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Autobiographical Reflections

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AUTOBIOGRAPHICAL REFLECTIONS

*Abdullahi Ahmed An-Naim**

As a way of concluding this festschrift issue of the *Emory International Law Review*, I have been invited to contribute an autobiographical essay reflecting on my academic and professional career. There are many ways to narrate a life. As a scholar, such narration often begins with titles earned and positions held:

I am Charles Howard Candler Professor of Law and founding Director of the Center for International and Comparative Law, Emory University School of Law, Atlanta, Georgia, USA. I am also an Associated Professor in Emory College of Arts and Sciences and Senior Fellow of the Center for the Study of Law and Religion at Emory University. My previous positions include Associate Professor at the University of Khartoum, Sudan, until 1985; Visiting Professor of Law at UCLA, 1985–1987; Fellow, Woodrow Wilson International Center for Scholars, Washington, D.C., 1987–1988; Ariel F. Sallows Professor of Human Rights at the University of Saskatchewan, Saskatoon, Canada, 1988–1991; Olof Palme Visiting Professor at Uppsala University, Sweden, 1991–1992; Scholar-in-Residence, the Ford Foundation office, Cairo, Egypt, 1992–1993. I also served as Executive Director of Africa Watch (renamed Human Rights Watch/Africa 1993–1995), before joining the Faculty of Emory Law School in June 1995.

Such a rehearsal says much about the shape and concerns of my scholarship: particularly the semicolon between Khartoum and UCLA, which echoes an older semicolon between Khartoum and Cambridge. But it cannot capture the early formation that undergirds this scholarly career and the tasks I have given to myself as a scholar for social change.

From Where I Have Come

I was born on the 6th of April 1946, but the civil administration official dated my birth certificate by the date my birth was reported to him, which was the 19th

* I have struggled with varying spellings of my name in the Roman alphabet since I began presenting myself in English in 1970. Over time, I realized that there is no way of representing the correct sound of my name in the Roman alphabet, so I used various unsatisfactory styles at different times. As I begin this final phase of my life in retirement, starting with this *festschrift*, I have resolved the issue by eliminating the apostrophe in my last name for it to read “An-Naim”. As of this glorious day of “self-liberation,” my last name should be written in the original form used by me or any other author in any title, text, or citation of reference published earlier. From now (May/June 2022) going forward, please use An-Naim. My full CV and other scholarly information can be found in my personal website at <https://scholarblogs.emory.edu/aannaim>.

of November 1946. Like many colonized people, I was born twice—once in tradition and once in colonial modernity. I was born in the village of *Al-Maqaweer*, on the west bank of the Nile about 200 kilometers north of Khartoum, the first of the eleven children of Ahmed An-Naim and Aisha Al-Awad Osman. I had four surviving brothers and three surviving sisters, while two brothers and one sister died in infancy.

My father Ahmed had no formal education. He had memorized parts of the Quran by heart, but with minimal reading and writing at the village Quranic school (*madrasa*). He started working in the village farms at the age of eleven to support his mother, two sisters, and one brother. As he explained to us as children, he was promoted to work as a stable boy, taking care of the horses of the Sudan Defense Force in the town of *Shendi*, across the Nile from *Al-Maqaweer*. He joined the Force as a private soldier at the age of seventeen, worked his way up the ranks—including through the transformation of the Sudan Defense Force into the Sudan Armed Forces after independence in 1956—and retired as a Brigadier General (according to British military rank) in 1973.

My mother never learned to read or write. When I attempt to represent the role of my mother and other Sudanese Muslim women of her generation, I seek to explain how her role in private or family affairs was important but not visible in the community. Yet her influence in shaping social relationships within the community was highly significant as part of the leadership of our extended family.¹ Though she never received any formal education, she was the leader of modern education in our household, especially after my father died on February 20, 1980. While my mother exercised an important form of familial and communal leadership, my father's role, as one of the community patriarchs, in the education of all the children of our extended families was highly significant in the patriarchal society of Sudan. Despite the minimal formal education of our parents, all the surviving children of Ahmed and Aisha earned post-graduate or graduate degrees: four PhDs; one Orthopedic Surgeon (specialist doctorate in Surgery); two Masters; and one Bachelor of Arts.

Our family is from northern Sudan, yet our stories testify to the profound transformation of the whole country during the post-colonial period. Sudanese communities throughout the country were traditionally pious Muslims, and many of them were organized as followers of major Sufi traditions like Tijaniya,

¹ See, for example, my video interview with Harry Kreisler. UC Berkeley Events, *Conversations with History – Abdullahi Ahmed An-Na'im*, YOUTUBE (March 10, 2010), <https://youtu.be/Yg3hLdJLrOY>.

Ghadriya, Khatmiya and Samaniyya. With the rise of the Muslim Brotherhood in the 1940s, Sudanese Sufi orders began to lose their independent identities as they were coopted into the broader and vaguely defined Brotherhood as a politico-religious organization. As the leadership of the Sufi orders passed into the hands of the younger generation, the grassroots membership of the orders tended to adopt the political objectives and follow the leadership of the Brotherhood.

The struggle between traditional (*madrasa*) and secular education evolved, beginning in the early twentieth century and with regional variations, throughout Muslim communities from West Africa to Central, South, and Southeast Asia. As I recall from my own experience, learning the Quran by heart in madrasas was the norm across the Muslim world but started to recede as the material advantages of secular education began to emerge. Over time, the decline of traditional education was confirmed by both the collapse of the institutions that had produced the scholars who teach in madrasas and the transformation of the social organization that had supported the traditional scholar-teachers through their social standing and financial viability.²

As was the common practice of Sudanese communities and the universal norm for male children in my part of Sudan, I started my education by beginning to memorize the Quran in the madrasa of the village. Quranic education was an expectation (perhaps a mandate) of the traditional village elders, who resisted the creeping “modernization” effectuated by the western-style schools and better prospects for employment in the civil service or other government jobs with regular, though minimal, salary. The village traditionalists objected to government-sponsored civil education that promoted western lifestyles and was made visible in western-style clothing. Such ultimate struggle between tradition and modernity, which continues in other parts of the world, is often presented as anti-secular. By the time I reached school age, my father ended my madrasa experience without facing resistance. Then and now, the primary educational concern of most Sudanese families is whether their children can win a seat in the extremely competitive secular education with minimal or partial fees.

I started secular elementary and intermediate school (1952–1960) in Atbara—a town on the Nile north of our village where my father was stationed at the time. When my father was moved to Omdurman, across the White Nile from Khartoum, I went to Al-Ahfad Secondary School (1960–1964). In these

² See Wael B. Hallaq, *Can the Shari'a Be Restored, in ISLAMIC LAW AND THE CHALLENGE OF MODERNITY* 21 (Yvonne Yazbeck Haddad & Barbara Freyer Stowasser eds. 2004).

early, formative years of my civil education, my father was conditioning me to set the best example for my siblings. Being the firstborn of my age group in our extended family, my father also charged me with setting a good example in civil education for the rest of the children. Recalling that early phase in my education, it occurs to me that it was expected such a decision would orient my life towards the secular. But it was not just a decision for me. It was a decision that, in the early 1950s, was expected to foreshadow the modernization (and secularization) of Sudan. Yet, this choice has, over the last seventy years, remained central in developing the ideological and political views of generations of Sudanese young people.

The problem with both the modernist and traditionalist voices is that they made their choices in mutual darkness: the benefits of secular education lost to the traditionalists, and the benefits of Quranic education lost to the modernists. In my case, all I could do was memorize part of one section (*juz*) of the Quran before shifting to the civil educational system sponsored by the government, eventually graduating with a degree in law from the University of Khartoum (1965–1970).

The forces of post-colonial change took me all the way from a village on the Nile to the national University of Khartoum, followed by the Universities of Cambridge (England) and Edinburgh (Scotland). I was able to afford that fascinating and expensive series of multiple studies because all were funded by full scholarships from the Government of Sudan. Such is the scale and value of the “privilege” I owe to the people of Sudan, of which I will say more shortly. In particular, I owe the privilege of post-graduate studies in human rights and the related fields of public law, which qualified me to teach in any of the English Common Law systems around the world and would become important when I was forced into exile in 1985. But here I get ahead of myself.

My studies in England and Scotland were funded by the government of Sudan so that I could return to teach at the University of Khartoum, which I did in 1976. My time at the University of Khartoum, however, was to be short. I had joined the Islamic reform movement of *Ustadh* Mahmoud Mohamed Taha in 1968. I continued to participate in its activities until it was banned and its founder and leader, *Ustadh* Mahmoud, was executed for apostasy in January 1985. I left Sudan in April 1985. Hoping to be able to return to Sudan, I held the series of temporary teaching and research positions I describe above until 1992, when it became clear to me that the Islamist regime, which had come to power through a military coup in 1989, was consolidating its authoritarian hold on the country. In light of that realization, I took my first open-ended position outside

Sudan in June 1993, as Executive Director of Africa Watch, based in Washington, D.C. In 1995, after I had served as Executive Director for two years, Africa Watch was being transformed into a unit of Human Rights Watch. I resigned from that position in April 1995 to join the faculty of Emory University School of Law (Emory Law). I was granted tenure at Emory in 1997 and became the Charles Howard Candler Professor of Law in 1999.

Being in exile from one's native country is usually supposed to be reconciled through the process of seeking asylum in another country. I was not, however, willing to apply for asylum. I saw in my human rights work how official authorities of so-called "host countries" were often hostile to asylum seekers and tended to humiliate them to discourage them and others from applying for asylum. Fortunately, when I came to the United States in 1993, Human Rights Watch sponsored my application for "permanent residence" as an "extraordinary professor or researcher." When that application was approved, the Immigration and Naturalization Service granted me a document to travel internationally for my human rights work. By the time I had to leave Human Rights Watch in 1995, Emory Law sponsored my application for naturalization, which I was able to achieve for myself, my wife, and all our five children.

My political exile from Sudan in 1985, the realization in 1992 that I could not return to my home country, and the loss of autonomy for Africa Watch in 1995 were all difficult hardships and transformative experiences I neither invited nor expected. But *Ustadh* Mahmoud had taught us, his disciples, a religious exercise in "retrospective reconciliation"—to accept the "will of God," especially when events seem to contradict our choices. The spiritual exercise he recommended to us was to look back and see how negative developments at the time were subsequently transformed into positive changes. It is in the spirit of this exercise that I turn from these historical reflections to my scholarly work.

Where I Am Going

During my tenure as Charles Howard Candler Professor of Law at Emory, I have directed four major studies about the reform of the normative system of Islam, commonly known as Sharia. Those studies explored the theory and practice of reforming the historical formulations of Sharia as a normative system among the various schools of thought (*Madhahib*). The primary focus of each study was on tensions between principles of Sharia and universal principles of human rights. Each study was conducted by examining aspects of Sharia in relation to the legal systems of modern nation states. They were funded by the

Ford Foundation and implemented out of Emory Law. The four projects included:

- (1) a study on women's access to, and control over, land in seven African countries;
- (2) a global study of the theory and practice of Islamic Family Law;
- (3) a fellowship program in Islam and Human Rights; and
- (4) strategies for research and advocacy around the analysis and conclusions of my book, *Islam and the Secular State* (2008).

In addition to the above, I have authored or edited thirteen books preparing the way for these projects and building upon them.³ These manuscripts have been published under titles listed in descending order as follows:

Books Authored: *Decolonizing Human Rights* (Cambridge University Press, 2021); *What Is an American Muslim? Embracing Faith and Citizenship* (Oxford University Press, 2014); *Muslims and Global Justice* (University of Pennsylvania Press, 2011); *Islam and the Secular State* (Harvard University Press 2008); *African Constitutionalism and the Role of Islam* (University of Pennsylvania Press, 2006); *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law* (Syracuse University Press, 1990).

Books Edited: *Islamic Family Law in a Changing World: A Global Resource Book* (Zed Books, 2002); *Cultural Transformation and Human Rights in Africa* (Zed Books, 2002); *Proselytization and Communal Self-Determination in Africa* (Oribis Books, 2000); *Human Rights and Religious Values: An Uneasy Relationship?* (Eerdmans, 1995); *The Cultural Dimensions of Human Rights in the Arab World* (Ibn Khaldun Center for Developmental Studies, 1994); *Human Rights in Cross-Cultural Perspectives: Quest for Consensus* (University of Pennsylvania Press, 1992); *Human Rights in Africa: Cross-Cultural Perspectives* (Brookings Institution, 1990).

Collectively, these works reflect the arc of my commitment to the possibility of Islam *and* human rights, but only through the collective work of Muslim scholars and activists and not through imposition by Western claims to universalism. That

³ A complete bibliography of my major books, articles, and book chapters is included in this festschrift. For a list of other writing, see *supra* note 1, where I link to my CV.

Islam (or any religion), human rights, and anti-imperialism can and must coexist is the realistic and necessarily utopian vision of my scholarly career.⁴

This is the value of the pragmatic approach to what I call the “double paradox.” One aspect of the paradox is the imperative of the universality of human rights and the reality of cultural diversity. The second aspect is the reality of the nation-state as the necessary guarantor of human rights in our contemporary world⁵ and the reality of the need for application of human rights norms without coercive enforcement. I recommend reconciliation for each paradox through the combined methodologies of cultural transformation and political mobilization, which mediates the double paradox. For the proactive adoption of this model of mediation, the membership of each culture must acknowledge the relativity of their own culture, instead of pretending its neutrality to justify its imposition on other cultures. In particular, liberalism is as relativist as any other culture, and must therefore be mediated instead of imposed on any other culture. This is the rationale of my latest book, *Decolonizing Human Rights* (2021).

I have also published more than one hundred articles and book-chapters in a wide variety of length and formality, often in response to invitations to present keynote lectures and other presentations at conferences or named public lectures. If I was persuaded by the subject and its rationale, I accepted but tried to reconcile the invited theme with the primary themes and objectives of what I call *scholarship for social change*. In the idea of scholarship for social change, I hope to convey that my scholarship should always have as its end making possible real social change, especially in relation to constitutionalism and human rights in Islamic societies. Yet the fundamental overarching rationale and purpose of all my public activities, whether in the framework of articles, chapters, interviews, or other formats, has always been devoted to the propagation and promotion of the work of my teacher and mentor *Ustadh* Mahmoud Mohamed Taha. Since *Ustadh* Mahmoud was publicly executed after a sham trial, I was and remain determined that *an idea should never be allowed to be killed by killing its author*. To appreciate the full magnitude of that crime and its transformative impact on me, among the thousands of Sudanese and others who learned about it, please see the last article cited below, titled *The*

⁴ For a detailed discussion of how I understand “utopia” as a necessary vision of a “good place,” and how we can tame the unrealistic aspects of utopian thinking, see my Tanner Lectures, especially lecture two. Abdullahi Ahmed An-Na’im, *Transcending Imperialism: Human Values and Global Citizenship*, in THE TANNER LECTURES ON HUMAN VALUES 71 (Suzan Young ed., 2011).

⁵ There is another paradox within the idea of nation-state itself between those nation-states that can guarantee, and therefore possess, their own sovereignty and those that cannot.

Islamic Law of Apostasy and its Modern Applicability: A Case from the Sudan. In view of the extensive variety of articles and book chapters, I cite in reverse sequence a small sample to reflect the variety, consistency, and significance of this kind of publication for the fundamental questions of Islamic reform in the present context.

Articles Authored: “The Spirit of Laws Is Not Universal: Alternatives to the Enforcement Paradigm for Human Rights,” *Tilburg Law Review* 21 (2016): 255–74; “The Compatibility Dialectic: Mediating the Legitimate Coexistence of Islamic Law and State Law,” *Modern Law Review* 73 (2010): 1–29; “Religion, the State and Constitutionalism in Islamic and Comparative Perspectives,” *Drake Law Review* 57 (2009): 829–50; “The Contingent Universality of Human Rights: The Case of Freedom of Expression in African and Islamic Contexts,” *Emory International Law Review* 10 (1997): 29–66; “The Islamic Law of Apostasy and Its Modern Applicability: A Case from the Sudan,” *Religion* 16 (1986): 197–23.

Book Chapters Authored: “The Postcolonial Fallacy of ‘Islamic’ Family Law,” in *The Cambridge Companion to Comparative Family Law*, ed. Shazia Choudhry and Jonathan Herring (Cambridge University Press, 2019), 254–79; “The Individual and Collective Self-Liberation Model of Ustadh Mahmoud Mohamed Taha,” in *Beyond the Secular West*, ed. Akeel Bilgrami (Columbia University Press, 2016), 45–75; “Islam and Human Rights,” in *Religion and Human Rights*, ed. John Witte Jr. and M. Christian Green (Oxford University Press, 2012), 56–70; “Transcending Imperialism: Human Values and Global Citizenship,” in *The Tanner Lectures on Human Values*, ed. Suzan Young (University of Utah Press, 2011), 71–144; “The Politics of Religion and Morality of Globalization,” in *Religion and Global Civil Society*, ed. Mark Juergensmeyer (Oxford University Press, 2005), 23–48; “Sharia and Positive Legislation: Is an Islamic State Possible or Viable?” in *Yearbook of Islamic and Middle Eastern Law*, volume 5, 1998–1999, ed. Eugene Cotran and Chibli Mallat, (Kluwer Law International, 2000): 29–42; “Toward an Islamic Hermeneutics for Human Rights,” in *Human Rights and Religious Values*, Abdullahi A. An-Na’im et al. (Editions Rodopi B.V., 1995): 229–42.

It was from *Ustadh* Mahmoud that I learned both the value and possibility of Islamic reform and the value and possibility of scholarship for social change.

Throughout my career, I have made these twin projects central to my work in a reflection and continuation of what he taught me and so many others.

What I Owe for My Privilege

In conclusion, I will present some framing comments and suggestions out of my indigenous Muslim culture of Sudan, which shaped my consciousness and worldview. Yet, I should emphasize, this is not to say or imply that I am exclusively and permanently defined by my cultural foundations or that my cultural formation is purely or permanently from one source or another. In fact, the privileges I received from my wide and complex experiences in Sudan and abroad have contributed to the formation and orientation of my attitudes and perspectives. Although I know and acknowledge that I sometimes fantasize or pretend that I am permanently of one time and place for life, or that I have effectively resisted all “alien” influences on my consciousness and ethical formation, the more I engaged issues of cross-cultural understanding of human rights, for instance, the more I gained a deeper commitment to the universality of these rights. Yet, I have also come to equally appreciate that *the ultimate privilege of my life is precisely in the multiplicity and contestability of my cultural formation and transformation.*

The concept of privilege in the sense of supreme benefit and kind consideration is a profoundly moral Islamic principle indicating the obligation of the recipient to reciprocate to at least the same value that which was generously given and, therefore, generously received. I am trying constantly to shift roles in social exchange, reflecting a continuity of giving and receiving, so that more people are embedded in this exchange of roles. In religious charitable giving, the less that the giver is aware of giving and the more the receiver becomes, in turn, a giver, the religious value of spontaneous giving diminishes the distinction between giver and receiver. Thus, the Quran speaks of giving from the property of God, which is entrusted to you, human beings.⁶

These values should be easier to promote when we emphasize them as human values rather than material goods. In a well-known and oft-repeated Hadith, the Prophet said: “To smile in the face of your fellow human being is a religious charity.” The more giving and receiving are envisaged as interchanging and interactive roles, the more the continuity between the two is appreciated,

⁶ See, e.g., QURAN 24:33 (i.e. verse 33 of chapter 24). Furthermore, in verse 7 of Chapter 57 the *Quran* instructs believers to “give charity out of the property of God placed in their charge.” QURAN 57:7.

and all the more can this continuity of giving and receiving promote social cohesion and the development of human compassion.

Because I benefit as a recipient, particularly of education, employment, and empowerment, I must find ways of reciprocating in the same value to the authors of such privileges I have received. In the normal, straightforward course of human relations, the recipient of the benefit would not be able to reciprocate in the short term but may be able to offer personal and collective commitment to reciprocity in the future. Again, in the normal, straightforward course of human relations, the recipient would seek to enhance and promote the effort to reciprocate. Perhaps you see now why I speak of the privileges of my earlier life, even those privileges that arose in hardship. Privilege and reciprocity cannot be separated. For me, the privileges I have received and my commitment to scholarship for social change cannot be unconnected. But the world that such social change strives for is also one that must be built by privilege and reciprocity. Not the privilege of unearned wealth or colonial domination, but the privilege that requires reciprocity and the passing of our privilege on to others.

All of this is in the course of common human relations among individual persons and groups. Yet, the lessons regarding privilege and reciprocity must also be learned in international relations among states. While such relationships are more complex than common human relations, it remains the case that judgements about privilege and reciprocity among the two or more sides in international relationships are still made by individual human beings, even when states or political parties are in competition among themselves. My point is that, while we must account for complexity, an ethic of privilege and responsibility applies not only among persons and communities but also among states in international relations.

But we must also consider the role of those international organizations and institutions promoting democratic self-governance and the rule of law. Again, we must acknowledge the fact that privilege and reciprocity among international actors is much more complex and difficult to evaluate in proportionate terms. Yet, in the final analysis, strategies and mechanisms for evaluating exchanges of support and service tend to (or should) follow a similar pattern in value and benefit over an extended period of time. But, the ultimate voice and value of the self-interest of survival cannot be ignored by any of the actors or their organizations, such as the North Atlantic Treaty Organization and European Union.

My privilege, and the reciprocity it calls me to live out, requires that my scholarship for social change is also critical. My responsibility in reciprocity to

the Sudanese people, to my fellow Muslims, to colonized and formerly colonized people everywhere, requires that I name and denounce that which oppresses them as I work with them for positive social change. In this regard, my scholarship takes on a bilingual quality. In his most helpful comments on a draft of this Essay, Silas Allard noted:

. . . your writing, . . . is always balancing two audiences. On the one hand, you are writing to fellow Muslims, and this is how you have often framed your work, particularly *Islam and the Secular State*. But, your writing also has, for lack of a better descriptor, a Western audience because the arguments to your Muslim audience are made on the grounds of self-determination, which is a decolonial argument to your Western audience. I read this as the rhetorical structure of both *Islam and the Secular State* and *What Is an American Muslim?* Your associated articles and lectures sometimes shifted attention more to the Western audience and more explicitly emphasized the argument for a decolonial possibility in international law and political thought. . . I think it is interesting to reflect on how your position and role, as well as your project have required navigating these two audiences and crafting a rhetorical persona that seeks to be authentic and legible to both communities of readers, which is a difficult task.

I agree with these thoughtful and kind remarks, but the challenge remains whether I am likely to succeed in persuading the two or more sides to this equation to promote consensus and act on it in shared commitment and creative cooperation. Can my attempts to be bilingual encourage others to do the same? Can my efforts at reciprocity inspire reciprocity in others, especially the privileged? This is the last major theme of my work and one that can only ever be left as a question, even as I have wrestled with it often.⁷

March 1, 2022

⁷ Most extensively in my Tanner Lectures on Human Values. *Supra* note 4.