islam's inception as a religious society, jurists and rulers have long wrestled with the issues of how to conceive the rule of law. Despite popular misconceptions, classical Islamic scholars articulated a robust theory of the rule of law based upon the devolution of legal authority and legal diversity while preserving social harmony. Yet in placing a premium upon religiosity and social harmony, classical jurists were less preoccupied with detailing the limits of ruler-based authority. In the contemporary period, with the emergence of the nation-state as the sole source of legitimate legal authority, demands for re-instituting Islamic law as a rule of law system are complicated by intolerance for legal pluralism. Even as modernist movements have emerged to reconciling these challenges, these self-same proponents have only demonstrated themselves to be self-selective in their adoption of classical jurisprudence. Finally, without a charted course

to recreate the classic Islamic dynamic of separating political authority, attempts to revive a classical Islamic legal conception of the rule of law are likely to remain crippled without more robust Islamic juridical responses.