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*Peter Herrmann: Godless Laws or Lawless Gods – Islam,
Fundamentalism and the Economic Crisis*

*Peter Herrmann*ⁱⁱ

Godless Laws or Lawless Gods – Islam, Fundamentalism and the Economic Crisisⁱⁱⁱ

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Abstract

The present document argues that the debates about religion and faith-based fundamentalism are mislead, largely by neglecting their real socio-economic meaning. Rather than looking at socio-economic aspects of disadvantaged groups and regions it is important to look at the patterns of a wide-ranging economic restructuration, directed into what is a suggested re-feudalisation. Taking Islam and Turkey as example, the work seeks to provoke some deeper reflections on current developments.

Introduction: Economic Crisis and Values

It is not only since “9/11” that Islam – or going beyond – faith oriented and based systems are debated as central topics and part and parcel of a generally mystifying

discourse on globalisation, economic development and behaviour. This is the case for the good and for the worse: for instance Asian values are celebrated – and the Fordist, later even the Post-Fordist models had been replaced by appreciating Asian values as foundation of the so-called Asian tiger economies and marking Taylorism – with both its familiarist-authoritarian and patriarchal-communitarian and as well its “positive values” as admiration, respect and support – as way for the future; and on the other side we find the condemnation especially of Islamist fundamentalism as expression of the evil per se. Both these strands are part of the process of globalisation, commonly faded out without accepting the fact that the related issues are genuine part of an overall process of globalisation. These ideological debates are themselves part of the global process as expression and cause of an overall process which is usually captured as (economic) globalisation.

With respect to Turkey the point in question is – so the thesis – that the analysis of the accumulation regime, if going hand in hand with the mode of regulation, shows at least traces of the historical foundation not only in terms of path dependencies but even more as reflection of a mode of thinking, an ideological tune that determines what is (or can be) considered as available resources and possible mode of exploiting them. It determines ‘what is considered as being just’. Taking it from here, the Islamic society in a Kemalist state may actually not come so much as a surprise anymore. However, we find that the vivaciousness of these traditionalist patterns provide as well a sound foundation for recent changes of the political economy that may be seen as re-feudalisation.

– Though dealing mainly with Islam and Turkey there are good reasons to see with a grain of truth the basic pattern also alive as characterising moment in that part of the world that interprets itself as enlightened west – regretting the loss of values as moral integrity and fearing religious fundamentalism and claiming that both are principally different issues.

However, the present contribution looks at some general issues of the development mainly of Islam and/in Turkey and argues in favour of following central points.

First, as valid as the fundamental value changes – and appreciation of general value and faith systems – may be, the shift of the meaning of different systems and in particular the increase of the meaning of fundamentalism is an expression of rather than cause of a changed socio-economic climate. This is not least part of a change of the power structures and a relative shift of the centre-periphery balances in terms of a

changed economy: It are those political and faith systems that gain from the economic development that are prone to political-economic feudalism. In other words, we are not simply facing the accumulation of power but we are facing a shift of economic structures that allow the accumulation of power in places that are not immediately based on the productive sphere. These are areas where on the one hand primary resources (now raw materials, in particular oil, rather than agricultural products) and on the other hand tertiary potentials (in particular trade and services in the financial arena but as well services as education) play a decisive role. The latter translates not least into cheap manpower as distinct resource which can actually counteract the over-accumulation, being even more favourable than “cheap machinery”.

Second, the latter means not least that the economic development itself undergoes two fundamental shifts. The first is the virtualisation of economic processes. These take increasingly the form of circulation of non-production linked “capital”. In a way this is similar to early processes of banking – the Italian Medici-dynasty and the German Fugger-family being two major examples. However, today’s processes are different as we are now facing a disconnection not in terms of making money available for real economic processes; instead we are concerned with a process by which surplus money is taken out of the real economy, temporarily “making money out of itself and out of nothing” – credit swaps and hedge funds are the most pronounced expressions. The second is the refeudalisation (see in this context as well Herrmann/Dorrity, forthcoming). With the virtualisation and profit rendering in the sphere of circulation we find a process by which political power and moreover individual “charismatic” leadership gains control. Multinational players as Microsoft’s Bill Gates (and Bill Gates’ Microsoft) gain a Machiavellian status that produces virtuality, transforms this into personal and corporative political power and combines it with “foundational support mechanisms” – and the Bill and Melinda Gates Foundation is only one of severable comparable foundations – as much as the politico-economic Bill Gates empire is only one amongst other modern noblesse oblige.

Third, the victimisation of specific faith systems and ideologies should not allow us to forget that that these are mainly expression of specific socio-economic and political systems – and as such they are not only traditionalist but as well a vehicle of re-traditionalising ‘modern’ economies and polities in the sense of their re-feudalisation. It then comes by no means as surprise when we see a revival of normativism and efforts to explain contemporary developments as matter of lost values – and as well

deriving from here the claim to return to religion. – Thus¹ Michael Chalupka, head of the Austrian Diaconia (a major protestant organisation) states in an article in “Der Standard”, answering the question if he had been surprised by the current crisis of the financial markets:

In den letzten 15 bis 20 Jahren habe ich beobachtet, dass das Finanzsystem und der Kapitalismus zu einer Religion geworden sind. Insofern hat mich das als Theologe nicht überrascht, weil ich natürlich an Gott und das Evangelium und nicht an die heilenden Kräfte des Marktes glaube. Es war eine Frage der Zeit, wann diese Religion, dieser Religionsersatz Kapitalismus brüchig wird. Ich sehe deswegen diese Krise als Entmythologisierung eines falschen, angeblich nach Naturgesetzen funktionierenden Konzepts, dass der Markt alles macht, sich selbst heilt, der Staat nur stört, ...
(Chalupka, 2009)²

And although Chalupka continues by rightly rejecting the presuppositions of the warmongers on the war of markets

dass sozialstaatliche Maßnahmen die Wirtschaft am Wachstum hindern, dass man geglaubt hat, Geld könne arbeiten, ohne dass es den Umweg über die Produktion und die Arbeit nimmt
(*ibid.*)³

he comes to a conclusion that shows the dangerous shortcoming of his analysis, seeing in a changed value basis the foundation for overcoming the current structural deficits.

Islamist fundamentalism is surely frightening – but the danger should not be used to hide the fact that proposing a value change as remedy for overcoming the financial (and general economic) crisis is not so different from flying into twin-towers. Mocking remarks and personally attacking them will not stop the Bushs and Gates nor

¹ See in this context also Irish Times, December 27th, 2008 “Top Banker accused by bishop of financial ‘idolatry’” (<http://www.irishtimes.com/newspaper/world/2008/1227/1229728560433.html> - 10/01/2009 5:56 a.m.)

² translation - PH: *I observed during the last 15 to 20 years that the financial system and capitalism emerged as religion. Thus I – as theologian – hadn’t been surprised, as I believe of course in god and the gospel and not in the healing power of the market. It had been a question of time that this religion, this idea of capitalism replacement of religion would crumble away. Therefore I see this crisis as demystification of a wrong concept, supposedly the market, following natural laws, regulates everything, regenerates itself and the state is only a distracting factor, ...*

³ translation – P.H.: *that measures of the social state hinder the economy to grow, that one believed that money could work without taking the detour over production and work*

will the Obamas, Bonos and Rotarys succeed by the claim that we can, hoping for another world as being possible by changed morals.

Looking at the current situation a thorough analysis of the so-called Casino-capitalism has to investigate the specific convergence of history as way of traditional, though still existing feudalist structures, ways of thought and habitus merging with post-productive capitalist systems.

In this respect it is not least important to look at the creeping danger of leftists claims for communitarism – easily conflating with nationalist and ‘nimby’⁴-patterns – the problem not being the emphasis of communities but the neglect of the dimension of appropriation as it is emerging from the tensions between individual appropriateness and social legitimacy – a tension that is outlined in Figure 1. We can say as well – and observe it in actual practices – that the actual danger has to be seen in the privatisation of communities – expressed by the private armies in front of the shopping malls and the (re-)emergence of anti-begging laws.

		appropriation	
		property	adequacy
equality	legitimacy		
	empowerment		

Figure 1: Scope of Reference for Identity Building of Social Individuals

– What wonder is it then, looking at the refeudalised patterns, that Jews and Hamas are fighting? And that weird coalitions seem to emerge between old-fashioned Schumpeterian entrepreneurs and protestant work-ethicist on the one hand and freedom-fighters who claim nationalist protectionism and rights for self-determination as higher values than internationalist social rights the on the other hand.

⁴ Not In My BackYard

Rationality, Rationalities and Rationales

It is with respect especially to (social) law interesting to look at two aspects of its closure. In one respect we can understand closure as matter of seclusion and departmentalisation or coherence building. Either

- * every systemic level of the legal system (simplified: pre-judicial, primary and secondary level) is in itself closed and allows only the execution of hierarchical influence (seclusion); or
- * the different systemic areas (again simplified: pre-judicial, primary and secondary level) influence each other and in both directions to provide redefinitions that increase internal coherence; this can for instance happen through concretisation of general regulations due to specific regulations that require more thorough reflection (departmentalisation); or finally
- * the communication between the different systemic legal areas (in the same way simplified: pre-judicial, primary and secondary level) is closely linked to the ‘social reality’, equally
 - ‘adapting’ to changes in terms of changing themselves,
 - supporting changes of reality or
 - aiming on hindering social change (coherence building).

This can be translated into a complementing perspective, dealing with the question of control. Three dimensions have to be defined. First, it is the degree to which it is secularised, i.e. the degree to which human beings have actually taken hold of the legislative process. Second it is the degree to which it regulates every day’s life and to which it is a matter of ordinary policy processes, calculable in the sense of clearly defined and put into writing. Third, it is a matter of exclusiveness in its scope, i.e. a question about the actual and real meaning of equality. Most importantly we can see this as well as three dimensions of constituting citizenship – and it has to be emphasised that we are talking about the constitution of citizenship as matter of active identification of people with their engagement in a specific relationship rather than granting citizenship as legal act.

In the West – and for us this is the easiest way to develop a meaningful reference – the relevance can be seen if we follow the process of general secularisation which is not only meaningful as matter of translating divine power into human law. Rather, it is as well meaningful as means of using this power for directly shaping the way of life

– though still very much an exclusive *procedere* it is increasingly defined as process of direct control and matter of defining norms. From here the development opens into three directions, namely (a) the use of law ‘against’ people as disciplinarian means, (b) the use of law in support of people, though the support character can have very different meaning, ranging at least between enablement and empowerment (meaning that the latter is more characterised by gaining independence) and (c) the use of law by the people, i.e. the move towards a system in which both law making and law implementation is controlled.

We can see some parallels when we look for instance at the *Shari ah*, the Islamic law. *Ernst Klingmueller*, for instance, mentions

three large epochs

the foundation of the Islamic law in the Qur’ân in its function as source and standard of law. The reason for validity is solely god’s will, expressed in the prophet’s proclamation to the people;

the doctrination and systematisation of the entire matter of law by the paradigmatic law school and the endeavours to amalgamate the Islamic legal thoughts with the various jurisdictions and laws of the subordinated countries;

the dispute between the Islamic thought of law with European legal thinking by way of defence and assault.

(Klingmueller, 1980: 376)

Then *Ernst Klingmueller* puts his finger on a serious problem, he calls congenital defect, the problem being that the *Shari ah*

arose from a faith based paradigm rather than from ‘staatsraeson’ [raison d’état, national interest]. ... The Qur’ân rather than the state, the power of the state is a constitutive element of Shari ah; legal security follows more a transcendental understanding and ensuring legal peace is in this light primarily a consequence of the Muslims, living together in their community rather than being a task and function of the state; this is different when it comes to the courts led by the state (mahakim al-mazalim). The Shari ah lacks the immanent and chartered efficiency, in other words: as well the independent power to enforce the sentence.

(ibid.: 376)

This contradiction opens as well a different perspective, emphasising the supposed compatibility of *Shari'ah* and the Western legal tradition. Whereas from the latter perspective a claim is made to represent a rationalist approach, deriving legal principles and judgements from a supposed general will, the logic of the *Shari'ah* is twofold, first claiming the identity between the primary sources, namely the *Qur'ân* and the *Sunnah* (traditions) and what is legal, and second establishing a direct hierarchical 'deductive' line between these two and the actual legislation and deliberation for a verdict, applying the subsidiary sources of which is said that

[t]here is almost unanimous agreement among the scholars of the different schools of jurisprudence that the Qur'ân and the Sunnah (the Traditions) of the Prophet (peace be upon him) are the only primary sources. In view of the extreme complexity of the possible sources of legal provisions, there can be no complete consensus on the subsidiary sources. It emerges however from the different schools of jurisprudence that the most commonly accepted subsidiary sources are: Consensus of Opinion, Reasoning by Analogy, Equitable Discretion, and finally Interests.

(Omar, 1997: 148)

Seen in this light it is not about rationality here and irrationality there. At stake is that the link between the different rationalities – for us relevant the pre-judicial, the primary and the secondary law – is much closer; and this means not least that the degree to which humans are independent and self-determining actors on their own individual and collective behalf is at stake.

Rationalities of Life – Irrationalities of Living

As important as it is to acknowledge the religious dimension of the background of the different legal systems and their pre-judicial conditioning, it is not less important to consider secularisation not only as way of overcoming the religious dimension but as well as bending faith and religious issues in a way that establishes, maintains and manages certain hegemonies.

An important, though largely neglected point of the debate is that in any case even the religious pre-judicial grounds are at some stage translated into matters of everyday's

behavioural norms. This, in turn, means that the totalitarian, holistic, general approach comes into conflict with the situational particularity. It is for instance remarkable that

[t]heologians say that Islam is a simple and intuitive faith. It is based on clear foundations which are valid at all times and in every place. As these foundations are the core of the Muslim's belief, it follows that disbelief in any one of them is equivalent to disbelief in all of them.

(ibid.: 148)

And from here *Mohamed Abdel-Khalek Omar* claims that

Islam, as a matter of faith, is a religion, not a mere ideology, and as a matter of practice, a way of life, not a mere compilation of legal rules.

(ibid.: 157)

and continues that

the Qur'ân lays much stress on the necessity of making use of one's own reason both in matters of belief and action

(ibid.: 259)

However, the translation into reality, i.e. the application does not simply follow from above. Rather, it is an application in a specifically given framework of reality. As such it is a mixture of the traditional beliefs, i.e. interpretations of the world, the given reality at a given point in history and the interpretation of this reality in the light of old values and value systems.

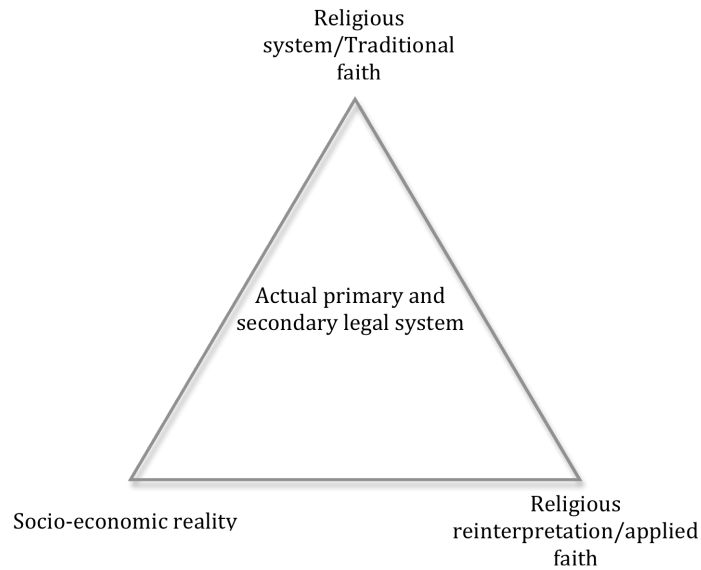


Figure 2: Determination of Current Frames

Exploring this linkage may offer a way of clarification of the necessary pathway of contemporary conflicts between seemingly generally accepted values and their defiance in reality. This then explains as well that the contemporary modes of regulation, legally constitutional systems (primary law) and even secondary law are still to a large extent coined by very early systems of politico-legal thinking.

Turkey – Looking for Traces

We continue by looking at current debates in Turkey – a secular state since nearly hundred years, though at the same time coined by both: Islamic traditions and a currently still strong influence of the Islamic community in the country. In addition, it is important to recognise the economic situation, roughly to be characterised by

- * only recent economic growth, though this is regionally extremely unbalanced,
- * a huge divide between economies,
 - part being under public control,
 - part being entirely dependent on foreign capital and not much more as subcontractors,
 - others performing as sustainable national industry and others again performing as some form of genuine shadow economy

* a ‘modern performance industry’ on the one hand and a tradition-oriented economy.

In addition, we find a relatively large share of public employees, in the state administration and not least the overwhelming role of the army.

To point briefly on some aspects of the historical development, we have to look at the different patterns, in part establishing specific tensions within the economic, political and legal system. Decisive aspects in this regard are the following:

- * The breakup of the Ottoman Empire meant as well establishing a new socio-cultural and economic entity, itself being still classified as ‘developing country’, and in this case being characterised by the inherent religious tension between Islamist and Christian traditions. It is not the place to discuss historical aspects of the nearness of the young republic to one or another faith system. Important is that we are facing under the leadership of *Mustafa Kemal Atatürk* the foundation of a secular republic. This break with (parts of) the country’s history means as well the establishment of internal and external conflicts in ideological respect as it meant the foundation of a secular enclave within contradicting religious traditions – a conflict that had been (and still is) as well marking part of the inner factionalism.
- * What matters is at least a strong influence of economic traditionalism as stigma of the republic. At first glance, this seems to be a straightforward matter, being based on the developmental stage of the country: for a long time the slow move from a mainly agriculturally oriented economy. The history – the breakup of the Ottoman Empire in the early 1920s meant in a way as well disentanglement from the capitalist centre – could not easily be overthrown. The one reason is a huge regional disparity in the country’s development (*see for the analysis of different aspects of regional economic development and regional policies: Özaslan, 2007: 125-173*).

This can be seen not least by looking at some key statistical figures: Though we find a mentionable sectoral shift within the economy, the decline of agricultural production is relatively slow. There is, however, a stark difference between regions, for instance an above-average share of the service sector in central Anatolia, and an above-average share of agriculture in the Black Sea area. Similarly interesting patterns can be seen with respect to concentration of capital and the relevance in different sectors (*see Pöschl, Josef et altera, 2005: 35, 32, 38 ff.*).

Another important meaning had been the geopolitical position. Here we find some uncertainty, the country(’s economy) being torn between the orientation towards the European west (what became later institutionalised as the EU), the European east (especially the USSR) and the American United States. This translated not least into the choice between three options:

- The first option being the orientation on rapid gains or at least relief – although very precarious and socially segmented. In this context relevant is the importance of migration: outward migration of workers and inner segregation as factual exclusion of Kurds on which *Richard Rose* and *Yusuf Özcan* state:

Historically, Kurds have lived in the poorest regions of eastern Turkey, where illiteracy, family size and infant mortality are higher, while incomes are considerably lower. Such social conditions tend to depress such people's quality of life; moreover, living in an area of armed conflict further undermines citizens' quality of life.

(Rose/Özcan, 2007: 12)

- Later migration of these groups to western parts of the Republic could not compensate for effects of previous social exclusion, politically leading to the confrontation and fight between at least two nationalist movements within Turkey: the Kemalist and the Kurdish groups, each as well in themselves split with regard to their ideological orientation.
- The hope for slow but sustainable development of an economy that involves not least major state activities – including a mentionable socialised sector.
- The orientation towards political power – not least as expression of the concern for securing secularism.

These different orientations did not just show a huge impact on the living conditions of the different social groups of the population but meant as well that the socio-political system – and with this any social policy and public responsibility for social quality – remained rather ad-hoc oriented rather than allowing a systematic and strategic development.

Furthermore, economic traditionalism can be seen as characterising the country's developmental status as well as consequence of the persistence of some elements of Islamic economics.

The three central moments in this regard are

- commitment towards poverty relief and raising living standards for the mass of the population
- on the one hand by a strong role for the state,
- on the other hand by a morally-obligatory system of support mechanisms as e.g. socially responsible investment, interest-free borrowing (or at least special regulation of interest claims), payment of charity contribution and others.

M. Umar Chapra writes that

[s]ome of the essential functions of the Islamic welfare state with respect to the economy may be stated to be:

- (1) to eradicate poverty and create conditions for full employment and a high rate of growth;*
 - (2) to promote stability in the real value of money;*
 - (3) to maintain law and order;*
 - (4) to ensure social and economic justice;*
 - (5) to arrange social security and foster equitable distribution of income and wealth;*
 - (6) to harmonise international relations and ensure national defence.*
- (Chapra, without date [1979]: 9 f.)*

claiming the same importance for all the elements mentioned. Planning, provision of infrastructure and guaranteeing law and order are emphasised by the same author. But at the same time the general and utmost rule is claimed in the following way:

The very objective of the Shari'ah is to promote the welfare of the people which lies in safeguarding their faith, their life, their intellect, their posterity and their wealth. Whatever ensures the safeguarding of these five serves public interest and is desirable
(Chapra, [without date] 1992: 1; with reference to al-Ghazal)

and also in the following statement:

The basis of the Shari'ah is wisdom and welfare of the people in this world as well as the Hereafter. This welfare lies in complete justice, mercy, well-being and wisdom. Anything that departs from justice to oppression from mercy to harshness from welfare to misery and from wisdom to folly has nothing to do with the Shari'ah.

(ibid.; with reference to Ibn Qayyim al-Jawziyyah, I'lam al-Muwaqqi'in (1955), vol. 3. p.14)

The decisive moment is – and this is an argument going through the works of various representatives of Islamic economics – its claim of being distinct from socialism and also from capitalism. As Umar Chapra states

socialism, as conceived by Marx, is basically amoral and based on the concept of dialectical materialism; while capitalism, being a

secular ideology is, at best, morally neutral. In contrast Islam lays emphasis on both the moral and the material aspects of life and erects the edifice of economic well-being on the foundation of moral values. The foundation being different, the superstructure is bound to be different too.

(ibid.: 27; cf. e.g. Haneef, 1995: 58 ff.)

- * A final aspect is that despite the introduction of a legal system that had been broadly build along the lines of European traditions, we find only at a relatively late stage a clear

justification of public law in contradistinction to civil law, which had been as well in the Ottoman Empire initially solely determining the foundation and scope of judge's control of statutory activities, as well as the concern for the relationship between the hierarchy of norms and the judicial control.

(Rumpf, 1992: 211)

The fundamental – and as well contemporary – tension is very much a consequence of the intertwinement of two moments, one being the long-term tradition from which the Kemalist state arose, the other being the concrete historical circumstances of the foundation of the state. The latter are very much expressed in article 103 of the Turkish constitution which reads as follows:

ARTICLE 103. On assuming office, the President of the Republic shall take the following oath before the Turkish Grand National Assembly:

'In my capacity as President of the Republic I swear upon my honour and integrity before the Turkish Grand National Assembly and before history to safeguard the existence and independence of the state, the indivisible integrity of the Country and the Nation and the absolute sovereignty of the Nation, to abide by the Constitution, the rule of law, democracy, the principles of the secular Republic, not to deviate from the ideal according to which everyone is entitled to enjoy human rights and fundamental freedoms under conditions of national peace and prosperity and in a spirit of national solidarity and justice, and do my utmost to preserve and exalt the

glory and honour of the Republic of Turkey and perform without bias the functions that I have assumed.'

(Office of the Prime Minister. Directorate General of Press and Information, 2008)

Although a thorough withdrawal from Ottoman principles took place, including the acknowledgement of the rule of law, a principle limitation was given. In the interpretation of *Christian Rumpf*

[i]t has not been possible to observe the development of an ample concept of a state based on the principle of the rule of law, rather teaching and jurisdiction linked up with specific focal points as for instance the incidental control of norms and the principle of the sovereign act, independent from law.

(Rumpf, 1992: 457)

As much as these forms can be seen as justified by the concrete historical conditions of nation-building, *Rumpf* points on the principle problematic, writing

[t]he moment constitution is written down it can easily come to a congealment. The problem is aggravated by the fact that the composition of the text of a constitution frequently mirrors only the ideals and perceptions of an elite which are not necessarily linked to the reality of the state. In a society in which breach of honour can only be revenged by blood, in which the state is on the one hand seen as protector and guardian in all situations of life, serves on the other hand with the available positions as source for sinecure, used in a self-service manner without considering its function of being a power to secure societal peace in the name of freedom, equality and justice conflicts may easily arise: the text that is suggested as constitution emerges as utopia of norms, being independent of normative reality.

(Rumpf, 1996: 29; see as well Weber, 1915: 77)

With this, the actual problem is not least one that acts around the two issues of building a distinct identity on the one hand and combining this with relating itself to other countries – the latter of special importance as the geopolitical situation is automatically raising the question of being a border or a bridge between the occident and orient.

The question if and to which extent it is justified to see Turkey as bridge may be left open, in actual fact two points are relevant. (a) The strong influence of Islam as previous state religion – and with this the close relationship with Arab countries confronts the country with a specific challenge when it comes to defining its own identity. (b) This is not so much a matter of defining its position between orient and occident or a matter of the geopolitical position. At stake is the country's positioning within the processes of modernisation, as they had been pointed out by *Stein Rokkan*, namely the clarification of the internal and external centre-periphery structures (*see Rokkan/Urwin [eds.]1982, Rokkan/Urwin 1983*). We may look at the internal structure by directly referring to the four cleavages, namely class, religion, cultural hegemony, space (urbanity). External points of reference are of course, the degree of independence and with it the orientation especially towards the United States of Northern America and/or towards the European Union (the other past, current and future centres are currently not playing any obvious major role).

In more concrete terms the following seems to be interesting. Though it will not be systematically developed, we find a strong nationalist orientation not only as notion of independent statehood but as well as rejection of ethnical and cultural diversity. This includes 'integrational' policies with a strong assimilatory stance. This is as well interesting in a comparative perspective as it goes hand in hand with a strong orientation along the lines of French legal traditions (*see for several pointers Abadan, 1960*).

This is the context in which Kemalism has to be understood, characterised by the following principles which are defined in the constitution:

- * Nationalism
- * Laicism – explicitly seen as elementary for the rule of law
- * Revolutionary reformism
- * Populism, understood as mutuality
- * Etatism
- * Republicanism.

Remarkable is in the 1982-constitution an extensive elaboration of principles of the social state. Looking at the English translation of the constitution, it is striking that we find below the very general level of argument some attempts concretising the meaning of general rights (social justice ...), before going on to developing principles of social security and service provision. This – and also the principle of democracy – are not

immediate part of the principles as they had been originally brought forward by *Mustafa Kemal Atatürk*.

Law – Individual, Community and the Rational State

Another interesting feature, showing the entire tension, is the inclusion of certain legal definitions that are of crucial importance in the present context: the redefinition of collectivity and individuality or in other words: the redefinition of the reference of judicial systems. Looking at the development in Turkey shows the importance of analysing the shift towards juridification and raises at the same time the question in which way and to which extent juridification equals a specific individualisation. – The matter in question gets clear when we briefly look at the legal dimension of the so-called honour killings.

First, though apparently⁵ directed against women, the point in question is in a legal perspective the term honour: to be precise, reference is made to the honour of the family, this taken in a very wide understanding. To some extent this seems to be a simple reflection of the ongoing meaning of feudal and religious patterns. However, more important are the ongoing family bonds. It is difficult to source this meaning. In any case it is important to highlight the contradiction that on the one hand Turkish legislation signed and ratified a multitude of relevant international legislative agreements (*e.g. the UN Declaration of Human Rights [1948]*), supports as well international initiatives as the World Conference on Women in Beijing (1995) and finally has sufficient relevant provisions in the Constitution (*e.g. article 17*); on the other hand we find in the old Turkish penal code from 1st of June 1926 the classification of criminal offences, directed against sexual indefeasibility of women and children as ‘offence against public moral and the family order’ (*see Göztepe, 2008*). It is only since June 2005 that this orientation has been changed – the suggested public interest is in terms of legal systematisation redefined and shifted to the individual and his/her protection. In a statement by the *Permanent Mission of Turkey to the United Nations* we read

2. In Section 1, the references made to the new Turkish Criminal Code has to be changed as follows:

⁵ There is of course as well a factual side to it but this dimension is outside of the legal system – in legal terms the so-called honour killing can be directed against and undertaken by both: men and women.

'The new Turkish Criminal Code which was adopted by the Turkish Parliament on 26 September 2004 and will enter into force on June 1, 2005 has very important reform-like regulations concerning women. The most important regulation is the abolishment of the distinction between women and girls in the law. While the existing law protects the societal norms and evaluates many crimes that victimise women as crimes against society, the new law abolishes that approach and gives priority to the protection of individuals' rights and freedoms. In this way, sexual crimes are defined as crimes against the individual rather than crimes against public decency. Marital rape and sexual harassment at work place are defined as crimes against the individual, for the first time, in the new law. Another important development is, crimes committed with the sake of honour are regarded as qualified crimes with heavy life term imprisonment as the sanction to be imposed and no reduction is possible.

(United Nations, 2005)

It would be important to investigate the actual background of these crimes. Usually seen as being linked to Islam religion, such a stance seems to be questionable although these crimes persist in parallel to maintained religious beliefs and the belonging to the faith community rather than being linked to a traditional life style. Thus we read in a report on violence against women:

In the UK, the most visible 'honour' crimes are those which have occurred within Islamic Asian or Middle Eastern immigrant communities, reinforcing stereotypical notions that Islam condones 'honour' killings, a view which is refuted by many Muslim community leaders and members, in the UK and elsewhere. 'Honour' crimes are rooted in cultural traditions, not religious beliefs; the conflation of the concepts of culture and religion contributes to the misunderstanding of such crimes, ...

(Sen/Humphreys/Kelly, 2005: 23)

Although so-called honour crimes are obviously a matter of disrespecting human rights – inasmuch as they are simply disrespecting human existence per se – the actual question is much more complex. To point on one problem only, it is remarkable that

in the UK the justice system is – according to the same report – reluctant to intervene because of the respect of the private and cultural sphere. As duplicitous as this sounds in this case, it is in the same vein that human rights groups actually disapprove governmental intervention in connection with data protection. – The respect of and dealing with individualism, rights of individuals and individualist rights seems to be difficult to balance.

Economies and Economy

And it is necessary as well to return to the question of economics – relevant on the level of ‘family economies’ in both, the understanding of private households in developed countries and as subsistence economies in a macro-economic context, and also relevant as macro-economic issue. The task – here only pointed out and left open for empirical research on another occasion – is the investigation of the economic development within the following quadrangle: one dimension is defined by the orientation of management and the other by the availability of resources against the background of the mechanisms of regulation and steering.

	AVAILABILITY OF RESOURCES	internal	external
REGULATION			
traditional value-orientation (i) collective (ii) individual			
occidental rationalist (i) collective (ii) individual			

Figure 3: Resources and Regulation

The following brief look at the current economic development has to be seen against the background of the various influences from the Republic’s development. For instance it is interesting to recognise the assessment of the more recent economic development – put into a historic context – by the *European Foundation for the Improvement of the Living and Working Conditions*. In the summary of their quality of life study we read:

By EU 15 standards, Turkey has been late to industrialise. However, unlike the ten new Member States of eastern and central Europe, its economic development was not distorted for four decades by the imposition of a non-market economy. Instead,

following decades of unsuccessful state-led initiatives, its economy has developed by producing goods and services for export, without access to the rich energy resources that have characterised development in parts of the Middle East. Turkey's acceptance of market-led growth is in fact more comparable to that of the Republic of Korea. Unlike many countries with a small population, Turkey is big enough to sustain economic conglomerates that possess the resources to finance development and support the country's application to join the EU.

(European Foundation for the Improvement ... , 2007: 2)

However, the development is mixed, both regionally and socially. In the following a brief look at only two figures may provide already some insight into the huge tensions of different developments. On the one hand,

[w]ith a population size second only to that of Germany among the EU Member States, Turkey's aggregate gross domestic product (GDP) is now greater than that of 16 EU countries.

(Rose/Özcan, 2007: 5)

This has to be seen against the background that

[e]conomic growth reflects the activities of indigenous entrepreneurs in Anatolia in classic early industrial products such as textiles, as well as the growth of financial conglomerates based in Istanbul.

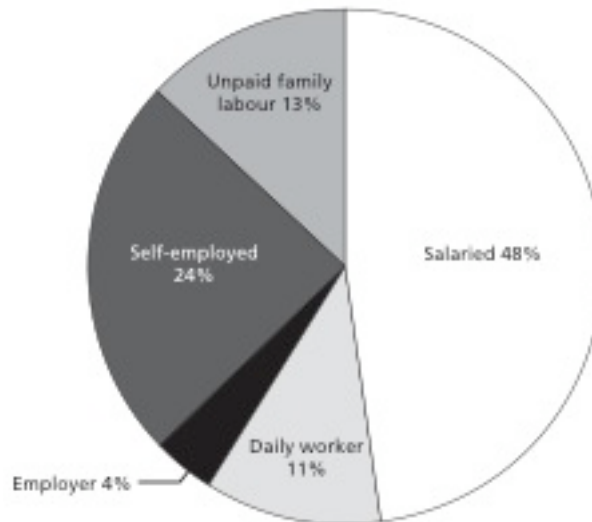
(ibid.)

Some general patterns can be seen from Turkstat- and IMF-Global Economic Perspectives-data. In the recent years (21st century) we find a steady economic growth, now going hand in hand with an overall increase of the GNP (Dollar Value of Turkish GNP) – accompanied by a decreasing inflation rate and a decreasing net public sector debt. The currency volatility in 2006 is likely not expression of a 'crisis' in the strict sense of capitalist economy⁶ but can actually be seen as moment linked to the relative stability: although foreign direct investment decreased in 2007, it is still on a high level. As well, despite the negative trend of GDP development, there is no dramatic rupture. However, alarming are two factors: The overall unemployment rate

⁶ Though it is surely expression of the general crisis of this system.

remains – with the exception of 2002 – on a high level. And we find only a relatively small number of jobs created, if related to the GNP- and GDP-growth rates. – Looking at the quarterly development, it is obvious that a large number of jobs are not meant to provide permanent, stable employment – rather, it is seasonal work, presumably farming and tourism related.

The segregation behind the economic growth is reflected in the fundamental split of the employment figures as they are shown in the following graph:



(from *ibid.*: 28, with reference to *Tüik, 2003*)

Figure 4: Proportion of Different Forms of Employment in Turkey, %

This also means that we have to acknowledge the tensions which occur in terms of social policy and public responsibility for social quality: though other moments surely play a role, we can assume that a major impact on social rights and their definition is coming from the underlying economic pattern and the maintenance of traditional thinking. Thus it is striking that on the one hand the gender gap in terms of educational achievement actually turned around – showing high achievement rates now on the side of women – however, continuing the disadvantage of women on a disproportionately high level when it comes to equality in the labour market and overcoming existing patterns.

Striking gender differences emerge in the employment patterns of men and women. Men are more than five times as likely as women to participate in paid employment Moreover, women are more than twice as likely as men to be unpaid family helpers rather than working in paid employment. Since a majority of female adults are

homemakers, who are unpaid and have no retirement age, women are much less likely to be eligible to avail of the social security benefits of retirement.

Gender differences account for the substantial discrepancy between labour force participation in Turkey and in the EU countries While no statistically significant difference emerges between the proportion of adult men in employment in Turkey and the EU, a large gap in the labour force participation of women is evident. The EQLS survey found that three times as many women in the EU15 are in paid employment than in Turkey; conversely, three times as many women in Turkey are homemakers compared with women in the EU15.

(ibid.: 39 f.)

This is seconded by *Ali Murat Özdemir* and *Gamze Yücesan-Özdemir*, who state

When women workers in Turkey are considered, the striking issue is the relatively low level of labour force participation. Compared to many OECD countries (especially Nordic countries and some central European ones), with female participation rates of almost 80 per cent, female labour force participation rates in Turkey are very low, at less than 30 per cent (OECD, 2004). When we consider urban employment, the female participation rate decreases to less than twenty per cent (Table 5). Following immigration to urban areas, women, because of their low level of skills, cultural conditioning and traditional family responsibilities, stay out of the labour market.

(Özdemir/Yücesan-Özdemir, 2004: 36; with reference to OECD, 2004)

The latter quote contradicts slightly what had been previously said – the overcoming of the educational gap. However, it is likely that this contradiction is only an expression of the specific pattern of migration. The figures in Table 1 and Table 2 are in any case telling much about the contradicting intertwinement of – to use these problematic terms – ‘traditionalism’ and ‘modernisms’. – And though there is a definite pattern, it seems to be rather rushed to ignore it as transient.

	Turkey	Urban	Rural
1991	34.1	15.6	55.3
1995	30.6	16.7	49.2
2000	25.7	17.2	38.6
2001	27.1	17.4	41.7
2002	27.9	19.1	41.4

(*ibid.*: 37; with reference to State Institute of Statistics)

Table 1: Female Labour Market Participation

	Wage and salary earners	Causal workers	Employers	Self-employed	Unpaid family workers
1990	18.2	3.4	0.4	8.7	69.2
1995	21.7	4.7	0.7	8.4	64.5
2000	32.0	4.6	0.8	11.8	50.8
2001	30.5	4.6	0.7	12.8	51.3

(*ibid.*; with the same reference)

Table 2: Status of Female Employment

This picture is then completed by the incessantly high level of subsistence economy, the importance of mutual support and at the same time the low level of ‘organised civic engagement’. This is shown as well by the fact

that only 4 % of the youth who participated in the State of Youth Survey were members of NGOs. The fact that NGOs in Turkey are still in the process of developing their capacity accounts for the low participation rates. Moreover for NGO projects where the international dimension stands out, more educated young people who know how to use computers adequately and, more importantly, who know enough English have an advantage. However, in Turkey the rate of youth who speak a foreign language adequately so as to be able to read a publication is 28.4 %.⁽¹⁾ Regional differences should not be forgotten either. When we look at the distribution of National Agency projects among cities we see the remarkable gap between large and small cities and between the east and the west ...

(Aytaç *et al.*, 2008: 82 f.; see as well Rose/Özcan, 2007: 43).

Thus, any reflection on the economic development has to note that Kemalism is not only a matter of secularism but – despite other important moments – as well a matter of the nationalism. And it is nationalism that actually determines as well a specific

interventionist mode of the state also with respect to the economy, going hand in hand with the subsistence economy and as well some reflection of the traditional Islamist economy.

Conclusions

The article gives some ideas for a new thinking about both: economic developments and the role of religion and religious fundamentalism.

I. At the centre the thesis is developed that – looking at Islam – the challenge is not religious fundamentalism but an economic system and thinking that is closely feudalist in nature. Again religious orientations are only part of a superstructure that supports the maintenance of feudalist economies. However, more important is that the fertile ground is not the return to or search for values. Decisive is the ongoing meaning of economic feudalism and religious fundamentalism in societal and social practices in societies as Turkey but as well in the so-called modern Western societies. One point that is getting clear is the enlightenment did not reach far enough due to its inherent individualism.

II. Another crucial argument is that the so-called Casino-Capitalism is not based on a simple over-accumulation of power. Rather, it is expression of a structural dis-linkage of profit-making from the productive sphere – and as such it can be seen as partial reintroduction of feudal economic and political structures. To capture the full momentum of this process we have to look firmly at the close link between accumulation regime and mode of regulation. There are different dimension to this, the one being the strictly economic question: how to re-establish the link between the different spheres. This can well be discussed as technical matter of control of financial markets, control of inflationary processes and developing a sound economic strategy in which mechanisms of generating are based on productive processes. It has to be emphasised that this does not overcome the existence – and re-occurrence – of critical developments. Still, it can limit them and it can as well lead to a more “just redistribution”. Such development can be seen from either side: as fundamental success if related to a bursting and crumbling global socio-economy or as fundamental failure of answering the seemingly eternal and structural contradictions between control over means and ways of production and depending and alienated working positions, translating into excessive wealth and threatening poverty.

The other dimension to this question of the link between productive and re-productive dimension is more of a socio-philosophical kind – slightly more complicated if looked at in technical terms, much more difficult when it comes to the power question and extremely difficult when it comes to the question of political strategy. If we cursorily revisit the secular development of the economic process, we find – going hand in hand with division of labour and more importantly: going hand in hand with the division of classes and later nation states as organisations of classes – a specific nature of appropriation, “representing” the said divisions in particular in three divisions of the process of appropriation, economically as decisive as socially and politically:

- * The disintegration of the process of appropriation into
 - a matter of making something one’s own, being concerned
 - with the technical side of dealing with it and
 - with the substantial side of relating oneself to the object (be it an object in the strict sense of be it the wider environment)
 - a matter of property building in the sense of “the making of a thing private property;” ... “setting aside for some purpose” (*Harper, 2001*)
- * with this the breakup of life and work as meaningful entity expressed not least in the closure of the commons as property of a household economy;⁷
- * and the final stage of a definite link of status and private property of means of production as reaching stage of alienation of
 - status and contract,
 - work and life
 - work itself and even
 - property itself.

The paradox that is left behind is the following: although we face apparently a fundamental individualisation the individual actually loses to the same extent as it loses his/her ground in commonality. He/She loses ground and disappears him/herself not in him/herself: as emerging hedonistic personality. Rather the individual follows only rules of alienation, not “producing” his/her own existence but exhibiting him/herself. This, of course, has some parallels, indeed, with what *Michael Chalupka* stated, speaking of a “Religionsersatz Kapitalismus“. The important aspect, however is that we the terminology – Religionsersatz – already suggests

⁷ It should not be overlooked that such household economy is itself a strictly closed economy.

something most relevant: the replacement of one imaginative system by another imaginative system. Neither a societal system nor an economic system, based on values outside of the production itself, can provide a sound foundation. Nor can a productive system provide sufficient commonality if it is only based on production of commodities. So, reflecting on the “beginning of history” has to actually start from the commonality of production of utility values rather than aiming on creating a – temporary or enduring –

autonomous zone, a ... time-space commons in which the three dimensions of cyclical, phase and linear time were re-articulated.

(de Angelis, 2007: 19)

Massimo de Angelis’ following focus on the argument that

the market as an ethical system

(ibid.: 25)

falls short asking the more important question. This question has to go beyond the matter of “just distribution” and has also go beyond the question of “just production” At stake is the – indeed as well ethical – question of what we are actually producing and how to relate (and reintegrate) utility value and exchange value. The question of “socially necessary labour time” (*ibid.: 155*) becomes then a question of socially allowed production time, production here understood as

- * reintegrated production and reproduction
- * reconciled “social” and “economic” valuation and
- * renewed appropriation as re-established entity of agency and structure (the process of appropriation and its form of property).

III. Furthermore, the following can be envisaged – dealing more with a methodological issue. These developments, the analysis of the socio-economic questions allow us as well to go a step further with regard to finding a framework for defining general human rights. Though we have the fundamental declaration of human rights and we also find institutional mechanisms, securing the – to some extent – the application and implementation of the relevant regulations (for instance the European Court of Justice) we lack a sound basis for defining general rights – a basis that rises about any subordinating artificial generality and equally above relativist approaches. In other words, we still have to face the problem of defining what human rights, the challenge to find a “just

way” of defining such rights. It is relatively easy to find a definition within a “given framework” as, of course, first and foremost national systems of reference but then as well the supposed “European model”.

In any case and within any framework we usually forget that such human rights are contested and that they are contested with respect to interests. We can leave open in which way we actually can define interests. Or actually we cannot leave it open, as this is the core question: which interests – of the conflicting ones – are legitimate and in which way can we legitimise them. The standard approach when it comes to this question is the referral to natural or divinely given rights or something like this – and as soon as we approach this in concrete cases we see that such reference is actually causing the problems rather than being a means of overcoming them. We can see this in the – to say the least – very different ways of approaching for instance gender questions, in concreto: the question of the position of women in society in general and their rights if compared with and related to men(s’ rights). And it is especially here then that we have to acknowledge that progress in the “socially developed countries” is actually very limited. And it is of limited (and limiting) value to refer to individual cases or to focus on an ‘implementation gap’. In the following a short outline for a possible systematisation is proposed along at least the following lines (*see in this context as well Herrmann 2009 a; cf. Figure 1 in this text*):

A The perspective of the global-abstract

- Definition of “abstract global” rights
- Practice of (granting) “abstract global” rights

B The action perspective

- Meaning of rights for individual power (pouvoir: the ability)
- Meaning of rights for individual power (possere, linking to possibility)

C The determinants of the qualitative perspective

- Meaning of rights for social development (legitimacy as matter of cohesion and inclusion)
- Meaning of rights for social development (legitimacy as matter of integrity, not least “appropriateness”).

The latter, understood in a dialectic way, could of course be not least a mechanism that can (re-establish a) link (between) A and B.

This can be seen as foundation for further work in this area, oriented along the lines of security, power and appropriation.

Further research can be directed on elaborating this as methodological framework, not least by applying the 3x4 factors of social quality as they are reproduced in the following:

CONDITIONAL FACTORS	CONSTITUTIONAL FACTORS	NORMATIVE FACTORS
socio-economic security social cohesion social inclusion social empowerment	personal (human) security social recognition social responsiveness personal capacity	social justice (equity) solidarity equal value human dignity

Figure 5: The 3x4 Factors of Social Quality

This means as well that further social quality research can well get a new drive from such a perspective by opening social quality towards a human rights perspective and also by de-formalising debates on rights.

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Editorial Note

- i
- The William-Thompson-Working-Paper-Series is edited by the European Social Organisational and Science Consultancy for University of Cork, Department of Applied Social Studies and meant to offer a space for publications of occasional documents. One aim amongst others is to offer a space for publication of work by colleagues of the Department of Applied Social Studies at University of Cork.
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- ii
- Herrmann, Peter; dr. phil (Bremen, Germany). Studies in Sociology (Bielefeld, Germany), Economics (Hamburg), Political Science (Berlin) and Social Policy and Philosophy (Bremen). Had been teaching at several Third Level Institutions across the EU; currently correspondent to the Max Planck Institute for Foreign and International Social Law (Munich, Germany), senior advisor to the European Foundation on Social Quality (Amsterdam, Netherlands) and Director of the Independent Research Institute European Social, Organisational and Science Consultancy (Aghabullogue, Ireland) and teaching at the University College of Cork, Department of Applied Social Studies, (Cork, Ireland), where he holds the position of an adjunct senior lecturer and Kuopion Yliopisto, Yhteiskuntatieteellinen tiedekunta. Sosiaalipolitiikan ja sosiaalipsykologian laitos (Kuopio, Finland), where he is adjunct professor. He held various positions as visiting professor and is currently in this position at the Corvinus University in Budapest. Member of the Administrative Board of the European Social Action Network (ESAN), representing this in the Platform of Social NGOs.
- Member of several editorial boards; editor of the book series Applied Social Studies – Recent Developments, International and Comparative Perspectives (New York, USA); peer-reviewing for several journals in the social area and book series.
- iii
- The present text is by and large an excerpt from Herrmann (2009 b), supplementing this work with the attempt of inspiring new thinking of current economic developments.
- I gratefully acknowledge discussions, comments and inspirations in particular from the following colleagues and friends: Claire Dorrity, Cork, Ireland; Jaap Westbroek, Den Haag, The Netherlands and Yitzhak Berman, Jerusalem, Israel.